

PARLIAMENTARY COUNSEL

Drafting Direction No. 4.2 Referral of Bills to other agencies

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Part 1—Introduction

1 This Drafting Direction deals with the referral of Bills to agencies other than the instructing agency. Part 2 deals with the referral of Bills to agencies within the Attorney-General’s portfolio, and Part 3 deals with the referral of Bills to other agencies.

Why and to whom do we refer Bills?

2 We refer Bills to agencies who have a right or responsibility to provide policy input in relation to a Bill, generally because the agency has a co-ordinating or whole-of-government responsibility for a matter dealt with in the Bill (such as legal policy issues for the Attorney-General’s Department, public sector terms and conditions issues for the Australian Public Service Commission (*APSC*), etc). The intention is to ensure that our Bills properly reflect over-arching government policies.

3 However, we should not amend Acts except on the instructions of the administering agencies, or with their consent.

4 Moreover, it is not our responsibility, and nor do we have the resources, to help other agencies keep up-to-date with over-arching government policies that affect them (as opposed to “for which they are responsible”), or more generally to keep up-to-date with other developments in the public sector. Liaison with affected agencies is really the responsibility of the instructors whose Bill will have an impact on other agencies’ legislation.

5 Therefore we do not have any general right or obligation to distribute draft Bills beyond the agencies mentioned in this Drafting Direction. Apart from these agencies, the decision on how widely a Bill is distributed during the drafting process must be one for our clients rather than for us.

When should Bills be referred?

6 In general, deciding when in the drafting process a Bill should be referred is a matter of judgment. If a Bill is referred too early (i.e. before policy and approach are reasonably well settled), the agencies receiving the draft Bill may waste time considering draft provisions that are later abandoned. If a Bill is referred too late, the agencies receiving it may not have time to provide useful comments or negotiate on policy approaches in which they have an interest.

7 However there are some projects that should be referred to some interested agencies as early as possible, perhaps even before drafting has started. For instance, the Criminal Law Branch in the Attorney-General’s Department and the Legislative Review Branch of the Department of Finance and Deregulation have advised that they would prefer to give advice about policy proposals that are relevant to their responsibilities rather than waiting until they see a draft Bill.

Part 2—Attorney-General’s portfolio

Attorney-General’s Department

8 Attachment A contains a list of draft provisions that should be referred to the Attorney-General’s Department (*AGD*) for comment, and the areas of AGD to which the relevant Bills should be referred.

How to refer Bills

9 Word Note 33 sets out the process for e-mailing Bills using the Ref2AGs macro. This provides a simple method of sending a copy of a Bill and a coversheet to all relevant areas of AGD. (This macro can also be used to send copies of Bills to various agencies—see paragraph 35.)

Timing

10 Ideally, Bills should be referred when drafts are given to instructors. It is not necessary to send successive copies of a Bill to a Division or Office if the relevant provisions have not been changed since the Bill was last referred to that area.

Responsibilities of AGD

11 When you have referred the Bill to AGD, AGD is responsible for commenting on the Bill in a timely way, or taking any other appropriate action. In some cases, areas of AGD will be interested to know that the Bill contains certain provisions but will not want to comment on the provisions.

Need to follow up reference to AGD

12 In general, therefore, you do not have to follow up the Divisions and Offices to which you have referred the Bill. The only exceptions are:

- (a) matters that affect the legal effectiveness of the Bill (eg whether the Bill gives appropriate effect to an international agreement, where that agreement provides the constitutional basis for the Bill); and
- (b) matters which must be resolved before the Bill can be completed (eg penalties for new offences) or which you think ought to be resolved before the Bill is completed (eg whether a new administrative power ought to be reviewable or whether the Bill is consistent with Australia’s international obligations).

Office of International Law—further matters

Billable work

13 Items 5 to 8, 29, 30 and 32 to 34 in Attachment A require certain provisions to be referred to the Office of International Law (*OIL*) for comment.

14 Work done by OIL on the implementation of international law in Australia (including translation of international law into domestic effect and ensuring the consistency of domestic law with international law) is billable work under the Legal Services Directions.

