

Manual for Legislation Drafting

A primary guideline for legislation drafters



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Foreword

Legislative drafting is a critical aspect of law-making in any organized society. Legislation and its associated rules and regulations govern the activities of a society in almost all spheres. Legislation has considerable control over the lives of citizens and impacts the standards of living in a society. Society needs a stable legal system that not only reflects changing demands but also protects the interest of the citizens' at large (Bogdanovskaia, 1999). Ignorance of law is no excuse; citizens have to abide by all laws of the land. The democratic state must, therefore, ensure that the legislation is easy and accessible, taking into consideration the limited legal literacy of the masses.

Effective legislation is an outcome of a systematic procedure of a legislative body. Specialized knowledge, skills and an understanding of procedural applications are vital to the process of legislative drafting. The proper and procedural application of drafting legislation is clearly reflected at all stages (from concept to enactment) of drafting and its approval. In other words, the improper application of legislation drafting would result in inelegant laws with widespread ambiguity and inadequacies. The challenges from such indecorous procedures are largely faced by the judiciary and the adverse and undesirable impacts further trickle down to the poor masses of the society. For the judiciary, the challenges are more obvious since they are compelled to seek the intention of the lawmaker (normally not the intention of the draftsman) on applied legislation. There are instances whereby the judiciary has marked legislation or a point of legislation as unclear, thus being unable to unveil the intention of the law or point of law.

The paramount social value of juristic lucidity and legislative clarity springs from the need to avoid litigation on potential interpretive ambiguities of ill-drafted bills. Legislative drafting is a veritable instrument for distilling and ventilating policies and ideas of government both at the Federal and Provincial levels.

This manual is intended to serve as a teaching text for those new to legislative drafting, a ready reference guide for veteran legislative staff, and a source of useful information on legislative drafting and process. The fundamental goal of the manual is to ensure accuracy, clarity, and uniformity in the drafting of legislation in Pakistan by promoting compliance with constitutional principles, rules of law and statutory interpretation, and accepted practices regarding style, form, and processes.

Manzil Pakistan has offered assistance to Pakistan Institute of Parliamentary Services (PIPS) to design this manual, an effort designed for the improvement of existing practices of legislative drafting. Improved legislation drafting practices are likely to bring improvement in the justice system, ensure effective governance and facilitate the progress of the legal environment of Pakistan in line with the changing needs of the society.

Manzil Pakistan is a national non-profit think tank dedicated to developing and advocating public policy that contributes to the development of Pakistan. Our aim is to shape Pakistan into a country where policies on decisions of national interest are driven by non-partisan strategic thinking and implemented through consensus in the best interest of the people of Pakistan. We take pride in providing a platform for debate on public policy for all stakeholders; civil society, academia, public and the government.

Law students from the Lahore University of Management Sciences, supervised by Professor Uzair Kayani, collaborated with Manzil Pakistan for the development of the manual. Their efforts are acknowledged and sincerely appreciated.

It is believed that all those who are involved in drafting of legislation will find the manual as facilitator for the improvement in drafting legislation and contributes for consistent and comprehensible legislations, going forward.

Comments and suggestions directed at improving future editions of the *Legislative Drafting Manual* are welcome.

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Vice Chariman
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Legislation is the framework by which governments achieve their purposes and establish the authority of the state. Legislation has different meanings to different segments of the society. To politicians and administrators, legislation is a way to actualize economic, cultural, political, and social policies. A modern state must legislate to attain sovereignty, accomplish certain political objectives and other public and state governing policies. The legislation is enacted not, primarily for those who enact it; it is enacted for the people in a given jurisdiction. The acts, laws, regulations and rules of business tell the segments of the society, how to behave, live and conduct business.

Over the years, with the modernization of governance and improvement in technology, legislation drafting is becoming increasingly complex. The legislation of a country is a form of communication by those who governs the governed. Thus, for the benefit of masses and effective implementation of legislation, the literature i.e. rules and regulations drafted thereof should be clear, precise, lucid and free from any ambiguity and inadequacies. The language plays an important role for the coherence and accuracy of the communication between the stakeholders. Therefore, those who are responsible for the communication should have due regard, and respect for the principles which govern the means of communication – that is language. Each language has its own conventions, and has its own nuances, as well. Adherence to the conventions and nuances of the language is the essence of an effective communication. Non-adherence to the conventions may lead to ambiguity and inadequacies in the communication processes. In addition to language, there must be a sufficient knowledge of the principles of law making in general and of the laws of the particular jurisdiction.

1.1. Historical Perspectives of the Drafting in Pakistan

Pakistan mainly inherited British laws after independence. In Pakistan, both federal and provincial governments have formulated rules to facilitate the implementation of laws within a specified jurisdiction. Since then, there have been several reforms that include amendments of the existing laws and the introduction of new laws in response to the emerging needs of the society. Thus, the drafting is in practice by the authorities since inception. In a dynamic and changing context of governance, the laws need to be reviewed from time to time. Hence, in order to bring laws in line with the emerging needs of the society including social welfare, good governance and an improved justice system, the drafting exercise for updating the existing laws is in practice by authorities and is considered as a continuous process.

Capacity is subject to several meanings, but in the context of legislation drafting, it refers to the ability to draft an effective, clear and precise legislation framework. A legislation draftsman must be sound on the subject both in legal background as well as in the context

of command over drafting principles. Unfortunately, there are no documented principles for the drafting of legislation.

This is fortunate that in Pakistan, resources have been allocated for the drafting of laws however not sufficient. The drafters, who are responsible for the drafting laws, drew them on the instructions of government department or representatives of assemblies in Pakistan i.e. parliamentarians. While drafting laws, they largely consider the principles stated in the Constitution of Pakistan besides considering other state laws and international treaties. Drafting in the diverse nature of the society such as Pakistan, is considered to be a complex exercise. A greater understanding is required for the needs of the society at large and individual citizens for the better and effective legislation. The drafters have to find ways to incorporate the traditions and culture in modern laws (Westminster Foundation for democracy, 2017). Pakistan Institute of Parliamentary Services (PIPS) is responsible for providing legislative drafting support for the parliamentarians across Pakistan that includes provincial assemblies as well.

1.2. Purpose of the Drafting Manual

The main purpose of this drafting manual is to provide some assistance and background knowledge to parliamentary drafters for the important task of legislation drafting undertaken by them. Manzil Pakistan believes that this manual will facilitate all those involved in the drafting and scrutiny of legislation drafts and will also contribute towards creating consistency and comprehensibility in drafting legislations.

The manual is intended to be a starting point and provides an overview for drafting legislation in the Office of Government Legislative Department vis-à-vis the capacity building of the associated staff. The manual is also intended to encourage uniformity in the form, style and language of legislative measures. It is generally accepted and has demonstrated that uniformity contributes greatly with some limitations for the framing of sound and effective legislation. The manual is an initial attempt for addressing such issues that arisen in Pakistan. Since, legislation drafting is a complex exercise it is not possible for a manual of such kind to anticipate or resolve all issues that arises in drafting legislation. Following are the key objectives of the manual:

- To provide basic understanding on the core and fundamental principles of legislative drafting;
- To improve the necessary skills of legislative drafters required for effective legislation drafting;
- To equip the legislative drafters with necessary resources and guidance material for an effective legislation drafting.

2.1 Distinctive Features of the Legislative Process in Pakistan

In Pakistan, legislation is the fundamental responsibility of Majlis-e-Shoora (Parliament). The Parliament of Islamic Republic of Pakistan is composed of two Houses, National Assembly and Senate. Legislation in Pakistan requires the approval of two houses with some exceptions for Money Bill, where the National Assembly enjoys an exclusive jurisdiction over the Senate. Legislation which receives approval from the two Houses and assented by the President of Islamic Republic of Pakistan becomes an '*Act of Parliament*'.

The legislative process in Pakistan consists of several stages. Article 70-77 of the Constitution of Islamic Republic of Pakistan laid down the procedure for the introduction and adoption of bills. As a rule or norm, a bill is prepared once the idea of legislation is realized as necessary for implementation. The idea of legislation can be realized by an individual, group of individuals, associations through their representatives in the parliament. These representatives can be Ministers and Members of the Parliament. The government bodies may also realize the need of legislation.

The bill is then presented in the Parliament with elaborations on the needs of legislation, identifying the public interest at large, and the correspondence of the proposed legislation with the existing legislation and the Constitution of Islamic Republic of Pakistan. The copies of the bill are required to be circulated to all members of the House prior to its elaboration and demonstration. A debate is generated in the house of Parliament and the proposed legislation is either turned down or held-on for further discussion. The proposed legislative bill is also required to be referred to the concerned standing committee of the Parliament for their recommendations. The committee may recommend the proposed legislative bill either in the current form or instruct for necessary changes, additions, and amendments. Once the discussion is finalized, and the need for legislation is realized by the Parliament, the proposed legislation either in the current form or with the changes, if any suggested by the Parliament or concerned Standing Committee is forwarded to other House i.e. Senate, for their comments and feedback.

The other House (Senate) establishes a similar process to review the proposed legislative bill. The proposed legislative bill is required to be sent back to the House from which it originated. In case of any recommendations or suggested changes, the proposed legislative bill is required to process again with the same procedure as initially done at the time of introduction. In case of the rejection of the proposed legislative bill by the two Houses, the proposed bill may be discussed in the Joint Sitting of both the Houses.

Once both the Houses have passed the proposed legislative bill, it is presented before the President for his assent. The President of Islamic Republic of Pakistan may either give his

consent to the Bill or return to the House from where it is generated with amendments or recommendations. The President is bound to give his assent to the Bill within ten days. In case of assent to the proposed legislative bill or the expiry of the tenth day, in either situation the bill then becomes '*Act of Parliament*'. The Act of Parliament is required to be notified in the Official Gazette for general information.

