

**Parliamentary Counsel's Committee**

**Protocol on Drafting National Uniform Legislation**

**Third Edition: July 2008**



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This publication also includes a copy from the PCC website of the List of Acts of jurisdictions implementing uniform legislation (as at July 2008)



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## 1. Preliminary

- 1.1 The Parliamentary Counsel's Committee ("PCC") is a national committee representing the drafting offices in Australia and New Zealand. It comprises the heads of each of those drafting offices, with other drafters from those offices co-opted by their respective heads as required.
- 1.2 Appendix 1 contains the procedural arrangements under which PCC operates. Appendix 2 contains an article on the history of PCC. Appendix 3 contains a copy of the 2006 SCAG decision on uniform legislation that gave rise to this protocol, together with a paper prepared by the First Parliamentary Counsel of the Commonwealth which canvasses the reasons for inconsistency in national uniform legislation projects and which is referred to in the SCAG decision.
- 1.3 The national uniform legislation dealt with by PCC includes:
  - (a) national "applied laws" legislation (or "template" legislation) i.e. legislation enacted in one jurisdiction and applied (as in force from time to time) by other participating jurisdictions as a law of those other jurisdictions;
  - (b) national "model" legislation i.e. legislation that is drafted as model legislation and that is enacted in participating jurisdictions (with any local variations that are necessary to achieve the agreed uniform national policy when the legislation forms part of the local law);
  - (c) legislation of the States referring legislative power to the Commonwealth;
  - (d) legislation of a particular jurisdiction that is identified as legislation that will be followed in other jurisdictions (in this case, the matter can be added to the PCC agenda for settling as model legislation or for informal comments from other PCC members to promote uniform legislation in appropriate cases).
- 1.4 This Protocol concerns the legislation of Australian jurisdictions (i.e the legislation of the Australian Parliament and the Parliaments of the States, Northern Territory and the ACT).
- 1.5 This Protocol is designed to promote consistency in national uniform legislation. It should be recognised however that, while the Protocol will be a useful tool, the most efficient mechanism for promoting consistency in legislation in a complex and changing world is the settling of the legislation through meetings of, and circulation of drafts among, PCC members representing all relevant jurisdictions. It should also be recognised that there is a significant level of consistency in the large number of national uniform legislation projects that have been implemented by the various Australian jurisdictions. Some of the more significant areas of uniform legislation are listed on the PCC website [[www.pco.nsw.gov.au/uniform\\_legislation.htm](http://www.pco.nsw.gov.au/uniform_legislation.htm)]. The version of that list as at July 2008 is

set out after Appendix 5.

- 1.6 PCC, through its members, also has a role in maintaining consistency of implemented national uniform legislation. Accordingly when members draft local legislation that will impact on the complementary legislation of other jurisdictions, advice will be provided to other members of the proposed legislation (at least at the time of introduction or earlier if possible) so that any necessary consequential changes to that complementary legislation can be made.

## **2. Applied laws legislation**

2.1 Applied laws legislation falls into 2 broad categories:

- (a) Legislation on matters that are generally within the States' legislative powers (eg consumer credit). In that case, the national "template legislation" is enacted in one State or Territory and applied in other States or Territories (it is no longer the practice for the Commonwealth to legislate for the Territories and the law applied in other States).
- (b) Legislation on matters that are generally within the Commonwealth's legislative powers. In that case, the national "template" legislation is enacted in the Commonwealth (for Commonwealth legislative matters eg corporations) and applied in the States (for residual matters e.g individuals). In the case of a Territory, there is the option for the Territory to vacate the field and for the Commonwealth template law to apply expressly to the Territory.

2.2 Western Australia has taken a policy decision that it will not generally adopt the legislation of other jurisdictions as in force from time to time (other jurisdictions make similar decisions on particular legislative projects). When applied laws legislation is used for national uniform legislation, Western Australia (and those other jurisdictions) will enact consistent legislation and keep it up to date by subsequent amending legislation when the template legislation is amended.

2.3 In the case of Commonwealth template legislation, a policy decision is required as to whether the law is to be administered only by the Commonwealth or by both the Commonwealth and the States.

If the law is to be administered only by the Commonwealth, the States' application legislation will "federalise" the local law so that the Commonwealth and local laws can be administered as a single body of law by Commonwealth officials (or State officials appointed under Commonwealth legislation) using Commonwealth adjectival law (i.e. laws relating to the investigation and prosecution of criminal offences, laws relating to administrative appeals, laws relating to Ombudsman complaints/investigations etc). A typical example of a "federalised" uniform law is the Water Efficiency Labelling and Standards (NSW) Act 2005 (and the corresponding Acts of the other jurisdictions).

If the law is to be administered by both the Commonwealth and the States, the practicalities of administration by State officials may require the enactment or application in each jurisdiction of local standard adjectival laws (particularly if the State officials use

those local laws in the exercise of their other regulatory functions).

- 2.4 The proposed uniform national “template” law will be contained at the end of the Act of the host enacting jurisdiction and expressed to apply as a law of that jurisdiction, with legislation in other jurisdiction applying the legislation at the end of that Act as a law of that jurisdiction.
- 2.5 The national “template” law is drafted in non-jurisdiction specific terms (e.g. “this jurisdiction” , “the court” “the appropriate regulatory authority” etc). The application provisions for the national “template” law in the host jurisdiction and in the applying jurisdictions provide local definitions for those terms when the national “template” law applies as a law of that jurisdiction.
- 2.6 The drafting of the national “template” law at the end of the Act (in non-jurisdiction specific terms) is relevant for those legislative projects that are identified and drafted as applied law national uniform legislation. It is not relevant in cases where the application of Commonwealth legislation is subsequently extended by State application legislation to cover some areas in which the Commonwealth legislation does not apply.
- 2.7 PCC has settled a precedent for applied national legislation. The precedent is set out in Appendix 5.

### **3. National model legislation**

- 3.1 The objective of this model legislation is that it will be enacted in jurisdictions with any local variations that are necessary to achieve the agreed uniform national policy when the legislation forms part of the local law.
- 3.2 The model legislation can be drafted either:
  - (a) in non-jurisdictional specific terms, or
  - (b) as the law of a particular jurisdiction (usually that of the drafting office that undertakes the drafting on behalf of PCC), in which case the model legislation will note that local variations will be necessary when other jurisdictions enact the legislation.
- 3.3 Model legislation can be drafted with a view to a high degree of uniformity when implemented where the relevant Ministerial Council (or policy officers) have indicated that a high degree of uniformity is desired when the legislation is implemented in each jurisdiction (see SCAG decision in Appendix 3). Whether jurisdictions follow the model legislation when implementing the legislation is a matter for those jurisdictions (and not PCC). However, PCC members will ensure that in implementing the legislation the model is followed where issues of drafting only are involved.
- 3.4 Where model legislation comprises a mixture of core and non-core provisions (or requires the insertion of model provisions into an existing local Act), the Queensland Parliamentary Counsel has indicated that changes may be required due to drafting practices applied across the whole Queensland statute book, but that any changes would be kept to a minimum.

#### **4. Referral of powers legislation**

- 4.1 Legislation of the States referring legislative power to the Commonwealth follows a relatively standard pattern that has been settled over the years. The legislation can either confer general authority to legislate with respect to a general matter described in the referral legislation (eg meat inspection legislation) or confer specific authority to legislate in the terms set out in the referral legislation (eg mutual recognition legislation).
- 4.2 Particular features include:
- (a) provision for the referral to be terminated by (or to terminate on a specified day unless extended by) an instrument issued by the Governor of the State (or by subsequent State legislation);
  - (b) where authority is conferred to legislate in the terms set out in the referral legislation, provision on how that legislation may be amended etc by the Commonwealth in the future (eg by requiring a request from each of the referring States (the Australia Act). Alternatively, future amendments although not legally constrained can be subject of agreements between the Commonwealth and the States for Ministerial Council approval of changes;
  - (c) where authority is conferred to legislate in particular terms it is usual for those terms to be set out in each State referring legislation -however if it is extensive the reference can be made by adopting the text tabled in one of the State jurisdictions (eg the new Corporations legislation).
- 4.3 In recent times, the Commonwealth has been prepared to introduce its legislation once at least one of the States has introduced its referral legislation (with passage being delayed until at least one State's referral legislation is passed).
- 4.4 The Australian Constitution (para 51 (xxxvii)) enables a State, as an alternative to referral, to "adopt" a Commonwealth law enacted in reliance on a referral by other States (see for example the Victorian Mutual Recognition Act). However, this option is not usually favoured because the Commonwealth has taken the view that the States can only adopt a law as it exists at a particular time (and not from time to time). A referral of power gives the Commonwealth greater flexibility to make future changes and to ensure that those changes commence at the same time in all jurisdictions.

#### **5. Development of other forms of uniform legislation**

PCC will consider whether it is feasible to develop other legislative schemes to assist in drafting and implementing national uniform legislation, in particular to overcome perceived deficiencies of applied law or national model schemes. It may be possible for a legislative project to deal with some provisions by way of an applied law scheme and other provisions by way of national model scheme. Those jurisdictions that are currently prepared to use an applied law model to achieve future consistency by delegation of legislative changes to the Parliament of another jurisdiction (the template jurisdiction) may also be prepared to enact national model legislation and delegate legislative changes that are agreed by governments nationally to the executive of their own jurisdiction,

subject to a power of the local Parliament to disallow the changes in the same way as they may disallow subordinate legislation made by the executive.

## **6. Drafting conventions for national uniform legislation**

### **6.1 Uniform numbering of sections, parts and other components**

6.1.1 Where Ministers have identified a legislative project as requiring a high degree of national uniformity, numbering for a stand-alone Act should be uniform. PCC and officers will consult on whether it is practicable for the particular legislation to adopt uniform numbering. If uniform numbering is adopted, the policy and drafting officers of each jurisdiction concerned will need to consider all relevant issues in their jurisdiction before the legislation is settled (so that appropriate gaps in numbering for necessary local variations are provided and the jurisdiction is able to adopt that numbering when the legislation is implemented). In some cases it may not be possible to determine whether uniform numbering is feasible until the draft is almost settled.

6.1.2 In order to facilitate the adoption of uniform numbering:

- (a) Gaps in numbering of sections, parts and other components will generally be provided where a unique Commonwealth provision is required (e.g. to state the heads of legislative power to which the Commonwealth legislation applies) or where a significant number of the States/Territories require a provision not required by the Commonwealth or by the other States/Territories.
- (b) If there is a gap in numbering, local jurisdictions will ordinarily include a note relating to the reason for the gap (e.g. Evidence Acts of the Commonwealth and of NSW).
- (c) As an alternative to leaving gaps in numbering, jurisdictions that decide to legislate for additional provisions at the outset (whether as a matter of local policy or in order to ensure that the legislation will operate uniformly in the local jurisdiction) can use the drafting protocol adopted in the local jurisdiction for additional provisions included by future amending legislation (usually the preceding section number followed by “A”, “B” etc).
- (d) Since Victoria does not have a short title section in its legislation, a purpose clause would be included as the first section of the national uniform legislation (this would form part of the local Victorian legislation, but in other jurisdictions a short title would be inserted as section 1 and the purpose clause transferred to the explanatory note or to the long title. Alternatively if the other jurisdictions wish to enact the purpose clause as part of their legislation, the national model would leave a gap for the purpose clause (usually after or before the definition section) or the local jurisdiction would use an “A” number for the purpose clause.

### **6.2 Decimal numbering**

- 6.2.1 In national consistent legislation, decimal numbering at the section level (to reflect the Part in which the section appears) will not be adopted. This is because such numbering is not used in most jurisdictions.
- 6.2.2 However, in large legislative projects in which Chapters are used to group significant legislative subject-matters, decimal numbering will be used for Parts (to reflect the Chapter in which the Part appears). Cross references to a Part will not mention the Chapter because of the unique Part number (eg “A reference in Part 2.3 to ...” instead of “A reference in Part 3 of Chapter 2 to ...”).

