

Advice only

The committee draws the following matters to the attention of relevant ministers and instrument-makers on an advice only basis.

Instrument	Australian National Audit Office Auditing Standards 2018 [F2018L00179]
Purpose	Updates the standards required of the auditing profession in Australia
Authorising legislation	<i>Auditor-General Act 1997</i>
Portfolio	Prime Minister and Cabinet
Disallowance	15 sitting days after tabling (tabled Senate 19 March 2018) Notice of motion to disallow must be given by 26 June 2018 ²³

Access to incorporated documents²⁴

The *Legislation Act 2003* (Legislation Act) provides that instruments may incorporate, by reference, part or all of Acts, legislative instruments and other documents as they exist at particular times. Paragraph 15J(2)(c) of the Legislation Act requires the explanatory statement (ES) to a legislative instrument that incorporates a document to contain a description of that document and indicate how it may be obtained.

The committee is concerned to ensure that every person interested in or affected by the law should be able to readily access its terms, without cost. The committee therefore expects the ES to an instrument that incorporates one or more documents to provide a description of each incorporated document and to indicate where it can be readily and freely accessed.

The committee's expectations in this regard are set out in its *Guideline on incorporation of documents*.²⁵

Paragraph 5(b) of the instrument incorporates the International Standard of Supreme Audit Institutions ISSAI 3000 *Standard for Performance Auditing*, endorsed 2016, by the International Organisation of Supreme Audit Institutions

23 In the event of any change to the Senate's sitting days, the last day for the notice would change accordingly.

24 Scrutiny principle: Senate Standing Order 23(3)(a).

25 Regulations and Ordinances Committee, *Guideline on incorporation of documents*, http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Regulations_and_Ordinances/Guidelines/Guideline_on_incorporation_of_documents.

(INTOSAI). However, while the ES indicates why the standard has been incorporated, neither the instrument nor the ES indicates where the standard can be accessed. The committee's research indicates that this standard may be accessed for free online.²⁶ However, the committee considers that a best-practice approach is for the ES to provide details of where the standard can be accessed.

Additionally, sections 4 and 5 of the instrument incorporate a number of Australian standards made and issued by the Australian Auditing and Assurance Standards Board (AUASB).²⁷ The committee notes that these standards are legislative instruments that can be obtained free of charge on the Federal Register of Legislation (FRL). However, in the interests of promoting clarity and intelligibility for readers, the committee considers that a best-practice approach would be to indicate in the ES that the standards can be obtained on the FRL, or to provide a web address where the relevant standards may be accessed.²⁸

The committee draws to the minister's attention the absence of information in the explanatory statement regarding free access to documents incorporated by reference in the instrument.

26 See http://www.issai.org/en_us/site-issai/issai-framework/4-auditing-guidelines.htm.

27 In particular ASA 805, ASRE 2400, ASRE 2400, ASAE 3000, ASAE 3100, ASAE 3150, ASAE 3500 and ASRS 4400. The instrument also appears to incorporate standards made by the AUASB pursuant to paragraph 227B(1)(a) of the *Australian Securities and Investments Commission Act 2001* and section 336 of the *Corporations Act 2001*.

28 For example, ASA 805 may be accessed at http://www.auasb.gov.au/admin/file/content102/c3/ASA_805_2016.pdf.