

PCO Standard

A guide to drafting principles for NSW
legislation

Current as at 9 May 2023

The PCO Standard is intended only to provide guidance and 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.

Authorisation and versions

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1 General principles

1.1 Readability

Text should be organised into small, easy-to-read segments.

This can be achieved by using the following drafting practices—

- (a) making use of lists,
- (b) ensuring subsections generally do not have more than 4 lines, not including text in a list forming part of the subsection,
- (c) ensuring sections are generally no longer than a page—if a section is longer than a page, consider breaking the section up into multiple sections,
- (d) removing text in brackets, other than for concise in-line definitions (**tag terms**),
- (e) ensuring headings do not go over a single line if possible. This does not apply to an amending heading. Note the requirements for subordinate instruments to include a head of power—see Subordinate instruments, PCO Standard 10.1.

1.2 Narrative style

Use the narrative drafting style as much as possible. This means assuming a section will be read as a whole and in a narrative way.

For example, if a subsection required the Secretary to send a notice to a person, the next subsection could simply refer to “the notice” without a definition or cross-reference, as it would be obvious which notice was being referred to.

This approach can reduce clutter in legislation.

1.3 Plain English

Plain English should be used. Appendix 1 includes a list of words that should not be used, or that should be carefully considered before use. Suggested alternatives are set out for each word listed in Appendix 1 to ensure consistency across the statute book and to continue to improve PCO’s use of plain English.

Words in a language other than English, including Latin words, should not be used, even if they have an established legal meaning.

1.4 Spelling

1.4.1 General

There is currently no legislated editorial power to correct spelling in NSW legislation, so it is important to get spelling right during drafting and editing to avoid the need for later legislative amendments purely to correct a spelling error.

1.4.2 PCO style based on Macquarie Dictionary

In NSW legislation, spelling should generally comply with the most recent edition of the Macquarie Dictionary.

If there is no relevant legislated defined term to dictate usage and the *Macquarie Dictionary* offers alternative spellings, the first spelling should generally be used but check if the word is included in the list of PCO preferred spellings in Appendix 2. If it is not included in the list, search the legislation website to get an idea of usage across the statute book, while paying particular attention to the context of the instrument being amended or drafted. However, just as with new drafting styles, up-to-date spelling should generally be used when drafting, even if it may mean inconsistency in a particular instrument.

1.4.3 PCC Style

The Parliamentary Counsel’s Committee (PCC) has decided that, in drafting national uniform legislation, the *Macquarie Dictionary* is the preferred dictionary. See the PCC’s [Protocol on Drafting National Uniform Legislation, Rule 6.17](#).

1.5 Use of dictionary or definitions section

Use a dictionary in a new principal Act or instrument if the definitions will take up more than 1 page. If the definitions will not take up more than 1 page, a definitions section at the front of the Act or instrument may be used.

The dictionary or definitions section should include an entry for each defined term that appears in the Act or instrument, other than defined terms used in a single section for that section only, known as “sectional definitions”.

For example, if a definition of “dog” is included in section 75 of an Act for Part 4, the definition would be included in the dictionary or definitions section (see the definition of **dog** in the example dictionary below). This helps readers to find defined terms that may be pages away and removes the need for readers to go through many pages of definitions before getting to the substantive provisions of an Act or instrument.

If a dictionary is used, it must be the last schedule in the Act or instrument.

The example below sets out the following ways definitions may be included—

- **authorised officer** is defined in a schedule, for that schedule,
- **cat** is defined for only used in Part 3 and is defined in and for Part 3,
- **child** has different definitions for 2 parts of the Act, with each part containing a separate definition for that part and another definition for the remainder of the Act,
- **contractor** makes reference to a definition in another Act,
- **contravene** is defined for the whole of the Act,
- **registered person** is a definition that has been included in a section, rather than in the dictionary, because it is defined in the section in full or is critical to that part. The dictionary adopts the definition in that section for the whole of the Act.

Schedule 7 Dictionary

section 4

approved form means a form approved under section 62.

authorised officer, for Schedule 2—see Schedule 2, section 1.

cat, for Part 3—see section 55.

child—

(a) for Part 6—see section 90, or

(b) for Part 7—see section 109, or

(c) otherwise—means an individual who is less than 18 years of age.

contractor has the same meaning as in the *Employment Act 1999*.

contravene includes fail to comply with.

dog, for Part 4—see section 75.

registered person—see section 73.

The sourcerefer for the dictionary must be included as set out in the example above (“section 4”).

The dictionary should be established in the body of the Act or instrument in the way set out in the precedent below.

Precedent

4 Definitions

The dictionary in Schedule [x] defines words used in this [Act/regulation].

Note— The *Interpretation Act 1987* contains definitions and other provisions that affect the interpretation and application of this [Act/regulation].

1.6 References to terms in dictionary or references to dictionary generally

If a provision refers to a dictionary, refer to the schedule in which the dictionary is located, rather than the term “dictionary”. For example, a reference in a regulation to a definition in the dictionary of an Act would be as follows—

For the Act, Schedule 8, definition of **work**, paragraph (b)...
[The dictionary is in Schedule 8.]

1.7 Notes

1.7.1 Current practice

Notes are intended to form part of an Act. New principal instruments should not include a provision that states the following—

Notes included in this [Act/regulation] do not form part of this [Act/regulation].

Drafters and editorial checkers working on staged repeal projects should remove the provision that provides that notes do not form part of the instrument and should consider each note in the instrument as part of the staged repeal review.

If a note is not intended to be part of an Act, it should be described as an editorial note — see Editorial notes, PCO Standard 1.7.3.

There are limited circumstances in which the notes exclusion provision above should apply, for example, if national scheme legislation is being enacted and the note is consistent with the model laws. See Uniform legislation, PCO Standard 1.7.5.

When using a note, example or editorial note, it should be in bold and followed by an em dash. For example—

Note—

This is a note to a section.

Example—

This is an example that relates to a provision.

Editorial note—

This is a note that provides information about the date on which a provision commenced.

1.7.2 Use of notes

Notes should be used sparingly. Care should be taken about expressing a legal opinion regarding the operation of a provision or providing a summary of another provision in a note.

A note can create a numbered list, alphabetical list or bullet list. Multiple notes for the same provision can be referred to as “Note 1”, “Note 2”, etc.

Notes are useful for the following—

- to refer to related provisions that are not located near the provision or that are located in other Acts or instruments,
- to provide other information that helps readers interpret or navigate a large principal Act or regulation, including examples.

Notes should not clutter up the text of an Act or regulation. If many notes seem to be needed, the structure, arrangement of provisions and use of interpretative provisions should be reconsidered.

A note should not be used instead of a substantive provision. If the contents of a note provide additional content for a provision, then the contents should be included in the provision or an example, rather than in a note.

If you need a note to explain a provision then the provision should be redrafted instead.

See also Amending, omitting and substituting notes and examples, PCO Standard 6.2.

1.7.3 Editorial notes

If a note is not intended to be part of an Act or instrument, it should be described as an editorial note. Editorial notes should be used sparingly and must only contain material that is truly editorial in nature.

Editorial notes are useful to state factual information, for example—

- a note to state when a document was published, or
- a reference to an international convention to assist the reader in finding a related law—see for example, the [Marine Pollution Act 2012](#), sections 18–20.

Editorial notes do not form part of the Act or instrument and should not be amended by a formal amendment. Proposed amendments to editorial notes must be discussed with the Director, Legislation Editing and Parliament and approved by a Deputy Parliamentary Counsel.

1.7.4 Examples

An example may be used if information is available to effectively explain the operation of a provision by using an example.

The FrameMaker structure used for a note should also be used for an example, but instead of using the heading “Note”, the heading should be “Example” or “Examples”.

If the example used is not a sentence, it should not be punctuated as if the example were a sentence. See the examples below for common issues relating to appropriate punctuation.

Examples of a bus service—
a shuttle bus or charter bus service

This could also be expressed as a bullet list if there were several entries. If the examples were expressed as a sentence, such as “Examples of bus services are

shuttle bus services and charter bus services.”, an initial capital letter and a full stop would be needed. Given the repetition of “examples”, this style should be avoided.

Example—

streamlining work processes

There is no finite verb in the above example, so this is not a sentence. An example of a sentence for this would be as follows—

Examples—

- 1 A type of positive work process **is** streamlining work processes.
- 2 An owner **cannot** separately deal with or dispose of the owner’s interest in the common property.
- 3 A dealing affecting the lot **affects**, without express mention, the interest in the common property.

In the examples above, the finite verbs are bolded.

Example—

Wear a mask in all indoor settings and **maintain** physical distance.

This example uses imperative verbs (“wear” and “maintain”), which express a command or request or give a direction to the subject, often understood to be “you”.

Examples of restricting access to a thing—

- 1 sealing a thing and marking it to show access to it is restricted
- 2 sealing the entrance to a room where the seized thing is situated

The examples above use present participles (“sealing” and “marking”), which are often confused with finite verbs. Both examples are fragments, not sentences, so they should not be punctuated with an initial capital letter and a full stop.

1.7.5 Uniform legislation

Interpretation provisions of other jurisdictions applying to NSW law that is uniform law may provide that notes form part of the law.

1.8 Sections, clauses and similar provisions

1.8.1 General

From 1 July 2021, provisions in subordinate instruments that have been referred to as “clauses” must be referred to as “sections”. A provision that uses the clause element must be referred to as a “section”.

The new practice also applies to a provision in a schedule, whether in a Bill or subordinate instrument, that was previously referred to as a “clause”.

The following provisions are called “sections”—

- numbered provisions in the body and schedules of an Act,
- numbered provisions in the body and schedules of statutory instruments.

This practice does not apply to the following—

- Bills or instruments that amend an Act or instrument made before 1 July 2021. Drafters and editorial checkers should refer to provisions in a regulation or in a schedule of an Act as “clauses” if the Act or regulation was made before 1 July 2021 and still uses the term “clauses”. For example—
 - a regulation that amends the *Children (Community Service Orders) Regulation 2020*, which is a 2020 regulation, should continue to refer to “clauses” rather than “sections” until the regulation is remade, and
 - an Act that amends a schedule in the *Personal Injury Commission Act 2020*, which refers to “clauses”, should continue to refer to the provisions in the schedule as “clauses”,
- environmental planning instruments,
- court rules,
- the *Australian Road Rules*,
- other instruments that use a specific approach.

The term “clauses” will continue to be used for new principal instruments only when referring to the clauses of a Bill (i.e. proposed sections). There is no need to refer to this kind of clause in a way that will be retained in legislation.

For further information, see Sections—organisation and use, PCO Standard 2.3.

1.8.2 Exceptions

There are several exceptions to the general rule that all provisions are referred to as “sections”—

- Numbered provisions that do not contain a heading are often called “items” (see, for example, the [Ombudsman Act 1974, Schedule 1](#)).
 - This type of provision may also be called a “clause” or a “paragraph”, depending on the context.
- Numbered provisions in square brackets in amending schedules are called “items”.
- Numbered rows in tables can also be referred to as “items”.
- Unnumbered provisions that contain a heading are usually called “clauses”, (see, for example, Standard Instrument LEPs, Schedule 2).
- National laws and regulations may use different terminology and care should be taken to confirm the correct provision type for cross-references.

For further information, see Sections—organisation and use, PCO Standard 2.3.

1.9 Gender-neutral language policy

1.9.1 Adoption of policy

New South Wales was the first Australian jurisdiction to adopt gender-neutral language in legislation. In 1983, the Attorney General approved a proposal from PCO that in the preparation of future legislation preference would be given to the use of gender-neutral language. The policy was formally announced by the Governor on 16 August 1983 and has been strictly applied by PCO ever since.

1.9.2 Applying the policy

This section indicates how the policy is usually applied.

The following gender-neutral terms are preferred if a general reference inclusive of both sexes is required—

- “person” (rather than “man” or “woman”),
- “the person” (rather than “him” or “her”),
- “the person's” (rather than “his” or “her”),
- “spouse” (rather than “husband” or “wife”).

No assumption is made in legislation that particular occupations or activities are exclusively carried out by men or women. Gender-neutral terms for occupations, activities and other things are preferred if these are readily available and sensible, such as the following—

- “worker” (rather than “workman”),
- “administrator” (rather than “administratrix”),
- “staffed” or “crewed” (rather than “manned”),
- “chairperson”, “presiding member”, “president”, “convenor” or “moderator” (rather than “chairman”).

Avoid sex-based pronouns. Techniques for avoiding the use of male pronouns include the following—

- repeating the noun (e.g. “a person may seek office if ~~he~~ the person has taken the action necessary to qualify for the ballot”),
- omitting the pronoun (e.g. “a member of the Tribunal may resign ~~his~~ office”),
- converting a noun to a verb (e.g. “if a person ~~makes his payments~~ pays by cheque”),
- using a relative clause (e.g. “an applicant who has been licensed in another State must submit the required fee”, instead of “if an applicant has been licensed in another State, he must submit the required fee”),
- using the plural (e.g. “public officials must withdraw from any matter in which they have a conflict of interest”).

The following provisions of the [Interpretation Act 1987](#) are noted—

- [Section 8\(a\)](#) provides that in any Act or instrument “a word or expression that indicates one or more particular genders shall be taken to indicate every other gender”.
- [Section 19\(2\)](#) provides that the “office of chairperson, chairman or chairwoman may be referred to by whichever of those words is appropriate in relation to the particular holder of that office”. This enables, for example, a “chairman” to be referred to as a “chairperson”. Conversely, it enables a “chairperson” to be referred to as a “chairman” or “chairwoman” if the incumbent desires this.

The terms of this policy do not require the use of neutral words in inappropriate cases, for example—

- in laws that are intended to be uniform with laws of the Commonwealth or other States (following decisions of the Standing Committee of Attorneys-General or other similar decisions), and
- in some amendments to existing legislation where a change of language might produce a glaring inconsistency or a problem of interpretation.

2 Technical guidelines

2.1 Full provision to be used

In NSW legislation, sections, schedules, parts and other provisions are referred to in full rather than by an abbreviation.

Examples

- Subject to section 2
Not Subject to s 2
- An offence listed in Schedule 1
Not An offence listed in Sch 1

This rule does not apply if a reference is being made to the statutory power for the provision in the heading to a section of a regulation—see Subordinate instruments, PCO Standard 10.1.

2.2 Reference to highest “level” of provision

References to a section and a subsection or paragraph should be to the highest “level” of the provision.

Examples

- section 144C(2)
Not subsection 144C(2)
- section 4(1)(a)(i)
Not subparagraph 4(1)(a)(i)
- Schedule 1.8
Not subschedule 1.8

Occasionally, depending on the intention, this rule means that both the higher-level and lower-level provision will be used in the same sentence.

Examples

- For the Act, section 12A(2), a report referred to in that subsection is required.
- a certificate referred to in section 6(1)(c), completed by the applicant, in accordance with that paragraph...

2.3 Sections—organisation and use

2.3.1 What are sections and clauses?

Sections are the numbered provisions in an Act or regulation.

The numbered provisions within a schedule of an Act or regulation are also referred to as “sections”.

The numbered provisions within a Bill that, on enactment, will become a new principal Act, are generally referred to as “clauses”—that is, when the new principal Act is in Bill form, the proposed sections of the Act are clauses of that Bill. Accordingly, proposed sections should be referred to as “clauses” in both the explanatory note to the Bill and in amendments in committee.

On enactment, the clauses to a Bill become sections of the Act.

Numbered provisions in regulations are referred to as “sections”, both before and after the regulation is made. However, there are a few regulations where each numbered provision is a “regulation”. The correct approach will generally be indicated by the name of the instrument. If the instrument is named a “Regulation” (singular), each numbered provision of the Regulation is a “section”. If the instrument is named “Regulations” (plural), each numbered provision of the instrument is a “regulation” (see, for example, the [Rail Safety National Law National Regulations 2012](#)).

Numbered provisions in environmental planning instruments are generally referred to as “clauses”. For court rules, numbered provisions are usually referred to as “rules”. Again, the correct approach will generally be indicated by the name of the instrument. If the instrument is named a “Rule” (singular), each numbered provision of the rule is a “clause” (see, for example, the [Children’s Court Rule 2000](#)). If the instrument is named “Rules” (plural), each numbered provision of the instrument is a “rule” (see, for example, the [Supreme Court Rules 1970](#)).

2.3.2 Table of instruments and their provision names

The following table of instruments and their provisions may be useful—

Instrument	Provision
Act	section (body)
	section (schedule)
regulation	section (body)
	section (schedule)
regulations	regulation
rule	clause

Instrument	Provision
rules	rule
by-law	clause
by-laws	by-law
amending schedule	item
law	section
others (such as proclamations, orders, ordinances, notices, determinations, codes, declarations, and guidelines)	section
environmental planning instruments	clause

2.3.3 Organisation of material within sections

The material set out in a section can be ordered into subsections, paragraphs and subparagraphs, as shown in the example below—

Example
<p>This is the heading to section 1</p> <p>(1) This is subsection (1).</p> <p>(2) This is subsection (2).</p> <p>(3) The following provisions are paragraphs—</p> <p>(a) this is paragraph (a),</p> <p>(b) this is paragraph (b),</p> <p>(c) this is paragraph (c), which has the following subparagraphs—</p> <p>(i) this is subparagraph (i),</p> <p>(ii) this is subparagraph (ii),</p> <p>(iii) this is subparagraph (iii).</p>

Internal cross-references to the provisions within a section should reflect the above nomenclature.

Material within a section should generally be ordered from most important to least important and from general to specific. In most cases, subsection (1) is the most important statement in the section or a statement of the general principle. Less important information, or the details that flesh out an earlier statement in a section, should appear towards the end of the section.

2.3.4 How to use sections

Sections make up most of the material that constitutes an Act or subordinate instrument. Sections enable the drafter to divide the information being communicated into comprehensible segments and to structure the presentation of that information in a logical and informative way.

A new section should be used whenever legislation addresses a new topic.

Sections may also be used to address different aspects of the same topic.

Sections without subsections should only contain 1 sentence.

A separate section is usually used to define expressions used in more than 1 section or to make statements of general application (e.g. a statement about the situations in which a particular part applies).

2.3.5 Use of subsections

Subsections are generally used to make separate statements related to the same topic, (i.e. the topic of the section).

Subsections should only be 1 sentence long.

A new subsection should be created if more than 1 sentence is required.

2.3.6 Use of paragraphs and subparagraphs

Paragraphs and subparagraphs are generally used for lists of items.

Subparagraphs (and, particularly, subsubparagraphs) should be used with care and avoided if possible.

2.3.7 Length of sections

Each individual sentence within a section should not be too long. This assists reader comprehension. A good guideline is a limit of 4 lines per sentence, but shorter than that is preferable. This guideline does not apply to sentences that include a list but should be applied to each item within a list.

If a sentence is becoming too long, the drafter should consider techniques for making the components of the sentence shorter and more comprehensible, such as—

- breaking the sentence up into separate sentences, or
- using lists, or
- moving material into a defined term.

A section should also not contain too many subsections. A limit of 5 subsections is a good rule of thumb. Sections should not be longer than 1 page.

If a provision is becoming too long, the drafter should consider dividing the provision up into separate sections. However, when drafting amending legislation, the existing structure of the Act or instrument being amended may place constraints on this approach.

See also Readability, PCO Standard 1.1.

2.3.8 Subsection headings

Provisions that contain subsection headings suggest that the concepts should be separated out into separate sections.

Subsection headings should not be used unless the instrument being amended has already used that approach and the use of a subsection heading cannot be avoided.

For new instruments and for regulations subject to staged repeal, subsection headings should not be used.

2.3.9 Rangeback text

Provisions should be drafted in a way that avoids the use of rangeback text.

Rangeback text usually follows a list and is intended to apply to all items in the list.

Provisions that use rangeback text can be recast—

- as separate subsections, or
- so the lead-in text for the provision includes the words that would otherwise be contained in the rangeback text.

Examples

Rangeback text—not to be used

A person must not—
(a) sell alcohol on premises, or
(b) permit alcohol to be sold on premises,
unless the premises are licensed.

Recast provision with different lead-in words

A person must not do the following on premises, unless the premises are licensed—
(a) sell alcohol,
(b) permit alcohol to be sold.

Recast provision as 2 subsections

- (1) A person must not—
 - (a) sell alcohol on premises, or
 - (b) permit alcohol to be sold on premises.
- (2) Subsection (1) does not apply to licensed premises.

2.3.10 Numbering of sections

The numbering of provisions in legislation facilitates users of the legislation referring to relevant provisions in legal proceedings and other communications.

For advice on how provisions should be numbered, see PCO style for provision numbering, PCO Standard 2.9.

Decimal numbering of provisions is not standard PCO practice. Decimal numbering in a new principal Act or instrument should be used only if that approach has been approved by the Parliamentary Counsel. However, decimal numbering should be used in amendments to an instrument that already has decimal numbering (e.g. some SEPPs use decimal numbering) and in new principal EPIs.

2.3.11 Renumbering sections

In some cases it is appropriate to renumber existing sections to avoid excessively lengthy section numbers, such as those with 4 or 5 digits and letters (e.g. section 12AAB). PCO does not routinely renumber provisions, so a renumbering proposal should be brought to the attention of a Deputy Parliamentary Counsel.

Care should be taken in renumbering provisions. It is the drafter's responsibility to ensure that cross-references to the provision being renumbered are updated to the new number.

2.3.12 Using repealed provision numbers

When inserting provisions in an Act or instrument, it is generally acceptable to re-use the numbers of repealed provisions.

Care should be taken in using existing repealed numbers for completely new subject matter, particularly where this may impair research using the historical notes for significant provisions of an Act.

Care should also be taken in re-using repealed provision numbers when amending the [Crimes Act 1900](#), as repealed offences are often prosecuted long after their repeal and there are generally numerous references to repealed *Crimes Act* offences in other Acts, such as the [Criminal Procedure Act 1986](#).

2.3.13 Unnumbered sections

To insert unnumbered provisions, see Unnumbered provisions, PCO Standard 2.10.

2.4 Headings

2.4.1 Legal status of headings

Higher-level headings, such as headings to chapters, parts, divisions, subdivisions and schedules, form part of an instrument ([Interpretation Act 1987, section 35](#)).

The *Interpretation Act 1987*, section 35 provides that provision headings, including section headings in schedules, do not form part of an instrument. Despite this, a section heading must be amended by a direct amendment in the same way a heading that does form part of an instrument is amended.

There are cases in which section headings are expressed to form part of an instrument. For example, the [Co-operative Housing and Starr-Bowkett Societies Act 1998, Schedule 1, section 5](#) has its own interpretation provisions, which state that section headings are part of that Act.

Although section headings do not form part of an Act or instrument, they may still be used to assist in the interpretation of the Act or instrument under the *Interpretation Act 1987*, sections 34(1) and 35(5).

2.4.2 Content of headings

The heading to a provision should indicate the subject matter of the provision.

Headings should be as information-rich as possible as they are commonly used by readers to navigate an instrument. Keep in mind that headings in an instrument make up the instrument's table of contents, which is a key tool for understanding the instrument.

For example, if a section requires a body to record reasons for a decision it makes, the heading "Reasons for decision to be recorded" is more information-rich than the heading "Reasons for decision".

However, a heading should also be succinct and not attempt to explain the detail of the section to which the heading relates. If possible, a heading should not go over 1 line.

Try to avoid articles in headings ("a", "an" and "the") and the use of "etc". An exception to this rule is using "the Act" to reference the defined term **the Act** in a heading that refers to a section of the Act. See Subordinate instruments, PCO Standard 10.1 for further information.

Headings are generally plural.

Headings should not be in the form of a question. There is some existing legislation (e.g. the [Local Government Act 1993](#)) that reflects previous experimentation with the headings-as-questions technique but that technique should not be adopted.

2.4.3 “Black text” headings in LEPs

Do not change headings to the standard provisions in Standard Instrument LEPs, that is, headings to provisions that are set out in the [Standard Instrument \(Local Environmental Plans\) Order 2006](#) that are not local clauses.

2.4.4 Subheadings and comparison information

Compare elements (e.g. elements containing “cf” references) and subheadings should not be used.

If information about comparison sections is provided to assist instructors during the drafting process, drafters should remove the references before the instrument is provided for editorial checking.

If an instructor requests that the compare elements be kept in the draft, it should be explained to the instructor that this is no longer office practice.

If there is information that may be useful to the reader that should be captured in the instrument, the information should be in an editorial note. The information must not relate to a comparison to an older version (being a substitute for the compare element).

An example of matters that may be useful in an editorial note is a reference to a regulation in an international standard that is implemented by the section.

See also Editorial notes, PCO Standard 1.7.3.

2.5 Use of lists

This information relates to numbered lists made up of paragraphs and subparagraphs. References in this entry to paragraphs generally also apply to subparagraphs.

2.5.1 Punctuation

The text leading into a list ends with an em dash.

The paragraphs in a numbered list (also called list “items”) are always separated by commas, which may be followed by conjunctions.

The last item usually ends with a full stop.

Examples

- (1) Employment as a Public Service non-executive employee may be 1 of the following kinds of employment—
 - (a) ongoing employment,
 - (b) temporary employment,
 - (c) casual employment....
- (5) This section does not apply to a person in the person's capacity as—
 - (a) the Governor, or
 - (b) the Lieutenant-Governor, or
 - (c) a Minister of the Crown, or
 - (d) the holder of a judicial office.

If the list is followed by rangeback text that is part of the same sentence, the last list item ends with a comma. Occasionally, the rangeback text is a new sentence, in which case the last item ends with a full stop.

Rangeback text should, however, be avoided—see Rangeback text, PCO Standard 2.3.9.

Examples

- (1) A Public Service employee who is authorised by the Secretary may—
 - (a) enter the premises of a Public Service agency, and
 - (b) examine documents in the custody of a Public Service employee, and
 - (c) require a Public Service employee to answer questions,for the purposes of enabling the Secretary to exercise the Secretary's functions under this division.
...
- (5) Arrangements may be made under this section under which—
 - (a) a person who is employed in a government sector agency is temporarily assigned to another government sector agency, or
 - (b) a person who is employed in a government sector agency is temporarily assigned to a non-government sector body, or
 - (c) a person who is employed in a non-government sector body is temporarily assigned to a government sector agency.The assignment may be on a full-time or part-time basis.

Rarely, list items may contain complete sentences, in which case each item begins with a capital letter and ends with a full stop. This is generally only used for statements of principle, such as the examples below, or similar cases where each matter is a self-contained idea.

Example

7 Government sector core values

The core values for the government sector and the principles that guide their implementation are as follows—

Integrity

- (a) Consider people equally without prejudice or favour.
- (b) Act professionally with honesty, consistency and impartiality.
- (c) Take responsibility for situations, showing leadership and courage.
- (d) Place the public interest over personal interest.

Trust

- (a) Appreciate difference and welcome learning from others.
- (b) Build relationships based on mutual respect.

Specific punctuation styles also apply to the lists in the Land Use Table of Standard Instrument LEPS.

2.5.2 Conjunctions

Paragraph lists are usually joined by an “and”, an “or” or a comma at the end of each paragraph.

Example

In considering whether to grant consent, the council must take into consideration—

- (a) the imminence of development of the land for the purpose for which it is reserved, and
- (b) whether the proposed development will render the land unfit for that purpose, and
- (c) the cost of the reinstatement of the land for that purpose, and
- (d) whether a refusal to grant consent will cause undue financial hardship to an owner, mortgagee or lessee of the land.

The comma on its own can be used when the list is preceded by the words “as follows” or “the following”. In those cases, the “and” or “or” is not included at the end of each paragraph, as the lead-in text determines the relationship between the list items.

Example

In considering whether to grant consent, the council must take the following into consideration—

- (a) the imminence of development of the land for the purpose for which it is reserved,
- (b) whether the proposed development will render the land unfit for that purpose,
- (c) the cost of the reinstatement of the land for that purpose,
- (d) whether a refusal to grant consent will cause undue financial hardship to an owner, mortgagee or lessee of the land.

In some older legislation, the conjunction appears only at the end of the penultimate paragraph of a list (see, for example, [Valuation of Land Act 1916, Schedule 1, clause 7](#)). This is no longer PCO style. New lists should be drafted in PCO style even if the target legislation contains the old list style. However, when inserting or omitting a paragraph in a list that uses the old style, including the penultimate paragraph, the old style should be preserved.

Paragraphs may also be joined with the conjunction “but” instead of “and” or “or”.

Example

A police officer may require a person to provide a sample of the person's blood if the person—

- (a) has attempted to provide an oral fluid sample as directed under section 9, but
- (b) has been physically unable to comply with that direction.

As always, the syntax and logic of the sentence should be considered.

2.5.3 Flow of lists

Grammatical and logical continuity must be maintained between each item in a list and the lead-in text, as well as between the items themselves—that is, each paragraph must flow on from the lead-in text in a way that forms a grammatical sentence.

Example

A power may be exercised by an inspector only for the purposes of—

- (a) determining whether there has been compliance with this Act, or
- (b) obtaining documents for purposes connected with the administration of this Act, or
- (c) in connection with exercising the functions of an inspector under this Act.

In the example above, there is a continuity issue between the lead-in text and paragraph (c). The sentence would need to be restructured (e.g. by moving “for the purposes of” to the beginning of paragraphs (a) and (b)).

Paragraph lists and related subparagraph lists may contain a mixture of styles—that is, subparagraph lists are separate lists and may have their own logic, interrelationship and conjunctions.

Examples

3 Objects of Act

The objects of this Act are as follows—

- (a) to establish an independent Civil and Administrative Tribunal to provide a single point of access for tribunal services in the State,
- (b) to enable the Tribunal—
 - (i) to make decisions as the primary decision-maker in relation to certain matters, and
 - (ii) to review decisions made by certain persons, and
 - (iii) to determine appeals against decisions made by certain persons,
- (c) to ensure the Tribunal is responsive to the needs of its users.

4 Objects of Act

The objects of this Act are—

- (a) to protect the following persons—
 - (i) a person born as a result of ART treatment,
 - (ii) a person providing a gamete for use in ART treatment,
 - (iii) a person undergoing ART treatment, and
- (b) to prevent the commercialisation of human reproduction, and
- (c) to promote research and education in connection with ART treatment.

11 Membership of Board

The Board must consist of 6 members, being—

- (a) the Chairperson, and
- (b) the Chief Executive Officer, and
- (c) a person appointed by the Minister, being—
 - (i) a secondary school teacher, or
 - (ii) a person with expertise in secondary education, or
 - (iii) an Aboriginal person with expertise in the education of Aboriginal people, or

- (iv) a person with qualifications and experience to enable the person to make a valuable contribution to education in New South Wales, and
- (d) 3 persons nominated by the Secretary of the Department.

Each list must be internally consistent. In particular, the last item of the subparagraph list must follow the style of the paragraph list (see sections 3(b)(iii), 4(a)(iii) and 11(c)(iv) in the example above).

When inserting or substituting items in lists, the style of each list should be maintained.

2.5.4 “Catch-all” paragraphs at end of lists

Some lists contain general or “catch-all” items that must be placed at the end of the list. These items usually begin with “another” or “other...”. Logically, these items must come after the other items in the list.

Example

In determining whether there are special circumstances warranting an award of costs, the Tribunal may have regard to the following—

- (a) whether a party has conducted proceedings in a way that unnecessarily disadvantaged another party to the proceedings,
- (b) the relative strengths of the claims made by each party,
- (c) the nature and complexity of the proceedings,
- (d) other matters the Tribunal considers relevant.

When amending a list like this, avoid inserting a new specific item after the general item (i.e. paragraph (d) in the example above).

2.5.5 Instruments not drafted by PCO

Applied laws, also known as “national laws” or “uniform laws”, and other instruments not drafted by PCO (e.g. water sharing plans) may use different punctuation or conjunction styles for lists—for example, the [National Energy Retail Law \(NSW\)](#) uses semicolons to separate items in lists. See Applied laws and model laws, PCO Standard 13 for more information. When drafting or checking these instruments, ensure the list style is applied consistently.

2.6 References to provisions

2.6.1 References within an instrument

A reference in an Act or instrument to another provision should be set out in the following order—
chapter, part, division, subdivision, section

For schedules, a reference should be set out in the following order—
schedule, subschedule, part, division, subdivision, section

If the reference is to a provision in another Act, the Act should appear before the provision.

Example

44 References

- ...
- (3) Nothing in this section limits the powers of the Tribunal under the *Administrative Decisions Review Act 1997*, Chapter 3, Part 3, Division 3.

Drafters should not refer to, for example, “Division 4 of Part 8”. References should be ordered from largest to smallest provision (e.g. Part 8, Division 4). This applies to new and existing instruments, even if it creates an inconsistency in the instrument to other references.

This practice also applies to explanatory notes.

2.6.2 Style for sub-provisions

Numbered subsections or lettered paragraphs should appear in parentheses after the section number with no space in between.

Note that there may be exceptions for some applied laws.

Examples

- section 4(1)
Not section 4 (1)
- section 3(a)
Not section 3 (a)

2.6.3 Punctuation

Commas should be used to separate each type of provision. However, if previously a comma would not have been used for the final type of provision referenced, do not include a comma after the final provision. The example below indicates how to reference the powers of an Act in a regulation.

See also Subordinate instruments, PCO Standard 10.1.

Examples

Use a comma after the final reference to a provision in a regulation-making power—

- (1) For the Act, section 92(2)(g), an authorised officer may remove a person from a forestry area if the person fails to comply with a direction given under section 22.
- (2) For the Act, section 92(3)(g), definition of **authorised person**, a police officer is prescribed.

There is no need to use a comma if, in the old style, a comma would not have been required. For example—

Old style

- (1) Section 40 of the *Local Government Act 1993* is applicable to council managers in relation to written consent.

New style

- (1) The *Local Government Act 1993*, section 40 is applicable to council managers in relation to written consent.

2.6.4 Provision headings not used in cross-references

Cross-references should not include the provision heading in brackets after the provision number unless there is a particular reason to do so, such as to give context to an otherwise obscure cross-reference.

Drafters may find it useful to include the heading in brackets after the provision number during drafting to keep track of amendments and cross-references. However, this should be removed before the draft is provided for editorial checking.

The cross-referencing tool should remove the need to do this as the tool provides for automatic updates.

2.6.5 Order for amending instruments

Amendment styles should also reflect the order of provisions. The examples below show an omission of a paragraph of a definition, and the same omission using an amendment heading.

Example to omit paragraph (b) of definition

[12] Section 4 Definitions

Omit section 4(1), definition of ***styles***, paragraph (b).

Example using amendment heading

[13] Section 4(1), definition of “*styles***”, paragraph (b)**

Omit the paragraph.

The example below shows the correct order to refer to provisions if referring to a provision amended by an amending Act.

Example

[77] Schedule 5

Insert at the end of Schedule 5, with appropriate Part and clause numbering—

Part Provision consequent on enactment of Example Amendment Act 2020

Application of amendment

The amendment made to Schedule 1, section 1 by the *Example Amendment Act 2020* must be applied for the purpose of deciding the correct amount of tax, within the meaning of section 11, payable for the financial year commencing on 1 July 2020 as if the amendment were force on 30 June 2020.

If an instrument refers to another instrument, the name of the other instrument should be the first reference used.

Example

22 Relevant persons

For this Act, ***relevant person*** means—

- (a) a person specified in Schedule 1, or
- (b) a person authorised under the *Wildlife Act 2011*, section 25, or
- (c) a person specified in the *Working with Animals Act 1998*, Schedule 1, section 2.

2.6.6 Cross-references to definitions

Cross-references to definitions in the text of legislation are formatted in bold and italics.

Example

For the Act, section 10(1), definition of ***prescribed criminal offence*** ...

References to definitions not explicitly identified do not have this formatting.

Example

...a station salesperson within the meaning of the *Property, Stock and Business Agents Act 2002*.

Cross-references to definitions in **headings** in both principal and amending legislation are included in quotes.

Example

Section 25 Definition of “eligible organisation”

Paragraphs within defined terms that are part of a list of definitions should not be referred to as paragraphs of the relevant section or subsection.

Example

A claimant of the kind referred to in section 15(1), definition of ***dependant***, paragraph (a).

Not A claimant of the kind referred to in section 15(1)(a)....

Insert after section 36(1), definition of ***industrial court***, paragraph (c)—

Not Insert after section 36(1)(c)—

2.6.7 Specificity needed for certain references

Generally, internal cross-references do not need to be followed by “of this Act” (or “of this regulation” etc) or “of this chapter/part/division”.

Example

A report referred to in section 64 may be provided to the Tribunal.

Not—

- A report referred to in this Act, section 64 or
- A report referred to in Part 3, section 64.

2.7 Exceptions

2.7.1 In schedules

In a schedule of an instrument, a cross-reference to a part may need to specify “Part X of this Act” if the schedule also has parts. Similarly, a cross-reference to section 5 in the schedule to a regulation should be referred to as “this regulation, section 5” to distinguish it from section 5 of the schedule.

2.7.2 In subsidiary provisions

Apart from section numbering, the numbering of most provisions below the first level of provisions (e.g. part, or chapter if it is used, or schedule) restarts at 1 within each provision. This means these subsidiary provisions do not have a unique number within the instrument so that extra information needs to be included in a cross-reference.

For example, in parts with divisions, the divisions restart from Division 1 in each part. Cross-references to divisions in these instruments must refer to the part and division unless the cross-reference is in the same part as where the reference is being used.

Another example is an Act with chapters and non-decimal parts where the numbering of the parts restarts from Part 1 in each new chapter. Cross-references to parts in these instruments must refer to the chapter and part unless the cross-reference is in the same chapter.

The same principle applies to subdivisions.

Note that some principal Acts use decimal part numbers or decimal division numbers (e.g. Part 2.3, Division 7.1). The rules about giving the containing chapter or part reference when referring to the decimal numbers does not apply because the number is unique in the instrument.

A new instrument proposing to use decimal numbering must be approved by the Parliamentary Counsel.

Examples

- conferred on investigators by Part 2, Division 3
- Subject to Chapter 3, Part 2
- in accordance with Division 2.2
- [3] Part 3, Division 4, Subdivision 1

This cross-referencing rule applies even if there is only one occurrence of the subsidiary provision in the instrument. For example, even if there is only one Division 3, it must still be referenced relative to the part it is in.

2.7.3 Unusual instruments or provisions

Occasionally an instrument contains provision numbering that restarts in each part, for example, the [Workers Compensation Act 1987](#), Schedule 6. Cross-references to these provisions must refer to the provision and part unless the cross-reference is in the same part.

Example

The *Workers Compensation Act 1987*, Schedule 6, Part 15, clause 11

Note that the example above uses a reference to “*clause 11*” because the Schedule itself refers to these provisions as clauses. If the reference were to a newer provision, it would be to “sections” in the Schedule.

There are also some court rules in which rule numbering restarts in each part, for example, the [Supreme Court Rules 1970](#).

A new instrument proposing to use this format must be approved by the Parliamentary Counsel.

2.7.4 References to another instrument

If an internal cross-reference appears near a reference to another instrument, the internal cross-reference may be followed by “of this Act” to avoid any confusion. There is no need to do this to the other internal cross-references in the rest of the instrument just for the sake of internal consistency if it is otherwise clear which Act is being referred to. The use of “of this Act” is inconsistent with the standard order of provisions and should only be used where the meaning is unclear.

Example

The *Energy and Utilities Administration Act 1987*, section 34M(b)—

- (b) if the *Electricity Supply Act 1995*, section 14 is administered by a Minister other than the Minister administering section 34J of this Act—the concurrence of the Minister administering the *Electricity Supply Act 1995*, section 14.

2.7.5 “Matter relating to”

References to “matter relating to” should go before the specific legislation reference, except in final determinations.

Example of how to use “matter”

[21] Schedule 1 Transport

Omit “Roads and Maritime Services” from the matter relating to Schedule 1, item 20.

Insert instead “Transport for NSW”.

[22] Schedule 1 Transport

Omit “Roads and Maritime Services” from the matter under the heading “Street banners”.

Insert instead “Transport for NSW”.

Example order of provisions to be used in final determinations.

[23] Schedule 2 Mammals

Schedule 2, Part 3, Division 1 is amended by inserting in alphabetical order in the matter relating to *Muridae*—

Pseudomys desertor Troughton, 1932

Desert Mouse

2.7.6 Proclamations

Proclamations should not adopt the new style in relation to the order of provisions. The existing precedents for proclamations are to be relied on.

However, if the proclamation sets out a list of the provisions which are commencing, see for example, the [Commencement Proclamation for the Crown Management Act 2016](#), the order of provisions set out in the list should reflect the new style.

The example below sets out the correct way to style the proclamation. In particular, note restyled paragraphs (g), (h) and (j).

Example of the proclamation, with amendments to reflect current PCO style

Commencement Proclamation

under the

Crown Land Management Act 2016 No 58

, Governor

I, [Governor], Governor of New South Wales, with the advice of the Executive Council, and under section 1.2(1) of the *Crown Land Management Act 2016*, do, by this my proclamation, appoint 19 March 2018 as the day on which the following provisions of that Act commence—

- (a) section 5.9,
- (b) Division 5.10,
- (c) Division 7.4,
- (d) section 12.3,
- (e) Divisions 12.3 and 12.7,
- (f) section 13.2,
- (g) Schedule 3, Part 2, Division 2,
- (h) Schedule 3, Part 4,
- (i) Schedule 4,
- (j) Schedule 8 to the extent that it repeals the *Western Lands Act 1901*, section 28BB and Schedule 4.

Signed and sealed at Sydney, this 7th day of March 2018.

2.7.7 External documents (other than Commonwealth or other State legislation)

There is no need to strictly apply the order of provisions rule in relation to external documents. References to external documents should be drafted in an order that most accurately indicates what document is being referred to or provides the greatest clarity. An example of an external document that this rule about the order of references to provisions does not apply to is Australian Standards.

See also References to documents other than legislation, PCO Standard 2.21.

2.8 Multiple cross-references

The guidance set out below also applies to clauses, subclauses and other provisions.

