



Guide to interpreting NSW legislation

References in this guide to statutory provisions are references to provisions of the *Interpretation Act 1987*, except where indicated.

This guide is intended only to provide general information to assist readers in the interpretation of legislation and is not intended to have any legal effect.

Prepared by the NSW Parliamentary Counsel's Office. Last updated November 2016.

TOPIC	INTERPRETIVE PROVISIONS
Acts and instruments	See <i>amendment and repeal, construction, environmental planning instruments, proclamations and statutory rules</i> .
accounts —public	The <i>Public Finance and Audit Act 1983</i> deals with the administration and audit of public finances. Section 4 (1) of that Act defines <i>Special Deposits Account</i> . Consolidated Fund means the fund formed as referred to in section 39 of the <i>Constitution Act 1902</i> – sec 21 (1). See also <i>audits and reports</i> —Departments and <i>audits and reports</i> —statutory bodies.
administrative arrangements	The <i>Allocation of the Administration of Acts</i> specifies the Ministers to whom the administration of Acts are allocated. Changes in Ministerial functions (including the allocation of the administration of Acts) and Public Service agencies are generally dealt with by <i>Administrative Changes Orders</i> . See also Part 7 of the <i>Constitution Act 1902</i> .
affidavits, affirmations, declarations and oaths	See sec 21 (1) for definitions of <i>affidavit, oath, statutory declaration</i> and <i>swear</i> . A person who is authorised to conduct a hearing may receive evidence and examine and administer oaths to witnesses – sec 79. See also <i>Oaths Act 1900</i> for provisions relating to oaths, affirmations, statutory declarations and affidavits.
age	A person attains an age in years at the beginning of the person's birthday for that age – sec 37.

TOPIC	INTERPRETIVE PROVISIONS
amendment and repeal	<p>amend an Act or instrument includes alter and vary – sec 21 (1).</p> <p>repeal an instrument includes revoke and rescind – sec 21 (1).</p> <p>The repeal or amendment of a repealing Act or statutory rule does not revive the repealed Act or statutory rule – sec 28.</p> <p>Provisions of an Act or statutory rule that are repealed and replaced by another Act or statutory rule continue in force until the replacement provisions commence – sec 29.</p> <p>See sec 30 (1) for the effect of the amendment or repeal of Acts and statutory rules.</p> <p>The transfer of a provision of an Act or statutory rule to another Act does not generally change the meaning of the provision – sec 30A.</p> <p>The amendment of an instrument by an Act does not prevent its later amendment or repeal by an instrument – sec 30B.</p> <p>An amending Act is generally repealed on the day after all of its provisions commence – sec 30C.</p> <p>A power to make a statutory rule or order includes a power to amend or repeal the statutory rule or order – sec 43.</p> <p>See also expiry.</p>
assent	<p>date of assent means the day on which an Act receives the Royal Assent – sec 21 (1).</p>
audits and reports —Departments	<p>See Division 4A of the <i>Public Finance and Audit Act 1983</i> and the <i>Annual Reports (Departments) Act 1985</i> for provisions relating to the audit and preparation of reports of Departments listed in Schedule 3 to the <i>Public Finance and Audit Act 1983</i>.</p>
audits and reports —statutory bodies	<p>See Division 3 of Part 3 of the <i>Public Finance and Audit Act 1983</i> and the <i>Annual Reports (Statutory Bodies) Act 1984</i> for provisions relating to the audit and preparation of reports of statutory bodies.</p>
	<p>See also sec 24A of the <i>State Owned Corporations Act 1989</i> which provides that statutory State owned corporations are statutory bodies for the purposes of those provisions.</p>
Australia	<p>Australia and Commonwealth mean the Commonwealth of Australia (excluding external Territories, when used in a geographical sense) – sec 21 (1).</p>

