

Guidelines for the preparation of explanatory notes

Overview

Purpose of explanatory notes

The preparation and use of explanatory notes is an important part of the legislative process. Explanatory notes need to be clear, precise and informative as they are used to:

- inform Cabinet decision making;
- contribute to informed debate in Parliament;
- ensure effective Parliamentary scrutiny of Bills and subordinate legislation;
- assist in the interpretation of legislation, including by practitioners, lawyers and courts;
- make legislation more accessible by assisting people to understand the effect on their rights and obligations imposed by legislation; and
- inform public discussion about legislation, including whether the legislation has sufficient regard to rights and liberties of individuals and democratic principles.

Explanatory notes are required at key times in the development of legislation and are prepared to accompany:

- the Authority to Introduce a Bill submission to Cabinet¹
- the Bill on its introduction into Parliament²
- any amendments during consideration in detail of the Bill³
- an Authority to Forward Significant Subordinate Legislation submission to Cabinet⁴
- all subordinate legislation that is tabled in Parliament⁵.

“The role of explanatory notes is to assist with the understanding of the Bill. When compiling explanatory notes, agencies need to put themselves in the place of a stakeholder with limited or no knowledge of what is trying to be achieved by the Bill. Explanatory notes need to include sufficient detail and be presented in such a way that they can be easily understood.”⁶

Role of Parliamentary Committees

Parliamentary Committees are responsible for examining each Bill and item of subordinate legislation in its portfolio area to consider the policy to be given effect by the legislation, the application of fundamental legislative principles and the lawfulness of subordinate legislation⁷.

The responsibilities of Parliamentary Committees also include monitoring the operation of explanatory notes. Clearly drafted and informative explanatory notes assist Committees in carrying out their functions.

¹ Section 7.3.2, [Queensland Cabinet Handbook](#)

² Section 22, [Legislative Standards Act 1992](#)

³ Section 4.7, [Legislation Handbook](#)

⁴ Section 7.5.3, [Queensland Cabinet Handbook](#)

⁵ Section 22, [Legislative Standards Act 1992](#)

⁶ Finance and Administration Committee, [Report No. 53 Annual Report 2013-2014](#), October 2014 (page 5)

⁷ Section 93, [Parliament of Queensland Act 2001](#)

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*"[The Committee] relies on the explanatory notes being clear, precise and sufficiently detailed to be useful in explaining the various facets of the Bill."*⁸

Content of explanatory notes

The *Legislative Standards Act 1992* (LSA) sets out the requirements for what to include in explanatory notes for Bills (section 23) and for subordinate legislation (section 24). These sections provide the framework for the content of explanatory notes and are used as headings in the templates attached:

- Template 1 - Explanatory notes for Bills
- Template 2 - Explanatory notes for subordinate legislation.

Agency officers should adopt these templates for explanatory notes and be guided by the notes and examples under each heading.

- The notes emphasise the information which should be included to assist users of explanatory notes, in particular Parliamentary Committees, sourced from Committee reports and the Auditor-General's Report to Parliament No.6 of 2009, *Providing the information required to make good regulation, A performance management systems audit*.
- The examples for the explanatory notes for a Bill have been adapted from the explanatory notes for the Queensland Civil and Administrative Tribunal Bill which was considered exemplary by the former Scrutiny of Legislation Committee.

The brief examples in the templates only provide a starting point for preparing the document.

Erratum

It may be necessary for the Minister sponsoring the Bill to correct any error or inaccuracy in the explanatory notes. The Minister does this by tabling in Parliament an erratum that ensures the explanatory notes reflect the content of the Bill.

The erratum should include information under the following headings:

- The title of the Bill
- Reason for Erratum
- Notes on Provisions.

Amendments during Consideration in Detail of a Bill

Where amendments to a Bill are to be moved by the Minister sponsoring the Bill during the consideration in detail stage, agency officers must prepare supplementary explanatory notes for the Minister to table in Parliament.