15 OIL has advised that you or your instructors should contact OIL (or one of the other tied providers of international law work, ie AGS or DFAT) for advice at an early stage in relation to provisions that are ultimately required to be referred to OIL for comment. Where this has been done, and therefore all that OIL is doing when a Bill is ultimately referred to it is checking that you have appropriately reflected the advice in the Bill, there will not usually be any need to bill the instructing agency.

16 However, OIL has also advised that where a matter first becomes the subject of international law advice at the time you send a draft Bill to OIL, or where new issues are raised by a draft Bill other than those that have been the subject of prior advice in the development of the legislation, OIL will usually contact the instructing agency and notify it that the matter requires legal advice and that the agency will be billed for that advice.

17 If you are allocated a drafting project that has international law aspects, you or your instructors should contact OIL quite early in the process (ideally before drafting starts) about the project.

Identifying relevant international agreements

18 Sometimes, it is not apparent on the face of a Bill that an international agreement might exist whose content is relevant to the Bill. I have discussed with OIL ways of ensuring that any relevant international agreement is taken into account in drafting a Bill.

19 Cabinet submissions seeking approval for legislation are accompanied by coordination comments and OIL contributes to these comments in situations where international law is relevant. So, if you are drafting on the basis of Cabinet authority, you could use the coordination comments in the accompanying submission as one way of working out the impact of international law.

20 In addition, OIL is provided with a copy of the legislation program each sittings. OIL may provide First Parliamentary Counsel with a list of Bills that OIL considers are likely to involve questions of the implementation of international law in Australia which will be distributed to all drafters. You should refer any Bill on this list to OIL for comment.

21 To supplement these measures, you should prompt instructors with questions along the lines of the following:

- (a) does the Bill implement a treaty?
- (b) is constitutional support dependent on a treaty?
- (c) might the Bill be considered to infringe civil, political or other human rights?
- (d) have the instructors had any discussions with OIL, AGS or DFAT?
- (e) did OIL make coordination comments on the Cabinet submission?
- (f) does the Bill provide any sort of subsidy or concession in relation to things destined for export, or that will compete with other countries' products?
- (g) does the Bill impose minimum Australian ownership, or Australian content, rules?

- (h) if the Bill deals with human rights, intellectual property, anti-dumping, customs valuation, greenhouse gas, extradition, international tax or other matters you consider may have international law implications, have the instructors considered international law aspects?

22 The matters in paragraphs 21(a), (b) and (c) are examples of matters that already require referral to OIL (see items 6 and 33 in Attachment A). The matters in paragraphs 21(d) and (e) are just ways of prompting the instructors to think again about matters they might already have addressed. The specific matters mentioned in paragraphs 21(f), (g) and (h) are matters that might be expected to have international law implications that should have been dealt with by instructors, but which you can ask about as a sort of safety net.

23 Australia's obligations under human rights treaties are wide-ranging and it may be difficult to identify when proposed legislation relates to these obligations. Drafters should consider if legislation is likely to cover areas such as: civil, political, economic, social or cultural rights; the rights of children; racial discrimination; discrimination against women or any other group; and torture or cruel, inhuman or degrading punishment or treatment.

24 You are not expected to know about the range of international agreements to which Australia is a party or about the content of any specific agreements. Asking these questions is just a way of OPC seeking to add value. The methods outlined above will not be foolproof, but it is hoped that they will reduce the likelihood of OIL missing out on considering a Bill that has international law implications.

Territories Branches—further matters

25 Items 43 to 45 in Attachment A require certain provisions to be referred to the Territories East Branch and Territories West Branch of AGD (the ***Territories Branches***) for comment because of their responsibilities in relation to Norfolk Island and other external Territories (other than the Territory of Heard Island and McDonald Islands and the Australian Antarctic Territory).

26 The Territories Branches are interested in commenting on any provision that might affect the administration of the external territories. However, it is often not possible for drafters to know that a particular provision might have such an effect. I have discussed with the Territories Branches ways of ensuring that provisions not covered by items 43 to 45 in Attachment A that might still affect the administration of an external territory are referred to the Territories Branches.

