



**ATTORNEY-GENERAL'S CHAMBERS
BERMUDA**

DRAFTING INSTRUCTIONS TEMPLATE

2025 Edition - Revision 1

ISSUED BY THE
LEGISLATIVE
DRAFTING SECTION
OF THE
ATTORNEY-GENERAL'S
CHAMBERS
BERMUDA

DRAFTING INSTRUCTIONS TEMPLATE

for Bills, Amendments and Subordinate Legislation

This template is designed to help instructing officers prepare the initial comprehensive drafting instructions required to draft legislation.

The format of drafting instructions can vary depending on the nature, length and complexity of the legislation and this template can be adapted to suit the Ministry's legislative proposal. However, to assist Parliamentary Counsel (PC) in drafting your legislation, please ensure that you address all the issues identified in this template that are relevant to your legislation. Please also number the paragraphs in your drafting instructions for ease of reference.

As you work your way through the template and complete each part, please delete the gray "instruction" boxes. Also, where options are provided, please delete the options that do not apply to your legislation.

Please send drafting instructions to the assigned PC and copy the Chief Parliamentary Counsel (CPC).

Matters that do not need to follow this template are marine notices, commencement notices and customs notices. Additional exclusions will be determined on a case-by-case basis by the CPC.

DRAFTING INSTRUCTIONS

INSTRUCTION:

For new legislation, insert a suggested name for the legislation. For amending legislation, insert 'Amendments to the XYZ Act [year]'.

Proposed Name/Description of Legislation

[Click here to enter proposed name/description.](#)

Instructing Officers

Permanent Secretary

Name: [Click here to enter text.](#)

Phone: [Click here to enter text.](#)

Department or Section: [Click here to enter text.](#)

Mobile: [Click here to enter text.](#)

Email: [Click here to enter text.](#)

Technical Officer

Name: [Click here to enter text.](#)

Phone: [Click here to enter text.](#)

Title: [Click here to enter text.](#)

Mobile: [Click here to enter text.](#)

Department or Section: [Click here to enter text.](#)

Email: [Click here to enter text.](#)

Alternative Contact(s)

Please advise the name and contact details of another officer we can contact about urgent matters in the event the above instructing officers are unavailable. If there are additional contacts, please include in an email.

Name: [Click here to enter text.](#)

Phone: [Click here to enter text.](#)

Title: [Click here to enter text.](#)

Mobile: [Click here to enter text.](#)

Department or Section: [Click here to enter text.](#)

Email: [Click here to enter text.](#)

PART 1: AUTHORITY, PRIORITY AND CRITICAL DATES

INSTRUCTION:

This Part refers to Bills and subordinate legislation. Complete the section(s) that are necessary for the Ministry's legislative proposal that has been approved by Cabinet.

Please note that the subordinate legislation is separated into affirmative, negative and not subject to parliamentary scrutiny. Please ensure you complete the relevant section.

1.1 Authority to draft a Bill

INSTRUCTION:

Please note that PC will be unable to begin drafting the proposed legislation until Cabinet approval to draft the legislation and the drafting instructions have been given.

If any aspect of the instructions is not yet settled or is subject to further policy development, please advise PC in this part. ***Either will result in delays to the drafting timeline.**

1.1.1 Details regarding Cabinet approval

Date of Cabinet Approval:	Click here to enter text.
Cabinet gave authority to draft:	[Click here to enter proposed name/description of legislation]
Cabinet Conclusion No.:	[Click here to enter Cab Conclusion number].

1.1.2 Click here to enter text to provide Cabinet's decision on whether this is a priority.

1.2 Authority to draft subordinate legislation (subject to the affirmative resolution)

INSTRUCTION:

Please note that PC will be unable to begin drafting the proposed subordinate legislation until Cabinet approval to draft the legislation and the drafting instructions have been provided.

For subordinate legislation, please advise whether:

- the subordinate legislation is intended to substantially support a principal Act that provides a framework for an initiative (the subordinate legislation is required to provide the substantial detail required to give effect to the principal Act's framework).