The explanatory notes for amendments to be moved during consideration in detail should include information under the following headings:

- The title of the Bill
- Objectives of the amendments

⁸ Finance and Administration Committee, [Report No. 53 Annual Report 2013-2014](#), (page 4)

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- Consultation
- Notes on provisions.

Regulatory Impact Statements

The Regulatory Impact Statement (RIS) system has been designed to ensure that the costs and benefits associated with the making of legislation and alternatives to regulation are fully assessed. It incorporates the requirements of the *Statutory Instruments Act 1992* in regard to subordinate legislation.

Explanatory notes for significant subordinate legislation must be accompanied by the regulatory impact statement prepared for the subordinate legislation⁹ and may reference the RIS.

In the case of a bill, if the RIS has been publicly released, it may also be appropriate to include reference to the contents of the RIS in the explanatory notes for a Bill, for example, in relation to the costs and benefits of government implementation.

Formatting, printing and delivery

Explanatory notes for Bills

Explanatory notes must be finalised and provided in PDF format to the company engaged by the Government to print and supply legislation, LitSupport (telephone number 3223 9200).

Explanatory notes for subordinate legislation

After the subordinate legislation is made, the Office of the Queensland Parliamentary Counsel (OQPC) advises the subordinate legislation number to each relevant agency. The agency then provides the explanatory notes with subordinate legislation number in PDF format via email to OQPC (print@oqpc.qld.gov.au) by 2pm, each Thursday.

⁹ Section 24(3), [Legislative Standards Act 1992](#)

TEMPLATE 1 - EXPLANATORY NOTES FOR BILLS

Document Header to contain full name of Bill

[Insert name of Bill]

Explanatory Notes

Short title

Notes:

- Requirement under section 23(1)(a) of the *Legislative Standards Act 1992* (LSA).
- The short title of the Bill is set out in the draft Bill.

Example:

The short title of the Bill is the [insert title].

Policy objectives and the reasons for them

Notes:

- Requirement under section 23(1)(b) of the LSA:
 - a brief statement of the policy objectives of the Bill
 - the reasons for them.
- Give sufficient reasons for the policy objectives - the reasons have been considered by the former Scrutiny of Legislation Committee to be as important as the policy objectives themselves.
- Provide reasons for the non-inclusion of information required under section 23(1)(b).

Example:

The objectives of the Bill are to:

1. establish an independent body to deal with ###
2. ensure the independent body deals with matters in a way that is ###

The Queensland Government announced its intention to create a new independent body following a review by the Department of ###. The review arose out of long standing concerns about ### and the consequent confusion for users and the cost to government...

Achievement of policy objectives

Notes:

- Requirement under section 23(1)(c) of the LSA:
 - a brief statement of the way the policy objectives will be achieved by the Bill
 - why this approach is reasonable and appropriate.

- Present a justification for the approach adopted in the bill and how it will achieve the policy objectives.
- State why this way of achieving the objectives is reasonable and appropriate – it is not adequate to simply state that ‘it is reasonable and appropriate’.
- Explain why the government action is effective and proportional to the issue being addressed.
- Provide reasons for the non-inclusion of information required under section 23(1)©.

Example:

To achieve its objectives, the Bill will establish the independent body and set out its functions and powers.

The Bill will achieve its objective of ### by:

- requiring the independent body to ###
- requiring ###

The Bill will achieve its objective of ### by:

- requiring ###
- requiring ###

Alternative ways of achieving policy objectives

Notes:

- Requirement under section 23(1)(d) of the LSA, if appropriate:
 - a brief statement of any reasonable alternative way of achieving the policy objectives
 - why the alternative was not adopted.
- Explain the range of feasible policy options that have been considered, including self-regulatory, co-regulatory and non-regulatory approaches, and the benefits and costs of each option where appropriate.
- Explain why legislation generates the greatest net benefit for the community.
- Provide reasons for the non-inclusion of information required under section 23(1)(d).