TOPIC	INTERPRETIVE PROVISIONS
Australia Acts	Means the <i>Australia Act 1986</i> (Cth) and the <i>Australia Act</i> of the United Kingdom – sec 21 (1) .
Australian Standard	See <i>Standards Australia</i> .
banking	<p>See sec 21 (1) for definitions of the following:</p> <ul style="list-style-type: none"> • <i>ADI</i> • <i>authorised deposit-taking institution</i> • <i>bank</i>
citations	See <i>references</i> .
coastal waters —application of State laws to	<p>The laws of the State generally apply to the coastal waters of the State extending up to 3 nautical miles from the coast – Part 10.</p> <p>See also <i>Coastal Waters (State Powers) Act 1980</i> (Cth).</p>
commencement	<p>An Act generally commences on the day or days specified in or determined in accordance with the Act. If the Act does not provide for its commencement, it commences 28 days after the date of assent (or earlier by proclamation) – sec 23.</p> <p>An Act or statutory rule commences at the beginning of the day specified for its commencement – sec 24.</p> <p>An instrument may be made under an Act before its commencement to confer a power. The instrument commences no earlier than the commencement of the Act – sec 26.</p> <p>See also Part 3.</p> <p>See also <i>expiry</i>.</p>
Commonwealth	See <i>Australia</i> .
Constitution (Cth)	Commonwealth Constitution means the <i>Constitution of the Commonwealth</i> – sec 21 (1) .
Constitution (NSW)	See <i>Constitution Act 1902</i> .

TOPIC	INTERPRETIVE PROVISIONS
construction	<p>An Act or instrument is to be construed so as not to exceed the legislative powers of Parliament – sec 31.</p>
	<p>An instrument is to be construed so as not to exceed the power conferred by the Act under which it is made – sec 32.</p>
	<p>The underlying purpose of an Act or statutory rule is relevant to its construction – sec 33.</p>
	<p>Extrinsic material that is capable of assisting in the construction of a provision of an Act or statutory rule may be considered to confirm the ordinary meaning of the provision or to determine the meaning if it is ambiguous or leads to a manifestly absurd or unreasonable result – see sec 34, which lists types of extrinsic material that may be considered.</p>
	<p>Headings to (and numbers of) Chapters, Parts, Divisions, Subdivisions and Schedules form part of an Act or instrument. Headings to other provisions and notes in an Act or instrument do not generally form part of the Act or instrument (but may be considered in their construction) – sec 35.</p>
contravention	<p>contravene includes fail to comply with – sec 21 (1).</p>
corporations	<p>Corporations legislation means the Corporations legislation to which Part 1.1A of the Corporations Act 2001 (Cth) applies – sec 21 (1).</p>
courts —general	<p>See sec 21 (1) for definitions of committal proceedings, High Court, Local Court and Magistrate.</p>
	<p>See also Children's Court Act 1987, District Court Act 1973, Drug Court Act 1998, Land and Environment Court Act 1979, Local Court Act 2007, and Supreme Court Act 1970.</p>
	<p>See also courts – rules of.</p>
courts —rules of	<p>Rules of court regulate the practice and procedure of a court or tribunal. They may be made for the purposes of the requirement of any Act or statutory rule, and in relation to the exercise of any conferred, extended or varied jurisdiction of the court or tribunal. See secs 21 (1) and 78.</p>
	<p>Rules of court may require a thing to be in a form approved under (instead of prescribed by) the rules of court – sec 80 (4).</p>
Crown	<p>A reference to the Crown is a reference to the Crown in right of New South Wales – sec 13.</p>
	<p>A NSW Government agency or statutory body representing the Crown has the status, privileges and immunities of the Crown – sec 13A.</p>

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<i>de facto</i>	See sec 21C for the meaning of <i>de facto</i> and <i>de facto relationship</i> .
<i>definitions</i>	<p>A definition is a provision of an Act or instrument that gives meaning to, or limits or extends the meaning of, a word or expression – sec 21 (1).</p> <p>A definition does not apply to the construction of an Act or instrument if context or subject-matter indicates otherwise – sec 6.</p> <p>Other parts of speech and grammatical forms of a defined word or expression have corresponding meanings – sec 7.</p> <p>Words and expressions in an amending or repealing instrument have the same meaning as in the instrument amended or repealed – sec 10.</p> <p>Words and expressions in an instrument have the same meaning as in the Act under which the instrument is made – sec 11.</p>
<i>delegation</i>	See <i>functions</i> —delegation of.
<i>Departments</i>	See <i>government sector</i> —Departments and <i>audits and reports</i> —Departments.
<i>disallowance</i> —statutory rules	See sec 41 . See also <i>statutory rules</i> .
<i>distance</i> —measurement of	Distance is generally measured in a straight line on a horizontal plane (or, for the purposes of an Act passed before commencement of the Interpretation Act , according to the nearest route ordinarily used for travelling) – sec 38 .
<i>documents</i>	<p>See sec 21 (1) for definitions of <i>document</i>, <i>sign</i> and <i>writing</i>.</p> <p>Statutory requirements to give or record information or produce or retain documents can generally be met in electronic form – see Electronic Transactions Act 2000.</p>
<i>electricity</i>	See sec 21 (1) for definitions of <i>National Electricity (NSW) Law</i> and <i>National Electricity (NSW) Regulations</i> .
<i>enactment</i>	A reference to the <i>enactment</i> or <i>passing</i> of an Act is a reference to the Act's having received the Royal Assent – sec 22 (1) .
<i>environmental planning instruments</i>	<i>environmental planning instrument</i> means an environmental planning instrument within the meaning of the Environmental Planning and Assessment Act 1979 – sec 21 (1) .
<i>Executive Council</i>	Means the Executive Council of New South Wales – sec 21 (1) . See also sec 14 .

