



# Instructor Guidance Note— Basic features of OPC legislation

1 Understanding the features of legislation is important for interpreting an Act or instrument. When interpreting Commonwealth Acts and legislative instruments, all material from the first section to the last section, or the last Schedule, is part of the Act or instrument. Additionally, the long title to an Act, any Preamble, the enacting words and any headings to Chapters, Parts, Divisions or Subdivisions appearing before the first section are also part of the Act or instrument. This note sets out some features of legislation drafted by OPC. OPC recommends the same approach be followed for other Commonwealth instrument drafters.

## Principal and amending legislation

2 There are 2 types of legislation: **amending legislation** (which amends existing legislation) and **principal legislation** (which sets up, or is part of setting up, a new legislative scheme).

3 Usually, amending legislation has the word “Amendment” in its name, for example, the *Health Legislation Amendment (Improved Medicare Integrity and Other Measures) Act 2025* or the *Health Insurance Legislation Amendment (2025 Measures No. 1) Regulations 2025*. However, the absence of the word “Amendment” does not necessarily mean that legislation is not amending legislation. For example, the *Environment Protection Reform Act 2025* is amending legislation.

4 An example of principal legislation is the *National Anti-Corruption Commission Act 2022*.

## Sections

5 Sections are the basic building blocks of legislation. A **section** is a chunk of information identified by a bolded section number and section heading. There are no specific rules about how much information can be put into a single section—this is up to the drafter (subject to an OPC rule that a section should not be “too long”). A section or subsection can contain more than one sentence.

6 In some existing instruments, different terminology may be used. In the past, the basic building block in regulations was called a “regulation” or “subregulation” rather than a “section” or “subsection”. New instruments now use sections and subsections.

## Grouping and dividing sections

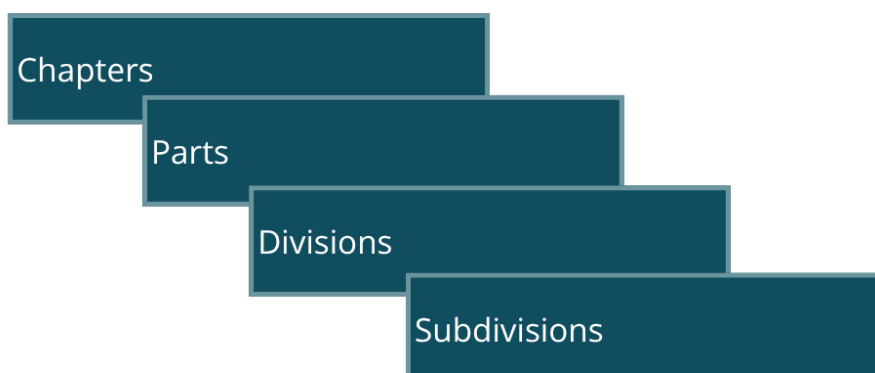
7 Sections can be grouped together or further divided.

## Instructor Guidance Note—Basic features of OPC legislation

8 Sections are often, but not always, divided into subsections (1), which can be further divided into paragraphs (a) and subparagraphs (i). Sections can also be divided into paragraphs without subsections.

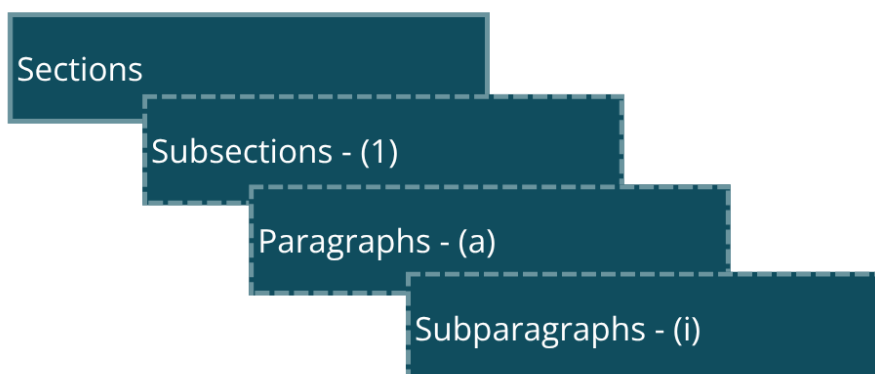
9 Sections can be grouped together. Legislation is usually divided into Parts, which can be a group of sections. Chapters, Divisions and Subdivisions are useful, optional tools to further organise legislation by grouping other parts of legislation. The diagrams below shows how legislation can be divided and grouped.

### **Act or Instruments level**



Legislation is usually divided into Parts, and is sometimes also divided into Chapters, Divisions and Subdivisions

### **Section level**



Sections can be divided into subsections and further divided into paragraphs and subparagraphs

## Schedules

10 Legislation often makes use of schedules. A schedule is another way to group information and can be identified by the use of the word “Schedule” followed by a number at the start the schedule. There is no limit to the number of schedules which a piece of legislation can have. Schedules always depend on an earlier “activating” section which states what the schedule is doing. Both principal legislation and amending legislation make use of schedules, however in different ways.