Example:

The Department of ### released a discussion paper/public benefit test for public consultation seeking comment on a range of options for reform. Options other than [the recommended option] canvassed were:

- ###
- ###

Explain the costs and benefits of pursuing the preferred and alternative options

Consultation confirmed that the majority of stakeholders supported/did not support Option 1 due to the following reasons:

- ###
- ###

The majority of stakeholders supported/did not support Option 2 for the following reasons:

- ###
- ###

Estimated cost for government implementation

Notes:

- Requirement under section 23(1)(e) of the LSA:
 - a brief assessment of the administrative cost to government of implementing the Bill, including staffing and program costs but not the cost of developing the Bill.
- Present more than a simple assertion as even if there are no costs to government, an analysis should be provided.
- Consider the risk of absorbing costs into existing agency budgets due to the possibility that current programs and services may need to be reduced - examples of these types of costs include:
 - training of staff to implement new regulations;
 - lost revenue from the disposal of assets;
 - advertising of changes in land use as a result of regulation changes;
 - inspection and compliance costs;
 - maintenance and depreciation costs of acquired/transferred assets.
- Provide reasons for the non-inclusion of information required under section 23(1)(e).

The Auditor-General has noted that if Parliament is not provided with useful information on the costs to government, it may not be able to fully judge whether the benefits of the proposed regulatory solution outweigh the costs. Furthermore, full costing information may be hidden within existing budgets and skew the real economic implications for the State and stakeholders. It is not considered necessary to include a dollar amount when setting out the costs but rather to fully describe the types of costs and how these will be funded.

Example:

The State Government will incur an additional cost in the implementation and support of the independent body. One-off funding has been provided to support the establishment of the independent body. This funding has been focussed on the development of legislation, and the implementation of technology, business processes, communication and structural arrangements.

The additional support costs associated with these elements will be funded through the realignment of existing resources. ###

Consistency with fundamental legislative principles

Notes:

- Requirement under section 23(1)(f) of the LSA:
 - a brief assessment of the consistency of the Bill with fundamental legislative principles
 - if it is inconsistent with fundamental legislative principles, the reasons for the inconsistency.
- Identify the relevant clause/s of the Bill where there may be a breach of fundamental legislative principles.
- Address a possible breach of fundamental legislative principles even where the breach is perceived as justified.
- Provide more than a simple assertion that the legislation is 'consistent with fundamental legislative principles' unless it is very clear that it is.
- If an issue such as retrospective provisions or Henry VIII clauses, has been included in the legislation, this should be raised as a fundamental legislative principle issue.

- Provide explanatory or justifying information to indicate why the proposed provision would have ‘sufficient regard’ to the fundamental legislative principles. (The legislation does not need to exhibit strict compliance with fundamental legislative principles, but rather it needs to have ‘sufficient regard’ to them).
- Provide reasons for the non-inclusion of information required under section 23(1)(f).

It is for the Parliament to determine whether legislation has ‘sufficient regard’ to rights and liberties of individuals and the institution of Parliament. Explanatory notes should therefore provide comprehensive information to assist in the Parliament’s determination in this matter.

Parliamentary committees assess all Bills for compliance with fundamental legislative principles and report to Parliament on any concerns. Inadequate coverage of fundamental legislative principles in explanatory notes is the most common issue raised by Parliamentary Committees in reports on legislation.

The former SLC stated that it regarded this aspect of the explanatory notes as being of great importance especially as it informs members of Parliament of issues affecting individuals’ rights and liberties and the institution of Parliament, and can also assist in the subsequent interpretation of the legislation.

It should be noted that a function of the Office of the Queensland Parliamentary Counsel is to advise Ministers, government entities and Members of Parliament on the application of fundamental legislative principles.

For detailed and up-to-date discussion of the fundamental legislative principles, refer to:

- section 7 of “The Queensland Legislative Handbook”; and
- comments made by relevant portfolio committees regarding fundamental legislative principles when reporting on Bills.

