



**10 February 2021**

**Films, Videos, and Publications (Urgent Interim Classification of Publications and Prevention of Online Harm) Amendment Bill**

**Legislative Statement**

The Films, Videos, and Publications (Urgent Interim Classification of Publications and Prevention of Online Harm) Amendment Bill, amends The Films, Videos, and Publications Classification Act 1993, or the Classification Act. It seeks to address inefficiencies and ambiguities in our censorship system that were highlighted in the aftermath of the Christchurch terror attack on March 15, particularly in responding to objectionable online content such as the depicting an act of violent extremism or terrorism. The limitations identified are summarised as follows:

1. Livestreaming does not fall within scope of the Films, Videos, and Publications Classification Act 1993;
2. The Chief Censor's decision on objectionable content risks being delayed because of the current statutory requirement to publish a written rationale for the decision within five-working days;
3. The Government cannot require the removal of objectionable content from online platforms;
4. The responsibilities of Internet Service Providers and online content hosts for removing objectionable online content are unclear under The Films, Videos, and Publications Classification Act 1993, and further blurred by the 'safe harbour' provisions of the Harmful Digital Communications Act 2015; and
5. Current instances of internet blocking are operating without a clear regulatory framework to guide their use.

In response to these limitations this Bill will bring about the following changes:

1. The Bill will make it a criminal offence to knowingly livestream objectionable content. Anyone that commits this offence can face up to 14 years of

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imprisonment or, for a body corporate, a fine of up to \$200,000. The 14-year sentence ensures consistency with the penalty for distributing or creating objectionable content under the Classification Act. The current penalty levels are high because the offences capture a wide range of behaviour. At the most serious end this includes documenting and sharing child sexual exploitation and abuse material.

2. The Chief Censor will be allowed to make interim classification assessments in urgent situations for content that is likely to be objectionable. This means the public will be informed as soon as possible about content that may be significantly harmful.
3. Authorised Inspectors will be able to issue takedown notices to combat the posting of objectionable content online, consistent with the powers they have for physical copies of objectionable content.
4. Online content hosts that do not comply with a take-down notice will be subject to a penalty of up to \$200,000.
5. The Bill will also ensure the 'safe harbour' provisions in the Harmful Digital Communications Act 2015 will not apply to objectionable online content.
6. The Bill will enable the establishment of regulations that would allow the Government to implement web filtering of objectionable content if required in the future.

The Bill is a direct response to the events of the March 15 terror attacks in Christchurch, and the harm caused by the livestreaming of the perpetrator's attacks. In the days that followed, thousands of links appeared on social media feeds to the video of the livestream, some of which were able to auto-play. Viewing this type of content can often be extremely harmful and distressing. Many of those who viewed the video became "virtual witnesses" and were traumatised by the content. There is also a risk of the video inspiring copycat attacks as it continues to motivate and influence extremist groups.

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This tragic event highlighted how important it is for the Government to stop such content from being uploaded and spread.