

SUMMARY OF REASONS FOR DECISION

Under the Films, Videos, and Publications Classification Act 1993 (FVPC Act)

HEADNOTE

Title of publication:	Arma 3
Other known title(s):	Arma III
OFLC ref:	1300802.000
Medium:	Computer Game
Classification:	Objectionable except if the availability of the publication is restricted to persons who have attained the age of 16 years.
Descriptive note:	Contains violence and offensive language.
Display conditions:	None

Arma 3 is an advanced military simulator set on the fictional Mediterranean islands of Altis and Stratis in the mid 2030s. It is able to be played from both first and third person perspectives. The game focuses on an accurate simulation of war, with combat ranging across open landscapes and cramped townships. As infantry, the player can enter and pilot a wide range of military vehicles such as tanks, helicopters, military drones and boats. A wide selection of weaponry includes pistols, rifles and grenades. Mission types vary from sabotaging underwater mines to directing a distant assault on an enemy airbase or infiltrating enemy territory in the cover of darkness. Significant multiplayer options allow for large scale skirmishes with other players. User generated content such as custom missions can be easily created, shared and downloaded. Due to the focus on simulation of military warfare, the game encourages co-operative and organised tactical play. As an 'Internal Beta' version of the game, there was no single-player campaign or access to multiplayer during examination. However a variety of military scenarios were able to be played and created.

Under s3(1), the publication deals with matters of violence as well as some minor elements of cruelty. *Arma 3* deals with frequent depictions of military violence. While much of the violence is distant, there are also scenarios involving close combat which allow for a higher impact. In the course of combat, soldiers can be injured. Cruelty and violence are further discussed under s3(3)(a)(i) below.

The publication does not require discussion under s3(2).

Regarding s3(3)(a)(i), the infliction of physical harm occurs to a high extent but the injury depicted is to a moderate degree. Shooting an enemy results in a small blood burst and they fall realistically to the ground. Additional gunfire leads to some blood on the body. However this is spread across the general area and not localised to the wound, lessening the realism of the injury. Use of grenades on corpses gives no effect but shooting them results in the same small blood effect. Injured soldiers will lie on the ground and move about slightly. This lends a minor element of cruelty to the violence but the lack of significant wounding and the limited animation

lessens the overall impact. Shooting friendly soldiers or civilians in typical gameplay leads to mission failure. While it is possible to create a level where such actions are not punished, the depictions of injury are no more detailed than regular gameplay. Animals such as dogs and rabbits can also be killed, although there is no injury depicted and no impetus to do so.

Under s3A, highly offensive language is used to a limited extent within a context of the duress of war. An example occurs when a friendly soldier is killed and the player exclaims “Fuck! Man down!” While such language is not suitable for children, its infrequent use means it is unlikely to cause them significant harm.

Arma 3 is a highly immersive military simulator with significant visual fidelity. The focus on military combat and tactics allow for regular depictions of violence. While mature audiences would be able to place the methodical killing of humans in its military context, younger audiences would be likely to be shocked and disturbed by such conduct. Furthermore, the singular and repetitive focus on modern warfare is likely to inure more impressionable audiences towards the violence depicted. While the use of highly offensive language is infrequent, it further supports the need for restriction. The above harms are weighed against the right to freedom of expression as set out in s14 of the New Zealand Bill of Rights Act 1990. Restricting the availability of the publication to older teenagers and adults would be the lowest reasonable restriction which could be applied in order to prevent injury to the public good. Therefore *Arma 3* is classified as objectionable unless the availability of the publication is restricted to persons aged 16 years and over.

Note:

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CONSIDERATION SHEET

OFLC ref: 1300802.000

Submission channel: s12(1)

Title of publication: Arma 3

Other known title: Arma III

Medium: Computer Game

Distributor: All Interactive Distribution


Country of origin: Czech Republic

Language: English

Applicant: Film & Video Labelling Body

Examination transcript No: 48, p227

Examination date: 10 September 2013

Classification Officer(s): 

Other identifying information:

COMPONENTS OF FILM

Components of film originally examined:

	Components	Running time
Game:	Arma 3	
Total running time:		

Components of film excised:

EXAMINATION

Section 23 Examination and classification –

...the Classification Office shall examine the publication to determine the classification of the publication.

Section 24 Soundtrack to be considered -

Where a film is intended to be viewed with an accompanying soundtrack (whether or not the soundtrack is an integral part of the film), an examination of the film under s23 of the Act shall also take into account the content of the soundtrack and its relationship to the film.