Example:

The Bill is generally consistent with fundamental legislative principles. Potential breaches of fundamental legislative principles are addressed below.

**Legislation should be consistent with the principles of natural justice -
Legislative Standards Act 1992, section 4(3)(b)**

Clause ### (insert description of clause)

Clause ### of the Bill potentially breaches the principle of natural justice that a decision should not be made that will deprive a person of some right, interest or legitimate expectation of a benefit without the person being given an adequate opportunity to be heard by the decision-maker. [### rationale justifying potential breach]

Consultation

Notes:

- Requirement under section 23(1)(g) of the LSA:
 - a brief statement of the extent to which consultation was carried out in relation to the Bill
- Focus on consultation with community stakeholders and organisations independent of government as appropriate as consultation issues in relation to government stakeholders should have been comprehensively addressed in the submissions to Cabinet. Although it is an important part of the development of the Bill to consult with

government departments and agencies it is not considered necessary to refer to government stakeholders in the explanatory notes. The exception to this is advice from the Office of Best Practice Regulation that a RIS is not required and the reasons why.

- Explain how consultation has occurred and if not, why not – in principle, consultation should occur with affected key stakeholders at all stages of the regulatory cycle.
- Identify the groups or persons consulted (preferably by means of a list).
- Include additional information about the consultation process eg:
 - the form of consultation;
 - a summary of the views expressed;
 - the resultant impact of the consultative process on the content of the Bill; and
 - if no consultation occurred, the reasons for that.
- Provide reasons for the non-inclusion of information required under section 23(1)(g).

Example:

The independent expert panel in its development of the stage one report sought comment from a broad range of stakeholders on the following issues ####. The panel also sought comment on ###.

Stakeholders consulted are listed in appendix ### to the panel's stage one report. The panel's recommendations about #### were informed by stakeholder submissions.

The panel in its stage two report further refined its recommendations about the structure of the legislation required to implement #### and the specific provisions required in the Bills. This report was released publicly in ###.

The Government accepted the recommendations of the panel's stage one and stage two reports and authorised the preparation of a draft Bill in accordance with those recommendations to facilitate further consultation.

An exposure draft of the Bill was released for targeted public consultation in ### together with an exposure draft of the ###. Stakeholders were invited to provide comment. Briefings were also provided to key stakeholders to receive verbal feedback and to facilitate more informed written feedback.

Consistency with legislation of other jurisdictions

Notes:

- Requirement under section 23(1)(i) of the LSA:
 - state if the Bill is substantially uniform or complementary with legislation of the Commonwealth or another State, and if so, provide a brief explanation of the legislative scheme.
- If applicable, include background information relevant to the development of the national scheme e.g. an intergovernmental agreement.
- Include a comparison table of the different legislation if this would assist.
- Provide reasons for the non-inclusion of information required under section 23(1)(i).

Example:

The Bill is specific to the State of Queensland, and is not uniform, with or complementary to, legislation of the Commonwealth or another state. However, other jurisdictions, including the Commonwealth, New South Wales and Tasmania have announced

proposed reforms which are generally consistent with Queensland's reforms, including ###.

The introduction of new legislation in Queensland will align with the majority of other jurisdictions (the Commonwealth, New South Wales, Victoria, Tasmania and the Northern Territory) which have existing legislative safeguards regarding ###.

Consideration of proposals for the development of uniform principles will continue at a national level, but the introduction of the Bill will provide Queensland with a legislative basis for ### in advance of the national agenda.

[Insert page break – then Notes on provisions section]

Notes on provisions

Chapter [insert number]

Part [insert number]

Clause [insert number] [insert explanation]

Schedule [insert number]

[Insert explanation]

Notes:

Section 23(1)(h) of the LSA requires a simple explanation of the purpose and intended operation of each clause of the Bill. This section should set out the explanations under the relevant chapter, part and schedule headings.

