

How to read and understand legislation

Legislation is the process of making or enacting laws. A piece of legislation may also be referred to as an “Act” which has been passed by the relevant Parliament – State or Federal.

To search for an Act or piece of legislation online the following websites may be useful:

www.legislation.nsw.gov.au - for NSW Acts

www.legislation.qld.gov.au - for Queensland Acts

www.comlaw.gov.au - for Commonwealth Acts

www.austlii.edu.au - for all Commonwealth and State and Territory legislation and case law

When you are working with legislation and wanting to understand how it applies there are a number of factors to consider:

1. When does the legislation come into force?

This depends on the wording in the Act and it's useful to read the first 3 or 4 paragraphs of the legislation. In some cases the provisions of the legislation apply immediately. In others, a starting date or “commencement date” is laid down in the Act.

For example, the Residential Tenancies & Rooming Accommodation Act 2008 (Qld) may have been passed by the Queensland parliament in 2008 but the Act didn't come into force until 1 July 2009. Section 2 of that Act states “This Act commences on a day to be fixed by proclamation.” It is often useful to look at any regulations which accompany an Act if you are unsure when it started to apply.

2. What is the object of the legislation?

In other words, what is the purpose of the Act? This is also usually stated in the opening paragraphs of the Act. For example the Trade Practices Act 1974 (Cth) states in Section 2 that “The object of this Act is to enhance the welfare of Australians through the promotion of competition and fair trading and provision for consumer protection.”

3. Has the legislation been changed or amended since it first came into force?

If you are using the Austlii website or the government legislation websites listed above you can be sure that any amendments have been consolidated into the Act. Some Acts have been amended more than a dozen times - eg the Privacy Act 1988 (Cth) - but if you are looking at the consolidated legislation those changes will have been included.

4. What are Regulations?

Regulations are the practical details and rules made under Acts. It is often necessary to read the Regulations together with the Act to understand how it will apply. Regulations might also be referred to as ‘subordinate legislation’.

5. What does that word mean?

Most Acts contain a definitions section or ‘glossary of terms’ to define terms you may not understand or need to define exactly. For example, the Residential Tenancies Act 1987 (NSW) defines “residential premises” in section 3 – the definitions section. These sections can be important for determining whether the Act applies to your situation.