The principal act which is approved by the two Houses and assented to by the President, delegate the responsibility to a specific authority for the formulation of more specific laws. The executive branch formulates legally enforceable regulations and procedure for the implementation.

2.2 Formulating and Drafting Legislation

The process of formulating and drafting of proposed legislation should start with setting out of objectives of the proposed legislation. The individual (parliamentarian) or institution (includes civil societies) who initiates the legislative proposal should also develop a detailed policy for the implementation of the legislation. Policy making is the first step in the legislative drafting process. Legislation must be drafted by implementing policies in the forms of norms i.e. concerning what target groups must do, must not do, or may do, under carefully defined circumstances etc.

The legislation initiator or proponents of legislation must develop close cooperation and coordination with the legislative drafters, who are responsible for converting the initial thought into a formal draft for sound and effective legislation. If the legislative solutions are not well-founded, then it is not possible to draft sound legislation that can be properly implemented.

Thus, taking appropriate time and devoting sufficient resources to develop and communicate policies and objectives before legislation drafts are prepared is a very healthy investment, which pays off greatly in the long run. This significantly increases the chances that laws will accomplish what they are supposed to, and yield positive results for the populace. Also, laws that effectuate sound basis and background are easier to enforce, and do not require frequent amendments. Following are the key concerns while formulating and drafting proposed legislation;

- Legislation draft should be harmonized with national and international legal requirements;
- Legislation draft should be practical and effective;
- Legislation draft should be normative, not aspirational;
- Legislation draft should establish appropriate sanctions;
- Legislation draft should be technically sound, correctly structured and well drafted;

- Legislative drafting should reflect the type of act and intended audience;
- Legal clarity should be promoted through sound sentence structure and word choice;
- The repeal or amendment of existing Legislation must be precise;
- Definitions should be correctly used;
- Negative formulations should be avoided;
- Legislation should be gender neutral;
- References should be accurately drafted;
- Legal drafting and terminology should respect linguistic differences;
- The legal profession should be fully engaged in legislative drafting;
- The legislative drafting process should be open and participatory.

2.3 How Consistency is Achieved in Drafting Legislation

The drafting process involves translating policy into a legally effective scheme thus drafting process must allow the drafter:

- to understand the drafting instructions and policy context;
- to consider the legislative, and general law framework in which the legislation is to operate;
- to provide advice about alternative ways of achieving policy objectives and the application of fundamental legislative principles;
- to draft the legislation use and follow effective legislative drafting practice;
- to discuss revisions with the team members;
- to make changes and finalize the legislation.

A drafter must be consistent in the use of words. If a ‘word’ or ‘phrase’ is used more than once in a bill, there is presumption that the ‘word’ or ‘phrase’ has the same meaning throughout. This presumption governs unless a contrary intent is clear. In view of this rule, two mandates can be framed:

- The same word should not be used to convey different meanings;
- Different words should not be used to convey same meanings.

2.4 Limitations and Scope of Drafting Manual

There is a chasm between legislation drafters and those who interpret this legislation. This is an additional area of concern for the drafter besides elementary understanding of the basic principles of drafting legislation. There are regular exercises of Courts to determine the intention underlying the statute. The need arise as a result of the possibility of ambiguity or misconception in the statute's language that may give rise to an alternate, wrongful interpretation. However, ascertaining such intentions behind every statute can be an arduous task, and to counter-act this, the construction of language while drafting laws can be inspired by how these laws are ultimately interpreted. There are instances whereby the judiciary has marked legislation or a point of legislation as unclear, thus being unable to unveil the intention of the law or point of law. Thus, it is important for the drafter to consider the interpretation of laws while drafting legislation. In short, knowing what principles of interpretation are employed while reading laws is one way to draft better legislation. There are several principles to mitigate ambiguity and misconceptions that legislation drafters can consider while drafting laws. Drafting manual identifying such principles is another exercise as a separate document and can be treated an added version to this drafting manual.

Thus, the current drafting manual is an initial step and intended to be a starting point to assist drafters. This drafting manual provides a brief overview on the subject along with some selective and highly needed drafting directions. The drafting direction largely covers the concerns specified in the section 2.2 above, that include guidance on the format and technical structure of a bill; understanding of intended audience; structure, style and use of proper sentences and appropriate words; proper understanding of definitions, terminologies and meanings; and rules for referencing in legislation.

The key areas covered in the drafting manual are;

- Format of Legislative Instruments
- Drafting Style and Use of Appropriate Language
- Appropriate Use of Words and Choices
- Rules of Capitalization
- Use of Punctuations
- Referencing Rules

Pakistan's legislation mainly constitute of two major forms i.e. Acts and Ordinances, the former requires the approval of the Parliament, while the latter is treated as a Presidential order. The Act of Parliament as explained in previous section is introduced through a proposed bill in the two Houses. The drafting practices are largely involved in drafting a bill for the Act of Parliament, the focus of the chapter discusses largely the types and formats of Bills for better understanding of draftsman.

3.0 'Bills' as a Legislative Instrument

A Bill can be defined as a legislative proposal in a distinct format. There are two types of bills that create or affect laws of potentially unlimited duration. A bill which is drafted to propose laws relating to the people of the State in general are known as '**Public Laws**', while those which are drafted for special purposes for particular agents of the State or entities are known as '**Private or Special Laws**'. It is important to note that the draftsman should avoid drafting a single bill addressing the purpose of public and private laws since it would be difficult to what provisions in the bill are for general and specific application. If combining them cannot be avoided, the universal practice is to classify such laws as '**Public Laws**'.

However, generally Bills are named private member Bills and Government Bills, accordingly as they are sponsored by a private member or a Minister.

Private Members' Bills

In the case of a private members' Bill, a member of the parliament may introduce a Bill after giving ten days written notice of his intention to do so. The National Assembly Secretariat would render possible assistance to the members so that the Bills are not rejected merely on technical grounds.

Government Bills

In the case of the government bill, it is introduced by a Minister.

3.1 Classification of Bills

Based on their content, the Bills may be classified into: Original Bills (Bills embodying new proposals, ideas or policies), Amending Bills (Bills which seek to modify, amend or revise existing Acts), Consolidating Bills (Bills which seek to consolidate existing law on a particular subject), Expiring Laws (Continuance) Bills (Bills to continue an expiring Act), Bills to replace Ordinances, Constitution (Amendment) Bills and Money/Financial Bills.

3.2 Elements of Bills

There are two main elements of a bill; the details of the elements are provided below in the order in which they appear in bills.

A. *The title.* The purpose of a bill title is to provide a general idea of the subject matter and scope of the bill. Titles of bills always begin: ‘*An Act ...*’ however do not have to be all-inclusive of the content of the bill. Following are the key characteristic that is required to consider while drafting ‘The Title’;

- a. A title should be short and descriptive of the content and scope of the bill and should not attempt to be an exhaustive index of every subject covered by the bill.
- b. In addition, titles should not be overly broad or vague, such as ‘*An Act Concerning Labor*’.
- c. The title of a bill should state the subject of the bill in an objective manner.
- d. Avoid using inflammatory or biased language in the title, such as ‘*An Act To Improve the Moral Character and Health of the Citizens of Xx Community.....*’.

The title of a bill, however, is not finalized until every other part of the bill is written. To ensure that the title accurately reflects the subject matter of the bill and is not misleading or incorrect, a drafter should draft the title to fit the bill; a drafter should never draft the bill to fit the title. Similarly, when amending or redrafting a bill, the drafter should check the title of the original bill to be sure that the changes in the bill do not require a change in the title. The following are examples of bill titles.

Example(s):

E3.2a

- “*An Act to make the provision for the control of rents of certain class of buildings within the limits of cantonment areas and for the eviction of tenants there from.*”
- “*An Act to Extend the Statute of Limitations for Medical Malpractice Cases*”
- “*An Act to Clarify the Traffic Movement Standards under the Site Location of Development Laws*”
- “*An Act to Restrict Smoking in Enclosed Shopping Malls*”
- “*An Act to Establish an Income Tax Exemption for National Guard Members and Certain Members of the Military*”

B. Preambles. In addition to the Title of the draft bill for legislation, a preamble may be required specifying the objective and mandate needed for the bill for final approval. The preamble can be looked at to find out the intent of the statute. It can be used as an aid to ascertain purpose of legislation, but not for determining its scope or validity. A drafter should consider that the preamble accurately reflects the intention of the bill so that any reliance on the preamble by the judiciary does not result in an inaccurate result.

Example(s):

E3.2b

- *“Whereas it is expedient to make provision for the control of rents of certain classes of buildings within the limits of cantonment areas, for the eviction of tenants there from and matters connected herewith;”*
- *“Since the Constitution of the Islamic Republic of Pakistan, while guaranteeing gender equality, enables the State to make any special provision for the protection of women, it is necessary to protect women against violence including domestic violence, to establish a protection system for effective service delivery to women victims and to create an enabling environment to encourage and facilitate women freely to play their desired role in the society, and to provide for ancillary matters;”*

C. Table of Contents. In case of lengthy legislation, it is very useful if the draft contains a Table of Contents. The table provides rapid means of finding a provision in an Act of Parliament. However, it must be borne in mind that the table of contents is not a general index.

D. Sections, Subsections and Paragraphs. A section may itself contain any number of distinct propositions and, for that purpose it is often further sub-divided. The sub-divisions of a section are numbered in brackets, and are referred to as paragraphs and sub-paragraphs. In case of a constitutional instrument, lawyers and Judges prefer to employ the term Article in place of Section. The division of statutes however is required for the sake of convenience rather than for any operative effect.