### **6.3 Numbering/terminology for different components of legislation**

6.3.1 For Acts: Chapters, Parts, Divisions, Subdivisions, sections and Schedules - sequential arabic numerals.

6.3.2 For Acts: within a section in order as follows:

Subsections - sequential arabic numerals in brackets

Paragraphs - sequential lower case letters in brackets

Subparagraphs - sequential lower case roman numerals in brackets

Sub-subparagraphs - sequential upper case letters in brackets [Note: this level to be avoided if possible]

In the case of a schedule that forms part of an Act, the above applies except that provisions may (but need not) be referred to as clauses and subclauses (instead of sections and subsections). In addition, items may be used for a list of matters (each matter not consisting of a sentence).

6.3.3 For statutory instruments: Similar numbering and terminology as for Acts ordinarily apply (although there are additional options at the section/subsection-equivalent level because of the different kinds of statutory instruments and other factors).

6.3.4 A hyphen will not be used in the expression “subsection”, “subparagraph” etc

### **6.4 System for numbering additional sections etc when national uniform legislation is amended**

6.4.1 In uniformly numbered national consistent legislation (and in other appropriate cases), the protocol for numbering the additional provisions will be as follows:

- (a) For section and subsection numbers - the previous section or subsection numeral followed by sequential upper case letters i.e. A to Z, and then ZA to ZZ, and then ZZA to ZZZ etc. For sections added before section 1A, section 1AA may be used. For sections added after section 1A, sections 1AB, 1AC, 1AD etc may be used. Other numbering systems may be necessary where very extensive provisions are to be inserted into an Act.

- (b) For paragraphs: the previous paragraph letter followed by sequential lower case letters (all within the brackets) i.e. (a), (aa), (ab), (ac)....., (az), (aza)... (b), (c) etc
  - (c) For subparagraphs: the previous subparagraph roman numeral followed by sequential lower case letters i.e. (i), (ia), (ib), (ic)....., (iz), (iza)... (ii), (iii) etc
- 6.4.2 In order to avoid difficulties in numbering, existing sections etc can be re-numbered in appropriate cases (eg the insertion of a new section between an existing section and an “A” numbered section, particularly where the re-numbered section has not been the subject of significant case law and is not significantly cross-referred to in that or other legislation). Automatic re-numbering arrangements in local jurisdictions will not apply to uniformly numbered national consistent legislation.
- 6.4.3 Ordinarily, the Commonwealth uses “A” etc numbers or leaves gaps in numbering when amendments are made in the House during the progress of a Bill and the resulting Bill is not re-numbered to provide sequential numbering when it is passed. In most other jurisdictions, clauses are re-numbered when the final form of the Bill is known. In order to promote consistency of numbering in national uniform legislation, the Commonwealth will adopt the system of re-numbering in the case of any such legislation that is amended during passage to adopt nationally agreed changes to legislation that has been introduced.

## **6.5 Forward form of reference to components of sections**

For national consistent principal (“stand-alone”) legislation that includes the Commonwealth and that is identified as requiring a high degree of uniformity, the Commonwealth will use the forward form of reference used as a matter of course in all State and Territory legislation (i.e “in section 4 (1) (a) (i)” rather than “in subparagraph 4 (1) (a) (i)”).

## **6.6 Sections and subsections to comprise one sentence**

The use of two or more sentences in a section or subsection is to be avoided, but may be justified in some circumstances.

## **6.7 Interpretation Acts**

When implementing national uniform legislation, the Interpretation Act of the local jurisdiction will not be dis-applied (even if it is a case requiring a high degree of uniformity) in favour of the Interpretation Act of a selected jurisdiction or by enacting special Interpretation Act provisions for the particular legislation. This is because Interpretation Acts in many jurisdictions contain “adjectival” legislation that in other jurisdictions is contained in separate legislation or the general law (eg conferring the incidents of corporate status on incorporated State bodies; declaring the application of the law of the jurisdiction to the coastal waters of the jurisdiction; providing for the electronic or other publication and parliamentary disallowance of statutory instruments etc). However, in applied law (or template) legislation it is usual to apply the

Interpretation Act of the enacting template jurisdiction in so far as it relates to the meaning of words or phrases (or to enact a separate schedule for that purpose).

Since the application of Interpretation Acts is subject to any contrary intention in the legislation, national uniform legislation should as far as practicable avoid relying on special definitions in an Interpretation Act (apart from standard provisions relating to the singular including the plural etc.) PCC will seek to identify any special case in which a provision of a local Interpretation Act is being relied on if the differences in the Interpretation Act of other jurisdictions will necessitate local variations in the model national legislation to maintain uniformity in policy outcomes.

## **6.8 Criminal offences**

The Commonwealth, ACT and NT have a criminal code based on the MCCOC model. Criminal offences in those jurisdictions will (because of the general principles of criminal responsibility in Chapter 2 of the Code) have different consequences to criminal offences drafted in the same terms in the other jurisdictions. In particular, if there is no mental element expressed for an element of an offence (and it is not declared to be a strict or absolute liability offence) a default mental element of intention or recklessness applies under the Code. National uniform legislation should as far as practicable be drafted so that relevant mental elements are specified (rather than relying on the default fault element) and cases of strict or absolute liability identified. When implementing national consistent legislation in a local jurisdiction, PCC members will seek to draft provisions in a way that achieves the same policy result.

## **6.9 Penalty units**

Because of differences in current levels of the value of penalty units among jurisdictions and the potential for further variations to occur, national uniform legislation will use dollar amounts to express the amount of monetary fines for offences. PCC considers it would be confusing to adopt a unique penalty unit figure for national uniform legislation and it does not seem likely that the jurisdictions will adopt a standard amount of penalty unit as a matter of policy. In legislation that does not require a high level of uniformity, the local jurisdiction could substitute a level of penalty unit under its local legislation that reflects the agreed dollar amount in the model legislation (even though future changes in the value of a penalty unit in the local jurisdiction may result in a different applicable monetary fine).

In any case, the local jurisdiction could refer to penalty units, but define a penalty unit for the purposes of that legislation at a level that will correspond to the agreed dollar amount in the model legislation.

## **6.10 Location of definitions**

The use of Dictionaries at the end of the legislation (instead of definitions being included

in a section at the beginning of the legislation) is to be avoided. However, some jurisdictions (eg Queensland) have a standard practice of using dictionaries in all its legislation. In the implementation of the legislation in jurisdiction in that case, the definitions in the uniform legislation may be transferred to a dictionary (with the definition clause at the beginning used to refer to the dictionary). The referral form of definition (eg “dog” - see section 6) is permissible, particularly where separate sections are used to explain key concepts of the legislation (rather than their inclusion in a long list of defined terms).

#### **6.11 Provisions authorising the amendment of legislation by regulation or other disallowable subordinate instrument**

Provisions of Acts that permit the Act to be directly amended by regulation or other disallowable subordinate instrument are to be avoided in national uniform legislation. The avoidance of those provisions does not extend to powers conferred by Acts for the use of statutory instruments to exempt or exclude persons or things from the application of all or any of the provisions of the Act or allow other modifications of the operation of the Act (the conferral of powers of that kind is a policy matter).

#### **6.12 Uniform explanatory notes**

PCC is available to settle a common explanatory note that is prepared for national uniform legislation (particularly where Ministers have identified a legislative project as requiring a high degree of national uniformity).

In some cases, the drafter may be in a position to assist officers in the preparation of the explanatory note during the drafting process.

#### **6.13 Special drafting formats and devices**

Special drafting formats and features have been developed in some jurisdictions in order to improve legislation [eg the use of examples set out in different type and format within legislation]. Some of these special formats and devices cause difficulties when published using local drafting tools or when displayed on the official websites maintained by parliamentary counsel offices to provide public access to legislation. The inclusion of these special formats and devices will be subject to any such publishing limitation and to agreement that they will improve the intelligibility of the uniform legislation.

#### **6.14 Notes in the text of legislation**

In some jurisdictions, notes that do not form part of the official text of the legislation are included in legislation to point to relevant provisions in that or other legislation or to provide other useful editorial information to assist in the understanding of the legislation. Although this practice is not uniform among jurisdictions, the use of such editorial notes

will be permitted (but not used excessively) in national uniform legislation. Provision will be included in the legislation to explain the status of the notes (so that they have a common effect in all jurisdictions).

In addition, editorial or drafting notes are also utilised in the agreed text of uniform legislation to indicate a matter to be taken into account by a local jurisdiction when implementing the legislation or to provide necessary information about the operation of the uniform legislation that can be transferred in due course to the explanatory note for the implemented legislation or other explanatory document.

### **6.15 Human rights charters**

In Victoria and ACT, the Human Rights Act will require an interpretation of legislation that favours the Charter of human rights set out in the Act. That interpretation of legislation cannot be excluded in the case of national uniform legislation adopted in Victoria or ACT. Accordingly, if the policy of uniform legislation might be inconsistent with those rights, the uniform legislation will need to be explicit if it is to have a uniform interpretation across jurisdictions.

### **6.16 Headings to sections**

In some jurisdictions headings to sections form part of the text of the Act, and in others they do not. The drafting of national uniform legislation will need to taken account of that difference.

The use of headings in the form of questions will be avoided.

### **6.17 Official Dictionary**

PCC will use the Macquarie Dictionary for reference in drafting Australian legislation.

### **6.18 Plain english**

Plain english drafting (that has been the approach adopted in all Australian jurisdictions for some time) will apply to national uniform legislation. The principles of plain english drafting have been developed over time and are formally set out in the policy documents and drafting directions issued by drafting offices.

### **6.19 Miscellaneous matters of style**

PCC will generally adopt the following:

- (a) Subsection headings will be avoided.
- (b) Bullet points will be avoided in primary legislative text.

- (c) Paragraphs will end with a semi-colon.
- (d) References to a Part or Division will be capitalised (subject to any particular local variation).
- (e) References to a Part or Division will be in the form Division x of Part x (subject to any particular local variation).
- (f) “Their” not to be used as a singular pronoun.

## **7. Source site for national uniform legislation**

- 7.1. SCAG has decided (at its meeting on 9-10 November 2006) that where possible for each model legislation project a particular text is to be used as the “central model” for the preparation of implementing legislation in each jurisdiction. Accordingly, there is a need (for SCAG and other Ministerial Council projects) to identify the agreed version of national uniform legislation.
- 7.2. The PCC Secretariat (currently NSW PCO) maintains as part of the records of PCC copies of reports containing the settled draft of national uniform legislation submitted to and approved by SCAG or other Ministerial Councils.
- 7.3. PCC Secretariat has established, on the NSW PCO corporate website, a site on which the agreed official version of national uniform legislation can be posted for public access (once it is established that SCAG or other Ministerial Council has approved of the public release of the legislation).
- 7.4. The website also lists Acts of jurisdictions implementing agreed uniform legislation.
- 7.5. Appendix 4 shows screen shots from the website.

## Appendix 1 Procedure of the Parliamentary Counsel's Committee

The PCC provides a forum for the preparation of uniform and model legislation. It consists of the heads of the offices of Parliamentary Counsel for the Commonwealth, the States, the ACT, the Northern Territory and New Zealand and the head of the Office of Legislative Drafting for the Commonwealth. The Secretariat is presently located in NSW and the Secretary to the Committee is Mr Don Colagiuri (ph: 02 9321 3300, fax: 02 9232 4796, email: don.colagiuri@pco.nsw.gov.au).

**Initiation of project.** The PCC receives its work in 3 principal ways:

1. Projects specifically referred to the PCC from time to time by the Council of Australian Governments (COAG) or the Standing Committee of Attorneys-General (SCAG). These projects are initiated by a letter from the COAG or SCAG Secretariat to the PCC Secretary that describes the outcome desired and indicates the name and contact details for the lead instructing officer for the project. The PCC Secretary places the matter on the PCC agenda and circulates any relevant material to other members of the PCC.

2. Projects received from other Ministerial Councils or from national governmental bodies, seeking the drafting of uniform or model legislation. These projects are initiated by a letter from the person or body concerned to the PCC Secretary that describes the outcome desired and indicates the name and contact details for the lead instructing officer for the project. The PCC Secretary places the matter on the PCC agenda and circulates any relevant material to other members of the PCC. In some cases, it may be necessary for PCC to first discuss whether it is appropriate for PCC to accept the reference.