27 Cabinet submissions seeking approval for legislation are accompanied by coordination comments and the Territories Branches will contribute to these comments if the proposal will affect the administration of the external territories. So, if you are drafting on the basis of Cabinet authority, you could use the coordination comments in the accompanying submission as one way of working out whether the Bill will affect the administration of the external territories.

28 In addition, the Territories Branches are provided with a copy of the legislation program each sittings. The Territories Branches may provide First Parliamentary Counsel with a list of Bills that they consider are likely to affect the administration of the external territories which will be distributed to all drafters. You should refer any Bill on this list to the Territories Branches for comment.

29 There is no need to refer a provision to the Territories Branches merely because it will apply in an external territory.

Australian Government Solicitor

30 Bills should only be referred to the Australian Government Solicitor (*AGS*) if they raise constitutional or other legal issues (eg whether there is constitutional power to enact the Bill, whether it involves an imposition of tax or an acquisition of property otherwise than on just terms, or whether proposed appointments under the Bill would fall foul of the doctrine of inconsistent commissions).

How to refer Bills

31 Advice provided by *AGS* will be charged to the instructing agency. Such referrals should only be made with the agreement of the instructing agency. As well as identifying the issues on which you require advice, you should name the instructing officers, and indicate the timetable for finalising the Bill and how quickly you need advice, or preliminary advice. See Drafting Direction 4.5 (Legal advice on issues arising during drafting) for more information on this matter.

Need to follow up reference to *AGS*

32 Advice sought from *AGS* will usually be needed before the Bill can be finalised. This means that on occasions you might have to follow up the referral to *AGS*, if advice is not received within the requested deadlines.

Part 3—Other agencies

General referral requirements

33 Attachment B is a list of draft provisions that should be referred to an agency other than *AGD* or *AGS*.

Routine distribution of Bills

34 There is currently no routine distribution of draft Bills, except that the *APSC* receives an introduction copy of every Bill. This means that it is up to the instructors and the drafters to ensure that draft Bills are circulated to other government agencies that need to see them, and are circulated early enough for those agencies to look at them before the Bill is finalised for introduction.

35 Word Note 33 sets out the process for e-mailing Bills using the *Ref2AGs* macro. This provides a simple method of sending a copy of a Bill and a coversheet to agencies that are on *Fedlink*.

Where instructions are received from an agency outside the administering portfolio

36 Attachment B requires that copies of Bills be referred to the agency administering legislation that is amended or affected by the Bill, where the instructing agency is within

another portfolio. Normally, this will be done by sending the Bill to the Legislation Liaison Officer for the relevant portfolio.

37 Instructions to amend legislation administered by an agency within a different portfolio from that of the instructing agency should only be accepted where the amendments are clearly consequential on legislation being drafted for the instructing agency. Even in these cases instructions will usually be issued by the administering agency. Wherever the instructions come from, the Bill must not be sent for Legislation Approval without either:

- (a) the approval of each Minister administering legislation amended by the Bill, recorded in the LAP memo; or
- (b) a statement in the LAP memo to the effect that you understand that this approval has been, or will be, sought.

38 In some cases, the requirement to refer copies of Bills to the administering agency may be satisfied by obtaining an undertaking from the instructing agency to ensure that copies of the Bills reach the administering agency. However, this does not affect the drafter's obligation to mention clearance by the administering Minister in the LAP memo. As well, this approach should not be used if the drafter has any reason to believe that the instructing agency may delay sending copies of Bills to the administering agency.