If any aspect of the instructions is not yet settled or is subject to further policy development, please advise PC in this part. ***Either will result in delays to the drafting timeline.**

1.2.1 Details regarding Cabinet approval

Date of Cabinet Approval:	Click here to enter text.
Cabinet gave authority to draft:	[Click here to enter proposed name/description of legislation]
Cabinet Conclusion No.:	[Click here to enter Cab Conclusion number].

1.2.2 The subordinate legislation Choose an item. **required to substantially support the framework provided in a principal Act.**

1.2.3 Click here to enter text to provide Cabinet's decision on whether this is a priority.

1.3 Authority to draft subordinate legislation (subject to the negative resolution)

INSTRUCTION:

Please note that PC will be unable to begin drafting the proposed legislation until Cabinet approval to draft the legislation and the drafting instructions have been provided.

For subordinate legislation, please advise whether:

- the subordinate legislation is intended to substantially support a principal Act that provides a framework for an initiative (the subordinate legislation is required to provide the substantial detail required to give effect to the principal Act's framework).

If any aspect of the instructions is not yet settled or is subject to further policy development, please advise PC in this part. ***Either will result in delays to the drafting timeline.**

1.3.1 Details regarding Cabinet approval

Date of Cabinet Approval:	Click here to enter text.
Cabinet gave authority to draft:	[Click here to enter proposed name/description of legislation]

Cabinet Conclusion No.:	[Click here to enter Cab Conclusion number].
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1.3.2 The subordinate legislation Choose an item. **required to substantially support the framework provided in a principal Act.**

1.3.3 Click here to enter text to provide Cabinet's decision on whether this is a priority.

1.4 Authority to draft subordinate legislation (not subject to parliamentary scrutiny)

INSTRUCTION:

Please note that PC will be unable to begin drafting the proposed legislation until the drafting instructions have been provided. No Cabinet Conclusion is necessary for legislative proposals that are not subject to parliamentary scrutiny.

If any aspect of the instructions is not yet settled or is subject to further policy development, please advise PC in this part. ***Either will result in delays to the drafting timeline.**

1.4.1 Click here to enter text to provide Cabinet's decision on whether this is a priority.

1.5 Critical dates

INSTRUCTION:

The dates you include in this part of your drafting instructions should indicate a **practical** timetable for drafting the legislation that takes into account the periods required for internal Ministry/Departmental approvals and the legislative drafting protocols and processes as outlined by the Legislative Drafting Section of the Attorney-General's Chambers.

As a guide, the drafting time required for legislation that has not been given particular priority in the Legislative Agenda can range between 3 and 12 months (varied in terms of size and complexity).

For ease, consider reviewing your timeline by working backwards from the Tabling Date/Term.

Before finalising your instructions, PC would be happy to work with you to develop a practical timetable for your legislation.

If your legislation is required urgently, please insert the reasons for the urgency in this part of your drafting instructions. If your proposal is urgent, please consult with the CPC before sending your instructions.

1.5.1 For a Bill

The proposed timeframes for the legislation are as follows:

Drafting Process (varies in terms of size and complexity)	3-12 months
Draft legislation required for the Ministry's internal approval processes	Click here to enter a date.
Legislative Drafting Section's internal processes (allow for 15 working days from Ministry approval of the legislation as drafted)	Click here to enter a date.
Legislation Committee	Set by the Attorney-General
Ministry seeking Cabinet approval to Table the legislation (within 10 working days from Legislation Committee approval)	Click here to enter a date.
Proposed Tabling Date or Term for legislation.	Click here to enter a proposed Tabling date. Click here to enter proposed Tabling term.
If urgent, please state the reasons why here: Click here to enter text.	

1.5.2 For subordinate legislation (affirmative)

The proposed timeframes for the legislation are as follows:

Drafting Process (varies in terms of size and complexity)	3-12 months
Draft legislation required for the Ministry's internal approval processes	Click here to enter a date.
Legislative Drafting Section's internal processes (allow for 15 working days from Ministry approval of the legislation as drafted)	Click here to enter a date.