Description of Publication:

Arma 3 is an advanced military simulator set on the fictional Mediterranean islands of Altis and Stratis in the mid 2030s. It is able to be played from both first and third person perspectives. The game focuses on an accurate simulation of war, with combat ranging across open landscapes and cramped townships. As infantry, the player can enter and pilot a wide range of military vehicles such as tanks, helicopters, military drones and boats. A wide selection of weaponry includes pistols, rifles and grenades. Mission types vary from sabotaging underwater mines to directing a distant assault on an enemy airbase or infiltrating enemy territory in the cover of darkness. Significant multiplayer options allow for large scale skirmishes with other players. User generated content such as custom missions can be easily created, shared and downloaded. Due to the focus on simulation of military warfare, the game encourages co-operative and organised tactical play.

As an 'Internal Beta' version of the game, there was no single-player campaign or access to multiplayer during examination. However a variety of military scenarios were able to be played and created.

Statutory Submissions

Section 20 – Synopsis of Written Submissions

Not Applicable	X
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Section 21 Other Assistance

None Requested	X
See Record of Assistance	

Other Relevant Information

None Considered	<input type="checkbox"/>
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In reaching a classification decision the Classification Office may consider a variety of information including **previous decisions** of the Classification Office or other **copyright bodies, research, books, articles, reviews**, and information obtained from the **Internet**. If you have used any of this information please record this below.

Previous decisions				
Classification Body	OFLC	<input checked="" type="checkbox"/>	VRA	<input type="checkbox"/>
	Chief Censor of Film	<input type="checkbox"/>	IPT	<input type="checkbox"/>
Title: Arma 2				
Publication/Certificate/Decision No. 0900785				

Other Sources (please specify and reference):

CLASSIFICATION

Section 3 Meaning of "objectionable"-

s3(1) ... 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.

Subject Matter Gateway

The Court of Appeal's interpretation of the words "matters such as sex, horror, crime, cruelty or violence" in s3(1), as set out in *Living Word Distributors v Human Rights Action Group (Wellington)* [2000] 3 NZLR 570; (2000) 6 HRNZ 28, must also be taken in to account in the classification of any publication:

[27] The words "matters such as" in context are both expanding and limiting. They expand the qualifying content beyond a bare focus on one of the five categories specified. But the expression "such as" is narrower than "includes", which was the term used in defining "indecent" in the repealed Indecent Publications Act 1963. Given the similarity of the content description in the successive statutes, "such as" was a deliberate departure from the unrestricting "includes".

[28] The words used in s3 limit the qualifying publications to those that can fairly be described as dealing with matters of the kinds listed. In that regard, too, the collocation of words "sex, horror, crime, cruelty or violence", as the matters dealt with, tends to point to activity rather than to the expression of opinion or attitude.

[29] That, in our view, is the scope of the subject matter gateway.

The content of the publication must bring it within the "subject matter gateway". In classifying the publication therefore, the question is whether or not it deals with the following:

Matters such as sex

Included as a "matter such as sex" is any publication that in terms of s3(1A) –

- (a) ... 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.

Not applicable.

Matters such as horror

Not applicable.

Matters such as crime

Not applicable.

Matters such as cruelty

In the course of combat, soldiers can be injured. They lie on the ground and move about slightly to indicate they are still alive and need help. The depiction of injury is limited to some blood as discussed under s3(3)(a)(i) below.

Matters such as violence

The publication deals with frequent depictions of military violence. While much of the violence is distant, there are also scenarios involving close combat which allow for a higher impact. Violence is further discussed under s3(3)(a)(i) below.

Or – The content of the publication does not bring it within any "subject matter gateway".

For publications that fall outside the "subject matter gateway" go to s3A and s3B

Section 3(2) Certain publications are deemed to be objectionable –

Under s3(2) of the FVPC Act, a publication is deemed to be objectionable if it promotes or supports, or tends to promote or support, certain activities listed in that subsection.