2.8.1 Lists and spans of provisions

References to non-consecutive provisions, or 2 consecutive provisions only, should be separated by commas and an “and” between the final 2 provisions of the same kind. An “and” should also be included between provisions of different kinds, for example, sections and schedules.

Examples

- sections 3, 4, 7 and 8 and Schedules 1 and 2
- section 9(1) and (2) and Schedule 3, clause 5
- sections 12(4), (5) and (9), 14(1) and (2), 20 and 21 and Schedule 1

References to more than 2 consecutive provisions should be separated by an en dash.

Examples

- sections 27–36
- Parts 2–6
- Schedules 1–4

In some contexts, the individual listing of provisions, even if consecutive, may be preferred to allow precision in the application of references and to control the effect of later amendments.

In spans including alphanumeric sections, the whole section number should be repeated.

Example

- sections 22A–22D (Not sections 22A–D)

Despite the rule that 2 consecutive provisions alone are separated by a comma, the reference to “section 18(2)–(3)” may be correct if there is a subsection (2A) between the 2 subsections. It is important to always check cross-references in their context.

2.8.2 Singular or plural provision

The **plural** form (“sections”) should be used for multiple provision references separated by “and” or by an en dash.

Examples

- sections 10 and 11
Not section 10 and 11
- sections 10–14
Not section 10–14

The singular form (“**section**”) should be used for multiple provision references separated by “or”. This is because the reference is to **section** 23A or **section** 36.

Example

- section 23A or 36
Not sections 23A or 36

For references to one section **and** multiple sub-provisions (e.g. subsections or paragraphs), the **singular** form of “**section**” should be used.

Examples

- section 14(1A) and (3)
Not sections 14(1A) and (3)
- although subsections (1A) and (3) is correct if referencing within the section
- “subsections (1A) and (3)” is the correct reference within section 14.
- section 14(1A) or (3)
Not sections 14(1A) or (3)
- “subsection (1A) or (3)” is the correct reference within section 14

This is because only one section is being referred to. The first example refers to subsections (1A) and (3) of **section** 14. The second refers to subsection (1A) or subsection (3) of **section** 14.

2.8.3 Agreement between provision and verb

Consider the following when ensuring agreement between the provision (e.g. section(s)) and the verb form (e.g. “provide(s)”)—

- whether the provisions are joined by “and”, “or” or an en dash,
- whether the highest-level provision is singular or plural (e.g. **section** or **sections**).

Examples joined by “and”

- Sections 1 and 2 provide
- Sections 1(4) and 2(7) provide
- Section 1(4) and (5) provide (i.e. subsections (4) and (5) of section 1 provide)

Examples joined by en dash

- Sections 1–3 provide
- Section 1(4)–(6) provide (i.e. subsections (4)–(6) of section 1 provide)

Examples joined by “or”

- Section 1 or 2 provides
- Section 1(4) or 2(7) provides (i.e. subsection (4) of section 1 or subsection (7) of section 2 provides)

The above rules also apply to schedule and item references.

Examples joined by “and”

- Schedule 1[1] and [2] provide (i.e. items [1] and [2] of Schedule 1 provide)
- Schedules 1[1] and 2[1] provide
- Schedule 1.1, 1.2 and 1.6 commence (i.e. multiple subschedules commence)
- Schedules 1.1, 1.2[4] and 2.1 commence (i.e. more than one schedule is being referred to, Schedules 1 and 2)

Examples joined by en dash

- Schedule 1[1]–[3] provide (i.e. items [1]–[3] of Schedule 1 provide)

Examples joined by “or”

- Schedule 1[1] or [2] provides (i.e. item [1] or item [2] of Schedule 1 provides)

2.9 PCO style for provision numbering

In general, provisions are numbered in standard numerical order.

The table below outlines PCO's style for common provisions, and whether numbering restarts in the structures they occur in.

Provision level	Numbering	Numbering restarts?
Sections in body	1, 2, 3	No
Clauses	1, 2, 3	No
Sections in schedules	1, 2, 3	Numbering restarts in each schedule Note — Very occasionally, an instrument contains section numbering that restarts in each part within a schedule (e.g. the Workers Compensation Act 1987 , Schedule 6).
Subsections, subclauses, subregulations, subrules	(1), (2), (3)	Numbering restarts in each section, clause, regulation or rule
Paragraphs	(a), (b), (c) Note — Automatically numbered lists in FrameMaker that go past (z) use the numbering style (z), (aa), (bb) etc. Manually numbered long lists should not use this style but use (z), (za), (zb) etc. Lists this long are to be avoided wherever possible.	Numbering restarts in each subsection, subclause, subregulation or subrule, or in each section, clause etc if there are no sub-provisions. Numbering also restarts in each definition, penalty and other discrete grammatical unit.
Subparagraphs	(i), (ii), (iii)	Numbering restarts in each paragraph
Sub-subparagraphs	(A), (B), (C)	Numbering restarts in each subparagraph
Schedules	Schedule 1, Schedule 2, Schedule 3	No
Subschedules [where X = the schedule number]	X.1, X.2, X.3	Numbering restarts in each schedule

Items	[1], [2], [3]	Numbering restarts in each schedule or subschedule
Chapters	Chapter 1, Chapter 2, Chapter 3	No
Parts	Part 1, Part 2, Part 3	If there are chapters, part numbering restarts in each chapter
Divisions	Division 1, Division 2, Division 3	Numbering restarts in each part
Subdivisions	Subdivision 1, Subdivision 2, Subdivision 3	Numbering restarts in each division

2.9.1 Exceptions—decimal numbering

There are some instruments where numbering does not follow the above style. An example is instruments with decimal numbering, such as the [Uniform Civil Procedure Rules 2005](#), the [Environmental Planning and Assessment Act 1979](#) and Standard Instrument LEPs.

In decimal section numbering (e.g. 1.1, 1.2), the first component relates to the part in which the section appears. So, sections in Part 1 are numbered 1.1, 1.2, 1.3 etc, sections in Part 2 are numbered 2.1, 2.2, 2.3 etc, and so on, with the number after the point restarting in each part.

Instruments with chapters may use decimal part numbering (e.g. Part 2.3), where the number before the point is based on the chapter number. The number after the point restarts in each chapter. Similarly, some instruments use decimal division numbers (e.g. Division 7.1) based on the part number, with the number after the point restarting in each part.

2.9.2 Exceptions—National laws

Applied laws, laws based on model or uniform laws (i.e. the Road Rules) or other laws that are part of an inter-jurisdictional package may have different numbering schemes. For example, in the [Road Rules 2014](#), Australian provisions (i.e. the majority of them) follow the general style outlined above. However, NSW-only provisions are numbered with a rule number followed by an en dash and a number 1, 2, 3 etc. For example, the [Road Rules 2014](#), rule 10 is an Australian provision, followed by rules 10–1 and 10–2, which are NSW-only provisions. Some Australian Road Rules have not been reproduced in the [Road Rules 2014](#) because they are not applicable to NSW. However, the rule number is retained, to preserve uniformity.

2.9.3 Alphanumeric style for amendments

For brevity, sections and subsections are referred to below. The same rules generally apply to clauses and subclauses.

The following general principles apply when inserting a provision between existing numbered provisions.

If an ordinary number is available at the end of a sequence of provisions and is the logical place for the provision, then the new provision takes the next ordinary number. For example, subsection (4) can follow subsection (3). Standard Instrument LEPs do not follow this rule.

To insert a new section or sections between numbered sections, use second level numbering. Second level numbering is the number of the provision immediately before your insertion, followed by the appropriate alphabetical letter in capitals (A, B, C etc).

For example, to insert new sections between existing sections 3 and 4, use 3A, 3B, 3C etc. This principle also applies to parts, divisions, schedules and all other above-section structures.

The same principles apply to subsections. So, to insert new subsections between existing subsections (5) and (6), use (5A), (5B), (5C) etc.

To insert a new section or sections between existing second level numbered provisions, use third level numbering. Third level numbering is the number of the provision immediately before the insertion (including its alphabetic component), followed by A, B, C etc. For example, to insert new sections between existing sections 3A and 3B, use 3AA, 3AB, 3AC etc. This principle also applies to parts, divisions, schedules and all other above-section structures.

Again, the same principles apply to subsections. To insert a new subsection between subsections (5A) and (5B), use (5AA).

Numbering beyond third level numbering is possible. For example, section 3AAA is inserted between sections 3AA and 3AB, or subsection (5ABA) is inserted between subsections (5AB) and (5AC). These cases are rare.

PCO style when inserting a new paragraph between existing paragraphs is to use the letter of the previous paragraph, plus 1, 2, 3 etc. For example, to insert new paragraphs between paragraphs (a) and (b), use (a1), (a2), (a3) etc. Third level numbering for paragraphs uses the alphabetic style, for example (a1a), (a1b), although this level of numbering is rare.

However, in some lists, alphabetical style may have been used instead, i.e. (aa), (ab), (ac) etc. When inserting new paragraphs into such a list, the same alphabetical style should be used, for consistency.

Insertions between existing subparagraphs use a, b, c etc. So, a new subparagraph between subparagraphs (i) and (ii) would be (ia). Sub-subparagraphs use 1, 2, 3 etc as above (for example, (A1), (A2), (A3)).

2.9.4 Exception—Standard Instrument LEPs

Standard Instrument LEPs are an exception to all the above general principles. Second level numbering (A, B, C etc) is used for the insertion of new local provisions in Parts 1–5 (even if regular numbers are available) (e.g. clause 1.9A). Third level numbering (AA, BB, CC etc) is used for the insertion of new, compulsory Standard Instrument clauses (e.g. clause 1.1AA). So, if a new compulsory clause is added between existing clauses 3.1 and 3.2, it will be 3.1AA. If a whole compulsory part is added to the Standard Instrument, it will also use third level numbering, for example Part 4AA, with clauses starting at 4AA.1. Standard Instrument LEPs also always use alphabetic style for inserted paragraphs (e.g. (ja)), not numbers. Rules for these instruments are very specific.

2.9.5 Insertions before existing provisions

The instruction “Insert before” can be used instead of “Insert after” to ensure that a provision is inserted into a particular location, e.g. a particular part. For example, where Part 1 contains sections 1–3 and Part 2 contains sections 4–20, the instruction “Insert before section 4” would ensure that the new section 3A is inserted into Part 2, rather than Part 1.

A provision or provisions inserted before subsection (1) (or section 1, Part 1, Schedule 1 and so on) are numbered (1A), (1B), (1C) etc. In this case, any provisions inserted after the subsection (1) would be (1AA), (1AB), (1AC) etc. Any provision inserted after (1A), would be (1AAA).

If (1A) already exists after (1), then the provision before (1) would be (1AA) instead. That is, if second level numbering is already in use before or after the first numbered provision, then third level numbering must be used for the other insertion location. Second and third level numbering must not be mixed before and after the first number. For example, if a provision sets out subclauses (1A), (1) and (2), (1B) can only be inserted to follow (1A) – e.g. (1A), (1B), (1) and (2), *not* (1A), (1), (1B), (2).

2.9.6 Single provisions

If there is only one subsection in a section, it should not be numbered.

If there is only one schedule to an Act, it should still be given a number, i.e. Schedule 1 (e.g. the [Biofuels Regulation 2022](#), Schedule 1).

If there is only one section in a schedule, it should still be numbered (e.g. the [Sporting Venues \(Invasions\) Act 2003](#), Schedule 1, section 1). This applies to schedules with parts, including a schedule with only 1 part (see, for example, the [Snowy Mountains Cloud Seeding Act 2004](#), Schedule 1). This is to provide for the content of the schedule to build over time, especially in the case of savings and transitional schedules.

However, if there is only 1 item in an amending schedule (or subschedule), it should not be numbered (e.g. the [Industrial Relations Amendment \(Jurisdiction of Industrial Relations Commission\) Act 2009](#), Schedule 2.5).

2.10 Unnumbered provisions

2.10.1 General

Unnumbered provisions can be used to avoid a clash in numbering when 2 or more amendments to the same instrument are proposed and the order of their commencement cannot be predicted (because, for example, one of the amendments is in a Bill that is still in Parliament).

It is often useful to use unnumbered savings and transitional schedule provisions in an Act, even if no other amending Acts are then proposed, if the Act is a significant Act which is often amended (because a subsequent amending Act may be introduced which commences before the earlier Act).

Example

[1] **Schedule 4 Savings, transitional and other provisions**

Insert at the end of the schedule, with appropriate part and clause numbering—

Part Provisions consequent on enactment of Road Transport Amendment (Mandatory Alcohol Interlock Program) Act 2014

Definition

In this part—

amending Act means the *Road Transport Amendment (Mandatory Alcohol Interlock Program) Act 2014*.

Use of interlock devices as alternative to disqualification

- (1) Part 7.4, Division 2, as in force immediately before its substitution by the amending Act, continues to apply to a person in respect of whom a disqualification suspension order (within the meaning of that division) was made before that substitution.
- (2) The conditions to which an interlock driver licence issued to a person referred to in subclause (1) was subject immediately before that substitution continue to have effect until the expiry of the interlock participation period applicable to the person.

2.10.2 Item headings

If the amendment is not the first amendment to the schedule, the amendment heading should refer only to the schedule, not to the new unnumbered part.

Example**[1] Schedule 2 Savings, transitional and other provisions**

Omit Part 1.

[2] Schedule 2

Insert at the end of the schedule, with appropriate part and clause numbering—

Part Provisions consequent on enactment of Electoral and Lobbying Legislation Amendment (Electoral Commission) Act 2014**Abolition of Election Funding Authority**

The Election Funding Authority is abolished.

2.10.3 Standard Instrument LEPs

Unnumbered provisions are also common in amendments to Parts 6, 7 or Schedule 1 of standard instrument LEPs. In these instruments, multiple amendments are often in preparation during the life of any given amending project.

Example**5 Amendment of Dubbo Local Environmental Plan 2011****Schedule 1 Additional permitted uses**

Insert at the end of the schedule, with appropriate clause numbering—

Use of certain land at 20L Chapmans Road, Dubbo

- (1) This clause applies to Lot 3, DP 554158 at 20L Chapmans Road, Dubbo.
- (2) Development of the purposes of hotel or motel accommodation is permitted with development consent.

2.10.4 Amending multiple provisions

Unnumbered provisions can also be used if the same matter is to be inserted in several locations (for example, in several lists) and will have a different number in each location.

Example

[16] Rules 16.4, 16.5, 16.6 and 16.7

Insert at the end of rules 16.4(3)(e), 16.5(2)(d), 16.6(2)(e) and 16.7(2)(c), with appropriate paragraph numbering—

, and
() must state when and how the originating process was served on the defendant.

2.10.5 Notes

- The preferred formulation is “, with appropriate part and clause numbering”, using “numbering” not “numbers” and including the comma. “Numbering” is preferred because it refers to the entire process to be applied (rather than just the numbers to be inserted).
- The word “part” in the heading to an unnumbered part to be inserted is required to be included in the amendment, as shown above.
- Parentheses or any other similar components that would appear around subclause, paragraph etc numbering must be included in the amendment, as shown in the example above.
- Using unnumbered provisions is not a required or preferred style, only a useful option.
- While this style is useful to apply even if no current amendment clashes are known, there are times when it cannot be used. These include—
 - if numbers are needed for cross-referencing purposes,
 - if the target instrument has unusual numbering that makes it difficult to determine what numbering should be used.
- The unnumbered style is often seen in the examples shown above but should not be automatically applied whenever provisions are being added at the end of schedules etc in other circumstances. Each case should be assessed according to context and common practice.

2.11 Ordering of items in unnumbered lists

This entry relates to PCO style for lists of unnumbered components, such as lists of definitions or any other collection of short information not given in full sentences. It does not cover the ordering of numbered lists made up of paragraphs or subparagraphs, as this ordering is often more conceptually based, and depends on the purpose of the sentence containing the list.

Unnumbered lists can be ordered in several ways according to their type and content. The common approaches to ordering are outlined below. However, other methods may be used when they are more effective at conveying meaning.

Methods of ordering list items include—

- alphabetical,
- numerical or size order (usually increasing down the list),
- order of occurrence,
- geographical order.

Some of these methods are discussed in more detail below.

Sometimes a list will not be ordered in any particular way (e.g. long lists of Lot and DP numbers, unless they also have addresses). This is fine, provided it is clear and logical in the context.

Future amendment needs should be considered when choosing a list order.

2.12 Alphabetical lists

The most common way of ordering unnumbered list items is alphabetically. Lists of defined terms, in a provision or in a dictionary, always appear in alphabetical order.

Example

In this Act—

approved means approved by the chief executive.

body art tattooing procedure means a tattooing procedure performed for decorative purposes, but does not include a cosmetic tattooing procedure.

body art tattooist means an individual who performs body art tattooing procedures.

Commissioner means the Commissioner of Police.

licence means a body art tattooing licence issued under Part 4.

serious criminal offence means—

- (a) an offence committed in New South Wales that is punishable by imprisonment for 2 years or more, or
- (b) an offence committed elsewhere that, if it had been committed in New South Wales, would be an offence so punishable.

tattooing procedure means a procedure involving the making of a permanent mark on the skin of a person by means of ink, dye or another colouring agent.

In alphabetical ordering, spaces come before letters, for example “Air transport facilities” comes before “Airstrips”.

Numerals come before letters and multiple numerals should appear in ascending order.

Example

1987 Act means...
1987 Regulation means...
1995 Regulation means...
2002 Act means...
appeal date means...

Capitalisation and punctuation (including hyphens) are not taken into consideration in alphabetical ordering. For example, “community” comes before “co-operative”.

Defined terms are ordered with reference to the exact letters of the term, regardless of if it is, or contains, an abbreviation. So, in the example below, “NSW Police Force” is ordered with reference to the letters N, S and W (not “New South Wales”)—

Example

In this Act—
Northern Territory means the Northern Territory of Australia.

NSW Police Force means the NSW Police Force established by the *Police Act 1990*.

nurse means an enrolled nurse or a registered nurse.

Generally, defined terms do not include articles such as “the”. An exception to this is when the article is integral to the meaning of the term). A common example is where the term “the Act” is defined in a Regulation. In this case, the article is part of the defined term and is ordered accordingly.

Example

(1) In this Regulation—
agency head has the same meaning as it has in the *Government Sector Employment Regulation 2014*.
statutory body has the same meaning as it has in the Act, Division 3, Part 3.
the Act means the *Public Finance and Audit Act 1983*.

2.13 Quasi alphabetical lists

Occasionally, list items may be ordered alphabetically with reference to a word that is not the first word of the item. This often applies to lists of departments, agencies or councils, where the list is ordered alphabetically with reference to the substantive name

of the body, and words, e.g. “Department of”, “Office of” or “City of” are ignored. See for example the [Regional Development Regulation 2018](#), section 4.

Care should be taken when inserting or substituting an item into a list—consider using “Insert in appropriate order” rather than “Insert in alphabetical order”/“Insert instead”.

2.14 Numerical lists

A list consisting of numerically valued items should generally be arranged in ascending order unless the context or content requires a different approach.

A common example is a list of sections or clauses, which should appear in provision order.

The same logic applies to lists of number spans or ranges. They should progress logically in increasing order.

Example		
(2A)	The floor space ratio for a building where the site area is within a specified range in Column 1 of the table to this subclause must not exceed the ratio specified opposite in Column 2.	
	Column 1	Column 2
	800m ² or less	0.4:1
	More than 800m ² but not more than 1,000m ²	$((120 + (0.25 \times \text{site area})) / \text{site area}):1$
	More than 1,000m ² but not more than 1,700m ²	$((170 + (0.2 \times \text{site area})) / \text{site area}):1$
	More than 1,700m ²	0.3:1

2.15 Defined terms in formulas

Defined terms in formulas are arranged in order of occurrence, reading left to right and top to bottom.

Example

where—

P is the payment.

C is the cost.

W is the work.

B is the benefit.

F is the batting average.

X is the cosmological constant.

Y is the age of the reader.

2.16 Ordering in tables

For specific rules about the ordering of matter in tables, see Tables style guide, PCO Standard 5. If a particular order is applied to a table, ordering is usually done by column 1 first and then other columns if necessary.

Note that some tables, i.e. the [Standard Instrument, Schedule 5](#), have specific ordering rules.

2.17 Tips for checkers

When checking a legislative draft, the order of items within lists should be checked. As noted in Checking provision numbering, PCO Standard 2.18, it is recommended that this check be done separately from checking the text. This allows the checker to focus on the logic and consistency of the ordering of list items.

Identify the order, if any, being applied to the list items and then check that this order is applied consistently. Whatever the order is, items within a list should be ordered in a clear, logical and internally consistent way.

2.18 Checking provision numbering**2.18.1 How to check numbering**

Checking the sequence of numbering in a legislative draft can be done at any point during an editorial check but should generally be done as a separate check rather than as part of the check of the rest of the text. As a separate and complete sequence check, breaks or problems with numbering are easy to see (including sequence problems from one page to the next) and means for the rest of the check the focus can be on other content and not on the numbers.

Numbers should be checked to ensure that all numbered objects, including those with letters—

- are in the correct sequence,
- use the correct style for the provision/level,
- don't contain problems such as extra spaces, missing brackets etc.

Even in cases where autonumbering has been used, or could or should have been used, a full check of numbering must always be done. Special attention should also be given to areas where autonumbering does not apply, such as some fragments, tables, included content at the end of clauses or other structures, forms and any document or part of a document with unusual numbering. Where second and third level numbering exists, make sure that the correct numbering style has been used (see Alphanumeric style for amendments, PCO Standard 2.9.3).

The starting number for amendments that insert a new provision can only be checked and confirmed when the amendment itself is checked against the target instrument. Always look up and down provisions to make sure that numbers like (1A) don't already exist, as they can occur before or after (1).

For insertion of new paragraph numbers, if the list goes past (z) to (za), (zb) and so on, this does not mean that new insertions should use this alphabetic style, as this numbering after (z) relates to the automatic numbering used by FrameMaker. New paragraphs should use (b1), (b2) and so on as usual unless other insertions have been done in the alphabetic style.

2.18.2 Standard instrument LEPs

Standard instrument LEPs use a mixture of automatic and manual numbering in the body and schedules and require careful checking.

The style (and numbers) for numbering in Standard Instrument LEPs must match those in the Standard Instrument itself, and local provisions and amendments must follow rules set out in the [Standard Instrument \(Local Environmental Plans\) Order 2006](#). For guidelines, see PCO style for provision numbering, PCO Standard 2.9, specifically Exceptions—Standard instrument LEPs, PCO Standard 2.9.4.

When checking the numbering in a new principal LEP, always refer to the Standard Instrument—Principal Local Environmental Plan, and when checking an amending LEP, make sure that any new clauses or other provisions being added to a principal LEP follow the correct numbering style.

2.18.3 Some things to try

- Run a finger down the page while checking the numbering sequence to help focus on the numbers and not on the main text.
- Use the table of contents to help you see sequences in large structures in principal instruments (for example all the divisions in a part). Checking the TOC is

not part of an editorial check but is a useful tool when looking at top level numbering or the overall structure of how parts etc are put together.

2.19 References to legislation

The [Interpretation Act 1987](#), sections 65-68 provide for how legislation is to be referred to in New South Wales legislation. This page outlines PCO style for legislation references.

2.19.1 NSW Acts

Short title

In New South Wales legislation, New South Wales Acts are usually referred to by the short title (or name) of the Act. This can be found in the Name of Act provision of the Act.

Example

Environmental Planning and Assessment Act 1979

Act number

References to Acts should include the Act number in—

- repeal provisions, and
- headings to amendments where the heading is the target Act, but not where the heading simply refers to an Act that is not a target.

This supports searching for draft instruments with conflicting amendments.

Examples

3 Repeals

The following Acts are repealed—

- (a) the *Appropriation Act 2012* No 44,
- (b) the *Appropriation (Budget Variations) Act 2012* No 50,
- (c) the *Appropriation (Parliament) Act 2012* No 45.

3 Repeal of Children and Young Persons (Care and Protection) Amendment (Permanency Planning) Act 2001

The *Children and Young Persons (Care and Protection) Amendment (Permanency Planning) Act 2001* No 91 is repealed.

Schedule 1 Minor amendments

1.1 Aboriginal Land Rights Act 1983 No 4

**Schedule 3 Consequential amendments relating to enactment of
Government Sector Employment Act 2013**

**Part 26 Provisions consequent on enactment of Crimes Legislation
Amendment Act 2012**

References to Acts should also include the Act number in—

- headings to commencement proclamations, and
- the Allocation of the Administration of Acts (and Administrative Arrangements Orders that amend or replace those references).

See also Administrative Arrangements (Administration of Acts) Orders (“Allocations”)—research and preparation (internal procedure document).

Example

Commencement Proclamation

under the

City of Sydney Amendment (Elections) Act 2014 No 50

MINISTER FOR EDUCATION

Skills Board Act 2013 No 99

Where an Act is passed in one year and assented to in the next, the year of assent needs to be included with the Act number. For example, the *Statutory and Other Offices Remuneration Act 1975* was passed in 1975 but was the fourth Act assented to in 1976. Therefore, its full reference, with Act number, is—

Statutory and Other Offices Remuneration Act 1975 (1976 No 4)

For example, see the reference in the [Statutory and Other Offices Remuneration Amendment \(Judicial and Other Office Holders\) Act 2013](#).

Important: Pre-1897 Acts have regnal citations instead of Act numbers.

Example

Partnership Act 1892 (55 Vic No 12)

The “No” that displays on the website is an arbitrary number assigned to the Act file and is not its official Act number. The regnal citation must be used for official references (see the Act’s historical notes for the regnal citation).

For more on regnal citations, see NSW Acts with regnal years, PCO Standard 2.20.

For more on the citation of New South Wales Acts generally, see the [Interpretation Act 1987](#), sections 65 and 66(1).

2.19.2 NSW statutory instruments

General

In New South Wales legislation, statutory instruments (e.g. regulations, rules, orders etc) are usually referred to by the citation (or name) of the statutory instrument. This can be found in the Name of [instrument] provision.

Examples

Environmental Planning and Assessment Regulation 2021

relevant legislation means the following legislation—

- (a) the *Government Sector Employment Regulation 2014*,
- (b) the *Government Sector Employment (General) Rules 2021*,
- (c) the *Administrative Arrangements (Administrative Changes—Public Service Agencies) Order 2015*.

For more on the citation of New South Wales statutory instruments, see the [Interpretation Act 1987](#), section 67(1).

Environmental planning instruments

LEPs and state environmental planning policies (SEPPs) are usually referred to by the citation of the instrument, found in the ‘name of instrument’ provision. However, unlike other statutory instruments, these references are not preceded by “the”.

Examples

- The maps adopted by *Woollahra Local Environmental Plan 2014* are amended or replaced...
- Each map adopted by *State Environmental Planning Policy (Planning Systems) 2021* that is specified...

Referring to the Standard Instrument

The [Standard Instrument](#) for principal LEPs should be referred to as “the standard instrument set out in the [Standard Instrument \(Local Environmental Plans\) Order 2006](#)”

(see, e.g. the definition of **environmental protection works** in [State Environmental Planning Policy \(Biodiversity and Conservation\) 2021](#), section 13.14).

2.19.3 Legislation of other jurisdictions

In New South Wales legislation, the legislation of other jurisdictions is usually referred to as follows—

[name of instrument] of [the] [full name of jurisdiction]

Example

For the purposes of the Act, section 4, the following laws are prescribed—

- (a) the *Poisons Act 1971* of Tasmania,
- (b) the *Misuse of Drugs Act* of the Northern Territory,
- (c) the *Crimes Regulations 1990* of the Commonwealth,
- (d) the *Sexual Offences Act 2003* of the United Kingdom.

In headings to provisions, usually sections, this form is often abbreviated.

Example

6 Operation of Service and Execution of Process Act 1992 (Cth)

The following abbreviations are used (note upper and lower case variations)—

Jurisdiction	Abbreviation
Commonwealth	Cth
Australian Capital Territory	ACT
Northern Territory	NT
Queensland	Qld
South Australia	SA
Tasmania	Tas
Victoria	Vic
Western Australia	WA
United Kingdom	UK

For more on the citation of Acts and statutory instruments of other jurisdictions, see the [Interpretation Act 1987](#), sections 66(2)–(4) and 67(2)–(4).

Note that the [Interpretation Act 1987](#), also defines “Commonwealth”, “United Kingdom” and “Northern Territory”.

2.19.4 References to the Commonwealth Constitution

In New South Wales legislation, the Commonwealth Constitution is referred to as follows—

the Commonwealth Constitution, [provision]

Example of use of reference to Constitution

State banking means State banking as referred to in the Commonwealth Constitution, section 51(xiii)

2.19.5 References to amended or repealed Acts and instruments

See the [Interpretation Act 1987](#), section 68, which enables Acts and instruments to be referred to without reference to amendments, and which provides that references to repealed Acts or instruments extend to a re-enacted Act or re-made instrument.

2.20 NSW Acts with regnal years

Regnal years were used for the identification of Acts before 1897. A small number of Acts still in force in New South Wales include regnal years as part of their full citation. Generally, these Acts are referred to by their short title (or name) only, in the same way as other New South Wales Acts (see References to legislation, PCO Standard 2.19).

Example

Partnership Act 1892

See, for example, the reference to this Act in the [Duties Act 1997](#), Dictionary, clause 2(1)(b).

However, where the reference requires the Act number, such as an amendment to the Act, the full citation including the regnal year is used.

Example

Partnership Act 1892 (55 Vic No 12)

See, for example, the reference to this Act in the [Miscellaneous Acts Amendment \(Marriages\) Act 2018](#) No 28, Schedule 1.26. It should be noted that this isn't always intuitive given the appearance of the Act on the website, which displays the Act name as

Partnership Act 1892 No 12. Because of this, editors should check the original listing in the Legislative History for any Act made earlier than 1897.

2.20.1 Regnal year

In the Partnership Act example above, **55 Vic** is the regnal year. It refers to the year, or years, of the monarch’s reign in which the Parliamentary session giving rise to the Act fell. In this case, the regnal year is the 55th year of Queen Victoria’s reign, with “Vic” being an abbreviation of the monarch’s name.

2.20.2 Act number

The regnal year is followed by the Act number (in the Partnership Act example above, **No 12**). That number indicates that this was the 12th Act assented to in the 55th year of Queen Victoria’s reign.

2.20.3 Act year and regnal year

Regnal years are not the same as calendar years. They are calculated from the date of the monarch’s accession (for example, in Queen Victoria’s case, 20 June). In the Partnership Act example, the Act year (**1892**) spans 2 regnal years: the 55th (20 June 1891 to 19 June 1892) and the 56th (20 June 1892 to 19 June 1893). Because of these date ranges, there could be 2 number 12 Acts for 1892, one in each regnal year. This is why Acts with regnal years shouldn’t be referred to by their Act number alone; they must also include their regnal year.

2.20.4 Regnal year spans and regnal numbers

The relevant Parliamentary session for an Act may span 2 regnal years. For example, for an Act made in a session that occurred in the second and third years of King William IV’s reign, the regnal year would be **2 & 3 Will IV**.

This example also includes a regnal number, which is the number of the relevant monarch in the sequence of monarchs of the same name—in the case of King William here, **IV**.

See also the [Imperial Acts Application Act 1969](#) for several examples of regnal citations. See also References to legislation, PCO Standard 2.19.

2.21 References to documents other than legislation

References to documents other than legislation are generally referred to as “external references” or “extrefs”. These include cases, standards, maps, Government Gazettes, etc.

PCO style for case citations is to use the medium neutral citation rather than a law report series citation. This is because a medium neutral citation refers to, and can be linked to, the electronic version of the case freely available on the court website. The following provides information about case citations referring to law report series for historical reference purposes only.

PCO style for citing cases is as follows—
[Case name] [medium neutral case citation]

Example

Marcolongo v Chen [2011] HCA 3

This includes case references in New South Wales legislation, usually in explanatory notes, and internal PCO resources.

Case name (parties' names)

Use the case name as given in the judgment, subject to the following—

- Only the first-named plaintiff and first-named defendant should be cited. “& Anor” or “& Ors” should not be used.
- Where parties are individuals, given names and initials are omitted.
- A “v” should separate the parties’ names. It should not be followed by a full stop and should be italicised.

Case citation

- The medium neutral citation should be used, for example [2011] HCA 3. This citation is allocated by the court and does not depend on a publisher or medium.
- The year is in square brackets.
- The court is identified by a unique court identifier, for example—
 - HCA—High Court of Australia,
 - FCA—Federal Court of Australia,
 - NSWSC—New South Wales Supreme Court,
 - NSWCA—New South Wales Court of Appeal,
 - NSWCCA—New South Wales Court of Criminal Appeal.
- The number refers to the number of the judgment in that year.
- Any pinpoint reference should be the relevant paragraph number in square brackets following the judgment number: *Marcolongo v Chen* [2011] HCA 3 [10].
- Parallel citations should **not** be used: *Marcolongo v Chen* [2011] HCA 3; 242 CLR 546; 274 ALR 634; 85 ALJR 380 is not appropriate.

PCO style is to use the medium neutral citation rather than a law report series citation. This is because the medium neutral citation refers, and can be linked directly, to the electronic version of the case freely available on the court’s website. In contrast, access

to versions of cases published in law report series often depends upon paid subscriptions.

Many cases also have a medium neutral citation, allocated by the court. This includes both reported and unreported cases.

Law report series citation

If referring to law report series citation (which is not preferred), the citations contain the following elements—

[*Case name*] [(year) or [year]] [volume] [law report series] [starting page]

Example

Marcolongo v Chen (2011) 242 CLR 546

- If the law report series is organised by volume number, the year is in round brackets followed by the volume number.
- If the law report series is organised by year, the year is in square brackets and there is no separate volume number— e.g. *Bakker v Stewart* [1980] VR 17.

Cases may be reported or unreported. Reported cases may appear in an “authorised” report series (approved by a judge or associate) or an unauthorised report series. There is one authorised report series for each court in Australia (e.g. the Commonwealth Law Reports (CLR) for the High Court and the New South Wales Law Reports (NSWLR) for the NSW Supreme Court (from 1971)).

An example of a commonly cited unauthorised report series is the Australian Law Reports (ALR).

The same case may appear in several series of reports. For example, *Marcolongo v Chen* above has—

- an authorised report series citation—(2011) 242 CLR 546,
- unauthorised report series citations—(2011) 274 ALR 634; (2011) 85 ALJR 380,
- a medium neutral citation—[2011] HCA 3.

Traditionally, the following hierarchy applied to the citation of cases—

- an authorised report series was preferred to an unauthorised one,
- an unauthorised report series was preferred to a medium neutral citation,
- a medium neutral citation was only used for unreported decisions.

Note this hierarchy does not apply, as outlined above, the PCO Style is to cite the medium neutral citation .

Checking case citations

Generally, case citations should be checked against the [relevant court’s website](#). For example, High Court judgments are available at [High Court of Australia judgments](#).

Judgments of NSW Courts and Tribunals are published via [NSW Caselaw](#). This includes the NSW Supreme Court, Court of Appeal, Court of Criminal Appeal and Civil and Administrative Tribunal, among others.

Case citations can also be checked against the following websites if, for example, the court’s online collection doesn’t include the case—

- [AustLII—LawCite](#),
- [Jade](#).

For more on case citations, see Rule 2 of the [Australian Guide to Legal Citation](#).

In particular, PCO adopts the following rules for parties’ names—

- Rule 2.1.3—the Commonwealth and the States and Territories,
- Rule 2.1.4—the Crown,
- Rule 2.1.6—Ministers, officers and government departments,
- Rule 2.1.7—Attorneys-General and Directors of Public Prosecutions.

2.21.2 Australian/NZ Standards

PCO style for citing Australian Standards and Australian and New Zealand Standards is as follows—

[Citation of Standard], [*Name of Standard*]

In this style—

- the citation and name of the Standard are separated by a comma,
- the name, including the name of a Part of a Standard, is in italics,
- all other elements of the reference should match exactly the title page of the Standard, including the use of capitalisation and punctuation (including the use of em or en dashes, hyphens, and colons) and spacing.

Standard	Example
Australian Standards	AS 1851—2012, <i>Routine service of fire protection systems and equipment</i>
Australian and New Zealand Standards	AS/NZS 4013:2014, <i>Domestic solid fuel burning appliances—Method for determination of flue gas emission</i>

The style for citing a **Part** of a Standard is as follows—

Standard	Example
Australian Standards	AS 1668.2—2012, <i>The use of ventilation and airconditioning in buildings, Part 2: Mechanical ventilation in buildings</i>

Australian and New Zealand Standards	AS/NZS 2885.5:2012, <i>Pipelines—Gas and liquid petroleum, Part 5: Field pressure testing</i>
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Standards should be checked by searching the [SAI Global website](#). Standards can be previewed on the site to confirm citations and names against the title page.

2.21.3 Maps

Standard Instrument local environmental plans contain references to certain maps that apply to the Plan. These maps are defined in the Dictionary to the [Standard Instrument](#) as follows—

[Type of] Map means the [Name of local government area or other relevant name] Local Environmental Plan [Year] [Type of] Map.

Examples

Active Street Frontages Map means the Manly Local Environmental Plan 2013 Active Street Frontages Map.

Land Application Map means the Shoalhaven Local Environmental Plan 2014 Land Application Map.

Similar map references also occur in other instruments.

2.21.4 NSW Government Gazette

The style of citation varies across the statute book. The preferred style is—

Government Gazette No [number] of [full date]

Example

Government Gazette No 14 of 25 February 2015

The default preference is NOT to include a page number. This follows a change to requirements set out in the [Interpretation Act 1987](#), section 67 and the transfer of the Gazette to a searchable collection on the legislation website. In some instances, it may still be a good idea to include a page reference, for example, if the instrument does not have a title and is difficult to identify or was published before 1 January 2014.

2.21.5 Other documents

The elements of references to other documents may consist of the document title, publisher and date of publication.

Examples

Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW published by the Department of Environment, Climate Change and Water, 13 September 2010

Animal Welfare Code of Practice—Animals in Pet Shops, published in August 2008 by the Department of Primary Industries

If the document has an ISBN, it should be cited as follows—

Example

The Australian Gas Light Company: Constituent documents, ISBN 0-9580690-0-X, published by AGL in March 2002

Note that the ISBN is set off with commas rather than being included in brackets. ISBNs can be checked against the [State Library catalogue](#).

For further examples of external references containing these and other elements, see the [Non-Indigenous Animals Regulation 2012](#), clause 6(4).

2.21.6 Website addresses

References to websites should begin with “www.” and should not be surrounded by angle brackets (“< >”). The characters “http://” are not usually necessary.

Example

Note— The relevant website is www.community.nsw.gov.au.

2.22 Checking references and cross-references

All references used in an instrument should be checked for accuracy and sense.

References to be checked include references to legislation, including cross-references to particular provisions of legislation, and references to documents other than legislation.

References to—

- legislation of NSW and other jurisdictions should be checked against the relevant legislation website,
- other documents such as cases, standards, maps and Government Gazettes should be checked,

- publications, reports and other documents should be checked against relevant websites where specified.

If a document is specified as being on a particular website, locating the document is part of checking that the context of the reference is correct.

If an ISBN or ISSN is cited, this should be verified by checking in the document itself or the State Library catalogue.

When checking references, check that the reference—

- exists,
- is accurate,
- is correctly described,
- is in the correct style,
- makes sense in the context.

In particular—

- Check that cross-references are correctly described (for example, section, clause, item, paragraph, subparagraph and so on).
- Check that references are in the correct style.
- Check that the reference generally makes sense in the context. A reference to *AS 4282—1997, Control of the obtrusive effects of outdoor lighting* is not necessarily relevant to a clause about drainage.
- Checking sense in context is determined by the whole context of the reference. For example, a reference to “an approved mental health service within the meaning of the *Mental Health Act 1986* of Victoria” involves checking that “approved mental health services” exist under the Victorian Act, as well as checking that the Act exists and is being correctly cited.
- When checking the existence of a reference, it should be noted that new provisions in an Act or regulation can re-use numbers of repealed provisions, although at times this will be deliberately avoided if the historical use of that provision number is significant. Amendments to the *Crimes Act 1900* tend to avoid using numbers from repealed sections that constitute offences that can be prosecuted after their repeal, and cross-references can correctly refer to repealed provisions in those types of circumstances.

Checking sources include—

- NSW legislation website,
- various jurisdictional sources of legislation, Gazettes etc—see the related links on the legislation website,
- the research links page,
- the website of the agency responsible for a document.

3 Style for common drafting matters

3.1 Commencement

3.1.1 General

The commencement provision is generally located at section 2 of an Act or instrument.

An Act or statutory rule is deemed to have commenced at the beginning of the day if the Act or rule provides that it is to commence, or be deemed to have commenced, on a particular day—see the [Interpretation Act 1987, section 24](#).

3.1.2 Commencement of Acts

The [Interpretation Act 1987, section 23](#), provides that an Act may commence on—

- (a) a day or days specified in the Act, or
- (b) a day appointed by proclamation, or
- (c) if the Act does not provide for (a) or (b)—the day that is 28 days after the date of assent.

3.1.3 Examples of options for commencement of Acts

Option 1—Date of assent

2 Commencement

This Act commences on the date of assent to this Act.

Option 2—Proclamation

2 Commencement

This Act commences on a day or days to be appointed by proclamation.

Option 3—On a particular date

2 Commencement

This Act commences on 1 January 2022.

Option 4—After a particular period

Drafters should avoid providing for an Act to commence on a date that is a certain number of days, weeks, months or years after the date of publication (see example below). This approach creates confusion as, consistent with the reckoning of time provision in the [Interpretation Act 1987, section 36](#), the date of publication should be excluded from the calculation. A commencement provision may specify that the Act is to commence on the first, or a subsequent, anniversary of the date of assent. This formulation is not considered to trigger section 36.

Option 4—After a particular period (not preferred)

This is **not** the preferred approach. See the next example instead.

2 Commencement

This Act is to commence on the day that is one month after the date of assent to this Act.

For example, an Act that is assented to on 1 January that is to commence one month after the date of assent should commence on 2 February. Instructors may assume that commencement would be 1 February.