Legislation Committee	Set by the Attorney-General
Ministry seeking Cabinet approval to Table the legislation (within 10 working days from Legislation Committee approval)	Click here to enter a date.
Proposed Tabling Date or Term for legislation.	Click here to enter a proposed Tabling date. Click here to enter a proposed Tabling term.
If urgent, please state the reasons why here: Click here to enter text.	

1.5.3 For subordinate legislation (negative)

The proposed timeframes for the legislation are as follows:

Drafting Process (varies in terms of size and complexity)	3-12 months
Draft legislation required for the Ministry's internal approval processes	Click here to enter a date.
Legislative Drafting Section's internal processes (allow for 15 working days from Ministry approval of the legislation as drafted)	Click here to enter a date.
Legislation Committee (to be set by the Attorney-General)	Set by the Attorney-General
Ministry seeking Cabinet approval to Table the legislation (within 10 working days from Legislation Committee approval)	Click here to enter a date.
Ministry to introduce legislation into Parliament after it has been made	Click here to enter a date.
If urgent, please state the reasons why here: Click here to enter text.	

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1.5.4 For subordinate legislation (no parliamentary scrutiny)

The proposed timeframes for the legislation are as follows:

Drafting Process (3-12 months – varies in terms of size and complexity)	3-12 months
Draft legislation required for the Ministry's internal approval processes	Click here to enter a date.
Legislative Drafting Section's internal processes (allow for 15 working days from Ministry approval of the legislation as drafted)	Click here to enter a date.
Ministry intended publication or commencement date	Click here to enter a date.
If urgent, please state the reasons why here: Click here to enter text.	

1.6 Consultation

INSTRUCTION:

Consultation versions generally need to be reviewed by the Legislative Editor and the CPC before being finalised. Your timeframe for requiring a consultation version should provide sufficient time to allow for this process to occur. If a consultation version is required, the Ministry should consult the assigned PC as early as possible to work out a suitable timeframe.

1.6.1 A consultation version of the draft legislation Choose an item. **required.**

1.6.2 The Ministry/Department will be consulting (click all that apply):

- ☐ with external stakeholders;
- ☐ with the Courts;
- ☐ with the public;
- ☐ within the Bermuda Government;
- ☐ with international standard setting bodies.

1.6.3 The proposed timeframes for consultation are as follows:

Consultation version of draft legislation required for the Ministry's internal approval processes	Click here to enter a date.
Consultation period	Click here to enter consultation date range.
Further instructions to be provided to PC following consultation	Click here to enter a date.

PART 2: BACKGROUND AND POLICY RATIONALE

INSTRUCTION:

In this part, set out the reason the legislation is required, including:

- the issues or problems the legislation is intended to address;
- why legislation, rather than an administrative arrangement, is required;
- the policy objectives to be achieved;
- a short summary/overview of the policy to be implemented and the legislative impact -- who it applies to, what has to be done and what mischief (and legislative mischief) is being addressed.

Please also:

- attach any reports or other documents that are referred to in, or provide important background information to, the drafting instructions;
- if PC has previously been consulted about the drafting instructions, state who was consulted and when;
- provide an explanation of any technical or specialised terms used in the instructions.

[Click here to enter text.](#)

PART 3: LAW AND LEGISLATIVE ENVIRONMENT

3.1 Relevant legislation, legal advice and common law matters

INSTRUCTION:

This part should include relevant details about:

- the relationship between the proposed legislation and existing legislation;
- for subordinate legislation, the authorising provisions (or heads of power) for the proposed legislation;
- the provisions of existing legislation that need to be amended or repealed;
- any similar legislative schemes in this or other jurisdictions that the department has considered in preparing the drafting instructions, including how the proposed legislation is to be similar to or different from the other legislation;
- any relevant legal advice(s) from Civil Advisory (please attach copies);
- any relevant court decisions (please attach copies or hyperlinks);
- any other legislative proposals that may affect the proposed legislation.

