



# UNIFORM LAW CONFERENCE OF CANADA

## CONFÉRENCE POUR L'HARMONISATION DES LOIS AU CANADA



[Home](#) | [Contact Us](#) | [About Us](#) | [Civil Section](#) | [Criminal Section](#) | [Uniform Acts](#) | [Annual Meetings](#) | [SiteMap](#)

Home | Uniform Drafting Conventions | [Uniform Drafting Conventions](#)

## Uniform Acts Drafting Conventions

## Uniform Drafting Conventions



Report of the Committee Appointed to Prepare Bilingual Legislative Drafting Conventions for the Uniform Law Conference of Canada  
(Majority Report)

### INTRODUCTION

The history of the Canadian Legislative Drafting Conventions and the history of the Uniform Law Conferences are so intertwined as to be virtually inseparable. At its first annual meeting in 1918, the Conference of Commissioners on Uniformity of Laws throughout Canada (as the Uniform Law Conference was then known) appointed a committee to prepare a set of rules for legislative drafting for the Conference. The committee's report was adopted at the second annual meeting in 1919.

In 1941, a committee consisting of Erich H. Silk of Ontario and J.P. Runciman of Saskatchewan was appointed to revise the 1919 rules. This committee's report was received and adopted in 1942. In 1947, the Saskatchewan Commissioners were asked to revise the rules once again. The report of E.C. Leslie and J.P. Runciman was adopted in 1948. The revised rules were included in a pamphlet that was published by the Conference in 1949 under the title *Uniformity of Legislation in Canada - An Outline*.

The current conventions and commentaries grew out of the work of the Legislative Drafting Workshop (the forerunner of the Legislative Drafting Section), which first met in 1969. After several years of intensive work, particularly on the part of Glen Acorn of Alberta, the present drafting conventions were adopted in 1976. Arthur Norman Stone of Ontario and James Ryan of Newfoundland were appointed to prepare the commentaries. Their report was adopted in 1978. (The 1976 Conventions have been amended twice, in 1981 and 1986.)

The current conventions, like all their predecessors, were adopted in English only and applied only to English drafting. When the Conference began to adopt its uniform legislation in both French and English, official drafting conventions applicable to both languages became necessary. Among others, Gérard Bertrand, Claude Bisillon, Alain-François Bisson, Alexandre Covacs, Bruno Lalonde, Bernard Méchin and Louis-Philippe Pigeon devoted time to the issue. A draft French document was presented to the annual meeting in 1984, but was not adopted.

By 1987 it was clear that it was neither practical nor realistic to have separate drafting conventions for French drafting and English drafting, each devoting no attention to the rules applicable to the other official language. Consequently, the annual meeting in Winnipeg appointed a committee to prepare bilingual drafting conventions. This committee was to report in 1988, but soon realized that such a major task could not be completed in one year.

The proposed drafting conventions and commentaries set out in this report are based both on the draft French document mentioned above and on the Conference's existing English drafting conventions and commentaries. The members of the committee are grateful for the invaluable work of their predecessors.

The conventions set out in this report were prepared primarily by Cornelia Schuh, Donald Revell and Michel Moisan, all of the Office of the Legislative Counsel in Ontario with significant input from Peter Pagano of Alberta, Michel Nantel of Manitoba, Gerard Bertrand and Lionel Levert of Ottawa, Jean Allaire of Quebec and Elaine Doleman and Bruno Lalonde of New Brunswick. Mr. Lalonde's minority report, which is published separately in the 1989 proceedings of the Conference, reminds us that there is more than one approach to the complex subject of legislative drafting.

The Drafting Section of the Conference is a useful forum for the discussion of issues of interest to people who draft in English; it should now perform the same function for those who work in French-speaking and bilingual settings. It is the hope of the authors of this document that the Conference's work in the area of bilingual drafting will eventually contribute to the development of the unified "Canadian style" predicted by Elmer Driedger.

These drafting conventions are expressed as rules, but the reader must bear in mind that they are intended primarily as a guide. It will often be necessary to make exceptions or to adapt the spirit of the conventions to particular circumstances.

It is perhaps inevitable that drafting conventions deal primarily with matters of form. However, as drafters of legislation we are concerned as much with the substantive adequacy and the logical organization of our texts as with their form.