If you are asked to draft a commencement provision of this nature, encourage the instructor to provide a particular date.

If the instructor insists on this commencement provision, liaise with the Legislation Editing and Access team to insert an editorial note under the commencement section to clarify the commencement date. The date of assent is often unknown until the assent has occurred so the note may need to be added after assent.

Option 4—After a particular period (preferred)

2 Commencement

This Act is to commence on the day that is one month after the date of assent to this Act.

Editorial note—

This Act commences on 1 January 2022.

A commencement provision specifying that the Act is to commence on the first anniversary of the date of assent is an exception to this rule.

Option 5—Differential commencement

The provisions of an Act may commence on different dates. In this case, the commencement provision should be drafted to provide that the majority of the Act is to commence on a certain day, and specify the specific days for the commencement of schedules, parts, divisions or sections.

Option 5—Differential commencement

This Act commences as follows—

- (a) for Parts 1 and 2—on the date of assent to this Act,
- (b) for Part 4—on 1 September 2022,
- (c) otherwise—on a day or days to be appointed by proclamation.

This approach replaces previous formulations for the commencement provision, which included “subject to subsection (2)...” or “except as provided by subsection (2)”.

3.1.4 Examples of options for commencement of statutory rules

Option 1—Date of publication

2 Commencement

This regulation commences on the day on which it is published on the NSW legislation website.

Option 2—On a particular date

2 Commencement

This regulation commences on 1 January 2022

Previous formulations included “and is required to be published on the NSW legislation website”. This is no longer necessary.

After a particular period

As set out above in relation to Acts, drafters should avoid providing for a statutory rule to commence on a date that is a certain number of days, weeks, months or years after the date of publication.

If you are asked to draft a commencement provision of this nature, please encourage the instructor to provide a particular date. If the instructor insists on this commencement provision, insert an editorial note under the commencement section to clarify the commencement date. For example—

Option 3—After a particular period

2 Commencement

This regulation is to commence on the day that is one month after the date of publication.

Editorial note—

This Regulation commences on 10 July 2023.

A commencement provision specifying that the instrument is to commence on the first anniversary of the date of publication is an exception to this rule. This formulation may be used without the risk of confusion as it does not trigger the [Interpretation Act 1987, section 36](#).

Option 4—Differential commencement

2 Commencement

This regulation commences as follows—

- (a) for Part 8—on the day the Regulation is published on the NSW legislation website,
- (b) otherwise—on 1 July 2022

3.1.5 Commencement of EPIs

The differential commencement provision noted above for statutory instruments in Option 4, does not apply for EPIs or SEPPs.

3.2 Repeal and expiry provisions

3.2.1 Overview

An Act or provision of an Act may be directly repealed by the same Act or another Act. Likewise, an instrument or provision of an instrument may be directly repealed by the same instrument, an Act or another instrument.

Repeal and expiry provisions should be used instead of sunset provisions or dates specifying the operation of a provision or similar terms to this effect.

An Act, instrument or provision that is repealed by a repeal provision, using the term “repealed”, will be removed by the Legislation Editing and Access team once the repeal has taken effect. A provision that has expired may also be removed once the date the expiry has passed.

3.2.2 Repeal of Acts

If an Act is being repealed, the repeal provision should be at the end of the Act, but before any savings and transitional provisions, and separate to the savings and transitional provisions.

A provision that repeals another Act or part of an Act should be set out in a separate part or chapter as per the established structure of the Act, or in a separate Schedule if multiple Acts are being repealed in an amending instrument.

Example

Part 9 Repeal and savings

122

Repeal

The following Acts are repealed—

- (a) the *Drafters Act 2001* No 88,
- (b) the *Legislation Editing and Access Team Act 2010* No 100.

123

Savings

An application made under the *Drafters Act 2001* is taken to be an application made under this Act.

A provision that repeals another Act must refer to the Act number.

Example

11

Repeal

The *Drafters Act 2001* No 88 is repealed.

Uncommenced amendments to a principal Act should be repealed at the same time as the principal Act is repealed.

3.2.3 Repeal of statutory instruments—general

A statutory instrument, or a provision of a statutory instrument, may be directly repealed by an Act or another statutory instrument.

The repeal provision is generally placed at the end of the other statutory instrument.

A provision repealing a statutory instrument does not need to refer to the unique number applied to the statutory instrument by PCO when it was made.

Drafters do not need to expressly repeal a regulation that is being automatically repealed by the [Subordinate Legislation Act 1989](#) and replaced by another regulation on 1 September.

3.2.4 Repeal of statutory instruments when Act repealed

A regulation or other statutory instrument is impliedly repealed when the Act or a section of the Act under which it was made is repealed.

However, a direct repeal should be included for all regulations listed on the in force database under the Act to be repealed. An additional item repealing all other statutory instruments made under the Act should also be included.

If there are no regulations listed on the in force database under the Act to be repealed, a provision repealing all statutory instruments made under the repealed Act should be included.

3.2.5 Repeal or expiry of parts, divisions, sections and schedules

A provision that repeals or expires a part, division or other higher-level provision should be set out in a separate section and must be drafted in language that clearly indicates the repeal or expiry.

Examples

55

Repeal of part

This part is repealed on [date/happening of particular event] at the beginning of the day.

102

Expiry of part

This part expires on a date to be prescribed by regulation.

If a part or division is being repealed or expired, the repeal or expiry provision should be the final provision of the part or division.

If a section is being repealed or expired (i.e. repeals or expires itself), the repeal or expiry provision should be the final subsection of the section being repealed.

Example

15

Provision of results

- (1) An assessor must provide the results of the special examination to the student.
- (2) The results must be provided within 2 weeks of the completion of the special examination.
- (3) This section is repealed on 31 July 2022 at the end of the day.

44A

Temporary arrangements

- (1) A temporary arrangement in response to the pandemic is...
- (2) This section is expires on 30 June 2025 at the end of the day.

The following words and wording should be avoided—

- This part operates from [date] to [date]
- Abolished on
- Ceases to operate/have effect
- Sunset

- Operates from/operates until

To reduce inconsistencies in wording, repeal provisions should observe the following guidelines—

- Use “it commences” rather than “the commencement”
- Use “prescribed” rather than “fixed”

Example—use of “it commences”

22

Repeal

This part is repealed 2 years after it commences.

...

Example—use of “prescribed”

37

Public health emergency provision

(1) [Substantive provision]

(2) This section is repealed on a date to be prescribed by regulation.

If a self-repealing provision is included in a section that has a sectional definition, the repeal should be inserted **after** the sectional definition.

Example

37

Public health emergency provision

(1) [Substantive provision about public health emergencies]

(2) [Substantive provision about public health emergencies]

(3) In this section—

public health emergency includes a pandemic.

(4) This section is repealed on a 1 January 2022.

An enabling provision that sets out a schedule of amendments should include a self-repealing provision.

Example

23 Amendment of other Acts and instruments

- (1) Schedule 2 amends the Acts and instruments it mentions.
- (2) This section is repealed after all of the provisions of Schedule 2 have commenced.

3.2.6 Timing of repeal or expiry

To ensure a repeal provision takes effect at the appropriate time, the provision should specify the time of the day the repeal takes effect. This avoids potential ambiguity arising from the [Interpretation Act 1987, section 71](#). Self-repealing provisions should include the time the repeal takes effect, for example “at the beginning of the day” or “at the end of the day”.

If a repeal provision commences before the repeal date, the necessary condition for repeal is satisfied as soon as the repeal date occurs, and the repeal will take effect on that day.

3.2.7 Savings and transitional provisions

Savings and transitional provisions should not be repealed or expired and should not include a self-repealing or expiry provision. These provisions act as a historical record and the practice is to keep this record on the statute book, even if the provision is spent.

3.2.8 Office process

Drafters should advise the managers of the Legislation Editing and Access team if an instrument includes a repeal or expiry provision so a record can be kept for future action (e.g. a provision in an instrument that repeals a part of the instrument at a later date).

This can be done using the template “editorial check request” email that is sent to the editorial register when an editorial check is requested.

An entry to check for repeal or expiry provisions is included on the Legislation Editing and Access team’s checklist to ensure future repeals are accounted for.

3.2.9 Provisions of the [Interpretation Act 1987](#) and [Subordinate Legislation Act 1989](#)

Repealed Acts and rules continuing in force

The [Interpretation Act 1987, section 29](#) provides that a power to appoint by proclamation different days for the commencement of different portions of an Act includes the power to appoint different days for the commencement of the repeal of different portions of any previous Act or instrument repealed by a provision of the Act.

However, it is not PCO policy to rely on section 29. A drafter should make specific provision for when provisions commence or are repealed.

Differential commencement of repeals

The [Interpretation Act 1987, section 23\(4A\)](#) provides that a power to appoint by proclamation different days for the commencement of different portions of an Act includes the power to appoint different days for the commencement of the repeal of different portions of any previous Act or instrument repealed by a provision of the Act.

Revocation of repeals

The [Interpretation Act 1987, section 29A](#) provides for the revocation of the repeal of an Act or instrument, by proclamation, if the *Interpretation Act 1987, section 29A* was expressly applied by the repealing Act or instrument or the repeal was described, in a heading or otherwise, as the repeal of redundant, spent or unnecessary Acts or instruments.

The savings and transitional provisions in each Statute Law Revision Bill apply section 29A to repeals made by the Act.

Automatic repeal

The [Interpretation Act 1987, section 30C](#) provides for the automatic repeal of an amending Act on the day after all the Act's provisions have commenced.

The section also provides that a schedule or subschedule of an Act, or a provision of a schedule or subschedule of an Act, that directly amends or repeals other Acts or instruments and that contains no other provisions apart from ancillary provisions is repealed on the day after all its provisions commence. However, if it commences before the date of assent, in which case it is repealed on the day after the date of assent.

As section 30C only applies to amending Acts, the precedent for amending State environmental planning policies includes a self-repeal provision that repeals amending policies at the beginning of the day following the day on which—

- the policy commences, if the policy commences on 1 date, or
- all the provisions of the date have commenced, if the policy commences on more than 1 date.

Staged repeal

The [Subordinate Legislation Act 1989, section 10](#), provides for the staged repeal of statutory rules on the fifth anniversary of the date on which they were published, if that date was 1 September, or, otherwise, on the 1 September following the fifth anniversary of their publication date.

3.3 Forms

3.3.1 Policy

Legislation may require that matters should be provided for in a particular form. PCO drafting policy is to prefer approved forms (forms that are administratively controlled and approved, rather than contained in the legislation) wherever practicable, if the Act provides for the use of a form. Using approved forms avoids including forms in an Act or prescribing the form in the regulations.

For some sensitive forms, approved forms are not suitable.

If forms are being included in legislation that is being remade, including a regulation under the staged repeal program, drafters should ask the relevant agency if approved forms may be appropriate, in which case the content of the forms will not be included in the remade legislation. This is limited to where there is sufficient power in the Act for the form to be made administratively.

3.3.2 Precedents

Forms are designed to ensure that specific information that is required by a person making an administrative decision will be captured in a consistent way, as is prescribed by the form.

The Act should make provision for the “approval of forms” or for a specific provision for use of a particular form, if a more general approval is not appropriate.

Examples

62 Approval of forms

The [Secretary/Minister] may approve forms for use under this Act.

Note—

If the above approach is taken, the below definition should also be included in a Dictionary or definition section, as set out below.

approved form means a form approved under section 62.

16 Application for licence

(1) A person may apply to the Secretary for a licence.

(2) The application must be in the approved form.

The instructor should advise who the appropriate approval source for the form should be listed as (the Secretary, Minister, etc).

When a particular form is required, the legislation should signpost that the approved form is required to be used for a particular provision. The phrase “in the approved form” can be used in an instrument to make it clear that the person who must complete the form needs to do so in a particular way.

3.3.3 Style of forms in legislation

If the form is contained in the legislation, the form should prescribe the content and information to be included, with indications, in italics and square brackets, where information needs to be supplied.

This style does not set out the form in a way that can be filled in directly from the legislation, even though it still follows the general layout that is usual in forms. If agencies are concerned about being able to make the forms available in a fillable format, their attention can be drawn to the [Interpretation Act 1987, section 80](#) which provides for substantial, rather than strict, compliance with prescribed or approved forms, and which makes it possible for agencies to prepare their own versions of the forms.

For examples of forms using current styles of formatting, see—

- [Confiscation of Proceeds of Crime Regulation 2021, Schedule 1](#)
- [Guardianship Regulation 2016, Schedule 1](#)

- [Law Enforcement \(Controlled Operations\) Regulation 2017, Schedule 1](#)

Note that fields where dates are to be added are always plain text fields (e.g. [Date], or just “Date:”). The form “Dated <space> of <space> 20<space> .”, or another variation that separates out the parts of the date or anticipates the year, should not be used.

Forms were previously set out in a way that made it possible for a user to fill them in directly in the legislation, with dotted line fields to write in etc. This style is not to be used. If you are required to update a form, the dotted line fields should be removed, and replaced with square brackets/italics.

3.3.4 Exceptions

This rule does not apply to forms required by court rules.

3.4 Penalty provisions

3.4.1 Maximum periods of imprisonment

Use the following style when expressing a maximum period of imprisonment for an offence—

Maximum penalty—imprisonment for 5 years

Not—5 years’ imprisonment or 5 years imprisonment

Maximum penalty—200 penalty units or imprisonment for 5 years, or both.

3.4.2 References to individuals, body corporates and other persons

Given the potential for ambiguity, and to ensure that entities do not get ‘left out’ of penalty provisions, the approach to penalty provisions, subject to existing provisions of an Act, is—

Maximum penalty—

(a) for an individual—20 penalty units, or

(b) otherwise—100 penalty units.

This approach will usually result in the lower penalty being the first in the list.

The use of “otherwise” ensures that persons who are not individuals or body corporates (e.g. a body politic) are captured, if the relevant provision could relate to those persons.

Drafters should speak to their instructors to ensure that this is the intended outcome. In this example, only individuals would be subject to a (maximum) 20 penalty unit penalty, and every other entity that could be captured by the provision would be subject to a (maximum) 100 penalty unit penalty.

3.4.3 Penalty provision for each subsection

The [Crimes \(Sentencing Procedure\) Act 1999, section 18](#) provides that it is not necessary to repeat penalty amounts if a single penalty is stated at the end of a section. According to that Act, that penalty applies to multiple subsections which are offences in the same section.

However, due to the risk of confusion and misinterpretation, the repetition of the penalty amount at the end of each subsection is best practice.

A penalty for a provision which is part of a section including subsections should be included for each subsection that the penalty applies to.

For example, if a section has 5 subsections, and the penalty should apply to subsections (2), (4) and (5), the provision should include a penalty under subsections (2), (4) and (5). This is the case even if the penalty is the same for each subsection.

Example

- (1) Subsection text.
- (2) A person must not... [penalty provision].
Maximum penalty—20 penalty units.
- (3) Subsection text.
- (4) A person must not... [penalty provision].
Maximum penalty—20 penalty units.
- (5) A person must not... [penalty provision].
Maximum penalty—20 penalty units.

If there is only 1 penalty and it applies to the last subsection, the number of the subsection should be referenced. For example, in the above example, if subsection (5) were the only subsection with a penalty, subsection (5) would be as set out in the example below—

A person must not... [penalty provision].

Maximum penalty for subsection (5)—20 penalty units.

If there are penalties under any other subsections and there are several penalties within the section, it is implied that the final penalty applies to the subsection only.

An incorporation instruction to insert a new subsection “at the end of the section” will generally be interpreted as placing the amendment after any penalties, notes or tables.

3.4.4 Amendment of penalty provisions

Penalties may generally be amended by amending the section or subsection to which they relate. The phrase “penalty units” should be included in the amendment (i.e. “5 penalty units” should be omitted, not just “5”).

Example

[1] Section 12 Dog to wear collar and tag

Omit “5 penalty units” from section 12(2).

Insert instead “15 penalty units”.

If a penalty appears at the end of a section or there is some doubt as to what is being amended, the following style may be used.

Examples

[1] Section 50 Ancillary orders

Omit the penalty, “100 penalty units”. Insert instead “150 penalty units”.

[2] Section 60(7)

Omit the penalty, paragraph (a).

[3] Section 72, penalty

Omit “15 penalty units”. Insert instead “20 penalty units”.

3.5 References to age

An instrument that requires reference to the age of a person should use the following forms—

- An individual who is at least 18 years of age
- An individual who is less than 18 years of age

- An individual who is more than 17 years of age (this would not include a person who was 17 years of age).

The terms “attained” and “[x] years old” should not be used.

3.6 References to dates

3.6.1 Date style

Specific dates should be written in full. Ordinals (e.g. “15th”) and commas are not used.

Example

15 February 1994

This rule applies to dates in headings and in the body of the text.

When using ordinal numbers to describe an instance or a sequence (e.g. “the tenth day”), follow the rules applying to ordinal numbers (see References to numbers—words vs figures, PCO Standard 3.10).

3.6.2 Span of years

The usual style is to write the years in full, joined with an en dash with no spaces.

Example

2014–2015 (see [Insurance Premiums Order 2014–2015](#))

The exception is the Appropriation Bills or any other documents that use standard accounting style for financial years.

Example

2022–23 (see [Appropriation Act 2022](#))

3.6.3 Decades

Decades should be written in full and without an apostrophe.

Example

1920s school house (not 1920's or '20s)

3.7 References to time—no space before am/pm

3.7.1 Time

Time should be written numerically with no space before the am/pm abbreviation. A colon should be used to separate hours from minutes. References to the hour do not need to include minutes (i.e. 9am, not 9:00am).

3.7.2 References to noon and midnight

References to 12am and 12pm should be avoided as the terms create ambiguity. The terms “midday” or “midnight” should be used instead. See also the definition of **midnight** in the [Interpretation Act 1987, section 21\(1\)](#).

Examples of common styles for time

2 Commencement

This order commences at 9pm on 5 February 2021.

3 Building work

Building work may only be carried out between 7am and 6:30pm on Monday to Friday and between 7am and midday on Saturday.

3.8 References to Ministers

A reference to a Minister should be to an Act administered by the Minister, rather than to the Ministerial title.

Example

A reference to the Minister for Planning and Public Spaces should instead be to “the Minister administering the *Luna Park Site Act 1990*”.

If an Act is jointly administered, the reference should be tied to the relevant part, division or section of the Act that the relevant Minister administers.

Example

To reference the Minister for Water, Property and Housing for the purposes of the Minister’s responsibility under the *Housing Act 2001*, the reference should be to “the Minister administering the *Housing Act 2001*, section 6”.

3.9 References to body corporates, corporations and individuals

There is currently an inconsistent approach in legislation in the way that provisions refer to “body corporates”, “corporations” and “individuals”. If you are relying on or amending an existing Act, ensure you reference either “body corporate” or “corporation” consistently with that Act.

However, for new principal legislation, the term “body corporate” should be used. This is due to definitions in the [Interpretation Act 1987, section 21\(1\)](#) (see **person** and **party**).

Using “body corporate” in new legislation provides a more consistent approach across the statute book. As always, there may be exceptions, such as specific instructions which intend to make a distinction between the type of entity being referred to.

3.10 References to numbers—words vs figures

3.10.1 General rule

Use figures for all numbers (except 1—see One vs 1 PCO Standard 3.11).

Examples

The plan must be agreed to by 2 or more of the parties.

The application process can continue until the positions have been filled 3 times.

The applicant must apply within the 7-day period.

3.10.2 Exceptions

Sentences should not begin with a figure.

Example

Two members must be Public Service employees. (Not: 2 members must...)

Proper nouns should not be altered.

Examples

- Five Mile Beach
- One80 Corporation Pty Ltd

However, list items, as opposed to sentences, may begin with a figure, especially in enumerating lists. See examples below.

Examples

- (4) The members of the Committee must comprise the Secretary, or the Secretary's delegate, and the following members appointed by the Minister—
- (a) 1 member of the Council,
 - (b) (Repealed)
 - (c) 1 member with expertise in the protection of natural or cultural heritage, who is not a member of the Public Service,
 - (d) 4 members with scientific qualifications and expertise in nature conservation, who is not an officer of the Service,
 - (e) 1 member with legal or financial experience and expertise, who is not a member of the Public Service,
 - (f) 2 officers of the Service.

3.11 One vs 1

The use of “one” and “1” varies. Sometimes the figure is appropriate, whereas other times the word is more appropriate.

Below are some general guidelines and examples. However, judgment should be applied in each case, taking into account the particular context.

The numeral “1” can generally **not** be re-written another way (unless substituting “a” for “1”).

The figure “1” should be used in the following circumstances—

- when dealing with units, quantities or amounts (see also Scientific notations, PCO Standard 3.19).

Examples

- Imprisonment for 1 year
- within a radius of 1 kilometre of the venue
- no more than 1 gram in 210 litres of breath

- when dealing with other concrete “countable” things

Examples

- at least 1 newspaper circulating generally in Australia
- at least 1 independent arbitration body
- the boundaries of 1 or more blocks

- when used in a sequence with other figures (see the committee members examples in PCO Standard 3.10.2).

The word “one” should generally be used:

- if the provision is not dealing with quantities or amounts, and
- for common phrases (e.g. “at any one time”), and
- if the use of the figure would disrupt the flow of the text or otherwise hinder readability.

The word “one” is usually used in a common phrase and can often be re-written with another phrase. For example, “at any one time” could be re-written as “at the same time” if the context allows it.

“One or more” is a common phrase that generally replaces “any”. Even though this counts something, it is also a common phrase, so here “one” is preferred over “1”. However, sometimes “one or more” can be re-written as “at least 1”.

“More than one” is also a common phrase and “one” is also preferred here over “1” (unless there is a specific reason not to).

Examples

material acquired for one or more of the following purposes
on more than one occasion
a statement of the maximum number of vehicles competing at any one time
a disease passed on genetically from one generation to the next
If a person re-applies, one of the factors the Secretary must consider

The same guidelines generally apply to the use of “zero” and “0”, although these are less common.

Examples

0 grams in 210 litres of breath
each ledger account that does not have a zero balance

3.12 Ordinal numbers

Ordinal numbers are numbers that define the position of something in a series (e.g. first, second, third). Words, not figures, are used for all ordinal numbers.

Ordinals comprised of 2 words (i.e. from twenty-first onwards) have a hyphen between the words.

Examples

The notice is taken to have been served at the end of the seventh day after it was posted.
The order remains in force until midnight on the twenty-eighth day after it was made.

However, note that ordinals followed by a superlative (e.g. highest) are generally not hyphenated.

Example

second highest number of votes

3.13 Fractions

In general text, words, not figures, are used for fractions (e.g. two-fifths). There is usually a hyphen between the 2 words of a fraction.

Drafters should prefer the use of percentages, where appropriate, to fractions, for readability. As the examples below indicate, on some occasions, it is mathematically correct to refer to “one-third” rather than 33%, and this approach should be preferred.

Examples

The spouses are entitled to share one-half of the remainder of the estate

The fee payable for a licence is reduced by one-third

an amount equal to 10% of the maximum penalty prescribed for that offence [percentage preferred to “one-tenth”]

approved by a two-thirds majority

Exceptions—

- if the fraction is a formula or part of a formula, mathematical notation should be used
- if the number relates to a unit of measurement or ratio, decimal figures should be used, e.g. 0.5 gram (not half a gram), 1:100—see also
 - Decimals, PCO Standard 3.16,
 - Scientific notations, PCO Standard 3.19.

3.14 Numbers of 1,000 or more

For numbers of 1,000 or more, a comma, not a space, is used to separate each group of 3 digits.

Examples

- 5,000 penalty units
- A map at the scale of 1:25,000

3.15 Numbers of 1,000,000 or more

Drafters may use “1 million” instead of “1,000,000”. There is no limit on using decimal places if this approach is taken (i.e. “1.2734 million” is acceptable).

3.16 Decimals

When decimal numbers are less than 1, a zero should be placed before the decimal point.

If very small decimals are used (i.e. containing several zeros after the decimal point), no groupings or commas are used.

Any abbreviated measurement unit should appear immediately after the number (with no space). For more on measurement units, see Scientific notations, PCO Standard 3.19.

Example

0.25g

1.3L

0.00025g

Generally, when a whole number appears in a table that includes decimal numbers, that number does not need to have a decimal point and zero added. However, there are some instances of inconsistency with this rule, including in the [Drug Misuse and Trafficking Act 1985, Schedule 1](#). In this type of case, follow the existing style. It should also be noted that zeros after a decimal point indicate accuracy of measurement, so if this aspect is important for the measure being described, the zeros should be kept (e.g. 4.00 is more precise than 4.0).

3.17 Monetary amounts

Monetary amounts are always expressed in figures. The cents columns (i.e. “.00”) should not be included where there are no cents, unless in the context of a list where other items include cents (e.g. \$10.20, \$0.50).

Any amendment should follow the style of the target instrument.

If cents, without dollars, have been included in text to explain, for example, the calculation of a rate, the preferred format is all figures.

Example

\$0.25 for each kilometre (rather than 25 cents for each kilometre)

If monetary amounts are used in a table, PCO’s usual style is for the \$ sign to be included next to each of the entries in the column, rather than appearing in the header to the column (see also Content of tables—columns, PCO Standard 5.5).

3.18 Percentages

Percentages should be given as “%” in general text as well as in tables and schedules (e.g. 10%). It is noted that the older style of “per cent” is very common in legislation but should not be used in new provisions. Consistency within a provision or instrument does

not need to be maintained.

3.19 Scientific notations

3.19.1 Units of measurement

Technical measurements are not usually an area of specialised knowledge for PCO staff, so particular care needs to be taken when they are being used.

- All units must be metric, not imperial.
- Use the correct unit for what is being measured.
- Use the correct symbol. Many look similar, but a difference in one letter or a capital can change the meaning.
- Use the correct prefix. See “components of units” below.
- Use Australian, not American, spelling for units such as metre.
- Use correct capitalisation for units when used in full (e.g. hertz, not Hertz).
- Do not make symbols plural (e.g. 25kg, not 25kgs). Units given in full do become plural (e.g. 25 kilograms).
- Quantities of 1 or less than 1 use the singular form when units are given in full (e.g. 0.5 gram, not 0.5 grams).
- Use a slash to indicate “per” when using symbols (e.g. 10km/h, not 10kmph). Units given in full use the word “per” (e.g. 10 kilometres per hour).

Generally when using units of measurement, the unit should be given as a symbol which often comprises an abbreviation of the unit name.

There is no space between the number and the symbol.

For clarity, at PCO—

- temperature is given as °C without a space,
- percentages should be given as “%” in all situations, e.g. 10%.

Punctuation, capitalisation and spacing within a symbol form part of the symbol and should not be changed.

3.19.2 Components of units

Some units of measurement are made up of 2 components, a value qualifier prefix and a unit. For example, “km” (kilometre) is made up of the prefix “k” (kilo)—meaning 1,000, and the unit “m” (metre). This is only done for certain units, for example, g (gram), J (joule), L (litre), m (metre), S (siemens), Sv (sievert), t (tonne), V (volt) and W (watt).

Close attention should be given to the case of the prefix as, for example, mL and ML are different by several orders of magnitude. Be especially wary of μ , the symbol for the prefix for micro. The letter u is not a valid symbol and cannot be used instead of μ .

3.19.3 Sources for checking units

The [Macquarie Dictionary](#), including—

- the prefixes in The International System of Units at the back of the printed edition
- the table of units and prefixes in the [online edition](#), under [Resources > International System of Units \(SI\)](#).

Bureau International de Poids et Mesures (International Bureau of Weights and Measures) — www.bipm.org, the “International System of Units (SI)” page in particular.

3.19.4 Abbreviations

Measurement abbreviations may be used in drafting all Acts and instruments. Previously, the use of abbreviations had been limited to schedules of EPIs.

metres	m
centimetres	cm
millimetres	mm
kilometres	km
square centimetres	cm ²
cubic metres	m ³
kilograms	kg
grams	g
litres	L
millilitres	mL
megalitres	ML
hectares	ha

There should be no space between the abbreviation and the number it relates to.

The symbol for “%” should be used instead of “per cent” or “percent”. This is now noted on the Plain English words list, which is in Appendix 1. See also Percentages, PCO Standard 3.18.

3.19.5 Chemical names

Chemical names are often written in the descriptive form of n,n-name, e.g. 2,3,4,5-tetramethoxyamphetamine. This is officially known as the IUPAC name, from the International Union of Pure and Applied Chemistry.

There are many variations (e.g. [the Drug Misuse and Trafficking Act 1985, Schedule 1](#)) but in all cases—

- there are no spaces after the commas, and
- the dash is a hyphen, not an en dash, and
- the first letter should not be capitalised unless it is an element, and
- formula descriptions, e.g. C₁₃H₁₀N₂O₄, can be structurally ambiguous and should not be used.

Note that chemical names can begin with the symbol for an element, such as the N (nitrogen) in N-acetylamphetamine. This should be capitalised in accordance with the standard capitalisation for elements, i.e. only capitalise the first letter of the element.

Capitalisation of chemical names is complicated by the use of trade names (e.g. Prozac, Amoxil, Fluvax) which require that capitalisation be preserved, even when that capitalisation is irregular or entirely absent (e.g. IbuHEXAL and i-profen, trade names for ibuprofen). Some former trade names (e.g. aspirin, heroin) no longer apply and do not require capitalisation. Some chemical names are generic identifiers allocated to the chemical rather than a descriptive or trade name (e.g. oxazepam is sold with the trade name Murelax, ibuprofen is sold with the trade name Nurofen). These generic names may not require capitalisation. Descriptive names do not take capital letters, except as noted above. Common names for chemicals (e.g. salt and ammonia), do not take capital letters. In all cases check the Macquarie Dictionary if there is any doubt.

3.19.6 Names of living organisms

Generally, the names of living organisms, animals, plants, fungi etc, will have 2 parts, the genus and the species in that order, for example *Homo sapiens*, human. In every case the genus has a capital letter and the species a lower-case letter. Some names may go further to the subspecies level, for example *Homo sapiens sapiens*, current human. The subspecies also takes a lower case letter.

The [Biodiversity Conservation Act 2016](#), successor to the *Threatened Species Conservation Act 1995*, which includes the largest number of species names in legislation, handles subspecies in a number of ways—

- some, such as *Cyclodomorphus melanops elongatus*, are 3 words,
- others, such as *Acacia baueri* subsp. *aspera*, specify that *aspera* is a subspecies,
- generally, with animals, where the subspecies is mentioned, use just the 3 words.

With plants, a “subsp.” or “ssp.” is used before the subspecies. The same applies to “var.”, indicating a variant of a species, for example the plant *Epacris purpurascens* var. *purpurascens*.

3.19.7 Species notation abbreviations

Notation	Explanation
aff.	affinis (Latin, meaning related to), used to describe related but unclassified species
sp.	species (singular)
spp.	species (plural), e.g. <i>Scyllarus</i> spp., plants of the <i>Scyllarus</i> genus
ssp. or subsp.	subspecies (singular)
sspp. or subspp.	subspecies (plural) (not currently in use in NSW legislation)
var.	variant of a species

The abbreviations sp. and spp. can be used to indicate a variety of species or subspecies. For example, *Astrotricha* sp. indicates a plant of the genus *Astrotricha*.

The abbreviation aff. is used to denote species that are unclassified but are similar to other species that have been classified. This is rare in legislation. For example *Diuris* sp. aff. *chrysantha*: plant of the *Diuris* genus that is similar to the *chrysantha* species.

Note that the abbreviations are not italicised while the rest of the name should be. The full stops after the abbreviations must be retained.

In all cases be careful with the use of spp. or ssp. Ensure that the correct abbreviation is being used. In addition, given that the word “species” is a zero plural, the singular and plural forms are indistinguishable, like “sheep” or “fish”, if the context is not clear, using the unambiguous abbreviation can be helpful.

3.20 Use of “for” or “for the purposes of”

“For” should be used in place of “for the purposes of” if referencing a provision of an empowering Act in a regulation.

Example

9 Lotteries

For the Act, section 10, a lottery is permitted if the following requirements are complied with— ...

However, this does not apply to the phrase “development for the purposes of” in EPIs or SEPPs.

3.21 The expression “under this Act”

3.21.1 Does the expression “under this Act” include instruments made under the Act?

It can be unclear whether “under this Act” necessarily includes instruments made under the Act. If the expression is used with the intention that it include instruments, care should be taken to be consistent throughout.

There is a difference between “by this Act” and “under this Act”. The latter is more likely to be construed as including instruments.

3.21.2 Should the expression “under this Act or the regulations” be used?

If the expression “under this Act or the regulations” is used, drafters should be consistent throughout the draft and check that any references in the text to “under this Act” are meant to refer only to the Act.

Drafters should also consider whether the extended reference needs to include all instruments made under the Act rather than only regulations.

3.21.3 Should “this Act” be defined to include instruments made under the Act?

PCO practice has been that “this Act” does not have an extended meaning (e.g. In this Act, **this Act** includes regulations). However, there is nothing preventing new principal Acts from being extended in this way.

3.21.4 Consistency when amending legislation

When amending legislation to add any of the above expressions, drafters should ensure that the use of the expression is consistent with the provisions of the principal legislation.

3.22 “Mediation” and “conciliation” in legislation

3.22.1 General

This is a general guide to the usual practice of mediation and conciliation and the ordinary meaning of those terms. It is open to drafters of legislation to depart from this practice if required, and to give those terms a meaning that is particular to specific legislation.

3.22.2 What are “mediation” and “conciliation”?

Mediation and conciliation are processes in which the parties to a dispute, with the assistance of a neutral third party, identify the issues in dispute, develop options, consider alternatives and endeavour to reach an agreement.

3.22.3 Similarities between mediation and conciliation

Mediation and conciliation have the following fundamental characteristics in common—

1. They may be voluntary, ordered by a court or tribunal or required as a part of a contract or a government agency process.
 2. They involve parties to a dispute calling on a neutral third party (the mediator or conciliator) to assist in achieving a resolution of the dispute.
 3. The mediator or conciliator has no authority to impose a solution on the parties to the dispute.
 4. The mediator or conciliator may advise on or determine the process of mediation or conciliation.
 5. The process at all times depends on the willingness of the parties to the dispute to continue.
-

3.22.4 Distinction between mediation and conciliation

In the past, PCO policy has been to treat the terms mediation and conciliation as synonymous and “mediation” as the preferred term.

However, more recent developments suggest that there is a distinction between the 2 processes.

Generally, a mediator has no advisory or determinative role in the dispute that is the subject of the process. By contrast, a conciliator may—

- have an advisory (but not determinative) role on the content of the dispute or the outcome of its resolution, and
- make suggestions for terms of settlement, and
- give expert advice on likely settlement terms, and
- actively encourage parties to the dispute to reach an agreement.

Accordingly, the term ‘conciliation’ can be used, in preference to ‘mediation’, if this more active role is conferred on the facilitator of the process.

3.22.5 Examples and further reading

- [*Workplace Injury Management and Workers Compensation Act 1998, Chapter 7, Part 6, Division 4*](#)
- [*Workplace Injury Management and Workers Compensation Act 1998, Chapter 4, Part 2, Division 3*](#)
- Sir Laurence Street, “The Language of Alternative Dispute Resolution” (1992) 66 Australian Law Journal 194.
- National Alternative Dispute Resolution Advisory Council, “ADR Terminology: a discussion paper” (2002).

4 Punctuation and writing style

4.1 Punctuation—general

PCO style for punctuation is generally minimalist and consistently applied across the statute book to the extent possible. Except where PCO style dictates otherwise, punctuation should be used as it would be generally in written English.

- For background on all PCO styles and language matters, particularly if PCO does not have a “house style”, see the online Australian Government [Style Manual](#).
- The relevant *Style Manual* pages on punctuation are:
 - [Punctuation](#) (master page with links to specific punctuation)
 - [Punctuation and capitalisation](#) (minimal punctuation guidelines and capitalisation in the context of punctuation)

4.2 Commas in lists

PCO style is to use commas, rather than semi-colons, when separating list items, phrases or clauses in text. Commas are also used as end punctuation for items (paragraphs, subparagraphs and sub-subparagraphs) in structured lists.

Example—standard structured list punctuation

In preparing a draft marine estate management strategy, the Authority is to consider the following—

- (a) the objects of this Act,
- (b) principles for managing the marine estate specified or set out in the regulations,
- (c) a risk assessment report prepared under this Act,
- (d) any other matter that the relevant Ministers direct or that is prescribed by the regulations.

- When a structured list is followed by ranged-back text that completes the sentence, the final list item is to finish with a comma.

Note—

Current PCO style is to avoid ranged-back provisions if possible.

Example—structured list with ranged-back text

In preparing a draft marine estate management strategy, the Authority is to consider the following—

- (a) the objects of this Act,
 - (b) principles set out in the regulations,
 - (c) a risk assessment report prepared under this Act,
 - (d) any other matter prescribed by the regulations,
- unless the Minister makes a declaration under section 13(4).

- Commas also separate items in unstructured lists.

Example—unstructured list

Applications under sections 3(2), 45(9), 52 and 108(7) are subject to the fees appearing in Schedule 5.

- The [Oxford, or serial, comma](#) is a comma that separates the penultimate item from the last item in a list where a conjunction is also used. Its primary value is to reduce ambiguity when there are multiple complex list items.
- Generally, it is not PCO style to use the Oxford comma unless it is necessary to clarify meaning or resolve ambiguity. (See the [Style Manual page on commas](#) to understand how using an Oxford comma can clarify meaning.)

Example—list without Oxford comma

The Board must notify the Minister, the Secretary and the Commissioner.

Example—list with Oxford comma that clarifies meaning

Methods of transport include car, horse and cart, and hovercraft.

4.3 Commas around clauses and phrases

- Commas are also used to frame parenthetical phrases within a sentence. In this usage, commas work as a pair to encapsulate additional information that is not essential to the meaning of the sentence.
 - Parenthetical statements should be used only where needed. Too many in one sentence will obscure meaning and increase ambiguity.
 - Do not use nested paired commas.

Example—paired commas

The Minister may, from time to time, appoint a person to act in the office of the Chief Executive Officer during the illness or absence of the Chief Executive Officer.

- Commas should appear on both sides of a subordinate clause within a sentence or not at all.

Examples

Floodways are areas that, even if only partially blocked, would cause a significant increase in flood levels.

Not Floodways are areas that even if only partially blocked, would cause a significant increase in flood levels.

- Commas can also be used to separate introductory clauses or phrases from the main clause in the sentence, especially where the comma avoids ambiguity or improves readability.

Example—

Introductory conditional clause

If there are insufficient nominees for election, additional members are to be appointed to make up the insufficiency.

Punctuation is different if the conditional clause is moved—

Additional members are to be appointed to make up the insufficiency if there are insufficient nominees for election.

Examples—introductory adverbial clauses and phrases

In this section, **vehicle** means...

In the case of Christmas day, liquor may only be sold with a meal served in a dining area on the licensed premises.

After the 24-hour period ends in relation to any such person, an authorised person is not prevented from exercising the powers under subsection (3) in relation to the person.

Without limiting the generality of subsection (2), circumstances in which there may be a significant threat or risk to the public interest include—

(a) ...

But, as with the conditional clause example above, **when the adverbial clause is moved to appear after the main clause, a comma is generally not required** e.g. An authorised person is not prevented from exercising the powers under subsection (3) in relation to the person after the 24-hour period ends for the person.

4.4 Em dashes, en dashes and hyphens

4.4.1 Types of dashes

An em dash is the same width as the font height, and an en dash is half the width of the font height (i.e. both vary with different fonts). A hyphen is a keyboard symbol that is smaller than an en dash but it also varies in size with different fonts.

Note—

A minus sign is not the same as either a hyphen or an en dash. For use in drafting formulas or other mathematical matters, use the special mathematical symbol for a minus sign to ensure website screen readers read the symbol properly.

4.4.2 Hyphens

The hyphen is most commonly used to connect the parts of compound words and words with prefixes.

For words with prefixes, a hyphen is generally used to separate 2 vowels (though a notable exception is “coordinate”) or to be clear about a word that could be mistaken for another word (e.g. “re-create”).

Note—

The particular context should be considered but always consult the latest version of the *Macquarie Dictionary* in the first instance to be sure of the latest recommended spelling. It is common for words to “morph” over time from separate words to become hyphenated words before becoming one word. In the absence of relevant defined terms, the latest recommendation on spelling should be used in drafting.

Examples

- Registrar-General
- the general regulation-making power
- pre-release and post-release
- reappointed but re-elected, re-engaged and re-counted
- cooperative but co-worker, co-education and co-produce
- Port Macquarie-Hastings Council

Hyphens are also generally used to separate repeat prefixes e.g. “re-re-build” and it is PCO style to use “sub-subparagraph.”

4.4.3 Em dash

Notes—

- For **drafting**, PCO style is to use em dashes in a number of special “house style” ways, as outlined on this page.
- For **other business writing**, the general rules usually prevail and the Style Manual (list of reference pages below) should be the guide to writing style.

In addition to the text preceding lists and fragments, and the heading to notes, PCO **also** uses em dashes in the following ways—

1. In constructions using “for” or “if” to apply a principle to different circumstances or in a conditional way (i.e. equivalent to a comma).

Note—

Lists like this must have a consistent style and use either em dashes or commas, but not a mixture.

Example

head of a Public Service agency means—

- (a) for a department—the Secretary of the department, or
- (b) otherwise—the head of the agency listed in Schedule 1, Part 2 or 3.

2. To introduce further detail or specification, equivalent to a colon.

Example

Division 2 Powers of courts and authorised justices—bail applications

3. In tables where there is not intended to be an entry, used for clarity, instead of leaving the cell blank.

Example

Service	Fee	Other requirements
Search against 1 name in the Register	\$44	—
Registering a change of name	\$123	Submit approved form

4. Structured lists are always preceded by an em dash, as are fragments in amending instruments.

Note—

This is a particular PCO “house” style use of the em dash, adopted to give a “clean” look to the page to improve readability given the frequency with which it is used. Generally in written English, including business writing, a colon would be the appropriate punctuation.

For further information on the construction of lists, see Use of lists, PCO Standard 2.5.