In *Moonen v Film and Literature Board of Review (Moonen I)*, the Court of Appeal stated that the words "promotes or supports" must be given "such available meaning as impinges as little as possible on the freedom of expression"¹ in order to be consistent with the Bill of Rights. The Court then set out how a publication may come within a definition of "promotes or supports" in s3(2) that impinges as little as possible on the freedom of expression:

Description and depiction ... of a prohibited activity do not of themselves necessarily amount to promotion of or support for that activity. There must be something about the way the prohibited activity is described, depicted or otherwise dealt with, which can fairly be said to have the effect of promoting or supporting that activity.²

Mere depiction or description of any of the s3(2) matters will generally not be enough to deem a publication to be objectionable under s3(2). When used in conjunction with an activity, the Classification Office defines "promote" to mean the advancement or encouragement of that activity. The Classification Office interprets the word "support" to mean the upholding and strengthening of something so that it is more likely to endure. A publication must therefore advance, encourage, uphold or strengthen, rather than merely depict, describe or deal with, one of the matters listed in s3(2) for it to be deemed to be objectionable under that provision.

s3(2)(a) The exploitation of children, or young persons, or both, for sexual purposes.

In *Moonen v Film and Literature Board of Review (Moonen II)* [2002] 2 NZLR 754, the Court of Appeal stated that the absence of definitions of "young persons" and "children" in s3(2)(a) was deliberate.

¹ *Moonen v Film and Literature Board of Review* [2000] 2 NZLR 9 at para 27.

² Above n2 at para 29.

The provision does not require proof of the models' ages; it requires an assessment of whether or not the publication in which the models appear promotes or supports the exploitation of children or young persons for sexual purposes:

The legislation is concerned with the vulnerability of young people and with the corrosive injury to the public good of depicting persons perceived to be children or young people as subjects for exploitation. The Board properly assessed whether the publication of the photographs would tend to promote or support the exploitation of children or young persons, not limited to the impact on the particular persons photographed. The inquiry under s3 does not require the ascertainment of the precise age of the person photographed.³

It was Parliament's intention therefore that s3(2)(a) should apply to any publication as defined in the Act, that promotes, supports, or tends to promote or support, the exploitation of children or young persons for sexual purposes. As long as a publication at least tends to promote or support such exploitation, whether or not it depicts underage models, no underage models or no models at all is irrelevant to the proper application of s3(2)(a). The issue is whether, on the evidence presented by the publication itself, the publication at least tends to promote or support the exploitation of children or young persons for sexual purposes.

Not applicable.

s3(2)(b) *The use of violence or coercion to compel any person to participate in, or submit to, sexual conduct.*

Not applicable.

s3(2)(c) *Sexual conduct with or upon the body of a dead person.*

Not applicable.

s3(2)(d) *The use of urine or excrement in association with degrading or dehumanising conduct or sexual conduct.*

Not applicable.

s3(2)(e) *Bestiality.*

Not applicable.

s3(2)(f) *Acts of torture or the infliction of extreme violence or extreme cruelty.*

Not applicable.

If the publication promotes and supports, or tends to promote and support, any of the 3(2) provisions above and is deemed objectionable go to the Bill of Rights section.

³ *Moonen v Film and Literature Board of Review* [2002] 2 NZLR 754 at para 40.

However, section 32 of the FVPC Act directs the Classification Office to consider whether it would classify the publication differently if the material falling under s3(2) were excised or altered. If an excision were made, the publication would no longer fall under 3(2) of the FVPC Act. If the publication contains material that falls under 3(2) which can be excised or altered, go the Excisions section and then return to s3(3) and 3(4) below.

Otherwise, if the publication does not fall under s3(2) consider the following matters:

Section 3(3) Matters to be given particular weight –

In determining, for the purposes of the Act, whether or not any publication (other than a publication to which subsection 3(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:

...particular weight shall be given to the **extent** and **degree** to which, and the **manner** in which, the publication describes, depicts, or otherwise deals with...

s3(3)(a)(i) Acts of torture, the infliction of serious physical harm, or acts of significant cruelty.

As a military shooter, the infliction of physical harm occurs to a high extent but the injury depicted is to a moderate degree. Shooting an enemy results in a small blood burst and they fall realistically to the ground. Additional gunfire leads to some blood on the body. However this is spread across the general area and not localised to the wound, lessening the realism of the injury. Use of grenades on corpses gives no effect but shooting them results in the same small blood effect previously described. Injured soldiers will lie on the ground and move about slightly, but the lack of significant wounding and the limited animation lessens the overall impact. Shooting friendly soldiers or civilians in typical gameplay leads to mission failure. While it is possible to create a level where such actions are not punished, the depictions of injury are no more detailed than regular gameplay. Animals such as dogs and rabbits can also be killed, although there is no injury depicted and no impetus to do so.

s3(3)(a)(ii) Sexual violence or sexual coercion, or violence or coercion in association with sexual conduct.

Not applicable.

s3(3)(a)(iii) Other sexual or physical conduct of a degrading or dehumanising or demeaning nature.

