



Instructor Guidance Note— Understanding your legislation

1 It is the responsibility of an agency to know their legislation. The agency's instructing team needs to have a deep understanding of the legislation they are responsible for administering or providing instructions on. OPC will review any legislation that is being amended before an amendment is drafted, however ultimately it is the agency's responsibility to understand how the legislation being created or amended works, and the effect of any amendment to the legislation. This Instructor Guidance Note provides some guidance as to how an instructor can understand the legislation they are responsible for administering.

Finding up-to-date text of legislation

2 Any instructions for amending legislation must be based on the current text of the legislation. It is important to work with a text of the legislation that incorporates all amendments that have commenced (or work with a combination of the most up-to-date text available, and to also look at any recent amending legislation). Be aware also of amendments of the legislation that have been made but have not yet commenced or that are still in the pipeline.

3 The Federal Register of Legislation (the **Register**) is maintained by OPC. It contains compilations of all Commonwealth Acts and legislative instruments. These compilations are updated to take account of amendments, but it is possible that they may not incorporate the effect of amendments that have only recently commenced. The text of the relevant amending legislation will be available on the Register, even if the effect of the amendments may not yet have been incorporated into a compilation.

Identifying key concepts will help you understand the legislation

4 All legislation is built around key concepts. Understanding the key concepts used within legislation is crucial for interpreting the legislation. A concept is the way an idea is captured in legislation. The idea which is captured reflects the policy of the instructing agency. As such, concepts used in one piece of legislation are specific to that individual piece of legislation.

5 For example, if there was a policy for certain members in society to receive a government payment, a legislative provision could specify that an "eligible person" may receive the payment. The key concept is "eligible person". To work out who is entitled to the payment, the reader would need to search the Act for the meaning of "eligible person" to see what the scope of the concept is. The first places to check where in the legislation the concept is defined is the table of contents and the dictionary within the legislation.

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6 The dictionary is located either at the start of a piece of legislation, or at the back, and will tell the reader the meaning of certain concepts used throughout the legislation.

Use the type of scheme to find the key concepts and supporting provisions

7 While reading legislation may be daunting, a useful first step is to try and identify the type of scheme to which the legislation relates. One way of thinking about a scheme is seeing if it can be characterised into any of the following common schemes:

- a main rule scheme;
- a prohibition, obligations or entitlements scheme;
- a statutory body scheme;
- a mix of 2 or more of these schemes.

8 Once it is clear how the legislation can be characterised, it becomes much easier to understand how the legislation operates and what its key provisions are.

9 Identifying the type of scheme, the key concepts and any important provisions can be harder with older legislation, as older legislation has often been amended over time and becomes more complex. While it may be harder with older legislation, the tips in this note can still be applied to those pieces of legislation.

Main rule schemes

10 A main rule scheme is a scheme that is largely about a single rule on which the entire scheme is built. The single rule will be an entitlement, an obligation or a prohibition. Sometimes, an entire Act can be built around a single main rule. In other situations, an Act may include more than one main rule scheme.

11 An example of a scheme built around a single provision is the *Australian Naval Nuclear Power Safety Act 2024*. Section 19 of that Act creates a civil penalty if a person conducts regulated activities without a licence.

19 Duty to be authorised by a licence

- (1) A person must not conduct a regulated activity if the person does not hold a licence authorising the person to conduct the regulated activity.

Civil penalty provision

- (2) A person is liable to a civil penalty if the person contravenes subsection (1).

12 The remainder of the Act relates to that main rule, for example who may apply for a licence, whether the licence may be subject to conditions, and whether the licence can be suspended or cancelled.

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13 Main rule schemes allow the reader to quickly target the areas of the Act that are most important to understand and often set out the key concepts used in the Act.

14 In the above example, the key concept used in the main rule is a “regulated activity”. By searching the table of contents of the *Australian Naval Nuclear Power Safety Act 2024*, it becomes clear that “regulated activity” is a concept built around other concepts in the Act. The table of contents also shows the reader where to find the meaning of those concepts.

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Part 1—Introduction

Division 1—Preliminary

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- 5 The Dictionary

Division 3—Core provisions

Subdivision A—Objects of this Act

- 6 Objects of this Act
- 7 What are AUKUS submarines?
- 8 Regulating persons when they conduct regulated activities
- 8A Prohibition on storage and disposal of spent nuclear fuel that is not from an Australian submarine
- 8B Prohibition on certain kinds of construction, etc.

Subdivision B—Regulated activities

- 9 What are regulated activities?
- 10 Regulated activities and designated zones

Subdivision C—Facility activities (first type of regulated activity)

- 11 What are facility activities?
- 12 What are NNP facilities?

