



Australian Government

Department of Education, Employment and Workplace Relations

PSPREG401C Exercise regulatory powers

Revision Number: 3

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Modification History

Release	TP Version	Comments
3	PSP12V1	Unit descriptor edited.
2	PSP04V4.2.	Layout adjusted. No changes to content.
1	PSP04V4.1	Primary release.

Unit Descriptor

This unit covers the exercise of powers under the organisation's enabling legislation, and other relevant legislation for regulation, monitoring, inspection and investigation. It includes establishing regulatory powers, applying enabling legislation, utilising other legislation and standards, and working with other organisations.

In practice, exercising regulatory powers occurs in the context of other specialist and generalist public sector work activities such as acting ethically, promoting client compliance, assessing compliance, conducting investigations, making arrests, conducting search and seizure, interviewing, gathering evidence, etc.

No licensing, legislative, regulatory or certification requirements apply to this unit at the time of endorsement.

Application of the Unit

Not applicable.

Licensing/Regulatory Information

Not applicable.

Pre-Requisites

Not applicable.

Employability Skills Information

This unit contains employability skills.

Elements and Performance Criteria Pre-Content

Elements are the essential outcomes of the unit of competency. Together, performance criteria specify the requirements for competent performance. Text in ***bold italics*** is explained in the Range Statement following.

Elements and Performance Criteria

ELEMENT	PERFORMANCE CRITERIA
1. Establish regulatory powers	<p>1.1 Current information relating to enabling <i>legislation</i> and regulations is accessed and used to maintain up-to-date knowledge of requirements.</p> <p>1.2 Powers provided under the legislation and the boundaries of those powers are confirmed.</p> <p>1.3 Compliance requirements of the legislation, related regulations, standards, codes of practice and policy are identified and confirmed.</p> <p>1.4 Acts and omissions that comprise non-compliance/offences under the legislation are identified and confirmed.</p>
2. Apply enabling legislation	<p>2.1 Circumstances where regulatory powers will be exercised are identified and analysed to determine <i>response/s or measures</i> to apply, in accordance with the legislation and organisational policy and procedures.</p> <p>2.2 Circumstances requiring the exercise of regulatory powers that are outside own limits are identified and referral to others is made in accordance with organisational policy and procedures.</p> <p>2.3 <i>Risks associated with the exercise of regulatory powers</i> are identified and strategies to manage risks are identified in accordance with the organisation's risk management strategy.</p> <p>2.4 Enabling legislation is applied consistent with the boundaries and powers contained therein and organisational policy and procedures.</p>
3. Utilise other legislation and standards	<p>3.1 <i>Other legislation</i> and <i>standards</i> which impact on powers are identified and their requirements confirmed.</p> <p>3.2 Apparently conflicting legislative directions are resolved or referred in accordance with organisational policy and procedures.</p>
4. Work with other organisations	<p>4.1 Organisations that have jurisdictions which may overlap are identified and <i>relationships</i> are established and maintained in accordance with organisational policy and procedures.</p> <p>4.2 Organisations available to provide assistance and advice or take referrals are identified and relationships are established for mutual benefit.</p> <p>4.3 Organisational protocols and procedures are followed when working with <i>other organisations</i>.</p> <p>4.4 Compliance matters are referred to other organisations for action when required in accordance with organisational policy and procedures.</p> <p>4.5 Lead agency protocols/lines of authority are followed during operations involving more than one organisation.</p>

Required Skills and Knowledge

This section describes the essential skills and knowledge and their level, required for this unit.

Skill requirements

Look for evidence that confirms skills in:

- undertaking research and analysis
- using information technology to access relevant legislation and procedures
- reading complex written materials such as legislation, regulations, codes of practice and legal precedents and applying them to work practices
- using scanning techniques to locate main ideas in legislation, guidelines and policy documents
- engaging in discussion involving exchanges of often complex oral information
- communicating with a range of people from diverse backgrounds
- responding to diversity, including gender and disability
- choosing regulatory responses/measures to fit the circumstances and justifying those responses against legislation, guidelines, policy and regulations
- networking, building relationships and working with others
- applying occupational health and safety and environment procedures relating to the exercise of regulatory powers

Knowledge requirements

Look for evidence that confirms knowledge and understanding of:

- full range of regulatory powers and the limits to those powers
- enabling legislation
- offences under the legislation
- aspects of criminal law, administrative law, industrial law, contract law
- statutory time limits
- applicable standards
- terminology used in legislation and procedures
- organisational policies, guidelines and regulations
- equity and diversity principles
- public sector legislation such as occupational health and safety and environment relating to the exercise of regulatory powers

Evidence Guide

The Evidence Guide specifies the evidence required to demonstrate achievement in the unit of competency as a whole. It must be read in conjunction with the Unit descriptor, Performance Criteria, the Range Statement and the Assessment Guidelines for the Public Sector Training Package.