The explanations of each clause in the Bill are important for enhancing Parliamentary debate on the Bill and are of particular significance in the subsequent interpretation of individual clauses once the Bill has passed into law.

When preparing the explanations of each clause:

- note that care should be taken that any paraphrasing does not change the meaning or intent of the legislation;
- consider explaining the aim of the amendments e.g. whether the amendments:
 - are for clarification;
 - are designed to solve a particular problem,
 - are for the purposes of consistency with other provisions;
 - will impose greater or lesser obligations on people or organisations;
- consider explaining any relevant background to the clause e.g.
 - whether the particular approach was influenced in the course of consultation with a section of the community;
 - whether the change arises from the recommendation of a report;
- consider whether a proper understanding of the Bill requires an explanation of how the Bill relates to current legislation e.g. the Bill may amend, repeal or re-enact legislation - include a table of comparative provisions between clauses of the Bill and corresponding legislation where appropriate;
- ensure that explanations of the clauses are not inconsistent with the terms of the clause itself; and
- ensure that explanations of the clauses are not incomplete or misleading by failing to mention or to adequately explain some relevant fact or background.

Example:

Notes On Provisions

Part 1 Preliminary

Clause 1 states that, when enacted, the Bill will be cited as the ###.

Clause 2 states that the Bill is intended to commence on a day fixed by proclamation.

Clause 3 is a new provision which details the main objects of this Act recognising the principle that ###.

Clause 4 provides that the dictionary in the schedule defines particular words used in this Act.

Clause 5 provides for the definition of ###. This concept has been derived from relevant standards to determine when an entity is controlled, either directly or indirectly, by a parent entity.

TEMPLATE 2 - EXPLANATORY NOTES FOR SUBORDINATE LEGISLATION

Document Header to contain full name of subordinate legislation

Note: Section 22 of the *Legislative Standards Act 1992* requires that when subordinate legislation is tabled in Parliament, it must be accompanied by an explanatory note prepared under the authority of the responsible Minister.

[Insert name of subordinate legislation]

Explanatory notes for SL ### No. ###

made under the

[Insert name/s of Act]

General Outline

Short title

Notes:

- Requirement under section 24(1)(a) of the *Legislative Standards Act 1992* (LSA).
- Details of the number given to the legislation in the Queensland Subordinate Legislation Series are obtained by the Office of the Queensland Parliamentary Counsel from Executive Council Secretariat, Department of the Premier and Cabinet.

Authorising law

Notes:

- Requirement under Section 24(1)(b) of the LSA:
 - inclusion of the provision of the Act or subordinate legislation under which the legislation was made (the authorising law).
- Subordinate legislation must be based on a head of power set out in the authorising law and should not exceed the scope of authorisation of that law or other applicable laws.

Example:

Section 223 of the ### Act 1994 and sections 39 and 40 of the ### Act 2000.

Policy objectives and the reasons for them

Notes:

- Requirement under section 24(1)(c) of the LSA:
 - a brief statement of the policy objectives of the legislation
 - the reasons for them

- Give sufficient reasons for the policy objectives - the reasons have been considered by the former Scrutiny of Legislation Committee to be as important as the policy objectives themselves.
- Provide reasons for the non-inclusion of information required under section 24(1)(c).

Example:

The objectives of the Regulation are to:

- 1.
- 2.

Achievement of policy objectives

Notes:

- Requirement under section 24(1)(d) of the LSA:
 - a brief statement of the way the policy objectives will be achieved by the legislation
 - why this approach is reasonable and appropriate.
- Present a justification for the approach adopted in the Bill and how it will achieve the policy objectives.
- State why this way of achieving the objectives is reasonable and appropriate – it is not adequate to simply state that ‘it is reasonable and appropriate’.
- Explain why the government action is effective and proportional to the issue being addressed.
- Provide reasons for the non-inclusion of information required under section 24(1)(d).