Subdivision D—Submarine activities (second type of regulated activity)

- 13 What are submarine activities?

Subdivision E—Material activities (third type of regulated activity)

- 14 What are material activities?
- 15 What are NNP material and NNP equipment or plant?

15 Once the reader understands those key concepts and how they relate to the main rule, the scheme as a whole becomes much easier to comprehend.

Obligations, prohibitions or entitlements scheme

16 An obligation, prohibition or entitlements scheme is a scheme that imposes obligations, creates prohibitions or creates entitlements. The difference between this type of scheme and a main rule scheme is this scheme contains a number of obligations, prohibitions or entitlements, whilst a main rule scheme usually only has one or two main rules.

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17 An example of this type of scheme is Part 3 of the *Public Service Act 1999*, which establishes a series of powers and obligations in relation to the public service.

Statutory body scheme

18 A statutory body scheme is a scheme to establish a statutory body and confer functions, powers and duties on the body. These schemes are generally easier to navigate than main rule schemes, particularly when using the table of contents. An example is the *Net Zero Economy Authority Act 2024*, which establishes the Net Zero Economy Authority. The table of contents for that Act sets out where in the Act it is specified how the Authority is established and where to find its functions.

Part 2—Net Zero Economy Authority

Division 1—Preliminary

13 Simplified outline of this Part

Division 2—Establishment and functions of the Authority

14 Establishment of the Authority

15 Constitution of the Authority

16 Functions of the Authority

Tips for understanding legislation

Table of contents

19 The table of contents for a piece of legislation can provide a very useful tool to understand the structure of the legislation and the legislation as a whole. This is because key aspects of the scheme will be grouped together and set out in a logical way. Additionally, drafters will include meaningful headings in the legislation to assist the reader to understand the legislation.

20 A table of contents can be used to give both a macro and micro snapshot of a piece of legislation. Because legislation is structured logically, the table of contents can be used to get a broad overview of an Act, at a Chapter or Part level, or to drill into key aspects of the Act, at the section level.

21 For example, the *Australian Naval Nuclear Power Safety Act 2024* is an Act with 146 sections, which are divided into 6 Parts. Each Part has a Part heading which gives a very high level overview of the contents of the Part. Within the Part are Divisions and sections which have headings setting out the content of the legislation within them. If the reader had a query as to who could obtain a licence, the table of contents is a very helpful tool to drill into the legislation to find an answer.

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	27 Australian naval nuclear power safety licences
	28 Who may apply for a licence?
	29 Who are Commonwealth-related persons?

22 A table of contents will also show whether an Act contains an objects provision or any simplified outlines within the legislation which will assist the reader to understand how the scheme works.

Objects provisions and simplified outlines

23 For a very high level overview of a piece of legislation, a reader should first check if there is an objects provision or any simplified outlines contained in the legislation.

24 An objects provision can often be found at the start of a piece of legislation. An objects provision sets out the objectives of the legislation in a short and succinct way. An objects provision may also set out some key concepts used in the scheme, which are fundamental to how the entire scheme operates.

25 A simplified outline is different to an objects provision in that it does more than just set out the objectives of the legislation, it sets out a high level overview of the scheme. Current OPC drafting practice requires simplified outlines to be included in most new Acts and in existing Acts when they are being amended in certain ways.

26 Simplified outlines can be found in numerous places within a piece of legislation. There will likely be a simplified outline at the start of the legislation setting out how the entire scheme works, and simplified outlines at the start of other groupings of the legislation, for example at the start of a Chapter or a Part, which sets out how those components of the legislation operate.

27 The content of simplified outlines can vary but they aim to tell a short story and assist readers to gain a general understanding of the legislation. Simplified outlines often set out the key concepts which the reader must know to understand the scheme and navigate through the provisions of the legislation.

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28 For example, the simplified outline below is from the *Free TAFE Act 2025* and sets out how that Act operates.

4 Simplified outline of this Act

This Act provides for ongoing financial support to the States for the delivery of FT places.
If a State is a party to an FT agreement, the Commonwealth is to make a grant of financial assistance under section 16 of the *Federal Financial Relations Act 2009* for the purpose of making payments in accordance with the FT agreement.
The financial assistance must be spent in accordance with the FT agreement and is subject to any other terms and conditions set out in the FT agreement.
Part 3 sets out what is an FT agreement and the key matters to be dealt with in FT agreements.
Part 4 deals with other matters, such as the requirement for the Minister to consult the Ministerial Council before seeking to amend this Act.