Example—fragment preceded by an em dash

[2] Section 22G(4)

Omit the subsection. Insert instead—

- (4) A medical practitioner or accredited person must not carry out an examination or observation using an audio-visual link under this section unless the medical practitioner or accredited person is satisfied the examination or observation can be carried out in the circumstances with sufficient skill and care to form the required opinion about the person.

Example—list preceded by an em dash

- (1) It is a condition of a motor race authorisation that the promoter for the motor race prepare—
 - (a) a plan showing the proposed route of the motor race, and
 - (b) a safety plan that—
 - (i) sets out the steps the promoter proposes to take ... , and
 - (ii) includes anything required to be in the plan ...

5. Em dashes are also used in headings to notes, examples and editorial notes.

Examples**Note—**

Police officers are authorised officers.

Example—

a lease granted for a music festival to be held within Callan Park

Editorial note—

ground anchor is defined as “A tensile reinforcement, wire or bar, and its associated components ...

6. See also Amendment styles, PCO Standard 6.

- A common use of parentheses is to state in-line definitions.

Examples

The Greater Sydney Parklands Trust (the **Trust**) is constituted.

This section applies to an agency (a **relevant agency**) that is created by—

4.4.4 En dash

An unspaced en dash (no spaces on either side) is used in the following ways—

- to indicate a span of numbers, time or distance (see also Span of years PCO Standard 3.6.2),
- to show an association between words that retain their original meaning, known as coordinate nouns.
- to link a prefix with an adjectival phrase (instead of a hyphen, e.g. post–World War II reconstruction)—see the [Style Manual](#) for this specialised usage
- very rarely, for particular NSW provision numbering (e.g. in the *Road Rules 2014* to number NSW-only rules, such as rules 10–1, 10–2 and 24–4).

Note—

If citing the legislation of another jurisdiction that uses an unusual style of provision numbering, maintain the style of that jurisdiction.

Note—

Coordinate nouns should be distinguished from other forms of compound words.

Examples

- 6–12 George Street
- Lots 1–4, DP 27004
- subsections (2)–(6)
- *Redfern–Waterloo Authority Act 2004* (this use of the en dash applies when areas are being spanned, not for compound place names).

Also note coordinate nouns including—

- Student–teacher ratio (means something different to “student-teacher”)
- Work–life balance (en dash is the correct punctuation in this phrase).

Commonwealth legislation uses hyphens in numbering

- (1) The Trust must comply with requirements made of it in relation to an environmental organisation under the *Income Tax Assessment Act 1997* of the Commonwealth, Subdivision 30–E.
- (2) For this Part, a person is a small business owner if the person is a CGT small business entity within the meaning of the *Income Tax Assessment Act 1997* of the Commonwealth, section 152–10(1AA) for in the income year in which the insurance is effected or renewed.

4.5 Semi-colons

Semi-colons are used in long titles, in externally drafted text (such as applied laws) and in Land Use Tables in EPIs, but are otherwise rare in legislative text.

Example—Land Use Table list

2 Permitted without consent

Environmental protection works; Extensive agriculture; Home businesses; Home occupations; Intensive plant agriculture; Roads; Water reticulation systems

Example—Long title

An Act to provide for the appointment and functions of coroners and assistant coroners; to repeal the *Coroners Act 1980*; and for other purposes.

4.6 Full stops

- Full stops should only be used to indicate the end of a sentence.
- Full stops also do not appear after numbers, headings or initials.
- Exceptions to this occur in scientific citations and corporate names.

Example—scientific citation

* *Homoranthus lunatus* Craven & S.R. Jones

4.7 Capitalisation

For an alphabetical list of terms applying the guidelines for drafting outlined below, see the PCO guide to capitalisation, PCO Standard, Appendix 4.

4.7.1 General rule

Words are capitalised if they—

- appear at the beginning of a sentence or heading, or
- are proper nouns.

4.7.2 Specific vs general rule

- Many specific references relate to defined terms in legislation, and correct capitalisation style reflects the defined term used in the relevant legislation.
 - a. This is especially common for references to Authority, Board, Commission, Court and so on.
 - b. Care should be taken with the context of terms such as “Judge” and “Magistrate”, where there is a lot of historical variation.
 - c. [The Interpretation Act 1987](#) also includes many capitalised defined terms that will be relevant in all circumstances.
- For **drafting**, specific context always overrides the general rules outlined on this page.
- For other **business writing**, the general rules usually prevail and the *Style Manual* should be the guide to writing style.

Specific office or officer

Words are capitalised where they refer to a specific office or officer (e.g. the Parliamentary Counsel, the Commissioner of Police), but not where they refer to a generic office (e.g. parliamentary counsel from all jurisdictions, a police officer, one of the commissioners).

Examples

... on a website authorised by the Parliamentary Counsel to provide public access to the Gazette.

Government lawyers (including Crown prosecutors, public defenders, **parliamentary counsel** or other statutory Crown officers) may be granted an Australian practising certificate ...

In this section, an appropriate representative means the **Commissioner** of Corrective Services or a delegate of the **Commissioner**.

A person conducting a special inquiry has, for the purposes of the inquiry, the functions, protections and immunities conferred on a **commissioner** by the *Royal Commissions Act 1923*.

Specific body

Words are also capitalised if they refer to a specific body (e.g. the Environment Protection Agency, Public Service Commission), but not where they refer to bodies generally (e.g. the responsible government department or agency). This includes government departments (e.g. the Department of Education, the government department responsible for schools, a government department of any State or Territory).

Examples

There is to be a Public Service Commission Advisory **Board**.

If the body fails to comply with any such requirement, each member of the managing **board** or committee of the body is guilty of an offence.

interstate biosecurity agency means a **government department** or agency of another State or Territory responsible for the administration of a corresponding law.

In this section, a reference to the Minister responsible for a parking authority is a reference to—

- (a) for a **government department**—the Minister responsible for the department, ...

Similarly, the word “government” is capitalised when referring to a specific government (e.g. the NSW Government), but not where it refers to governments or government bodies in general.

Examples

The Trust is a NSW Government agency.

regulatory officer means an officer or employee of a government agency, including the government of a jurisdiction outside the State and outside Australia.

For more on NSW Government agencies, see [the Interpretation Act 1987](#), section 13A.

Specific court

“Court” is capitalised when used to refer to a specific court (e.g. the High Court or Court of Appeal), but not when used to refer to courts in general.

Examples

On the hearing of an appeal, the Supreme **Court** may do any of the following—

- (a) remit the matter back to the Minister for a direction by the Minister in accordance with the order of the **Court**, ...

instrument includes a judgement, order, process or other instrument issued by a **court** or tribunal.

This section does not apply to a detainee while attending **court** in person.

Specific regulation or other instrument

The word “regulation” or other instrument type (plan, policy, order, rules, notice, proclamation etc.) is capitalised only when used as part of the short title but not otherwise, unless relevantly defined with a capital letter, a style that should be avoided for the future (i.e. “**the Regulation** means ...”). This style applies for all provisions and in explanatory notes.

Note—

- This is a minor change to the previous PCO style to simplify the “rule” and make it straightforward to apply consistently. It is also in line with the *Style Manual* advice to minimise capitalisation unless meaning is obscured.

Exceptions to this style are “Act” and “Bill” which are always capitalised even when not used as part of a short title—see also Certain government titles or matter, PCO Standard 4.7.8).

Examples

This **regulation** repeals and replaces the *Bail Regulation 2014*.

approved payment device has the same meaning as in the *Passenger Transport (General) Regulation 2017*, Part 6.

Notes in this **regulation** do not form part of this **regulation**.

A provision of the **regulation** that prescribes a prohibited plastic item or a design standard must not commence earlier than 6 months after the **regulation** is published.

critical non-compliance means anything prescribed by the **regulations** as critical non-compliance.

the following **local environmental plan** is made...

the Governor... has made the following **State environmental planning policy**

4.7.3 Capitalisation of provision names in NSW legislation

In line with the simplified style for capitalising instrument names only when used in short titles, higher level provision names (subdivision and above, schedules and subschedules) are capitalised only when used with a number (i.e. when the “name” of the provision is used) but not otherwise.

Exceptions include when referring to existing unnumbered schedules or appendixes, where the number ‘1’ is understood.

Notes—

- This is a change to the previous PCO style. The new “rule” is consistent with the changed style for instrument names. It is also in line with the *Style Manual* advice to minimise capitalisation unless meaning is obscured.
- There is no change to the style used for provision names at section/clause level and below—these are not capitalised whether used with a number or without.

Examples

Part 6

Division 8.3

Schedule 4A

Subschedule 1.5

... the surrender of an approval given under **Part 3A** when that **part** was in force or continued in operation.

This **division** does not affect other provisions of this Act.

In this **chapter**—

4.7.4 Capitalisation in titles of NSW legislation

In titles of NSW legislation, all words are capitalised except—

- articles (a, an, the)
- conjunctions (and, but) and
- prepositions (of, for, on, with, above, below etc).

Examples

*Child Protection (Working **with** Children) Act 2012*

*Churches **of** Christ **in** New South Wales Incorporation Act 1947*

*James Hardie Former Subsidiaries (Winding **up** and Administration) Act 2005*

*Justices **of the** Peace Act 2002*

*Mental Health **and** Cognitive Impairment Forensic Provisions Act 2020*

Exceptions to this include prepositions of a certain length (more than 5 letters is a good rule of thumb), or ones that would otherwise look awkward beginning with a lower-case letter.

Examples

*District Court Amendment (Appeal **Against** Determination of a Costs Assessor) Rule 2007*

*Trees (Disputes **Between** Neighbours) Act 2006*

4.7.5 Titles of NSW legislation with hyphenated compound words

The general rule is that the first word of the compound words is capitalised while the second (or third) word is not.

Examples

*Coal Acquisition (**Re-acquisition** Arrangements) Order 2004*

*Gambling (**Two-up**) Act 1998*

*Greyhound Racing Amendment (**Whole-of-life** Tracking) Bill 2021*

*Macquarie University **By-law** 2005*

*Pawnbrokers and **Second-hand** Dealers Act 1996*

*State Authorities **Non-contributory** Superannuation Act 1987*

An exception includes if the hyphenated compound word appears at the beginning of the title.

Examples

***Anti-Discrimination** Act 1977*

***Non-Indigenous** Animals Act 1987*

***Pre-Trial** Diversion of Offenders Act 1985*

4.7.6 Titles with em dashes

The first letter of a word following an em dash is always capitalised.

Examples

*Local Government Amendment (COVID-19—**Elections** Special Provisions) Bill 2021*

*Duties Amendment (First Home—**New** Home) Act 2011*

*Transport Administration (NSW Trains—**Fares** and Other Charges) Order 2013*

4.7.7 Capitalisation in titles of external documents

Capitalisation in the titles of external documents should match exactly the style used in the title of the actual document. Where possible, always reproduce this from the title page or contents of the actual document rather than relying on the way it has been represented on a website. (Follow the *Style Manual* guidelines on using [italics](#) (and

reverse italics) or [quote marks](#) for the style of the title—don't use both). Note that using a legref or extref wrapper will often add italics automatically.

PCO style is to use double quotation marks. The Style Manual refers to the use of single quotation marks.

Examples

The development must meet the relevant provisions of the *Building Code of Australia*.

All fire protection equipment must be tested in accordance with AS 1851—2005, *Maintenance of fire protection systems and equipment*.

... in the report titled *Kiama Town Centre Charrette 25–29th July 2002—A report on the Charrette Outcomes* ...

... to be read as a reference to the document titled *Standard for the Hygienic Production of Pet Meat: PISC Technical Report 88*, published by CSIRO ...

4.7.8 Certain government titles or matter

The following words relating to government matters should generally be capitalised, because they are either titles or PCO style treats them as proper nouns—

- Act (or Bill) of Parliament
- Cabinet
- Commonwealth
- Crown, when referring to the Crown in right of New South Wales or another jurisdiction, which includes concepts such as Crown land
- Executive Council
- Government Gazette and Gazette (but gazetted)
- Governor (of the State, but governor of a correctional centre)
- House of Parliament
- Minister (of the Crown), Attorney General, etc.
- NSW Government (but non-government body) (see Specific body above)
- Ombudsman
- Parliament (but parliamentary)
- Premier
- Prime Minister
- Secretary
- State or Territory

Note—

- For an alphabetical list of terms applying PCO style and usage, see the PCO guide to capitalisation, PCO Standard, Appendix 4.

4.7.9 References—capitalisation

- For background on all PCO styles and language matters, particularly if PCO does not have a “house style”, see the online Australian Government [Style Manual](#).
- The relevant *Style Manual* pages on capitalisation are—
 - [Overview and general rules](#)
 - [Legal material](#)
 - [Government terms](#)
 - [Titles, honours and forms of address](#)
 - [Aboriginal and Torres Strait Islander peoples](#).

4.8 Quotation marks

- In amendment instructions, text that is to be omitted or inserted must be enclosed in double quotation marks. The text must be either a direct quotation from the target instrument or the exact text to be inserted into the target instrument.
- End punctuation, such as full stops, must appear after quotation marks if they are at the end of a sentence. This is in addition to any punctuation included as part of the text to be omitted from or inserted into the target.
- Quotation marks are not used around fragments.

Example—double quotation marks and other punctuation for amendment instructions

Omit “section 7 of Schedule 1” from clause 8(a).
Insert instead “, Schedule 2, section 7”.

Omit “A person convicted of an offence under this subsection is liable to imprisonment for 15 years.”.

Insert “, or to keep an electronic copy of the seal,” after “association”.

- If double quotation marks are part of the quotation, they should appear within the double quotation marks.
- Double quotation marks should not be changed to single quotation marks. If the double quotation marks appear at the beginning of the quoted text, a space can be included between the quotation marks (as shown below) to improve readability.

Example—quotation marks within quotation marks

Omit “ “State and Regional Mineral Resources” on the Significant Extractive Resources Map” from clause 6.10(2).

Insert instead “ “Mineral Resource Area” on the Mineral Resource and Transition Areas Map”.

- Double quotation marks are used to indicate a defined term when it appears in a heading.

Example—definition in a heading

[2] Section 4(1), definition of “Advocate”

Insert in alphabetical order—

Advocate means the Advocate for Children and Young People appointed under the *Advocate for Children and Young People Act 2014*.

5A Meaning of “reside on a property”

(1) Subject to subsection (2), a person **resides on a property** if the person...

- Double quotation marks may also be used when referring to labels in or on documents (e.g. maps).

Example—reference to a labelled area on a map

Type of land shown on Map	Authority of the State
Zone RE1 Public Recreation and marked “Local open space”	Council
Zone RE1 Public Recreation and marked “Regional open space”	The corporation constituted under the Act, section 8

4.9 Parentheses

Parentheses should not be used, except in exceptional circumstances.

Drafters should use commas or definitions or try to recast a provision before using parentheses.

Previously, parentheses have been used for providing in-line definitions (e.g. “(within the meaning of the *Default Act 2019*).”). Drafters should recast the provision to include a sectional definition.

Example

6 Use of sectional definition

- (1) A sectional definition may be used instead of parentheses.
- (2) In this section—

sectional definition has the same meaning as in the *Definitions Act 2019*.

Not—

6 Use of sectional definition

A sectional definition (within the meaning of the *Definitions Act 2019*) may be used instead of parentheses.

Parentheses were also previously used to highlight a particular definition in an amending heading. The example below sets out the current style and the former style for this type of amendment, noting that parentheses should not be used in these circumstances.

Example—current style

[7] Sections 38(2), 105, 106(1), (3) and (4), definition of “eligible person” and 119

Omit “police officer”. Insert instead “authorised officer”.

Not—former style

[7] Sections 38(2), 105, 106(1), (3) and (4) (definition of “eligible person”) and 119

Omit “police officer”. Insert instead “authorised officer”.

4.10 Commas

Use commas to locate a clause or phrase next to the word it modifies.

Commas should be used to avoid ambiguity or the unintentional humour that can be caused by “misplaced modifiers”.

Modifying words, phrases or clauses should be located as near as possible to the word or words being modified—“parenthetical” commas are often the best solution.

For the 3 examples below, the sentence will remain a complete sentence if the text within the commas is removed.

Examples

last-minute markdown means a product, supplied to consumers by a grocery retailer, with a selling price that is less than the selling price at which the product is ordinarily supplied ...

The original text had said that the retailer had a selling price—

... a product that is supplied to consumers by a grocery retailer with a selling price that is less ...

final price, of a grocery product, means the price, including GST and other taxes, at which the product is supplied by a grocery retailer to consumers.

The original text had suggested that GST and other taxes were included in consumers—

supplied by a grocery retailer to consumers including GST and other taxes.

- (a) 1 person, appointed by the Minister, who resides in the Hunter Region,
- (b) 1 person, appointed by the Minister, who resides in the Wollongong Region.

The original text suggested the person could be appointed only by the Minister who resides in the Hunter Region/Wollongong Region—

1 person appointed by the Minister who resides in the Hunter Region.

4.11 Apostrophes

4.11.1 Introduction

The rules for the correct use of apostrophes were not always clear-cut or observed, but there are now **2 principal uses** for apostrophes in English—

1. To indicate a possessive i.e. “ownership” of something—see the relevant sections in this entry and Appendix 5, Table 1 for a guide to this usage, including some exceptions/variations.

2. To indicate the omission of letters or sounds—see Contractions, PCO Standard 4.11.8, below and Appendix 5, Table 2 for a guide to this usage.

In the past, there was a third principal category of apostrophe use to form the plural of abbreviations, dates, letters, words and numbers. This usage now applies only to letters, except where there would be ambiguity or difficulty of comprehension—see Number formulations and letter clusters, PCO Standard 4.11.9.

4.11.2 Possessive forms

Apostrophes indicating possession have the following general conventions:

- For nouns not ending in “s”, possession is indicated by adding apostrophe-s to the end of the word, even if the noun is a plural (e.g. the Director-General’s opinion, the children’s rights),
- For singular nouns ending in “s”, possession is indicated by adding apostrophe-s (e.g. witness’s rights),
- For plural nouns ending in “s”, possession is indicated by adding just an apostrophe (e.g. the parents’ relationship).

The possessive forms of personal pronouns (e.g. yours, hers, its) do not have an apostrophe.

4.11.3 Greengrocer’s apostrophe

The most common error writers make with apostrophes is to add them to words that are simple plurals—just because a word ends in ‘s’ doesn’t automatically mean it needs an apostrophe. So ubiquitous has this error become that this type of usage has been dubbed the ‘greengrocer’s apostrophe’.

4.11.4 Descriptive nouns

Descriptive nouns (also known as noun adjuncts or attributive nouns) modify a noun. In other words, they are nouns acting like adjectives. When these are used in the plural form they do not have an apostrophe as they are not possessive. The exception is word forms that are already plural, to avoid use of a word that is not a regular form.

Examples

Workers Compensation Act 1987 (“workers” is a descriptive noun indicating a particular type of compensation)

Women’s College Act 1902 (“women” is already plural and the plural form of a descriptive noun requires an apostrophe)

Contrast the above with:

Miscellaneous Acts Amendment (Directors’ Liability) Act 2012 (possessive form—the liability belongs to the directors)

This use of apostrophes has changed over time, so variations can be seen in older parts of the statute book (e.g. *Workers’ Compensation (Dust Diseases) Act 1942*).

For matters relating to periods of time and expressions of distance, see Expressions of time and space, PCO Standard 4.11.6.

4.11.5 Place names

It is the policy of the Geographical Names Board of NSW that place names should not contain possessive apostrophes (e.g. Hunters Hill, Tom Uglys Bridge). Non-possessive apostrophes are still used (e.g. O’Connell Street). References to place names should be confirmed against official designations.

4.11.6 Expressions of time and space

Apostrophes should be used when the noun in an expression of time or distance is singular (e.g. 1 week’s leave, 1 metre’s displacement), consistent with use of the apostrophe to indicate the possessive form. Apostrophes should be omitted when the noun is plural (e.g. 4 weeks notice, 3 kilometres travel), consistent with the style for descriptive nouns.

For maximum periods of imprisonment in legislation, PCO style is to use “Imprisonment for 5 years” (rather than “5 years imprisonment”) (see Maximum periods of imprisonment, PCO Standard 3.4.1). An exception is in explanatory notes, where the latter phrase could appear, although this is likely to be rare. If it does, the apostrophe is **not** included, consistent with the style for descriptive nouns.

4.11.7 Gerunds

Opinion is divided about whether gerunds require the possessive form, and hence an apostrophe.

In the following example, the possessive form is used for the noun (“person’s”) before the gerund (“being”).

Example

Bail may be granted for the period between ... the person's being examined as a witness and ...

See the *Criminal Procedure Act 1986*, section 230(3).

Alternatively, the sentence could be written without using the possessive form.

Example

Bail may be granted for the period between ... the person being examined as a witness and ...

The latter is PCO's preferred style, consistent with PCO's Plain language policy.

Another option is to reword the sentence to remove any need for the possessive form.

Example

Bail may be granted for the period between ... the examination of the person as a witness and ...

This option is also more consistent with the Plain language policy.

4.11.8 Contractions

Apostrophes are also used to indicate that letters have been omitted from a joined word (e.g. it is = it's; cannot = can't). These forms are not used in legislation.

4.11.9 Number formulations and letter clusters

Forms involving numbers (usually decades) do not have an apostrophe, except to ensure comprehension (e.g. 1940s bungalow, 100s and 1,000s, but cf 0's with 6s and 7s). See also References to dates, PCO Standard 3.6.

Similarly, forms involving letter clusters that are plurals do not have an apostrophe (e.g. 40 MPs voted "no", a number of VIPs are expected, RISs are required for that set of instruments).

Unusual words may have an apostrophe to make them clear (e.g. dot the i's and cross the t's, if's and but's, do's and don't's).

4.11.10 Other information

- Commonly confused words, PCO Standard, Appendix 3
- Spelling, PCO Standard 1.4
- Pam Peters' *The Cambridge Guide to Australian English Usage* (various editions)

- [Geographical Names Board](#)

4.12 Plural forms

The table below outlines PCO's preferred plural spellings where more than 1 form exists. Most of these words have been derived from other languages (usually Latin). PCO generally prefers the common English plural form rather than the technically correct foreign plural form.

Some examples are set out in this table—

Singular	Plural
agenda (NOT agendum)	agendas (NOT agenda)
appendix	appendices
crematorium	crematoria
criterion	criteria
data (NOT datum)	data
formula	formulas (NOT formulae)
forum	forums (NOT fora)
index	indexes (NOT indices)
memorandum	memorandums (NOT memoranda)
money	money (NOT monies or moneys)
referendum	referendums (NOT referenda)
stadium	stadiums (NOT stadia)

4.13 Articles—“a”, “an” and “the”

4.13.1 General rules

An **article** is a word that is used with a noun to determine whether it is a specific (definite) or a general (indefinite) noun. Articles include “*the*”, “*a*” and “*an*”.

- “**A**” and “**an**” are ***indefinite articles*** indicating a noun is not specific and is general in nature.
- “**The**” is the ***definite article*** indicating a noun is a specific or particular thing identifiable to the reader.

4.13.2 When to use “a” and “an”

The rule: *a* before consonant sounds (including aspirated “h” and vowels that sound like “y” e.g. university), *an* before vowel sounds (and a silent “h”). Sentences should be written as they are intended to be read aloud, including with dollars or unit abbreviations being read in full.

Examples

an approval, a hotel, a habitual offender, an hour, a historic outcome, a European, an Australian legal practitioner, an L-plate, a sample, a young person, an \$80 million grant, a \$100 fine, a NSW Government agency

References to “a NSW Government agency” in legislation are intended to be read aloud as “New South Wales” and so are preceded by “a”. This is consistent with the [Interpretation Act 1987, section 13A](#).

Similarly, use of “a” or “an” before certain other abbreviations depends on whether the abbreviation is an acronym (i.e. pronounced as a word) or pronounced letter by letter. This is relevant for abbreviations beginning with a letter that requires a consonant sound when the abbreviation is pronounced as a word (e.g. a SORT decision, a RIS (when pronounced “riz”)), but a vowel sound when pronounced letter by letter (e.g. an SES unit, an RFS licence).

4.13.3 Definite and indefinite articles in New South Wales legislation— General vs specific terms

Articles can be used to distinguish between general items and specific items. In legislation, the difference between a person and the person could be substantial.

Example

A person who provides the Commissioner with information the person knows is false or misleading in a material particular is guilty of an offence.

In the above example, *any* person can provide the Commissioner with information and *that* specific person must know the information is false or misleading for it to be an offence. *The* Commissioner means it cannot be any Commissioner and is the one previously defined.

In most cases, the first mention tends to use the indefinite article for generic nouns (not Commissioner in this example); subsequent mentions tend to use the definite article.

4.13.4 Dropping subsequent articles

In lists within sentences, it is acceptable to drop articles to achieve a neater sentence, provided that the listed items relate to general and unspecified items of the same kind. In the example below, the indefinite article has been dropped before the bolded items.

Example

backpackers' accommodation means a building or **place** that has shared facilities, such as a bathroom, **kitchen** or **laundry**.

The indefinite article can be dropped even if the list is comprised of nouns that would usually have different articles because of their starting consonant or vowel sounds (e.g. “a bathroom or ensuite”).

Where an adjective appears between the article and the list of items, or nouns, the adjective applies to all the nouns.

Example

backpackers' accommodation means a building or place that has shared facilities, such as a **communal** bathroom, kitchen or laundry.

So, in the example above, the definition refers to a communal bathroom, a communal kitchen or a communal laundry.

If the adjective is **not** intended to apply to all the nouns in the list, the article **should** be repeated, to make this clear.

Example

backpackers' accommodation means a building or place that has shared facilities, such as a communal bathroom, **a** kitchen or **a** laundry.

4.13.5 “Second article” with defined terms

Keeping the second article, as bolded below, is preferred when the sentence describes 2 separate defined terms.

Example

the Commissioner or **the** officer in charge of the fire fighter.

However, the second article may be dropped if the items in the expression are related and can easily be grouped together, even if they are defined (as bolded below).

Example

A function of the Secretary of a Department is delegated to an **employee** or **officer**...

4.13.6 No articles in headings

No unnecessary articles should be included in headings.

Examples

Section 12 Powers of Commissioner (not Powers of the Commissioner)

Section 1.2 Aims of Plan (not aims of this/the Plan)

See also Headings, PCO Standard 2.4.

4.13.7 Articles dropped in common phrases

The use of articles should be consistent throughout legislation, particularly when using common expressions.

Example

another State or Territory

This example is the standard way in which PCO refers collectively to other jurisdictions. This phrasing is preferred to the technically correct expression “another State or a Territory”.

4.13.8 Use of “the” before corporate entities and other organisations

Full name

In New South Wales legislation, some entity names are preceded by the definite article and some are not.

Examples

Roads and Maritime Services may cancel the registration...

The Independent Commission Against Corruption and **the** Police Integrity Commission may enter into arrangements...

The Independent Pricing and Regulatory Tribunal is to conduct an investigation...

For existing entity names in NSW legislation, refer to, and match, the provision under which the entity was constituted.

Examples

There is constituted by this Act a corporation with the corporate name of Roads and Maritime Services.

See [the *Transport Administration Act 1988*, section 46\(1\)](#)

There is constituted by this Act a corporation with the corporate name of **the** Police Integrity Commission.

See [the *Police Integrity Commission Act 1996*, section 6\(1\)](#)

For new entity names, note that there is a general corporate trend towards dropping the definite article (Hudson, p 411). Check the entity's official website if you need to refer to it. For example, it is **The** University of Sydney ("The" capitalised) but University of New South Wales (no article).

Abbreviations

Entity names like those above are often abbreviated. In NSW legislation, these abbreviations are usually defined terms (e.g. **ICAC**, **PIC**, **IPART**).

In terms of whether or not these abbreviations are preceded by the definite article, generally they match their full name.

Examples

The PIC may investigate a complaint.

The Inspector and **the** ICAC may enter into arrangements.

However, sometimes the full name may be preceded by the definite article while the abbreviation is not. This may be because the abbreviation is a commonly used acronym (i.e. pronounced as a word rather than letter by letter).

Examples

IPART may request the Minister to refer a matter to IPART under this section.

4.13.9 Tips for checkers

- Article problems can occur when portions of text are copied from another instrument. Reading the complete revised text in context will help determine whether an article is correct.
- Articles can be included in a defined term where the term would otherwise be general, for example, **the Act**. When this occurs, the article should be included in each use of that term. See Use of Dictionary or definitions section, PCO Standard 1.5.
- Generally, the indefinite article should not be used in a defined term, only the definite article.

4.14 Less or fewer

Colloquially, “less” tends to be used indiscriminately as the opposite of “more”, but “fewer” may be more appropriate.

Use “less” for referring to generalised quantities of things—

- mass objects (e.g. “less furniture”)
- mass concepts (e.g. “less education”)
- singular mass nouns (e.g. “less livestock”).

Use “fewer” for referring to numbers of things—

- countable objects (e.g. “fewer tables”)—
except in connection with—
 - units of time (e.g. “less than 10 hours”)
 - units of measurement (e.g. “less than 50ha” or “less than 5km”)
 - currency (e.g. “less than \$20”)
 - percentages (e.g. “less than 10%”)
- plural mass nouns (e.g. “fewer people”).

To decide which to use, ask yourself whether the amount answers the questions—

- “How much?”—use “less”
- “How many?”—use “fewer”.

The ABC article [“Should you be using 'less' or 'fewer'?”](#) might also be helpful.

4.15 Which or that

4.15.1 Usage

The proper use of “that” and “which” is often confused.

“Which” and “that” are both relative pronouns serving different grammatical functions.

1. **“Which”** (always with associated commas) is used to introduce a non-defining (aka non-essential or non-restrictive) subordinate clause in a sentence.
 - The information contained in the subordinate clause is not essential to the central meaning of the sentence but merely adds extra detail that is effectively parenthetical.
 - The sentence would still make its main point if the subordinate clause were removed.
2. **“That”** (with no associated commas) is used to introduce a defining (aka essential or restrictive) subordinate clause in a sentence.
 - The information contained in the subordinate clause is essential to the central meaning of the sentence because it defines, limits or differentiates the subject of the sentence in some way.
 - Although the sentence would still make sense if the subordinate clause were removed, integral detail would be lost.

Notes—

When used to introduce a non-defining subordinate clause, “which” can never be replaced by “that”.

Example

... card or other document, such as a foreign passport, issued by a foreign authority that includes the customer’s name, signature and residential address, **which** may be a permanent or temporary residential address in Australia ...

1. However, “that” can be replaced by “which” (without associated commas) to introduce a defining clause, but **this is not current PCO style**.

Example—not current PCO style

A barrister who is asked by any person to do work or engage in conduct **which** is not barristers’ work, or **which** appears likely to require work to be done **which** is not barristers’ work, must promptly inform that person ...

- *Current PCO style would be to use “that” in place of each “which” in this provision (or to rework the provision):*

... to do work or engage in conduct **that** is not barristers’ work, or **that** appears likely to require work to be done **that** is not barristers’ work ...

2. “That” can often be omitted entirely from defining clauses—**omitting unnecessary use of “that” is current PCO style.**

Example

... confine any hearing to those issues ~~which~~**that** the barrister believes to be the real issues ...

- *Current PCO style is to omit the relative pronoun in this case—the meaning is clear without it.*

4. It is also current PCO style to, if possible, rework a sentence to avoid using “which” to introduce a non-defining clause.

Example

See section 21(2), **which** provides the only reasons for **which** a medical practitioner may refuse a first request.

- *This could potentially be reworked in the following ways—*
 - See section 21(2) for the reasons for which a medical practitioner may refuse a first request.
 - For the reasons for which a medical practitioner may refuse a first request, see section 21(2).
 - Section 21(2) provides the reasons for which a medical practitioner may refuse a first request.

4.15.2 That—to introduce defining clauses

Defining clauses should begin with “that” and should not be set off by commas.

Example

Nothing in this section affects any right **that** was acquired by, or became vested in, a person before the commencement of this section.

- *“that” needs to be retained here because it extends to include the additional parenthetical text set off by commas—notionally, the text includes “that” before “became”: ... any right that was acquired by, or [that] became vested in, a person ...*
- *Had the parenthetical text not been included, “that” could have been omitted from the sentence: ... affects any right **acquired** by a person before the commencement ...*

4.15.3 Which—to introduce non-defining clauses

Non-defining clauses should begin with “which” and must be set off by commas. But first ask yourself these questions:

- Should this actually be written as a defining clause introduced by “that”? (And, if so, is “that” needed for sense?)
- Could the sentence be reworked to avoid using “, which”?

Example—using “that” instead of “which” (or reworking the sentence)

assured inflows are the volumes of water, **which** historic hydrologic information indicates are the minimum **which** can be expected to flow into the water source.

- *In this example, the non-defining clause introduced by the first “which” would be better written as a defining clause introduced by “that”—and the first “that” could arguably be omitted altogether.*

- *The second “which” should definitely be replaced by “that” or also omitted—*

assured inflows are the volumes of water **[that]** historic hydrologic information indicates are the minimum **[that can be]** expected to flow into the water source.

Example—missing comma + reworking the sentence

... has an entitlement to a share of the income of the business **which** is substantial, having regard to the total income **which** is derived from the business.

- *In this example, the use of the first “which” is correct for the parenthetical information it introduces but the preceding comma is missing. It should be: ... entitlement to a share of the income of the business, **which** is substantial, ...*

- *However, the second “which” could be removed without affecting the meaning: ... having regard to the total income **derived** from the business.*

Example—reworking the sentence

SCSF Program means the multi-agency intervention strategy known as the Supporting Children, Supporting Families Program, **which** was originally established by the Government in September 2006 as the Anti-Social Behaviour Pilot Project.

- *In this example, the definition of SCSF Program makes sense regardless of the presence of the non-defining clause. The material in the non-defining clause simply adds extra information to the meaning of the term.*

- *However, the sentence could be reworked to remove the relative pronoun construction altogether while still retaining the background information: ... strategy known as the Supporting Children, Supporting Families Program, **originally** established by the Government in September 2006 as ...*

4.15.4 References—“which” or “that”

For background on all PCO styles and language matters, particularly if PCO does not have a “house style”, see the online Australian Government [Style Manual](#).

The relevant *Style Manual* pages on using “which” and “that” are—

- [Subordinate clauses](#)
- [Relative pronouns](#)

4.16 Split infinitives and verb phrases

4.16.1 General

A split infinitive or verb phrase is a verb form with an adverb in the middle of it rather than before or after it.

- The **infinitive** of a verb is the form with the preposition “to” e.g. “to go”, “to report”. This becomes a *split* infinitive when an adverb is placed between the preposition and the verb e.g. “to boldly go”, “to fully report”.
- A **verb phrase** is a form of verb made up of multiple words e.g. “would have gone”, “had been reported”. This becomes a *split* verb phrase when an adverb is placed between the words e.g. “would undoubtedly have gone”, “had been extensively reported”.

It was sometimes argued in the past that splitting infinitives and verb phrases must be avoided. But there are no sound grammatical grounds to avoid splitting, particularly if the alternative is an awkward or ambiguous construction.

4.16.2 Focus on clarity—splitting

From the standpoint of PCO style, the split infinitive or verb phrase is acceptable. As always, the primary goal is clarity, which is achieved by maintaining a plain English approach to achieve the intended emphasis and meaning.

Example—split infinitive

It is an offence for a person **to intentionally damage** common property.

- *If the infinitive were not split, the result would be more awkward: It is an offence for a person **intentionally to damage** common property.*

Example— split verb phrase

An instrument or document to which the seal **has been electronically affixed** has effect as if the seal had been physically affixed to the instrument or document.

- *If the verb phrase were not split, the result may be a little more awkward: ... An instrument or document to which the seal **has been affixed electronically** has effect as if ...*

4.16.3 Focus on clarity—not splitting

In the case of offences (and by extension obligations and responsibilities), poorly considered placement of words can lead to ambiguity as to the physical element of the offence to which “intention” applies—does it apply to the type of property or to the act of damage? The result may be clearer if the split infinitive or verb phrase is avoided.

Example—infinitive (not split)

... an offender who is subject to a community service work condition of an intensive correction order or community correction order has the following obligations—

- (i) **not to damage or deface** property that is on or forms part of a work site ...

- *If the infinitive were split, the result would be less clear: ... **to not damage or deface** property ...*

Example—verb phrase (not split)

... the new prescribed diagram has effect on registration as if it **had been registered immediately** before installation of the service line.

- *If the verb phrase were split, the result would have a quite different meaning: ... effect on registration as if it **had been immediately registered** before installation ...*

4.17 Diphthongs

4.17.1 General background

A diphthong is the distinct speech sound produced by combining 2 vowel sounds in a single syllable. (Note that it's about the *sound* and can occur with words that don't have 2 adjacent vowels in their spelling.) The vowel sounds work in conjunction to make a sound distinct from that produced by either letter individually. English is generally considered to have 8 diphthongs though the number of diphthongs can vary in English regional accents and dialects. Common words containing the various English diphthongs include cry, break, though, house, pair, fear, toy, sure.

4.17.2 'Ligature' diphthongs

'Ligature' diphthongs were traditionally used in the printing or writing of words that had a diphthong sound in classical Latin or Greek. In written English, these letter combinations appeared 'tied' together as a single, combined letter (as with a ligature).

The most common of these, "œ" and "æ", were still rendered in their combined form well into the twentieth century in words such as "foetus" and "orthopædic", and it is still common to use the diphthong letter combination "oe" and "ae" without the ligature.

The *Macquarie Dictionary* notes that the "ae" form is now commonly replaced with just an "e" (e.g. "encyclopedia", not "encyclopaedia"). However, PCO style is to retain the diphthong letter combination, such as "ae" in "orthopaedic" and "paediatric".

The *Macquarie Dictionary* notes that use of "oe" continues in legal and scientific terms. PCO style is to retain the diphthong letter combination "oe" in words like "subpoena", "foetus" and "oesophagus".

The single, combined form ("œ" and "æ") for these diphthongs is not PCO style.

4.18 Diacritical marks

Diacritical marks (i.e. as acutes, cedillas, graves, umlauts etc.) are a guide to the pronunciation of words derived from other languages, especially where those words have not been thoroughly anglicised. They are generally not used in NSW legislation. For example, PCO style is to use "cafe" not "café", "facade" not "façade", "cooperate" not "coöperate".

Exceptions apply to—

- personal, species or other formal names e.g. François's Leaf-monkey
- the expression "profit à prendre"

4.19 Exceptions to style

The major exception to PCO punctuation style is in inter-jurisdictional laws, e.g. applied laws or national laws, as the punctuation style is determined by the body, group or State or Territory that is the host body or jurisdiction for the law.

Punctuation style in amendments or modifications to these documents should be consistent with the original instrument.

Example—list punctuation in an applied law

- (7) In preparing an annual report, the Market Monitor is to have regard only to the following—
 - (a) information provided by the AEMC and the AER;
 - (b) any publicly available information;
 - (c) information provided by a retailer under subsection (8).

5 Tables style guide

5.1 Use

Tables can be used to provide information in an accessible and compact format, including for the following purposes—

- to list matters according to categories, where there is more than one category of listed things,
- to present information in an abbreviated form where the factors/criteria applied to persons or things are constant and the factors/criteria are applied to a number of persons or things with varying results,
- to list numerical or technical information.

For principal regulations that prescribe fees, the fees are generally listed in a table in a schedule. This format enables easy amendment and comparison of fees.

5.2 Limitations on use

- Tables should generally be placed at the end of the provision that gives effect to them.
- If the meaning and effect of a table is not clear on its face, reconsider its use or design.
- In cases where a table would be lengthy, it may be more appropriate to include the information in the form of a schedule rather than as a table in the body of an Act or instrument.
- A table that consists of a series of sections or larger structures may cause technical issues.
- A table within a table should not be used.

5.3 Giving effect to a table

It is not necessary to give effect to a table by referring specifically to each column of the table. Suggested forms for giving effect to a table are as follows—

Examples

- The considerations listed in [the table/Table [no]/the [name of table]] to this section are the only considerations that may be taken into account under this Act for the purpose of determining whether there is a substantial passenger transport component in a proposed project.
- The maximum attendance period for an inmate is the period specified for an inmate of that kind in [the table/Table [no]/ the [name of table]] to this section.
- The maximum gross floor space area and minimum landscaped area for development on land within a zone that is specified in [the table/Table [no]/the [name of table]] to this section are as specified in the table.

5.4 Content of table—headings

A short descriptive heading to a table is useful as a signpost in the text, instead of the heading “Table” alone. If there is more than one table to a provision, the table could be numbered as well as having a heading. A named table can be referred to as the “XYZ table” in amending and other provisions (see below).

A table does not need a separate heading if it is the only content of a schedule.

Examples

- **Table Bag limits for estuaries**
- **Table 1 Crustacean sizes**

5.5 Content of tables—columns

- Columns should have headings for referencing purposes and to provide meaning. They may also be numbered but are not required to be.
- Column headings may take the form of a single row containing descriptive headings for each column (e.g. “Minimum disqualification period”, “Maximum disqualification period”) or a double row containing numbers in the first row with descriptive headings in the second row.
- A column may be referred to by number (e.g. Column 1), if it is numbered, or by descriptor (e.g. the maximum disqualification periods) if a descriptive heading is used. If there is no number or descriptor, a column may be referred to as “the first column” etc.
- Text in a cell located in the first column of a table should start with a capital.
- If there is not intended to be a value or entry for a particular cell in the table, the cell should contain an em dash and not be left blank (see Em dashes, PCO Standard 4.4.3). This does not apply to Standard instrument LEPs.

5.6 Content of tables—rows

- The rows of a table should be ordered in the way that best gives effect to the purpose and meaning of the table.
- Generally, the following rules about order apply—
 - if ordered by value, including a reference to a provision, the values should be placed in ascending order, from the lowest number to the highest number down the table,
 - if ordered by date, the dates must be in chronological order, from the oldest to the most recent date down the table.
- Reduce complexity in ordering rows to make insertion of new rows easier (e.g. avoid using both item numbers and other forms of ordering).
- Item numbers for rows should not be used unless necessary. If used, item numbers in rows should be placed in the first column of the table and the numbers should be standard Arabic numbers without punctuation.