TOPIC	INTERPRETIVE PROVISIONS
<i>expiry</i>	An Act or instrument that expires, lapses or ceases to have effect on, or remains in force until, a particular day continues in force until the end of that day – sec 71 .
	A temporary Act that is proposed to be continued by a Bill for an Act that is still pending is taken to have been continued from its expiration on the date of assent of the pending Act – sec 72 .
<i>foreign country</i>	Means any country (whether or not an independent sovereign state) outside Australia and its external Territories – sec 21 (1) .
<i>forms</i>	Strict compliance with prescribed or approved forms is not required – substantial compliance is sufficient – sec 80 .
<i>functions</i> —appointments	A person may be appointed to an office, or to exercise a function, by name or by reference to the holder of a particular office – sec 46 .
	The power to appoint a person to an office may be exercised from time to time and includes the power to remove, suspend and replace the person or to appoint a person to the vacant office – sec 47 .
<i>functions</i> —delegation of	See sec 49 for provisions relating to the delegation of functions under the authority of an Act or instrument (to be read in conjunction with sec 3 (2)).
<i>functions</i> —exercise of	Statutory functions may be exercised from time to time (and functions conferred on the holder of an office may be exercised by the person for the time being occupying the office) – sec 48 .
<i>functions</i> —meaning of	For the purposes of the Act, function includes power, authority and duty – sec 3 (2) .
<i>Gazette</i>	Gazette or Government Gazette means the New South Wales Government Gazette published in print or on the NSW legislation website – secs 21 (1) and 45C .
	See also publication – statutory notices.
<i>gender</i>	A reference to one or more genders includes every other gender – sec 8 .
<i>Governor</i>	A reference to the Governor is a reference to the Governor with the advice of the Executive Council, including any person lawfully administering the Government – sec 14 .
<i>government sector</i> —Departments	Departments of the Public Service are listed in Part 1 of Schedule 1 to the Government Sector Employment Act 2013 (which deals with employment in the public sector). Other Public Service agencies are listed in Parts 2 and 3 of that Schedule.
	See also administrative arrangements , government sector —other agencies and government sector —Public Service.

TOPIC	INTERPRETIVE PROVISIONS
government sector —other agencies	<p>See sec 21 (1) for definitions of the following:</p> <ul style="list-style-type: none"> • NSW Health Service • NSW Police Force • NSW Public Service • Public Service • Teaching Service • Transport Service
	<p>See also government sector—other agencies and government sector—Public Service.</p>
government sector —Public Service	<p>Public Service or NSW Public Service means the Public Service referred to in the Government Sector Employment Act 2013 – sec 21 (1).</p>
Government Printer	<p>Means the Government Printer of New South Wales and any other person authorised by the Government to print an Act, instrument or other document – sec 21 (1).</p>
health professions	<p>See sec 21 (1) for definitions of the following:</p>
	<ul style="list-style-type: none"> • dentist and registered dentist • Health Practitioner Regulation National Law • medical practitioner and registered medical practitioner • midwife and registered midwife • nurse, enrolled nurse and registered nurse • optometrist and registered optometrist • pharmacist and registered pharmacist • physiotherapist and registered physiotherapist • podiatrist and registered podiatrist • psychologist and registered psychologist
industrial relations	<p>State industrial instrument means an industrial instrument within the meaning of the Industrial Relations Act 1996 – sec 21 (1).</p>
instruments	<p>Section 3 (1) defines instrument for the purposes of the Act as an instrument (including a statutory rule or environmental planning instrument) made under an Act, including an instrument made under such an instrument.</p>
	<p>make, in relation to an instrument, includes issue and grant.</p>