<hrdata-mce-alt="I. General" class="system-pagebreak" title="I. General" />




### NEXT ANNUAL MEETING

**2014 Conference**  
**Toronto, Ontario**  
**Aug. 10 - Aug. 14** [DETAILS](#)

### PHOTO GALLERIES

► [2012 Annual Meeting Photo Gallery](#)

### LOG IN

User Name

Password



This work is licensed under a [Creative Commons Attribution 2.5 Canada License](#)

L'usage de cette œuvre est autorisé selon les dispositions de la [Licence Creative Commons Attribution 2.5 Canada](#)

## **I. GENERAL**

### **Logical organization**

1. The organization of an Act should be logical.

A logically organized text usually proceeds from the general to the particular and follows the chronological sequence of events. If it deals with matters that occur in a particular order, such as court proceedings of administrative applications, that order should normally be followed. See also Part III on logical arrangement.

### **Style**

2. An Act should be written simply, clearly and concisely, with the required degree of precision, and as much as possible in ordinary language.

Simplicity and conciseness of language can be made to exist with precision in a well organized text. It is important not to exaggerate the degree of precision that is required.

### **Sex-specific references**

3. Sex-specific references should be avoided.

In the English version of an Act, pronouns such as "he", "his" and "him" should not be used if the message is intended to refer to persons of either sex. Instead, the drafter can use "he or she", repeat the noun referred to or use a combination of these methods. Typographical devices such as brackets, virgules and hyphens are unseemly and distracting and should not be used. It is usually possible to restructure sentences so as to avoid the problem altogether.

Nouns that have the appearance of referring to men only should be replaced by terms that can refer to both sexes (for example, use "firefighter" instead of "fireman").

Because French nouns have grammatical rather than natural gender, and because in that language adjectives and past participles must agree with the nouns to which they relate, French solutions to the problems of sex-specific references are necessarily different from those used in the English version. See the French commentary on this point.

<hr data-mce-alt="II. Divisions of an Act" class="system-pagebreak" title="II. Divisions of an Act" />

## **II. Divisions of an Act**

### **Required elements**

4. (1) An Act always has a title and one or more sections (numbered 1, 2, 3...).

The statutes and ordinances of all Canadian jurisdictions always contain an enacting clause an element that is not found in Uniform Acts.

### **Optional elements**

(2) An Act may also contain the following elements:

- (a) a preamble;
- (b) parts (designated Part I, Part II...);
- (c) schedules (designated Schedule I, Schedule II...);
- (d) forms (designated Form 1, Form 2...).

On the subject of preambles, see section 18.

If there is only one schedule or form, it is not necessary to number it.

### **Subdivisions of sections**

(3) A section may be subdivided into subsections (numbered (1), (2), (3)...).

(4) A section that is not subdivided into subsections and a subsection may be subdivided into clauses (lettered (a), (b), (c)...).

(5) A clause may be subdivided into subclauses (numbered (i), (ii), (iii)...).

(6) A subclause may be subdivided into paragraphs (lettered (A), (B), (C)...).

Excessive subdivision into clauses, subclauses and paragraphs should be avoided as it makes the text harder to understand. See subsection 30(1).

### **Definitions**

5. Definitions form part of a section or subsection and are separated by semicolons. They begin with a lower-case letter and are not lettered or numbered. Subdivisions, if any, within an individual definition take the form of clauses and are indented, separated by commas, and identified as (a), (b), and so forth.

In bilingual Acts, because definitions are arranged alphabetically in each language, a system of cross-references is necessary. It is recommended that the corresponding term in the other language be shown in brackets at the end of each definition.

There are conventional differences between French and English usage in the form of definitions.

The following example shows the recommended form of a provision containing a series of definitions:

1. In this Act,

"Minister" means the Minister of Agriculture; ("Ministre")

"weed" means dandelion, ragweed or thistle. ("mauvaise herbe")

### **Form of sections and their subdivisions**

## after-drafting-conventions/546-josetta-1-en-gb/uniform-actsa/drafting-conventions/66-uniform-drafting-convention

6. Sections and subsections begin with a capital letter and end with a period. Clauses are indented, begin with a lower-case letter and are separated by semicolons. Subclauses are further indented, begin with a lower-case letter and are separated by commas. Paragraphs are still further indented, begin with a lower case letter and are separated by commas.