[Click here to enter text.](#)

3.2 Effect on and consultation with other departments and agencies

INSTRUCTION:

This part should discuss any effects the proposed legislation may have on other departments or agencies, including effects on legislation administered by those departments or agencies, the extent to which the other departments or agencies have been or will be consulted.

You should also:

- consult with any agencies that will be involved in administering the proposed legislation;
- consult with any agencies that are responsible for administering legislation that will be amended as a consequence of the proposed legislation.

[Click here to enter text.](#)

PART 4: HUMAN RIGHTS

INSTRUCTION:

See also the Bermuda Constitution Order 1968

4.1.1 The proposed legislation potentially limits the following human rights under the *Human Rights Act 1981*.

(provide via attachment legal advice from Civil Advisory which should include an assessment of compatibility with human rights)

☐

OR

4.1.2 No potential limits on human rights have been identified.

☐

PART 5: PRELIMINARY MATTERS

5.1 Commencement for a Bill

INSTRUCTION:

Please state whether the proposed legislation is to commence on the Governor's Assent, on a particular date or on a day to be fixed by the Minister by notice in the Gazette or a combination of these (see the Interpretation Act 1951, section 12A).

If any aspect of the legislation is to commence retrospectively, this must be specifically stated. Unless otherwise requested, PC will draft all provisions to have prospective effect only. A provision that retrospectively adversely affects rights and liabilities must be specifically argued as a justifiable breach of fundamental legislative principles. Criminal liability is never imposed retrospectively by the creation of a new offence.

5.1.1 The proposed legislation is to commence on:

Choose an item.

5.1.2 If on a particular date, please specify the date here:

[Click here to enter a date.](#)

5.1.3 If retrospective commencement is required, please state here the reasons why for legal consideration:

[Click here to enter text or state N/A.](#)

5.2 Commencement for subordinate legislation

INSTRUCTION:

For the commencement of subordinate legislation, see the *Statutory Instruments Act 1977*, section 5.

Please state whether the proposed legislation is to commence on publication of the legislation, on a particular date, by notice in the Gazette or on the occurrence of a particular event (such as the commencement of an authorising Act or provision).

If any aspect of the legislation is to commence retrospectively, this must be specifically stated. Unless otherwise requested, PC will draft all provisions to have prospective effect only.

5.2.1 The proposed legislation is to commence on:

[Choose an item.](#)

5.2.2 If on a particular date, please specify the date here:

[Click here to enter a date.](#)

5.2.3 If on the occurrence of a specific event, please specify here:

[Click here to enter text or state N/A.](#)

5.2.4 If retrospective commencement required please state here the reasons why for legal consideration:

[Click here to enter text or state N/A.](#)

PART 6: DETAILED INSTRUCTIONS AND POLICY TO BE IMPLEMENTED

6.1 Purpose/objectives of the legislation

INSTRUCTION:

In this part, please outline the purpose or objectives of the proposed legislation. The PC will advise whether it would be useful for interpretive purposes for the proposed legislation to include a specific list of objectives.

See Annex 2 for a checklist of questions to assist with developing objectives.

6.1.1 The purpose/objective of the legislation is to:

[Click here to enter text.](#)

Policy Aim #1

6.1.2 Current legal framework

[Click here to enter text.](#)

6.1.3 Issues and policy

INSTRUCTION:

Set out the issues/problems to be addressed and the intended policy outcomes.

See Annex 2 for a checklist of questions to assist with developing issues that need to be addressed.

[Click here to enter text.](#)

6.1.4 Instructions

INSTRUCTION:

Provide details on what the Ministry's intended outcome is, and how they would like to achieve it.

Example: In order to address the problem noted above, please insert / amend / repeal and replace / substitute

sdvs

Policy Aim #2

6.1.5 Current legal framework

[Click here to enter text.](#)

6.1.6 Issues and policy

INSTRUCTION:

Set out the issues/problems to be addressed and the intended policy outcomes.