Peter Quiggin
First Parliamentary Counsel
26 June 2009

Attachment A—Attorney-General’s Department

Attorney-General’s Department Referral Checklist		
Item	If the provision...	Refer it to... (see Note 10)
1	creates, abolishes or affects the power or jurisdiction of a court	Assistant Secretary, Federal Courts Branch, Access to Justice Division
2	provides or amends a scheme for alternative dispute resolution	Assistant Secretary, Federal Courts Branch, Access to Justice Division
3	creates, abolishes or affects the power or jurisdiction of a tribunal	Assistant Secretary, ALCP Branch, Access to Justice Division
4	might be viewed as a privative or ouster provision (see Note 1)	Assistant Secretary, Federal Courts Branch, Access to Justice Division
5	might discriminate against an individual (because of age, disability, nationality, race, religion, belief, sex, family responsibility, marital status, pregnancy, sexual preference or any other reason)	Assistant Secretary, Human Rights Branch, Social Inclusion Division and First Assistant Secretary, Office of International Law
6	might impact on human rights, including: civil, political, economic, social or cultural rights; the rights of children, women, different races or other groups; and the rights of persons detained by the state	Assistant Secretary, Human Rights Branch, Social Inclusion Division and First Assistant Secretary, Office of International Law
7	is specifically directed to children (i.e. persons under 18) or applies to children differently from the way it applies to others	Assistant Secretary, Human Rights Branch, Social Inclusion Division and First Assistant Secretary, Office of International Law
8	might affect social justice for Aboriginals, Torres Strait Islanders or South Sea Islanders	Assistant Secretary, Human Rights Branch, Social Inclusion Division and First Assistant Secretary, Office of International Law
9	raises issues relating to evidence or procedure in civil or criminal matters (including conflict of law issues in civil matters)	Assistant Secretary, ALCP Branch, Access to Justice Division
10	involves a mutual recognition scheme	Assistant Secretary, ALCP Branch, Access to Justice Division
11	gives an administrative discretion that should perhaps be reviewable	Assistant Secretary, ALCP Branch, Access to Justice Division
12	modifies or affects the operation of an administrative law Act (see Note 2)	Assistant Secretary, ALCP Branch, Access to Justice Division

Attorney-General's Department Referral Checklist

Item	If the provision...	Refer it to... (see Note 10)
13	modifies or affects the operation of the <i>Judiciary Act 1903</i> (section 39B)	Assistant Secretary, ALCP Branch, Access to Justice Division
14	creates new reviewable or appealable rights, entitlements or responsibilities	Assistant Secretary, ALCP Branch, Access to Justice Division
15	confers or affects a power to make a subordinate instrument that modifies an Act	First Assistant Secretary, Office of Legislative Drafting and Publishing and Assistant Secretary, ALCP Branch, Access to Justice Division and First Assistant Secretary, Criminal Justice Division
16	affects an existing power to make a subordinate instrument (whether or not a legislative instrument) (see Note 3)	First Assistant Secretary, Office of Legislative Drafting and Publishing and Assistant Secretary, ALCP Branch, Access to Justice Division
17	confers a power to make a legislative instrument to which all of the <i>Legislative Instruments Act 2003</i> applies (see Note 4)	First Assistant Secretary, Office of Legislative Drafting and Publishing
18	confers a power to make a legislative instrument to which section 42 and/or Part 6 of the <i>Legislative Instruments Act 2003</i> does not apply	First Assistant Secretary, Office of Legislative Drafting and Publishing and Assistant Secretary, ALCP Branch, Access to Justice Division
19	confers a power to make an instrument that is specified in the Bill not to be a legislative instrument (see Note 5) or is specified in the Bill to be a disallowable instrument	First Assistant Secretary, Office of Legislative Drafting and Publishing and Assistant Secretary, ALCP Branch, Access to Justice Division
20	provides that an Act is to be renumbered	First Assistant Secretary, Office of Legislative Drafting and Publishing
21	allows search, seizure, arrest, detention or entry onto premises, or gives other coercive powers (eg to take blood samples) (see Note 6)	First Assistant Secretary, Criminal Justice Division
22	raises issues relating to evidence or procedure in criminal matters	First Assistant Secretary, Criminal Justice Division
23	creates or changes an offence, a civil or administrative penalty provision or a criminal, civil or administrative penalty, or impacts on criminal liability (eg Crown immunity) (see Note 7)	First Assistant Secretary, Criminal Justice Division