Explanatory materials

29 In addition to the legislation itself, the explanatory material associated with the legislation can be of assistance to understand the legislation. A well written explanatory memorandum (for Bills) or explanatory statement (for legislative instruments) acts as a companion document, assisting members of the Parliament, officials and the public to understand the objectives and detailed operation of the provisions of the legislation. These documents can help readers understand the intent and effect of the legislation and may play an important role in a court's interpretation of the legislation.

Tips for reading legislation

Finding the main provisions of an Act

30 To understand a scheme, legislation does not necessarily need to be read sequentially from the start to the end. While an instructing agency does need to understand the legislation they administer as a whole, some components of legislation are more important than others and it may be beneficial to read the most important provisions first.

31 In all pieces of legislation, there are main provisions and supporting provisions. Understanding what the main provisions are will allow the reader to focus on how the scheme operates and will also clarify how the supporting provisions operate. As explained in this note, tables of contents, simplified outlines and objects provisions can all help the reader locate the main provisions.

Narrative drafting

32 Legislation is often drafted using a narrative. Narrative drafting aims to achieve legal clarity without clogging legislative texts with unnecessary words. When done well, narrative drafting, as the name suggests, creates a story that the reader can follow in order to understand the legislative text.

33 Narrative drafting is a way of drafting where a concept is introduced by using "a" (for example, "a person"), and then later referred back to with "the" (for example, "the person").

34 The example below highlights the various narratives occurring in the section.

Person may apply for a licence

- (1) A person may make an application to the Secretary for a licence.
- (2) The application for the licence must be made in the form approved in writing by the Secretary.
- (3) The application must be accompanied by an application fee prescribed by the regulations.
- (4) If the application for the licence is withdrawn, the application fee is not refundable to the person.

Some words are defined in other pieces of legislation

35 While all key concepts within a piece of legislation will be defined within the legislation, some general words may be defined in other pieces of legislation. Certain pieces of legislation, such as the *Acts Interpretation Act 1901* (the **AIA**), generally apply to all pieces of Commonwealth legislation. This means that if an Act refers to a word, but does not define the word, and the word is defined in the AIA, the word will have the meaning given by the AIA. For example, if an Act refers to a “person”, unless otherwise specified, the word “person” will have the meaning given by the AIA, which includes a body politic and a body corporate. This is to ensure certain words have the same meaning across all pieces of legislation.

Conjunctions

36 Many legislative provisions are broken down into smaller provisions, such as paragraphs and subparagraphs. Current drafting practice is to separate each smaller provision with a conjunction (an “and” or “or”). When there are multiple smaller provisions at the same level, such as multiple paragraphs, each smaller provision is separated with the same conjunction. However, if a draft moves from one level to another, such as from a paragraph to a subparagraph, then the conjunction between the levels can be different. An example is below.

A person commits an offence if:

- (a) the person is or has been:
 - (i) a reporting entity; or
 - (ii) an officer, employee or agent of a reporting entity; or
 - (iii) required by a notice to give information or produce documents; and
- (b) the person discloses information to another person; and
- (c) the information is information a reporting entity is required to report on; and
- (d) the disclosure of the information would or could reasonably be expected to prejudice an investigation:
 - (i) of an offence against a law of the Commonwealth or of a State or Territory; or
 - (ii) for the purposes of the *Proceeds of Crime Act 2002* or regulations under that Act; or
 - (iii) for the purposes of a law of a State or Territory that corresponds to the *Proceeds of Crime Act 2002* or regulations under that Act.

37 The exception to this is when a series of paragraphs or subparagraphs is preceded by the phrase “the following”. In this instance, no conjunctions are required. An example is below.

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In deciding whether to vary or revoke the order, the court must have regard to **the following matters**:

- (a) the objects of this Act;
- (b) the grounds on which the order was made;
- (c) the applicant's reasons for seeking the variation or revocation;
- (d) any change in the circumstances of the respondent.

38 In older pieces of legislation, rather than having a conjunction at the end of each smaller provision, there may only be a conjunction at the penultimate smaller provision.

Other resources to assist in understand legislation

39 An instructing agency may have internal resources which assist with interpreting legislation. For example, the agency may have received legal advice on the likely interpretation of a provision which could assist an instructor understand the provision. Further, an agency may have prepared internal guidance material, such as a flowchart, showing how a scheme operates. These resources could be very helpful in assisting an instructor understand the scheme.

40 Certain types of provisions are common across most pieces of legislation. For example, where possible, a consistent approach is taken to drafting criminal offences. The Attorney-General's Department has prepared *A Guide to Framing Commonwealth Offences, Infringement Notices and Enforcement Power* which may assist instructors understand how certain criminal offences operate. This guide is available on the [website](#) for the Attorney-General's Department.

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.