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<i>legal profession</i>	<p>Australian lawyer means a person admitted to the Australian legal profession – sec 21 (1).</p>
	<p>Australian legal practitioner means an Australian lawyer who holds a current Australian practising certificate – sec 21 (1).</p>
	<p>See also Legal Profession Uniform Law (NSW) for regulatory provisions relating to the legal profession.</p>
<i>local government</i>	<p>local council means a council within the meaning of the Local Government Act 1993 – sec 21 (1).</p>
<i>may</i>	<p>Indicates that a power may be exercised at discretion – sec 9 (1).</p>
<i>mentally incapacitated persons</i>	<p>Means a person who is an involuntary patient or a forensic patient or a correctional patient within the meaning of the Mental Health Act 2007, or a protected person within the meaning of the NSW Trustee and Guardian Act 2009 – sec 21 (1).</p>
<i>Minister</i>	<p>A reference to a Minister is a reference to a Minister of the Crown (and, in relation to a particular Minister, includes any other Minister acting on that Minister's behalf) – sec 15 (1).</p>
	<p>Generally, a reference to “the Minister” in an Act or instrument is a reference to the Minister administering the Act that contains the reference, or under which the instrument is made – sec 15 (2) and (3).</p>
	<p>See also administrative arrangements.</p>
<i>minor</i>	<p>Means an individual who is under the age of 18 – sec 21 (1).</p>
<i>New South Wales</i>	<p>References to matters and things in and of New South Wales are to be implied – sec 12.</p>
	<p>See also States and Territories.</p>
<i>NSW legislation website</i>	<p>Means the website at www.legislation.nsw.gov.au – sec 21 (1). See also Part 6A.</p>
<i>oaths</i>	<p>See affidavits, affirmations, declarations and oaths.</p>
<i>offences</i> —indictable	<p>indictable offence means an offence for which proceedings may be taken on indictment. A serious indictable offence is an offence punishable by imprisonment for life or a term of 5 years or more. A minor indictable offence is any other indictable offence. See sec 21 (1).</p>
	<p>See sec 4 (1) of the Crimes Act 1900 and sec 8 of the Criminal Procedure Act 1986 for the meaning of indictment.</p>
	<p>See also offences—summary.</p>

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offences —summary	<p>summary offence means an offence that is not an indictable offence – sec 21 (1).</p>
	<p>An offence is generally required to be dealt with summarily if the maximum penalty for the offence is not more than 2 years' imprisonment (unless an election is made to deal with the offence on indictment). See sec 260 and Tables 1 and 2 to Schedule 1 to the <i>Criminal Procedure Act 1986</i>.</p>
	<p>See also offences—indictable.</p>
offices	<p>office includes position – sec 21 (1).</p>
	<p>A reference to the holder of an office includes the person occupying or acting in the office for the time being – sec 19.</p>
Parliament	<p>See sec 21 (1) for definitions of <i>Legislative Assembly</i>, <i>Legislative Council</i> and <i>Parliament</i>.</p>
	<p>See also sec 18 for the meaning of <i>sitting day</i>.</p>
	<p>See also <i>British Parliament</i> or <i>Imperial Parliament</i>.</p>
party	<p>party includes an individual, a corporation and a body corporate or politic – sec 21 (1).</p>
penalties —Local Court	<p>A provision that limits the monetary penalty that the Local Court may impose for a summary offence does not generally affect any non-monetary penalty the Court may impose – sec 80A.</p>
penalty notices	<p>Various Acts contain provisions authorising the service of penalty notices for the commission of offences. The offences for which a penalty notice may be served, and the applicable amount of penalty, are generally prescribed under the Act authorising service of the notice. See also Fines Act 1996, Part 3, for how penalty notices may be dealt with, generally.</p>
penalty units	<p>The monetary value of a penalty unit is \$110 – see Crimes (Sentencing Procedure) Act 1999, sec 17</p>
person	<p>person includes an individual, a corporation and a body corporate or politic – sec 21 (1).</p>
	<p>individual means a natural person – sec 21 (1).</p>
	<p>A reference to a person does not exclude a corporation or individual merely because the Act or instrument refers elsewhere to a corporation or individual – sec 8 (d) and (e).</p>
police officer	<p>Means a member of the NSW Police Force who is a police officer within the meaning of the Police Act 1990 – sec 21 (1)</p>