Attorney-General's Department Referral Checklist		
Item	If the provision...	Refer it to... (see Note 10)
24	requires disclosure of prior criminal conduct or convictions or amends Part VIIC of the <i>Crimes Act 1914</i> relating to spent convictions (particularly if an exemption is proposed) (see Note 8)	First Assistant Secretary, Criminal Justice Division
25	provides for on the spot fines or infringement notices	First Assistant Secretary, Criminal Justice Division
26	provides another method of criminal law enforcement (eg forfeiture)	First Assistant Secretary, Criminal Justice Division
27	confers powers to require production of documents or to question a person, or removes the privilege against self-incrimination	First Assistant Secretary, Criminal Justice Division
28	concerns firearms or other prohibited weapons	First Assistant Secretary, Criminal Justice Division
29	provides for secrecy or non-disclosure obligation with respect to official information	First Assistant Secretary, Criminal Justice Division and Assistant Secretary, Security Law Branch, National Security Law and Policy Division
30	overrides a secrecy law or a non-disclosure obligation with respect to official information or excuses a person from liability for disclosure of information under a secrecy law	First Assistant Secretary, Criminal Justice Division and Assistant Secretary, Security Law Branch, National Security Law and Policy Division and First Assistant Secretary, Office of International Law
31	potentially impacts on the Electronic Transactions Act (see Note 9)	Senior Legal Officer, Copyright and Classification Policy Branch, Territories and Information Law Division
32	relates specifically to citizenship or to refugees	First Assistant Secretary, Office of International Law
33	is based on the external affairs power, or seeks to implement an international agreement	First Assistant Secretary, Office of International Law
34	involves another international law issue	First Assistant Secretary, Office of International Law
35	raises a novel issue relating to the conduct of litigation by the Commonwealth	Assistant Secretary, Office of Legal Services Coordination, Civil Law Division
36	makes the Commonwealth liable for damages	Assistant Secretary, Office of Legal Services Coordination, Civil Law Division
37	concerns or affects the delivery of legal services to or by the Commonwealth	Assistant Secretary, Office of Legal Services Coordination, Civil Law Division
38	exempts the Commonwealth from liability for loss or damages	Assistant Secretary, Office of Legal Services Coordination, Civil Law Division

Attorney-General's Department Referral Checklist

Item	If the provision...	Refer it to... (see Note 10)
39	provides for financial assistance in legal proceedings (legal aid)	Assistant Secretary, Legal Assistance Branch, Social Inclusion Division
40	involves Commonwealth officers or bodies performing functions or duties, or exercising powers, under State legislation (<i>Hughes</i> issues)	Assistant Secretary, Constitutional Policy Unit, Priorities and Coordination Division
41	involves State officers or bodies performing functions or duties, or exercising powers, under Commonwealth legislation (<i>Zentai</i> issues)	Assistant Secretary, Constitutional Policy Unit, Priorities and Coordination Division
42	involves an issue relating to Chapter III of the Constitution (by conferring non-judicial functions or powers on judicial officers, or by conferring judicial functions or powers on non-judicial officers) where AGS advice on the issue has been sought	Assistant Secretary, Constitutional Policy Unit, Priorities and Coordination Division
43	will apply differently in Norfolk Island or another external Territory (other than the Territory of Heard Island and McDonald Islands and the Australian Antarctic Territory) to the way in which it applies elsewhere	Assistant Secretary, Territories West Branch, Territories and Information Law Division and Assistant Secretary, Territories East Branch, Territories and Information Law Division
44	is specifically directed at Norfolk Island or another external Territory (other than the Territory of Heard Island and McDonald Islands and the Australian Antarctic Territory)	Assistant Secretary, Territories West Branch, Territories and Information Law Division and Assistant Secretary, Territories East Branch, Territories and Information Law Division
45	is of a kind that the drafter considers will be particularly controversial in its application in relation to Norfolk Island or another external Territory (other than the Territory of Heard Island and McDonald Islands and the Australian Antarctic Territory)	Assistant Secretary, Territories West Branch, Territories and Information Law Division and Assistant Secretary, Territories East Branch, Territories and Information Law Division

Note 1: A privative or ouster provision is one that tries to put particular questions beyond the jurisdiction of the courts.

Note 2: These are the administrative law Acts:

- a) the *Administrative Appeals Tribunal Act 1975*;
- b) the *Administrative Decisions (Judicial Review) Act 1977*.

