

Overview

Documents incorporated by reference

In Australian legislation, 'incorporated by reference' refers to the legal practice of including external documents or provisions into a legislative instrument without reproducing their full text within the instrument itself. Instead, the legislation refers to another document, making its content legally binding as if it were written directly in the legislation.

The types of documents incorporated can include Acts, legislative instruments, treaties, standards, or other written documents. The incorporation can refer to the document, as it exists at the time of the legislation's commencement, as it existed at a specified earlier date, or as it is updated from time to time (dynamic incorporation).

The [Legislation Act 2003 - Federal Register of Legislation](#) and the [Acts Interpretation Act 1901 - Federal Register of Legislation](#) provide the legal framework for this practice.

While agencies are not required to provide documents incorporated by reference elsewhere, referencing materials that are hard to access can increase compliance costs and risks. To mitigate these, agencies will in some cases distribute printed copies to major regional libraries or attach copies or links on the Register for better accessibility. When incorporating a non-Commonwealth Act or legislative instrument by reference, it is expected that the explanatory statement will describe each document and explain how to obtain it.

The Senate Standing Committee for the Scrutiny of Delegated Legislation examines the explanatory material that accompanies legislative instrument and checks whether incorporated documents are readily and freely accessible to the public.

Online Resources

[Instrument resources | Office of Parliamentary Counsel](#)

The Instruments Handbook provides helpful information for Commonwealth rule makers and agencies to make and manage legislative and notifiable instruments efficiently, effectively and in accordance with the relevant law. The handbook includes information about the requirements around incorporating material by reference.

[Senate Standing Committee for the Scrutiny of Delegated Legislation](#)

The Senate Standing Committee for the Scrutiny of Delegated Legislation evaluates delegated legislation according to specific scrutiny principles. As part of this the committee examines whether the supporting explanatory material describes any document incorporated by reference, including details about how it is incorporated, the legislative basis for such incorporation, and information on how the public can access the incorporated document.

More information on this scrutiny principal can be found on the committee's principles page on the Parliament House website at [Principle \(g\): Adequacy of explanatory materials – Parliament of Australia](#).