

# Plain English guide to the offence provisions in the Films, Videos and Publications Classification Act 1993

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## INTRODUCTION

This document is a plain English guide to the offence provisions within the *Films, Videos, and Publications Classification Act 1993* to which penalties may apply, and includes some provisions which clarify when and how these offences and penalties may apply.

**This guide does not include every offence provision within the legislation.** The [Offence Provisions](#) in full can be read on the New Zealand Government's legislation website: [www.legislation.govt.nz](http://www.legislation.govt.nz). For further information about the offence provisions, or about the Classification Act as a whole, please contact the [Information Unit](#) at the Office of Film and Literature Classification.

## DEFINITIONS

**Publication** means:

- Any film, DVD, video recording or video game.
- Any sound recording.
- Anything that has images or words printed or written on it, including magazines, books, billboards, photographs and clothing.
- Computer files and devices capable of storing computer files (such as hard discs, USB storage devices, CDs and DVDs).
- *The definition of a publication **does not** include a television or radio broadcast.*
- *Read the full legal definition [here](#).*

**Objectionable publication** means:

- A publication containing banned material according to the classification criteria in [section 3](#) of the *Films, Videos and Publications Classification Act 1993*.
- A publication which has been banned by the Office of Film and Literature Classification (or a previous New Zealand censorship body).

**Restricted publication** means:

- A publication containing restricted material according to the classification criteria in [section 3](#), [section 3A](#), and [section 3B](#) of the *Films, Videos and Publications Classification Act 1993*.
- A publication which has been classified as restricted by the Office of Film and Literature Classification (or a previous New Zealand censorship body) – eg. an R16 or R18 film.

Link to section	Subject	Offence	Penalty
<b>AGE RESTRICTIONS</b>			
<a href="#">125</a>	<b>Supplying/exhibiting in breach of classification <i>without knowledge</i></b>	It is an offence to supply, distribute, exhibit, or display a publication contrary to its classification, or to allow another person to do this.  <i>These penalties apply when someone is <b>unaware</b> it's restricted</i>	Individual: fine up to \$3,000 Organisation: fine up to \$10,000
<a href="#">126</a>	<b>Supplying/exhibiting in breach of classification or likely restriction <i>with knowledge</i></b>	It is an offence to supply, distribute, exhibit, or display a publication contrary to its classification <i>or likely restriction</i> (e.g. dairy owner selling explicit magazine to under 18s); or to allow another person to do this (e.g. retailer selling a restricted game to a parent believing the parent will give it to children).  <i>These penalties apply when someone is <b>aware</b> it's restricted</i>	Individual: imprisonment up to 3 months or fine up to \$10,000 Organisation: fine up to \$25,000
<b>OBJECTIONABLE MATERIAL</b>			
<a href="#">131</a>	<b>Possessing objectionable publications <i>without knowledge</i></b>	It is an offence to possess an objectionable publication.  <i>These penalties apply when someone is <b>unaware</b> it's objectionable</i>  *Specific exemptions apply for officials in relation to official duties.	Individual: fine up to \$2,000 Organisation: fine up to \$5,000
<a href="#">131A</a>	<b>Possessing objectionable publications <i>with knowledge</i></b>	It is an offence to possess an objectionable publication.  <i>These penalties apply when someone is <b>aware</b> it's objectionable</i>  *Specific exemptions apply for officials in relation to official duties.	Individual: imprisonment up to 5 years or fine up to \$50,000 Organisation: fine up to \$100,000
<a href="#">123</a>	<b>Making/distributing/exhibiting etc. objectionable publications <i>without knowledge</i></b>	It is an offence to make, supply or distribute an objectionable publication; or to import, export, copy or possess such a publication for the purpose of supply or distribution. It is also an offence to display or exhibit an objectionable publication in expectation of payment or other gain.  <i>These penalties apply when someone is <b>unaware</b> it's objectionable</i>  *Specific exemptions apply for officials in relation to official duties ( <a href="#">124A</a> ).	Individual: fine up to \$10,000 Organisation: fine up to \$30,000

Link to section	Subject	Offence	Penalty
<a href="#">124</a>	<b>Making/distributing/exhibiting etc. objectionable publications with knowledge</b>	<p>It is an offence to make, supply or distribute an objectionable publication; or to import, export, copy or possess such a publication for the purpose of supply or distribution. It is also an offence to display or exhibit an objectionable publication in expectation of payment or other gain.</p> <p><i>These penalties apply when someone is <b>aware</b> it's objectionable</i></p> <p>*Specific exemptions apply for officials in relation to official duties (<a href="#">124A</a>).</p>	<p>Individual: imprisonment up to 10 years</p> <p>Organisation: fine up to \$200,000</p>
<a href="#">127 (1)-(3)</a>	<b>Displaying/exhibiting objectionable publications to under 18s without knowledge</b>	<p>It is an offence to display or exhibit an objectionable publication to someone under 18.</p> <p><i>These penalties apply when someone is <b>unaware</b> it's objectionable</i></p>	<p>Individual: fine up to \$10,000</p> <p>Organisation: fine up to \$30,000</p>
<a href="#">127 (4)-(5)</a>	<b>Displaying/exhibiting objectionable publications to under 18s with knowledge</b>	<p>It is an offence to display or exhibit an objectionable publication to someone under 18.</p> <p><i>These penalties apply when someone is <b>aware</b> it's objectionable</i></p>	<p>Individual: imprisonment up to 10 years</p> <p>Organisation: fine up to \$200,000</p>
<a href="#">129 (1)-(2A)</a>	<b>Publicly exhibiting/displaying objectionable publications</b>	<p>It is an offence to exhibit or display an objectionable publication in or within view of a public place.</p> <p><i>These penalties apply whether or not someone is aware it's objectionable</i></p>	<p>Individual: fine up to \$10,000</p> <p>Organisation: fine up to \$30,000</p>
<a href="#">129 (3)-(4)</a>	<b>Publicly distributing objectionable publications</b>	<p>It is an offence to distribute an objectionable publication to people in a public place.</p> <p><i>These penalties apply when someone is <b>aware</b> it's objectionable</i></p>	<p>Individual: imprisonment up to 1 year or fine up to \$20,000</p> <p>Organisation: fine up to \$50,000</p>
<a href="#">132</a>	<b>Exhibiting an objectionable part of a non-objectionable publication</b>	<p>It is an offence to exhibit only part of a non-objectionable or restricted publication if that part would be objectionable in itself when taken out of context.</p> <p><i>Penalties in the following offence provisions may apply: <a href="#">123</a>, <a href="#">124</a>, <a href="#">127</a>, <a href="#">129</a></i></p>	

