



Australian Government

Developing Clearer Laws

QUICK REFERENCE GUIDE

QUICK REFERENCE GUIDE

Laws that are clear and easy to understand are an essential part of an accessible justice system. Clearly written laws can be better understood, complied with and administered.

This quick reference guide provides a brief overview of the principles for clearer laws, along with some helpful tips for departmental officials involved in developing legislation, including regulations and other legislative instruments.

The guide includes contact details of key agencies involved in the development and scrutiny of draft legislation. It also provides contact details to seek further information on specific matters which may need consideration, for example issues around jurisdiction of courts, offences and penalties, international conventions and treaties, and financial provisions. These agencies will be able to provide up-to-date advice on best practice to address these matters in your legislation and ensure consistency across Commonwealth laws.

Principles for clearer laws

Policymakers, instructing agencies and drafters should apply the following general principles when developing Commonwealth legislation.

1. Consider all implementation options – don't legislate if you don't have to.
2. When developing policy, reducing complexity should be a core consideration.
3. Laws should be no more complex than is necessary to give effect to policy.
4. Legislation should enable those affected to understand how the law applies to them.
5. The clarity of a proposed law should be continually assessed – from policy development through to consideration by Parliament (for Acts) or consideration by the rule-maker (for legislative instruments).

Tips for developing clearer laws

- Clearly identify the problem and the policy options that could be used to address it before seeking policy approval by Cabinet. Where the proposal requires the preparation of a Regulatory Impact Statement (RIS), these issues should be canvassed in the RIS.
- Establish a team of trained instructors (including senior experienced officers) who have a mixture of operational, policy and legal skills to ensure practical and technical issues are identified and addressed early in the process.
- Consult drafting offices and relevant policy areas early. Drafters can assist agencies to consider the practical complexity of various policy options and can provide advice on realistic timeframes and resources to implement policy options in legislation.
- Take time to consider which scenarios need to be specified in the legislation, and which can be left to explanatory material. Laws provide a framework and general principles – legislation cannot cover every scenario.
- Consider releasing an exposure draft for public comment or use focus groups to test how easy it is to understand your legislation.

Where to go for more information

Department of the Prime Minister and Cabinet: Find links to the Legislation Handbook, the Federal Executive Council Handbook, Administrative Arrangements Order and Parliamentary sitting dates.

www.dpmc.gov.au

Office of Parliamentary Counsel: Find information about legislation courses offered by OPC and links to the OPC Drafting Manual and Drafting Directions.

www.opc.gov.au

Office of Best Practice Regulation: Find information about requirements for best practice regulatory impact analysis.

www.finance.gov.au/obpr

Commonwealth legislation

www.comlaw.gov.au

For information on specific matters

- Administrative law, merits review and judicial review (AGD): ajdalb@ag.gov.au
- Application of law to external territories (DRARDLG): territories@regional.gov.au
- Appropriations, governance, financial provisions, accounting and audit (DoFD): LRB@finance.gov.au
- Conferral of jurisdiction on the Federal Courts or Tribunals (AGD): AJD.FCB@ag.gov.au
- Constitutional law (AGD): ocl@ag.gov.au
- Commonwealth Offences, Civil Penalties and Enforcement Powers (AGD): A guide is available on the Criminal Law page at www.ag.gov.au
- Evidence and the abrogation of privilege (AGD): evidence@ag.gov.au
- Freedom of Information (AGD): Business and Information Law Branch (Ph) [02 6141 3615](tel:0261413615)
- Human Rights (AGD): hrb@ag.gov.au
- International law and its implementation in domestic law (AGD): OfficeofInternationallaw@ag.gov.au
- Legislative Instruments (AGD): oldp.drafting@ag.gov.au
- Privacy (AGD): Business and Information Law Branch (Ph) [02 6141 3615](tel:0261413615)
- Tax matters (Treasury): LMU@treasury.gov.au

Other relevant contacts for specific matters can be found at www.ag.gov.au/clearerlaws