Note 3: Particularly if:

- a) the subordinate instruments carry crucial or significant elements of the legislative scheme; or
- b) the subordinate instruments are not instruments that the Office of Legislative Drafting and Publishing would draft.

Note 4: This includes regulations, Proclamations and other instruments that are legislative instruments because of a provision of the *Legislative Instruments Act 2003*.

Note 5: Please include a drafter's note indicating whether the instrument is specified not to be a legislative instrument because it does not have a legislative character or because the instrument is being exempted from the *Legislative Instruments Act 2003*.

Note 6: It doesn't matter whether these things are in connection with a criminal investigation, the monitoring of compliance with the law, or the protection of the revenue.

Note 7: Note the following:

- a) An administrative penalty provision creates a liability to pay a set amount (ie the penalty) if certain conduct occurs, without the need for a court to determine whether to impose the penalty or the amount of the penalty. The amount can then be recovered as a debt.
- b) If you are creating an offence which will have extraterritorial operation, please include a drafter's note drawing this to the attention of the Criminal Justice Division.
- c) If you send a Bill insert to that Division that contains offence provisions, please also send any relevant application provisions.

Note 8: If an exemption from the spent convictions scheme is proposed, you should advise your instructors to contact the Criminal Justice Division. That Division will then discuss the matter with your instructors and require your instructors to consult the Privacy Commissioner.

Note 9: A provision may potentially impact on the Electronic Transactions Act by, for example, exempting an electronic transaction from that Act, being similar to a provision of that Act or dealing with electronic transactions.

Note 10: For the names and contact details of the current heads of Divisions and Offices, see the Commonwealth Government Directory, or www.gold.gov.au.

Attachment B—Other agencies

Provisions to be referred to other agencies		
Item	If the provision...	Refer it to... (see Note)
1	creates or abolishes an agency	APSC [Legislation Liaison Officer]
2	relates to the terms and conditions of statutory office-holders	APSC [Legislation Liaison Officer]
3	amends, or refers to, the <i>Public Service Act 1999</i>	APSC [Legislation Liaison Officer]
4	relates to staffing powers (eg by providing for the staffing of a Commonwealth body (whether or not under the <i>Public Service Act 1999</i>) or empowering a Commonwealth body to appoint consultants)	APSC [Legislation Liaison Officer]
5	provides APS employees will assist a non-APS agency (eg subsection 49(2) of the <i>Public Service Act 1999</i>)	APSC [Legislation Liaison Officer]
6	refers to information published by the Australian Bureau of Statistics	Australian Bureau of Statistics [Legislation Liaison Officer]
7	confers a power or imposes a duty on the Auditor-General	Australian National Audit Office [Legislation Liaison Officer]
8	will apply differently in the Territory of Heard Island and McDonald Islands or the Australian Antarctic Territory to the way in which it applies elsewhere	Department of the Environment, Water, Heritage and the Arts [Legislation Liaison Officer]
9	is specifically directed at the Territory of Heard Island and McDonald Islands or the Australian Antarctic Territory	Department of the Environment, Water, Heritage and the Arts [Legislation Liaison Officer]
10	is of a kind that the drafter considers will be particularly controversial in its application in relation to the Territory of Heard Island and McDonald Islands or the Australian Antarctic Territory	Department of the Environment, Water, Heritage and the Arts [Legislation Liaison Officer]
11	creates a statutory authority or agency, whether or not the authority or agency is to be a body corporate separate from the Commonwealth	Department of Finance and Deregulation [Branch Manager, Legislative Review Branch]
12	amends or repeals legislation creating or continuing a statutory authority or agency (including varying the governance arrangements for the authority or agency), whether or not the authority or agency is a body corporate separate from the Commonwealth	Department of Finance and Deregulation [Branch Manager, Legislative Review Branch]
13	exempts a statutory authority or agency from some or all of the FMA Act or the CAC Act, or is not subject to those Acts	Department of Finance and Deregulation [Branch Manager, Legislative Review Branch]
14	creates an organisation (eg a company) in which the Commonwealth has an ownership interest	Department of Finance and Deregulation [Branch Manager, Legislative Review Branch]

