



OFFICE OF FILM  
& LITERATURE  
CLASSIFICATION

*Te Tari Whakarōpū Tukuata, Tubituhinga*

## Information Sheet 5

# Classification Legislation

### Introduction

The following sections from the Films, Videos, and Publications Classification Act 1993, the Human Rights Act 1993, and the New Zealand Bill of Rights Act 1990 have been reproduced to assist people preparing submissions to the Office of Film and Literature Classification and as a supporting resource to other information sheets produced by the Classification Office.

Full copies of all New Zealand legislation can be sourced from [www.legislation.govt.nz](http://www.legislation.govt.nz)

### The Films, Videos, and Publications Classification Act 1993

#### Section 2 Interpretation

In this Act, unless the context otherwise requires,—

**film** means a cinematograph film, a video recording, and any other material record of visual moving images that is capable of being used for the subsequent display of those images; and includes any part of any film, and any copy or part of a copy of the whole or any part of a film

**film poster** means any poster, placard, video slick, photograph, or other printed pictorial matter that is intended for use in the advertising or exhibition of any film to the public; and includes a miniature representation of the whole or part of any such poster; and also includes any enlarged representation of the whole or any part of any such poster

**publication** means—

- a) any film, book, sound recording, picture, newspaper, photograph, photographic negative, photographic plate, or photographic slide;
- b) any print or writing;
- c) a paper or other thing that has printed or impressed upon it, or otherwise shown upon it, 1 or more (or a combination of 1 or more) images, representations, signs, statements, or words;
- d) a thing (including, but not limited to, a disc, or an electronic or computer file) on which is recorded or stored information that, by the use of a computer or other electronic device, is capable of being reproduced or shown as 1 or more (or a combination of 1 or more) images, representations, signs, statements, or words

#### Section 3 Meaning of objectionable

(1) For the purposes of this Act, a publication is **objectionable** if it describes, depicts, expresses, or otherwise deals with matters such as sex, horror, crime, cruelty, or violence in such a manner that the availability of the publication is likely to be injurious to the public good.

(1A) Without limiting subsection (1), a publication deals with a matter such as sex for the purposes of that subsection if—

- a) the publication is or contains 1 or more visual images of 1 or more children or young persons who are nude or partially nude; and
- b) those 1 or more visual images are, alone, or together with any other contents of the publication, reasonably capable of being regarded as sexual in nature.

(1B) Subsection (1A) is for the avoidance of doubt.

(2) A publication shall be deemed to be objectionable for the purposes of this Act if the publication promotes or supports, or tends to promote or support,—

- a) the exploitation of children, or young persons, or both, for sexual purposes; or
- b) the use of violence or coercion to compel any person to participate in, or submit to, sexual conduct; or
- c) sexual conduct with or upon the body of a dead person; or
- d) the use of urine or excrement in association with degrading or dehumanising conduct or sexual conduct; or
- e) bestiality; or
- f) acts of torture or the infliction of extreme violence or extreme cruelty.

(3) In determining, for the purposes of this Act, whether or not any publication (other than a publication to which subsection (2) of this section applies) is objectionable or should in accordance with section 23(2) be given a classification other than objectionable, particular weight shall be given to the extent and degree to which, and the manner in which, the publication—

- (a) Describes, depicts, or otherwise deals with—
  - i) acts of torture, the infliction of serious physical harm, or acts of significant cruelty;
  - ii) sexual violence or sexual coercion, or violence or coercion in association with sexual conduct;
  - iii) other sexual or physical conduct of a degrading or dehumanising or demeaning nature;
  - iv) sexual conduct with or by children, or young persons, or both;
  - v) physical conduct in which sexual satisfaction is derived from inflicting or suffering cruelty or pain;
- (b) exploits the nudity of children, or young persons, or both;
- (c) degrades or dehumanises or demeans any person;
- (d) promotes or encourages criminal acts or acts of terrorism;
- (e) represents (whether directly or by implication) that members of any particular class of the public are inherently inferior to other members of the public by

reason of any characteristic of members of that class, being a characteristic that is a prohibited ground of discrimination specified in section 21(1) of the Human Rights Act 1993.

(4) In determining, for the purposes of this Act, whether or not any publication (other than a publication to which subsection (2) of this section applies) is objectionable or should in accordance with section 23(2) be given a classification other than objectionable, the following matters shall also be considered:

- a) the dominant effect of the publication as a whole;
- b) the impact of the medium in which the publication is presented;
- c) the character of the publication, including any merit, value, or importance that the publication has in relation to literary, artistic, social, cultural, educational, scientific, or other matters;
- d) the persons, classes of persons, or age groups of the persons to whom the publication is intended or is likely to be made available;
- e) the purpose for which the publication is intended to be used;
- f) any other relevant circumstances relating to the intended or likely use of the publication.

#### Section 3A Publication may be age-restricted if it contains highly offensive language likely to cause serious harm

(1) A publication to which subsection (2) applies may be classified as a restricted publication under section 23(2)(c)(i).

(2) This subsection applies to a publication that contains highly offensive language to such an extent or degree that the availability of the publication would be likely, if not restricted to persons who have attained a specified age, to cause serious harm to persons under that age.

(3) In this section, **highly offensive language** means language that is highly offensive to the public in general.

#### Section 3B Publication may be age-restricted if likely to be injurious to public good for specified reasons

(1) A publication to which subsection (2) applies may be classified as a restricted publication under section 23(2)(c)(i).

(2) This subsection applies to a publication that contains material specified in subsection (3) to such an extent or degree that the availability of the publication would, if not restricted to persons who have attained a specified age, be likely to be injurious to the public good for any or all of the reasons specified in subsection (4).