- Alpha and roman numbering can be used to divide content in individual items in table cells.
- However, some tables follow different rules for ordering content (e.g. [Schedule 5 of standard instrument LEPs](#)).

5.7 Reference to tables in legislation

- A table without a heading may be referred to as “section Y, table”.
- A table with a heading or a number may be referred to as “section Y, Table 2” or “section z, Fish Sizes table”.
- A column is referred to as “the table, Column 1”.
- A reference to the column should match the label (e.g. “Column 3”).

5.8 Amendments to tables

5.8.1 Deletions

Example—deletion of a whole row

Section 113 Restriction on use of protected titles

Omit the matter relating to Chinese medicine from section 113, [table/Table [no]/ the [name of table]].

Example—deletion of a numbered row

Section 113 Restriction on use of protected titles

Omit section 113, table, item 3.

Example—deletion of a row from a table in a schedule

Schedule 1 Prohibited animals

Omit the matter relating to dingos.

Similarly, see the [Fisheries Management Legislation Amendment Regulation 2023](#) Schedule 5[25] and [27] for examples of this style with reference to a heading.

5.8.2 Insertions

Example—insertion of a whole row

Section 113 Restriction on use of protected titles

Insert in appropriate order in section 113, [the table/Table [no]/ the [name of table]]—
psychology psychologist

See also the [Biosecurity Amendment \(Miscellaneous\) Regulation 2023](#), Schedule 1[3] for an example of an insertion.

5.8.3 Other amendments

Example—amendment where table has item numbers

Section 45 Insurance requirements for practitioners

Omit “dental” from section 45, item 3 of [the table/Table [no]/ the [name of table]].

Example—amendment where only specified columns of a table are being amended in relation to a number of the table topics

Section 48 Time limits for appeals

Omit “or 7 days” wherever occurring in section 48, Columns 2 and 4 of [the table/Table [no]/ the [name of table]] to the section.

Example—amendment limited to one topic in the table

Section 48 Time limits for appeals

Insert “, for a child, 7 days or, otherwise,” after “not later than” wherever occurring in the matter relating to new offenders in [the table/Table [no]/ the [name of table]] to the section.

See the [Liquor Amendment \(Special Events Extended Trading\) Regulation 2023](#), Schedule 1[1] for an example of omitting matter from a column to a table.

6 Amendment styles

6.1 Terminology and approach to amendments

In NSW, legislation is generally updated by directly amending the text (not by an older style sometimes referred to as amendment by reference). The amendment process is also called incorporation or consolidation.

Amendments to the text of legislative provisions are very specific and relate to whole words and punctuation, but do not need to account for spaces either side of the text. Text amendments are usually bounded by double quotation marks. In rare cases, if the text amendments are long phrases or sentences, the amendment can be set out in a fragment.

Structural amendments (i.e. the substitution or insertion of whole provisions) generally replicate the structure they refer to, including indenting etc. Structural amendments are not contained in quotation marks, but are set out as fragments to be included in the legislation being amended (the **target**).

6.1.1 Format of amendments

Amendments to Acts or subordinate instruments are generally done in the form of a schedule to an amending Act or instrument.

For amendments to an Act, the heading to the schedule includes the title of the target Act, including the Act number, in the form shown in the examples below.

For amendments to a subordinate instrument (e.g. a regulation or environmental planning instrument), the heading to the schedule includes the title of the instrument, in the form shown in the examples below.

Each amendment is an item in the schedule.

Examples

Schedule 1 Amendment of Dog Act 2016 No 1

[1] Heading of first item

Text of first item.

[2] Heading of second item

Text of second item.

Schedule 2 Amendment of Dog Regulation 2017

Heading of first item

Text of first item.

A number of instruments can be amended in one schedule. This format is used for the Statute Law Revision Bills, and is also often used to group consequential amendments to several instruments within 1 schedule. The schedule has a general heading and the subschedule headings include the titles of each target. Subschedules are generally in alphabetical order of target titles.

Examples

Schedule 1 Minor amendments

1.1 Cat Act 2015 No 2

[1] Heading of first item

Text of first item.

[2] Heading of second item

Text of second item.

1.2 Dog Act 2016 No 1

[1] Heading of first item

Text of first item.

[2] Heading of second item

Text of second item.

1.3 State Environmental Planning Policy (Infrastructure) 2007

[1] Heading of first item

Text of first item.

[2] Heading of second item

Text of second item.

...

Schedule 5 Consequential amendment of other legislation

5.1 Annual Reports (Departments) Act 1985 No 156

...

5.2 Government Sector Employment Regulation 2014

...

Note that the Act number should **not** be included in a heading that just contains a *reference to an Act* (as opposed to a target).

Example

**Schedule 3 Consequential amendments relating to enactment of
Government Sector Employment Act 2013**

3.1 Aboriginal Housing Act 1998 No 47

[1] Heading of first item

Text of first item.

If the amendments fit on one page with the machinery clauses (i.e. the name of instrument and commencement), they are generally included in clauses within the body of the amending instrument instead of in a separate schedule.

Example

1 Name of instrument

2 Commencement

**3 Amendment of North Sydney Local Environmental Plan
2013**

(1) Clause 4.3 Height of buildings

Omit clause 4.3(2C).

(2) Clause 4.6 Exceptions to development standards

Omit clause 4.6(8)(ca). Insert instead—

(ca) text of paragraph (ca),

6.1.2 Order of and headings to amendments

Within each schedule of amendments, the amendments are generally set out in the order in which the provisions being amended appear in the relevant Act or instrument.

Global (or grouped) amendments are located with reference to the first provision being amended (see Global amendments – PCO Standard 6.4).

Headings to amendments include the number of the provision being amended, in the form “Section 3” or “Clause 4”. The heading of the first amendment to a provision also includes the provision heading, after a single space.

Examples

Schedule 1 **Amendment of Government Sector Employment Act 2013 No 40**

[1] Section 3 Definitions

Text of amendment.

[2] Section 5 Persons to whom this Act does not apply

Text of amendment.

[3] Sections 41(5), 64(5)(b), 71(4) and 78(8)

Text of amendment.

[4] Section 44 Conditions of engagement

Text of amendment.

6.1.3 Incorporation instructions

Incorporation instructions are instructions about how a provision should be amended. They generally take the forms set out in 6.1.14 to 6.1.11.

6.1.4 Omissions and repeals

- For text—
Omit “x”.
- For whole provisions (e.g. subsections, paragraphs, parts)—
Omit [provision reference].

6.1.5 Substitutions

- For text—
Omit “x”. Insert instead “y”.
- For whole provisions—
Omit [provision reference]. Insert instead—
[new provision]

6.1.6 Insertions

- For text—
Insert “y” after “x”. (This is regardless of the length of y.)

- For whole provisions—
Insert after [provision reference]—
[new provision]

6.1.7 Precision in incorporation instructions

Incorporation instructions should be as specific as possible. For example, to amend section 5(1)(d), refer specifically to section 5(1)(d) rather than to section 5(1) or section 5.

Incorporation instructions must be precise. A direction to omit particular words from a provision, or insert text after particular words in a provision, must use the exact words of the provision. Otherwise, the incorporation will fail.

For example, if the incorporation instruction is to insert “or cat” after “the dog”, and the provision actually refers to “a dog”, the amendment will not incorporate.

Amendments are case sensitive. A direction to omit “the Director-General” wherever occurring will not cause “The Director-General” to be omitted.

6.1.8 Amendment of headings

All headings should be amended by direct amendment. This is the case despite the *Interpretation Act 1987*, section 35. This includes section headings, and headings to chapters, parts, divisions, subdivisions and schedules.

If the whole heading is to be omitted and reinserted, the number of the heading should also be reinserted.

Examples—Substituting a whole heading

[1]

Part 4, heading

Omit the heading. Insert instead—

Part 4 Cats and dogs

[2]

Section 38, heading

Omit the heading. Insert instead—

38 Horses and cows

If the heading is only partly amended, the text that amends the heading should be in bold (wrapped in [b] element).

Examples—Amending part of a heading

[3] Part 4, heading
Insert “**and cats**” after “**dogs**”.

[4] Section 36, heading
Insert “**and social media**” after “**email**”.

If a global amendment is made to a section (“wherever occurring”), the amendment will be presumed to capture the heading. As the amendment will change the heading it should not refer to the words of the heading.

Example—Global amendments

The amendment made in the previous example could be made by a global amendment if the words amended in the heading are also contained in the provision.

[5] Section 36
Insert “and social media” after “email” wherever occurring.

A global amendment to an instrument will change all headings, regardless of their legal status.

If a section heading is amended, including by global amendment, and then further amendments are made to the section, the amendment of the section should not include the current, or amended, section heading.

Example—Multiple amendments to section with amended heading—see combination of [6] and [7]

[6] Sections 20, 36 and 37

Insert “and sheep” after “goats” wherever occurring.

[7] Section 36(2)

Omit the subsection. Insert instead—

- (2) Subsection (1) does not apply if the person does not own farming equipment.

6.1.9 FrameMaker—headings

Replacement of a whole heading by insertion of only the heading (e.g. without the block/text or clause element that would normally follow a heading) requires a different fragment attribute for the format to be correct.

The fragment container for the amendment should include the “no” and “heading” elements only, and not the whole container (e.g. “part” element if the heading is a part heading, “clause” element if the amendment is to replace an existing section heading).

Depending on the amendment, the heading type attribute for fragments should be—

- chapterhead
- parthead
- divisionhead
- subdivisionhead
- schedulehead
- clausehead

6.1.10 Amendments to text of sections

The heading to the first amendment to a section must contain the number and heading to the section being amended.

The incorporation instruction contains a full reference to the provision being amended (i.e. in the example below, the reference is to “section 5(1)” not “subsection (1)”).

Examples

- [1] Section 5 Dogs in public places**
Insert “, parks” after “playgrounds” in section 5(1).
- [2] Section 11 Licences**
Omit “and Attorney General” from section 11(2).
- [3] Section 12 Fees**
Omit “\$40” from section 12(4). Insert instead “\$50”.

If a section has no subsections or paragraphs, it is not necessary to repeat the section reference in the incorporation instruction.

Example

- [3] Section 6 Restricted dogs**
Omit “distinctive”.

Headings to further amendments to the same section include the full reference to the provision being amended. The section heading is not repeated.

Because it is now in the heading, the incorporation instruction does not need to repeat the provision reference.

Examples

- [1] Section 5 Dogs in public places**
Insert “, or any other public area,” after “park” in section 5(2).
- [2] Section 5(3)(a)**
Omit “in the general vicinity of”.
Insert instead “within 10 metres of”.

6.1.11 Amendments to clauses and text in schedules

If the text to be amended is in a section within a schedule, the heading to the first amendment to the schedule contains the number and heading to the schedule.

The incorporation instruction contains a full reference to the provision being amended.

Example

- [3] Schedule 1 Constitution and procedure of Board**
Omit “4 years” from section 2(1).
Insert instead “2 years”.

Headings to further amendments to the same schedule include the full reference to the provision being amended. The incorporation instruction does not need to repeat the section reference.

Example

- [4] Schedule 1, section 4(1)(d)**
Insert “or Secretary” after “Minister”.

If the text to be amended occurs within a schedule without clauses, the above heading styles apply (and there is no need for any provision reference).

Example

[5] Schedule 2 Search warrants under other Acts

Insert in alphabetical order—

Dams Safety Act 2015, section 28

[6] Schedule 2

Omit “*Payroll Tax Rebate Scheme (Disability Employment) Act 2011, section 42*”.

6.2 Amending, omitting and substituting notes and examples

6.2.1 General

Notes and examples must be amended by a formal amendment to provide an audit trail and to assist with interpretation.

References in this page to sections and subsections generally also apply to clauses and subclauses.

There are 2 styles for amending notes—

1. If the note is to a part or other provision above section level, the heading to the amendment refers to the provision that contains the note followed by “note”. This is in line with PCO style for amending headings (see Amendment of headings, PCO Standard 6.1.8).
2. If the note is in a section or other provision at or below section level, the heading style follows the general style for amending notes below section level.

Examples

[1] Section 9 Dog licences

Insert “or 17” after “section 16” in section 9(1), note.

[2] Section 13, note

Omit the note.

If there is doubt as to which note is to be omitted—

[3] Section 13, note

Omit the note at the end of the section.

[4] Part 3, note

Omit the note. Insert instead—

Note— This is a note to a part.

[5] Section 42(3), notes 1 and 2

Omit the notes. Insert instead—

Note 1— This is a note to a subsection.

Note 2— This is also a note to a subsection.

[6] Section 44 Restrictions on chickens crossing roads

Insert at the end of the section—

Note— See also Schedule 2.

[7] Part 7A, Division 1, note

Insert after the heading to the division—

Note— This is a note to the division.

[8] Section 62(1)(a), note 3

Insert after section 62(1)(a), note 2—

Note 3— See also section 74.

[9] Section 5 Definitions

Insert at the end of section 5(3), definition of **owner**—

Note— This is a note to the definition.

[10] Section 5(3), definition of “police dog”

Omit the note to the definition.

6.2.2 Use of “wherever occurring”

Several occurrences of a word or phrase can be amended with 1 amendment by using the following form—

Examples

[1] Section 5 Dogs in public places

Insert “, parks” after “playgrounds” wherever occurring.

[2] Section 7 Dangerous dogs

Omit “distinctive” wherever occurring.

Insert instead “customised”.

The first example will insert “, parks” after **all** occurrences of “playgrounds” in section 5. Amendments can also be limited to specific provisions.

Examples

- [1] Section 5 Dogs in public places**
Insert “, parks” after “playgrounds” wherever occurring in section 5(1) and (4)(a).
- [2] Section 5(2)(b) and (7)**
Omit “and local council” wherever occurring.
- [3] Section 7 Dangerous dogs**
Omit “distinctive” wherever occurring in section 7(1).
Insert instead “customised”.

For omissions, the usual wording is “Omit “distinctive” **from** section 7(1)”. When using “wherever occurring”, the correct wording is “Omit “distinctive” wherever occurring **in** section 7(1)”.

6.2.3 Use of “respectively”

The amendment style that uses “respectively” should not be used. Instead, 2 amendments should be included, the first to replace “Clause” and a second separate amendment to replace “clause”.

Example (do not use)

Section 7 Conditions

Omit “Clause” and “clause” wherever occurring.

Insert instead “Section” and “section”, respectively.

6.3 Amendments to amending Acts

Amendments to amending Acts generally follow the same style as other amendments.

The text to be amended will usually be contained within a schedule of amendments (see Format of amendments, PCO Standard 6.1.1). Therefore, as usual, the heading to the first amendment contains the number and heading to the relevant schedule.

The incorporation instruction refers to the item being amended, and, where relevant, the proposed provision, in the following form—

Example

Schedule 7 Consequential amendments

1.1 Bail Amendment Act 2014 No 52

[1] Schedule 1, Amendment of Bail Act 2013 No 26

Omit “*Firearms Act 1996*” from Schedule 1[6], proposed section 16B(1)(e)(i).

Insert instead “*Weapons Prohibitions Act 1998*”.

Headings to further amendments include the full reference to the item and proposed provision being amended.

Examples

[4] Schedule 1[8], proposed section 20A(3)

Insert “or another” after “enforcement”.

[5] Schedule 1[22], proposed Schedule 3, clause 9(2)

Omit “(3)(c) or”.

If the item does not contain a new proposed provision, the item alone is referred to.

Example

[3] Schedule 1[20]

Omit “and (4)(a)”.

Entire items can be omitted, substituted or inserted in the same way as sections. See Amendments to provisions section level and above—omitting provisions PCO Standard 6.5.

6.4 Global amendments

Amendments to the text of multiple provisions with 1 amendment are sometimes referred to as global amendments or grouped amendments.

If the same amendment is being made to several provisions, the amendments can be grouped together in 1 amendment.

The heading to a global amendment should refer to all of the affected provisions, in numerical order. Consecutive provisions can be joined with an en dash and “and” should appear between the last 2 items or groups of items.

Provision headings are not required in the heading to the global amendment, even if it is the first amendment to the provisions - see Amendments to text of sections, PCO Standard 6.1.10. The exception is where multiple amendments are being made within 1 section (See Use of “wherever occurring”, PCO Standard 6.2.2).

Always use “wherever occurring” with global amendments, even if there is only 1 change to each listed provision.

Examples

[1] Sections 7, 8(2), 10(1)(a) and 14–17

Omit “Director-General” wherever occurring.
Insert instead “Secretary”.

[2] Sections 16U(3) and 16V(2)

Insert “and Community Services” after “Family”
wherever occurring.

[Even if “Family” occurs only once in section 16U(3) and
once in section 16V(2)]

6.4.1 Correcting numbering and duplicate errors

Occasionally, an error will occur and words or numbers are duplicated. The words should be omitted and reinserted if necessary, to remove duplicative words. The terms “first mention” or “where firstly occurring” should not be used.

Example

[4] Section 4(3)

Omit “the the person”. Insert instead “the person”.

6.4.2 Precision in headings to global amendments

References to provisions in the heading to a global amendment should be as specific as possible.

If the text to be amended is in section 5(1)(d), refer specifically to section 5(1)(d). However, if the text to be amended occurs in multiple paragraphs within section 5(1) (e.g. section 5(1)(a), (c) and (d)), refer to section 5(1).

6.4.3 Amending definitions with a global amendment

If the text to be amended appears within a definition, the definition should be included in quotation marks as follows—

Examples

[1] Sections 3(1), definition of “approved”, 15A, 179A(5), definition of “authorised” and 195(1)

Omit “Director-General” wherever occurring.

Insert instead “Secretary”.

[2] Sections 15A(3) and 179A(1A)(d) and dictionary, definition of “approved system”

Omit “Attorney General and” wherever occurring.

6.4.4 Amendments to whole Act or instrument

Occasionally, a whole Act or instrument may be amended with 1 amendment. This approach may be used if there is a risk of missing intended changes (e.g. relating to uncommenced amendments) or if listing each provision in the heading to the amendment would be unmanageable or cumbersome.

For whole Act or instrument amendments—

- Whole instrument amendments are usually the first amendment.

- The preferred heading is “**Whole Act**” (not “The whole Act”).
- Capitalisation must be taken into account.
- Singular and plural terms and expressions must be dealt with separately (e.g. a reference to “licence holder” does not cause “licence holders” to be amended).
- Savings and transitional schedules are usually excluded as they often include date-specific provisions where the original terminology needs to be retained. These schedules should only be excluded if a term or expression to be amended actually appears in the schedule.
- Use “except as otherwise amended by this [provision/instrument]” except where the terms or expressions do not occur anywhere else in the instrument. This phrasing explicitly deals with any overlapping amendments and also avoids the application of unintended changes in the event that amending items do not commence on the same day. The preferred wording is “as otherwise amended”, despite previous practices.
- Quotation marks do not need to be included around terms and expressions in a table amending a whole Act or instrument.

6.4.5 Tips for drafting and checking whole Act or instrument amendments

- If a whole Act amendment approach is used, the drafter and the editorial checker must check each amendment to ensure that it achieves the intended result. Missed word form changes and unintended changes to unrelated references are common.
- Amendments are made regardless of formatting. That is, the text of defined terms and legislation references will be amended by a global amendment. This is because formatting is only a current print style and has no structural or substantive meaning. For example, a global amendment to omit “Director-General” and insert instead “Secretary” will omit **Director-General** in a list of definitions and insert instead **Secretary**. Similarly, a global amendment to omit “Children” and insert instead “Young people” will change *Children and Young Persons (Care and Protection) Act 1998* to *Young people and Young Persons (Care and Protection) Act 1998*. Therefore, it is important to check all occurrences of the relevant term to avoid unintentional amendments.
- A global amendment also changes all headings, regardless of their status (See also Headings, PCO Standard 2.4).

6.5 Amendments to provisions section level and above—omitting provisions

6.5.1 Omitting one provision

Generally, the heading to the amendment contains the number and heading to the provision being omitted.

The incorporation instruction just refers to “the section”, “the part” or “the schedule”.

Examples

[1] Section 7 Dangerous cats

Omit the section.

[2] Part 2 The Authority

Omit the part.

[3] Schedule 3 Fees

Omit the schedule.

For a division—

- the heading refers to the relevant part, followed by the division number and heading
- the incorporation instruction just refers to “the division”.

Example

[1] Part 3, Division 1 Forfeiture

Omit the division.

6.5.2 Omitting multiple provisions

When omitting multiple provisions, the provisions can, but need not, be combined.

Consecutive provisions are joined with an en dash. Non-consecutive provisions are separated by commas with “and” between the last 2 items or groups of items.

The provision headings are not included when provisions are combined.

The incorporation instruction just refers to “the sections” etc.

Examples

- [1] Sections 7–9**
Omit the sections.
- [2] Sections 10, 11, 15–18 and 87**
Omit the sections.
- [3] Part 2–4**
Omit the parts.
- [4] Part 6, Division 3–5**
Omit the divisions.
- [5] Schedules 6 and 6A**
Omit the schedules.

6.6 Substituting provisions

6.6.1 Substituting one provision

The heading to the provision that is being replaced is not included in the heading to the amendment. This avoids potential conflict in intention with the new provision.

The incorporation instruction just refers to “the section” or “the part” etc.

Examples

[1] Section 7

Omit the section. Insert instead—

7 Dangerous cats

Text of new section 7.

[2] Part 3

Omit the part. Insert instead—

Part 3 Heading to new Part 3

15 Heading to first section of new Part 3

Text of new section 15.

16 Heading to second section of new Part 3

Text of new section 16.

[3] Schedule 2

Omit the schedule. Insert instead—

Schedule 2 Heading to new Schedule 2

sourceref

1 Heading to first section of new Schedule 2

Text of new section 1.

6.6.2 Substituting multiple provisions

If the amendment directly substitutes 1 or more provisions for the **same numbered** provisions—

- the heading refers to the provisions being replaced
- the incorporation instruction just refers to “the sections” etc.

Examples

[1] Sections 7 and 8

Omit the sections. Insert instead—

7 **Dangerous cats**

Text of new section 7.

8 **Other cats**

Text of new section 8.

[2] Part 3, Divisions 3 and 4

Omit the divisions. Insert instead—

Division 3 Heading to new Division 3

15 **Heading to first section of new Part 3, Division 3**

Text of new section 15.

16 **Heading to second section of new Part 3, Division 3**

Text of new section 16.

Division 4 Heading to new Division 4

17 **Heading to first section of new Part 3, Division 4**

Text of new section 17.

If the amendment substitutes a **different** number of provisions (or provisions with **different numbers**) for the existing ones—

- the heading refers to the **new** provisions
- the incorporation instruction contains a full reference to the **existing** provisions.

Examples

[1] Sections 10–11A

Omit sections 10 and 11. Insert instead—

10 **Heading to new section 10**

Text of new section 10.

11 **Heading to new section 11**

Text of new section 11.

11A **Heading to new section 11A**

Text of new section 11A.

[2] Schedules 4 and 4A

Omit Schedule 4. Insert instead—

Schedule 4 **Heading to new Schedule 4**

sourceref

1 **Heading to first section of new Schedule 4**

Text of new section 1.

Schedule 4A **Heading to new Schedule 4A**

sourceref

1 **Heading to first section of new Schedule 4A**

Text of new section 1.

6.6.3 Substituting sections and subsections with notes

A note to a section is automatically omitted by an instruction to omit the section. If there is any doubt as to whether the note is included in the instruction to omit the section, insert the phrase “including the note” or “excluding the note” at the end of the heading to the amendment. The need for further clarification usually only arises if the note is to the last subsection and there is doubt as to whether it is a note to the subsection or the section more generally.

Example

[4] Section 8 Other functions

Omit section 8(3), including the note. Insert instead—

- (3) A person may be employed in the Public Service under the *Government Sector Employment Act 2013* to enable the Authority to exercise its functions.

Note— This is a note to the subsection.

6.7 Inserting provisions

6.7.1 Inserting new provisions

The amendment heading refers to the number of the new provision that is being inserted. It does not include the heading to the new provision. This is to avoid updating issues and potential conflicts in the intention of the amendments.

The incorporation instruction usually says “Insert after section/Part x” (with “x” being the number of the provision of the same type immediately before the new provision).

Examples

[1] Section 3A

Insert after section 3—

3A Heading to new section 3A

Text of new section 3A.

[2] Schedule 2

Insert after Schedule 1—

Schedule 2 Heading to new Schedule 2

sourceref

1 Heading to first section of new Schedule 2

Text of new section 1.

For multiple provisions, the heading to the amendment refers to the numbers of the new provisions joined by an en dash (or “and” if there are only 2).

Examples

[4] Sections 3A–3C

Insert after section 3—

3A Heading to new section 3A

Text of new section.

3B Heading to new section 3B

Text of new section.

3C Heading to new section 3C

Text of new section.

[6] Part 3, Divisions 2A and 2B

Insert after Division 2—

Division 2A Heading to new Division 2A

16A Heading to first section of new Division 2A

Text of new section 16A.

16B Heading to second section of new Division 2A

Text of new section 16B.

Division 2B Heading to new Division 2B

16C Heading to first section of new Division 2B

Text of new section 16C.

6.7.2 Specifying location of new provision

Sometimes it is appropriate to use “insert before” instead of “insert after”, for example, to indicate that a new section should go in a particular part or division, or the section immediately before the new section to be inserted is to be omitted by the same amending Act.

Consider the following table of contents to an Act.

Example
Part 1 Preliminary
1 Name of Act
2 Commencement
3 Definitions
Part 2 Duties
4 Duties not transferrable
5 Management of risks

To insert a new section 3A at the beginning of Part 2, the amendment would look like this—

Examples
[1] Section 3A
Insert before section 4—
3A Principles that apply to duties
The following principles apply to duties—
...

The same principles generally apply to specifying the location of a new division within a part.

For information on numbering of provisions, see PCO Style for provision numbering, PCO Standard 2.9.

6.7.3 Omitting provisions

If the omission is the first amendment to the section or schedule—

- the heading to the amendment contains the section or schedule number and heading
- the incorporation instruction contains a full reference to the provisions being omitted.

Examples

[1] Section 7 Dangerous dogs

Omit section 7(2).

[2] Section 12 Fees

Omit section 12(b)–(d).

[3] Schedule 1 Constitution and procedure of Board

Omit clause 3(3).

For further amendments—

- the heading contains the full reference to the provisions being omitted
- the incorporation instruction just refers to “the [provisions]” (i.e. does not repeat the full reference that is in the heading).

Examples

- [2] Section 7(4)**
Omit the subsection.
- [3] Section 7(6)(a)–(d)**
Omit the paragraphs.
- [4] Schedule 1, section 5**
Omit the section.

Subsections or paragraphs being omitted do not need to be consecutive.

Examples

- [44] Section 52 Registration of credit traders**
Omit section 52(3) and (8).
- [45] Section 52(10)(a) and (d)**
Omit the paragraphs.

Different types of provisions (e.g. sections, subsections and paragraphs) can be omitted by one amendment.

The heading to the amendment refers to all the provisions to be omitted.

The incorporation instruction just refers to “the provisions” (rather than saying “Omit the sections, subsections, paragraphs...”).

Example

- [8] Sections 43, 87(2) and 88(1)(b)**
Omit the provisions.

6.7.4 Substituting provisions

If the substitution is the first amendment to the section or schedule—

- the heading contains the section or schedule number and heading
- the incorporation instruction contains a full reference to the provisions being replaced.

Examples

[4] Section 7 Dangerous dogs

Omit section 7(1)(a). Insert instead—

(a) text of new paragraph (a).

[5] Section 11 Licences

Omit section 11(1) and (2). Insert instead—

(1) Text of subsection (1).

[6] Schedule 1 Constitution and procedure of Board

Omit section 3(3). Insert instead—

(3) Text of subsection (3).

(3A) Text of new subsection (3A).

For further amendments—

- If the amendment directly substitutes 1 or more provisions for the **same numbered** provisions—
 - the heading contains the full reference to the provisions being replaced
 - the incorporation instruction just refers to “the [provisions]” (i.e. does not repeat the full reference that is in the heading).

Examples

[2] Section 7(2)(c)

Omit the paragraph. Insert instead—

(c) Text of new paragraph (c).

[3] Section 7(3)(e)–(g)

Omit the paragraphs. Insert instead—

(e) text of new paragraph (e),

(f) text of new paragraph (f),

(g) text of new paragraph (g).

[6] Schedule 1, sections 9 and 10

Omit the sections. Insert instead—

9 Heading to new section 9

Text of new section 9.

10 Heading to new section 10

Text of new section 10.

If the amendment substitutes a **different** number of provisions (or provisions with **different numbers**) for the existing ones—

- the heading refers to the **new** provisions
- the incorporation instruction contains a full reference to the **existing** provisions.

Examples

[4] Section 7(6) and (6A)

Omit section 7(6). Insert instead—

(6) Text of new subsection (6).

(6A) Text of new subsection (6A).

[5] Section 25(2)

Omit section 25(2) and (3). Insert instead—

(2) Text of new subsection (2).

[6] Schedule 1, section 4(1)(d)–(d2)

Omit section 4(1)(d). Insert instead—

(d) text of new paragraph (d),

(d1) text of new paragraph (d1),

(d2) text of new paragraph (d2).

6.7.5 Inserting provisions

If the insertion is the first amendment to the section or schedule—

- the heading contains the section or schedule number and heading
- the incorporation instruction contains a full reference to the provision after which the new provisions are to be inserted.

Examples

[4] Section 7 Dangerous dogs

Insert after section 7(2)—

(2A) Text of new subsection (2A).

(2B) Text of new subsection (2B).

[5] Schedule 1 Constitution and procedure of Board

Insert after section 14—

15 Heading to new section 15

Text of new section 15.

For further amendments—

- the heading refers to the **new** provisions
- the incorporation instruction contains a full reference to the provision after which the new provisions are to be inserted.

Examples

[2] Section 7(4A)

Insert after section 7(4)—

(4A) Text of new subsection (4A).

[3] Section 7(7)(d) and (e)

Insert after section 7(7)(c)—

(d) text of new paragraph (d),

(e) text of new paragraph (e).

[4] Schedule 1, section 8(3)

Insert after section 8(2)—

(3) Text of new subsection (3).

6.7.6 Inserting a subsection in a section that does not have subsections

To insert a subsection (2) in an existing section that does not have subsections, the amendment should not insert a subsection (1) in the existing section. Rather, simply insert the subsection (or subsections) “at the end of” the existing section. A “(1)” will be added before the existing text when the amendment is incorporated. The normal heading styles apply.

Examples

[4] Section 9 Dogs in public places

Insert at the end of the section—

(2) Text of new subsection (2).

[Not insert at the end of section 9.]

[7] Schedule 1, section 5(2) and (3)

Insert at the end of section 5—

(2) Text of new subsection (2).

(3) Text of new subsection (3).

[Not insert at the end of the section.]

Note that only the number (1) can be automatically inserted in this way. To insert a whole subsection before an unnumbered one and provide for the existing text to be numbered subsection (2), a specific amendment to insert that number must be made.

Examples

[4] Section 5 Licences

Insert “(2)” before “The Minister”.

[5] Section 5(1)

Insert before section 5(2), as amended by item [4]—

(1) Text of new subsection (1).

6.7.7 Repeal of subsections and paragraphs

If 1 paragraph is being repealed in a list of 2 paragraphs, the drafter should replace all the text so a single paragraph does not remain. The same rule applies for the repeal of a subsection if it would leave only a single subsection.

The drafter should also check for cross-references to the section or paragraph, which may be altered by this practice or by the omission.

Example

- (1) The following requirements are prescribed for the Act, section 88, definition of ***producers' market***—
- (a) the market or fair must contain a minimum of 20 stall holders displaying their produce directly to the public.
 - (b) (Repealed)

The example above should be redrafted so that paragraph (b) is not omitted—

- (1) For the Act, section 88, definition of ***producers' market***, a requirement that the market or fair must contain a minimum of 20 stall holders displaying their produce directly to the public is prescribed.

There are limited circumstances where the paragraph should be repealed, without replacing the text. One example is amendments to the *Crimes Act 1900*, where sections or paragraphs should not be re-used.

6.7.8 Firstly occurring, secondly occurring...

Drafters should not use the terms “firstly occurring” or “secondly occurring”, etc. when making amendments to existing provisions.

An amendment to a provision that uses a term twice should select additional words of the provision to amend so it is clear to the incorporator which term is to be amended.

Example

Use of secondly occurring (incorrect style – do not use)

[23] Section 70 Licensee endorsement includes RSA endorsement

Omit “RSA” where secondly occurring.

Correct style

[23] Section 70 Licensee endorsement includes RSA endorsement

Omit “RSA endorsement.” from section 70.

Insert instead “endorsement.”.

This presumes the first reference to “RSA” is followed by “endorsement,” or “endorsement” (without the full stop).

By referencing the full stop after “endorsement” instead of the comma it is clear to the incorporator which “RSA endorsement” in section 70 is being referred to.

See also Correcting numbering and duplicate errors, PCO Standard 6.4.1.

7 Graphics and formulas

7.1 Graphics

7.1.1 Overview

This part deals with the technical and other requirements for ensuring a high standard of presentation of graphics in both printed and online legislation in the As made/In force sections of the NSW legislation website.

A reference to graphics includes diagrams, flowcharts, pictures and image-rendered drawings. It also includes maps that display within a document. It does not include formulas (see Formulas, PCO Standard 7.2) or maps in PDF format.

Examples of graphics found in NSW legislation include traffic signs and symbols, images of ballot papers, diagrams of swimming pools and local government flowcharts. This part does not cover the policy or drafting decision about whether a graphic is required or suitable for an instrument.

7.1.2 Timing for preparation of graphics

Graphics should be prepared and provided to PCO early in the drafting process to give time for checking and corrections, if required. Problems with graphics can take time to resolve if they need to go back to technical staff within an instructing agency. Time should be allowed for this. All graphics issues should be resolved by the final production stage.

See also [Inserting a graphic in FrameMaker](#) (internal procedure document).

7.1.3 General requirements for all graphics

The following are the general requirements for all graphics. In relation to maps within a document, see also Specific extra requirements for maps, PCO Standard 7.1.4. Scanned images are not of sufficient quality and will not be accepted.

- Overall appearance
 - Graphics should look sharp and clear and not pixelated or blurry.
 - Photographs should not generally be used because they can be too visually dense and may not focus on the critical purpose of the graphic. Also, the file size can often be too large (in terms of bytes).
 - Graphics should not be or include matter subject to copyright or trademarked matter, including company names etc.
- Orientation
 - Portrait orientation is preferable, but landscape can be used if the graphic is large and the proportions require it (this usually only occurs for maps).

- If landscape orientation is used, the image should be rotated anticlockwise.
- Size
 - The graphic must fit within the normal text margins for printed legislation.
 - Signs and illustrations are usually sized in proportion to the provision in which they occur (see, for example, the [Road Transport \(Vehicle Registration\) Regulation 2017](#), Schedule 2).
 - Maps are often larger and may take up most of a page. For this reason, they are often included in a schedule instead of in general text (see, for example, the [Liquor Regulation 2018](#), Schedule 2).
- Formatting
 - The required file format is TIFF (tagged image file format), with the following specifications:
 - format version 5 or 6 or equivalent
 - 300 dpi or, if the detail in the graphic requires it, 600 dpi
 - 256 8-bit greyscale or colour
- Use of colour
 - Colour should generally not be used in graphics in Bills if it is important to the meaning of the graphic, as Bills are usually printed in black and white. If colour is needed in a graphic for a Bill, it must be approved by the Parliamentary Counsel.
 - Colour can be used in other instruments that are published electronically but should not be used except where necessary as it complicates the image. Traffic signs in the [Road Rules 2014](#) are an example of where colour is necessary for a graphic.
- Headings and captions
 - Each graphic should have a heading or caption. If a graphic is the only content in a schedule, the schedule heading can form the heading to the graphic.
 - Headings and captions should clearly identify the graphic and should be descriptive of the topic (e.g. “Maximum dimensions of a semi-trailer”) rather than generic (e.g. “Diagram 1”).
 - Headings and captions should be text and not included in the graphic (this enables searching).
 - Headings and captions must reflect the text of the instrument (e.g. if the text refers to the image as a “diagram”, the graphic caption should also refer to it as a “diagram”).
- Text/labels in graphics
 - Labels in graphics should be legible and free from typographical error, and should clearly point to the part of the graphic to which they relate.
 - Text in graphics should be kept to a minimum and substantive information included in the general text of the provision instead of in the graphic.
- Borders or boxes around graphics
 - In general, graphics do not have borders, except where required to give the graphic definition or distinguish it from the page or text. See Specific extra requirements for maps, PCO Standard 7.1.4.
- Cropping

- Graphics should not have large amounts of white space around them (they are usually cropped to leave about 2mm of white space around the graphic).

7.1.4 Specific extra requirements for maps

- Maps must have a border (this stops the area from appearing undefined against the page).
- Detail must not be too dense and should focus on the matter that is critical to the map.
- Labels for key components must be included, including nearby areas to provide context.
- Labels must be readable and free of typographical errors.
- Labels must not cover or obscure key boundaries, other labels or any other key details.
- A map legend/key must be included and must reflect the terminology of the instrument. For example, if the instrument refers to the Operational Area shown edged with a heavy black line, this must be reflected in the legend (as well as in the map itself).
- A scale bar must be included (note: not a text equivalent such as 1cm=1,000km, as the graphic will change size if zoomed in on).
- Australian spelling must be used for kilometres, metres etc or the abbreviated measurement.
- A north point must be included.

7.1.5 Graphics prepared by PCO

Some graphics can be prepared by PCO. These are mostly flowcharts and graphics that can be created with tables (e.g. ballot papers).

7.1.6 Amending graphics

In general, changes to graphics (including to text and labels within them) must be done by substituting the entire graphic. Except as provided below, graphics cannot be amended by omitting, inserting or substituting parts of the graphic. Changes to headings/captions can be made as standard text amendments.

It is possible to amend, rather than substitute, graphics that are prepared by PCO. However, this should only be done for amendments to text within the graphic. Changes to structural content still normally require substituting the graphic. For information about what options are available for a particular graphic, see a senior member of the Legislation Editing and Access team.

7.2 Formulas

7.2.1 Terminology

In NSW legislation, the term formula is used to describe calculated values. Equations are often referred to in general discussions, and the equations editor in FrameMaker is used to build formulas in draft legislation, but in legislative text the word “formula” should always be used.

7.2.2 Basic structure of provisions containing formulas

A provision setting out a formula usually contains—

- Lead-in text describing the matter to be calculated followed by an em dash,
- then the formula set out on a new line,
- followed by the word “where—” (with a lower case w),
- then a list of the definitions of the variables (that is, anything that is not a number or an operator like the equals and multiplication signs).

Example

- (1) The first payment of rent for an aquaculture lease that is granted or renewed is to be calculated as follows—

$$AP = \frac{DR}{365} \times AR$$

where—

AP is the amount to be paid.

DR is the number of days during the period beginning on the date when the lease begins and ending with 30 June the following year.

AR is the amount of rent payable under the lease for a full year.

Things to note—

- This style applies even if the formula is a simple single-line formula (e.g. $A = B + C$).
- A formula should be set out so that the value to be calculated is on the left, followed by an equals sign and then the body of the formula.
- Variables should always be in capitals (this is to aid readability).
- Formulas are in plain font, not italics.
- Variables can be chosen to represent what they describe (in the above example, AP represents the amount to be paid) or can use any other letters. When the

variables are not derived from what they refer to, the convention is to use A, B, C etc.

- Words are sometimes used instead of variables if a term explained elsewhere is being used in a formula. Words can be in mixed case.

Example

$$TV \times \frac{1}{1 - \text{FBT rate}}$$

- Definitions of variables should be kept with the formula and not moved to the end of sections/clauses (this applies even if there is a general definitions subclause – the variable definitions should not be combined with it).
- Formulas that occur in tables may have lead-in text and definitions that are arranged in columns or other variations.
- Variables can be referred to in general text by phrases such as “the matter relating to X”, “the value of X”, “the purposes of X” etc, as for other defined terms.
- Rarely, provisions may contain multiple formulas with shared definitions.

7.2.3 Tip for checkers and drafters

Determining if a formula is suitable mathematically is not part of an editorial check, as this is specialised knowledge for the instructing officer and drafter to resolve. However, the overall logic and consistency of the formula can be checked in a similar way to other text. For example, parentheses come in pairs, so every opening parenthesis must be paired with a closing parenthesis. Editors should ensure that all parentheses are accounted for.

Drafters need to be satisfied to the best of their ability that the formula achieves the required policy result.

7.2.4 Definitions of variables

All variables in a formula must be defined. The form of these definitions must be the same as they appear in the formula, for example if the formula contains the variable S_2 , the definition must also be S_2 , not $S2$; if the term “Hindsight ECCR” is used in the formula, the definition must follow that pattern of capitalisation.

The variable is generally followed by the word “is”. In contrast to other definitions, “means” is not used.

Each definition of a variable ends in a full stop (do not use “, and” to join definitions in a list).

The definitions of the variables in a formula are listed in the order in which they occur in the formula, not in alphabetical order. See Defined terms in formulas, PCO Standard 2.15.

Formulas are read left to right and, where there is a fraction, the whole numerator before the denominator (i.e. top to bottom).

Example

$$S_2 = \frac{(D + E) \times 110,000}{\Sigma E} - S_1$$

The variables in this formula must be defined in this order: S_2 , D , E , ΣE , S_1 .

In provisions that contain multiple formulas with shared definitions, all the variables in the first formula should be defined before the new variables in the second formula.

Special care must be taken when multiple formulas appear in close succession. A value calculated in one formula in a provision may be used to calculate a value in another formula elsewhere in the same provision. Ensure that every variable is accounted for.

7.2.5 “Old style” formulas

In some older legislation, formulas and their definitions may have a range of features such as all lower case variables, descriptive text in the formula, “Where” instead of “where”, an equals sign instead of “is” in the definition of a variable, conjunctions at the end of each definition and so on. If amending a formula or its definitions, the prevailing style should be maintained. However, wholly new (including wholly substituted) formulas and their definitions should be in the style outlined above and not the older style, even if there are older style formulas and definitions elsewhere in the legislation.