### Schedules in principal legislation

11 Schedules in principal legislation usually appear at the end of the legislation and are mostly used for 2 reasons.

12 First, long lists of things are often set out in schedules (for example, a long list of animals or drugs to which a legislative regime is to apply).

13 Second, in legislation that implements a treaty or other agreement (such as an international convention or Commonwealth/State agreement), the text of the agreement is sometimes set out in a schedule.

### Schedules in amending legislation

14 In amending legislation, the amendments are always set out in an amending schedule.

15 In an amending schedule, each amendment is made by an **item**. Items can be identified by a bolded item number and item heading which states where in the legislation the amendment is happening. Items can be grouped together into Parts, and Parts can be divided into Divisions and Subdivisions.

16 An amending schedule in a Bill may also contain items that do not make amendments but rather deal with application, saving or transitional matters related to the amendments.

## Numbering system

17 Most OPC legislation is numbered in accordance with a standard numbering system, set out below.

### Sections and parts of sections

- sections—1, 2, 3 etc.
- subsections—(1), (2), (3) etc.
- paragraphs—(a), (b), (c) etc.
- subparagraphs—(i), (ii), (iii), etc.

## Instructor Guidance Note—Basic features of OPC legislation

### Grouping sections

- Chapters, Parts and Divisions—1, 2, 3 etc.
- Subdivisions—A, B, C etc.

### Schedules and parts of schedules

- Schedules—1, 2, 3 etc.
- amending items—1, 2, 3, etc.
- non-amending clauses (other than in a treaty or agreement)—1, 2, 3 etc.
- provisions of a treaty or agreement—these are numbered in exactly the same way as in the original treaty or agreement.

### The effect of amendments

18 The insertion of new amendments, or the repeal of provisions, will upset the neat, sequential numbering of legislation. If a new provision is inserted between 2 existing provisions, it will be given the number of the first provision, plus a letter of the alphabet (generally A or a). For example, a new subsection between (1) and (2) will be (1A) and a new paragraph between (b) and (c) will be (ba).

19 Alternatively, a repeal will leave a gap in the numbering.

### Titles and names

#### Acts and Bills

20 The **short title** of an Act is set out in italics in section 1 of the Act. It also appears on the cover page. The short title is the name by which an Act can be referred to (for example, when referring to it in other legislation). At the Bill stage, the word “Bill” appears in the short title on the cover page, but this is changed to “Act” on enactment. An example of a short title is the *Administrative Review Tribunal Act 2024*.

21 The **title**, or **long title** of an Act, appears on the cover page and on the first page of the text. At the Bill stage, the title starts with the words “A Bill for”, but these words are removed from the title of the resulting Act. For example, the long title of the *Administrative Review Tribunal Act 2024* is “An Act to establish an Administrative Review Tribunal and an Administrative Review Council and provide for matters relating to information about administrative decisions, and for related purposes.”

#### Instruments

22 The name of an instrument is set out in italics in section 1 of the instrument. It also appears on the cover page. Like the short title of an Act, this is the name by which the instrument can be referred to. An example of an instrument is the *Administrative Review Tribunal Commencement Proclamation 2024*.

## Instructor Guidance Note—Basic features of OPC legislation

23 The name of an instrument is made up of a number of elements to reflect the instrument's parent Act, subject matter, nature, type and year of making.

### Definitions

24 In principal legislation, OPC drafting practice is to have a single list of all the definitions that are to apply across the legislation. In the majority of cases, you will find the list towards the front of the legislation. Occasionally the list is instead towards the back. In some older legislation, there may also be a definitions section just for a particular Chapter or Part.

25 New definitions can be added to the list by later amending legislation.

26 Many of the listed definitions will directly set out the meaning of the term. For example:

***law enforcement agency*** means:

- (a) the Australian Federal Police; or
- (b) a police force or police service of a State or Territory; or
- (c) any other authority or person responsible for the enforcement of the laws of the Commonwealth or of a state or Territory.

27 However, some listed definitions will instead point to another provision of the same legislation, or will point to some other legislation, that contains the substantive definition. The following are examples of that kind of definition:

***reportable payment***: see section 10.

***personal information*** has the same meaning as in the *Privacy Act 1988*.

### Notes and examples

28 Notes and examples can be included in legislation. They are placed underneath the provision to which they relate and are generally used to help explain how the provision works, or to draw links between provisions. Notes and examples are part of the legislation and have the same legal effect as other parts of the legislation.

29 An example of a note beneath a section is below.

#### 1 Notification of decision

The Minister must notify the applicant, within 28 days after the date of the decision, whether the application has been approved or rejected.

Note: Rejections of applications are reviewable (see section 16).