E. Parts and Divisions. In the longer Acts of Parliament, it is quite common to find a number of sections treated as a group. That group is known as a part. If the number of section in a part is sufficient to justify doing so, that part may itself be divided into smaller groups of sections and those smaller groups are known as divisions.

F. Definition and Interpretation Clauses. Definition clause or a section in a statute is meant generally to declare what certain words or expressions used in that statute would mean. The object of such clause is to avoid necessity of frequent repetition in describing all subject matters to which the word or expression so defined is intended to apply. An interpretation clause does not disturb the plain meaning of the word and if there is nothing in the context of subject matter to the contrary then the definition clause, including a different meaning from or in excess of ordinary acceptance of the word which, is subject of definition may be

adopted. Legislation drafters should be particularly careful and draft clear and concise definitions.

G. *Proviso, Exception and Saving Clause.* A proviso is used to remove special cases from the general enactment. An exception is intended to restrain the enacting clause to particular cases and the saving clause is ordinarily used to preserve from the destruction certain rights, remedies or privileges already existing. Legislature sometimes resort to adding a proviso to the main clause and the formulae begins '*provided that*'. To start with the general principle is if the proviso to the particular provision of statute could affect only the subject covered by the main provision and will act as an exception to it.

H. *Schedule and Form.* A schedule annexed to a statute is as important as the statute itself. The schedule could be used to construe the provisions of the body of the Act. It for all purposes of construction is read together with the Act. Schedule is also sometimes used to set out in it some document, such as a treaty, a convention, which is referred to in the body of the Act.

Forms appended to the schedule are inserted merely as examples and are only to be followed implicitly so far as the circumstances of each case may admit. Forms appended to a schedule of a statute may be referred to for the purpose of throwing light on the construction of the statute.

I. *Illustrations.* If Parliament thinks fit to include in an Act examples of how the Act is intended to operate, these have persuasive authority. Illustrations appended to an Act are part of the enactment and can legitimately be used for construction of Sections, unless it conflicts with the section. Legislative drafters should make a concerted effort to ensure that not only does the illustration not conflict with the section but in fact clearly explains it.

4.0 Drafting Style and Grammar

A good statutory style requires consistency, coherence and clarity. Bill drafts should be precise and understandable. Consistency in style and grammar is important because legislative instruments are drafted and redrafted by a broad range of people and because statutes are enacted and amended over a long period of time (Legislative Council, Maine State, 2009). Thus, the current section provides guidelines for a drafting style to achieve the stated objectives and goals. However, the chapter is limited to specific areas and rules of English grammar and set forth some key concerns of style to ensure clarity in legislative drafting.

4.1 Audience

Not all bills are aimed at the same readers. The primary audience of a bill varies with the bill. While drafting laws, assume that they are addressed to the general public, such as laws that prohibit dumping in amusement parks, for people of average intelligence and education. However, if a bill aims to regulate securities sales, then brokers and bankers are the audience and the bill may require technical vocabulary employed in their trade. Wherever possible, keep sentences short, eliminate and/or define difficult or technical words or words that have meanings that deviate from standard usage. In expressing legislative policy to any audience, simplicity is of primary importance.

4.2 Clarity

Brief and concise drafting usually leads to clear, understandable language. Clarity should not, however, be sacrificed for the sake of brevity. Generally, short words are preferable to long words. A simple sentence is easier to understand than a complex or compound sentence. If the meaning of a complex sentence can be precisely stated in two or more simple sentences, use the simple sentences. If a word has the same meaning as a phrase, use the word. Omit needless words and attempt to find the balance between over-drafting and vagueness.

Vagueness: Just as over-drafting can backfire and limit a provision in unforeseen ways, under-drafting is equally dangerous. Although it is often necessary or desirable to create a general or broad legislative standard or directive, beware of language that is indefinite to the extent that it becomes meaningless or begs a challenge in court as invalid for vagueness. Generally, courts loathe declaring a law invalid on this ground, but careful drafting can eliminate the need for judicial scrutiny. Use subjective words prudently. Do not riddle drafts with immeasurable words such as *'fair'*, *'reasonable'*, *'proper'*, *'competent'*, *'substantial'*, *'remote'*, *'vulgar'*, *'adequate'*, *'gross'*, *'normal'* or *'immoral'*, unless the word is an accepted

term of art, such as *'reasonable'* attorney's fees.

Over-drafting: Precision in drafting is a worthy goal, but can be taken too far. It is generally unnecessary to name every single thing you are forbidding or requiring. An overzealous attempt at precision may result in redundancy and verbosity. Drafting too precisely may create unintended loopholes.

Example(s):

E4.2.

Following example, adapted from a National Park Service rule, tries to cover all the possibilities:

Trees, shrubs, plants, grass and other vegetation

General injury. *A person may not prune, cut, carry away, pull up, dig, fell, bore, chop, saw, chip, pick, move, sever, climb, molest, take, break, deface, destroy, set fire to, burn, scorch, carve, paint, mark, or in any manner interfere with, tamper, mutilate, misuse, disturb or damage any tree, shrub, plant, grass, flower, or part thereof, nor shall any person permit any chemical, whether solid, fluid, or gaseous, to seep, drip, drain or be emptied, sprayed, dusted or injected upon, about or into any tree, shrub, plant, grass, flower, or part thereof, except when specifically authorized by competent authority; nor may any person build fires, or station, or use any tar kettle, heater, road roller or other engine within an area covered by this part in such a manner that the vapor, fumes, or heat there from may injure any tree or other vegetation.*

Using broad terms that include narrow terms is preferable and probably provides greater legal protection. In the above example, *'cut'* could include *'chop'*, *'saw'* and *'sever'* (among others), making it unnecessary to list these included words. Still more broadly drafted, the rule might well read *'a person may not harm the plants'*, and offer the same, if not more, protection.

4.3 Consistency

Although the generous use of synonyms is fundamental to most types of writing, it is particularly ill-suited for drafting legislation. When a word is used more than once in a law; a presumption arises that the word or phrase has the same meaning throughout, unless a contrary intent is clear. Three rules emerge from this:

- Don't use the same word to convey different meanings;
- Don't use different words to convey the same meaning; and
- Don't use a synonym if you are trying to indicate a difference in substance.

4.4 Legislative Objectives

By following a strict pattern of statutory expression and avoiding variation in sentence form, the statutory objective can be stated more easily. Each sentence should express a single thought, making it easier for the reader to comprehend the rule expressed. It is best to follow an order of development in which the sentence first identifies the person who must act followed by the action that the statute directs.

4.5 Outlining

Outlining involves organizing language into units to clarify the relationship between provisions and make the language easier to understand.

Outline text that contains provisions that include subordinate, related clauses or ideas. Drafters frequently make the mistake of treating independent related thoughts as subordinate ideas.

When several of the items in a series are more than one typed line long or a section has complex internal punctuation, the text should be written in outline form for ease of reading. In addition, outlining is often useful when a legislative sentence contains several cases, conditions or exceptions. Occasionally, however, readability may suffer as a result of outlining if the method is used too extensively.

In the standard and often times confusing phrasing of formulas, the sentences are often too long. They include long multiple conditions and references which block sentence flow and delay the arrival of the next sentence elements; and they have long subordinate clauses that separate modifiers from the things they modify. Moreover, formulas are usually in the passive voice and frequently include a misused 'shall'.

If you use an introductory expression that ends with a colon to lead into subordinate clauses or other text, make certain that each clause reads as a logical and grammatical continuation of the introductory language. In addition, begin each item with an uppercase letter, use a conjunction after the next to the last item, end each item except the last with a semicolon and end the last item with a period.

Example(s):

E4.5.

- 1. Entrance salary; exceeding minimum rate. The entrance salary may be above the minimum rate only if:*
- A. The individual's exceptional qualifications justify an appointment at a higher rate;*
 - B. Others with similar qualifications are offered the same rate; and;*
 - C. The appointment at a higher rate is made at one of the established steps of the salary range.*

When several items in a list are more than two typed lines long, or when the items are conditions that are complex, the list may need to be divided into separate sentences. Complete sentences should have their first words capitalized and should end in periods.

4.6 Indented & Blocked Paragraphs

A paragraph may apply to the entire section or to a previous subunit (subsection, paragraph, etc.), depending on its format. In order to eliminate any ambiguity in determining this relationship, the drafters of the 1964 Revision of the Statutes established the following rule to govern '*indented*' and '*blocked*' paragraphs. If the paragraph is unnumbered, unlettered and indented only on the first line, the paragraph applies to the entire section. If the paragraph is '*blocked*' (the first line is not indented, but the paragraph may have an indented left margin), the paragraph applies to the nearest previous sub-unit that shares the same margin or is located the same number of spaces to the right of the margin. Because an indented paragraph relates to the section as a whole, a drafter should not intersperse indented paragraphs among smaller subunits in a single section.

Example(s):

E4.6a

Explanation and notice to parent of minor

If the insured is a minor who has not attained 18 years of age and the insurer is requested to do so by either of the minor's parents, the insurer shall provide that parent with:

- 1. **Payment or denial of claim.** An explanation of the payment or denial of any claim filed on behalf of the insured minor;*
- 2. **Change in terms and conditions.** An explanation of any proposed change in the terms and conditions of the policy; or*
- 3. **Notice of lapse.** Reasonable notice that the policy may lapse, but only if the parent has provided the insurer with the address at which the parent may be notified.*

A parent who is able to provide the information necessary for the insurer to process a claim pursuant to this section may authorize the filing of any claims under the policy.

The last sentence in the above section is indented and, therefore, applies to the entire section.

Example(s):

E4.6b

The last sentence in the following example applies only to paragraph C.