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prescribed	Means prescribed by, or by a statutory rule made under, the Act in which the word occurs – sec 20 .
private Acts	See secs 73 and 74 .
proclamations	proclamation means a proclamation of the Governor published in the Gazette or on the NSW legislation website – sec 21 (1) .
property	See sec 21 (1) for definitions of estate , land and property .
publication —legislation	Principal or amending legislation is generally published on the NSW legislation website – see Part 6 .
	See also Gazette and NSW legislation website and Government Printer .
publication —statutory notices	A requirement to publish a notice in the Gazette and in a newspaper or other location may be satisfied by publishing the Gazette notice and publishing in the newspaper or other location a summary of the notice or a statement relating to the Gazette publication – sec 75 .
references —Acts, instruments and other publications	An Act passed by Parliament may be referred to by the word “Act” alone – sec 65 .
	An Act may generally be cited by its short title, or by reference to the year it was passed and its number – sec 66 . An instrument may generally be referred to by its citation, or by reference to its publication date, etc, or the date of its making and the Act under which it was made – sec 67 .
	A reference to an Act or instrument is a reference to the Act or instrument as in force for the time being. A reference to a repealed and re-enacted or remade Act or instrument is a reference to the re-enacted Act or remade instrument – sec 68 .
	A reference in a provision of an Act or instrument to a publication (other than an Act or instrument) is generally a reference to the publication as in force on the day indicated in the provision or, if no day is indicated, the day on which the provision took effect.
	A reference to a short title or citation that has been changed is a reference to the short title or citation as changed – sec 70 .
Registrar-General	Means the person employed in the Public Service as the Registrar-General – sec 21 (1) .
regulation	Means a regulation made under the Act in which the word occurs – sec 20 . See also statutory rules .
repeal	See amendment and repeal .

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service by post	<p>A document may be served by post by properly addressing, prepaying and posting the document. Service is generally taken to have been effected on the fourth working day after posting. See sec 76.</p>
	<p>Registered post is not required for service in the case of an Act or statutory rule enacted or made before 24 April 1969 – sec 77.</p>
shall	<p>Indicates that a duty must be performed – sec 9 (2).</p>
short title	<p>See references.</p>
Standards Australia	<p>Means Standards Australia International Limited (ACN 087 326 690) (including the former name of Standards Association of Australia) – secs 21 (1) and 69B.</p>
	<p>See also sec 69A for how evidence of standards may be given in proceedings.</p>
State owned corporations	<p>State owned corporation means a State owned corporation within the meaning of the State Owned Corporations Act 1989 – sec 21 (1).</p>
	<p>See also audits and reports—statutory bodies.</p>
States and Territories	<p>See sec 21 (1) for definitions of the following:</p>
	<ul style="list-style-type: none"> • external Territory • internal Territory • Jervis Bay Territory • Northern Territory • State • Territory • the State
statutory bodies	<p>See secs 50 and 52 for provisions relating to the constitution and proceedings of statutory corporations and other statutory bodies.</p>
	<p>A change in the name or constitution of a statutory body does not affect the identity of the body – sec 53.</p>
	<p>The age limit for part time members of statutory bodies may in certain circumstances be extended by the Governor up to 72 years – sec 53A.</p>
	<p>A statutory body that is a NSW Government agency cannot employ staff unless specifically authorised by legislation – sec 47A Constitution Act 1902.</p>
	<p>See also audits and reports—statutory bodies.</p>
statutory declarations	<p>See affidavits, declarations and oaths.</p>

TOPIC	INTERPRETIVE PROVISIONS
statutory rules	<p>A reference in an Act to a statutory rule is a reference to a statutory rule made under the Act in which the reference occurs – sec 20.</p> <p>See sec 21 (1) for the definition of statutory rule.</p> <p>See also Part 6 for general provisions relating to the making, tabling, disallowance and effect of statutory rules.</p> <p>See also Subordinate Legislation Act 1989 for provisions relating to the making and staged repeal of certain statutory rules.</p> <p>See also prescribed.</p>
Territories	See States and Territories .
time —calendar construction	<p>See sec 21 (1) for definitions of the following:</p> <ul style="list-style-type: none"> • calendar month • calendar year • midnight • month • named month
time —reckoning of	<p>A period of time is to be reckoned exclusive of the day, act or event from which it is to commence (and is to exclude any Saturday, Sunday, public holiday or bank holiday that falls on the last day of the period) – sec 36.</p> <p>A power to extend a period of time may be exercised after the period has expired – sec 36 (3).</p>
United Kingdom	Means the United Kingdom of Great Britain and Northern Ireland – sec 21 (1) . That provision also contains definitions of British Act (or Imperial Act) and British Parliament (or Imperial Parliament).