
Delegated Legislation in Australia, 5th ed.
D C Pearce & S Argument
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Reviewed by Alex Kendall

Delegated Legislation in Australia 5th edition was published in 2017 to replace the 4th edition published in 2012. The 5th edition is the most recent edition of this text, which was first published in 1977.

Dennis Pearce AO FAAL (of *Statutory Interpretation in Australia* fame), together with his co-author Stephen Argument, brings together many years of experience in statutory drafting and interpretation to produce a valuable treatise on the subject of delegated legislation in Australia. The text is well researched, comprehensive and authoritative.

Those practitioners who are familiar with the venerable text Pearce & Geddes, *Statutory Interpretation in Australia* will appreciate that it is one of the most widely cited legal text in this country. *Delegated Legislation in Australia* is the perfect companion to *Statutory Interpretation in Australia* and carries on from the relatively limited discussion of delegated legislation in that text.

That said, this text goes well beyond the mere interpretation of delegated legislation to examine, amongst other things; how delegated legislation is made, the power to make delegated legislation, parliamentary review (including in the human rights context), judicial review, incorporation of extrinsic materials by reference, the effect of repeal of delegated legislation, retrospective operation, and sub-delegation of delegated legislative power.

The issue of incorporation of extrinsic materials in delegated legislation is an issue of great importance given the growing reliance on Australian Standards and their import into the legislative process.

The learned authors note in their preface that since the 4th edition was published the digitisation and publication on the internet of records produced by the various parliamentary subordinate legislation committees has seen increased detail in various topic areas of this edition. The authors also note that since the 4th edition there has been relatively little change in the principles of delegated legislation other than in the area of proportionality as a ground of judicial review.

Since World War II it is axiomatic that the quantity of legislation being produced by legislatures has grown significantly. Following this legislation comes an influx of delegated or subordinate legislation and also a vast array of “quasi –legislation”. Knowing how to properly examine this subordinate legislation for legality, interpretation and judicial review carries equal importance with interpreting the foundational statute itself. This was seen recently in Tasmania in *MAIB v Bricknell* [2017] TASFC 7.

While this text will likely suit those practitioners who are regularly engaged in the field of litigation, especially those working with Commonwealth delegated legislation, this text would provide a useful reference to all practitioners who work with delegated legislation.