Example:

To achieve its objectives, the Regulation will ###

The Regulation will achieve its objective of ### by:

- requiring ###
- requiring ###

The Regulation will achieve its objective of ### by:

- requiring ###
- requiring ###

Consistency with policy objectives of authorising law

Notes:

- Requirement under section 24(1)(e) of the LSA:
 - a brief explanation of how the legislation is consistent with the policy objectives of the authorising law.
- Consider the objectives of the authorising law and how the legislation is consistent with those objectives.
- Provide reasons for the non-inclusion of information required under section 24(1)(e).

Example:

The amendment regulation is consistent with the main objects of the *[insert name of Act]*, that is to ensure the ###.

Inconsistency with policy objectives of other legislation

Notes:

- Requirement under section 24(1)(f) of the LSA, if the legislation is inconsistent with the policy objectives of other legislation:
 - a brief explanation of the relationship with the other legislation
 - a brief statement of the reasons for the inconsistency.
- If applicable, consider the objectives of other relevant legislation and how the legislation is inconsistent with the objectives of that legislation.
- Provide reasons for the non-inclusion of information required under section 24(1)(f).

Example:

The regulation is consistent with the policy objectives of other legislation. It provides for ### consistent with other State laws relating to ##.

Alternative ways of achieving policy objectives *[delete if not applicable]*

Notes:

- Requirement under section 24(1)(g) of the LSA, if appropriate:
 - a brief statement of any reasonable alternative way of achieving the policy objectives (including the option of not making subordinate legislation)
 - why the alternative was not adopted.
- Explain the range of feasible policy options that have been considered, including self-regulatory, co-regulatory and non-regulatory approaches, and the benefits and costs of each option where appropriate.
- Explain why legislation generates the greatest net benefit for the community.
- Provide reasons for the non-inclusion of information required under section 24(1)(g).

Example:

The Department of ### released a discussion paper/public benefit test for public consultation seeking comment on a range of options for reform. Options other than [the recommended option] canvassed were:

- ###
- ###

Explain the costs and benefits of pursuing the preferred and alternative options

Consultation confirmed that the majority of stakeholders supported/did not support Option 1 due to the following reasons:

- ###
- ###

The majority of stakeholders supported/did not support Option 2 for the following reasons:

- ###
- ###

Benefits and costs of implementation

Notes:

- Requirement under section 24(1)(h) of the LSA:
 - a brief assessment of the benefits and costs of implementing the legislation that—
 - (i) if practicable and appropriate, quantifies the benefits and costs; and
 - (ii) includes a comparison of the benefits and costs with the benefits and costs of any reasonable alternative way of achieving the policy objectives stated.
- Present more than a simple assertion as even if there are no costs to government, an analysis should be provided.
- Consider the risk of absorbing costs into existing agency budgets due to the possibility that current programs and services may need to be reduced - examples of these types of costs include:
 - training of staff to implement new regulations;
 - lost revenue from the disposal of assets;
 - advertising of changes in land use as a result of regulation changes;
 - inspection and compliance costs;
 - maintenance and depreciation costs of acquired/transferred assets.
- Provide reasons for the non-inclusion of information required under section 24(1)(h).

The Auditor-General has noted that if Parliament is not provided with useful information on the costs to government, it may not be able to fully judge whether the benefits of the proposed regulatory solution outweigh the costs. Furthermore, full costing information may be hidden within existing budgets and skew the real economic implications for the State and stakeholders. It is not considered necessary to include a dollar amount when setting out the costs but rather to fully describe the types of costs and how these will be funded.

Example:

The State Government will incur an additional cost in ####. One off funding has been provided to support ###.