30 An example of an example beneath a section is below.

## 2 Character test

For the purposes of the character test, if a person has been sentenced to 2 or more terms of imprisonment to be served concurrently (whether in whole or in part), the whole of each term is to be counted in working out the total of the terms.

Example: A person sentenced to 2 terms of 3 months imprisonment for 2 offences, to be served concurrently. For the purposes of the character test, the total of those terms is 6 months.

### Format and standard features

31 Legislation drafted by OPC has a number of aspects which are fixed and OPC drafters must work within those aspects. These include the following:

- the cover page and table of contents;
- the format;
- the content of headers and footers;
- other standard features (such as titles and naming conventions).

32 Versions of legislation put out by commercial publishers may look different as OPC's formatting rules don't bind the publishers.

### Not just words

33 Most legislation is made up of words, however there may be other features, such as flowcharts and diagrams. These may be helpful to a reader in understanding the legislation. An example of a diagram can be found in section 115-10 of the *Private Health Insurance Act 2007*.

### Examples of features of OPC legislation

34 Annexure 1 to this note contains a small marked up extract of the *Native Title Act 1993* which highlights key features of principal legislation.

35 Annexure 2 to this note contains a small marked extract of the *Aboriginal Land Rights (Northern Territory) Amendment Act (No. 1) 1999* which highlights key features of amending legislation.

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.

# Annexure 1 - Principal Act

## An Act about native title in relation to land or waters, and for related purposes

### 1 Short title

This Act may be cited as the *Native Title Act 1993*.

### 2 Commencement

*Commencement of provisions on Royal Assent*

- (1) Sections 1 and 2 commence on the day on which this Act receives the Royal Assent.




*Commencement of provisions by Proclamation*

- (2) Subject to subsection (3), the remaining provisions of this Act commence on a day or days to be fixed by Proclamation.

*Forced commencement of provisions*

- (3) If a provision referred to in subsection (2) does not commence under that subsection within the period of 9 months beginning on the day on which this Act receives the Royal Assent, it commences on the first day after the end of that period.

### KEY

	Long title
	Short title
	Section heading
	Subsection heading
	Part heading
	Division heading
	Section
	Subsection

## Part 2—Native Title

### Division 1—Recognition and protection of native title

#### 10 Recognition and protection of native title

Native title is recognised, and protected, in accordance with this Act.

#### 11 Extinguishment of native title

- (1) Native title is not able to be extinguished contrary to this Act.

(3) If:

(a) the act is the compulsory acquisition of the whole or part of any native title rights and interests under a law of the Commonwealth, a State or a Territory that permits both:

(i) the compulsory acquisition by the Commonwealth, the State or the Territory of native title rights and interests; and

(ii) the compulsory acquisition by the Commonwealth, the State or the Territory of non-native title rights and interests in relation to land or waters; and

(b) the whole, or the equivalent part, of all non-native title rights and interests, in relation to the land or waters to which the native title rights and interests that are compulsorily acquired relate, is also acquired (whether compulsorily or by surrender, cancellation or resumption or otherwise) in connection with the compulsory acquisition of the native title rights and interests; and

(c) the practices and procedures adopted in acquiring the native title rights and interests are not such as to cause the native title holders any greater disadvantage than is caused to the

**KEY**

Paragraph  
Subparagraph  
Schedule

## Schedule 1—Scheduled interests

Note: This Schedule lists things that are covered by the expression *Scheduled interest* (see section 249C).

### Part 1—New South Wales

#### 1 *Crown Lands Occupation Act 1861*

A lease for special purposes under section 30 of the *Crown Lands Occupation Act 1861*.

# Annexure 2 - Amending Act

## Aboriginal Land Rights (Northern Territory) Amendment Act (No. 1) 1999

No. 1, 1999

### An Act to amend the *Aboriginal Land Rights (Northern Territory) Act 1976*

[Assented to 26 February 1999]

The Parliament of Australia enacts:

#### 1 Short title

This Act may be cited as the *Aboriginal Land Rights (Northern Territory) Amendment Act (No. 1) 1999*.

#### KEY

- Long Title
- Short title
- Amending schedule
- Item number and heading

#### 2 Commencement

This Act commences on the 28th day after the day on which it receives the Royal Assent.

### Schedule 1—Amendments

#### *Aboriginal Land Rights (Northern Territory) Act 1976*

##### 1 Subsection 52(3)

Omit “65” (wherever occurring), substitute “70”.

##### 2 Part 4 of Schedule 1 (after the item relating to Hodgson Downs)

Insert:

Innesvale

All that piece of land in the Northern Territory of Australia containing an area of 283,700 hectares more or less, being Northern Territory Portion 5120 and being more particularly delineated on Survey Plans S97/172 (A to E) lodged with the Surveyor-General, Darwin, but excluding two roads 100 metres wide and one road 50 metres wide as delineated on Survey Plan S97/172E.