A. The department, by rule adopted in accordance with subsection 9, shall determine the scope and amount of medical assistance to be provided to participants in the program.

B. The department, in consultation with the council, shall develop plans to ensure appropriate utilization of services.

C. The department shall adopt rules in accordance with subsection 9, setting forth a sliding scale of premiums, to be paid by persons eligible for the program, that meets the following criteria.

(1) The premium for a household is zero when household income does not exceed 100% of the federal poverty level.

(2) The premium for a household may not exceed 3% of the household income when household income exceeds 100% of the federal poverty level.

(3) The department may, by rule, reduce or waive premiums for persons below 18 years of age whose household income does not exceed 125% of the federal poverty level.

4.7 Voice (Active vs Passive)

Whenever possible, use the active voice rather than the passive voice. A sentence is in the active voice when the subject *‘does’* the verb: *‘Agencies publish rules’* is in active voice. *‘Rules are published by agencies’* is in the passive voice because the subject (*‘rules’*) is not the doer of the verb (*‘are published’*). The doer is *‘agencies’*. *‘Rules are published’* is still in the passive voice, although the doer of the action does not appear at all.

In laws and rules, passive sentences without phrases containing *‘by’* are dangerous because they do not say to whom duties are assigned. Consider the problem in the following sentence:

“Improvements to the licensed design made after the effective date of this section must be disclosed within 10 days of an improvement. Failure to do so is a material breach of the license agreement.”

Nothing in the sentence tells the reader about who must disclose improvements to whom. When rules and laws exist to explain people’s responsibilities, drafters must avoid sentences that don’t assign responsibilities clearly.

When a sentence contains a phrase beginning with 'by', you can often change the sentence to active voice.

Example(s):

E4.7

The commission shall appoint the senior auditor of each department
not
The senior auditor of each department shall be appointed by the commission.

Drafters use the passive voice needlessly when they concentrate on things and requirements rather than on people and duties. The passive voice examples above concentrate on 'the required monitoring frequency' and 'a demand'. For drafting purposes, it is better to impose a duty or grant permission in the active voice than to state a requirement in the passive voice.

Exceptions

In certain instances, use of the passive voice may be desirable or necessary. Passive voice lets you put old or repeated information at the beginning of the sentence where it demands less attention and new information at the end of the sentence where it stands out. Passive voice can also let you put a long string of nouns at the end of a sentence so that your reader will not have to work through the series before coming to the verb.

When you use passive voice for any of these reasons, be certain that the duty or permission is assigned clearly, either in the passive sentence or in one of the sentences nearby. If the passive voice does not solve these specific problems, it should not be used.

4.8 Tenses (Present, Past, Future)

Laws are meant to be of continuing application and should be written in the **present tense**.

Past Tense: Drafters are tempted to look forward to the time when a law will be applied and, therefore, frame the legislation using the future tense. Resist that temptation. Use present tense and write the statute as you want it to read at the time it is applied.

Example(s):

E4.8a

Do not use:

The duties of the board will include ...

Use:

The duties of the board include ...

Since the law speaks at the moment when read, avoid inserting words such as 'current' or 'existing' unless you also include the necessary temporal reference.

Example(s):		<u>E4.8b</u>
<u>Do not use:</u>		<u>Use:</u>
<i>An existing facility is exempt from licensure.</i>		<i>A facility existing on January 1, 1991 (or “on the effective date of this section”) is exempt from licensure.</i>

Present Tense: When it is necessary to express a time relationship, recite facts concurrent with the operation of the instrument as present facts and facts precedent to its operation as past facts.

Example(s):		<u>E4.8c</u>
<i>Any person who is or has been a member of the Legislature is disqualified from further participation if that person ...</i>		

If it is necessary that a provision include past as well as future events, the drafter should use the present tense; however he/she should insert the phrase *‘before (or after) this (Title, Part, section, etc.) takes effect’* before the appropriate verb.

Future Tense: Although the future tense is rarely appropriate in drafting legislation, it is sometimes necessary. Keep in mind, however, that the temporal point of reference is the time at which the law is applied, not when it is written and not when it takes effect. The word *‘shall’* is never appropriate to convey the future tense. The proper use of *‘will’* is limited to something that happens in the future because of a preceding action.

Example(s):		<u>E4.8d</u>
<i>If the contractor finds that service under section 3 of this contract will contribute to a violation of the law by the company, the contractor may ...</i>		
<i>If spending in the bureau will result in a budget shortfall, the commissioner may reduce department allotment levels.</i>		

4.9 Person

Draft in the third person; that is, use *'it'*, *'its'*, *'he'*, *'his'*, *'him'*, *'she'*, *'hers'*, *'her'*, *'they'*, *'their'* and *'them'* rather than the forms of *'I'*, *'we'* or *'you'*. Use gender-specific pronouns, where needed (for details on gender specific, also see sub-section 4.14 in the current chapter).

4.10 Singular / Plural

Words of the singular number may include the plural and words of the plural number may include the singular. Nevertheless, a drafter should use the singular form of a noun rather than the plural whenever possible. This custom is based on the practical difficulty of using plurals consistently and the ambiguity that may arise as to the applicability of a provision. In the following example, the singular version would probably not be construed to apply only to an employee entering the premises alone, but must more than one employee enter the premises before the plural version applies?

Example(s):

E4.10

If an employee enters the premises ... (Singular)

If employees enter the premises ... (Plural)

If you use plurals to eliminate or avoid gender-specific pronouns, be sure to check your use for consistency and clarity.

4.11 Nominal Style

Many verbs have related nouns: such as *'decide'* is related to *'decision'*; *'complain'* to *'complaint'*; *'speak'* to *'speech'*. An idea can often be expressed with either a verb or a related noun. For example, you can complain or make a complaint.

Writing that uses verbs (verbal style) is usually brief and clear. Writing that uses nouns (nominal style) can be too formal and wordy. Many drafters overuse nominal style.

There are many other possibilities. The suffixes such as *'-ance'*, *'-ancy'*, *'-ant'*, *'-ence'*, *'-ency'*, *'-ent'*, *'-ion'* and *'-ment'* often mark nouns derived from verbs. Whenever you see these suffixes, check for nominal style and try to eliminate it.

Example(s):	<u>E4.11</u>
<u>Do not use:</u>	<u>Use:</u>
<i>to implement pupil management techniques</i>	<i>to manage pupils' behavior</i>
<i>established a contractual relationship with</i>	<i>contracted with</i>
<i>has knowledge or suspicion that</i>	<i>knows or suspects that</i>
<i>make application for</i>	<i>apply for</i>
<i>make payment for</i>	<i>pay for</i>
<i>make provision for</i>	<i>provide for</i>
<i>upon X's request to Y</i>	<i>if X asks Y</i>
<i>upon a determination by X that</i>	<i>if X determines that</i>
<i>No person shall be entitled</i>	<i>No person is entitled</i>

4.12 Splitting Verbs and Word Groups

Many sentences in bills have verbs in the infinitive form or verbs with more than one part: shall + (verb), may + (verb), must + (verb). Sometimes a word is placed between these parts, as in *'The commissioner shall immediately order an investigation of a reported epidemic'*. Although it is generally better not to interrupt the verb parts, particularly when using the infinitive verb form, one- word adverbs in this position do no harm. In some areas of law, the verb parts are normally split, for instance when referring to culpable states of mind, such as *'to knowingly fail'*. Longer interrupting phrases, however, are difficult to read, as in this sentence:

Within 10 days after service of the notice of appeal, the appealing party may in writing, with a copy to the executive secretary of the Public Employment Relations Board and all parties or their representatives of record, order from the Bureau of Mediation Services a transcript of any parts of the proceedings it considers necessary.

The interrupting words make no sense without the verb *'order'*, but the reader must struggle with more than 20 words to reach it. The interrupting words would serve better as a separate sentence:

The appealing party may order from the Bureau of Mediation Services a transcript of any parts of the proceedings it considers necessary. The transcript order must be in writing. The appealing party shall give a copy of the transcript order to the executive secretary of the Public Employment Relations Board and all parties or their representatives of record.

Example(s):

E4.12

Avoid interrupting a group of words that must be understood together. In this sentence, the interrupting phrase is set off in commas:

The judge or magistrate must commit the accused to the county jail for a time, not exceeding 30 days specified in the warrant that will enable the arrest of the accused to be made.

Again, the interrupting words should be a separate sentence:

The commitment time may not exceed 30 days.

Generally, the legal subject should be followed immediately by the legal action, but one-word adverbs may be used in some instances, as in

“A person who knowingly disrupts ...”

4.13 Modifier

A modifier is a word, a phrase or a clause that qualifies another word, phrase or clause.

Example(s):

E4.13

- the *escaped* prisoner;
- the *executive officer of the county*;
- an order *signed by the President*;
- a document *stating the accused’s name*.

Similar to verb parts and other word groups, the placement of modifiers in a sentence affects not only readability but meaning. Modifiers should be placed as close as possible to the words they modify, when they are not, sentences can be confusing.

4.14 Gender

In the construction of statutes, gender-neutral construction shall be applied as provided in this subsection.

- A. Whenever reasonable, as determined by the Revisor of Statutes, nouns rather than pronouns shall be used to refer to persons in order to avoid gender identification.
- B. In preparing any legislation which amends a section or larger division of statutes, the Revisor of Statutes shall be authorized to change any masculine or feminine gender word to a gender-neutral word when it is clear that the statute is not exclusively applicable to members of one sex. The drafter of Statutes shall not otherwise alter the sense, meaning or effect of any statute.
- C. The rule of construction concerning gender on the effective date of an Act or resolve

shall apply to that Act or resolve.