The additional support costs associated with these elements will be funded through the realignment of existing resources. ###

Consistency with fundamental legislative principles

Notes:

- Requirement under section 24(1)(i) of the LSA:
 - a brief assessment of the consistency of the legislation with fundamental legislative principles
 - if it is inconsistent with fundamental legislative principles, the reasons for the inconsistency.
- Identify the relevant clause/s of the legislation where there may be a breach of fundamental legislative principles

- Address a possible breach of fundamental legislative principles even where the breach is perceived as justified.
- Provide more than a simple assertion that the legislation is ‘consistent with fundamental legislative principles’ unless it is very clear that it is.
- If an issue, such as retrospective provisions or Henry VIII clauses, has been included in the legislation, this should be raised as a fundamental legislative principle issue.
- Provide explanatory or justifying information to indicate why the proposed provision would have ‘sufficient regard’ to the fundamental legislative principles. (The legislation does not need to exhibit strict compliance with fundamental legislative principles, but rather it needs to have ‘sufficient regard’ to them).
- Give consideration to the threshold question of why the use of subordinate legislation is justified as opposed to using primary legislation. In considering this question it is relevant to have regard to the extent that the subordinate legislation may affect the rights and liberties of individuals and the extent that it may erode the institution of Parliament.
- Provide reasons for the non-inclusion of information required under section 24(1)(i).

Portfolio committees may report to Parliament on subordinate legislation that they have considered and can recommend to Parliament that a piece of subordinate legislation be disallowed under section 50 of the *Statutory Instruments Act 1992*.

For detailed and up-to-date discussion of the fundamental legislative principles, refer to:

- section 7 of “The Queensland Legislative Handbook”; and
- comments made by relevant portfolio committees regarding fundamental legislative principles when reporting on subordinate legislation.

Example:

The Regulation is generally consistent with fundamental legislative principles. Potential breaches of fundamental legislative principles are addressed below.

**Legislation should be consistent with the principles of natural justice -
*Legislative Standards Act 1992, section 4(3)(b)***

Clause ### (insert description of clause)

Clause ### of the Regulation potentially breaches the principle of natural justice that a decision should not be made that will deprive a person of some right, interest or legitimate expectation of a benefit without the person being given an adequate opportunity to be heard by the decision-maker. [### rationale justifying potential breach]

Consultation

Notes:

- Requirement under section 24(2) of the LSA:
 - discussion on consultation undertaken including:
 - a brief statement of the way consultation was carried out
 - an outline of the results of consultation
 - an explanation of changes made to the legislation because of the consultation.
- If no consultation occurred reasons must be provided for this.

- Focus on consultation with community stakeholders and organisations independent of government as appropriate.
- As it is an important part of the development of the subordinate legislation to consult with government departments and agencies it is not considered necessary to refer to government stakeholders in the explanatory notes.
- Consultation issues in relation to government stakeholders should have been comprehensively addressed in the development of the subordinate legislation. In principle, consultation should occur with affected key stakeholders at all stages of the regulatory cycle.
- Identify the groups or persons consulted (preferably by means of a list).
- Include additional information about the consultation process depending on the nature and importance of the Bill, eg:
 - the form of consultation;
 - a summary of the views expressed;
 - the resultant impact of the consultative process on the content of the bill; and
 - if no consultation occurred, the reasons for that.
- Provide reasons for the non-inclusion of information required under section 24(2).

Example:

The independent expert panel in its development of the stage one report sought comment from a broad range of stakeholders on the following issues ###. The panel also sought comment on ##.

Stakeholders consulted are listed in appendix ### to the panel's stage one report. The panel's recommendations about ### were informed by stakeholder submissions.

The panel in its stage two report further refined its recommendations about the structure of the legislation required to implement ### and the specific provisions required in the Bills. This report was released publicly in ##.

Regulatory Impact Statement (if applicable):

Notes:

- section 24(3) of the LSA requires that for significant subordinate legislation, the explanatory note must be accompanied by the regulatory impact statement;
- section 24(5) of the LSA provides that information is taken to be included in the explanatory note where it is included in the Regulatory Impact Statement and referred to in the explanatory note.