See Annex 2 for a checklist of questions to assist with developing issues that need to be addressed

[Click here to enter text.](#)

6.1.7 Instructions

INSTRUCTION:

Provide details on what the Ministry's intended outcome is, and how they would like to achieve it.

Example: In order to address the problem noted above, please insert / amend / repeal and replace / substitute

[Click here to enter text.](#)

Policy Aim #3

6.1.8 Current legal framework

[Click here to enter text.](#)

6.1.9 Issues and policy

INSTRUCTION:

Set out the issues/problems to be addressed and the intended policy outcomes.

See Annex 2 for a checklist of questions to assist with developing issues that need to be addressed

[Click here to enter text.](#)

6.1.10 Instructions

INSTRUCTION:

Provide details on what the Ministry's intended outcome is, and how they would like to achieve it.

Example: In order to address the problem noted above, please insert / amend / repeal and replace / substitute

[Click here to enter text.](#)

For Bills only - Required regulation-making powers

INSTRUCTION:

Provide details on the matters that the Ministry would like to have detailed in regulations.

Example: licensing procedures, application procedures, record-keeping, etc.

6.1.11 The following matters are intended to be dealt with in subordinate legislation:

[Click here to enter text.](#)

6.2 Transitional issues

INSTRUCTION:

Any issues which need transitional arrangement from one process or procedure to another should be outlined here.

Detail the transitional arrangements required to ensure a smooth transition from the current law to the new legislation.

6.2.1 Transitional provisions are required to:

[Click here to enter text.](#)

OR

6.2.2 No transitional provisions are required.

☐

6.3 Consequential amendments

INSTRUCTION:

Set out the provisions of legislation that the Ministry has identified as possibly requiring amendment as a consequence of the proposed legislation and how they are to be amended.

6.3.1 List the provisions of legislation that require consequential amendment and how they are to be amended:

[Click here to enter text.](#)

OR

6.3.2 No consequential amendments are required.

☐

ANNEX 1: SUPPORTING DOCUMENTS REQUIRED

- ☐ **Cabinet Papers:** Attach Cabinet Memorandum and a Cabinet Conclusion that provides Cabinet approval of the proposal.
- ☐ **Policy papers:** Attach key *policy documents/papers*.
- ☐ **General Policy Statement:** *Attach the general policy statement or give an estimate of when you will provide it – it's important to have it before consultation.*
- ☐ **Legal advice or opinion:** *Attach any relevant legal advice or opinion from the Civil Advisory Section of the Attorney-General's Chambers so the PC does not revisit settled views.*
- ☐ **Other relevant legal material:** *Attach/refer to other relevant cases, international agreements, or other legal relevant material, and note any relevant court or other proceedings underway or that are likely to be brought.*
- ☐ **Consultation:** *Provide a description of your consultation with other Ministries/Departments and agencies, preferably the names of organisations and individuals within them that have been consulted, and their input.*

ANNEX 2: ISSUE AND OBJECTIVES CHECKLIST

ISSUE:

- ☐ **WHAT:** is the nature of the problem and any knock-on effects of the problem?
- ☐ **WHAT:** is the current state of things?
- ☐ **WHO:** is affected / impacted?
- ☐ **WHEN:** did the problem arise and how long has it existed?
- ☐ **WHERE:** in legislation is the current issue found?
- ☐ Under what legislative or other authority does the current issue occur?
- ☐ In what ways is the current legislation inadequate?

OBJECTIVES:

- ☐ **WHAT:** are the proposed solutions to the particular issues identified?
- ☐ **WHAT:** (if any) are any foreseeable problems with implementing the proposal?
- ☐ **WHAT:** powers are necessary to be given in primary legislation to address the problem?
- ☐ **WHO:** is affected/impacted by the proposed resolutions? Have they been consulted?
- ☐ Do those who are affected/impacted agree with the proposal?
- ☐ **HOW:** is it intended for the proposal to resolve the issues and any associated problems?
- ☐ **HOW:** will the proposal work in practice?