Link to section	Subject	Offence	Penalty
<a href="#">138</a>	<b>Liability of employers and others in a role of authority</b>	<p>An employer (or other person in a role of authority using someone an agent) may be held liable if their employee or agent supplies, distributes, displays, exhibits, or makes available an objectionable publication.</p> <p><i>Penalties in the following offence provisions may apply whether or not an employer/other person is aware of the illegal action of an employee/agent, <b>unless</b> they can prove reasonable steps were taken to prevent the illegal action taking place:</i></p> <p><a href="#">123</a>, <a href="#">124</a>, <a href="#">127</a>, <a href="#">129</a>, (<a href="#">132</a>)</p>	
<a href="#">132A</a>	<b>Aggravating factors in sentencing / OFLC decisions must be considered by courts</b>	<p>When sentencing, Courts must take into account as an aggravating factor whether and to what extent the objectionable publications in question deal with child sexual material. In these cases the Courts must refer to OFLC decisions and reports of findings, and to Board decisions.</p> <p><i>Penalties in the following offence provisions may apply (when someone is <b>aware</b> it's objectionable):</i></p> <p><a href="#">124(1)</a>, <a href="#">127(4)</a>, <a href="#">129(3)</a>, <a href="#">131A(1)</a>, and <a href="#">209(1A)</a> of the Customs and Excise Act 1996</p>	
<a href="#">128</a>	<b>Exhibiting objectionable publications at the Classification Office not an offence</b>	ss123-124 do not apply if an objectionable publication is displayed/exhibited for educational/professional purposes at the Classification Office and at the direction of the Chief Censor.	
<b>LABELLING</b>			
<a href="#">120</a>	<b>Non-compliance with labelling</b>	It is an offence to supply or exhibit an unlabelled or incorrectly labelled film (this includes advertising without the correct classification information).	Individual: fine up to \$3,000 Organisation: fine up to \$10,000
<a href="#">121</a>	<b>Unlawful issue of labels</b>	It is an offence to issue your own labels intending to make someone believe they were legitimate labels from the FVLB.	Individual: fine up to \$3,000 Organisation: fine up to \$10,000

Link to section	Subject	Offence	Penalty
<b>DISPLAY CONDITIONS – SERIAL PUBLICATION/INTERIM RESTRICTION ORDERS</b>			
<a href="#">130</a>	<b>Breaching display conditions</b>	<p>It is an offence to display in public a restricted publication, film poster or advertising poster contrary to display conditions.</p> <p style="text-align: center;"><i>These penalties apply whether or not someone is aware of display conditions</i></p>	<p>Individual: fine up to \$5,000            Organisation: fine up to \$15,000</p>
<a href="#">133</a>	<b>Contravention of serial publication order or interim restriction order</b>	<p>It is an offence not to comply with the classification and/or display conditions of a serial publication order; or the conditions of an interim restriction order.</p>	<p>Individual: fine up to \$3,000            Organisation: fine up to \$10,000</p>
<b>OBSTRUCTION OF INSPECTORS – OVERSEAS OFFENDING</b>			
<a href="#">134</a>	<b>Obstruction of Inspectors</b>	<p>It is an offence to obstruct Inspectors of Publications* performing official duties.</p> <p>Inspectors may enter and inspect premises supplying or exhibiting films to the public, enter and search <i>any</i> premises if in possession of a search warrant, see documents relating to an investigation/inspection, and seize publications.</p> <p style="text-align: center;"><i>Powers of enforcement officials are outlined in <a href="#">Part 7</a> of the Classification Act</i></p> <p>*Under the Classification Act, Inspectors of Publications are Censorship Compliance Unit Inspectors from the Department of Internal Affairs <b>and</b> police officers.</p>	<p>Individual: fine up to \$1,000</p>
<a href="#">145A</a>	<b>Offences committed in other countries</b>	<p>New Zealanders who commit offences relating to child sexual material overseas can be charged in New Zealand.</p> <p style="text-align: center;"><i>Penalties in the following offence provisions may apply (when someone is <b>aware</b> it's objectionable):</i></p> <p style="text-align: center;"><i><a href="#">124(1)</a>, <a href="#">127(4)</a>, <a href="#">129(3)</a>, <a href="#">131A(1)</a>, and <a href="#">209(1A)</a> of the <a href="#">Customs and Excise Act 1996</a></i></p>	