8 Savings, transitional and other provisions

8.1 Location of point-in-time provisions

Provisions in legislation about the state of a law or the effect of a provision that relate to a specific point in time should not be included in the body of an Act or instrument.

Examples of this type of provision include—

- provisions of a savings or transitional nature, and
- provisions making a regulation under a new principal Act if the regulation is contained in a schedule of the Act, and any provisions associated with the effect of that regulation, for example—
 - the effect of the [Subordinate Legislation Act 1989](#), Part 2 or section 10 on the regulation made under the Act,
 - the effect of the [Interpretation Act 1987](#), sections 39–41 on the regulation made under the Act.

8.2 When a savings or transitional provision may be needed

General

If there is a change in the law applying to a person, thing or matter and the change requires a decision to be made about whether, or to what extent, the new law will apply to the person, thing or matter.

Loss of office

If the effect of a new law is to remove a person from a statutory office or as a member of a statutory body, a provision is usually included to provide that the person is not entitled to compensation because of the removal. Note there may be legal ramifications arising from this and it is useful to make a loss of entitlement clear.

Retrospective operation

If a decision is made that new rules will apply retrospectively or affect a matter that would otherwise be preserved, an express provision setting out the proposed application will be required to overcome the effect of the common law presumption against retrospectivity and the [Interpretation Act 1987, section 30](#). In the case of changes made by Acts and affecting court proceedings, it may be prudent to make it clear whether the changes will apply to existing proceedings or prior actions. Generally, amendments to court rules themselves do not contain savings and transitional provisions.

Savings and transitional provisions should be used instead of retrospective commencement provisions where possible.

Delayed implementation

If a new licensing or regulatory scheme is being introduced that requires a change-over period or a staged or delayed implementation, provisions will need to enable the change-over period or the staged or delayed implementation.

Change in term or period

If the term of a licence or authority, or the period for doing something, is changed, a decision will be needed to make clear whether the new term or period applies to existing licences or authorities or things that have already occurred.

Conferral of new functions

If a new statutory body is given the functions of a previous statutory body, a provision may be needed to provide for any proceedings and other matters relating to those functions. One alternative is to provide that the new body is a continuation of, and the same legal entity as, the previous body. In that case, it is still necessary to include a provision stating that references to the previous body in other legislation or in any other instrument are to be construed as references to the new body. See also the [Interpretation Act 1987, section 53](#) for provisions relating to the alteration of the name or constitution of a statutory body.

Transfer of assets, rights and liabilities

If assets, rights and liabilities of a body are transferred by or under a law to another person or body that is not a continuation of or the same legal entity as the previous body, the usual savings and transitional provisions should be included e.g. the [Infrastructure NSW Act 2011, Schedule 2](#).

Re-enactment or replacement of regulatory Act

If an Act replaces or re-enacts a regulatory scheme or a law about a particular topic, the drafter should consider including a general catch-all provision deeming acts done under the previous law to be done under the corresponding provision of the new law e.g. [Gas and Electricity \(Consumer Safety\) Act 2017, Schedule 1, clause 3](#).

Staff movements

If a change to an Act provides for the transfer of staff from the government sector to private employment, the drafter should consider whether provision should be made in relation to accrued employment benefits and superannuation benefits. The superannuation benefits of persons in the public sector defined benefit schemes may, if required, be dealt with by retrospective orders (see the [Superannuation Act 1916, section 92](#), the [State Authorities Superannuation Act 1987, section 46](#) and the [State Authorities Non-contributory Superannuation Act 1987, section 27](#)).

8.3 Regulation-making power for savings and transitional provisions

Always include the standard savings and transitional regulation-making power in a schedule of a new principal Act. The schedule should be named “Savings, transitional and other provisions”, as not all provisions in the schedule, and consequential on the new Act, may be able to be classified as either savings or transitional provisions.

The FrameMaker list of precedents includes a precedent for a savings and transitional regulation-making power (see precedent below). This precedent limits the power to make regulations to a period of 2 years after the commencement of the relevant Act. This ensures that provisions remain “transitional” in nature, and provisions that are not transitional in nature are not requested many years after an Act is amended, and after the transitional nature of the amendment has passed.

Precedent – regulation-making power for savings and transitional provisions

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Regulations

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the commencement of—
 - (a) a provision of this Act, or
 - (b) a provision amending this Act.
- (2) A savings or transitional provision consequent on the commencement of a provision must not be made more than 2 years after the commencement.
- (3) A savings or transitional provision made consequent on the commencement of a provision is repealed 2 years after the commencement.
- (4) A savings or transitional provision made consequent on the commencement of a provision may take effect before the commencement but not before—
 - (a) for a provision of this Act—the date of assent to this Act, or
 - (b) for a provision amending this Act—the date of assent to the amending Act.
- (5) A savings or transitional provision taking effect before its publication on the NSW legislation website does not—
 - (a) affect the rights of a person existing before the publication in a way prejudicial to the person, or
 - (b) impose liabilities on a person for anything done or omitted to be done before the publication.
- (6) In this section—

person does not include the State or an authority of the State.

The standard savings and transitional regulation-making power does not permit retrospective regulations to be made affecting the existing rights of, or imposing liabilities on, a person other than the State or an authority of the State. If it is intended to affect any existing rights or impose liabilities relating to previous acts or omissions, a specific regulation-making power should be included to authorise this type of regulation to be made. An instruction to provide for this kind of power in a Bill should be discussed with a Deputy Parliamentary Counsel or the Parliamentary Counsel. Examples of provisions of this kind include the [Workers Compensation Act 1987, Schedule 6, Part 19H, clause 5\(1\) and Part 20, clause 1\(3A\)](#).

See [ADC0 Constructions Pty Ltd v Goudappel \[2014\] HCA 18](#) for a case upholding the validity of a regulation made under the [Workers Compensation Act 1987](#) that affected rights in a way that was inconsistent with that Act and that was made under an express power to make such an amendment.

8.4 Savings and transitional matters already covered by statute

Generally, most matters that might require a savings provision are covered by the [Interpretation Act 1987, section 30](#), which reflects the common law presumption against retrospectivity. It is not necessary to provide for matters covered by that section. However, a savings provision may expressly cover some of the same matters if the instructing agency requests the position about a particular matter be made clear on the face of the Act. The drafter may consider whether to qualify such a provision to make it clear that the operation of [Interpretation Act 1987, section 30](#) is not limited, though the same effect is also achieved by section 30(3).

- Other savings and transitional matters already covered by the [Interpretation Act 1987](#) are as follows—
 - the power to make administrative instruments in preparation for the exercise of a power, after the enactment of the law conferring the power but before its commencement ([Interpretation Act 1987, section 26](#)),
 - a repealed Act or statutory rule is not revived ([Interpretation Act 1987, section 28](#)),
 - repealed provisions continue in force until the new provisions commence ([Interpretation Act 1987, section 29](#)),
 - the effect of transferring a provision from one Act or statutory rule to another Act or statutory rule ([Interpretation Act 1987, section 30A](#)),
 - the amendment of an instrument by an Act does not prevent its later amendment or repeal by another instrument ([Interpretation Act 1987, section 30B](#)),
 - a change in the name of a body or office does not affect its identity and references to its old name are to be read as references to its new name ([Interpretation Act 1987, section 53\(1\)](#)),
 - a change in the constitution of a body does not affect its identity or functions, any legal proceedings instituted or that could have been instituted against the body or any investigation or inquiry into an action or practice of the body that was, or could have been, carried out in relation to the body ([Interpretation Act 1987, section 53\(2\)](#)),
 - references to an Act or statutory instrument that has been repealed and re-enacted or re-made extend to the re-enacted Act or re-made instrument as in force and references to provisions of the repealed Act or instrument extend to the corresponding provision of the re-enacted Act or re-made instrument ([Interpretation Act 1987, section 68](#)).

The [Crimes \(Sentencing Procedure\) Act 1999, section 19](#) covers the following savings and transitional matters for changes to penalties for offences—

- an increased penalty applies only to offences committed after the increase occurs,
- a reduced penalty applies to offences committed before the reduction occurs where the penalty is imposed afterwards.

8.5 Regulations containing savings and transitional provisions

Generally, savings and transitional provisions in a principal regulation should be located near the end of the regulation.

Consideration should be given to including savings and transitional provisions in a schedule of a principal regulation rather than in the body of the regulation, if the regulation contains a number of savings and transitional provisions or is likely to do so.

All new principal regulations that, except for name, interpretation and commencement provisions, contain only provisions of a savings or transitional nature, should contain the word “savings” or “transitional”, or both, in their name.

A principal regulation should not contain the word “savings” or “transitional” in its name unless it contains only savings or transitional provisions and, in particular, does not contain repeals or amendments. If repeals or amendments are necessary, they should be included in a separate regulation or the name should be changed.

Savings and transitional provisions in general regulations should be clearly labelled.

8.6 Subordinate Legislation Act 1989 and savings and transitional regulations

Savings and transitional regulations that contain no other provisions apart from the name, interpretation or commencement provisions are not subject to repeal under the [Subordinate Legislation Act 1989](#) if they were in force on 1 July 2010. Savings and transitional regulations made after that date are subject to repeal under that Act but are not required to be the subject of a regulatory impact statement under that Act.

The repeal of principal savings and transitional regulations not subject to staged repeal is undertaken in the Statute Law Revision Bill. For regulations that have a continuing effect, consideration should be given to whether it is appropriate to transfer the provisions to the principal Act and repeal the regulations.

If a drafter is amending a regulation that is not subject to staged repeal, but the amendments would make the regulation subject to staged repeal (i.e. to include provisions that are not savings or transitional provisions in a savings and transitional regulation) the drafter should notify the Legislation Editing and Access team. The Legislation Editing and Access team will update the metadata and the regulation is subsequently be identified as a regulation that is liable to repeal under the staged repeal program.

If a principal regulation is to be re-made because of the operation of the staged repeal program under the [Subordinate Legislation Act 1989](#), a general savings provision should be included in the regulation that saves acts, matters or things having effect under the repealed regulation. FrameMaker contains a precedent for this provision. The inclusion of the provision is subject to the circumstances of each case. The provision is in addition to the [Interpretation Act 1987, section 30 \(see section 30\(3\)\)](#). The *Interpretation Act 1987*, section 30(2)(d) expressly continues the effect of savings provisions if they are later repealed.

8.7 Provisions relating to consequential amendments

If a new principal Act is enacted and consequential amendments are made to another Act, savings and transitional provisions relating specifically to the consequential amendments will generally be put in the Act being amended rather than the principal Act.

8.8 Validation provisions

A savings and transitional provision that relates to a particular provision or provisions of a new principal Act, or a particular amendment in an amending Act, and which applies to things done on or before, or on or after, the commencement of the particular provisions or amendment, should refer expressly to the commencement of the particular provisions or amendment, rather than the whole Act to which it relates, if the amending Act does not, or has not, commenced on one day.

The preferred alternative is to commence savings and transitional provisions on the date of assent to an Act if they are expressed to be operative in relation to matters or things that could only have effect if the relevant changes to the law have commenced.

If neither of the above is practicable, another alternative is to refer to things done on or before, or on or after, the commencement of the savings and transitional provision. If this is done, the savings and transitional provision will need to be commenced on the same day as the relevant provision or amendment. However, this is discouraged from being used.

9 Schedules

9.1 Use of schedules

Schedules are generally included in an Act or other instrument to contain the following—

- amendments,
- savings and transitional provisions,
- repeals,
- penalty notice provisions or other information,
- provision for the indexation of fees,
- machinery or procedural provisions (e.g. procedure and constitution of committees and boards),
- codes or discrete pieces of technical information,
- detailed provisions that supplement important provisions in the body of an Act or instrument (e.g. provisions dealing with appointment and powers of an administrator or by-laws for strata schemes).

9.2 Schedule or body?

In deciding whether to use a schedule for provisions, consider whether a schedule is typically used for those types of provisions and whether a schedule may be useful as a drafting device for the organisation of those provisions.

For example, using a schedule may help avoid cluttering the body, detracting from the main principles included in the body or interrupting the flow of material included in the body.

9.3 Structure for schedules containing amendments

An amending schedule should always identify that it is an amending schedule and specify the name of the Act, regulation or other instrument being amended in the schedule heading or a subschedule heading. A heading referring to an Act that is being amended must also include the Act number (e.g. **Amendment of X Act No Y**).

Schedules containing amendments may be arranged with either headings referring to the Act or instrument being amended or, if a number of Acts or instruments are amended in 1 schedule, by a schedule with a general heading (e.g. **Amendment of Acts and instruments**) and subschedules referring to the names and numbers (if applicable) of the Acts or instruments being amended. If the heading of a schedule refers to the Act or instrument being amended, subschedules with a subject-matter reference may be used.

If an amending Bill contains a number of schedules that amend the same Act or instrument, each schedule must refer to the Act or instrument being amended and may also include a subject-matter reference. However, it may be useful to consider whether it would instead be preferable to have 1 schedule referring to the Act or instrument being amended that contains subschedules with the subject-matter reference only.

If repeals are listed in a schedule, text should be included at the beginning of the schedule to the effect that the following Acts/instruments are repealed (with no substantive enabling clause).

9.4 Automatic repeal of amending Acts

See Provisions of the *Interpretation Act 1987* and *Subordinate Legislation Act 1989*, PCO Standard 3.2.9 in relation to the automatic repeal of amending Acts.

9.5 Enabling provisions

9.5.1 General

Generally, schedules of principal Acts and instruments require enabling provisions. However, enabling provisions are not required—

- if the only effect of the enabling provision would be to provide that a schedule has effect, or
- for a penalty notice schedule in a regulation.

See also Enabling provisions for “amendment of instruments” schedules, PCO Standard 9.5.2.

A provision of a principal Act or instrument, or a note in a principal Act or instrument, may flag the provisions of a schedule. For example, a provision relating to the members of a statutory body may state that Schedule X contains provisions relating to members, instead of stating that Schedule X has effect in relation to members.

The enabling provision should clearly indicate the enabling provision. For example, an enabling provision may be contained in a definition within a subsection, and the provision should refer to it in this way (e.g. section 21(4), definition of **prescribed offences**).

If a schedule has an enabling provision, or if a provision in a principal Act or instrument flags the provisions of the schedule, the schedule must include a reference to the provision in the top right corner, following the schedule heading. This is done using the structure **sourceref** in FrameMaker.

Previously the reference to the enabling provision was in parentheses in the sourceref. Parentheses are no longer used.

Example of an enabling provision

82 Fees

The fees payable under the Act are listed in Schedule 7.

Example of a reference to the enabling provision using the *sourceref*.

Schedule 7 Fees

section 82

9.5.2 Enabling provisions for “amendment of instruments” schedules

If a schedule is in place to effect consequential amendments (an “amendment of instruments” schedule), according to the [Interpretation Act 1987, section 30C](#), the schedule is automatically repealed on the day after all its provisions have commenced.

As a result, the enabling provision for this type of schedule should include a self-repealing provision (see also Repeal of parts, divisions, sections and schedules, PCO Standard 3.2.5).

9.6 References to schedules

References to provisions, PCO Standard 2.6 provides for the order for references to provisions in an Act or references to provisions in another Act.

References to provisions of schedules of other Acts should generally have the name of the Act, the schedule number and the provision of the schedule.

If it is not possible to refer to a schedule or section in this way, a schedule should be referred to as “Schedule 1 **of** the Act” rather than “Schedule 1 **to** the Act”. This creates consistency in the way all provisions are referred to. This construction should only be relied on if it is not possible to refer to the schedule in the preferred way.

9.7 Correct term for provisions in schedules

In legislation drafted before 1 July 2021, provisions in schedules were called “clauses”. In legislation drafted on or after 1 July 2021, the provisions are to be called “sections”.

9.8 Dictionary schedules

A dictionary, if used, must be the last schedule in an Act or instrument (see Use of dictionary or definitions section, PCO Standard 1.5).

9.9 References to provisions in schedules

A reference in a schedule to a provision of the schedule does not need to confirm that the provision referred to is a provision of the schedule. However, if the provision referred to is a provision in the body of the instrument, the drafting should make that distinction.

Example

Schedule 5 Board

section 7

...

23 Procedures for board

- (1) The meetings must be held at the times specified in this regulation, section 8.
- (2) The minutes must comply with the requirements specified in section 28.

In this example, section 28 is presumed to be Schedule 5, section 28.

This practice also applies to a definitions section for the schedule.

Example

Schedule 6 Board

section 8

1 Definitions

In this schedule—

Board has the same meaning as in this regulation, section 55.

minutes—see section 28.

In this example, section 28 is presumed to be Schedule 6, section 28.

10 Subordinate instruments and proclamations

10.1 Subordinate instruments

Each provision in a new principal instrument, including instruments redrafted for staged repeal, should contain a reference to the provision of the Act that provides the regulation-making power for the provision.

A reference to the Act provision may be indicated in a heading or in the text of the provision itself or both.

The reference in a heading should use the abbreviated “s” for “section” or “ss” for “sections”. The heading reference generally should not specify a provision lower than section level (e.g. subsections or locator text/definitions). Pinpoint references that specify a provision lower than section level should be contained in the body of the instrument, rather than in the heading, to ensure that headings are brief.

If there is a provision that is the basis for each of the provisions in a part or division, there is no need to repeat the empowering provision in each separate provision. The same is the case for subsections. The empowering provision should be listed up-front, and then the rest of the part, division or section can be presumed to relate to that provision unless a contrary reference is made in another provision.

Drafters should consider whether the signpost of the regulation-making power will cause a heading to exceed one line. If possible, headings should be approximately one line in length. Preference should be given to referring to the provision in the body of the instrument if the heading is likely to be longer than one line due to referring to the regulation-making power.

If a regulation refers to all the powers that are relied on in the Act, there is no need to include the list of regulation-making powers in the explanatory note of the regulation. This practice also applies to explanatory notes for amending regulations if the amendments made clearly refer to the regulation-making powers or, if read with the target instrument, the power for the provision is clear.

If the drafter decides to follow an approach that is different from the general rule, including one of the two alternatives set out below, the drafter should raise this with the reviewer and manager of the Legislation Editing and Access team before checking commences to ensure the reviewer and manager are aware of the intentional departure from the general rule.

Examples—A reference to the Act provision may be indicated in a heading
23 Procedures for meetings—the Act, s 84

- (1) Board meetings must be held at least 4 times a year.
- (2) The minutes must comply with the requirements specified in Schedule 2.

Part 4 Procedures for board meetings—the Act, s 84

23 Number of meetings in a year

Board meetings must be held at least 4 times in a year.

24 Minutes of meetings

The minutes of the meetings must be kept—

- (a) by the Secretary, and
- (b) for at least 3 years after the date of the meeting.

Example—A reference to the Act provision may be indicated in the text of the provision itself

23 Procedures for meetings

- (1) For the Act, section 84(1)(b), board meetings must be held at least 4 times a year.
- (2) The minutes must comply with the requirements specified in Schedule 2.

Example—A reference to the Act provision may be indicated in both a heading and in the text of the provision itself

23 Prescribed persons—the Act, s 89

For the Act, section 89(2), definition of *prescribed person*, paragraph (c), the following persons are prescribed—

- (a) a police officer,
- (b) a lawyer,
- (c) a justice of the peace.

If the drafter considers that the general rule does not sufficiently highlight the relevant regulation-making power, the drafter may wish to include a pinpoint reference in the

heading.

Example

Part 7 Special licences—the Act, s 92(2)(k)

Alternatively, if, for example, a whole part in a regulation relies on a particular power, an overview section may assist.

Example

Part 7 Special licences

44 Overview

For the Act, section 92(2)(k), this part sets out—

- (a) the requirements that must be met by a person to be given a special licence, and
- (b) the application process for a special licence, and
- (c) the continuing professional development required to be met by a person who holds a special licence.

10.2 Proclamations

10.2.1 Commencing remaining provisions

If a commencement proclamation is intended to commence all remaining provisions of the Act, it should be drafted that way, rather than by reference to the specific provisions being commenced.

For example, if the only provision not commenced in an Act is Part 4, rather than the proclamation referring to the commencement of Part 4, the proclamation should refer to the commencement as “the day on which the uncommenced provisions of the Act commence”.

10.2.2 Order of provisions

See References to provisions, PCO Standard 2.6.

11 Explanatory notes and overview

11.1 Regulation-making powers

The paragraph citing empowering provisions may be omitted from the explanatory note if the provisions are correctly referenced in the body of the regulation. See Subordinate instruments, PCO Standard 10.1.

11.2 Listing grounds for RIS exemption

A list may be used to specify the grounds for a regulatory impact statement (RIS) exemption if more than one ground applies.

11.3 Henry VIII provisions, shell legislation and quasi legislation

11.3.1 Background and purpose

The Legislative Council's Regulation Committee inquiry into the making of delegated legislation in NSW recommended that explanatory notes to Bills—

- highlight the presence in the Bill of any Henry VIII clauses, shell legislation or quasi legislation,
- include an explanation as to why such a broad delegation of legislative power is considered necessary.

The Government response supported the use of explanatory notes in Bills to highlight the presence of Henry VIII clauses, shell legislation and quasi legislation.

Drafters are required to review draft Bills and subordinate instruments to consider if the draft contains provisions that could be identified as Henry VIII provisions, shell legislation or quasi legislation. If the draft contains provisions that fall within one of these categories, the explanatory note for the Bill or subordinate instrument should include the relevant statement set out in each of the precedents below/

Drafters should explain this requirement to the instructor with reference to the inquiry report and Government response. In the case of Bills, drafters should also remind instructors of the requirement to include an explanation of the policy rationale in the second reading speech.

11.3.2 Location of statements

For Bills, the statement should appear as the last paragraph in the overview of Bill section.

For regulations, the statement should appear as the last paragraph in the explanatory note.

11.3.3 Henry VIII provisions

PCO submitted the following definition to the Regulation Committee’s inquiry into the making of delegated legislation—

a provision of an Act that gives considerable amending power to delegated legislation and allows the delegated legislation to amend the Act under which it is made or other Acts.

PCO considers that Henry VIII provisions may be categorised as “direct” or “indirect”.

11.3.4 Direct amendments (i.e. textual amendments of the Act)

A provision of an Act that allows the Act to be amended directly by a subordinate instrument is a clear example of a Henry VIII provision. In this instance, a subordinate instrument amends the text of an Act in reliance on a Henry VIII provision. The amendments will be reflected in the text of the Act on the NSW legislation website.

Examples are—

- the power in the *Public Health Act 2010*, section 81 for a Ministerial order to amend or substitute the list of notifiable diseases in that Act, Schedule 2,
- the power in the *Health Practitioner Regulation (Adoption of National Law) Act 2009*, section 4(2) and (3) for a regulation to amend the schedule of the Act for the purposes of applying amendments to the *Health Practitioner Regulation National Law*.

Proposed precedents for Henry VIII provisions

Explanatory note for Bills

Proposed section [123] is a Henry VIII provision because the provision enables the making of regulations to amend the [Act, specified part, schedule etc].

Schedule 1[123] inserts a Henry VIII provision that enables the making of regulations to amend the [Act, specified part, schedule etc].

Explanatory note for regulations

[Clause/section 123] is made under a Henry VIII provision that enables the making of regulations to amend the [Act, specified part, schedule etc].

Generally

Henry VIII provisions that allow subordinate instruments to indirectly “amend” an Act are less clear cut.

PCO’s submission to the Regulation Committee’s inquiry acknowledged that all regulation-making powers could be classed as Henry VIII provisions. In the broadest sense, all regulations change the operation of the Act (e.g. regulations that contain the detail of a regulatory scheme established in the principal Act). For this reason, the submission argued that a broad definition is unhelpful.

The submission proposed instead that analysis of what is/is not a Henry VIII provision should consider whether—

1. the power exercised in the delegated legislation is properly executive or legislative in nature, and
2. the power should receive the enhanced scrutiny and debate reserved for legislative enactments.

Exemption powers as Henry VIII provisions

Exemption powers are a type of Henry VIII provision as the powers authorise the regulations to indirectly “amend” the Act by changing its operation.

For example, the *Betting and Racing Act 1998*, section 30(4) authorises the regulations to exempt a person, or class of persons, from an offence under the Act, section 30(3), which prohibits the provision of online gambling services. Similarly, the *Partnership Act 1892*, section 81(3) authorises the regulations to exempt, or provide for the exemption of, any person or class of persons from a specified provision of the Act.

The question as to whether an exemption power should be classed as a Henry VIII provision will turn on a case-by-case assessment of the extent to which the power undermines the legislative scheme. Drafters should consult their supervisor and Deputy Parliamentary Counsel for guidance when drafting an exemption power for a proposed Act or making a regulation under an existing exemption power.

Proposed precedents for exemption powers

Explanatory note for Bills

[Schedule 1[1]/Proposed section 1] may be a Henry VIII provision because the provision will enable the regulations to impliedly amend the [name of Act] by affecting the application of the Act.

Explanatory note for regulations

[Clause/section 1] may be made under a Henry VIII provision because the exemption impliedly amends the [name of Act] by affecting the application of the Act.

11.3.6 Shell legislation

PCO's submission to the Regulation Committee inquiry noted that shell legislation is akin to a Henry VIII provision as shell legislation transfers the power to legislate from the legislature to the executive. Shell legislation provides only the "bare bones" of a legislative scheme and leaves the details to be set out in delegated legislation.

One example of shell legislation is the *Occupational Licensing (Adoption of National Law) Act 2010*.

As the identification of shell legislation will always be a matter of judgment, drafters should consult their supervisor and Deputy Parliamentary Counsel if it becomes clear that the drafter is drafting a principal or amending Bill that amounts to shell legislation or a regulation under shell legislation.

If the Deputy Parliamentary Counsel confirms that a Bill or regulation is, or is made under, shell legislation, the drafter should include the following sentences in the explanatory note.

Proposed precedents for shell legislation

Explanatory note for Bills

[The proposed Act/ Proposed part/ Proposed section 123 etc] is shell legislation because the details of the proposed [scheme etc] will be specified by regulation.

Explanatory note for regulations

The [regulation, part etc] is made under shell legislation as the details of the proposed [scheme etc] are specified by this regulation.

11.3.7 Quasi legislation

Quasi legislation refers to the incorporation of non-legislative instruments (e.g. guidelines or codes of practice) into legislation.

The Regulation Committee's report provides the following examples of quasi legislation—

- the *Biodiversity Conservation Act 2016*, section 2.9(1), which allows for the regulations to provide for additional defences, including by reference to acts done in accordance with codes of practice made by the Minister,
- the *Marine Safety Act 1998*, section 138(1), which authorises the making of regulations to incorporate by reference any standards, rules, codes, specifications or methods, as in force at a particular time or as in force from time to time, prescribed or published by whatever means by an authority or body.

The following statement should appear in the explanatory note for—

- a Bill that incorporates a non-legislative instrument or allows for the regulations to do so (note that this applies to a Bill that inserts a power to incorporate documents as in force from time to time),
- a regulation that incorporates a non-legislative instrument.

Proposed precedents for quasi legislation

Explanatory note for Bills

[The proposed Act/proposed part/Proposed section 123 etc] is quasi legislation because the proposed [Act/Part/section etc] incorporates a non-legislative instrument.

[The proposed Act/Proposed part/Proposed section 123 etc] inserts a power to make regulations that are quasi legislation because the regulations may incorporate non-legislative instruments.

Explanatory note for regulations

The [regulation, part etc] is quasi legislation because the [regulation/part etc] incorporates a non-legislative instrument.

11.4 Commonly used phrases in explanatory notes

Circumstance	Suggested Word/Phrase	Example
General and commonly used ex note phrases	requires	Proposed section 80F requires a licensing authority to...
	provides for	Division 3 provides for the appointment and removal from office of...
Exempting someone from a requirement to do something	exempts	Division 12 exempts the Children's Guardian and staff of the Office of the Children's Guardian from the requirement to...
If the provision contains offences or penalties or makes something unlawful	makes it an offence to	Division 13 makes it an offence to take or threaten to take certain action against a person...
	makes it unlawful.../makes it unlawful in certain circumstances	Proposed section 50AC makes it unlawful for an employer to discriminate against an employee...
If there is a list of some kind	sets out	Proposed section 80D sets out the kinds of matters for which information-access arrangements may provide...

	provides a list	Schedule 1 provides a list of the entities that are referred to as a Schedule 1 entity...
If there are definitions at the start of a part	defines certain terms used in the proposed XX	Division 1 defines certain terms used in the proposed XX.
If there is a dictionary	contains the dictionary	Schedule XX contains the dictionary that defines certain terms used in the proposed Act.
Capturing several relevant provisions by reference to an overarching theme or the effect of the provisions	contains	Schedule 2 contains provisions relating to....
Giving power to someone or something	enables	Division 3 enables an Official Community Visitor to...
	allows	Schedule 1[9] allows statutory rules to make provision about the use of...
	authorises	Proposed section 80E authorises licensing authorities to...
If administrative review is available	enables a person to apply...	Part XX enables a person to apply to the Civil and Administrative Tribunal for administrative review of certain decisions.
Amendments	repeals	Schedule 2[3] repeals the LR(UP) Act, Schedule 3A, which limited the licences and registrations to which that Act, Part 4A applied.
	omits	Schedule 1[5] omits the definitions of relevant purpose and Secretary , which are made redundant by Schedule 1[1], [6] and [7].
	inserts	Schedule 1[2] inserts Part 4H (proposed sections 50AA–50AO) into the Principal Act.
	amends	Schedule XX amends the following instruments...
	makes consequential amendments	Schedule XX makes consequential amendments to Acts and instruments, including the following...
If there are savings, transitional etc. provisions	contains savings...	Schedule XX contains savings, transitional and other provisions consequent on the enactment of the proposed Act.

12 Matters relating to Parliament

12.1 Amendments in Committee

12.1.1 What is an AiC?

Amendments in Committee (AiCs) are proposed alterations or amendments to Bills in Parliament. AiCs can be proposed by any member with leave and at the appropriate time during the Bill's passage through Parliament.

If a House agrees to the second reading of a Bill, the Bill may proceed to consideration in detail (the term used in the Legislative Assembly) or committee of the whole (the term used in the Legislative Council). It is during this stage that the House considers and debates proposed AiCs.

Most members of Parliament request that PCO draft their AiCs. Timeframes can be extremely short and for this reason it is useful to have a good working knowledge of AiCs.

12.1.2 Long title

An AiC must be within the order of leave, that is, it must fall within the long title and the general scope of the Bill. However, the following should also be considered—

1. Generally, in an amending Bill, an AiC may amend an Act that is not already being amended unless the subject matter of the amendment is clearly outside the subject matter of the amending Bill.
2. The words “and for other purposes” at the end of the long title would not authorise the inclusion of a completely new matter unless it was generally consistent with the Bill.
3. An AiC should not reverse the principle of the Bill. The proponent should be advised to speak to the Clerks.

The Standing Orders of the Legislative Council provide for “Instructions to Committees”. If agreed to by the House, an Instruction for a Bill authorises the Committee of the Whole to deal with matters that may be outside the order of leave. The question about reversing the principle of the Bill will still be relevant. PCO's practice is to advise the proponent when an amendment is considered outside the order of leave and wait to be advised by the proponent whether the amendment sought should nevertheless be included on the basis that an Instruction would be sought.

12.1.3 What PCO will not draft

Information from the Clerks of Parliament indicate that they will not allow amendments to be proposed that—

- conflict, directly or indirectly, with the principle of the Bill as determined at the second reading stage,
- contradict a principle already agreed to,
- relate to an amendment already negatived (voted down),
- would result in the Bill being unintelligible,
- would make a provision inoperative.

12.1.4 New year, new AiC?

For a Bill carried over from a previous year, AiCs don't need to amend the short title or internal references to the short title. If a new print version is required, for example, a Second print or a vellum with amendments, an existing arrangement allows for the year to be updated at this point without formal parliamentary approval. An amendment just to update the reference to the year or to omit the word "further" from the phrase "Further Amendment" in the short title should not be drafted.

This is the case even if other amendments are being proposed. However, other changes to the short title need to be formally approved.

12.1.5 Confidentiality

The substance of non-government amendments is confidential and must not be given to any other party or member, or to the Government, without the member's approval. Similarly, the substance of Government amendments is also confidential and must not be given to any other party or member without approval.

Confidential information from, or discussions held with, a member must not be divulged or used when preparing amendments for another member.

If 2 members from different parties want what is in effect the same amendment, subject to the principle set out in the preceding paragraph, and to the relevant political demands, there is no need to draft the amendments using different language.

12.1.6 Government amendments requested

Amendments may be prepared on behalf of the Government and given to the appropriate departmental or ministerial officer. In some cases it may be necessary to clarify that the officer requesting the amendment is authorised to request the amendment. Any doubt about this should be raised with the Parliamentary Counsel or another senior drafter.

The officer requesting a Government amendment should be advised that the current arrangements are that Government amendments to any Bill, whether Government or non-government, should not be circulated or moved without prior Government approval. Officers should be directed to the relevant Minister's office or the Premier's Office for

advice on the matter.

Government backbench Members should be advised that they should not move amendments to a Government or non-government Bill without the prior approval of the relevant Minister. The only exception to this is an amendment to a Bill that is subject to a conscience vote.

It is not the responsibility of PCO to confirm with DPC that there is Government approval for amendments.

12.1.7 Consideration by LA of LC amendments

Occasionally PCO is asked to advise on or prepare amendments in connection with the consideration by the Legislative Assembly (LA) of amendments made by the Legislative Council (LC). This is where the LA is the initiating House for the Bill. Each occasion is handled according to its circumstances.

However, the Clerk of the LA has commented—

Rather than the Parliamentary Counsel producing a separate list of amendments, the amendments as set out in the Council Message would be considered in the Committee of the Whole. We [i.e. House officers] would provide the cue as to whether the amendment was to be agreed to or disagreed to or agreed to with amendments.

Therefore, any document prepared in the PCO would be more in the nature of guidance and would be needed principally when there were to be amendments proposed to the LC amendments. PCO should continue to deal with the LC amendments in the order (and numbered in the order) in which they appear, with an indication for each amendment as to whether it is agreed to, disagreed to or agreed to with amendments.

12.1.8 Schedules of amendments agreed to

When the House of initiation amends a Bill, it becomes a Second print. The Second print is required by the House so that the Bill can proceed to the other House.

When the House of referral amends a Bill, there is no print version in existence until the House of initiation agrees to the amendments. Because of this, no new print version is sent to the House of initiation. Instead, the House of referral sends a message, setting out the schedule of amendments that House agreed to, for the concurrence of the House of initiation.

In both cases, the Legislation Editing and Access team (LEA) relies on the House indicating which amendments were agreed to. For the LA, this means PCO is advised which amendments were agreed to and creates a schedule of amendments to load into

the Bill project and publish through to the Bill information page on the website. For the LC, PCO is sent the schedule of amendments as a Word document.

12.1.9 Form of amendments

The following general principles apply to the form of amendments—

- The document heading defaults to “Proposed amendments” when generated. The heading should be amended to “Proposed amendment” if there is only 1 amendment to be moved.
- The heading should reflect the current status of the Bill being amended, e.g. First print.
- Each amendment should be numbered and have a topic description in the following form—

No. 1 Topic
Amendment

- The correct order of references within each amendment is page number, clause number, line number. This should of course be adapted to suit the circumstances. If multiple pages are involved, the pages should be grouped. For example—
 - “Pages 30 and 31, clause 21, line 16 on page 30 to line 25 on page 31”,
 - “Pages 40–42, clause 31, line 16 on page 40 to line 25 on page 42”.
- When a clause (or part, division or schedule) of a Bill is to be omitted, the following form should be used—

Heading of clause/schedule/part/division

Page 4, clause 4, lines 3–8. Omit all words on the lines.

Old amendment sheets refer to voting “no” to a Schedule, etc. This style is outdated and should not be used.

- A discrete portion of text that is being inserted should adopt the ordinary style of legislation for ranging. For example, if inserting a new section, a fragment should be used (see the note at the end of this section for further information). If inserting a new list item, the fragment should be set to “para”.

Using the correct SGML mark-up should ensure correct display. However, fragments within fragments always have alignment issues. Legislation Editing and Access can help but, if time is short, unusual alignment is acceptable if the intention is clear.

- When substituting, use the “Omit... Insert instead...” style.

- Notes that are contained in the body of the Bill are to be amended in the same way as other text contained in the Bill.
- The explanatory note to a Bill is not amended. The explanatory note is considered to no longer apply to a Bill once it has been amended.
- It is permissible when there are complex amendments, with some amendments only being required if earlier amendments are approved, to indicate by notes in the text which amendments are consequential.

Note—

When inserting sections in fragments, the `auto.number.type` should be set to `belowclauseonly` on the fragment to the extent possible. This helps avoid duplicate numbering and accords with the principle of applying automatic numbering at the highest level possible.

12.1.10 Topic descriptions

A topic description is a bold item of text at the start of an amending item. Topic descriptions help members and House staff identify the nature of the amendments and facilitate the moving of related amendments on a single motion during the consideration/committee stage of the Bill.

Topic descriptions should be chosen to distinguish useful subject groups, avoiding overly generic topics (which would group items that are not meaningfully connected to each other) or topics that are too specific (which would prevent logical grouping).

However, it should not be presumed that items with the same topic description will be moved in a single motion—that is a matter for the Member and the House.

12.1.11 Guidelines for topic descriptions

The following guidelines apply to topic descriptions—

1. Relate the topic description to the content or purpose of the amendment

The topic description should relate to the contents or purpose of the amending item, not the affected provision of the Act or the provision of the Bill. Amendments that relate to different aspects of a topic should be given the same topic.

For example—

- an amendment allowing applications to be made and an amendment limiting the classes of people who can make an application should have the same topic description,

- an amendment relating to appointment of inspectors and an amendment to the transitional provisions relating to previously appointed inspectors should have the same topic description.
2. **Keep the heading concise**
The topic description should be concise (no more than a few words). For example, “Applications”, “Time limits”, “Terms and conditions”.
 3. **Different aspects of one topic can be further defined**
If amending items relate to different aspects of the same subject and do not necessarily need to be considered together, the different aspects can be distinguished by using an em dash. For example, “Draft plans—consultation” and “Draft plans—publication”.
 4. **Topic descriptions don’t have to be unique**
Where relevant, several amendments that address the one topic can logically take the same topic heading
 5. **Every item needs a topic description**
Topic descriptions must be included for each amending item, even if there is, or is likely to be, only one item, or only one item on a particular topic.
 6. **Order amendments by provision, not by topic**
Amending items are to be in Bill provision order and must not be reordered for the purpose of grouping items with the same topic together.

The exception to this is an amendment to the long title, which is moved last and should be included last on the sheet of amendments.
 7. **“Miscellaneous” heading**
If there is no usefully identifiable or specific topic description, use “Miscellaneous”. Miscellaneous topics will not be considered together during the consideration/committee stage and will be considered individually.
 8. **No slogans or political statements in topic descriptions**
Topic descriptions should not be slogans or otherwise political in nature.

12.1.12 Order of amendments and global amendments

Generally, amendments are made in the order of the provisions of the Bill being amended, except an amendment to the long title, which is moved last and should be included last on the sheet of amendments.

On rare occasions the House has resolved to deal with a whole Bill together during the consideration/committee stage. If this occurs, topic-based groups of amendments are

likely to be debated that range back and forth over the Bill. However, it is not possible to predict a House vote, so unless Standing Orders are changed, AiCs should follow the order of the Bill and leave it to the Clerks to advise on ordering of groups of amendments based on similar topic descriptions.

To date, if a large number of amendments are needed to change a term used in the Bill, PCO does not group the amendments together as a global amendment. PCO would not draft an amendment that provided for “Pages 1, 3, 5, 7 and 9, clauses 2, 4, 6, 8 and 10”. It’s been used once but in general this approach must not be used.

12.1.13 Numbering generally

A new provision inserted by an AiC in the middle of existing provisions takes the number of the provision it follows, with an alpha number added. For example, a new section being inserted in a principal Bill after clause 6 should be numbered as clause 6A.

Similarly, in an amending Schedule, a new item added after item [11] would be numbered as item [11A].

A new provision inserted by AiC at the end of a list of provisions (sections, subsections, paragraphs etc) takes the next, normal number unless there are multiple insertions at the same point (either within 1 sheet of amendments, or across sheets).

12.1.14 Alpha numbering and consequential renumbering

Alpha numbering allows focus to be placed on the amendment itself. Consequential renumbering addresses this once all agreed text changes have been taken in.

With alpha numbering, additions remain “floating” until the consideration/committee stage is over and all the amendments are settled. This also leads to a better outcome in terms of accurately and efficiently updating cross-references.

When the consideration/committee stage is complete and PCO has a schedule of amendments, Legislation Editing and Access will mark up the new print version to indicate the amendments to be taken in and to renumber where required. Newly inserted provisions, for example, clause 6A, which follows clause 6, are renumbered and affected cross-references are also renumbered.

Consequential changes like this relate to numbering only. Words cannot be changed without explicit amendment.

12.1.15 Commencement of new provisions

Drafters need to consider the commencement of proposed new items. The ability to make consequential changes only applies to provision numbering. It does not apply to words.

Consider the example of the following commencement provision—

2 Commencement

This Act commences as follows—

- (a) for Schedules 1.2 and 3.2[3] and [4]—a day or days to be appointed by proclamation,
- (b) otherwise—on the date of assent to this Act.

If Schedule 3.2 is omitted by an AiC, the drafter needs to consider how this affects commencement. If there was a Schedule 3.3 (that becomes Schedule 3.2 as a result of the omission of Schedule 3.2), it will not commence when it was intended to. If there was no Schedule 3.3, section 2(a) is now referring to provisions that no longer exist. An amendment is required to section 2(a) to omit “Schedules 1.2 and 3.2[3] and [4]” and insert instead “Schedule 1.2”.

Amendments inserted into a Bill by a non-government party or member should commence on assent.