The "paragraph" used by some jurisdictions requires introductory words like "the following" followed by a colon. The paragraphs are indented and numbered with Arabic numerals. They begin with an upper-case letter and are separated by a period. Like clauses, they must be grammatically parallel, but they may consist of complete sentences or of fragments. The "paragraph" is more autonomous than the clause, which must be an integral part of a single sentence.

<hrdata-mce-alt="III. Arrangement" class="system-pagebreak" title="III. Arrangement" />  
III. Arrangement

### **Preamble**

7. If a preamble is to be included, it follows the title.

### **Definitions**

8. Definitions should be set out in the first section of the Act, unless they apply only to a particular Part, section or group of sections. In that case, they should be placed at the beginning of the passage in question.

### **Interpretation or application provisions**

9. Provisions that deal with the interpretation or application of the Act should follow the definitions.

### **Regulation-making powers**

10. Provisions conferring regulation-making powers should come at the end of the Act, preceding only the transitional or temporary provisions, those repealing or amending other Acts and the commencement provision.

If an Act is divided into Parts, it may be more practical to group the provisions conferring regulation-making powers at the end of the individual Parts to which they relate.

### **Transitional or temporary provisions**

11. Transitional or temporary provisions should follow the subject-matter to which they relate.

If they relate to the Act as a whole, they should follow the regulation-making powers.

### **Repealing and amending provisions**

12. Provisions repealing or amending other Acts should precede the commencement provision.

### **Commencement provisions**

13. The provision dealing with the coming into force of the Act should be its last section.

### **Schedules**

14. Schedules, if they are necessary, should follow the last section of the Act.

It may be helpful to mention, in the heading of the schedule, the section to which it refers. The same is true in the case of forms (see section 15).

### **Forms**

15. Forms, if it is necessary to include them in the Act, should be placed at the end of the Act, following the schedules, if any.

Normally, it is preferable to leave forms to be prescribed by regulation or by administrative procedures.

### **Marginal notes and table of contents**

16. (1) Each section should have a succinct marginal note.

(2) A table of contents setting out the marginal note for each section may be inserted between the title and first section of the Act.

A table of contents is useful for the drafter as well as for the reader, since its preparation requires further review of the Act's basic structure and exposes any flaws in its logical organization.

However, if the Act is very short, a table of contents is not necessary.

<hrdata-mce-alt="IV. Drafting Principles" class="system-pagebreak" title="IV. Drafting Principles" />

## IV. DRAFTING PRINCIPLES

### **Title**

17. The title should succinctly indicate the Act's subject-matter.

### **Preamble**

18. The use of preambles is not recommended.

### **Statement of purpose**

19. If a statement of purpose is required, it should be structured as a section rather than as a preamble.

Explicit statements of purpose are rarely necessary, since the object of a well-drafted Act should become clear to the person who reads it as a whole. In general, legislation should not contain statements of a non-legislative nature. However, a specific statement of purpose is occasionally required (for example, to give guidance to the courts).

### **Parts**

20. An act should be divided into Parts only if the subject-matter of each Part is clearly distinct.

The insertion of succinct headings before groups of related sections may be useful alternative for supplement to

division into Parts.

### **Definitions**

21. (1) Definitions should be used sparingly and only for the following purposes:

- (a) to establish that a term is not being used in a usual meaning, or is being used in only one of several usual meanings;
- (b) to avoid excessive repetition;
- (c) to allow the use of an abbreviation;
- (d) to signal the use of an unusual or novel term.

The drafter should not prepare the definitions until the main substantive provisions of the Act have been settled.

See also section 32.

### **No substantive content**

(2) A definition should not have any substantive content.

Statements of the application of the Act should be made in substantive provisions rather than definitions.

### **Artificiality**

(3) A definition should not give an artificial or unnatural sense to the term defined.

### **"Means" and "includes"**

(4) "Means" and "includes" have different uses.

Note that the French version of this subsection is different.