Avoid terms for occupations or activities that are gender-specific. In particular, '*chairman*' should not be used. '*Chairperson*' is an acceptable alternative, but '*chair*' is not. Alternatives are: president, presiding person, presiding officer, presiding member, convener, coordinator, and moderator.

If you are amending legislation that contains gender-specific language:

- draft amendments using gender-neutral language in the same way as if you were starting from scratch:
- do not amend the existing gender-specific language unless it can be done within the confines of the amendment that you are instructed to do or it can be done easily (e.g. by amending 1 or 2 additional provisions), or unless you are expressly instructed to do so.

The possibility of amending an existing Act to make it gender-neutral may be raised from time to time (possibly during the select committee stage) while you are in the process of making substantive amendments to it. It can be very time consuming, particularly if the Act is large. If the Act uses a term like '*salesman*' all through it and time is not a critical factor, the changes should be made. If you are instructed to change a term to be gender-neutral, check if the new term is indeed desirable and has the same meaning as the original term. For example, it has been proposed during select committee stages that '*landlord*' be changed to '*lessor*' or '*owner*', neither of which was ideal in the context.

Common nouns and adjectives: Gender-specific nouns and adjectives often can be easily replaced with neutral terms. A list of some substitutions that may be useful is as follows in the example below:

<i>Example(s):</i>		<u><i>E4.14a</i></u>
Alternatives for Nouns and Adjective		
<u>Do not use:</u>	<u>Use:</u>	
<i>alderman</i>	<i>municipal officer</i>	
<i>bondsman</i>	<i>bonding institution</i>	
<i>brakeman</i>	<i>brake tender</i>	
<i>businessman</i>	<i>member of the business community</i>	
<i>chairman</i>	<i>chair</i>	
<i>clergyman</i>	<i>member of the clergy; cleric</i>	
<i>committeeman</i>	<i>committee member</i>	

Source: Legislative Council, Maine State, 2009
For the detail list of alternatives for nouns and adjective, refer to annexure A1.

Familial relationships: Familial relationships can often be expressed without reference to gender. Unless it is necessary to distinguish gender, use the following list as a guideline.

Example(s):		<u>E4.14b</u>
Alternatives for Familial Relationships		
<u>Do not use:</u>	<u>Use:</u>	
<i>husband, wife</i>	<i>spouse</i>	
<i>widow, widower</i>	<i>surviving spouse</i>	
<i>mother, father</i>	<i>parent</i>	
<i>son, daughter</i>	<i>child</i>	
<i>sister, brother</i>	<i>sibling</i>	
<i>stepmother, stepfather</i>	<i>stepparent</i>	
<i>grandfather, grandmother</i>	<i>grandparent</i>	

'Person' as suffix: As a general rule, do not take the easy way out by replacing the suffix '*man*' with '*person*' or '*people*'. For example, do not use '*tradesperson*' for '*tradesman*'. Choose '*merchant*' or '*skilled worker*' as the context requires.

Words with legal meanings or general acceptance: Some gender-based words have specific legal meanings or general acceptance and should not be changed, for example:

Example(s):			<u>E4.14c</u>
<i>bachelor's degree</i>	<i>journeyman</i>	<i>master</i>	
<i>fellow</i>	<i>landlord</i>	<i>master's degree</i>	
<i>fellowship</i>	<i>manhole</i>	<i>midwife</i>	
<i>fraternity</i>	<i>manslaughter</i>	<i>ombudsman</i>	

5 Appropriate Use of Words and Choices

5.1 Legal Action Verbs: Shall, Must, May & Will

In stating the legislative objective, the drafter must pay particular attention to the verb forms used to direct, limit or permit action or inaction.

5.1.1 Mandatory and Permissive Language

5.1.1.1 Shall

Although 'shall' is somewhat uncommon in general English usage, it may be used correctly in legal drafting. Drafters, however, must pay close attention to the proper use of 'shall'. Below are examples of the proper and improper use of 'shall'.

Imposing a duty: 'Shall' is properly used to impose a duty on a person or body or to mandate action by a person or body. Use it to say a person or a body 'has a duty to' do something or 'has to' do something.

Example(s):

E5.1.1.1a

1. An association that issues shares by series shall keep a record of every certificate that it issues.
2. The commissioner shall adopt rules.

Not in Conditional Sentence: 'Shall' should not be used in conditional sentences.

Example(s):

E5.1.1.1b

<u>Do not write:</u>	<u>Write:</u>
If it shall have been established ...	If it is established ... OR If it has been established ...
When the officers shall have completed their investigation ...	When the officers complete their investigation ...
To be eligible for parole, a prisoner shall demonstrate ...	To be eligible for parole, a prisoner must demonstrate ...

Not to Confer a Right: Avoid using ‘*Shall*’ to confer a right when the recipient is the subject of an active sentence. A right should not be stated as a duty to enjoy the right.

Example(s):		<u>E5.1.1.1c</u>
Alternatives for Familial Relationships		
<u>Do not write:</u>	<u>Write:</u>	
The director shall receive compensation of Rs.120,000 a year.	The director is entitled to compensation of Rs.120,000 a year.	

Future Law: Similarly, do not use ‘*Shall*’ to say what the law is or how it applies in the future.

Example(s):		<u>E5.1.1.1d</u>
<u>Do not write:</u>	<u>Write:</u>	
<i>A person shall be eligible to apply for tax relief.</i>	<i>A person is eligible to apply for tax relief.</i>	
<i>A person who traps lobsters in violation of this section shall be guilty of a crime.</i>	<i>A person who traps lobsters in violation of this section is guilty of a crime.</i>	
<i>Grammatical errors shall not invalidate a rule.</i>	<i>Grammatical errors do not invalidate a rule.</i>	
<i>It shall be unlawful ...</i>	<i>It is unlawful ...</i>	
<i>Funds shall carry to ...</i>	<i>Funds carry to ...</i>	

Definitions: In drafting definitions:

Example(s):		<u>E5.1.1.1e</u>
<u>Do not write:</u>	<u>Write:</u>	
<i>“Bottle” shall mean a container ...</i>	<i>“Bottle” means a container ...</i>	

5.1.1.2 Must

When not a person: ‘Must’ rather than ‘Shall’ be used when the subject is not a person or body:

Example(s):

E5.1.1.2a

- a) *A copy of the signed contract must be given to the debtor.*
- b) *A record must be kept whenever a certificate is issued.*

To express requirements: use ‘Must’ rather than ‘Shall’ to express requirements, that is, statements about what people or things must be rather than what they must do. ‘Must’ is usually correct in passive sentences imposing requirements.

Example(s):

E5.1.1.2b

- a) *Applicants must be at least 17 years of age.*
- b) *Professions must be licensed by the State.*

In conditional sentences: Use ‘Must’ rather than ‘Shall’ is proper in conditional sentences.

Example(s):

E5.1.1.2c

To be eligible for benefits, an applicant must demonstrate

5.1.1.3 May

‘May’ means ‘is permitted to’, ‘is authorized to’, ‘is entitled to’ or ‘has power to’. ‘May’ authorizes or permits rather than commands.

Example(s):

E5.1.1.3

The commissioner may call a special meeting when necessary.

If calling a special meeting is discretionary, ‘may’ is the proper word. If the commissioner is required to call a special meeting, use ‘the commissioner shall ...’

5.1.1.4 Will

'Will' should never be used as a command word. For a discussion of 'will' as used in the future tense.

5.1.2 Prohibitive and Restrictive Language

Drafters should use positive language whenever possible to express ideas. Laws, however, are frequently prohibitive or restrictive in nature. Drafters must use care in wording these sections.

5.1.2.1 Prohibiting Action

Do not use 'shall not'. Use 'may not' to prohibit an action. 'May not' is broader than 'shall not' as 'may not' negates the authority to perform an action as well as prohibiting the action itself.

Correlative expressions to 'shall not' and 'may not' are 'no person shall' and 'no person may'. Avoid 'no person may' and never use 'no person shall'. Literally, 'no person shall' means 'no person has a duty to'. Consider this sentence: 'No person shall conduct a picket line without a permit issued under this section'. Literally, this means 'No person has a duty to conduct a picket line without a permit issued under this section'. If 'may' replaced 'shall' in the sentence, it would mean 'No person is authorized to conduct a picket line ...', 'No person may' in this context makes more sense. In most instances, however, 'no person may ...' is verbal overkill. It provides unneeded emphasis. 'A person' is probably sufficient to include anyone who should be included.

5.1.2.2 Negating Duty or Condition

To negate a duty or a condition precedent, or to say a thing is not required, use 'need not' or 'is not required'.

Example(s):

E5.1.2.2

If fewer than 7 people object to a rule, a hearing need not be held (or "a hearing is not required").

5.1.2.3 Negating Right or Privilege

To negate a right, use 'is not entitled to'.

Example(s):

E5.1.2.3

The director is not entitled to compensatory time off.

5.2 Jargons

Jargon is the useful technical vocabulary of a trade or profession, but it can also refer to unclear expressions that have a technical ring. Real technical language can save time and space if the audience understands it and expects it. Jargon-like terms created to dignify a subject are simply hard to read. Learn to recognize them and eliminate them.

To avoid creating empty phrases when you write broad terms, minimize the use of abstract words. Phrases such as *'regional channel entity'*, *'entity-operational structure'* or *'parallel policy options'* are meaningless unless the reader looks back at the definitions. Be as specific as possible. If certain boards grant licenses, do not call them *'credentialing organizations'*; call them *'licensing boards'*. Remember that what you create is likely to be perpetuated in future bills and rules.

Jargon already existing in the law creates special problems. Drafters often repeat any language that works legally to avoid lawsuits. Conform your wording with existing law but do not preserve bad wording without a compelling legal reason. Consistency is valuable, but so is clarity.