12.1.16 Amendments to amendments

If, during the consideration/committee stage, a member wants to amend an amendment that’s already been agreed to, the amendment is drafted to the relevant amendment sheet, not the Bill. The agreed-to amendment isn’t part of the Bill until the consideration/committee stage has concluded and the Bill has been read a third time. If the consideration/committee is taking place in the House of referral, the agreed-to amendment isn’t part of the Bill until the House of initiation agrees to it.

12.1.17 Consequential changes

If, after a Second print is prepared, it becomes apparent that related and necessary amendments have been missed, this may be addressed by further amendment. The Parliamentary Counsel should be advised as soon as possible. Further amendment for this purpose is known as recommitment and should not be requested of the Clerks by anyone but the Parliamentary Counsel.

Attempting to make further amendments, even ones that are required, might not be seen as appropriate, taking into account the political climate or the make-up of the House.

12.1.18 Compilation of amendments

It is the responsibility of House officers to prepare any compilation of sets of amendments from different members for use in the chamber, although PCO may provide assistance if specifically requested. PCO would generally avoid preparing a compilation where inconsistent and competing amendments are involved. For Bills like the *Reproductive Health Care Reform Bill 2019*, the *Liquor Amendment (24-hour Economy) Bill 2020* and the *Voluntary Assisted Dying Bill 2022*, PCO kept a running

schedule of amendments and offline consolidation to help our office through the AiC drafting and negotiation stages.

12.1.19 Money bills—amendments that result in a money bill

While money bills are not to be introduced into the Legislative Council, it is not unheard of for a member of the Legislative Council to request an amendment that would lead to the Bill becoming a money bill. While such amendments have been refused in the past, the current position is that an opinion on the unconstitutional nature of the amendment is communicated to the member and a decision is then made on whether to draft based on the amendment requested. If an amendment proposes to expand an existing appropriation, for example, adding a permitted purpose to a fund, it may be drafted. Requests for AiCs that would lead to an appropriation should be raised immediately with the Parliamentary Counsel or a Deputy Parliamentary Counsel.

Example—Amendment of nature of appropriation

No. 1 **Use of Property Services Compensation Fund to assist residential landlords and tenants suffering hardship**

Page 28, Schedule 1.24. Insert after line 43—

[1] **Section 232**

Insert after section 231—

232 Use of Property Services Compensation Fund to assist residential landlords and tenants suffering hardship

- (1) Parliament recommends that this Act be amended to allow the Secretary to establish a scheme to provide financial assistance from money held in the Property Services Compensation Fund to landlords who are suffering financial hardship caused directly or indirectly by the COVID-19 pandemic, being a scheme that provides for the following—
 - (a) the landlord demonstrating that a tenant—
 - (i) has suffered a loss of income of 25% or more, and
 - (ii) has less than \$5,000 in savings, and
 - (iii) is paying more than 30% of the tenant's income in rent to the landlord,
 - (b) a maximum payment of \$2,500 per landlord per tenancy is available to a landlord,
 - (c) the landlord being required to reduce the tenant's rent by the amount of any payment under the scheme.
- (2) Terms used in this section that are not defined in this Act have the same meanings as they have in the *Residential Tenancies Act 2010*.

12.2 Example AiCs

12.2.1 Insert text

Example 1

No. 1

Board of Museums of History NSW

Page 4, clause 7(4)(a), line 18. Insert “or the archival profession” after “history”.

Example 2

No. 8

Receiving monetary benefits

Page 34, Schedule 5[45], line 22. Insert “knowingly” after “who”.

12.2.2 Omit text

Example 1

No. 4

Biodiversity credits

Pages 6–13, Schedule 1.1[16], line 7 on page 6 to line 9 on page 13. Omit all words on the lines.

Example 2

No. 19

Damage or disruption to major facility

Page 4, Schedule 2, proposed section 214A(1), line 6. Omit “enter,”.

12.2.3 Substitute text

Example 1

No. 4

Content of disclosures—disagreement with government policy

Page 10, clause 26(2), lines 20 and 21. Omit “to the extent that the information disclosed relates”. Insert instead “if the information disclosed relates only”.

Example 2

No. 2

Clean-up by occupiers or polluters

Page 29, Schedule 5[26], line 27. Omit all words on the line. Insert instead—

contributing to a pollution incident.

Example 3

No. 3

Clean-up notices

Page 30, Schedule 5[31], line 23. Omit all words on the line. Insert instead—

(b) a former director of the corporation who was a director of the corporation at the time the pollution incident occurred,

Example 4

No. 7

False or misleading information

Pages 33 and 34, Schedule 5[45], line 32 on page 33 to line 20 on page 34. Omit all words on the lines. Insert instead—

(1) A person who gives information to the EPA that the person knows is false or misleading in a material particular, or is

reckless as to whether the information is false or misleading in a material particular, is guilty of an offence.

Maximum penalty—

- (a) for an individual—\$500,000 or imprisonment for 18 months, or both, or
 - (b) otherwise—\$1,000,000.
- (2) Proceedings for an offence against this section may be instituted only by the EPA.

12.2.4 Insert new provision into existing structure

Example 1—new list item

No. 3 **Public officials**

Page 5, clause 14(1). Insert after line 3—

- (ea) a person providing goods or services to an agency, including a contractor, subcontractor or volunteer,

Example 2—new subsection

No. 12 **Restrictions and covenants on land**

Page 40, Schedule 5[73]. Insert after line 18—

- (4A) The EPA must not impose a restriction or covenant under this section unless the EPA has—
 - (a) given the owner of the land written notice that—
 - (i) includes details of the proposed restriction or covenant, and
 - (ii) invites submissions to the EPA about the proposed restriction or covenant, and
 - (iii) specifies a day (the **closing date**) not less than 28 days after the notice is given, by which submissions may be made to the EPA, and
 - (b) considered any submissions received by the EPA on or before the closing date.

Example 3—new section

No. 4 **Public officers**

Page 3. Insert after line 22—

7A Public officers

The oath of allegiance and the official oath must be tendered to and taken by all public officers required by order of the Governor.

Example 4—new amending item

No. 1 **Fit and proper persons**

Page 29, Schedule 5. Insert after line 21—

[24A] Section 83(5)

Omit the subsection. Insert instead—

- (5) In this section—
former director, or a corporation or a related body corporate, means a person who was a director of the corporation or the related body corporate at any time during the previous 3 years.

Example 5—new amending item before only amendment in Schedule

No. 1 **Minister to nominate land for reservation**

Page 3, Schedule 1. Insert after line 2—

[1] Section 30DA

Insert after section 30D—

30DA Minister must prepare reservation plan

- (1) As soon as practicable after the commencement of this section, the Minister must—
- (a) prepare a plan to ensure that, by 2030, at least 30% of land in the State is reserved under this Division, and
 - (b) publish the plan on the Department’s website.
- (2) The plan must also identify land of ecological or biodiversity significance for reservation under this Division.

Example 6—new amending item before existing amendment items in Schedule

No. 1 **Objects of Act**

Page 3, Schedule 1. Insert after line 2—

[1A] Section 3 Objects of Act

Insert before section 3(a)—

- (a1) to uphold the purposes and principles of the *United Nations Convention on the Rights of Persons with Disabilities*,

[1B] Section 3(e)

Omit the paragraph.

12.2.5 Omit whole provision

Example 1

No. 5 **All amendments to the *Roads Act 1993***

Page 3, Schedule 1, lines 1–32. Omit all words on the lines.

12.2.6 Amend short title

Example 1

No. 1 **Name of Act—Anti-Democracy**
Page 2, clause 1, line 3. Insert “(Anti-Democracy)” after “Amendment”.

Example 2

No. 1 **Name of Act**
Page 2, proposed section 1, line 4. Omit all words on the line. Insert instead “This Act is the *Abortion Law Reform Act 2019*.”.

12.2.7 Amend long title—last item on sheet

Example 1

No. 8 **Long title**
Insert “to amend the *Gaming Machines Act 2001* to restrict the use of cash for the use of gaming machines for the purposes of gambling” after “the Commission,”.

Note—an amendment to the long title should be the last item on the sheet.

12.2.8 Amend an agreed-to AIC—still in committee

In this case, the sheet heading “**Proposed amendments**” becomes—
Proposed amendments to [*sponsor party*] amendments [*sheet ref*]

Example 1

No. 1 **Penalty notice offences**
Insert the following after Opposition Amendment No. 7—
No. 7A Penalty notice offences
Page 33, Schedule 3.2[2]. Insert after the entry for section 114P(1)—
Section 117(5B) \$1,100

Example 2

No. 1 **Compensation Claims Independent Review Officer**
In c2020-095F Amendments Nos. 1–17, omit “Compensation Claims Independent Review Officer” wherever occurring, except from Schedule 4A, clause 2(1) in Amendment No. 11. Insert instead “Independent Review Officer”.

Example 3

No. 1 **Function of music festival roundtable**
In Opposition Amendment No. 28, proposed section 14(c), insert after “music festivals” the words “, including the document setting out the

findings of the Deputy State Coroner on 8 November 2019 in relation to the inquest into the death of six patrons of NSW music festivals”.

12.2.9 Amend an amendment in schedule of amendments passed by other House

In this scenario, the amendment is being proposed by the House of initiation **after** receiving a schedule of amendments from the House of referral. The sheet heading “**Proposed amendments**” becomes—

Proposed amendments to [House of referral] amendments to [House of initiation] Bill

Example 1

NOTE: It is proposed that the Assembly resolve to disagree to amendment No 7 of the amendments proposed and that the Assembly amend Nos 1 and 4 as follows—

Amend amendment No 1 by omitting “the person,” and inserting instead—

- the person, or
- (c) as part of a peaceful protest.

Amend amendment No 4 by omitting “the person,” and inserting instead—

- the person, or
- (c) as part of a peaceful protest.

12.3 Cognate Bill references

12.3.1 Quick checklist

- Lead cognate Bill—
 - Other cognate Bill titles are listed in the explanatory note.
 - Other cognate Bill titles are cited under the long title.
- Other cognate Bills—
 - Lead cognate Bill title is cited in the explanatory note.

See [NOM creation](#) (internal procedure document) for how to include cognate Bill information in NOMs.

12.3.2 Explanatory note – for lead Bill

The lead cognate Bill (usually referred to as the lead Bill) should have the following wording in the explanatory note—

The following Bills are cognate with this Bill—
[unnumbered list of cognate Bills in alphabetical order]
[no end punctuation for any of the list items]

For example, see the [Appropriation Bill 2021](#)—

Explanatory note

This explanatory note relates to the Bill as introduced into Parliament.

The following Bills are cognate with this Bill—

Appropriation (Parliament) Bill 2021

Electric Vehicles (Revenue Arrangements) Bill 2021

Environmental Planning and Assessment Amendment (Infrastructure Contributions) Bill 2021

NSW Generations Funds Amendment Bill 2021

If there is only one other cognate Bill, the wording is as follows—

The [title of cognate Bill] is cognate with this Bill.

For example, see the [Motor Sports Bill 2022](#)—

Explanatory note

This explanatory note relates to the Bill as introduced into Parliament.

The *Major Events Amendment Bill 2022* is cognate with this Bill.

12.3.3 Explanatory note – for other cognate Bills

Cognate Bills (other than the lead Bill) should have the following wording in the same place in the explanatory note—

This Bill is cognate with the [title of lead Bill].

For example, see the [Appropriation \(Parliament\) Bill 2021](#)—

Explanatory note

This explanatory note relates to the Bill as introduced into Parliament.

This Bill is cognate with the *Appropriation Bill 2021*.

12.3.4 Long title—for lead Bill

The titles of other cognate Bills are also cited below the long title of the lead Bill, preceded by the words “See also the”.

For example, see the [Appropriation Bill 2021](#)—

A Bill for

An Act to appropriate out of the Consolidated Fund sums for the recurrent services and capital works and services of the Government for the year 2021–22.

See also the *Appropriation (Parliament) Bill 2021*, the *Electric Vehicles (Revenue Arrangements) Bill 2021*, the *Environmental Planning and Assessment Amendment (Infrastructure Contributions) Bill 2021* and the *NSW Generations Funds Amendment Bill 2021*.

No details of the lead Bill or other cognate Bills appear under the long title of other cognate Bills.

12.3.5 Cognate Group in LEGIS

The lead and other cognate Bill references should match those shown in the Cognate Group in the Related Projects tab in LEGIS for the Bills.

The Cognate Group information in Related Projects will link the Bill pages together on the legislation website once the Bills are introduced.

12.4 Splitting Bills

12.4.1 General

The splitting of Bills can occur in the Legislative Council after a Bill has been second read, under an instruction to the Committee. It does not happen in the Legislative Assembly. Instructions are provided for in the Standing Orders of the Legislative Council (SO179), but there is no express reference to the splitting of Bills there.

The idea behind the splitting of a Bill is to enable the contents of the Bill to proceed in different ways. For example, a Bill could be split into 2 Bills so that the first could proceed and the second could go to a parliamentary committee.

12.4.2 Method

The general method is as follows—

- carve a new Bill from a Bill before the House,
- provide a long title and preliminary clauses for the new Bill,
- make consequential or substantive amendments to the Bill before the House,
- make consequential or substantive amendments to the new Bill.

This is a 2-step process that will result in a 2-part document—

- The first step is to create a new AiC in the existing Bill project. That AiC will make amendments to remove the parts of the Bill that are to be included in the new Bill

(or abandoned) as well as making other amendments to the remainder of the Bill. The AiC number at the top of this sheet needs to have the suffix "-1" added.

- The second step begins at the end of the AiC created in step 1. Using the FrameMaker precedent called "SplitBill(AiC)" from the Acts sub-menu will pull in a draft instruction to the Committee of the Whole to divide the Bill. The AiC number at the top of this sheet needs to have the suffix "-2" added.

The precedent also contains instructions for both drafters and the Legislation Editing and Access team about the use of the template and the steps required in LEGIS to complete the process. The instructions for the Legislation Editing and Access team are repeated below given that the drafting note is likely to have been deleted from the AiC document before it reaches the editorial process.

A sample of the precedent sheet is [available](#) (internal procedure document).

12.4.3 Process for the Legislation Editing and Access team

Instructions for Legislation Editing and Access team include reviewing the following—

- Turn the original Bill into a Second Print following the instructions in the [Bill Second Print, Third Print production procedure sheet](#), including printing and House PDF instructions.
- Create a new Bill project in LEGIS. This new Bill project is to be related to the original Bill that is being amended, using "Create Other Related Project".
- Create a new Bill document by launching the FrameMaker icon and incorporating the changes identified in the AiC.
- The new Bill will be a First Print without an Explanatory Note.
- Publish the Bill following the instructions in the [Bill final production procedure sheet](#) (internal procedure document).
- To create the First Print, follow the instructions in the [Bill Second Print, Third Print production procedure sheet](#) (internal procedure document), including printing and House PDF instructions. However, at the appropriate step of that procedure sheet select Bill Print Type > First Print instead of Second Print.

12.4.4 Example

The Electoral Legislation Amendment (Local Government Elections) Bill 2021 was split in the LC. The Bill was split into:

- The [Electoral Legislation Amendment \(Local Government Elections\) Bill 2021](#) [b2021-053]
- The [Local Government Amendment \(Elections\) Bill 2021](#) [b2021-067]

The Bill was split on 22 June 2021. The Hansard Record for the LC on this date includes the relevant details. A copy of the relevant AiC that was presented to split the Bill is [here](#). (internal document created for NSW LC document marked Government Amendment Electoral Legislation Amendment (Local Government Elections) Bill 2021, marked c2021-078D, received by the LC on 22/6/21 at 8:45pm).

13 Applied laws and model laws

13.1 References to applied laws

Applied laws are generally referred to by the name assigned to the applied law by the adoption or application Act that applies the uniform law as a law of NSW. The name usually includes “(NSW)” at the end.

For example, the [Health Practitioner Regulation \(Adoption of National Law\) Act 2009](#), section 4(1)(a) applies the *Health Practitioner Regulation National Law*, set out in the Schedule of the [Health Practitioner Regulation National Law Act 2009](#) of Queensland, as a law of NSW. Section 4(1)(b) specifies that the law may be referred to as the *Health Practitioner Regulation National Law (NSW)*. The applied law, as modified in NSW, is [separately listed as an Act on the NSW legislation website](#). The name of the applied law is also found in the citation provision (section 1) of the *Health Practitioner Regulation National Law (NSW)*.

Applied laws do not have official Act numbers. Instead, applied laws have file references based on the year and number of the adoption or application Act that applies the law as a law of NSW. The year and file number will be followed by an “a”. These numbers are included in information displayed on the NSW legislation website but should not be used for formal reference purposes.

Uniform laws set out in an NSW Act, rather than an Act of another jurisdiction, generally also follow the same approach. The *National Law (NSW)* will also be separately listed on the NSW legislation website. In some instances, the National Law that applies in NSW will not be listed separately on the NSW legislation website, but rather set out in the NSW Act that applies the National Law as a law of NSW. The *Co-operatives (Adoption of National Law) Act 2012* and *Electronic Conveyancing (Adoption of National Law) Act 2012* are examples of uniform laws set out in NSW Acts. Both Acts provide (at section 4(1)) that the relevant national law applies as a law of NSW and may be referred to as the *Co-operatives National Law (NSW)* and *Electronic Conveyancing National Law (NSW)*.

13.2 Regulations made under applied laws

Regulations or other statutory instruments made under an applied law should be referred to by the name specified in the citation provision. Note that the Regulations will generally be made under the applied law (i.e. the *National Law (NSW)*, rather than the adoption or application Act), and will therefore appear under the applied law on the NSW legislation website.

13.3 Examples of applied laws and regulations under applied laws

Source Act and jurisdiction	Adoption or application Act	Applied law	Regulation
<u>Children Education and Care Services National Law Act 2010 of Victoria</u>	<u>Children (Education and Care Services National Law Application) Act 2010</u>	<u>Children (Education and Care Services) National Law (NSW)</u>	<u>Education and Care Services National Regulations</u>
<u>Health Practitioner Regulation National Law Act 2009 of Queensland</u>	<u>Health Practitioner Regulation (Adoption of National Law) Act 2009</u>	<u>Health Practitioner Regulation National Law (NSW)</u>	<u>Health Practitioner Regulation National Law Regulation 2018</u> <u>Health Practitioner Regulation (New South Wales) Regulation 2016</u>
<u>Heavy Vehicle National Law Act 2012 of Queensland</u>	<u>Heavy Vehicle (Adoption of National Law) Act 2013</u>	<u>Heavy Vehicle National Law (NSW)</u>	<u>Heavy Vehicle (Fatigue Management) National Regulation (NSW)</u> <u>Heavy Vehicle (General) National Regulation (NSW)</u>
<u>Rail Safety National Law (South Australia) Act 2012 of South Australia</u>	<u>Rail Safety (Adoption of National Law) Act 2012</u>	<u>Rail Safety National Law (NSW)</u>	<u>Rail Safety National Law National Regulations 2012</u>

14 Guides for specific legislative issues and legislation

14.1 Licensing and registration schemes

Licensing and registration schemes are schemes that prohibit an activity unless the person carrying out the activity holds an authority permitting the person to carry out the activity.

The name of the authority can vary (e.g. licence, registration, permit, authority) but the schemes all have common elements.

14.1.1 Tips for drafters—common elements of licensing and registration schemes

Some common elements of licensing and registration schemes are—

- the prohibition of the activity for which licence or registration is required,
- an application for the licence or registration, including fees and requiring additional information from applicants,
- eligibility requirements to obtain licence or registration,
- the power to grant or refuse a licence, impose conditions and provide for a term of licence or registration,
- the transfer of a licence or registration,
- the renewal or restoration of a licence or registration,
- provisions regulating particular aspects of the activity subject to the licence or registration,
- notice of change in the particulars of the holder of the licence or registration and an associated offence for failing to notify,
- financial requirements – e.g. trust account requirements,
- disciplinary provisions for dealing with complaints and taking action against the holder of a licence or registration, including suspension or cancellation of the licence or registration or imposing or varying conditions of the licence or registration,
- appeals against disciplinary decisions, e.g. to Civil and Administrative Tribunal,
- enforcement – inspectors and search and entry powers,
- offence of holding oneself out to be licensed or registered,

- prohibition of false or misleading applications (though this is covered by the [Crimes Act 1900](#), Part 5A),
- administrative requirements, including record keeping and reports,
- evidentiary certificates relating to licence or registration status,
- fees, including for applications and for licences and registration, and waiver and refund of fees,
- a regulator for the scheme.

In drafting a scheme, drafters should be aware of not including provisions that inhibit online registration. For example, drafters should not include a requirement that further *documentary evidence* may be required, when the reference could be to *further evidence or information*.

14.1.2 Licensing and Registration (Uniform Procedures) Act 2002

The [Licensing and Registration \(Uniform Procedures\) Act 2002](#) was enacted to provide uniform provisions for licensing and registration schemes enacted in other Acts. It contains provisions relating to—

- (a) making and dealing with applications,
- (b) the transfer and renewal of licences and registration,
- (c) the commencement of licences and registrations and other matters.

The provisions are adopted by amending the [Licensing and Registration \(Uniform Procedures\) Act 2002](#), Schedule 1 or 2 to insert the name of the adopting Act.

The adopting Act may also modify the application of the uniform provisions. For an example of an Act that adopts the uniform provisions, see the [Motor Dealers and Repairers Act 2013](#), in particular section 21, and the [Motor Dealers and Repairers Regulation 2014](#), clauses 8 and 12.

A disadvantage of adopting this Act is that the reader needs to look in 2 places to find all the relevant elements of the licensing or registration scheme and also consider any changes made to the application of the uniform provisions by the adopting Act.

14.1.3 Licensing schemes and automatic mutual recognition

The [Mutual Recognition Act 1992](#) of the Commonwealth was amended in 2021 to introduce an automatic mutual recognition (AMR) scheme (Part 3A of that Act). The intention of the scheme is to allow individuals licensed for an activity covered by an occupation in one participating jurisdiction to carry out the activity in another participating jurisdiction without requiring the individual to be registered in the second jurisdiction.

14.2 Evidence Act 1995 (NSW)

14.2.1 Courts and proceedings to which the *Evidence Act 1995 (NSW)* applies

Generally speaking, the [Evidence Act 1995](#) of NSW (the **EA (NSW)**) applies to proceedings in the Supreme Court, any other court created by the NSW Parliament (including a State court exercising federal jurisdiction) and any person or body that, in exercising a function under a law of the State, is required to apply the laws of evidence. It applies to bail proceedings, interlocutory proceedings and matters heard in chambers. It applies to sentencing proceedings if the court directs (see section 4).

14.2.2 Elements of the Act

The EA (NSW), section 143 is of particular interest to PCO. It provides that proof is not required about the provisions and coming into operation (in whole or in part) of Acts, statutory instruments and other instruments of a legislative character and that a judge may inform themselves about those matters in any way the judge thinks fit. See also section 144(1)(b), which refers to proof about knowledge that is capable of verification by reference to a document the authority of which cannot reasonably be questioned.

14.2.3 Rules or laws of evidence

The EA (NSW) is not a code although it codifies some common law principles (section 9) and is generally considered to comprehensively cover competence and compellability of witnesses (section 12), the admissibility of evidence (section 56) and the standard of proof for deciding a question relating to the admissibility of evidence or any other question arising under the EA (NSW) (section 142). It does not deal with some issues such as the legal and evidential burden of proof, a judge's power to call witnesses or the order of addresses.

The EA (NSW) does not affect the operation of a principle or rule of common law or equity in relation to evidence in a proceeding to which the EA (NSW) applies except where the EA (NSW) otherwise provides (expressly or otherwise). Common law in this context is not the common law as at the time of enactment but as in force (see section 9 and the Dictionary, Part 2, clause 9).

The EA (NSW), section 8 provides that "This Act does not affect the operation of the provisions of any other Act". If a provision of the EA (NSW) is inconsistent with a provision of another Act, the other Act will prevail.

Section 8 does not extend to subordinate legislation made under another Act. In *Lane v Jurd [No 2]* (1995) 40 NSWLR 708 McClelland CJ in Eq held that section 8 does not expressly or by implication preserve the operation of delegated legislation. In that case, the EA (NSW) prevailed over inconsistent provisions in the Supreme Court rules.

For NSW State courts, the rules or laws of evidence are found in the EA (NSW) and in other NSW legislation, court rules and the common law and in some provisions of the [Evidence Act 1995](#) of the Commonwealth (the **EA (Cth)**) that are applied to proceedings in all Australian courts (as broadly defined in the EA (Cth)).

14.2.4 Drafting tips

Note that parties “adduce” (i.e. lead or tender) evidence while witnesses “give” evidence.

Care should be taken to not inadvertently prevent the application of provisions of the EA (NSW) that are useful in facilitating proof, provide discretionary protections, confer privileges or apply the common law in place of EA (NSW) provisions.

For example, a provision that states that a person “may inform themselves in the way the person thinks fit, and is not bound by the rules of evidence” will have the effect of displacing the provisions of Part 3.10 of the EA (NSW) preserving privileges unless specific a provision to the contrary is included. See—

- [Advocate for Children and Young People Act 2014](#), sections 26(b) and 31(1)(a) and section 31(3), definition of **privilege**, and
- [Civil and Administrative Tribunal Act 2013](#), sections 38(2) and (3) and 67.

It has been held that a statement in a Commonwealth Act that a Tribunal is “not bound by the rules of evidence” means the EA (Cth) does not apply to the Tribunal proceedings, including the full faith and credit provisions listed in section 5. See *Epeabaka v Minister for Immigration and Multicultural Affairs* (1997) 150 ALR 397.

The Court of Criminal Appeal has held that the EA (NSW), section 138 did not apply to a private conversation that inadvertently came to the knowledge of a person as a result, directly or indirectly, of the use of a listening device under a warrant granted under the former *Listening Devices Act 1984* (see *Punch v Council of the NSW Bar Association* [2007] NSWCA 93). Section 138 provides a balancing test to determine whether evidence was improperly or illegally obtained that corresponds to the common law test in *Bunning v Cross* (1978) 141 CLR 54 but, unlike that test, places the onus on the party seeking to adduce the evidence to show it should be admitted.

The [Coroners Act 2009](#), section 58 excludes the application of section 128 of the EA (NSW). The *Coroners Act 2009*, section 61 provides a procedure for giving a witness in coronial proceedings who objects to giving evidence a certificate providing immunity against use of the evidence if the person can claim privilege of self-incrimination.

It may be necessary to preserve the operation of some provisions of the EA (NSW) when including specific provisions about the production of documents or things (see e.g. the *Criminal Procedure Act 1986*, section 226(3)).

It is particularly important to clearly state the relationship of the EA (NSW) to provisions dealing with aspects of the admissibility of evidence. See—

- [Succession Act 2006](#), section 100(13), and
- [Criminal Procedure Act 1986](#), sections 306I and 306V.

14.3 Search warrants

14.3.1 Search warrants required for entry to residential premises

Generally, a legislative power to enter residential premises should be subject to a requirement that the entry is permissible only under the authority of a search warrant or with the consent of the occupier of the premises. However, it is not always necessary or suitable to provide for entry to residential premises even with a search warrant. If a provision for a power to enter and inspect premises is included, it should be qualified as follows—

Example

- (2) This [section/division/part] does not authorise an inspector to enter any part of premises used for residential purposes except—
- (a) with the consent of the occupier, or
 - (b) under the authority of a search warrant.

A proposal to confer a power to enter residential premises without a search warrant must be discussed with the Parliamentary Counsel.

14.3.2 Power to enter non-residential premises without a search warrant

A legislative power to enter premises, other than residential premises, without a search warrant may be granted particularly if the premises are—

- premises to which the public or a section of the public has access, for example a shop, a cafe or a railway station, or
- licensed or registered premises to which an inspector or other authorised officer requires access in order to ascertain whether the requirements of an Act or regulation have been complied with, or
- premises required to be entered urgently for public health or public safety reasons.

14.3.3 Conferring powers to obtain search warrants and other warrant provisions by legislation

The PCO standard precedent clauses in the FrameMaker precedents menu contain a precedent clause for the conferral of power to obtain a search warrant. The precedent adopts the [Law Enforcement \(Powers and Responsibilities\) Act 2002, Part 5, Division 4](#).

Occasionally a power to enter premises will be achieved by obtaining a warrant other than a search warrant (see the [Water Industry Competition Act 2006, section 65H](#)). This provision avoids the need to replicate requirements set out the [Law Enforcement](#)

[\(Powers and Responsibilities\) Act 2002, Part 5, Division 4](#) by applying the provisions of the Division to the warrant as if it were a search warrant.

If this approach is not taken, provisions about the following will need to be included—

- making an application for the warrant
- the granting of the warrant
- the duration of the warrant
- giving notice about the grant of the warrant
- other necessary provisions

14.3.4 [Law Enforcement \(Powers and Responsibilities\) Act 2002, Part 5](#)

[Law Enforcement \(Powers and Responsibilities\) Act 2002, Part 5](#) deals with search and seizure powers generally. [Part 5, Division 2](#) authorises the issue of search warrants in connection with certain searchable offences, including indictable offences, firearms or prohibited weapons offences and offences relating to child abuse material.

[Part 5, Division 4](#) contains provisions relating to applications for and the granting of search warrants, as well as notice of and powers that may be exercised under search warrants. These provisions can be applied to search warrants issued under other Acts.

The PCO precedent clause applies the provisions of Division 4 to a search warrant issued under another Act. When the PCO precedent clause is used to insert a search warrants provision into an Act, it is also necessary to amend the [Law Enforcement \(Powers and Responsibilities\) Act 2002, Schedule 2](#) to include a reference to the new search warrants provision.

14.4 Requirements to state name and address

A power to require a person to disclose the person's name and address should not be included in an Act without specific Cabinet approval or in a regulation without an explicit regulation-making power. If you are requested to include the power without Cabinet approval or an explicit regulation-making power, the matter should be discussed with the Parliamentary Counsel or a Deputy Parliamentary Counsel.

When drafting a provision that includes a power for an official to **require** a person to disclose the person's name and address, the provision must provide for the following—

- When exercising the power, the official must be required to provide the official's identification card as an inspector or other officer. Failure to do this must invalidate the exercise of the power.
- If failure to comply with the requirement is an offence, the official must also warn the person that failure to comply with the requirement is an offence. If the official fails to do this, the person must have a defence to the offence.

The provision may include a power to **request** a person to provide proof of identity, subject to the following—

- It must not be an offence to fail to comply with the request. See the [Law Enforcement \(Powers and Responsibilities\) Act 2002, section 19](#).
- The provision should preferably include an express statement that failure to comply with the request is not an offence.

The provision may include an offence of giving a false name or address or of responding to a request to provide proof of identity by providing identity information that is false in a material particular. These offences must include a “without reasonable excuse” exception. See the [Law Enforcement \(Powers and Responsibilities\) Act 2002, Part 3, Division 2](#).

Appendix 1 Drafting word search

Quick checks for plain English drafting style

Note—see also PCO Preferred Spellings in the Plain English words list in Appendix 2.

<i>Search for (Ctrl+F)</i>	<i>Replace with</i>
accordingly	[recast/omit]
amongst	among, between
any	a, an, the, 1 or more, 2 or more, [omit]
apprehend	arrest
at the time	when
are to	must [occasionally “may”]
beneficial	useful, helpful
bona fide	in good faith
by means of	by, with, using, [omit]
by reason of	because of, [recast]
by reason only of	only because
by virtue of	under, because of
by way of	by, using, with
can/can not	may/must not
cause	e.g. “The Minister is to cause”. must, arrange, ensure
cease	stop
concerned	[omit if using to refer to a “person/building/thing concerned” and rely on narrative instead e.g., the person concerned]
conclusion	end
constituted by	consists of
contravene or fail to comply with	contravene (see Interpretation Act 1987, section 21)
despite the fact that	although
deems	considers
does not have any force or effect	has no force, has no effect
during such time	while
eg, e.g.,	e.g. but only to be used in business writing and not in legislative drafting
exceed	is at least/is not more than
expire	end
for or with respect to	about
for and on behalf of	for
for the avoidance of doubt	to avoid doubt

for the purposes of	for
forward	send, give, lodge
furnish	give, provide, supply, send, [recast using inform, mention, tell]
give consideration to	consider, have regard to, take into account
ie, i.e.,	i.e. but only to be used in business writing and not in legislative drafting
if, and only if	if, only if, must not, unless
if, but only if	if, only if, must not, unless
in a case to which	if
in a timely manner	promptly, quickly, as soon as possible, as soon as practicable, immediately
in close proximity	near, close, nearby
including but not limited to	including
in excess of	over, is not more than, is at least
in many cases	often
in order to	to
in order for	for
in pursuance of	under/because of
in regard to	about, on, for, in, of, over, to, with, [omit/recast]
in respect of	about, on, for, in, of, over, to, with, [omit/recast]
in so far as	as far as, so far as, as, to the extent that
insofar as	as far as, so far as, as, to the extent that
in a case to which	if
in the case of	for, in, <i>[recast using if ... applies], [omit the phrase]</i>
in the course of	during, while, when, throughout, [omit]
in the event (that/of)	if, when, [recast]
in the eventuality (that/of)	if, when, [recast]
in the vicinity of	about, near, nearby
is deemed to be	is taken to be
is of the opinion	in the [Secretary's] opinion, reasonably believes, considers, reasonably suspects
is required to	must
is to	must [occasionally "may"]
is void and of no effect	has no effect
issue	give
knowledge of (has/have)	know, aware
like (the like, a like)	the same, a similar
maintain	keep, continue
manner	way, method, [recast/omit e.g. using "how"]
mutatis mutandis	with necessary modifications
notwithstanding	even though, despite

notice in writing	written notice
on behalf of	for
percent/per cent	%
prior/prior to	earlier, before, previous
provide	give/supply
pursuant to	under
reason why	reason
retain	keep, engage, continue to, [recast, "using"]
save	except, but
shall	must
submit	send, give, lodge
subsequent, subsequently	later
subsequent to	after
such	the, that, this, these, those, as, a, an
supplemental	additional, extra, more
terminate	end
that	the [or omit]
the provisions of this Act	this Act
those	the
to avoid any doubt	to avoid doubt
until such time as	until
utilise	use, make use of
[the person] was aware of the fact	[the person] knew
with respect to	for, for which, to, about, in, [omit/recast]
with regard to	for, for which, to, about, in, [omit/recast]
without limiting the generality of	without limiting
where	if
whilst	while, although, but

Appendix 2 PCO preferred spellings

PCO prefers the following spellings, but note that spelling is not fixed and can change over time—remember to always consult the latest version of the *Macquarie Dictionary* for confirmation.

Note—see also PCO style preferences in the Plain English words list in Appendix 1.

PCO preferred spelling style	Do NOT use	Notes
e.g. i.e.	eg ie	<ul style="list-style-type: none"> ▪ Note— <i>These abbreviations should not be used in any legislation drafted by PCO.</i> ▪ PCO’s style for some time has been to remove the full stops for these abbreviations but this is not accepted by either the <i>Macquarie Dictionary</i> or the <i>Style manual</i>. ▪ See the section in the <i>Style manual</i> on <u>Latin shortened forms</u>, particularly noting that this is an accessibility issue—the correct form of these abbreviations is necessary for screen readers to make sense of the text.
...ise	...ize	<ul style="list-style-type: none"> ▪ Use for the category of words that end in those letters e.g. recognise (NOT recognize). ▪ Be particularly careful of US English spellcheckers—they favour the “ize” form.
acknowledg <u>e</u> ment	acknowledgment	<ul style="list-style-type: none"> ▪ This style preference is not as clear cut as “judgment” in legislation and legal usage generally but is PCO’s preferred style. ▪ The <i>Macquarie Dictionary</i> currently prefers the spelling with the “ement” ending.
adviser <u>e</u>	advisor <u>e</u>	<ul style="list-style-type: none"> ▪ Both styles can be found in the NSW statute book, though the <i>Macquarie Dictionary</i> currently prefers “adviser”, noting that the variant form “advisor” is commonly used. ▪ For “adviser”, see, for example, the Independent Commission Against Corruption Regulation 2017. ▪ For “advisor”, see, for example, Lobbying of Government Officials Act 2011.
barbec <u>u</u> e	barbeque	<ul style="list-style-type: none"> ▪ See, for example, the Protection of the Environment Operations (Clean Air) Regulation 2022.

exercisable	exercis <u>e</u> able	<ul style="list-style-type: none"> ▪ The version with the “e” in the middle is a common error—not an alternative style (though it can be found in the NSW statute book). ▪ See, for example, the Personal Injury Commission Act 2020.
fascia	facia	<ul style="list-style-type: none"> ▪ This style is used is for consistency with the National Construction Code (which includes the Building Code of Australia). ▪ See, for example, the State Environmental Planning Policy (Housing) 2021.
flammable	<u>i</u> nflammable	<ul style="list-style-type: none"> ▪ The <i>Macquarie Dictionary</i> recommends this style because of confusion where inflammable is mistakenly taken to mean non-flammable. ▪ See, for example, the State Environmental Planning Policy (Resources and Energy) 2021.
<u>i</u> nquire	<u>e</u> nquire	<ul style="list-style-type: none"> ▪ The <i>Macquarie Dictionary</i> has entries for both and this is purely a case of a PCO style preference—the forms are interchangeable in general use.
judg <u>e</u> ment	judgment	<ul style="list-style-type: none"> ▪ One of the family of words for which the <i>Macquarie Dictionary</i> currently favours the spelling style ending in “ement” while noting that in legal usage (i.e. the Courts), the style ending in “ment” is always preferred. ▪ See, for example, the Supreme Court (Criminal Appeal) Rules 2021.
liquef <u>i</u> ed	liquified	<ul style="list-style-type: none"> ▪ See, for example, the State Environmental Planning Policy (Transport and Infrastructure) 2021.
lodg <u>e</u> ment	lodgment	<ul style="list-style-type: none"> ▪ This style preference is not as clear cut as “judgment” in legislation and legal usage generally but is PCO’s preferred style. ▪ The <i>Macquarie Dictionary</i> currently prefers the spelling with the “ement” ending.
move <u>a</u> ble	movable	<ul style="list-style-type: none"> ▪ See, for example, the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2021.
per cent	percent	<ul style="list-style-type: none"> ▪ PCO style now allows the use of the symbol “%” (unspaced) in general legislative text as well as in tables and schedules.

		<ul style="list-style-type: none"> See, for example, the State Environmental Planning Policy (Transport and Infrastructure) 2021 (for "%").
<p>preventative <i>(re crime)</i></p> <p>preventive <i>(re health)</i></p>	—	<ul style="list-style-type: none"> The <i>Macquarie Dictionary</i> treats these 2 forms as interchangeable. Generally, Australian legislative style has been to favour “preventative” in relation to crime and “preventive” in relation to health, though this has not been strictly observed across the NSW statute book. PCO style favours “preventative” in other contexts (such as industrial safety).
useable	usable	<ul style="list-style-type: none"> The <i>Macquarie Dictionary</i> treats these 2 forms as interchangeable. Both forms have been used across the NSW statute book, though “usable” has been favoured in recent SEPPs.
X-ray	x-ray	<ul style="list-style-type: none"> The <i>Macquarie Dictionary</i> currently prefers the spelling with the upper case “X”. See, for example, the Crimes (Administration of Sentences) Regulation 2014.

Appendix 3 Commonly confused words

This is a selection of some of the most commonly confused words that may appear in legislation.

Pair of words	Notes and examples
advance advanced	<p>advance</p> <ul style="list-style-type: none"> ▪ as a verb means “to go or bring forward in position” or “to be brought to a further stage of development” <ul style="list-style-type: none"> ○ <i>Example</i>— The order in which requests should advance must be determined by the Minister. ▪ as a noun means “forward movement”, “money paid before it is due” or “a development or improvement” <ul style="list-style-type: none"> ○ <i>Example</i>— Subsection (1) does not apply in respect of the provision of financial accommodation by way of an advance of money by the Treasurer under this section. ▪ as an adjective or adverb means “being ahead in development, knowledge or progress” or “having reached a comparatively late stage” <ul style="list-style-type: none"> ○ <i>Example (adjective)</i>— An advance copy must be provided to the defendant. ○ <i>Example (adverb)</i>— An employer must not prevent the delivery of an email sent to an employee unless the employer is acting in accordance with a policy that has been notified in advance to the employee. <p>advanced</p> <ul style="list-style-type: none"> ▪ an adjective meaning “being ahead in development, knowledge or progress” or “having reached a comparatively late stage” <ul style="list-style-type: none"> ○ <i>Example</i>— One of the objectives of the General Industrial Zone is to facilitate development ranging from general industry to advanced technology industry.
advice advise	<p>advice</p> <ul style="list-style-type: none"> ▪ a noun meaning “an opinion recommended as worthy of being followed” <ul style="list-style-type: none"> ○ <i>Example</i>— ... to promote the provision of information and advice to assist children and young people ○ <i>Example</i>— If a disclosure made under this clause relates to a matter about which the advocate is advising, particulars of the disclosure must be included in the advice to the Minister about the matter. <p>advise</p> <ul style="list-style-type: none"> ▪ a verb meaning “to offer an opinion to” <ul style="list-style-type: none"> ○ <i>Example</i>— If the recipient is not the patient, the authorised supplier must, when supplying the prescribed substance, advise the recipient to give the information given under subsection (2) to the patient.
affect effect	<p>affect</p> <ul style="list-style-type: none"> ▪ a verb meaning “to have an impact upon”

	<ul style="list-style-type: none"> ○ <i>Example</i>— This Act does not limit or affect the operation of the <i>Status of Children Act 1996</i>. ○ <i>Example</i>— The Act and the <i>Interpretation Act 1987</i> contain definitions and other provisions that affect the interpretation and application of this Regulation. <p>effect</p> <ul style="list-style-type: none"> ▪ as a noun means “the result of an action” <ul style="list-style-type: none"> ○ <i>Example</i>— A notice under this section ceases to have effect if an administrator is appointed under this Division. ○ <i>Example</i>— The Commission must not give leave to amend a document if the amendment would have the effect of substantially altering the parties to the proceedings ... ▪ as a verb means “to bring about” or “to cause to happen” <ul style="list-style-type: none"> ○ <i>Example</i>— A court that sets aside a forfeiture order may make such orders as are necessary to effect the return of any bail money.
Alternate alternative	<p>alternate</p> <ul style="list-style-type: none"> ▪ an adjective meaning “every other or every second” <ul style="list-style-type: none"> ○ <i>Example</i>— Victoria manages rainfall rejection events in the alternate years. ○ <i>Example</i>— Each joint chairperson is to preside at alternate Board meetings. <p>alternative</p> <ul style="list-style-type: none"> ▪ as an adjective means “available as another choice” <ul style="list-style-type: none"> ○ <i>Example</i>— The objective of this clause is to provide alternative accommodation for rural families and workers. ▪ as a noun means “a possibility of one out of several things” <ul style="list-style-type: none"> ○ <i>Example</i>— ... any person required by the order to deliver goods (with or without the alternative of paying the assessed value of the goods).
among amongst	<ul style="list-style-type: none"> ▪ These words mean the same thing though “amongst” is an older style that should not be used. <p><i>Usage note</i>— among is now PCO’s plain English style.</p>
assume presume	<p>Assume</p> <ul style="list-style-type: none"> ▪ a verb meaning “to suppose to be the case without proof” or “to take on a role” <ul style="list-style-type: none"> ○ <i>Example</i>— The President is entitled to assume that the authority of an Australian legal practitioner or agent is not limited or restricted. ○ <i>Example</i>— ... warn the jury they must not assume the defendant has a criminal record. ○ <i>Example</i>— In this clause, Council member-elect means a member elected at an election who is yet to assume office. <p>presume</p> <ul style="list-style-type: none"> ▪ a verb meaning “to suppose to be the case on the basis of probability” <ul style="list-style-type: none"> ○ <i>Example</i>— The EPA is entitled to presume each of the following matters (subject to the occupier of the waste facility establishing the contrary).
bare bear	<p>bare</p> <ul style="list-style-type: none"> ▪ an adjective meaning “uncovered, naked or exposed” <ul style="list-style-type: none"> ○ <i>Example</i>— In this clause, bed of a river includes the portion that is alternatively covered or left bare with a rise or fall in the supply of water.