Provisions to be referred to other agencies		
Item	If the provision...	Refer it to... (see Note)
		Branch]
15	authorises a Commonwealth body to borrow from the Commonwealth or from financial markets	Department of Finance and Deregulation [Branch Manager, Legislative Review Branch]
16	authorises the collection of public money by entities that are not part of the Commonwealth and are not owned by the Commonwealth	Department of Finance and Deregulation [Branch Manager, Legislative Review Branch]
17	exempts from all or any part of the FMA Act money that is part of the Consolidated Revenue Fund	Department of Finance and Deregulation [Branch Manager, Legislative Review Branch]
18	is a special or standing appropriation, whether or not it is affected by a sunset clause	Department of Finance and Deregulation [Branch Manager, Legislative Review Branch]
19	creates, or amends provisions creating, a Special Account or relates to the administrative arrangements applying to a Special Account	Department of Finance and Deregulation [Branch Manager, Legislative Review Branch]
20	creates a fund or account for the Commonwealth or a statutory authority or agency	Department of Finance and Deregulation [Branch Manager, Legislative Review Branch]
21	specifies, for the purposes of the <i>Archives Act 1983</i> (see section 3A), that a body established for a public purpose is taken never to have been so established (usually in the context of corporatisation or privatisation)	National Archives of Australia [Director-General]
22	transfers assets which may include Commonwealth records from a Commonwealth body to a non-Commonwealth body, or to a body which is intended to become a non-Commonwealth body	National Archives of Australia [Director-General]
23	overrides a secrecy law or a non-disclosure obligation with respect to official information	PM&C [Assistant Secretary, Privacy and FOI Policy Branch, Government Division]
24	provides for collection, storage, use or disclosure of tax file numbers	PM&C [Assistant Secretary, Privacy and FOI Policy Branch, Government Division]
25	provides for collection, storage, use or disclosure of other personal information	PM&C [Assistant Secretary, Privacy and FOI Policy Branch, Government Division]
26	creates or affects a data base or register of personal information	PM&C [Assistant Secretary, Privacy and FOI Policy Branch, Government Division]
27	might infringe civil, political or other human rights relating to privacy or freedom of speech	PM&C [Assistant Secretary, Privacy and FOI Policy Branch, Government Division]
28	allows automated marketing of personal data	PM&C [Assistant Secretary, Privacy and FOI Policy Branch, Government Division]
29	modifies or affects the operation of the Freedom of Information Act	PM&C [Assistant Secretary, Privacy and FOI Policy Branch, Government Division]

Provisions to be referred to other agencies		
Item	If the provision...	Refer it to... (see Note)
30	affects access to Government-held information or affects correction of Government-held personal information	PM&C [Assistant Secretary, Privacy and FOI Policy Branch, Government Division]
31	allows termination of an appointment without cause	PM&C [First Assistant Secretary, Government Division]
32	refers to a specific agency's status as an Executive Agency or Departmental Agency	PM&C [First Assistant Secretary, Government Division]
33	amends the <i>Trade Practices Act 1974</i>	Treasury [Legislation Liaison Officer]
34	might affect the operations of the <i>Corporations Act 2001</i> or related legislation	Treasury [Legislation Liaison Officer]
35	provides for corporatisation or privatisation of a Government organisation	Treasury [Legislation Liaison Officer]
36	includes descriptions of marine boundaries or land boundaries	Geoscience Australia
37	seeks to implement an international agreement	Department of Foreign Affairs and Trade [International Organisations and Legal Division]
38	repeals or amends an Act, Ordinance or Regulation of the Australian Capital Territory	ACT Parliamentary Counsel's Office [Parliamentary Counsel] (only with your instructor's permission)
39	amends, or otherwise affects, legislation administered within a portfolio other than that including the instructing agency (see paragraphs 36 to 38 of this Drafting Direction)	The portfolio Department whose legislation is amended or otherwise affected [Legislation Liaison Officer]

Note: For contact information for these agencies, see the Commonwealth Government Directory, or www.gold.gov.au.