3. Projects placed on the PCC agenda by one or more of its members. This happens when Parliamentary Counsel, individually or collectively, are assigned a project which they consider warrants or would benefit from collective consideration and discussion. These projects are initiated by contacting a member of the Committee who may request the PCC Secretary to place the matter on the PCC agenda and circulate any relevant material to other members of the PCC.

**Allocation of work.** Some drafting projects involve all or most jurisdictions, while others involve fewer jurisdictions. There is a lead drafter for each project. The PCC Secretary seeks volunteers for the project and the PCC decides which jurisdiction will provide the lead drafter.

**Drafting process.** The lead drafter may need to discuss the approach (both general and detailed) of a draft with the lead instructor and in these circumstances may give a preliminary draft to the lead instructor for comment to check that the draft is on the right track. Drafts are circulated by the lead drafter to other Parliamentary Counsel for comment. Parliamentary Counsel will not, as a general rule, provide these drafts to local instructors as these drafts are at the developmental stage and the intention is that the lead drafter will, as a result of comments received from other Parliamentary Counsel, be able to refine the draft before it is released as the PCC draft. It is the responsibility of the lead instructor to circulate the draft to instructors generally.

**PCC Report.** When a draft is settled by the PCC, a formal report, with the draft attached, is

provided to the Ministerial Council or other body that requested the legislation. The report may draw attention to any matter of concern to the PCC.

**Timing.** It is desirable that the lead instructor keep the lead drafter informed of the priority of the particular exercise. While all reasonable efforts will be made to settle drafts within the desired timetable, the contingencies of parliamentary programs and differential timing of peak work periods may not make this possible.

**Confidentiality.** PCC treats its work with the same high level of confidentiality that applies to the ordinary work of Parliamentary Counsel.

## **Appendix 2            History of the Parliamentary Counsel's Committee (Article by Dennis Murphy, former Parliamentary Counsel NSW, for inaugural edition of PC News and Views newsletter)**

### **Introduction**

The Parliamentary Counsel's Committee provides an important forum for legislative drafters in Australia and New Zealand. It is appropriate in this inaugural edition of the newsletter to record some information about its origins, membership and role.

### **Origins**

The heads of legislative drafting offices in Australasia were of course in contact with each other before the establishment of the Committee. There were a number of exercises involving uniform or complementary legislation (including for example companies and hire purchase legislation), and it was inevitable that there would be many occasions when legislative counsel would communicate or confer.

The earliest record of the work of the Committee is a report by a conference of drafters held on 20-25 February 1970 in accordance with a direction given by Attorneys-General at a meeting in December 1969. The conference was attended by drafters from the Commonwealth and most States, and resulted in the establishment of the Committee.

Drafters again met on 8 July 1970, and it was reported to Ministers at their meeting in that month that drafters discussed in particular systems for the programming of legislation.

When Ministers met in Sydney in March 1972, they adopted recommendations that where uniform legislation is to be prepared, the matter be referred to the Committee and that the source of further instructions for the draftsman be identified.

During the 1970s, legislation was prepared by the Committee on a variety of subjects, including the interchange of powers between the Commonwealth and the States; domicile; family law (invalidity of orders by *Russell v Russell*); recognition of foreign adoptions; reciprocal enforcement of probation and parole orders; consumer credit; and carriers' liability.

It is interesting that the question of a uniform Food Act was on the agenda by May 1979. How history repeats itself!

### **Membership of the Committee**

The Committee originally consisted of the heads of the Offices of Parliamentary Counsel for the Commonwealth, the States, the Australian Capital Territory, and the Northern Territory. The head of the New Zealand Parliamentary Counsel Office and the head of the Office of Legislative Drafting for the Commonwealth later became members. Secretariat functions are provided by New South Wales.

## **Role of the Committee**

The Committee provides a forum for the preparation of uniform or complementary legislation, the promotion of consistent styles of legislation in Australia and New Zealand and the exchange of ideas.

The Committee receives its work in two principal ways, and it is convenient to classify its work according to these.

The first class of the work of the Committee consists of projects specifically referred to it from time to time by the Standing Committee of Attorneys-General. The relationship with the Attorney-Generals no doubt arises from the historical and on-going relationship between individual Parliamentary Counsel's Offices and the Attorney-General in each jurisdiction. In earlier times Parliamentary Counsel often formed part of or was a branch within the Attorney-General's Department or its equivalent and in modern times have generally been answerable to the Attorney-General. However, in recent years ministerial responsibility in a number of jurisdictions has shifted to other portfolios. For example, in New South Wales it presently lies with the Premier.

The second class of work consists of matters brought to the Committee by one or more of its members. This happens when Parliamentary Counsel, individually or collectively, are assigned a project which warrants or would benefit from collective consideration and discussion. This is the way the Committee sometimes receives work from Heads of Government and other ministerial councils or from other governmental authorities seeking the enactment of uniform or model legislation. There has been a tendency in recent years for much of the work of the Committee to be referred to us by persons or bodies other than the Standing Committee of Attorneys-General, though such work is sometimes formally referred through the Standing Committee or its officers.

Any member of the Committee is at liberty to put an item on the Committee's agenda. Such an item may be for information only or to exchange ideas, or it may result in a co-operative drafting project involving most if not all members of the Committee.

There has been a suggestion that the second class of work is not part of the work of the Committee as such, but is rather a class of work being considered and dealt with by Parliamentary Counsel collectively outside the formal operations of the Committee. This distinction has not led to any practical consequences, but would be relevant in instances where responsibility for the policy of a particular project of the Committee will lie with Heads of Government or other authorities and their officers, and not the Standing Committee and its officers.

Some drafting projects involve all or most jurisdictions, while others involve fewer jurisdictions. The role of lead drafters is normally assigned by the Committee. Volunteers are called for. Co-location of the lead instructing officer is sometimes a relevant consideration in assigning responsibility for drafting.

Some at least of our work also involves model legislation that may not necessarily be adopted either in whole or in part by all jurisdictions. This means that for some members some projects may be of little or no concern.

To maintain its reputation, the Committee needs to produce work of a high quality and as quickly as possible. The contingencies of parliamentary programs inevitably mean that at some times of year individual members are forced by pressure of work to “delegate” to other members.

The differential timing of peak work periods makes it very difficult to schedule meetings at all, let alone on a regular basis. Perhaps this does not really matter as quite a large percentage of Committee work is now fairly efficiently carried out on paper. Nevertheless, the Committee does aim to meet 3 or 4 times a year.

The Committee has established and supported drafters’ conferences and the Information Technology Forum, which has developed into a valuable resource for all members of drafting offices.

### **Value of the Committee**

The Committee has prepared a very considerable amount of draft uniform or complementary legislation. Recent projects include cross vesting; crimes at sea; forensic procedures; cross-border workers compensation; and (again) food law.

Experience has shown that the collective discussion of draft legislation in this forum has been most useful. Members of the Committee are well-known to each other, and legislative matters are discussed in a friendly and frank way, with the application of the highest drafting principles. There can be no doubt that the work of the Committee has made a major contribution to Australian legislation.

The success of conferences such as the Information Technology Forum, and the Drafting Forum in New Zealand in February 2000, suggests that members of the Committee would continue to support future similar conferences and other means by which members of Australasian drafting offices can stay in contact and develop and share their professional skills.

### **Acknowledgment**

The author thanks Rowena Armstrong (Victoria) and Marion Pascoe (NSW) for their invaluable assistance in the preparation of this paper.

### **Appendix 3      SCAG decision on uniform legislation and paper by Commonwealth PC**

At its meeting on 9-10 November 2006, Ministers:

- (a) noted the paper at Attachment “A” prepared by the Commonwealth’s First Parliamentary Counsel “*Consistency in model legislation*”.
- (b) noted that the Parliamentary Counsels Committee (PCC) had agreed to prepare a document that sets out relevant drafting practices to consider when drafting model or uniform legislation.
- (c) agreed to adopt the following high level principles to encourage consistency for future SCAG model legislation:
  - 1. SCAG decide at the outset for each model legislation project the level of drafting consistency that is required, including consistent numbering where practicable, and include the decision in the drafting instructions;
  - 2. SCAG decide where possible for each model legislation project a particular text to be used as the “central model” for the preparation of implementing legislation in each jurisdiction;
  - 3. Jurisdictions report to SCAG on how they implement model legislation for future projects including an explanation of any departures from the “central model” when it has been agreed that a high degree of consistency or uniformity is required.
- (d) agreed in principle to minimise policy difference in implementing SCAG model legislation wherever that can be achieved.

## **Differences between model legislation - paper prepared for SCAG by Commonwealth First Parliamentary Counsel**

### **Background**

- 1 There are a wide range of areas where States and Territories, sometimes in conjunction with the Commonwealth, enact model legislation to deal with particular issues or to cover particular fields. Various people have commented on the fact that, even though there is an intention that each State and Territory should enact the same legislation, the legislation often varies between jurisdictions.
- 2 Recently, the Commonwealth Attorney-General (Mr Ruddock) raised this matter with me after he had been spoken to at a legal function. I understand that the particular legislation that was raised with him was the Legal Practitioners legislation but that it was put forward as a general problem. I understand that he was advised that the cause of the differences was the different drafting approaches of the different Offices of Parliamentary Counsel.
- 3 This paper looks at some reasons why this occurs and ways that the differences can be minimised.

### **The causes of differences**

#### **Overview**

- 4 It is clear that there are often differences between the versions of model laws that are introduced by different jurisdictions. In some cases, these differences are quite minor. In others the differences are quite substantial.
- 5 The causes of these differences include:
  - (a) political decisions to implement different policies;
  - (b) different legislative environments (eg different interpretation Acts, other existing legislation);
  - (c) legislation being implemented in different forms (eg as part of existing legislation or as stand-alone legislation);
  - (d) legislation being introduced at different stages during a policy's development;
  - (e) later changes in policy;
  - (f) differences in numbering;
  - (g) differences in legislative drafting styles between drafting offices.
- 6 Each of these causes is examined in detail below.

***Political decisions to implement different policies***

- 7 Australia's federal system of Government makes it almost inevitable that there will be different political positions adopted on certain issues. As legislation must be agreed to by the Government of each State and Territory and the Commonwealth and then passed through each Parliament, it is common for changes to be made to the model Bills to accommodate different policies.
- 8 At its most extreme, this results in a State or Territory or the Commonwealth not passing the model legislation at all.
- 9 At the other end of the spectrum, the legislation passed will vary in a small number of ways.
- 10 Political decisions about consultation are also relevant. If governments will not allow draft legislation to be circulated (either at all, or within a realistic timeframe) then it is more difficult to achieve uniformity.

***Different legislative environments (eg different interpretation Acts, other existing legislation)***

- 11 Each jurisdiction has its own existing legislative environment. This will often impact on the detail of uniform legislation.
- 12 For example, each jurisdiction has its own Acts Interpretation Act (or similar). While these are largely consistent, there are differences. This will mean that a clause in an Act in one jurisdiction that is worded identically to a clause in an Act of another jurisdiction may have a different operation.
- 13 In such cases it is necessary that:
- (a) the text of the model legislation be altered in one of the jurisdictions to ensure that the operation is the same in each; or
  - (b) the interpretation legislation of one jurisdiction be overridden for the purposes of the model legislation; or
  - (c) it be accepted that the provisions, while worded identically, will have a different operation.
- 14 Clearly, none of these is an optimal result and the one that is preferable will vary from case to case.
- 15 At the Commonwealth level, there may be constitutional issues that require some divergences from model laws. For example, the need to link provisions to a constitutional head of power may require additional or slightly different provisions. Provision may need to be made for compensation if property is acquired other than on just terms. Legislation involving taxation may need to comply with Commonwealth constitutional requirements, which can lead to presentational differences.
- 16 Another area of difference that can have major impacts on model legislation is the structure of the criminal law. This can require differences in the way that offences are drafted and impact on the effect of provisions dealing with such things as infringement notice schemes. However, compromises can be made in some cases—for example, in clarifying the

legislation relating to research involving embryos and human cloning, the Commonwealth expressly included mental elements (which is not the approach preferred by the criminal law area of the Commonwealth Attorney-General's Department) in recognition that this would occur at State level.