5.3 Non English Terms

Although a non-English term or phrase may have a definite meaning to the drafter and present an attractive shorthand expression to reduce the length of a section, its use may cause confusion. Consequently, the drafter should usually avoid using these terms and phrases. Phrases such as *'in loco parentis'* can be easily misunderstood by the public. Occasionally, the drafter must use a foreign term or phrase, such as *'in camera'*, *'in vitro'* or *'ex officio'*, but when doing so, the drafter should be judicious.

5.4 Acronyms, Abbreviations and Symbols

Generally, abbreviations and acronyms, such as using WAPDA to indicate the Water and Power Development Authority, are inappropriate in the text of the Statutes.

- Some common symbols and abbreviations are exceptions to this rule and may be properly used: *'\$'*, *'%'*, *'a.m.'*, and *'p.m.'*;
- Do not use the abbreviations: such as *'e.g.'*, *'i.e.'*, *'et al.'*, *'et seq.'*, and *'etc.'*;
- Acronyms and abbreviations specifically defined in a statute may be used.
- **Proper Names:** An abbreviation may be used if it is part of a proper name, as in *'ABC Company Limited'*.
- **Special Materials:** Abbreviations may be used in tables, illustrations and similar materials, although these materials should be avoided in statutes because of the difficulty in amending them.

- **Land Description:** In legal land descriptions, use symbols for degrees (°), minutes (′), seconds (″), but abbreviate directions only when used with a degree.

Example(s):		<u>E5.4a</u>
<u>Do not write:</u>		<u>Write:</u>
<i>West 15° 22′ 13″ East OR West 15 degrees, 22 minutes, 13 seconds East</i>		<i>W 15° 22′ 13″ E</i>

Note, however, that if the draft quotes directly from a deed description or other similar document, use the symbols, abbreviations or words exactly as they appear in that document.

Example(s):	<u>E5.4b</u>
<p>Acronyms and abbreviations may be used sparingly in summaries using the following format.</p> <p style="text-align: center;"><i>The bill requires the Water and Power Development Authority, or WAPDA ...</i></p>	

The acronym or abbreviation must appear immediately after the initial use of the whole word or phrase and then may be used in place of the whole word or phrase for the remainder of the summary. Acronyms and abbreviations should be used only if the term occurs more than once.

5.5 Numbers

Cardinal numbers: appear in the text of the Statutes as Arabic numerals (2, 3...) unless the number is ‘one’ or the first word in a sentence.

Example(s):	<u>E5.5a</u>
<p><i>The authority consists of the Commissioner of Economic and Community Development and 8 public members.</i></p> <ul style="list-style-type: none"> • <i>For 10 days....</i> • <i>At least 30%</i> • <i>Of 108 cubic feet</i> • <i>Sixteen tons is the limit</i> 	

Ordinal numbers: also appear in the text of the Statutes in Arabic form and are also written out (2nd, 3rd ...) unless the number is 'first' or the first word in a sentence. Session designations are also written out.

Example(s):

E5.5b

- *On the first Monday after the 2nd Wednesday of December*
- *The 3rd person designated in the application request*
- *Usually, the second regular session ends by May.*
- *First Special Session of the 122nd Legislature*

However, the ordinal number 'first' when it appears as part of a date immediately following the month, appears in the form '1st', for example, January 1st. 'One' and 'first' are treated differently to minimize the confusion that may result from using '1' or '1st' both of which resemble typographical errors more than other numbers.

Fractions: both cardinal and ordinal, appear in Arabic form, except as the first word of a sentence.

Example(s):

E5.5c

- *... at least 1 ½ feet from the floor.*
- *.... By a 2/3 vote of the legal voters.*
- *.... A sum equal to 3/4 the amount paid.*
- *Two third of the houses*

Percentages: appear in Arabic form, except as the first word of a sentence.

Example(s):

E5.5d

- *... no more than 50% of the time.*
- *.... a sum equal to 0.5% the amount due.*
- *Ten percent of voters*

When designating a range of numbers, use the forms to include both of the numbers listed and the intervening numbers.

5.6 Dates, Times and Time Periods

Dates: Use the word 'date' or 'day', not 'time', when referring to a specific date or if you intend that a period of time is to be measured in whole days.

Example(s): <u>E5.6a</u>	
<u>Do not write:</u>	<u>Write:</u>
.... 120 days after the time when 120 days after the day or which <u>OR</u> 120 days after (name a specific event)...

Dates in the Statutes that contain a year appear in the form: **Day, Month, Year.**

Example(s): <u>E5.6b</u>
<i>The commission shall submit its final report no later than 30 June, 2005.</i>

Time; time periods: Times in the Statutes are expressed in Arabic numbers followed by 'a.m.', 'p.m.', 'noon' or 'midnight'.

Example(s): <u>E5.6c</u>
<ul style="list-style-type: none">• 6:00 a.m.• 6:32 p.m.

“Wherever in the Statutes or any legislative Act a reference is made to several dates and the dates given in the reference are connected by the word 'to', the reference includes both the dates which are given and all intervening dates.” To express clearly what the first and last days are, avoid words such as 'until', 'by' and 'from'.

Example(s): <u>E5.6c</u>
<ul style="list-style-type: none">• Before 1 July, 2005• ... after June, 2005• ... before the effective date of this Act.

If an action must be completed by the end of a designated period that begins in the future, indicate whether the act:

- May be done before the designated period begins, as in *'not later than the 90th day after the end of tax year'*; or
- Must be done within the designated period, as in *'within the 90-day period immediately following the end of the tax year'*.

The general rule for calculating time periods, such as the 90-day period in these examples above, is that the day of the event that triggers the time period is excluded from the calculation.

5.7 Age

Ambiguities that arise when referring to ages can be avoided by specifying whether the age indicated is to be included or excluded from the described classification.

<i>Example(s):</i>		<u>E5.7</u>
<u>Do not write:</u>	<u>Write:</u>	
<u>To establish range of ages:</u> <i>Between the ages of 21 and 30.</i> 21 years of age or older and under 31 years of age	
<u>To establish a minimum age:</u> ... <i>who is over 17 years of age.</i> Who is 18 years of age or older.	
<u>To establish a maximum age:</u> <i>who is under 21 years of age.</i>who has not attained 21 years of age.	
<u>To establish an exclusive age (law applies only to named age):</u> <i>Who is 17 years of age</i>		

5.8 Relative Pronouns; Restrictive and Nonrestrictive Clauses

5.8.1 Relative Pronouns

A relative pronoun introduces a subordinate clause that modifies a noun or a pronoun occurring elsewhere in the sentence and connects a dependent clause to the main clause. It is also a substitute word that refers to its antecedent and stands for that antecedent in a subordinate clause.

Example(s):

E5.8.1a

- *The committee elected the new chair, who had years....*
- *The office that is responsible for overseeing operations...*
- *The bill, which was enacted in 2004, is not effective until 2006.*

'Who' relates to a specific person and 'That' relates to animals, persons or things and introduces restrictive clauses. 'Which' relates to animals, things and ideas and introduces nonrestrictive clauses.

Example(s):

E5.8.1b

- *Javed Burki who was appointed*
- *A person that commits assault ...*
- *....(Note: Although "that" is correct when the person or persons are not specifically identified, many writers prefer to use "who".)*
- *The report, which was due in November, lists the committee's recommendations.*

5.8.2 Restrictive and Nonrestrictive Clauses

Although the use of 'who' causes little heartache, the distinction between 'that' and 'which' eludes many drafters.

(1) That. Use 'that' to introduce restrictive clauses, that is, clauses upon which the meaning of the sentence depends; clauses that specifically identify the subject or object you are describing. These clauses are not usually set off by commas.

Example(s):

E5.8.2a

The commissioner shall adopt rules that address the concerns identified by this committee.

(2) **Which.** Nonrestrictive clauses are parenthetical or commentary in nature. *Which* introduces these clauses. Although they provide additional information about the subject or object, this information is not essential to the meaning of the sentence. These clauses are generally set off by commas.

Example(s):

E5.8.2b

- *The suggested rules, which reflect the board's new statutory authority, outline the prohibited conduct.*
- *The hearing, which was held during the special session, provided the impetus for this additional legislation.*

(3) **Which + noun.** The following sentences contain obsolete types of relative clauses that should *never* be used.

Example(s):

E5.8.2c

- *The executive secretary shall give as much notice as possible to all board members prior to any special meeting, which notice shall state the time, place and subject matter of the meeting.*
- *All parties have the right to a hearing before the hearing examiner at which hearing the parties may cross-examine witnesses.*

Changing the relative clauses to separate sentences produces more modern English and shorter sentences.

Example(s):

E5.8.2d

- *Before any special meeting, the executive secretary shall give all board members as much notice as possible. The notice must state the time, place and subject matter of the meeting.*
- *All parties have the right to a hearing before the hearing examiner. At this hearing, the parties may cross-examine witnesses.*

5.9 Proper Names

The drafter should be cautious when including a proper name in the statutes, because the name, goals or mission of the named organization may change in ways not anticipated by the Legislature and not consistent with the statutory provision that names the organization. Avoid using proper names; instead, attempt to define narrowly the parameters and purpose of an organization or corporation rather than citing its proper name in the statutes.

Example(s):

E5.9

Instead of using the name “XYZ Limited.,” use:

An international organization whose purpose is to raise money for developing, preserving, restoring and maintaining waterfowl habitat on the Northern Areas of Pakistan.

5.10 Selected Problem Words

This section does not contain an exhaustive listing of problem words; rather it identifies and discusses several words and phrases i.e. ‘and’, ‘or’, ‘assure’, ‘ensure’, and ‘insure’, that frequently pose problems for the legislative drafter.

