

Act Name (Subject Matter) Kind of Instrument Year

I, name of maker, title of maker, make the following kind of instrument.

Dated

Name of maker **DRAFT ONLY—NOT FOR SIGNATURE**

Title of maker

Contents

1 Name 1

2 Commencement 1

3 Authority 1

4 Schedules 1

5 Definitions 1

6 This is a section 2

Schedule 1—Repeals 3

Name of instrument being repealed 3

1 Name

This instrument is the *name of instrument*.

2 Commencement

(1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

| Commencement information | | |
| --- | --- | --- |
| Column 1 | Column 2 | Column 3 |
| Provisions | Commencement | Date/Details |
| Insert appropriate text | Insert appropriate text. | Insert appropriate text |

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

(2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under provision under which instrument is made.

4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

5 Definitions

Note: A number of expressions used in this instrument are defined in definitions section of the Act, including the following:

(a) insert first defined expression;

(b) insert second defined expression.

In this instrument:

***Act*** means the *name of Act*.

***first definition*** means insert definition.

***second definition*** means insert definition.

6 This is a section

(1) This is a subsection of a section.

(2) In this subsection:

(a) this is a paragraph; and

(b) this is another paragraph.

(3) In this subsection:

(a) this paragraph:

(i) has this subparagraph; and

(ii) also has this subparagraph; and

(b) this paragraph:

(i) has this subparagraph; and

(ii) also has this subparagraph.

Schedule 1—Repeals

Name of instrument being repealed

1 The whole of the instrument

Repeal the instrument.

Accompanying notes for new principal instrument

1 Choosing the correct template

1. These notes are for new principal instruments (which might be legislative instruments, notifiable instruments or neither a legislative nor a notifiable instrument). Please check that you have chosen the correct template.
2. In addition, you should also have a copy of the document entitled “Instrument Templates—User Guide” which can also be found on OPC’s website with the template documents.

2 Choosing the name of the instrument

1. There are a number of elements in the name of an instrument. The following information should help you to name your instrument appropriately. The name of each instrument should be unique so that it can be accurately identified. For OPC’s rules on naming instruments, see Drafting Direction 1.1A.

2.1 Act name

1. The name of the Act or instrument under which the instrument is to be made should be inserted, excluding the reference to “Act” or the kind of the instrument, and the year of the Act or instrument.
2. For example, an instrument under the *Classification (Publications, Films and Computer Games) Act 1995* would include the words “Classification (Publications, Films and Computer Games)” in the instrument name. Similarly, an instrument under the *Classification (Publications, Films and Computer Games) Determination 2014* would begin with the words “Classification (Publications, Films and Computer Games)”*.*

2.2 Subject matter

1. The name of the instrument may include a reference to the subject matter of the instrument if more than one instrument of that kind is being made under that Act. For example, a determination made under section 6A of the *Australian Citizenship Act 2007* may be called the *Australian Citizenship (National Security Offences) Determination 2016*.
2. If the instrument does not require a subject matter then the reference to “(Subject Matter)” on the front page can be deleted.

2.3 Kind of instrument

1. The name of the instrument should refer to the kind of instrument the instrument is. Generally, this is to be found in the head of power under which the instrument is to be made. For example, an instrument made under a power allowing for a person to “determine” a matter would be a determination. For verbs that do not provide an obvious name (such as “prescribe” or “specify”), the word “Instrument” can be used.

2.4 Year

1. Include a reference to the year in which the instrument is to be made.

3 Machinery provisions

1. Below is some information about the first 4 sections of the instrument.

3.1 Name

1. The name of the instrument should be inserted in section 1 in italics. Each word in the name (other than little words like “of”) should be capitalised. The name in this section should match exactly the name on the front page of the instrument.

3.2 Commencement

1. The time the instrument is to commence should be inserted in section 2.
2. The main commencements are:
   1. “on the day after this instrument is registered”;
   2. on a specified day (such as 1 July 2016);
   3. at the same time as a provision of an another Act or instrument commences.
3. For OPC’s rules on drafting commencements, see Drafting Direction 1.3.

3.3 Authority

1. The provision under which the instrument is to be made should be specified in section 3. If the instrument is being made under a general rule‑making power, then this provision should refer to the entire Act or instrument under which the instrument is to be made. Otherwise, the specific provision and the name of the Act or instrument under which the instrument is being made should be referred to (such as “section 15 of the *Empowering Act 2015*”).

3.4 Definitions

1. All definitions required for the instrument should be included in section 4. As a result of paragraph 13(1)(b) of the *Legislation Act 2003*, definitions used in an Act under which an instrument is made have the same meaning as in the Act and so are not required to be repeated. However, including a note under the heading to section 4 referring to the main definitions section in the Act and some of the definitions that are important to the instrument can be helpful to readers.
2. Generally, for instruments being made under an Act, “Act” should be defined as the name of that Act.
3. The defined terms themselves should be included in bold and italics.
4. Obviously, if this instrument is being made under another instrument, you might need a definition for the instrument under which this instrument is being made, instead of or in addition to the definition of ***Act***. You might also need to consider whether the text of the note under the section heading needs to be adjusted.

3.5 Schedules

1. Section 5, the provision headed “Schedules”, is required only if the instrument is to have a Schedule repealing one or more instruments. If the instrument is not to have such a Schedule, section 5 should be deleted and the later sections renumbered.

4 Substantive provisions

1. The first 5 sections are machinery provisions.
2. The remainder of a principal instrument should contain substantive legal rules. Do not include material that does not have, or is not intended to have, any legal effect.
3. Section 6 of the template sets out, for your information, the units of instruments that OPC uses: sections, subsections, paragraphs and subparagraphs.
4. Before drafting any provision under a head of power, you should read the head of power carefully to ensure that the instrument is supported by the head of power.
5. You can add as many substantive provisions as your instrument requires.

5 Repealing Schedule

1. If the instrument is to repeal and replace another instrument, then keep Schedule 1—Repeals. The title of the Schedule can remain “Repeals” even if only one instrument is being repealed.
2. The correct name of the instrument being repealed should be inserted in italics at *Name of instrument being repealed*. The name inserted should reflect the exact name by which the instrument being repealed refers to itself (including in relation to capital letters used).
3. If this instrument does not repeal and replace another instrument, this Schedule can be deleted.
4. It is OPC’s practice not to amend other instruments in a new principal instrument.

6 Before finalising your instrument for signing

1. Before finalising your instrument for signing, you should check that you have done the following:
   1. correctly inserted appropriate text where there is yellow highlighting;
   2. removed all yellow highlighting;
   3. if the instrument does not require a subject matter in the name—deleted the words “(Subject Matter)” on the front page;
   4. deleted the grey highlighted text “DRAFT ONLY—NOT FOR SIGNATURE”;
   5. deleted these accompanying notes;
   6. if the instrument is not repealing another instrument:

(i) deleted section 5 and renumbered later sections; and

(ii) deleted Schedule 1—Repeals.