



Instructor Guidance Note — Exposure drafts

1 An exposure draft is a version of a draft Bill or instrument prepared for the purposes of consultation. Exposure drafts can be used for public or limited consultation.

2 Intergovernmental agreements relating to particular legislative schemes may require exposure drafts of amendments of the legislation to be circulated publicly, to State and Territory governments, or to particular groups or stakeholders. Instructing agencies will need to be aware of consultation requirements that apply to their legislation.

3 Consultation periods affect timeframes. First, the need for an exposure draft effectively brings forward the date for drafting the legislation. Second, instructors need to allow time for preparation of instructions, and drafting of amendments, addressing issues raised in consultation. Accordingly, instructors should notify OPC early in the drafting process if an exposure draft may be required, preferably in the initial drafting instructions.

Bill exposure drafts

4 Generally, a Bill is required to have the following approvals before being released as an exposure draft:

- (a) policy authority for the measures contained in the Bill;
- (b) approval from the Prime Minister or the Cabinet for exposure of the draft.

5 This applies in relation to the limited release of an exposure draft Bill to anyone outside the Commonwealth, as well as general public exposure.

6 For more information, see the Legislation Handbook (available on the website of the Department of the Prime Minister and Cabinet (**PM&C**)). If in doubt, instructors should contact the Legislation Section of PM&C about the approvals that are needed.

7 The Legislation Approval Process does not apply at the exposure draft stage. It is the instructing agency's responsibility to ensure the necessary authority and approval have been obtained.

Instrument exposure drafts

8 For instruments, there is no requirement to have specific authority or approval for release of an exposure draft.

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9 However, an additional requirement applies in relation to instruments that will be made by the Executive Council (such as regulations, proclamations and other instruments to be signed by the Governor-General). If proposing to release an exposure draft of an Executive Council instrument to any entity that is not a Commonwealth agency, the instructors should notify the Executive Council Secretariat in PM&C. The instructors should provide a brief description of what the instrument does and who the draft is being released to. The information will then be forwarded to Government House for information. The Secretariat does not formally approve the release of exposure drafts. The information is provided to the Secretariat (and Government House) as a courtesy, and agencies do not need to wait for a response from the Secretariat before releasing the exposure draft.

The purpose of Instructor Guidance Notes is to assist agencies with general legislative drafting issues and preparing drafting instructions for Bills and instruments. The series is intended to be a starting point for instructors' own engagement with the matters covered. Instructor Guidance Notes are not statements of official policy and are not intended to be a comprehensive statement of the law. This Instructor Guidance Note should not be relied on as a substitute for legal advice.