Not applicable.

s3(3)(a)(iv) Sexual conduct with or by children, or young persons, or both.

Not applicable.

s3(3)(a)(v) Physical conduct in which sexual satisfaction is derived from inflicting or suffering cruelty or pain.

Not applicable.

...particular weight shall be given to the **extent** and **degree** to which, and the **manner** in which, the publication

s3(3)(b) *Exploits the nudity of children or young persons, or both.*

Not applicable.

s3(3)(c) *Degrades, dehumanises or demeans any person.*

Not applicable.

s3(3)(d) *Promotes or encourages criminal acts or acts of terrorism.*

Not applicable.

s3(3)(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*

Not applicable.

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

3A(1) A publication to which subsection 3A(2) applies may be classified as a restricted publication under section 23(2)(c)(i).

3A(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.*

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

Highly offensive language is used to a limited extent within a context of the duress of war. An example occurs when a friendly soldier is killed and the player exclaims “Fuck! Man down!” While such language is not suitable for children it is unlikely to cause them significant harm.

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

3B(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

⁴ The grounds of discrimination prohibited by s21(1) of the Human Rights Act 1993 are sex, marital status, religious belief, ethical belief, colour, race, ethnic or national origins, disability, age, political opinion, employment status, family status and sexual orientation.

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).

3B(3) *The material referred to in subsection (2) is material that*

3B(3)(a) *describes, depicts, expresses, or otherwise deals with—*

3B(3)(a)(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.*

Discussed elsewhere.

3B(3)(a)(ii) *Conduct that, if imitated, would pose a real risk of serious harm to self or others or both.*

Not applicable.

3B(3)(a)(iii) *Physical conduct of a degrading or dehumanising or demeaning nature.*

Not applicable.

3B(3)(b) *is or includes 1 or more visual images—*

3B(3)(b)(i) *of a person's body; and*

3B(3)(b)(ii) *that, alone, or together with any other contents of the publication, are of a degrading or dehumanising or demeaning nature.*

Not applicable.

3B(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—

3B(4)(a) *Cause them to be greatly disturbed or shocked; or*

3B(4)(b) *Increase significantly the risk of them killing, or causing serious harm to, themselves, others, or both; or*

3B(4)(c) *Encourage them to treat or regard themselves, others, or both, as degraded or dehumanised or demeaned.*

Please see conclusion.

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 3(4) Additional matters to be considered –

In determining, for the purposes of the Act, whether or not any publication (other than a publication to which subsection 3(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:

s3(4)(a) The dominant effect of the publication as a whole.

Arma 3 is a highly immersive military shooter. A realistic approach means the game is played at a more considered pace than its contemporaries.

s3(4)(b) The impact of the medium in which the publication is presented.

A computer game is typically played at home. It can be played in multiplayer and customised with new content. The extensive and advanced graphical options allow for a very high visual fidelity. In addition, the game supports a wide range of controllers with immersive intent such as head trackers and flight joysticks.

s3(4)(c) The character of the publication, including any merit, value or importance it has in relation to literary, artistic, social, cultural, educational, scientific or other matters.

The publication has some educational value due to its realism and strategic elements.

s3(4)(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.

The game is likely to appeal to older teenagers and adults who enjoy tactical military games.

s3(4)(e) The purpose for which the publication is intended to be used.

The publication is intended for entertainment.

s3(4)(f) Any other relevant circumstances relating to the intended or likely use of the publication.

None.

BILL OF RIGHTS CONSIDERATIONS

New Zealand Bill of Rights Act 1990

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.

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 consistent with the rights and freedoms contained in this Bill of Rights, that meaning shall be preferred to any other meaning.

Discussion of Bill of Rights Considerations:

Please see conclusion.

CONCLUSION

Injury

If s3(1) applies to the publication the question is whether or not it deals with the matters discussed in a manner that **the availability of the publication is likely to be injurious to the public good**. In discussing injury consider the nature and severity of that injury, the likelihood of it occurring and who would be injured by the publication's availability. The classification recommended must remedy the injury identified.

If s3B applies to the publication, **the injury to the public good** must be explained in terms of s3B(4) of the FVPC Act.

If s3A applies to the publication, explain the age restriction in terms of **how the language is likely to cause serious harm to persons under the age of the restriction**.