- 17 When the range of legislation that may impact on model legislation is considered (particularly general criminal law) it seems unrealistic to expect that jurisdictions will agree to ensure that all such legislation is consistent.
- 18 Another issue is that jurisdictions may take different views of the legal position in relation to certain matters. For example, the view of the effect of the Wakim case has resulted in different review mechanisms under certain South Australian complementary legislation. Applications for review under certain SA Acts are made to the District Court of SA, while other States confer jurisdiction on the AAT.

***Legislation being implemented in different forms (eg as part of existing legislation or as stand-alone legislation)***

- 19 Some model legislation (such as the evidence legislation) is enacted as a stand-alone Act. Other model legislation is included as a part of existing legislation on a related topic. For example, legislation relating to controlled operations that was enacted in Victoria as a stand-alone Act is currently being drafted for inclusion in the Commonwealth Crimes Act.
- 20 Where model legislation is included as a part of existing legislation on a related topic there may be ways in which the model legislation needs to fit with the existing concepts in that legislation. It is very likely that these concepts will vary from jurisdiction to jurisdiction. Consequently, this may lead to the uniform model legislation being implemented in slightly different ways. For example, the Commonwealth is currently drafting legislation based on model laws relating to assumed identities. The model laws relate only to law enforcement agencies. The existing Commonwealth provisions that are being replaced relate also to intelligence agencies. OPC has been instructed that the provisions are to be based on the model laws, but are still to cover intelligence agencies. This means that the Commonwealth provisions will differ in some respects from the model laws.

***Legislation being introduced at different stages during a policy's development***

- 21 It is extremely difficult, due to the timing of sittings and elections in different jurisdictions, for legislation to be introduced at the same time in every sittings.
- 22 This need not be a problem where the model legislation is settled before it is introduced into the first jurisdiction and then not changed until it has been introduced in all jurisdictions.
- 23 However, in many cases the time lag between introduction in the first and last jurisdiction is such that the policy has changed and, consequently, the model legislation has changed.
- 24 This has been a particular problem with the Legal Practitioners model legislation. The model has never been finally settled and, as a consequence, the legislation in different jurisdictions reflects the policy that was current at the time that the legislation was introduced into the various jurisdictions.

### ***Later changes in policy***

- 25 Policy in nearly all areas is constantly developing. This causes a particular problem for model legislation as any changes need to be incorporated into the legislation of numerous jurisdictions.
- 26 As mentioned, this can take a substantial amount of elapsed time.
- 27 The two options that are available are to:
- (a) accept that there will be differences in the legislation during the period of change; or
  - (b) delay the start of any change until the last jurisdiction has its legislation in place.
- 28 The second option, while ensuring that consistency is maintained, is often considered unacceptable.

### ***Differences in numbering***

- 29 In many model legislation projects where stand-alone legislation is being adopted there will be particular clauses that are not required by some jurisdictions or that are only required by a small number of jurisdictions.
- 30 If the legislation in each jurisdiction were simply numbered sequentially, the inclusion (or exclusion) of such clauses from particular versions of the legislation would mean that the numbering of corresponding clauses would not match.
- 31 Historically, there has been resistance to introducing Bills into Parliaments (or to enact Acts) that have “missing” numbers or that have numbers with A, B etc. This was overcome in the uniform evidence legislation. The NSW, Commonwealth and Tasmanian legislation use numbering that ensures that corresponding provisions have the same section number. The Victorian Gene Technology Act, which was enacted after the Commonwealth Act, achieved consistent numbering by leaving gaps or, where necessary, using alphanumeric numbers.
- 32 Obviously, achieving consistent numbering is not possible if the model legislation is implemented through amendments of existing legislation rather than through stand-alone legislation.

### ***Correcting technical deficiencies***

- 33 A technical deficiency may be identified in model laws. The drafter must then decide whether to draft the (deficient) model law or correct the deficiency.

### ***Differences in legislative drafting styles between drafting offices***

- 34 The legislative drafting styles of all Australian offices is substantially consistent. There are, however, differences between offices and differences between drafters within offices.
- 35 I believe that it is recognised by PCC that it is important when drafting model legislation to ensure that such differences cause the minimum number of changes possible from the model

legislation. However, there have been cases in the past where the drafting styles of particular offices, or particular drafters, have led to changes to model legislation.

## **Addressing the causes**

### ***Political decisions to implement different policies***

- 36 Where there is known to be a difference with one or more jurisdictions on a basic part of the policy of a model scheme, there is little that can be done other than proceed with the scheme in those jurisdictions that do agree. In some cases, other jurisdictions may join the scheme at a later time.
- 37 Where there is general agreement on the model scheme but there are differences on certain aspects, it is desirable to identify those aspects early in the policy development and drafting process. If this is done, it may be possible to construct the policy and the legislation so that those areas that are agreed can be consistent while allowing areas of difference to be identified as such. This assists users of the legislation, as they do not have to guess whether the differences are intentional or not.
- 38 A process for achieving this may be to ensure that there is a version that is agreed on as “the central model” even if not all jurisdictions agree to implement the complete model. When implementing their particular version of the model, jurisdictions could highlight the differences that have been made to central model and the reasons for those differences.
- 39 SCAG officers could then report on how each piece of model legislation had been implemented in each jurisdiction.

### ***Different legislative environments (eg different interpretation Acts, other existing legislation)***

- 40 As each jurisdiction has its own legislative framework, it will often be necessary for jurisdictions to make minor changes to model legislation to ensure that it operates correctly in each jurisdiction.
- 41 A difficulty for users of legislation, and those who are involved in the policy and legislation development process, is knowing why changes have been necessary.
- 42 Having a version that is agreed on as “the central model” would assist users to be aware of where changes have been made. When implementing their particular version of the model, jurisdictions could highlight the differences that have been made to central model and the reasons for those differences.
- 43 There will be a number of areas (for example, the description of offences) where changes will regularly have to be made for particular jurisdictions. It would assist those developing the policy (and those preparing the legislation) if these areas were documented.
- 44 In some projects, such as the model legal profession legislation, a conscious decision will be made about what needs to be uniform. Where this is done, the decision needs to be clearly documented so that it can guide the development of the legislation in the various

jurisdictions.

***Legislation being implemented in different forms (eg as part of existing legislation or as stand-alone legislation)***

- 45 As part of the process of developing model legislation, a conscious decision should be made about the importance of the legislation being in the same form in different jurisdictions.
- 46 In some cases this will be very important, in others it will not be.
- 47 It should be noted when doing this that implementation as part of existing legislation is likely to result in greater differences between jurisdictions than implementation as stand-alone legislation.

***Legislation being introduced at different stages during a policy's development***

- 48 Where the policy is continuing to change, it is important that decisions be made early in the process about how some level of consistency will be maintained.
- 49 This may require jurisdictions to agree to delay introduction of any version of the model legislation until there is an agreed version.
- 50 Decisions will then need to be made about how changes to that model will be subsequently incorporated into the legislation of each jurisdiction.

***Later changes in policy***

- 51 At the time that the original model legislation is developed, consideration should be given to how later changes in policy will be implemented in the various jurisdictions that have adopted the model legislation.
- 52 It is suggested that a protocol be developed on how future changes will be dealt with for each piece of model legislation. Those protocols would need to take into account the realities of the elapsed time that it takes for legislation to be implemented in a number of jurisdictions. It would therefore need to determine whether changes should take effect as each jurisdiction makes them or only when all relevant jurisdictions have made them.

***Differences in numbering***

- 53 I believe that there should be an acknowledgement of the desirability of having uniform section numbering where model legislation is implemented as stand-alone legislation and that all parties should work to achieving this in future model legislation.
- 54 There will, of course, be some cases in which uniform numbering is not important or not desirable. In these cases, a positive decision that this is the case should be made and recorded.
- 55 Where model legislation is incorporated into another Act, it is unlikely that uniform section numbering will be achievable.

### ***Correcting technical deficiencies***

- 56 Where technical deficiencies are detected in model legislation, the jurisdiction that is implementing the model will need to determine whether to correct that deficiency at the time that the legislation is initially implemented.
- 57 Whether or not the technical deficiency is corrected at that time, the jurisdiction should raise the deficiency with the officers group responsible for the model legislation and seek a change to the model legislation.
- 58 This may, in turn, necessitate changes to versions of the model legislation as enacted in other jurisdictions.
- 59 It needs to be noted that delaying the implementation in a jurisdiction until agreement can be reached on a technical deficiency may result in an unacceptable delay in the introduction of the model legislation in that jurisdiction. This would need to be weighed against the desirability of maintaining consistency across jurisdictions.

### ***Differences in legislative drafting styles between drafting offices***

- 60 I believe that the members of PCC, as heads of each of the Australian drafting offices, should work to ensure that in future such changes do not occur. This may require providing flexibility in relation to normal office standards and also providing guidance to those drafters involved in model legislation projects.

### **Use of legislation picked up by reference**

- 61 An approach that lends itself to much greater consistency is for one jurisdiction to implement the model legislation and then for each other jurisdiction to pick this up by reference (with or without jurisdiction specific modifications).
- 62 I am aware that the Parliaments in some jurisdictions do not like this approach. However, if consistency of model legislation is a key objective, this is probably the best way to achieve it as any changes from the model must be specifically legislated by a particular jurisdiction.
- 63 This approach also enables changes to the model to be able to be implemented much more quickly that is possible if each jurisdiction has implemented its own legislation.
- 64 A disadvantage to this approach is that it can reduce access to legislation as the model legislation may not be included in statutory databases for the other jurisdictions. If this approach was to be used more commonly, those responsible for the databases would need to consider how access could be assisted.

### **Conclusion and summary**

- 65 There is obvious benefit in keeping model laws as consistent as possible between jurisdictions. There are, however, a range of factors that work against this. The goal should be to ensure that unnecessary factors do not impede consistency.
- 66 I believe that instructors, PCC and individual drafters in Australian drafting offices should

work to reduce as many of the differences as possible. This may involve being flexible on drafting approaches and trying to encourage instructors to be satisfied with the policy approach that has been adopted under the model law.