5.10.1 ‘And’ and ‘Or’

Never use ‘and/or’ because it has no definite meaning. ‘And’ is conjunctive. If the legislative intent is that all requirements be fulfilled, the drafter should use ‘and’, ‘or’ is disjunctive. If the fulfillment of any one of several requirements is sufficient, use ‘or’.

Example(s):

E5.10.1

Compare the following two examples:

Under this example, all three requirements must be met:

A. *To be eligible for benefits, an applicant must:*

- 1) *Be at least 62 years of age;*
- 2) *Have a medically recognized disability; and*
- 3) *Have an income of less than Rs 250,000 a year.*

Under this example, only one of the three requirements must be met:

A. *To be eligible for benefits, an applicant must:*

- 1) *Be at least 62 years of age;*
- 2) *Have a medically recognized disability; or*
- 3) *Have an income of less than Rs 250,000 a year.*

The rules of drafting statutory construction indicate that ‘and’ and ‘or’ are convertible as the sense of a statute may require. Don’t use this as an excuse to draft unclearly. The proper use of ‘and’ and ‘or’ will minimize the need for courts to interpret the wording of the law.

5.10.2 ‘Assure’, ‘Ensure’ and ‘Insure’

These transitive verbs are often confused. Generally, one insures against something but is assured of it. *Assure* distinctively implies the removal of suspense and doubt. *Ensure* means to make sure or certain. *Insure* stresses the taking of necessary measures beforehand and most often means to provide or obtain insurance.

5.10.3 ‘Biannual’ and ‘biennial’

Biannual means twice a year. *Biennial* means once every two years.

5.10.4 ‘Deem’

Deem is only properly used in drafting to express a legal fiction. A legal fiction is a situation contrived by the law to permit a court to dispose of a matter.

Example(s):

E5.10.4a

A minor who commits murder is deemed an adult and is subject to full prosecution under the law.

Obviously, a minor is not an adult and a legal fiction is necessary to make a law that applies to adults apply to minors. *Consider* or *determine* may be used in other contexts.

Example(s):

E5.10.4b

Do not write:

Write:

If an applicant is deemed eligible for benefits ...

If an applicant is determined eligible for benefits ...

5.10.5 ‘Each’, ‘Every’ etc.

Generally, these adjectives should be avoided. Simple articles such as *a*, *an*, or *the* nearly always can be used instead. If it becomes necessary to use these words, there are certain rules that should be followed.

If the legal subject is singular, use the term *every* or *each* only to clarify that all members of a class must discharge the obligation or privilege imposed by the rule.

Example(s):

E5.10.5

Each employee shall

5.10.6 ‘Oral’ and ‘Verbal’

If you are discussing the form in which an oath or testimony is given, a contract made, etc., keep in mind that *‘verbal’* means relating to words and *‘oral’* means spoken. Therefore, if you want to say, for example, that a spoken contract is binding, use *‘oral’*. A *‘verbal’* contract, on the other hand, could be either written or spoken since it merely has to have words.

5.10.7 ‘Person’ and ‘Individual’

If you want to refer only to humans and to business entities, use *‘individuals’*. Keep this in mind, especially when making provisions for membership on a board or agency.

5.10.8 ‘Respectively’ and ‘as the case may be’

These terms are important in establishing the correct relationship between two sets or groups.

Example(s):

E5.10.8

(1) **Respectively.** If you want to show that:

A applies to X, B applies to Y and C applies to Z, it may be more convenient to state:

A, B and C apply to X, Y and Z, respectively.

(2) **As the case may be.** If you want to show that:

A applies if X occurs, B applies if Y occurs or C applies if Z occurs, it may be more convenient to state:

If X, Y or Z occurs, A, B or C applies, as the case may be.

5.10.9 ‘Such’ and ‘Said’

Improperly used, both of these adjectives are overly formal and legalistic and should be avoided. Generally, depending on the context, words such as *‘that’*, *‘the’*, *‘those’*, *‘it’* and *‘them’* refer to a previously mentioned subject better than *‘such’* or *‘said’*.

Example(s):

E5.10.9a

Do not write:

Write:

As contained in such documents ...

As contained in those documents ...

‘Such’ may, however, be properly used as a synonym when coupled with *‘a’*, meaning *‘that kind of’*, or *‘as’*, meaning *‘like’*. If you use it alone, use it judiciously.

Example(s):

E5.10.9b

Documents such as wills, codicils, marriage or birth certificates...

5.10.10 ‘There’

Avoid starting a sentence or clause with ‘*There is*’, ‘*There are*’ or ‘*There may be*’. Often these words are needless.

Example(s):	<u>E5.10.10</u>
<i>There is excluded in computing the percent of voting power or value stock owned directly by the other corporations.</i>	
The sentence is more direct if turned around.	
<i>Stock owned directly by the other corporations is excluded in computing the percent of voting power or value.</i>	
If you want to put different information at the end of the sentence, use the following construction.	
<i>In computing the percent of voting power or value, stock owned directly by the other corporations is excluded.</i>	
If you know who is to do the computing and excluding, put the verb in the active voice and make the sentence clearer and more direct.	
<i>When computing the percent of voting power or value, the registrar shall exclude stock owned directly by the other corporations.</i>	

5.11 Forbidden, Preferred Words and Phrases

The following lists are designed to be a practical aid in drafting concisely. These examples are by no means exhaustive.

5.11.1 Redundant and Inconsistent Couplets

(1) **Avoid the use of redundant couplets.** In each of the following couplets, use only one of the terms to avoid redundancy.

Examples:

Example(s):		<u>E5.11.1a</u>
<i>alter and change</i>	<i>authorize and empower</i>	<i>by and with</i>
<i>each and all</i>	<i>each and every</i>	<i>final and conclusive</i>
<i>from and after</i>	<i>full and complete</i>	<i>full force and effect</i>
<i>made and entered into</i>	<i>null and void</i>	<i>order and direct</i>
<i>over and above</i>	<i>shall have and exercise</i>	<i>sole and exclusive</i>
<i>type and kind</i>	<i>unless and until</i>	

(2) **Avoid the use of inconsistent couplets.** In each of the following couplets, use only the broader or narrower term as the context requires.

Example(s):		<u>E5.11.1b</u>
<i>any and all</i>	<i>authorize and direct</i>	<i>desire and require</i>
<i>means and includes</i>	<i>necessary and desirable</i>	<i>power and authority</i>

5.11.2 Indefinite or Archaic Words

Avoid indefinite, archaic or legalistic words.

Example(s):		<u>E5.11.2</u>	
<i>aforementioned</i>	<i>Aforesaid</i>	<i>before (as an adjective)</i>	<i>before-mentioned</i>
<i>hereafter</i>	<i>Hereby</i>	<i>herein</i>	<i>hereinabove</i>
<i>hereinafter</i>	<i>Heretofore</i>	<i>herewith</i>	<i>to with</i>
<i>thereof</i>	<i>Thereto</i>	<i>therewith</i>	<i>thereupon</i>
<i>whereupon</i>	<i>whatsoever</i>	<i>whenever</i>	<i>wheresoever</i>
<i>whomsoever</i>	<i>said or such (as a substitute for 'it', 'he', 'she' etc.)</i>		

Words such as *'above'*, *'below'*, *'following'*, *'hereinafter'*, *'hereinbefore'* and *'preceding'* are objectionable when referring to the position of a section or other statutory unit. If reference is necessary, specify the chapter, section, subsection, lettered paragraph, etc., as appropriate.

5.11.3 Simple Language

Although complex terms are sometimes necessary, use simple language when possible.

Example(s):		<u>E5.11.3</u>
<u>Complex</u>	<u>Simple</u>	
<i>absolutely null and void</i>	<i>void and of no effect</i>	
<i>Accorded</i>	<i>given</i>	
<i>adequate number of</i>	<i>enough</i>	
Source: Legislative Council, Maine State, 2009		
<i>For the detail list of alternatives for nouns and adjective, refer to annexure A2.</i>		

6 Rules of Capitalization

6.1 General Capitalization Rule

Initial word: Capitalize the first letter of the first word:

- In a sentence;
- Following a colon, if the words after the colon could form a separate sentence; or
- Of each entry in an outline or tabulation.

Proper nouns: Capitalize the names of specific people, places, institutions, things or ideas when the full name is given.

Example(s):

E6.1a

- *Javed Q. Malik*
- *The Province of Punjab (but do not capitalize the “p” in provinces if saying “Sindh, Punjab, Khyber Pakhtunkhwa and Balochistan provinces”)*
- *Mateen Medical Center*
- *City of Karachi (but do not capitalize the “c” in cities if saying “the cities of Karachi, Lahore and Islamabad”)*

Titles; specific title holders: Capitalize all titles including those of government, rank, honor or respect when the title precedes the name of the person holding the title.

Example(s):

E6.1b

- *Governor Arbab*
- *Senator Ghulam Ali*
- *Commissioner Farhan Agha*
- *Judge Waseemudin*

(1) Main titles. Capitalize the following titles that do not name the specific titleholder if you are referring to people holding these positions in drafting.

Example(s):

E6.1c

- *Governor or Minister of State*
- *Judge or Justice (of a specified court)*

Director (of a specified department or division – *'Director of the Labour Division'*, but *'the director'* if the specified unit does not follow the term). Substitutions for official titles, such as *'secretary'* or *'director'* are not capitalized.

(2) National titles. Capitalize *'president'* when referring to the president of a nation regardless of whether the name is included. Capitalize both words of *'vice-president'* when referring to the vice-president of a nation. In case of word 'prime minister', capitalize both words as *'Prime Minister'*.