## OFFICE OF FILM & LITERATURE CLASSIFICATION

*Te Tari Whakarōpū Tukuata, Tuhituhinga*

(3) The material referred to in subsection (2) is material that—  
(a) describes, depicts, expresses, or otherwise deals with—

- i) harm to a person's body whether it involves infliction of pain or not (for example, self-mutilation or similarly harmful body modification) or self-inflicted death; or
- ii) conduct that, if imitated, would pose a real risk of serious harm to self or others or both; or
- iii) physical conduct of a degrading or dehumanising or demeaning nature; or

(b) is or includes 1 or more visual images—

- i) of a person's body; and
- ii) that, alone, or together with any other contents of the publication, are of a degrading or dehumanising or demeaning nature.

(4) The reasons referred to in subsection (2) are that the general levels of emotional and intellectual development and maturity of persons under the specified age mean that the availability of the publication to those persons would be likely to—

- a) cause them to be greatly disturbed or shocked; or
- b) increase significantly the risk of them killing, or causing serious harm to, themselves, others, or both; or
- c) encourage them to treat or regard themselves, others, or both, as degraded or dehumanised or demeaned.

### Section 3C Procedure for classification under sections 3A and 3B

In determining whether to classify a publication as a restricted publication in accordance with section 3A or section 3B, the Classification Office must consider the matters specified in paragraphs (a) to (f) of section 3(4).

### Section 3D How sections 3A and 3B relate to sections 3 and 23(2)(c)

Sections 3A and 3B are not limited by section 3, and do not limit the Classification Office's power under sections 3 and 23(2)(c) to classify a publication as a restricted publication.

## Human Rights Act 1993

### Section 21 Prohibited grounds of discrimination

(1) For the purposes of this Act, the prohibited grounds of discrimination are—

- (a) sex, which includes pregnancy and childbirth;
- (b) marital status, which means being—
  - i) single; or
  - ii) married, in a civil union, or in a de facto relationship; or
  - iii) the surviving spouse of a marriage or the surviving partner of a civil union or de facto

- relationship; or
- iv) separated from a spouse or civil union partner; or
- v) a party to a marriage or civil union that is now dissolved, or to a de facto relationship that is now ended;

(c) religious belief:

(d) ethical belief, which means the lack of a religious belief, whether in respect of a particular religion or religions or all religions:

(e) colour:

(f) race:

(g) ethnic or national origins, which includes nationality or citizenship:

(h) disability, which means—

- i) physical disability or impairment:
- ii) physical illness:
- iii) psychiatric illness:
- iv) intellectual or psychological disability or impairment:
- v) any other loss or abnormality of psychological, physiological, or anatomical structure or function:
- vi) reliance on a guide dog, wheelchair, or other remedial means:
- vii) the presence in the body of organisms capable of causing illness:

(i) age, which means,—

- i) for the purposes of sections 22 to 41 and section 70 of this Act and in relation to any different treatment based on age that occurs in the period beginning with the 1st day of February 1994 and ending with the close of the 31st day of January 1999, any age commencing with the age of 16 years and ending with the date on which persons of the age of the person whose age is in issue qualify for national superannuation under section 7 of the New Zealand Superannuation and Retirement Income Act 2001 (irrespective of whether or not the particular person qualifies for national superannuation at that age or any other age):
- ii) for the purposes of sections 22 to 41 and section 70 of this Act and in relation to any different treatment based on age that occurs on or after the 1st day of February 1999, any age commencing with the age of 16 years:
- iii) for the purposes of any other provision of Part 2 of this Act, any age commencing with the age of 16 years:

(j) political opinion, which includes the lack of a particular political opinion or any political opinion:

(k) employment status, which means—

- i) being unemployed; or
- ii) being a recipient of a benefit under the Social Security Act 1964 or an entitlement under the Injury Prevention, Rehabilitation, and Compensation Act 2001:

(l) family status, which means—

- i) having the responsibility for part-time care or full-time care of children or other dependants; or
  - ii) having no responsibility for the care of children or other dependants; or
  - iii) being married to, or being in a civil union or de facto relationship with, a particular person; or
  - iv) being a relative of a particular person:
- (m) sexual orientation, which means a heterosexual, homosexual, lesbian, or bisexual orientation.

(2) Each of the grounds specified in subsection (1) of this section is a prohibited ground of discrimination, for the purposes of this Act, if—

- (a) it pertains to a person or to a relative or associate of a person; and
- (b) it either—
  - i) currently exists or has in the past existed; or
  - ii) is suspected or assumed or believed to exist or to have existed by the person alleged to have discriminated.

## New Zealand Bill of Rights Act 1990

### Section 4 Other enactments not affected

No court shall, in relation to any enactment (whether passed or made before or after the commencement of this Bill of Rights), -

- (a) hold any provision of the enactment to be impliedly repealed or revoked, or to be in any way invalid or ineffective; or
- (b) decline to apply any provision of the enactment - by reason only that the provision is inconsistent with any provision of this Bill of Rights.

### Section 5 Justified limitations

Subject to section 4 of this Bill of Rights, the rights and freedoms contained in this Bill of Rights may be subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society.

### Section 6 Interpretation consistent with Bill of Rights to be preferred

Wherever an enactment can be given a meaning that is consistent with the rights and freedoms contained in this Bill of Rights, that meaning shall be preferred to any other meaning.

### Section 14 Freedom of expression

Everyone has the right to freedom of expression, including the freedom to seek, receive, and impart information and opinions of any kind in any form.

## Contact information

For more information about censorship legislation, contact the Information Unit at:  
Freephone: 0508 CENSOR (236 767)  
Email: [information@copyright.govt.nz](mailto:information@copyright.govt.nz)  
Website: [www.copyright.govt.nz](http://www.copyright.govt.nz)