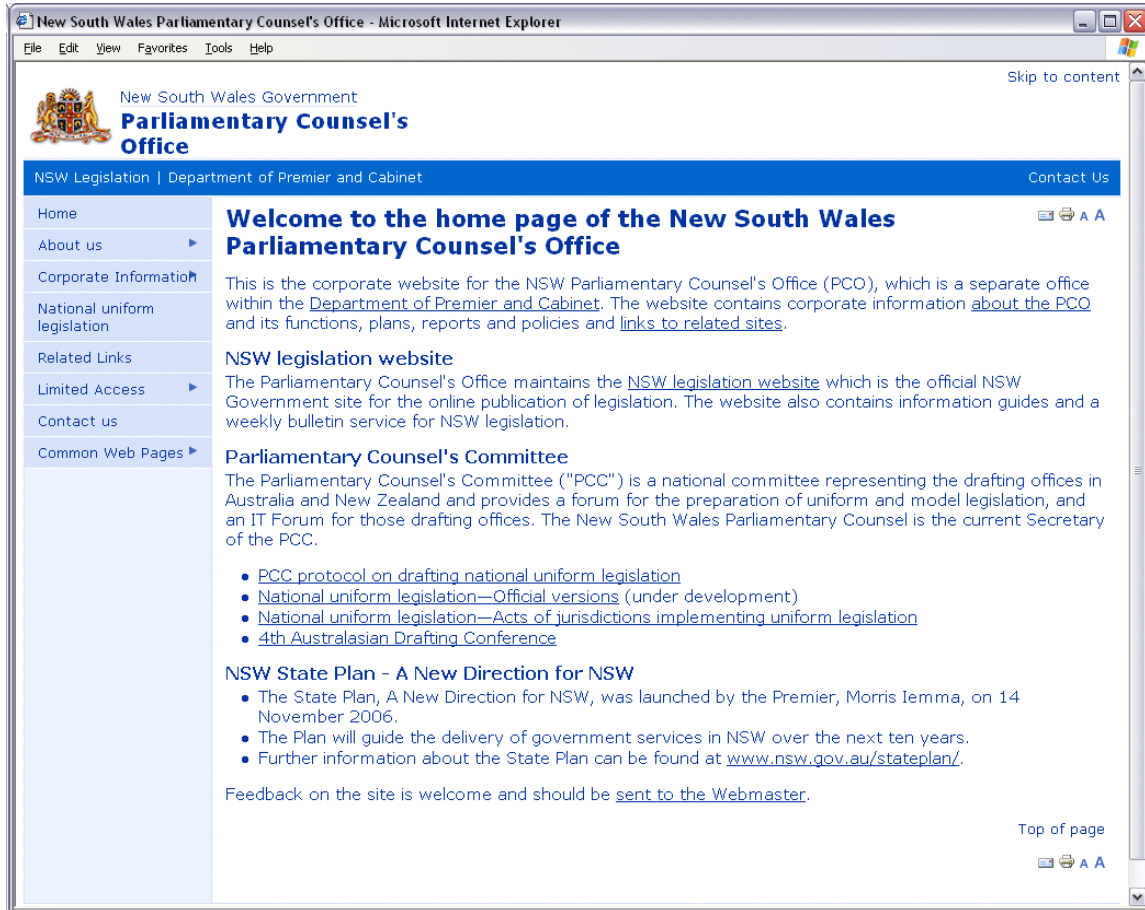
67 It is recommended:

- (a) that PCC recognise that obtaining consistency in model legislation is a goal that we should be striving for;
- (b) that for each model legislation project a particular text (which may or may not be the text of the legislation for a jurisdiction) is specified as the central model;
- (c) that SCAG officers report on how model legislation has been implemented in each participating jurisdiction including an explanation of all variations from the text of the central model;
- (d) that, unless it is inappropriate in the particular case, uniform numbering be used where model legislation is implemented as stand-alone legislation;
- (e) that instructing officers, in consultation with PCC, develop a protocol for each piece of model legislation setting out the level of consistency that is expected in the project, the way in which the model legislation will be implemented in each jurisdiction and the approach that will be taken to implementing later changes in policy;
- (f) that drafting offices develop material setting out the areas in which legislation implemented in their jurisdiction is likely to vary from model legislation;
- (g) that consideration be given to implementing as many model legislation schemes as possible through legislation that is enacted by one jurisdiction and picked up by others.

Peter Quiggin  
First Parliamentary Counsel  
Office of Parliamentary Counsel

## Appendix 4 Website - Agreed text of uniform legislation

URL [http://www.pco.nsw.gov.au/uniform\\_legislation.html](http://www.pco.nsw.gov.au/uniform_legislation.html)



## Uniform Legislation Page

The screenshot shows a web browser window displaying the New South Wales Parliamentary Counsel's Office website. The page is titled "National uniform legislation—Official versions" and lists several model bills and provisions. The browser's address bar shows the URL: "New South Wales Parliamentary Counsel's Office - National Uniform Legislation - Microsoft Internet Explorer".

**New South Wales Government  
Parliamentary Counsel's Office**

NSW Legislation | Department of Premier and Cabinet

Home > **National uniform Legislation**

### National uniform legislation—Official versions

**Model Child Protection (International Measures) Bill**  
This is the model [Child Protection \(International Measures\) Bill](#) prepared by the Parliamentary Counsel's Committee and approved by the Standing Committee of Attorneys-General on 8 November 2002.

**Model Defamation Provisions**  
These are the [Model Defamation Provisions](#) prepared by the Parliamentary Counsel's Committee and approved by the Standing Committee of Attorneys-General on 21 March 2005.

**Model Uniform Evidence Bill**  
This is the [Model Uniform Evidence Bill](#) prepared by the Parliamentary Counsel's Committee and endorsed by the Standing Committee of Attorneys-General on 26 July 2007.  
The Model Bill is based on the NSW Evidence Act 1995, as amended by the model [Evidence Amendment Bill 2007](#).  
A consolidation of the [NSW Evidence Act 1995](#) showing the effect of amendments to be made by the NSW Evidence Amendment Act 2007 is also available.

**Model Legal Profession legislation**

**2nd Edition**  
This is the [current version of the Model provisions](#) approved by the Standing Committee of Attorneys-General in August 2006.  
This revised and re-arranged Edition includes in the headnotes comparative references ("cP") containing information with respect to the Victorian and NSW legal profession legislation, and the equivalent provisions in the 1st Edition of the Model provisions.  
[Model Regulations](#) were approved by the Standing Committee on 11 April 2007.

**1st Edition**  
This is the [first version of the Model provisions](#) as approved by the Standing Committee of Attorneys-General in July 2004.  
[Model Regulations](#) were approved by the Standing Committee on 28/29 July 2005 for adoption in connection with the Model provisions.

### National uniform legislation—Acts of jurisdictions implementing uniform legislation

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## **[Topic] National Law Bill 2008**

**NOTE:** This precedent has been settled by the Parliamentary Counsel’s Committee for use in national consistent legislation using an applied law model (including for use in enacting an agreed uniform law set out separately in the local Act). The precedent deals mainly with the “local application provisions” or “front end” of the legislation, namely the provisions giving effect in the local jurisdiction to the uniform national law (either as set out at the end of the local legislation or as set out at the end of the legislation of the host jurisdiction).

Jurisdictions may need to make local variations to the local application provisions to reflect their general drafting style (eg Victoria would not have a short title but a purpose clause instead; the style of short title and commencement clauses differ between jurisdictions). Uniform clause numbering of the local application provisions is not required (uniform numbering of the national law is achieved by each jurisdiction adopting the national law that starts with clause 1). The model also caters for those cases in which some jurisdictions prefer to adopt a particular national law as in force from time to time in the host jurisdiction but the other jurisdictions prefer to enact that national law in their own legislation.

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### **A Bill for**

An Act relating to [*topic*].

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## Appendix 5 Applied national law PCC precedent

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[Topic] National Law Bill 2008

<b>The Legislature of [Name of enacting jurisdiction] enacts:</b>	1
<b>1 Short title</b>	2
This Act is the [Topic] National Law Act 2008.	3
<b>2 Commencement</b>	4
(1) This Act commences on a day or days to be appointed by proclamation.	5 6
(2) Different days may be appointed under subsection (1) for the commencement of different provisions of the [Topic] National Law set out in this Act.	7 8 9
OR [when adopting the law of the host jurisdiction]	10
(2) Different days may be appointed under subsection (1) for the commencement of different provisions of the [Topic] National Law set out in the [Topic] National Law Act 2008 of (Insert name of host jurisdiction).	11 12 13 14
<i>Note: Despite local practice, provision should not be made for default commencement if the Act has not been commenced after a stated period, and any local legislation that provides for automatic commencement of Acts after a stated period should be excluded.</i>	15 16 17 18
<b>3 Definitions</b>	19
(1) For the purposes of this Act, the <b>local application provisions of this Act</b> are the provisions of this Act other than the [Topic] National Law set out in this Act.	20 21 22
(2) In the local application provisions of this Act: <b>[Topic] National Law (Insert name of enacting jurisdiction)</b> means the provisions applying in this jurisdiction because of section 4.	23 24 25
(3) Terms used in the local application provisions of this Act and also in the [Topic] National Law set out in this Act have the same meanings in those provisions as they have in that Law.	26 27 28

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## Appendix 5 Applied national law PCC precedent

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[*Topic*] National Law Bill 2008

OR [ <i>when adopting the law of the host jurisdiction</i> ]	1
<b>3 Definitions</b>	2
(1) In this Act:	3
[ <i>Topic</i> ] National Law ( <i>Insert name of enacting jurisdiction</i> ) means the provisions applying in this jurisdiction because of section 4.	4 5
(2) Terms used in this Act and also in the [ <i>Topic</i> ] National Law set out in the [ <i>Topic</i> ] National Law Act 2008 of [ <i>Insert name of host jurisdiction</i> ] have the same meanings in this Act as they have in that Law.	6 7 8 9
<b>4 Adoption of [<i>Topic</i>] National Law</b>	10
(1) The [ <i>Topic</i> ] National Law set out in this Act:	11
(a) applies as a law of this jurisdiction, and	12
(b) as so applying may be referred to as the [ <i>Topic</i> ] National Law ( <i>Insert name of enacting jurisdiction</i> ), and	13 14
(c) as so applying, is a part of this Act.	15

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## Appendix 5 Applied national law PCC precedent

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[Topic] National Law Bill 2008

OR [when adopting the law of the host jurisdiction]	1
<b>4 Adoption of [Topic] National Law</b>	2
(1) The [Topic] National Law, as in force from time to time, set out in the [Topic] National Law Act 2008 of [Insert name of host jurisdiction]:	3
(a) applies as a law of this jurisdiction, and	4
(b) as so applying may be referred to as the [Topic] National Law (Insert name of enacting jurisdiction), and	5
(c) so applies as if it were a part of this Act.	6
	7
	8
	9
<i>Note: Some jurisdictions that apply the law of the host jurisdiction may wish to include provision for the disallowance by their Parliament of future amendments to the National Law enacted by the host jurisdiction. In that case, the amendment would cease to have effect in that adopting jurisdiction from the date of disallowance (in the meantime, as with regulations, the amendments would have effect).</i>	10
	11
	12
	13
	14
	15
<b>4A Uniform adoption of nationally approved amendments to the [Topic] National Law</b> [Optional—For use by jurisdictions that enact the national law instead of adopting the law of a host jurisdiction as amended in the future, but wish to ensure the co-ordinated and timely amendment throughout Australia of the national law without the necessity and delay of local Parliamentary amendment of the law]	16
	17
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	19
	20
	21
(1) In this section, <b>nationally approved amendment</b> means an amendment of the [Topic] National Law that is of a kind that has been approved by the relevant Ministers of the participating jurisdictions [OR by the Ministerial Council (as defined in the National Law)].	22
	23
	24
	25
(2) The Governor may, by regulation [or other form of local disallowable instrument], amend the [Topic] National Law set out in this Act to give effect in this jurisdiction to any nationally approved amendment.	26
	27
	28
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	31
	32
<i>Note: Under the law of the local jurisdiction, the disallowance of a regulation etc by either House of Parliament has the same effect as a repeal and will restore the National Law in the local jurisdiction as if the amending regulation etc had not been made.</i>	

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## Appendix 5 Applied national law PCC precedent

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[Topic] National Law Bill 2008

<b>5</b>	<b>Meaning of generic terms in [Topic] National Law for purposes of this jurisdiction</b>	1
		2
	In the [Topic] National Law ( <i>Insert name of enacting jurisdiction</i> ):	3
	<i>Court</i> means the [eg <i>Supreme Court of enacting jurisdiction</i> ].	4
	<i>the regulatory authority</i> means ...[eg <i>the Department of Fair Trading</i> ].	5
	<i>this jurisdiction</i> means [ <i>Insert name of enacting jurisdiction</i> ].	6
<b>6</b>	<b>Exclusion of legislation of this jurisdiction</b>	7
	The following Acts (or parts of Acts) of this jurisdiction do not apply	8
	to the [Topic] National Law ( <i>Insert name of enacting jurisdiction</i> ) or	9
	to the instruments made under that Law:	10
	(a) [ <i>here insert reference to local Interpretation Act, having regard</i>	11
	<i>to enactment of uniform interpretation provisions in the</i>	12
	<i>National Law</i> ]	13
	(b) [ <i>depending on the terms of local legislation, provisions for</i>	14
	<i>staged repeal of statutory instruments may need to be excluded,</i>	15
	<i>and any other legislation that is inconsistent with the operation</i>	16
	<i>of the applied law as a national uniform law</i> ]	17
	(c) [ <i>if a local legislature so determines, provision for dis-</i>	18
	<i>application of other local provisions by regulation under this</i>	19
	<i>Act could be included here</i> ]	20
<b>7</b>	<b>Local provisions</b>	21
	[ <i>here insert any necessary local provisions, such as repeal or</i>	22
	<i>amendment of existing legislation, transitional provisions, any special</i>	23
	<i>modification or addition to the Law in its application to the local</i>	24
	<i>jurisdiction as is contemplated by the relevant Intergovernmental</i>	25
	<i>agreement etc.</i> ]	26
		27

