

## Quick reference sheet!

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## Requirements for judicial review

The requirements for judicial review are that:

1. The Court must have jurisdiction (this includes standing and a justiciable issue) and a justiciable issue
2. There must be a ground of review
3. There must be a remedy available
4. Judicial review must not be validly excluded

## Judicial review jurisdiction

S75(v) + s39B(1) of the Judiciary Act	S75(iii)	ADJR Act
<ul style="list-style-type: none"> <li>• Jurisdictional error (and the availability of mandamus, prohibition or injunction)</li> <li>• An 'officer of the commonwealth'</li> <li>• A 'matter'</li> </ul>	<ul style="list-style-type: none"> <li>• The commonwealth (or someone suing or being sued on behalf of the commonwealth) is a party</li> </ul>	<p>'A decision to which this act applies'</p> <ul style="list-style-type: none"> <li>• A decision</li> <li>• Of an administrative character</li> <li>• Made under an enactment</li> </ul> <p>NOTE: if the ground of review is under ADJR act try to put in section number</p> <p>Federal court can hear ADJR under s8</p>

## Government exercise of contractual power

Statutory interpretation: has the contract already seriously limited, or is it reasonably likely in the future seriously to limit, the authority in the exercise of its statutory powers or the performance of its statutory functions?

Does it interfere with a discretionary power?

## Scope of review of delegated legislation

If you are challenging a decision made under a regulation, bylaw or other delegated legislation, 2 step investigation is needed:

1. Is the delegated legislation within the power of the parent Act?
2. Is the decision authorised by the delegated legislation?

## Standing

Standing under the ADJR act per s5 'a person who is aggrieved by decisions to which this act applies'.