

Films, Videos, and Publications Classification (Interim Restriction Order Classification) Amendment Bill

Member's Bill

Explanatory note

General policy statement

This Bill would amend the Films, Videos, and Publications Classification Act 1993 (the **Act**) to provide the President of the Film and Literature Board of Review, and the High Court, with flexibility when making interim restriction orders. It will allow issuers of interim restriction orders to classify an interim restriction order as applying to a particular age or class of persons, or for a particular purpose. Currently the only option available for an interim restriction on a publication is to ban the publication completely.

The Board of Review provides some community oversight over the decisions of the professional censors at the Office of Film and Literature Classification. While both are bound by the same laws, if professional censors stray too far from community expectations they can have the views of a wider group within the community made known to them.

The Board as a quasi-judicial body reaches legal conclusions on the proper application of the Act. It should be able to use the same criteria to restrict a publication in an interim restriction order as is available for a normal classification.

The inability to have flexibility in restriction for an interim order can create an absurdity. A total ban only makes sense in a situation where the publication is being considered for complete prohibition in the first instance.

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 is the commencement clause. It provides that the Bill comes into force on the day after the date on which it receives the Royal assent.

Clause 3 provides that the Bill amends the Films, Videos, and Publications Classification Act 1993 (the **principal Act**).

Clause 4 inserts *new section 49A* to allow the President of the Board, when making an interim restriction order, to restrict availability to a particular age or class of persons, or for a particular purpose.

Clause 5 inserts *new section 67A* to allow the High Court, when making an interim restriction order on appeal, to restrict availability to a particular age or class of persons, or for a particular purpose.

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Films, Videos, and Publications Classification (Interim Restriction Order Classification) Amendment Act **2016**.

2 Commencement

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This Act comes into force on the day after the date on which it receives the Royal assent.

3 Principal Act

This Act amends the Films, Videos, and Publications Classification Act 1993 (the **principal Act**).

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4 Section 49A inserted (Interim restriction order classification)

After section 49, insert:

49A Interim restriction order classification

The President of the Board may, when making an interim restriction order under section 49, restrict the availability of a publication to any 1 or more of the following classes:

- (a) persons who have attained a specified age not exceeding 18 years: 5
- (b) specified persons or classes of persons:
- (c) use for 1 or more specified purposes.

5 Section 67A inserted (Interim restriction on appeal classification)

After section 67, insert:

67A Interim restriction on appeal classification 10

The High Court or a Judge of that court may, when making an interim restriction order under section 67, restrict the availability of a publication to any 1 or more of the following classes:

- (a) persons who have attained a specified age not exceeding 18 years: 15
- (b) specified persons or classes of persons:
- (c) use for 1 or more specified purposes.