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## Appendix 5 Applied national law PCC precedent

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[Topic] National Law Bill 2008

	<b>[Topic] National Law</b>	1
<b>1</b>	<b>Short title</b>	2
	This Law may be cited as the [Topic] National Law.	3
<b>2</b>	<b>Commencement</b>	4
	This Law commences in a jurisdiction as provided by the Act of that jurisdiction that applies this Law as a law of that jurisdiction.	5 6
<b>#</b>	<b>National regulations</b>	7
	<i>Note: The national regulations are to be a separate form of law made under the national law and are not to be local regulations of the host jurisdiction that are applied as the law of other jurisdictions (in the same way as orders, directions etc made under the national law).</i>	8 9 10 11
	(1) For the purposes of this section, the <b>designated authority</b> is ....	12
	<i>[Options include: the relevant Ministers of the participating jurisdictions; the relevant Ministerial Council (if referred to in the National Law); the Governor of the host jurisdiction acting with advice of the Executive Council of that jurisdiction and on the recommendation of the Ministerial Council]</i>	13 14 15 16 17
	(2) The designated authority may make regulations for the purposes of this Law.	18 19
	(3) In particular, the regulations may make provision for or with respect to the following:	20
	(a) .....	21
	(b) .....	22
	<i>[here list any specific matters for which uniform regulations may be made]</i>	23
	(#) any other matter that is necessary or convenient to be prescribed for carrying out or giving effect to this Law.	24 25
	(4) The regulations are to be published..... <i>[Options include: in accordance with the arrangements approved by the designated authority; in accordance with the arrangements for the publication of the making of regulations in the host jurisdiction; in accordance with the</i>	26 27 28 29 30 31

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## Appendix 5 Applied national law PCC precedent

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[Topic] National Law Bill 2008

<i>arrangements for the publication of regulations made under a Commonwealth Act].</i>	1 2
(5) A regulation commences on the day or days specified in the regulation for its commencement (being not earlier than the date it is published).	3 4
<b># Parliamentary scrutiny of national regulations</b>	5
(1) A regulation made under this Law may be disallowed in a jurisdiction by a House of the Parliament of that jurisdiction in the same way that a regulation made under an Act of that jurisdiction may be disallowed.	6 7 8
(2) If a regulation is so disallowed, it ceases on the date of its disallowance to have any effect in that jurisdiction, but the disallowance does not affect the application of the regulation in any other jurisdiction.	9 10 11
<b># Interpretation Act provisions</b>	12
Schedule # contains provisions relating to the interpretation of this Law.	13 14
<i>Note: The following would be covered in the uniform Interpretation Schedule that applies to the Law:</i>	15 16
(a) <i>The application of the Law to the coastal waters of a jurisdiction.</i>	17 18
(b) <i>The reading down of the Law so as not to exceed the constitutional reach of the local legislature (no special "Hughes" clauses would be required in the local adopting legislation).</i>	19 20 21 22
(c) <i>The extra-territorial application of the Law.</i>	23

## National uniform legislation—Acts of jurisdictions implementing uniform legislation [as at July 2008]

Subject	Mirror/applied	Cth Act (if applicable)	State/Territory Act (if applicable)
AGVET— National Agricultural and Veterinary Chemicals Scheme	Applied—Cth Act	Agricultural and Veterinary Chemicals Code Act 1994 (Code set out in Schedule) and regulations	Agricultural and Veterinary Chemicals (New South Wales) Act 1994 (NSW) Agricultural and Veterinary Chemicals (Victoria) Act 1994 (Vic) Agricultural and Veterinary Chemicals (Northern Territory) Act (NT) Agricultural and Veterinary Chemicals (Queensland) Act 1994 (Qld) Agricultural and Veterinary Chemicals (Western Australia) Act 1995 (WA) Agricultural and Veterinary Chemicals (Taxing) Act 1995 (WA) Agricultural and Veterinary Chemicals (South Australia) Act 1994 (SA) Agricultural and Veterinary Chemicals (Tasmania) Act 1994 (Tas)
Air Navigation	Applied—Cth Act	Regulations under the Air Navigation Act 1920	Air Navigation Act 1938 (NSW) Air Navigation Act 1937 (WA) Air Navigation Act 1937 (SA) Air Navigation Act 1937 (Tas)
Australia Acts	Mirror	Australia Act 1986	Australia Acts (Request) Act 1985 (NSW) Australia Acts (Request) Act 1985 (Vic) Australia Acts (Request) Act 1985 (Qld) Australia Acts (Request) Act 1985 (WA) Australia Acts (Request) Act 1985 (SA) Australia Acts (Request) Act 1985 (Tas)

Subject	Mirror/applied	Cth Act (if applicable)	State/Territory Act (if applicable)
Australian Crime Commission	Mirror/ Applied—Cth Act	Australian Crime Commission Act 2002	Australian Crime Commission (New South Wales) Act 2003 (NSW) (applied) Australian Crime Commission (State Provisions) Act 2003 (Vic) Australian Crime Commission (Northern Territory) Act (NT) Australian Crime Commission (Queensland) Act 2003 (Qld) Australian Crime Commission (Western Australia) Act 2004 (WA) Australian Crime Commission (South Australia) Act 2004 (SA) Australian Crime Commission (Tasmania) Act 2004 (Tas) (mirror) Australian Crime Commission Act 2003 (ACT) (mirror)
Bills of lading	Mirror Modelled on Carriage of Goods by Sea Act 1992 (UK)		Sea-Carriage Documents Act 1997 (NSW) Sea-Carriage Documents Act 1998 (Vic) Sea-Carriage Documents Act (NT) Sea-Carriage Documents Act 1996 (Qld) Sea-Carriage Documents Act 1997 (WA) Sea-Carriage Documents Act 1998 (SA) Sea-Carriage Documents Act 1997 (Tas)
Births, deaths and marriages	Mirror Model provisions		Births, Deaths and Marriages Registration Act 1995 (NSW) Births, Deaths and Marriages Registration Act 1996 (Vic) Births, Deaths and Marriages Registration Act (NT) Births, Deaths and Marriages Registration Act 1998 (WA) Births, Deaths and Marriages Registration Act 1996 (SA) Births, Deaths and Marriages Registration Act 1999 (Tas) Births, Deaths and Marriages Registration Act 1997 (ACT)

Subject	Mirror/applied	Cth Act (if applicable)	State/Territory Act (if applicable)
Censorship/ Classification of Films etc	Mirror (supporting)	Classification (Publications, Films and Computer Games) Act 1995	Classification (Publications, Films and Computer Games) Enforcement Act 1995 (NSW) Classification (Publications, Films and Computer Games) (Enforcement) Act 1995 (Vic) Classification of Publications, Films and Computer Games Act (NT) Classification of Computer Games and Images Act 1995 (Qld) Classification of Publications Act 1991 (Qld) Classification of Films Act 1991 (Qld) Classification (Publications, Films and Computer Games) Enforcement Act 1996 (WA) Classification (Publications, Films and Computer Games) Act 1995 (SA) Classification (Publications, Films and Computer Games) Enforcement Act 1995 (Tas) Classification (Publications, Films and Computer Games) (Enforcement) Act 1995 (ACT)
Child Protection (Offender Registration)			Child Protection (Offenders Registration) Act 2000 (NSW) Sex Offenders Registration Act 2004 (Vic) Child Protection (Offenders Reporting and Registration) Act (NT) Community Protection (Offender Reporting) Act 2004 (WA) Child Sex Offenders Registration Act 2006 (SA) Community Protection (Offender Reporting) Act 2005 (Tas) Crimes (Child Sex Offenders) Act 2005 (ACT)
Child protection orders (Children and Young Persons (Reciprocal Arrangements))	Mirror		Children, Youth and Families Act 2005 (Vic) (Schedule 1) Children and Community Services Act 2004 (WA) (Part 6) Children, Young Persons and Their Families Act 1997 (Tas) (Part 8) Children and Young People Act 1999 (ACT) (Part 8)

Subject	Mirror/applied	Cth Act (if applicable)	State/Territory Act (if applicable)
Civil Aviation (Carriers Liability)	Applied—Cth Act	Civil Aviation (Carriers' Liability) Act 1959 (sections 5 and 42 and Parts IV and IVA)	Civil Aviation (Carriers' Liability) Act 1967 (NSW) Civil Aviation (Carriers' Liability) Act 1961 (Vic) Civil Aviation (Carriers' Liability) Act 1964 (Qld) Civil Aviation (Carriers' Liability) Act 1961 (WA) Civil Aviation (Carriers' Liability) Act 1962 (SA) Civil Aviation (Carriers' Liability) Act 1963 (Tas)
Coastal Waters	Mirror	Coastal Waters (State Powers) Act 1980	Constitutional Powers (Coastal Waters) Act 1979 (NSW) Constitutional Powers (Coastal Waters) Act 1980 (Vic) Constitutional Powers (Coastal Waters) Act 1980 (Qld) Constitutional Powers (Coastal Waters) Act 1979 (WA) Constitutional Powers (Coastal Waters) Act 1979 (SA) Constitutional Powers (Coastal Waters) Act 1979 (Tas)
Commercial arbitration	Mirror		Commercial Arbitration Act 1984 (NSW) Commercial Arbitration Act 1984 (Vic) Commercial Arbitration Act (NT) Commercial Arbitration Act 1990 (Qld) Commercial Arbitration Act 1985 (WA) Commercial Arbitration and Industrial Referral Agreements Act 1986 (SA) Commercial Arbitration Act 1986 (Tas) Commercial Arbitration Act 1986 (ACT)
Commonwealth Places (Mirror Tax)	Mirror	Commonwealth Places (Mirror Taxes) Act 1998	Commonwealth Places (Mirror Taxes Administration) Act 1998 (NSW) Commonwealth Places (Mirror Taxes Administration) Act 1999 (Vic) Commonwealth Places (Mirror Taxes Administration) Act 1999 (Qld) Commonwealth Places (Mirror Taxes Administration) Act 1999 (WA) Commonwealth Places (Mirror Taxes Administration) Act 1999 (SA) Commonwealth Places (Mirror Taxes Administration) Act 1999 (Tas)

<b>Subject</b>	<b>Mirror/applied</b>	<b>Cth Act (if applicable)</b>	<b>State/Territory Act (if applicable)</b>
Community Based Sentencing Orders (transfers)	Mirror Community Based Orders (Transfer) Bill 2002 (Model Bill)		Crimes (Interstate Transfer of Community Based Sentences) Act 2004 (NSW) Crimes (Sentence Administration) Act 2005 (ACT) (ch 12)
Competition Policy Reform	Applied—Cth provisions	Trade Practices Act 1974 (scheduled Part IV and associated provisions, and regulations)	Competition Policy Reform (New South Wales) Act 1995 (NSW) Competition Policy Reform (Victoria) Act 1995 (Vic) Competition Policy Reform (Northern Territory) Act (NT) Competition Policy Reform (Queensland) Act 1996 (Qld) Competition Policy Reform (Western Australia) Act 1996 (WA) Competition Policy Reform (Taxing) Act 1996 (WA) Competition Policy Reform (South Australia) Act 1996 (SA) Competition Policy Reform (Tasmania) Act 1996 (Tas) Competition Policy Reform Act 1996 (ACT)
Consumer credit	Applied Consumer Credit Code (set out in Consumer Credit (Queensland) Act 1994)		Consumer Credit (New South Wales) Act 1995 (NSW) Consumer Credit (Victoria) Act 1995 (Vic) Consumer Credit (Northern Territory) Act (NT) Consumer Credit (Queensland) Act 1994 (Qld) Consumer Credit (Western Australia) Act 1996 (WA) Consumer Credit (South Australia) Act 1995 (SA) Consumer Credit (Tasmania) Act 1996 (Tas) Consumer Credit Act 1995 (ACT)
Co-operatives	Mirror Co-operatives Act 1996 (Vic)		Co-operatives Act 1992 (NSW) Co-operatives Act 1996 (Vic) Co-operatives Act (NT) Co-operatives Act 1997 (SA) Cooperatives Act 1999 (Tas) Cooperatives Act 2002 (ACT)