"Means" is appropriate for exhaustive definition (where French uses *s'entend de*, or no linking word at all). "Includes" is appropriate for two kinds of definitions; those that extend the defined term's usual meaning (here French uses techniques such as *assimiler à*), and those that merely give examples of the defined term's meaning without being exhaustive (here, French generally uses *s'entend notamment de*). When a bilingual Act is being prepared, the two drafters must consider the issues together.

The drafter should exercise caution when using "includes". It should not be used in exhaustive definitions, and the contradictory "means and includes" should never be used.

### **Consistency**

(5) A defined term should never be used in the same Act in a different sense.

See also subsection 34(2).

### **Content of section**

22. (1) A section should deal with a single idea or with a group of closely related ideas.

### **Single Sentence**

(2) A section (or, if it is divided into subsections, each subsection) should consist of a single sentence.

### **Short sentence**

(3) Sentences should be as short as clarity and precision will allow.

Note that the French version of subsection 24(2) is different.

The tradition of one-sentence sections is not generally followed in French drafting, where a series of short sentences are often preferred to a single long one.

In both languages, it is desirable to keep sentences terse and simple. (In traditional English drafting, the one-sentence rule has often led to excessively long sentences.) If a sentence becomes long and convoluted, the drafter should first consider whether it contains redundant material and can be simplified or (if there is no redundancy) whether it would be more appropriate to break it into two or more subsections. The French drafter may also resort to the technique of creating two or more sentences within the original provision.

In a bilingual Act, although the French version of a section or subsection may contain two or more sentences and the English only one, the formal structure of both versions must remain the same (for example, it would not be acceptable to have two subsections in one version and three in the other).

### **Use of clauses and further subdivisions**

23. (1) Clauses should be used only if they improve communication of the message to the reader. Subclauses and paragraphs should be used even more sparingly.

### **"Clause sandwiches"**

(2) "Clause sandwiches" should be avoided.

Arrangements of a flush passage followed by a series of clauses and a closing flush are undesirable. Even more undesirable are similar arrangements containing two series of clauses, interrupted by a flush passage. They are apt to lead the drafter into errors of grammar and logic, and are difficult to read in either language. In bilingual drafting, "clause sandwiches" make it difficult sometimes impossible to ensure close correspondence of form between the two versions.

### **Parallelism**

(3) Clauses and further subdivisions should be grammatically and logically parallel to one another.

### **Connection words**

(4) A series of clauses or further subdivisions should usually be linked by one "and" or "or", placed at the end of the

second-last item in the series.

No conjunction should be used if the subdivisions follow a complete sentence (e.g. "The court may give directions with respect to the following matters:...."). It is best to omit "and" and "or" if their use could cause confusion.

Note that the French version of this subsection is different.

In French drafting, the fact that the series is conjunctive or disjunctive is indicated by appropriate introductory words, not by literal equivalents of "and" and "or".

#### **Verbs in present indicative**

24. (1) Verbs should appear in the present tense and indicative mood unless the context requires an exception.

The use of "shall" as an imperative is the major exception to this rule.

#### **Passive undesirable**

(2) Restraint should be exercised in the use of the passive voice.

#### **Duties and prohibitions**

(3) "Shall" is used to impose a duty or (with "not" or "no") a prohibition.

#### **Powers, rights and choices**

(4) "May" is used to confer or indicate a power, right or choice.

Note that the French versions of subsections (3) and (4) are different.

In French drafting, an obligation is usually imposed by the present indicative form of the verb, occasionally by auxiliaries such as *doit* or *est tenu de*. A prohibition is indicated by the use of the auxiliary *ne peut*, by *il est interdit de* or sometimes by the auxiliary *ne doit*. A power, right or choice is indicated by the auxiliary *peut* or occasionally by other phrases.

#### **Internal references**

25. Internal references should be used sparingly.

A logical arrangement makes frequent internal references unnecessary.

Internal references should clearly identify the provisions referred to by their number or letter. It is not necessary to describe the provision referred to as "of this Act", unless there is a danger of confusion with another Act that has been mentioned.

#### **Derogations and restrictions**

26. (1) Derogations and restrictions ("notwithstanding", "despite" and "subject to") should be used sparingly and only if there is an inconsistency, to make it clear which provision is meant to prevail.