Classification:

R16

Arma 3 is an advanced military simulator set on two open world islands. The focus on military combat and tactics allow for frequent depictions of violence and occasional use of highly offensive language. While mature audiences would be able to place the methodical killing of humans in its immersive military context, younger audiences would be likely to shocked by such conduct. Furthermore, the singular and repetitive focus on modern warfare is likely to inure more impressionable audiences towards the violence depicted. The above harms are weighed against the right to freedom of expression as set out in s14 of the New Zealand Bill of Rights Act 1990. Restricting the availability of the publication to older teenagers and adults would be the lowest reasonable restriction which could be applied in order to prevent injury to the public good. Therefore *Arma 3* is classified as objectionable unless the availability of the publication is restricted to persons aged 16 years and over.

EXCISIONS/ ALTERATIONS**Section 32 - Excisions from and alterations to film –**

In the case of a film submitted for classification under any part of the Act other than s29(1) and 41(3) (court referrals), if the Classification is of the opinion that it would classify the film differently according to whether any specified part or parts of the film are excised from or left in the film, it shall, before making a final determination in respect of the classification of the film, follow the procedure prescribed by section 33.

Section 33(1) directs the Classification Office to notify the authorised distributor of the film of the classification that would be given if part or parts of the film were excised or altered, and, the classification that would be given if the specified part or parts were not excised or altered.

Section 33(5) provides that, in deciding whether or not to propose excisions or alterations, the Classification Office may consider the effect that any such excision or alteration may have on the continuity of the film or on its overall effect.

EXCISIONS SUMMARY	
None (for non-moving image and s29(1) / 41(3) publications)	<input type="checkbox"/>
No excisions recommended (for all other moving image publications)	<input checked="" type="checkbox"/>
Excisions/alterations recommended	<input type="checkbox"/>
Number of Excisions/Alterations:	
Brief Description:	

PUBLIC DISPLAY CONDITIONS

Not Applicable	
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Section 27 Conditions relating to the display of restricted publications –

Where the Classification Office classifies any publication as restricted, the Office shall in every case consider whether or not to impose conditions on the public display of that publication, and may impose such conditions at the time of classifying the publication.

In determining whether or not conditions in respect of public display should be imposed, the Classification Office must have regard to:

s27(2)(a) The reasons for classifying the publication as a restricted publication.

Due to the way it deals with matters of violence and the use of highly offensive language.

s27(2)(b) The terms of the classification given to the publication.

R16

s27(2)(c) The likelihood that the public display of the publication, if not subject to conditions or, as the case may be, any particular condition, would cause offence to reasonable members of the public.

The display of the publication is unlikely to cause offence to reasonable members of the public.

Section 27(3) directs that where the Classification Office considers that the public display of the publication, if not subject to conditions under this section, would be likely to cause offence to reasonable members of the public, the Classification Office shall, at the time of classifying the publication, impose such conditions under this section in respect of the public display of that publication as it considers necessary to avoid the causing of such offence.

Challenge - Firing Range

Shooting Range Mode = Challenge Failed - You've failed to observe safe weapon discipline

Navigate course, shoot terrorist targets (cutouts) avoid shooting people friendly targets.

Castle environment.
Urban & Night.

EDITOR - Place friendlies, animals, hostiles etc. units - soldiers
create a playable scenario & test - drivers etc.
Upload/download via Steam Community.

① ~~Star~~ Civilian. - Shoot in head, falls to ground. ^{some crawling}
Same blood (not much.)
blood spurts on impact w/ body area when dead, but very small.
exploding grenade by body - \rightarrow nothing.

② Kill friendly soldier - player says a fuck! Man down!
small blood spray.

shooting dead soldier + blood decals on bodies, but limited. ~~As words~~
grenades also do nothing on soldiers.

cars & soldiers
~~wounds~~ - lacerations on skin + some small bullet holes
shooting bodies add blood to clothing.

can kill animals - only rabbits in the build, no falter injury.

dying screen blurs as fall to ground.

Tanks, 4WD, Helis, drones, planes, submarines, boats. Infantry.

2 Islands. Altis (large) & Stratis (small)

• Showcase - Combined Arms. (Assault enemy base w/ vehicles & fly in by heli for coast. music & Military v/OS. a/c)

Assault base, shoot enemies - v. distant. then heli vs attack

Showcase. Supports. Assault base defences. Use artillery/Close air support.
send in 2 teams.
Support as sniper. eliminate enemies + assist combat.

Scuba - swim along coast # disable underwater mines.
assault camp # take out chopper. etc.

Night - infiltrate enemy territory at night, plant explosives # take out

Military Simulator. Ballistics. tactics. realism.

②