<b>Subject</b>	<b>Mirror/applied</b>	<b>Cth Act (if applicable)</b>	<b>State/Territory Act (if applicable)</b>
Corporations	Referred	Corporations Act 2001	Corporations (Commonwealth Powers) Act 2001 (NSW) Corporations (Commonwealth Powers) Act 2001 (Vic) Corporations (Northern Territory Request) Act (NT) Corporations (Commonwealth Powers) Act 2001 (Qld) Corporations (Commonwealth Powers) Act 2001 (WA) Corporations (Commonwealth Powers) Act 2001 (SA) Corporations (Commonwealth Powers) Act 2001 (Tas)
Court information technology (video link)	Mirror		Evidence (Audio and Audio Visual Links) Act 1998 (NSW) Evidence Act 1958 (Vic) (Part IIA) Evidence Act (NT) (Part VIA) Evidence Act 1906 (WA) (s. 120-132) Evidence (Audio and Audio Visual Links) Act 1999 (Tas) Evidence (Miscellaneous Provisions) Act 1991 (ACT) (Part 3)
Crimes at Sea	Mirror	Crimes at Sea Act 2000	Crimes at Sea Act 1998 (NSW) Crimes at Sea Act 1999 (Vic) Crimes at Sea Act (NT) Crimes at Sea Act 2001 (Qld) Crimes at Sea Act 2000 (WA) Crimes at Sea Act 1998 (SA) Crimes at Sea Act 1999 (Tas)
Criminal Code	Mirror (model provisions)	Cth Criminal Code	Criminal Code (NT) (Part IIAA) Criminal Code 2002 (ACT)
Cross vesting	Mirror		Jurisdiction of Courts (Cross-vesting) Act 1987 (NSW) Jurisdiction of Courts (Cross-vesting) Act 1987 (Vic) Jurisdiction of Courts (Cross-vesting) Act (NT) Jurisdiction of Courts (Cross-vesting) Act 1987 (Qld) Jurisdiction of Courts (Cross-vesting) Act 1987 (WA) Jurisdiction of Courts (Cross-vesting) Act 1987 (SA) Jurisdiction of Courts (Cross-vesting) Act 1987 (Tas) Jurisdiction of Courts (Cross-vesting) Act 1993 (ACT)

<b>Subject</b>	<b>Mirror/applied</b>	<b>Cth Act (if applicable)</b>	<b>State/Territory Act (if applicable)</b>
Crown Proceedings	Mirror		Crown Proceedings Act 1988 (NSW) Crown Proceedings Act 1958 (Vic) Crown Proceedings Act (NT) Crown Proceedings Act 1992 (SA) Crown Proceedings Act 1993 (Tas) Court Procedures Act 2004 (ACT) (Pt 4)
De facto financial matters	Referred		Commonwealth Powers (De Facto Relationships) Act 2003 (NSW) Commonwealth Powers (De Facto Relationships) Act 2004 (Vic) Commonwealth Powers (De Facto Relationships) Act 2003 (Qld) Commonwealth Powers (De Facto Relationships) Act 2006 (WA) Commonwealth Powers (De Facto Relationships) Act 2006 (Tas)
Defamation	Mirror		Defamation Act 2005 (NSW) Defamation Act 2005 (Vic) Defamation Act (NT) Defamation Act 2005 (Qld) Defamation Act 2005 (WA) Defamation Act 2005 (SA) Defamation Act 2005 (Tas) Civil Law (Wrongs) Act 2002 (ACT) (Ch 9)
DNA Database	Mirror (part only)	Crimes Act 1914	Crimes (Forensic Procedures) Act 2000 (NSW) Crimes Act 1958 (Vic) (Part III, Div 1, Subdiv (30A)) Police Administration Act (NT) (Part VII, Div 7) Criminal Investigation (Identifying People) Act 2002 (WA) Crimes (Forensic Procedures) Act 2000 (ACT)
Electricity	Applied National Electricity Law set out in the Schedule to the National Electricity (South Australia) Act 1996 (SA)		National Electricity (New South Wales) Act 1997 (NSW) National Electricity (Victoria) Act 1997 (Vic) Electricity-National Scheme (Queensland) Act 1997 (Qld) National Electricity (South Australia) Act 1996 (SA) Electricity - National Scheme (Tasmania) Act 1999 (Tas) Electricity (National Scheme) Act 1997 (ACT)

<b>Subject</b>	<b>Mirror/applied</b>	<b>Cth Act (if applicable)</b>	<b>State/Territory Act (if applicable)</b>
Electronic Transactions	Mirror	Electronic Transactions Act 1999	Electronic Transactions Act 2000 (NSW) Electronic Transactions (Victoria) Act 2000 (Vic) Electronic Transactions (Northern Territory) Act (NT) Electronic Transactions (Queensland) Act 2001 (Qld) Electronic Transactions Act 2003 (WA) Electronic Transactions Act 2000 (SA) Electronic Transactions Act 2000 (Tas) Electronic Transactions Act 2001 (ACT)
Evidence	Mirror	Evidence Act 1995	Evidence Act 1995 (NSW) Evidence Act 2001 (Tas)
Fair Trading	Mirror	Trade Practices Act 1974	Fair Trading Act 1987 (NSW) Fair Trading Act 1999 (Vic) Consumer Affairs and Fair Trading Act (NT) Fair Trading Act 1989 (Qld) Fair Trading Act 1987 (WA) Fair Trading Act 1987 (SA) Fair Trading Act 1990 (Tas) Fair Trading Act 1992 (ACT)
Family Law	Referred	Family Law Act 1975 Child Support (Registration and Collection) Act 1988 Child Support (Assessment) Act 1989	Commonwealth Powers (Family Law—Children) Act 1986 (NSW) Commonwealth Powers (Family Law—Children) Act 1986 (Vic) Commonwealth Powers (Family Law—Children) Act 1900 (Qld) Family Court Act 1997 (WA) (not referred) Child Support (Adoption of Laws) Act 1990 (WA) (not referred) Commonwealth Powers (Family Law) Act 1986 (SA) Commonwealth Powers (Family Law) Act 1987 (Tas)
Federal Courts (State Jurisdiction)	Mirror		Federal Courts (State Jurisdiction) Act 1999 (NSW) Federal Courts (State Jurisdiction) Act 1999 (Vic) Federal Courts (State Jurisdiction) Act 1999 (Qld) Federal Courts (State Jurisdiction) Act 1999 (WA) Federal Courts (State Jurisdiction) Act 1999 (SA) Federal Courts (State Jurisdiction) Act 1999 (Tas)

<b>Subject</b>	<b>Mirror/applied</b>	<b>Cth Act (if applicable)</b>	<b>State/Territory Act (if applicable)</b>
Financial Transaction Reports	Mirror	Financial Transaction Reports Act 1988	Financial Transaction Reports Act 1992 (NSW) Financial Transactions Reports Act (NT) Financial Transaction Reports Act 1995 (WA) Financial Transaction Reports (State Provisions) Act 1992 (SA) Financial Transaction Reports Act 1993 (Tas)
Fines (Reciprocal Enforcement against bodies corporate)	Mirror		Fines Act 1996 (NSW) (Part 5) Fines Penalties and Infringement Notices Enforcement Act 1994 (WA) (Part 6) Magistrates Court Act 1930 (ACT) (div 3.9.3)
First home owners scheme	Mirror Intergovernmental Agreement on the Reform of Commonwealth-State Financial Relations (June 1999)		First Home Owner Grant Act 2000 (NSW) First Home Owner Grant Act 2000 (Vic) First Home Owner Grant Act (NT) First Home Owner Grant Act 2000 (Qld) First Home Owner Grant Act 2000 (WA) First Home Owner Grant Act 2000 (SA) First Home Owner Grant Act 2000 (Tas) First Home Owner Grant Act 2000 (ACT)
Food	Mirror/applied— Cth Act	Food Standards Australia New Zealand Act 1991	Food Act 2003 (NSW) Food Act 1984 (Vic) Food Act (NT) Food Bill 2005 (WA) (in Parliament) Food Act 2001 (SA) Food Act 2003 (Tas) Food Act 2001 (ACT)
Forensic Procedures	Mirror		Crimes (Forensic Procedures) Act 2000 (NSW) Criminal Investigation (Identifying People) Act 2002 (WA) Criminal Law (Forensic Procedures) Act 2007 (SA) Forensic Procedures Act 2000 (Tas) Crimes (Forensic Procedures) Act 2000 (ACT)

Subject	Mirror/applied	Cth Act (if applicable)	State/Territory Act (if applicable)
Gas	Applied Schedule to the National Gas (South Australia) Act 2008 (SA)		National Gas (New South Wales) Act 2008 (NSW) National Gas (Victoria) Act 2008 (Vic) National Gas (Northern Territory) Act 2008 (NT) National Gas (Queensland) Act 2008 (Qld) National Gas Access (Western Australia) Bill 2008 (WA) (in Parliament) National Gas (South Australia) Act 2008 (SA) National Gas (Tasmania) Act 2008 (Tas) National Gas (ACT) Act 2008 (ACT)
Gene Technology	Mirror/applied— Cth Acts and regulations, guidelines, principles, standards and codes of practice in force under either of those Acts	Gene Technology Act 2000 Gene Technology (Licence Charges) Act 2000	Gene Technology (New South Wales) Act 2003 (NSW) (applied law) Gene Technology Act 2001 (Vic) (mirror) Gene Technology Act (Northern Territory) Act (NT) Gene Technology Act 2001 (Qld) Gene Technology Act 2006 (WA) Gene Technology Act 2001 (SA) Gene Technology Act 2001 (Tas) Gene Technology Act 2001 (ACT) (mirror)
Hague Convention (Child Protection)	Mirror		Child Protection (International Measures) Act 2006 (NSW) Child Protection (International Measures) Act 2003 (Qld) Child Protection (International Measures) Act 2003 (Tas)
Heavy Vehicles Registration Charges	Mirror		Road Transport (Heavy Vehicles Registration Charges) Act 1995 (NSW) Road Traffic Act 1974 (WA) Road Traffic (Charges and Fees) Regulations 2006 (WA) Road Transport (General) Act 1999 (ACT) (section 96)

Subject	Mirror/applied	Cth Act (if applicable)	State/Territory Act (if applicable)
Human Cloning	Mirror	Prohibition of Human Cloning for Reproduction Act 2002	Human Cloning for Reproduction and Other Prohibited Practices Act 2003 (NSW) Infertility Treatment Act 1995 (Vic) (Part 4A) Research Involving Human Embryos and Prohibition of Human Cloning Act 2003 (Qld) Human Reproductive Technology Act 1991 (WA) Prohibition of Human Cloning Act 2003 (SA) Human Cloning and Other Prohibited Practices Act 2003 (Tas) Human Cloning and Embryo Research Act 2005 (ACT)
Human Embryo Research	Applied	Research Involving Human Embryos Act 2002	Research Involving Human Embryos (New South Wales) Act 2003 (NSW) (applied) Infertility Treatment Act 1995 (Vic) (Part 2A) (mirror) Research Involving Human Embryos and Prohibition of Human Cloning Act 2003 (Qld) Human Reproductive Technology Act 1991 (WA) Research Involving Human Embryos Act 2003 (SA) Human Embryonic Research Regulation Act 2003 (Tas) Human Cloning and Embryo Research Act 2005 (ACT)
Intergovernmental Agreement Cth-State Financial Relations	Enabling/Mirror	A New Tax System (Commonwealth-State Financial Arrangements) Act 1999	Intergovernmental Agreement Implementation (GST) Act 2000 (NSW) National Taxation Reform (Consequential Provisions) Act 2000 (Vic) State Entities (Payments) Act 1999 (WA) National Tax Reform (State Provisions) Act 2000 (SA) Financial Relations Agreement Act 2000 (ACT)