Inconsistencies can often be eliminated by reading the passage.

(2) If provision 1 is meant to prevail over provision 2, it is sufficient to say that 1 applies notwithstanding (or despite) 2, or that 2 is subject to 1. The two devices should not be used simultaneously.

#### **Placement of new provisions**

27. (1) A new provision should be inserted in the most logical place.

#### **Designation of new provisions**

(2) The numbers or letters assigned to new provisions are determined in accordance with the decimal system adopted by the Conference (1968 Proceedings pages 76-89).

#### **Changes to original structure**

(3) Amendments to existing Acts should not detract from the readability of the original structure.

Rather than attaching new provisions to an existing structure, perhaps repeatedly, it may be desirable to rework the original structure.

#### **Tables and mathematical formulas**

28. Tables and mathematical formulas should be used if they make the text clearer and more concise.

#### **Regulation-making powers**

29. Regulation-making powers should be clearly expressed and should be no broader than is necessary.

<hrdata-mce-alt="V. Language" class="system-pagebreak" title="V. Language" />

V. LANGUAGE

#### **Ordinary language**

30. (1) An Act should be written as much as possible in ordinary language, using technical terminology only if precision requires it.

#### **Intended audience**

(2) The terminology of an Act should be suitable for its intended audience.

#### **Redundancies and archaisms**

31. Redundant or archaic words and phrases should be avoided.

It is desirable to examine stock phrases that take the form of pairs or triplets (especially common in English for example, "give, devise and bequeath", "terms and conditions") in order to determine whether fewer words could convey the desired meaning. Legislation should be written in a style that is correct and up to date without being either faddish or excessively conservative. Many words and phrases that are often seen in legal documents belong to

an earlier age and are no longer well understood. They should be replaced by a contemporary equivalent. If they add nothing to the message, as is often the case, they should be eliminated.

### **Neologisms**

32. Neologisms should be used with caution.

In principle, terms that are not found in standard reference works should be avoided in legislation. Sometimes it is necessary to invent a term or to use a recently coined term; in which case it is prudent to define it. The use of neologisms causes special problems in bilingual drafting.

Note that in bilingual common law jurisdictions, often the use of neologisms is the only way to express in French with precision legal concepts that are derived from English law and lack any satisfactory French "functional equivalent".

### **Other languages**

33. Terms from languages other than English should be used only if they are generally understood and if there is no equally clear and concise way of expressing the concept in English.

Latin and other foreign terms are used even less often in French than in English.

### **Consistency**

34. (1) Different terms should not be used to express the same meaning within a single Act.

(2) The same term should not be used with different meanings within a single Act, unless, in a given context, the particular meaning that is intended is perfectly clear and no other term is suitable.

The exception does not apply to defined terms, which should never be used in a different sense than that of the definition. See subsection 21(5).

<hr data-mce-alt="VI. Bilingual Drafting" class="system-pagebreak" title="VI. Bilingual Drafting" /> VI. BILINGUAL DRAFTING

Bilingual legislation should be prepared by two drafters, one responsible for each version, who co-operate on a basis of equality.

Ideally, both drafters should be bilingual. The participation of linguists and translators is often helpful.

Although it is usually faster and may seem easier to conduct the drafting process in only one language and to prepare a translation once the unilingual draft is settled, the quality of both versions is significantly improved by co-drafting.

### **Substance**

35. The English and French versions of a bilingual Act must be identical in substance.

### **Linguistic quality**

36. Each version should be written in correct and idiomatic language, and neither version should be forcibly adjusted to fit the peculiarities of the other language.

In bilingual drafting, both drafters must be ready to make necessary compromises in order to reconcile the need for linguistic quality with the need for identity of substance and close correspondence of structure.

### **Structure**

37. (1) The structure of the Act should be the same in both versions.

Parallelism at the structural level promotes identity of substance. It is likewise a valuable tool for the increasing number of bilingual users and interpreters of the law who compare the two versions.

### **Acceptable differences**

(2) It is not necessary that corresponding English and French provisions use the same syntax.

(3) One version of a subsection (or of a section that contains no subsections) may contain a different number of sentences than the other.

(4) Occasionally, a definition that is present in one version may not be necessary in the other.