Units to be assessed together

- *Pre-requisite* units that must be achieved prior to this unit: *Nil*
- *Co-requisite* units that must be assessed with this unit: *Nil*
- *Co-assessed units* that may be assessed with this unit to increase the efficiency and realism of the assessment process include, but are not limited to:
 - PSPCART401B Carry out court orderly functions
 - PSPCART402B Manage witnesses
 - PSPCART403B Handle exhibits and documents tendered
 - PSPCART404B Serve process
 - PSPCART405B Handle monies received in satisfaction of warrants or orders
 - PSPCART406B Compile and use official notes
 - PSPETHC401A Uphold and support the values and principles of public service
 - PSPGOV422A Apply government processes
 - PSPLEGN401A Encourage compliance with legislation in the public sector
 - PSPREG402C Promote client compliance
 - PSPREG403B Assess compliance
 - PSPREG404C Investigate non-compliance
 - PSPREG405B Act on non-compliance
 - PSPREG406C Make arrests
 - PSPREG407B Produce formal record of interview
 - PSPREG408C Conduct search and seizure
 - PSPREG409B Prepare a brief of evidence
 - PSPREG411A Gather information through interviews

Overview of evidence requirements

In addition to integrated demonstration of the elements and their related performance criteria, look for evidence that confirms:

- the knowledge requirements of this unit
- the skill requirements of this unit
- application of the Employability Skills as they relate to this unit (see Employability Summaries in Qualifications Framework)
- the exercise of regulatory powers in a range of (3 or more)

	contexts (or occasions, over time)
Resources required to carry out assessment	<p>These resources include:</p> <ul style="list-style-type: none">• legislation, regulations, policy, guidelines and standards• public sector values and codes of conduct• case studies and workplace scenarios to capture the range of regulatory situations likely to be encountered
Where and how to assess evidence	<p>Valid assessment of this unit requires:</p> <ul style="list-style-type: none">• a workplace environment or one that closely resembles normal work practice and replicates the range of conditions likely to be encountered when exercising regulatory powers, including coping with difficulties, irregularities and breakdowns in routine• the exercise of regulatory powers in a range of (3 or more) contexts (or occasions, over time) <p>Assessment methods should reflect workplace demands, such as literacy, and the needs of particular target groups, such as:</p> <ul style="list-style-type: none">• people with disabilities• people from culturally and linguistically diverse backgrounds• Aboriginal and Torres Strait Islander people• women• young people• older people• people in rural and remote locations <p>Assessment methods suitable for valid and reliable assessment of this competency may include, but are not limited to, 2 or more of:</p> <ul style="list-style-type: none">• case studies• demonstration• observation• portfolios• projects• questioning• scenarios• simulation or role plays• authenticated evidence from the workplace and/or training courses
For consistency of assessment	<p>Evidence must be gathered over time in a range of contexts to ensure the person can achieve the unit outcome and apply the competency in different situations or environments</p>

Range Statement

The Range Statement provides information about the context in which the unit of competency is carried out. The variables cater for differences between States and Territories and the Commonwealth, and between organisations and workplaces. They allow for different work requirements, work practices and knowledge. The Range Statement also provides a focus for assessment. It relates to the unit as a whole. Text in ***bold italics*** in the Performance Criteria is explained here.

Legislation may include:

- State/Territory and Commonwealth legislation related to:
 - public sector management, financial management
 - auditor general
 - audit, customs and excise, quarantine, fisheries, agriculture, land management, conservation, coastal management, environmental protection, environment, insurance, legal administration (sheriffs, young offenders), workers compensation, occupational safety and health, workplace relations
 - planning, construction, transport, energy, mining, resource management, communications
 - education and children's services, employment, vocational education and training, equal employment opportunity and anti-discrimination

Regulatory responses or measures may include:

- audit
- caution
- clearance
- community protection
- control
- encouragement to comply
- entry
- impoundment
- initiation of proceedings that may lead to prosecution
- inspection
- investigation
- issue of notices
- on-the-spot fines
- possession
- referral to another agency/jurisdiction
- search
- seizure
- surveillance
- warning

Risks associated with the exercise of regulatory powers may result from:

- workplace hazards
- environmental hazards
- equipment failure
- people engaged in illegal activities
- movement into and out of Australia of:
 - aircraft
 - cargo
 - people
 - postal articles
 - vessels
- client cultural background
- client literacy levels

Other legislation may include:

- aspects of common law
- aspects of Crimes Act 1914 and Criminal Code Act 1995
- contract law
- administrative law
- industrial relations law
- financial management Acts
- public service Acts

Standards may include:

- public sector standards
- government security standards
- fraud control standards

Relationships may include:

- informal
- formal
- memoranda of understanding (MOUs)

Other organisations may include:

- administrative appeals tribunals
- Coroner's office
- emergency services
- federal police
- fire and rescue
- industrial inspectors
- Local Government law enforcement officers
- legal advisers
- military police
- security services
- State/Territory police and special units
- other State/Territory/Commonwealth departments/agencies
- State/Territory/Commonwealth prosecution agencies

Unit Sector(s)

Not applicable.

Competency field

Regulatory.