Subject	Mirror/applied	Cth Act (if applicable)	State/Territory Act (if applicable)
International transfer of prisoners	Mirror	International Transfer of Prisoners Act 1997	International Transfer of Prisoners (New South Wales) Act 1997 (NSW) International Transfer of Prisoners (Victoria) Act 1998 (Vic) International Transfer of Prisoners (Northern Territory) Act (NT) Prisoners International Transfer (Queensland) Act 1997 (Qld) Prisoners (International Transfer) Act 2000 (WA) International Transfer of Prisoners (South Australia) Act 1998 (SA) International Transfer of Prisoners (Tasmania) Act 1997 (Tas) Crimes (Sentence Administration) Act 2005 (ACT) (part 11.2)
Interstate Transfer of Prisoners	Mirror		Prisoners (Interstate Transfer) Act 1982 (NSW) Prisoners (Interstate Transfer) Act 1983 (Vic) Prisoners (Interstate Transfer) Act (NT) Prisoners (Interstate Transfer) Act 1982 (Qld) Prisoners (Interstate Transfer) Act 1983 (WA) Prisoners (Interstate Transfer) Act 1982 (SA) Prisoners (Interstate Transfer) Act 1982 (Tas) Crimes (Sentence Administration) Act 2005 (ACT) (part 11.1)
Legal profession	Mirror Legal Profession Model Bill Legal Profession Model Regs		Legal Profession Act 2004 (NSW) Legal Profession Act 2004 (Vic) Legal Profession Act (NT) Legal Profession Act 2004 (Qld) Legal Profession Act 2007 (Tas) Legal Profession Act 2006 (ACT)
Murray-Darling Basin	Mirror (agreement)	Murray-Darling Basin Act 1993	Murray-Darling Basin Act 1992 (NSW) Murray-Darling Basin Act 1993 (Vic) Murray-Darling Basin Act 1996 (Qld) Murray-Darling Basin Act 1993 (SA)

Subject	Mirror/applied	Cth Act (if applicable)	State/Territory Act (if applicable)
Mutual Recognition	Referred	Mutual Recognition Act 1992	Mutual Recognition (New South Wales) Act 1992 (NSW) Mutual Recognition (Victoria) Act 1998 (Vic) (adopted) Mutual Recognition (Northern Territory) Act (NT) Mutual Recognition (Queensland) Act 1992 (Qld) Mutual Recognition (Western Australia) Act 2001 (WA) Mutual Recognition (South Australia) Act 1993 (SA) Mutual Recognition (Tasmania) Act 1993 (Tas) (adopted) Mutual Recognition (Australian Capital Territory) Act 1992 (ACT)
National Environment Protection	Mirror		National Environment Protection Council (New South Wales) Act 1995 (NSW) National Environment Protection Council (Victoria) Act 1995 (Vic) National Environment Protection Council (Northern Territory) Act (NT) National Environment Protection Council (Western Australia) Act 1996 (WA) National Environment Protection Council (South Australia) Act 1995 (SA) National Environment Protection Council (Tasmania) Act 1995 (Tas) National Environment Protection Council 1994 (ACT)
Offshore Minerals	Mirror	Offshore Minerals Act 1994	Offshore Minerals Act 1999 (NSW) Offshore Minerals Act 2003 (WA) Offshore Minerals (Registration Fees) Act 2003 (WA) Offshore Minerals Act 2000 (SA)
Parentage Presumptions	Mirror		Status of Children Act 1996 (NSW) Status of Children Act 1974 (Vic) Status of Children Act (NT) Family Court Act 1997 (WA) (Part 5 Div 11 Subdiv 3) Status of Children Act 1974 (Tas) Parentage Act 2004 (ACT)

Subject	Mirror/applied	Cth Act (if applicable)	State/Territory Act (if applicable)
Petroleum (Offshore/ Submerged Lands)		Petroleum (Submerged Lands) Act 1967 Offshore Petroleum Act 2006	Petroleum (Offshore) Act 1982 (NSW) Petroleum (Submerged Lands) Act 1982 (Vic) Petroleum (Submerged Lands) Act (NT) Petroleum (Submerged Lands) Act 1982 (Qld) Petroleum (Submerged Lands) Act 1982 (WA) Petroleum (Submerged Lands) Registration Fees Act 1982 (WA) Petroleum (Submerged Lands) Act 1982 (SA) Petroleum (Submerged Lands) Act 1982 (Tas)
Price Exploitation	Applied—Cth Act	Trade Practices Act 1974 (the Schedule version of Part VB and the remaining provisions of the Act, except sections 2A, 5, 6 and 172, so far as they would relate to the Schedule version if the Schedule version were substituted for Part VB of the Act (and the regulations under the Trade Practices Act, so far as they relate to any of those provisions, and the guidelines under section 75AV of the Trade Practices Act))	Price Exploitation Code (New South Wales) Act 1999 (NSW) New Tax System Price Exploitation Code (Victoria) Act 1999 (Vic) New Tax System Price Exploitation Code (Northern Territory) Act (NT) New Tax System Price Exploitation Code (Western Australia) Act 1999 (WA) New Tax System Price Exploitation Code (Taxing) Act 1999 (WA) New Tax System Price Exploitation Code (South Australia) Act 1999 (SA) New Tax System Price Exploitation Code (Tasmania) Act 1999 (Tas)
Professional Standards	Mirror		Professional Standards Act 1994 (NSW) Professional Standards Act 2003 (Vic) Professional Standards Act (NT) Professional Standards Act 2004 (Qld) Professional Standards Act 1997 (WA) Professional Standards Act 2004 (SA) Professional Standards Act 2005 (Tas) Civil Law (Wrongs) Act 2002 (ACT) (Schedule 4)
Proportionate liability			Civil Liability Act 2002 (NSW) Wrongs Act 1958 (Vic) (Part IVAA) Civil Liability Act 2003 (Qld) (ch, pt 2) Civil Liability Act 2002 (WA) Civil Liability Act 1936 (SA) Civil Liability Act 2002 (Tas) Civil Law (Wrongs) Act 2002 (ACT) (Ch 7A)

<b>Subject</b>	<b>Mirror/applied</b>	<b>Cth Act (if applicable)</b>	<b>State/Territory Act (if applicable)</b>
Rail Safety	Mirror Model Rail Safety (Reform) Bill		Rail Safety Act 2006 (Vic) Rail Safety Act 1997 (Tas)
Road and Rail (Dangerous Goods)	Mirror	Road Transport Reform (Dangerous Goods) Act 1995	Road and Rail Transport (Dangerous Goods) Act 1997 (NSW) Road Transport (Dangerous Goods) Act 1995 (Vic) Dangerous Goods (Road and Rail Transport) Act (NT) Dangerous Goods Safety Management Act 2001 (Qld) Dangerous Goods (Transport) Act 1998 (WA) Dangerous Goods Safety Act 2004 (WA) (to replace 1998 Act) Dangerous Substances Act 1979 (SA)
Road Transport legislation	Applied/Mirror/ Incorporation Australian Road Rules		Road Transport (Safety and Traffic Management) Act 1999 (NSW)—Road Transport (Safety and Traffic Management) (Road Rules) Regulation 1999 Traffic Regulations (NT) (Schedule 3 - Australian Road Rules) Road Traffic Act 1974 (WA) (and regulations) Road Traffic Act 1961 (SA) Traffic (Road Rules) Regulations 1999 (Tas) Road Transport (Safety and Traffic Management) Regulation 2000 (ACT) (s 6)
Sports Drug Testing	Applied—Cth Act (Part 3 and regulations of 1990 Act, that Act replaced by 2006 Act)	Australian Sports Drug Agency Act 1990 Australian Sports Anti-Doping Authority Act 2006	Sports Drug Testing Act 1995 (NSW) Sports Drug Testing Act 1995 (Vic) Sports Drug Testing Act 2003 (Qld) Sports Drug Testing Act 2001 (WA) Sports Drug Testing Act 2000 (SA) Drugs in Sport Act 1999 (ACT)
Standard Time	Mirror		Standard Time Act 1987 (NSW) Supreme Court Act 1986 (Vic) (sec 43) Standard Time Act (NT) Standard Time Act 2005 (WA) Standard Time Act 1895 (Tas) Standard Time and Summer Time Act 1972 (ACT)

<b>Subject</b>	<b>Mirror/applied</b>	<b>Cth Act (if applicable)</b>	<b>State/Territory Act (if applicable)</b>
Succession	Mirror		Succession Act 2006 (NSW) (wills) Wills Act 1997 (Vic) Wills Act (NT) Wills Act 1970 (WA) (to be am by Wills Amendment Bill in Parliament) Wills Act 1968 (ACT)
Terrorism	Referred—Cth Act (Criminal Code set out in the Schedule to the Act)	Criminal Code Act 1995	Terrorism (Commonwealth Powers) Act 2002 (NSW) Terrorism (Commonwealth Powers) Act 2003 (Vic) Terrorism (Northern Territory) Request Act (NT) Terrorism (Commonwealth Powers) Act 2002 (Qld) Terrorism (Commonwealth Powers) Act 2002 (WA) Terrorism (Commonwealth Powers) Act 2002 (SA) Terrorism (Commonwealth Powers) Act 2002 (Tas)
Therapeutic Goods/Poisons	Applied—Cth Act	Therapeutic Goods Act 1989 (and all regulations, orders and manufacturing principles in force under that Act)	Poisons and Therapeutic Goods Act 1966 (NSW) Therapeutic Goods (Victoria) Act 1994 (Vic) Therapeutic Goods and Cosmetics Act (NT) Therapeutic Goods Act 2001 (Tas) Poisons and Drugs Act 1978 (ACT)
Trade Measurement	Mirror	National Measurement Act 1960	Trade Measurement Act 1989 (NSW) Trade Measurement Act 1995 (Vic) Trade Measurement Act (NT) Trade Measurement Act 1990 (Qld) Trade Measurement Act 2006 (WA) Trade Measurement Act 1993 (SA) Trade Measurement (Tasmania) Administration Act 1999 (Tas) Trade Measurement Act 1991 (ACT)

Subject	Mirror/applied	Cth Act (if applicable)	State/Territory Act (if applicable)
Trans-Tasman Mutual Recognition	Referred	Trans-Tasman Mutual Recognition Act 1997	Trans-Tasman Mutual Recognition (New South Wales) Act 1996 (NSW) Trans-Tasman Mutual Recognition (Victoria) Act 1998 (Vic) Trans-Tasman Mutual Recognition Act (NT) Trans-Tasman Mutual Recognition (Queensland) Act 2003 (Qld) Trans-Tasman Mutual Recognition (Western Australia) Bill (WA) (in Parliament) Trans-Tasman Mutual Recognition (South Australia) Act 1999 (SA) Trans-Tasman Mutual Recognition (Tasmania) Act 2003 (Tas) (adopting) Trans-Tasman Mutual Recognition Act 1997 (ACT)
Water Efficiency Labelling	Mirror/applied— Cth Act	Water Efficiency Labelling and Standards Act 2005	Water Efficiency Labelling and Standards (New South Wales) Act 2005 (NSW) (applied) Water Efficiency Labelling and Standards Act 2005 (Vic) (mirror) Water Efficiency Labelling and Standards Act (NT) Water Efficiency Labelling and Standards Act 2005 (Qld) Water Efficiency Labelling and Standards Act 2006 (WA) Water Efficiency Labelling and Standards Act 2006 (SA) Water-Efficiency Labelling and Standards Act 2005 (Tas) Water Efficiency Labelling and Standards Act 2005 (ACT)
Workers Compensation (Cross-border provisions)	Mirror		Workers Compensation Act 1987 (NSW) Accident Compensation Act 1985 (Vic) Workers Rehabilitation and Compensation Act 1986 (SA) Workers Compensation Act 1951 (ACT) (pt 4.2A)