



LEGISLATIVE INSTRUMENTS

What is a legislative instrument?

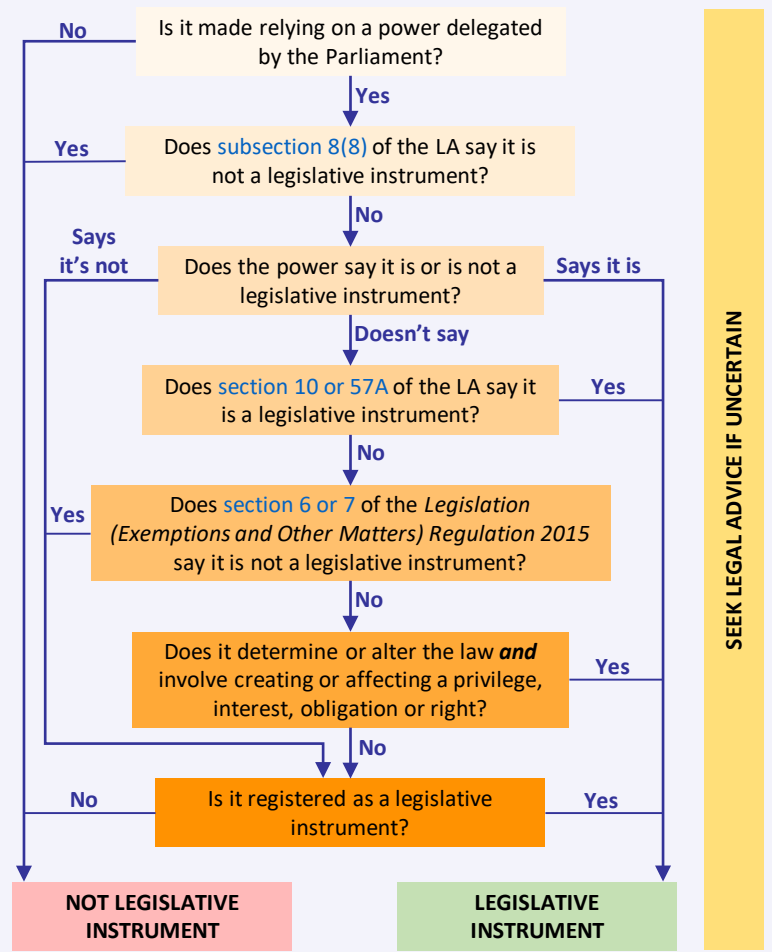
Key points

- Legislative instruments are **laws**. They contain legal rules that affect lives and businesses.
- Australia's Constitution gives the Parliament power to make laws in the form of Acts. The Parliament can choose to **delegate its power to make laws** to other persons or bodies through legislative instruments.
- A legislative instrument is **subject to the Act** under which it is made.
- If you are preparing a legislative instrument, take time and care to ensure:
 - it is **drafted to a high standard**;
 - it is consistent with its Act;
 - its effect on rights and obligations is sufficiently clear and certain;
 - you involve the legal area within your agency.

Did you know?

The majority of items registered on the Federal Register of Legislation are legislative instruments, with around **1,800 registered** each year. The Register is the **authoritative source** of laws and has around 12 million visits each year. It is used by legal professionals, organisations, businesses, government agencies and the Australian community.

Identifying legislative instruments



SEEK LEGAL ADVICE IF UNCERTAIN

Requirements

- LA** The **Legislation Act 2003** ("LA") sets out a number of requirements for legislative instruments and establishes a general scheme for their management.
- Consultation** must be undertaken before a legislative instrument is made.
- A legislative instrument must be accompanied by an **explanatory statement** that explains its purpose and operation.
- A legislative instrument (together with its explanatory statement) must be **registered** and published on the Federal Register of Legislation. Legislative instruments are not enforceable unless registered.
- Legislative instruments are **tabled in each House of Parliament** and can usually be disallowed by either House within a certain period.
- Most legislative instruments automatically repeal after 10 years and must be remade if needed. This process is called **sunsetting**.
- Don't leave the drafting of legislative instruments to the last minute.