	<ul style="list-style-type: none"> ▪ also a kind of trust in which the beneficiary has a right to both income and capital <ul style="list-style-type: none"> ○ <i>Example (trust)</i>— In this Part, a bare trust has the same meaning as a simple trust. <p>bear</p> <ul style="list-style-type: none"> ▪ as a noun means “large mammalian quadruped” <ul style="list-style-type: none"> ○ <i>Example</i>— dangerous animal means an animal, including a lion, tiger or bear, of a species whose members ordinarily pose a significant risk of death or injury to the public. ▪ as a verb means “to carry, support or endure” or “to maintain a direction” <ul style="list-style-type: none"> ○ <i>Example</i>— Each party to a hearing is to bear his or her own costs of the hearing. ○ <i>Example</i>— The hikers need to bear due east to reach the landmark (unlikely to be used in this sense in legislation).
can may	<p>may</p> <ul style="list-style-type: none"> ▪ used to express possibility, opportunity or permission <ul style="list-style-type: none"> ○ <i>Example</i>— ... if the hearing is to be held by audio link, audio visual link or other electronic means, information about how a member of the public may hear or view the hearing. ▪ also used to indicate an optional/discretionary course of action, with “or may not” left off as redundant <ul style="list-style-type: none"> ○ <i>Example</i>— The regulations may amend Schedule 1 to replace the description in the Schedule to extend or reduce the Six Cities Region or a city within the Six Cities Region. <p><i>Usage note</i>— If used to confer a power, “may” indicates that the power may be exercised or not, at discretion—see the Interpretation Act 1987, section 9(1).</p> <p>can</p> <ul style="list-style-type: none"> ▪ used to indicate the ability, power, right, qualifications or means to do something <ul style="list-style-type: none"> ○ <i>Example</i>— A biological sibling can consent to the disclosure of information under this section only if he or she has attained the age of 18 years. ○ <i>Example (contrast between “can” and “may”)</i>— The Minister may require the Advocate to consult further in relation to a draft report and provide a further draft report in accordance with subsection (2). Only one such requirement can be made with respect to a report. <p><i>Usage note</i>—see Appendix 1 for plain English usage which encourages the use of ‘may’.</p>
complement compliment	<p>complement</p> <ul style="list-style-type: none"> ▪ as a noun means “something that completes the whole” <ul style="list-style-type: none"> ○ <i>Example</i>— Cream is the perfect complement to fresh strawberries. (<i>unlikely to be used in this sense in legislation</i>) ○ <i>Example</i>— Planes must not take off without a full complement of crew members. (<i>unlikely to be used in this sense in legislation</i>) ▪ as a verb means “to complete something” <ul style="list-style-type: none"> ○ <i>Example</i>— Development should complement the vision, goal, key principles and action plan of the Metropolitan Strategy. <p>compliment (<i>unlikely to be used in legislation</i>)</p> <ul style="list-style-type: none"> ▪ as a noun means “an expression of praise” <ul style="list-style-type: none"> ○ <i>Example</i>— He paid you the great compliment of listening to your whole argument before he spoke.

	<ul style="list-style-type: none"> ▪ as a verb means “to praise” <ul style="list-style-type: none"> ○ <i>Example</i>— She was complimented on her punctuality. ▪ can be used formally to mean “given for free” <ul style="list-style-type: none"> ○ <i>Example</i>— Accept this with the compliments of the management.
continual continuous	<p>continual</p> <ul style="list-style-type: none"> ▪ an adjective meaning “happening frequently with intervals between” (used to refer only to time) <ul style="list-style-type: none"> ○ <i>Example</i>— This section does not apply to a tenancy agreement if the tenant has been in continual possession of the same residential premises for a period of 20 years or more. <p>continuous</p> <ul style="list-style-type: none"> ▪ an adjective meaning “without interruption” (can be used to refer to space or time) <ul style="list-style-type: none"> ○ <i>Example (time)</i>— The court must not make an adoption order in favour of the couple unless the couple have been living together for a continuous period of not less than 2 years. ○ <i>Example (space)</i>— fence means a structure, ditch or embankment, or a hedge or similar vegetative barrier, enclosing or bounding land, whether or not continuous ...
dependant dependent	<p>dependant</p> <ul style="list-style-type: none"> ▪ a noun meaning “a person relying on another person, especially for financial support” <ul style="list-style-type: none"> ○ <i>Example</i>— ... the accredited medical practitioner must take all reasonably practicable steps to consult with agencies involved in providing relevant services to the person, any primary carer of the person and any dependant of the person. ○ <i>Example</i>— The Authority may require an applicant for compensation who was a dependant of a deceased worker to furnish to the Authority full and correct information concerning the extent of that dependency. <p>dependent</p> <ul style="list-style-type: none"> ▪ an adjective meaning “depending on”, “conditional” or “subservient” <ul style="list-style-type: none"> ○ <i>Example</i>— This Part operates to change an amount of a fee that is calculated by reference to a fee unit and that change is not dependent on the notification or other notice required by this clause. ○ <i>Example</i>— The ecological values in the Floodplain that are flood-dependent assets are described in Schedule 1. ○ <i>Example (contrast between “dependant” and “dependent”)</i>— Dependants, in relation to a claimant, means such of the following persons as are wholly or partly dependent on the claimant.
discreet discrete	<p>discreet</p> <ul style="list-style-type: none"> ▪ an adjective meaning “restrained, prudent, circumspect, cautious or not flamboyant” <ul style="list-style-type: none"> ○ <i>Example</i>— In deciding whether to grant development consent, the consent authority must consider whether the appearance of the premises is sufficiently discreet. ○ <i>Example</i>— duress alarm system, in relation to a taxi, means a system by which the driver of the taxi can, in a discreet manner, notify the location of the taxi to another person or place. <p>discrete</p> <ul style="list-style-type: none"> ▪ an adjective meaning “distinct, separate or detached from others”

	<ul style="list-style-type: none"> ○ <i>Example</i>— This section applies to a Public Service agency or a discrete branch of a Public Service agency. ○ <i>Example</i>— ... the proposed development will not threaten the integrity of any unbroken natural tree canopy cover or create smaller discrete parcels of vegetation from an existing stand.
disinterested uninterested	<p>disinterested</p> <ul style="list-style-type: none"> ▪ an adjective meaning “impartial and unbiased by personal interest” ○ <i>Example</i>— A licensee must provide competent, independent and disinterested advice in advising a proposed signatory to documents creating a loan or a security interest. <p>uninterested (<i>unlikely to be used in legislation</i>)</p> <ul style="list-style-type: none"> ▪ an adjective meaning “indifferent or having no interest” ○ <i>Example</i>— He is completely uninterested in politics and never reads a newspaper.
elicit illicit	<p>elicit</p> <ul style="list-style-type: none"> ▪ a verb meaning “to draw out, cause or evoke” ○ <i>Example</i>— The Tribunal may examine or cross-examine any witness to such extent as the Tribunal thinks proper in order to elicit information relevant to the exercise of the functions of the Tribunal. <p>illicit</p> <ul style="list-style-type: none"> ▪ an adjective meaning “not permitted, not authorised or unlawful” ○ <i>Example</i>— ... exposing a child to a harmful environment, for example, an environment where there is illicit drug use or illicit drug manufacturing ○ <i>Example</i>— The operation will be conducted in a way that will minimise the risk of more illicit goods being under the control of persons (other than law enforcement officers) at the end of the operation ...
eminent imminent	<p>eminent</p> <ul style="list-style-type: none"> ▪ an adjective meaning “judicious, circumspect, prudent or restrained” ○ <i>Example</i>— The objective of this clause is to strengthen Coffs Harbour’s position as an eminent regional centre by creating more employment opportunities. ○ <i>Example</i>— The Council may admit, honoris causa, to the degree of Doctor of the University any person considered by the Council to be distinguished by eminent service to the University. <p>imminent</p> <ul style="list-style-type: none"> ▪ an adjective meaning “impending or likely to occur” ○ <i>Example</i>— The Secretary may request assistance from the Commissioner in dealing with a riot that has arisen, or that appears to be imminent, at a detention centre. ○ <i>Example</i>— ... the tree posed an imminent danger to property or life ...
enquire inquire	<p><i>Usage note</i>— These forms are interchangeable in general use but PCO preferred style favours “inquire”—see the PCO preferred spellings table in Appendix 2.</p>
ensure insure	<p>ensure</p> <ul style="list-style-type: none"> ▪ a verb meaning “to secure, make certain or make safe” ○ <i>Example</i>— An ethics committee must ensure that a list of its approved procedures is sent to each school under its supervision.

	<p>insure</p> <ul style="list-style-type: none"> ▪ a verb (used in the commercial sense) meaning “to guarantee against loss or harm” or “secure an indemnity to or on a particular event” <ul style="list-style-type: none"> ○ <i>Example</i>— Nothing in this section requires the operator of a retirement village to insure an item of capital.
<p>foreword forward</p>	<p>foreword (<i>unlikely to be used in legislation</i>)</p> <ul style="list-style-type: none"> ▪ a noun meaning “the introductory comments at the beginning of a book or other publication” <ul style="list-style-type: none"> ○ <i>Example</i>— The foreword for the report is still to be written. <p>forward</p> <ul style="list-style-type: none"> ▪ as an adjective means “moving ahead, onward, in front or well advanced” and can also mean “presumptuous or bold” <ul style="list-style-type: none"> ○ <i>Example</i>— If parking is provided within the property—[the roadside stall] must provide for vehicles to access and leave the property in a forward direction. ○ <i>Example</i>— A heavy motor vehicle fitted with front clearance lights may also have additional forward-facing lights on or above the roof of its cabin. ▪ as an adverb means “towards the future (usually in time) or towards the front” <ul style="list-style-type: none"> ○ <i>Example</i>— The Chairperson must read over any correspondence or other material to be brought forward at the meeting. ○ <i>Example</i>— ... maximum width of any balcony, deck, patio, patio cover, pergola, terrace or veranda that is forward of the front or side building for the dwelling ... ▪ as a verb means “transmit” <ul style="list-style-type: none"> ○ <i>Example</i>— The medical superintendent must forward the notice of appeal to the Tribunal within 2 business days after receiving it.
<p>imply infer</p>	<p>imply</p> <ul style="list-style-type: none"> ▪ a verb meaning “to suggest the truth or existence of something without express statement” <ul style="list-style-type: none"> ○ <i>Example</i>— A person must not advertise, state or imply in any way that the person is qualified to provide any such course. ○ <i>Example</i>— A justice of the peace must not use the title of justice of the peace to claim or imply that the justice of the peace has a special authority, credibility or status ... <p>infer</p> <ul style="list-style-type: none"> ▪ a verb meaning “to deduce or conclude something based on evidence or reasoning and not from explicit statements” <ul style="list-style-type: none"> ○ <i>Example</i>— A reference in this section to the disclosure of any information about a notice includes a reference to a disclosure to a person from which the person could reasonably be expected to infer the existence or nature of the notice. ○ <i>Example</i>— Section 13(1)(b) of the Act also provides that a title, name or description that indicates, or is capable of being understood to indicate, or is calculated to lead a person to infer, that the person is an architect, constitutes a representation that the person is an architect. <p><i>Usage note</i>— The distinction between <i>infer</i> and <i>imply</i> is that one person may infer something from what another person implies.</p>

<p>lead led</p>	<p>lead</p> <ul style="list-style-type: none"> ▪ a noun meaning “the first, principal or advanced place” <ul style="list-style-type: none"> ○ <i>Example</i>— The most junior staff member took the lead in the meeting. (<i>unlikely to be used in this sense in legislation</i>) ▪ a verb meaning “to go before, to guide or to conduct”; also the legal usage of “to lead evidence” <ul style="list-style-type: none"> ○ <i>Example</i>— The Greater Sydney Commission must, in exercising its function to lead metropolitan planning for Greater Sydney ... ○ <i>Example</i>— D admits to W, his best friend, that he sexually assaulted V. In D’s trial for the sexual assault, the prosecution may lead evidence from W ... ▪ an adjective meaning “in front, directing or dominating” <ul style="list-style-type: none"> ○ <i>Example</i>— The lead candidate of the group ... for whom the account is operated is to be authorised to operate the account and is to operate the account. <p>led</p> <ul style="list-style-type: none"> ▪ a verb that is the past tense and past participle of the verb “lead” <ul style="list-style-type: none"> ○ <i>Example (past tense)</i>— ... the reasoning processes that led the appropriate decision-maker to the conclusions made. ○ <i>Example (past participle)</i>— ... it is not necessary for the prosecution to prove that the defendant associated with another person for any particular purpose or that the association would have led to the commission of any offence.
<p>licence license</p>	<p>licence</p> <ul style="list-style-type: none"> ▪ a noun meaning “formal permission to do or not to do something” <ul style="list-style-type: none"> ○ <i>Example</i>— The conditions of a licence may provide that specified terms and conditions of the licence apply to an accredited taxi-cab operator. <p>license</p> <ul style="list-style-type: none"> ▪ a verb meaning “to grant authoritative permission” <ul style="list-style-type: none"> ○ <i>Example</i>— RMS may license motor vehicles as taxi-cabs under this Division. ○ <i>Example</i>— The <i>Water Act 1912</i> provided powers to license floodplain harvesting.
<p>loose lose</p>	<p>loose</p> <ul style="list-style-type: none"> ▪ (usually) an adjective meaning “free from any restraint or not held together” <ul style="list-style-type: none"> ○ <i>Example</i>— shovel means an implement consisting of a broad metal blade or scoop attached to a handle at least 1-metre long and designed for taking up and removing loose matter. ○ <i>Example</i>— Despite the electronic record-keeping condition, the licensee may keep a hard copy in loose-leaf form. <p>lose</p> <ul style="list-style-type: none"> ▪ a verb meaning “to be deprived of or cease to have” <ul style="list-style-type: none"> ○ <i>Example</i>— Once you lose your mental capacity you cannot revoke this power of attorney. ○ <i>Example</i>— Causing the wheels of the driver’s vehicle to lose traction and spin on the road surface may make unnecessary noise or smoke.
<p>must shall</p>	<p>must</p> <ul style="list-style-type: none"> ▪ a verb indicating an obligation, duty or necessity to be met or there will be consequences

	<ul style="list-style-type: none"> ○ <i>Example</i>— Development consent must not be granted to development on land the consent authority considers to be within the flood planning area unless ... ○ <i>Example</i>— A person must not be appointed as a City Commissioner to represent a city in the Six Cities Region unless the person resides in the city. ○ <i>Example</i>— Before changing the conditions, the Minister must give the promoter written notice of the proposed change. <p><i>Usage notes</i>—</p> <ul style="list-style-type: none"> ○ must is now PCO’s plain English style. ○ The <i>Interpretation Act 1987</i> equates “shall” and “must” when imposing a duty— see section 9(2) of the <i>Interpretation Act 1987</i>.
<p>practice practise</p>	<p>practice</p> <ul style="list-style-type: none"> ▪ a noun meaning “a habit, repeated activity or custom”; also the “business of a professional” such as a doctor or lawyer ○ <i>Example</i>— The production of documents to the Committee must be in accordance with the practice of the Legislative Assembly. ○ <i>Example</i>— ... whether the applicant has indicated an intention to comply with relevant industry codes of practice for the health and welfare of animals. <p>practise</p> <ul style="list-style-type: none"> ▪ a verb meaning “to carry out or do habitually or usually”; also to “pursue a profession” ○ <i>Example</i>— This section applies to a person registered to practise in the medical profession. ○ <i>Example</i>— A person must not do any of the following ... play or practise golf, ... practise or demonstrate (using a fishing rod or line) the casting of a fishing line ...
<p>principal principle</p>	<p>principal</p> <ul style="list-style-type: none"> ▪ as a noun means “the head, chief or governing officer” of a school, firm or company ○ <i>Example</i>— Before taking any such action with respect to a school principal, the Secretary must ... ○ <i>Example</i>— This section does not affect any liability of a principal of the law practice. ▪ as an adjective means “primary, fundamental or first in importance” ○ <i>Example</i>— Development consent must not be granted for the subdivision of land on which a secondary dwelling is situated if the subdivision would result in the principal dwelling and the secondary dwelling being situated on separate lots. ○ <i>Example</i>— For the purposes of section 8(2) of the Act, a principal compliance declaration must be made in the form specified on the NSW planning portal. <p>principle</p> <ul style="list-style-type: none"> ▪ a noun meaning “a guiding ethos or a fundamental basis of a system of thought, belief or action”; also, in the plural, means “personal code of right conduct” ○ <i>Example</i>— The council should adhere to the principles of ecologically sustainable development. ○ <i>Example</i>— In this Act, the precautionary principle is the principle that, if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.

	<ul style="list-style-type: none"> ○ <i>Example</i>— This Act does not affect the operation of any principle or rule of the common law or equity in relation to powers of attorney.
proved proven	<p>proved</p> <ul style="list-style-type: none"> ▪ a verb that is the past tense and past participle of the verb “prove” (<i>use as a past participle is more common in British English</i>) <ul style="list-style-type: none"> ○ <i>Example (past participle)</i>— A medical practitioner does not contravene this section unless it is proved that the medical practitioner knew the treatment concerned was sought in connection with a surrogacy arrangement. ○ <i>Example (past participle)</i>— ... the commission by another owner of the animal of an offence arising out of the same circumstances has been proved but a court has made an order ... ○ <i>Example (past tense)</i>— By supplying corroborating photos, the suspect proved he could not have committed the crime. (<i>non-legislative example</i>) <p>proven</p> <ul style="list-style-type: none"> ▪ also a verb that is the past participle of the verb “prove” (<i>use as a past participle is more common in American English</i>) <ul style="list-style-type: none"> ○ <i>Example</i>— The Tribunal may require a witness to be examined on oath or affirmation, or may require evidence to be proven by a statutory declaration. ○ <i>Example</i>— As identified in the <i>NSW Salinity Strategy</i>, drainage schemes have not proven entirely effective in managing this problem. <p><i>Usage note</i>— PCO style allows either variant of the past participle to be used.</p> <p>proven</p> <ul style="list-style-type: none"> ▪ as an adjective means “to demonstrate or test the truth or existence of (something)” <ul style="list-style-type: none"> ○ <i>Example</i>— The Children’s Guardian may reduce the amount of any fee payable under this clause if satisfied the applicant displays a proven commitment to the principles of the Code of Practice. ○ <i>Example</i>— The professional body has ... a proven capacity to undertake independent and authoritative assessments in a timely manner.
stationary stationery	<p>stationary</p> <ul style="list-style-type: none"> ▪ an adjective meaning “not moving or changing” <ul style="list-style-type: none"> ○ <i>Example</i>— Emergency standby plant comprising a stationary reciprocating internal combustion engine for generating electricity is exempt ... ○ <i>Example</i>— ... a waterbody that is inundated cyclically, intermittently or permanently with fresh, brackish or salt water, whether slow moving or stationary ... <p>stationery</p> <ul style="list-style-type: none"> ▪ a noun meaning “writing and office materials or equipment (such as pens, pencils, paper, folders etc.)” <ul style="list-style-type: none"> ○ <i>Example</i>— shop means premises that sell merchandise such as groceries, personal care products, clothing, music, homewares, stationery, electrical goods or the like ...
while whilst	<p>These words mean the same thing though “whilst” is an older style that should not be used.</p> <p><i>Usage note</i>— while is now PCO’s plain English style.</p>

Appendix 4 PCO guide to capitalisation

Note—

These are the general guidelines for PCO style but this list is not exhaustive. You should always be alert to—

- specific defined terms in relevant legislation that override the general rule, for example, the words defined under the [Interpretation Act 1987](#) for all Acts and instruments, and
- the general rule that words are capitalised at the beginning of a sentence or heading even if not capitalised elsewhere.

Word(s)	Notes
A	
Aboriginal	PCO style—always capitalise
Act (<i>instrument type</i>) (as a single word—the Act)	PCO style—always capitalise
Administrator of the State	capitalise when used as a title
Appendix, appendix (<i>provision name</i>)	capitalise only when used with a number (except where there is a single unnumbered appendix and the number '1' is understood)
ASC Law, ASC Regulations	always capitalise— <i>Interpretation Act 1987</i> , section 21
Attorney General	capitalise when used as a title
Auditor-General	capitalise when used as a title
B	
Bill (<i>instrument type</i>) (as a single word—the Bill)	PCO style—always capitalise
By-law, by-law (<i>instrument type</i>)	capitalise only when used in a short title or in line with a defined term
By-laws, by-laws (<i>instrument type</i>)	
C	
Cabinet	PCO style—always capitalise
Chancellor, chancellor (of a university)	capitalise only when used in a title or in line with a defined term
Chapter. chapter (<i>provision name</i>)	capitalise only when used with a number
Chief Executive Officer, chief executive officer	capitalise only when used in a title or in line with a defined term
Chief Judge, chief judge	

Chief Justice, chief justice	capitalise only when used in a title or in line with a defined term
Chief Magistrate	always capitalise (by logical extension)— <i>see Magistrate</i>
clause (<i>provision name</i>)	never capitalised
Clerk (of a House of Parliament)	capitalise when used as a title
Commonwealth	always capitalise— <i>Interpretation Act</i> , section 21
(NSW) Constitution	PCO style—always capitalise
Consumer Price Index	PCO style—always capitalise
Coroner, coroner	capitalise only when used in a title or in line with a defined term
Corporations Law	always capitalise— <i>Interpretation Act 1987</i> , section 21
Corporations legislation	mixed case— <i>Interpretation Act 1987</i> , section 21
Corporations Regulations	always capitalise— <i>Interpretation Act 1987</i> , section 21
Council, council	capitalise only when used with the name of a council or in line with a defined term
Crown (if referring to the Crown in right of New South Wales or another jurisdiction, including concepts such as Crown land)	PCO style—always capitalise
Crown Solicitor	capitalise when used as a title
D	
Deputy Chancellor, deputy chancellor (of a university)	capitalise only when used in a title or in line with a defined term
Deputy Premier	capitalise when used as a title
Deputy Speaker (of the Legislative Assembly)	capitalise when used as a title
Division, division (<i>provision name</i>)	capitalise only when used with a number
E	
environmental planning instrument (<i>instrument type</i>)	not capitalised— <i>Interpretation Act</i> , section 21
Executive Council	always capitalise— <i>Interpretation Act</i> , section 21
F	
Final Determination, final determination (<i>instrument type</i>)	capitalise only when used in a short title or in line with a defined term

First Nations	PCO style—always capitalise
Full Bench, full bench	capitalise only when used with the name of the court/commission etc. or in line with a defined term
Full Court, full court	
G	
(NSW) Gazette (if referring to the specific publication, but otherwise use gazette, gazetted etc.)	always capitalise— <i>Interpretation Act 1987</i> , section 21
Government	always capitalise— <i>Interpretation Act 1987</i> , section 21
(NSW) Government Gazette (if referring to the specific publication, but otherwise use gazette, gazetted etc.)	always capitalise— <i>Interpretation Act 1987</i> , section 21
Government Printer	always capitalise— <i>Interpretation Act 1987</i> , section 21
Governor (of the State)	capitalise when used as a title
Governor-General	capitalise when used as a title
Greater Sydney Region	always capitalise— <i>Interpretation Act</i> , section 21
H	
High Court	always capitalise— <i>Interpretation Act 1987</i> , section 21
House of Parliament	PCO style—always capitalise
I, J	
Indigenous (peoples)	PCO style—always capitalise
Jervis Bay Territory	always capitalise— <i>Interpretation Act 1987</i> , section 21
Judge, judge	capitalise only when used in a title or in line with a defined term
justice of the peace	not capitalised unless used in line with a defined term
L	
Leader of the Opposition	capitalise when used as a title
legislation website	not capitalised <i>See also “NSW legislation website”</i>
Legislative Assembly	always capitalise— <i>Interpretation Act 1987</i> , section 21
Legislative Council	
Legislature, legislature	capitalise when referring to a specific legislature
Lieutenant-Governor	capitalise when used as a title

Local Court	always capitalise— <i>Interpretation Act 1987</i> , section 21
Local Environmental Plan, local environmental plan (<i>instrument type</i>)	capitalise only when used in a short title or in line with a defined term
M	
Magistrate	always capitalise— <i>Interpretation Act 1987</i> , section 21
Mayor, mayor	capitalise only when referring to a specific mayor by title or in line with a defined term
member (of the Legislative Assembly)	PCO style (though the abbreviation 'MP' is always capitalised and 'Member' is capitalised if used in a title i.e. Member for [Electorate])
Minister (of the Crown)	PCO style—always capitalise (even when not a full title)
N	
National Electricity (NSW) Law, National Electricity (NSW) Regulations	always capitalise— <i>Interpretation Act 1987</i> , section 21 Note— <i>There are inconsistencies in the list of defined terms included in the IA. Although these are the only national law titles included, the same capitalisation style applies to all.</i>
National Gas (NSW) Law, National Gas (NSW) Regulations	
Notice, notice (<i>instrument type</i>)	capitalise only when used in a short title or in line with a defined term
NSW Government	PCO style—always capitalise
NSW Health Service	always capitalise— <i>Interpretation Act 1987</i> , section 21
NSW legislation website	mixed case— <i>Interpretation Act 1987</i> , section 21 (but note the abbreviation used is 'LW')
(NSW) Parliament (but parliamentary, parliamentarian etc.)	always capitalise— <i>Interpretation Act 1987</i> , section 21
NSW Police Force	always capitalise— <i>Interpretation Act 1987</i> , section 21
O	
Ombudsman, ombudsman	capitalise only when referring to the Ombudsman of a specific jurisdiction or in line with a defined term; not capitalised if referring to an ombudsman scheme
Order, order (<i>instrument type</i>)	capitalise only when used in a short title or in line with a defined term
P	
paragraph (<i>provision name</i>)	never capitalised
parliamentary committee	capitalise only when referring to a specific committee by title or in line with a defined term

Part, part (<i>provision name</i>)	capitalise only when used with a number
Plan, plan (<i>instrument type</i>)	capitalise only when used in a short title or in line with a defined term
Policy, policy (<i>instrument type</i>)	capitalise only when used in a short title or in line with a defined term
Premier	capitalise when used as a title
President, president (of a court)	capitalise only when used in a title or in line with a defined term
President (of the Legislative Council)	capitalise when used as a title
Prime Minister (of Australia)	capitalise when used as a title
Proclamation, proclamation (<i>instrument type</i>)	capitalise only when used in a short title or in line with a defined term
Public Service	always capitalise— <i>Interpretation Act 1987</i> , section 21
Puisne Judge, puisne judge	capitalise only when used in a title or in line with a defined term
R	
Registrar-General	Always capitalise— <i>Interpretation Act 1987</i> , section 21
Regulation, regulation (<i>instrument type</i>)	capitalise only when used in a short title or in line with a defined term
Rule, rule (<i>instrument type</i>)	capitalise only when used in a short title or in line with a defined term
Rules, rules (<i>instrument type</i>)	
S	
Schedule, schedule (<i>provision name</i>)	capitalise only when used with a number (except where there is a single unnumbered schedule and the number “1” is understood)
section (<i>provision name</i>)	never capitalised
Senate, senate	capitalise only when referring to the Senate of the Australian Parliament or a university senate by name, or in line with a defined term
Senior Judge, senior judge	capitalise only when used in a title or in line with a defined term
Sheriff, sheriff	capitalise only when used in a title or in line with a defined term
Solicitor General	capitalise when used as a title

Speaker (of the Legislative Assembly)	capitalise when used as a title
Standard Instrument, standard instrument (<i>instrument type</i>)	capitalise only when used in a short title or in line with a defined term
Standards Australia	always capitalise— <i>Interpretation Act 1987</i> , section 21
State (of NSW or another State of the Commonwealth)	always capitalise— <i>Interpretation Act 1987</i> , section 21
State Environmental Planning Policy, State environmental planning policy (<i>instrument type</i>)	capitalise only when used in a short title or in line with a defined term (noting that State is always capitalised, consistent with the earlier entry for “State”).
State industrial instrument	mixed case— <i>Interpretation Act 1987</i> , section 21
State owned corporation	mixed case— <i>Interpretation Act 1987</i> , section 21
statutory declaration	not capitalised— <i>Interpretation Act 1987</i> , section 21
statutory rule	not capitalised— <i>Interpretation Act 1987</i> , section 21
subclause (<i>provision name</i>)	never capitalised
Subdivision, subdivision (<i>provision name</i>)	capitalise only when used with a number
subparagraph (<i>provision name</i>)	never capitalised
Subschedule, subschedule (<i>provision name</i>)	capitalise only when used with a number
subsection (<i>provision name</i>)	never capitalised
subsubparagraph (<i>provision name</i>)	never capitalised
Surveyor-General	capitalise when used as a title
T	
Teaching Service	always capitalise— <i>Interpretation Act 1987</i> , section 21
Territory	always capitalise— <i>Interpretation Act 1987</i> , section 21
Torres Strait Islander	PCO style—always capitalise
Transport Service	always capitalise— <i>Interpretation Act 1987</i> , section 21
Treasurer	always capitalise when used as a Ministerial title
V	
Valuer-General	capitalise when used as a title
Vice-Chancellor, vice-chancellor (of a university)	capitalise only when used in a title or in line with a defined term

Appendix 5 Apostrophes

Table 1—Possessives

Notes—

- In some cases, the rule is different in Britain, the US and Australia. Unless indicated, the table indicates the Australian usage recommended in the Australian Government *Style Manual*, 6th edition and on the [Style Manual website](#).
- The *Style Manual*, 6th edition (SM) page reference appears in column 4.

Case	Rule	Examples
Singular common nouns	If the word does <i>not</i> end in [s], add [’s].	<ul style="list-style-type: none"> ▪ custodian’s decision ▪ prisoner’s rights ▪ chief executive (corrective services)’s
	If the word ends in [s], also add [’s].	<ul style="list-style-type: none"> ▪ bus’s route ▪ lens’s colour ▪ atlas’s layout
Plural common nouns	If the word does <i>not</i> end in [s], add [’s].	<ul style="list-style-type: none"> ▪ women’s shelter ▪ cattle’s diseases ▪ children’s schooling
	If the word ends in [s], add [’].	<ul style="list-style-type: none"> ▪ prisoners’ security classifications ▪ witnesses’ expenses ▪ Ministers’ immunity
Proper nouns—personal or similar (Note—Some names such as O’Neill or D’Arcy include an apostrophe as part of the correct spelling but otherwise follow the usual rules for possessives.)	If the word does <i>not</i> end in [s], add [’s].	<ul style="list-style-type: none"> ▪ Minister’s entitlements ▪ Government’s proposal ▪ Annette’s/Annette O’Callaghan’s summary
	If the word ends in in [s], add [’s] regardless of pronunciation or length. Notes— <ul style="list-style-type: none"> ▪ There is disagreement about whether Biblical or classical names ending in [s] add an additional [’s] or [’] only for the possessive form (though the <i>Style Manual</i> recommends it). ▪ The usual style for family names such as James or Jones is to add [es] for the plural and an apostrophe only for the possessive—not covered in the <i>Style Manual</i>. 	<ul style="list-style-type: none"> ▪ Thomas’s editorial check ▪ Jon Bets’s code ▪ Dickens’s masterpiece ▪ Jesse James’s gun ▪ Jesus’s or Jesus’ ▪ Socrates’s or Socrates’ ▪ Hercules’s or Hercules’ ▪ the Jameses’ car (<i>cf.</i> Jesse James’s gun)
Proper nouns—institutions	Follow the style used by the organisation itself. The official website is usually the quickest way to check.	<ul style="list-style-type: none"> ▪ St Andrew’s War Memorial Hospital ▪ McDonald’s ▪ Pauls ▪ Childrens Court (name of the court in Qld)

Case	Rule	Examples
and organisations	Do not use a possessive apostrophe when the plural word is descriptive and works like an adjective in the text.	<ul style="list-style-type: none"> ▪ United States foreign policy ▪ Council of Australian Governments agreement (<i>cf.</i> COAG/COAG's agreement) ▪ United Nations vote
Proper nouns— place names	<p>Following the 1996 decision of the Australian Geographical Names Board, names of Australian places, streets, features etc. do not take an apostrophe even when the construction is possessive.</p> <p>Note—The US also follows this convention but in other countries variations occur and an official source should be consulted.</p>	<ul style="list-style-type: none"> ▪ Georges River ▪ Saint Pauls Road ▪ Captains Flat
Joint ownership	<p>If there is more than 1 'owner' of a thing, add [']s] to the last-named.</p> <p>Note—In this case, the thing owned could be a plural or singular noun.</p>	<ul style="list-style-type: none"> ▪ Annette, Mark and Richard's approach ▪ Premier and Deputy Premier's submission ▪ members and associates' tickets
	<p>If ownership is not joint (one is owned by each), add [']s] to each 'owner'.</p> <p>Note—In this case, the thing owned will be a plural noun.</p>	<ul style="list-style-type: none"> ▪ Annette's, Mark's and Richard's approaches ▪ the Premier's and Deputy Premier's submissions ▪ members' and associates' tickets
Possessive phrases	The last word of the phrase or compound title takes the apostrophe.	<ul style="list-style-type: none"> ▪ mother-in-law's choice ▪ attorney-general's decision ▪ someone else's report ▪ dinner for the sisters-in-law (<i>cf.</i> sisters-in-law's dinner)
Compound titles	<p>Note—Avoid particularly awkward constructions with possessive phrases or compound titles by using [of] or [for] instead of an apostrophe.</p>	<ul style="list-style-type: none"> ▪ Minister for Transport's suggestion ▪ Prime Minister of Australia's attendance ▪ Girl Guides Association's participation ▪ Meeting of the attorneys-general (<i>cf.</i> attorneys-general's meeting, which would be best avoided)
Expressions of time and distance	<p>Apostrophes can be omitted from expressions of time and distance involving a plural reference because the sense is descriptive (adjectival) rather than possessive.</p> <p>Singular expressions of time and distance are the exception,</p>	<ul style="list-style-type: none"> ▪ 4 weeks time (<i>not</i> 4 weeks' time) ▪ 7 days leave (<i>not</i> 7 days' leave) ▪ 2 years salary (<i>not</i> 2 years' salary) ▪ a day's pay ▪ 1 year's imprisonment ▪ 5 centimetres spacing (<i>not</i> 5 centimetres' spacing)

Case	Rule	Examples
	however, and the apostrophe remains to indicate the noun is not plural.	<ul style="list-style-type: none"> ▪ 1,000 metres base camp (<i>not</i> 1000 metres' base camp) ▪ 1 metre's depth
Non-possessive, generic phrases	<p>Apostrophes can be omitted from generic phrases where the sense of the plural noun is descriptive (adjectival) rather than possessive. If such phrases are used in a non-generic sense, however, an apostrophe is needed.</p> <p>Note—To test if the sense is descriptive rather than possessive, substitute [for]—a forum for drafters, a school for girls.</p>	<ul style="list-style-type: none"> ▪ drafters meeting (<i>not</i> drafters' meeting) ▪ workers compensation (<i>not</i> workers' compensation) ▪ girls school (<i>not</i> girls' school) ▪ editors marks (<i>not</i> editors' marks) ▪ users manual (<i>not</i> users' manual) <p>• <i>cf—</i></p> <ul style="list-style-type: none"> ▪ The editor's/editors' marks were difficult to decipher. (reference to the mark-ups of a particular editor or editors) ▪ The girl's/girls' school encourages participation in drama classes. (reference to the school attended by a particular girl or girls) <p>(One of the most common generic usages is "drivers licence", though this is, of course, not PCO style.)</p>
Gerunds	<p>Use an apostrophe of possession (or a possessive pronoun) with a noun followed by a gerund (verbal noun).</p> <p>Note—Gerunds are a special type of noun derived from verbs. They always end in [-ing]. To be sure that a possessive is needed, substitute another noun for the gerund.</p>	<ul style="list-style-type: none"> ▪ The unexpected outcome of Shannon's studying was ... (substitute noun could be "exam") ▪ The adverse effect of the State's interfering is ... (substitute noun could be "involvement") ▪ Everyone seems to dislike my singing. (substitute noun could be "voice")
Possessive pronouns	<p>Do not use an apostrophe with any possessive pronouns (words that stand in for a noun).</p> <p>Note—Take particular care to use the correct form of [its/it's]—</p> <ul style="list-style-type: none"> ▪ The possessive form is [its]—no apostrophe. ▪ The contracted form is [it's]—short for [it is] or, occasionally [it has]. 	<ul style="list-style-type: none"> ▪ my, your, his, her, its, our, their ▪ mine, yours, his, hers, its, ours, theirs <ul style="list-style-type: none"> ▪ The department submitted its drafting instructions last week. ▪ It's time for the meeting. ▪ It's the book without its cover you need.

Table 2—Omission of letters or sounds

Case	Rule	Examples
Grammatical contractions	<p>A grammatical contraction is one that ‘joins’ adjacent words—you read and pronounce the text as it is written in its contracted form.</p> <p>Use an apostrophe to indicate the omitted letters. If letters have been omitted at more than 1 point, use 1 apostrophe only. e.g. the rather antiquated [shall not] contracts to [shan’t], not [sha’n’t]</p> <p><i>Notes—</i></p> <ul style="list-style-type: none"> ▪ People use contractions all the time when they talk but not all are ‘fit to print’—unless you’re replicating direct speech! ▪ Contractions are not normally acceptable at all in formal writing like legislation. ▪ Some contractions, however, have become mainstream spelling and would be used in formal writing—most notably [o’clock]. ▪ With a few notable exceptions like the dreaded [ain’t], many contractions that include a verb are perfectly acceptable in other writing to avoid stilted sentences. 	<ul style="list-style-type: none"> ▪ can’t, didn’t, hasn’t, shouldn’t, that’s, wasn’t, where’s, won’t, wouldn’t, ▪ he’ll, I’m, it’s, let’s, she’s, that’s, they’re, we’ve, who’s, you’ll ▪ Shannon’s coming in late today.
Elided contractions	<p>These words or phrases are spelt to reflect their pronunciation.</p> <p>Use an apostrophe to indicate the dropped or elided sound.</p> <p><i>Note—</i>These spellings would be used only in informal writing or in replicating direct speech to indicate non-standard English.</p>	<ul style="list-style-type: none"> ▪ rock ‘n’ roll ▪ fishin’, shootin’ and huntin’ ▪ s’pose ▪ Jo’burg ▪ summer of ‘42
	<p>Some elided contractions have become so mainstream (and therefore plain English) they have lost the apostrophe completely and become words in their own right, rarely spelt out in full, even in the most formal writing.</p>	<ul style="list-style-type: none"> ▪ bus, fridge, phone, photo ▪ flu (though legislation still uses [influenza]) ▪ cello ▪ pram
Shortened word contractions	<p>A shortened word contraction is the shortened form of a single word that consists of the first and last letters of the full word and may also include other letters—you read and</p>	<ul style="list-style-type: none"> ▪ Cwith (said as ‘Commonwealth’) ▪ govt (said as ‘government’) ▪ Parl (said as ‘Parliament’) ▪ A’asia (said as ‘Australasia’)

	<p>pronounce it as if it were the whole word. Use an apostrophe only if there are adjacent repeated letters that might give the impression of a misprint.</p> <p><i>Notes—</i></p> <ul style="list-style-type: none">▪ These contractions may be acceptable in formal writing—for the first occurrence they would normally be shown in brackets after the word in full.▪ Consult the <i>Macquarie Dictionary</i> for the correct spelling of shortened word contractions.	
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Appendix 6 Glossary

Key terms used in the PCO Standard

Term	Description or explanation
EPI	Environmental planning instrument
Final production	A process during which the Legislation Editing and Access team confirms correct structure, mark-up and overall appearance of an instrument, usually removing indicators of the draft nature of the document, making it ready for approval.
LEP	Local environmental plan
PCC	Parliamentary Counsel's Committee
RIS	Regulatory impact statement
SEPP	State environmental planning policy