6.2 Specialized Capitalization Rules

6.2.1 Government Bodies

Generally: Capitalize words such as *'department'*, *'bureau'*, *'office'*, *'agency'*, *'commission'*, *'board'* and *'committee'* only when referring to one of these entities by its entire formal name.

Courts: Capitalize *'Supreme Judicial Court'*, *'Law Court'*, *'Superior Court'* and any other court that is created by the Constitution of Pakistan. Do not capitalize shorthand expressions such as *'a court'* and *'the court'*.

Federal and State: Do not capitalize *'government'* when used alone, but use *'Federal Government'* when referring to the government of Pakistan. Likewise, do not capitalize *'federal'* unless it appears as part of the name of an act or a proper name.

Legislature. When referring to the main Legislature, capitalize the following:

- *Legislator*
- *Legislature*
- *Senate*
- *Legislative Council*
- *Chairman of the Senate*
- *Speaker of the National / Provincial Assembly*
- *Senator*

When these words refer to a legislature or legislators of another country, do not capitalize them unless they are part of a proper name. Do not capitalize *'legislative'* when used as a common adjective (*'legislative intent'*).

6.2.2 Legal instrument and Documents

Acts: Generally, capitalize *'act'* when making an internal reference to the instrument you are drafting (*'as used in this Act'*), when using the name of a specific public or private and special law, or when using the title of an existing named act (*'the Custom Act'*). Otherwise, do not capitalize *'act'*. (*'An act of the Legislature must be approved by the President'*.)

Resolves: Do not capitalize 'resolve' except as part of a title.

Law: Capitalize 'law' only as part of a title or popular name designated (*'The Muslim Family Laws Ordinance, 1961'*). Do not capitalize 'law' when referring to a particular subject (*'motor vehicle law'*).

Constitution: 'Constitution' by itself should be capitalized when referring to a national constitution. Use the full title of the document to ensure clarity: 'Constitution of Islamic Republic of Pakistan'.

Legislative documents and legislation: Capitalize the abbreviations 'PLD'¹, 'SCMR'². Do not capitalize 'public laws', 'private and special laws' or 'constitutional resolutions' unless naming a particular law (*'Contract Law, chapter 1'*).

Revised Statutes: Capitalize 'Revised Statutes' when referring to.

(a) **Bill titles.** As in book, story or article titles, capitalize the first letter of every significant word in a bill title. Generally, capitalize nouns, verbs, adjectives and adverbs. Do not capitalize prepositions, conjunctions or articles, except as first words of titles.

Example(s):

E6.2.2a

- *An Act to Improve the Early Childhood Education Plans Grants Program*
- *An Act to Strengthen an Injured Employee's Right to Rehabilitation and To Improve the Workers' Compensation Rehabilitation System*

(b) **Headnotes.** Except when a word in a headnote falls under one of the general capitalization rules, capitalize only the first letter of the first word of the headnote.

(c) **Paragraphs, subparagraphs, divisions and subdivisions.** Capitalize the first letter of the first word of a paragraph, subparagraph, division and subdivision, even if it is not the beginning of a sentence.

Example(s):

E6.2.2b

Notice. The notice must:

- Inform the taxpayer that property taxes have been deferred in the current year;*
- Show the total amount of deferred taxes; and*
- Inform the taxpayer that voluntary payment of deferred taxes may be made to the bureau at any time.*

¹ *Pakistan Law Decisions*

² *Supreme Court Monthly Review*

(d) **Subunits.** As for subunits within the text of the Statutes, capitalize *'Title'*, *'Subtitle'*, *'Part'*, and *'Subpart'*. Do not capitalize *'chapter'*, *'subchapter'*, *'article'*, *'sub article'*, *'section'*, *'subsection'*, *'paragraph'*, *'subparagraph'*, *'division'* or *'subdivision'*.

6.2.3 Funds

When referring to a specific state fund by its proper name, capitalize the first letter of each word: such as *'General Fund'*, *'Provident Fund'*, and *'Flood Relief Fund'*.

6.2.4 Special tables

Capitalize the full name of specific tables, such as *'The Tabular Statements of Offences The Code of Criminal Procedure, 1898'*.

6.2.5 Table and Column Headings

Capitalize the headings of tables and columns (*such as, 'Table A' and 'Houses Equipped, 1978-80'*).

6.2.6 Letters

Capitalize letters used as designations, *such as 'Class E' or 'Grade B'*.

6.2.7 Abbreviations

Capitalize abbreviations in compliance with their use in codes or uniform laws (*for example, 'P.P.C'³, 'P.L.D'⁴ and 'Cr.C.P'⁵ in the Uniform Commercial Code*).

6.2.8 Hyphenated Words

Capitalize only the first words of hyphenated compounds unless the compound is part of a proper noun, *such as 'An Act Relating to Long-distance Telephone Service'*, but *'An Act Establishing the Islamic-Science Studies Center'*. *'Ex'* and *'elect'* used with a title are with proper nouns or adjectives: such as *'non, not capitalized:'*, *'ex-President'*, *'Governor-elect'*. Prefixes such as *'non'* and *'pro'* are not capitalized when coupled with proper nouns or adjectives: such as *'non-English speaking'*, *'pro-Islamic'*.

³ Pakistan Penal Code

⁴ Pakistan Law Decisions

⁵ Criminal Court Procedure

7 Use of Punctuation

Courts may base their interpretation of a law on punctuation or the lack of it. A court may, however, disregard punctuation that renders the language ambiguous. Revise any sentence that relies on punctuation to convey its meaning.

This chapter does not provide general punctuation rules as found in grammar books, but includes guidelines to which drafter should adhere, if drafting for the legislature. Generally, punctuate as little as possible. Use short, simple sentences and outline when necessary. It is impossible to articulate rules applicable to every situation, but keep the following in mind.

7.1 Periods

In an allocated text, use periods after subsection headnotes, section and subsection numbers and paragraph letters. Do not use periods after titles, after section headnotes or after any unit greater than a section. Such as **Rules; reports**

Example(s):

E7.1a

Rules:

- *The commissioner may adopt rules.*
- *The rules are subject to review by the board.*

In unallocated text, use periods after section headnotes and after emergency preamble and clause headnotes.

Example(s):

E7.1b

Sec. 23. Effective date. *This Act takes effect July 1, 2017.*

Emergency preamble. **Whereas,** acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Emergency clause. In view of the emergency cited in the preamble, this Legislation takes effect when approved.

7.2 Commas

Commas are probably the most misused and misunderstood punctuation marks in legal drafting and, perhaps, the English language. Use them thoughtfully and sparingly.

7.2.1. Series

Although authorities on punctuation may differ, when drafting law or rules, don't use a comma between the penultimate and the last item of a series.

Example(s):		<u>E7.2.1a</u>
<u>Do not write:</u>	<u>Write:</u>	
<i>Trailers, semitrailers, and pole trailers</i>	<i>Trailers, semitrailers and pole trailers</i>	

Be careful if an item in the series is modified.

Example(s):	<u>E7.2.1b</u>
<ul style="list-style-type: none">• <i>Trailers, semitrailers, and pole trailers of 3,000 kilograms gross weight or less are exempt from the licensing provisions.</i>• <i>Does the 3,000-kilogram limit apply to trailers and semitrailers or only to pole trailers? If the limit is not intended to apply to trailers and semitrailers, the provision should read:</i>• <i>Pole trailers of 3,000 kilograms gross weight or less, trailers and semitrailers are exempt from the licensing provisions.</i>	
<u>If the limit is intended to apply to all three, the provision should read:</u>	
<i>If a trailer, semitrailer or pole trailer has a gross weight of 3,000 kilogram or less, it is not required to be licensed.</i>	

7.2.2. Clauses and Phrases

(1) **'When', 'if', 'unless' or 'which' clause.** As a general rule, a clause beginning with the word 'when', 'if', 'unless' or 'which' is set off by a comma.

(2) **Interrupting expressions.** Use commas to set off expressions that interrupt a sentence.

(a) **Appositive word or phrase.** An appositive is a word or phrase that follows a noun or pronoun and further identifies or explains it.

Example(s):	<u>E7.2.2a</u>
<i>The Revenue Services, an agency within the Ministry of Federal Board of Revenue, shall ensure compliance.</i>	

(b) Parentheticals. The following expressions are commonly used parenthetically and are set off by commas, particularly when a pause is needed for emphasis or clarity: such as *‘on the contrary’*, *‘therefore’*, *‘for example’*, *‘however’* and *‘nevertheless’*. These expressions are seldom used in drafting a law.

Example(s):

E7.2.2b

The agency, however, may not release the name of the recipient.

(c) Nonrestrictive clauses or phrases. Clauses or phrases that are nonrestrictive, that is, parenthetical in nature, are set off by commas.

Example(s):

E7.2.2c

- *The commissioner, appointed as provided in section 23, may adopt necessary rules.*
- *The rules, which the commissioner is authorized to adopt under section 23, must be adopted before September 1, 2005.*

(3) Restrictive clauses. Do not use commas to set off restrictive clauses or phrases that are essential to the meaning of the sentence.

Example(s):

E7.2.2d

- *An agency that is within the Department of Administrative and Financial Services shall report all purchases to the commissioner.*
- *The commissioner shall notify all applicants meeting the following qualifications of the department’s actions.*

7.2.3. Multiple Adjectives

Use a comma between adjectives preceding a noun when they modify the same noun.

Example(s):

E7.2.3a

The commissioner shall submit a shortened, simplified, uniform report.

Do not use a comma between two adjectives preceding a noun if using the comma destroys the intended relationship because the adjectives are too closely related to be separated.

Example(s):

E7.2.3b

- *additional reasonable cost*
- *huge boxlike building*
- *quaint old mining town*
- *outstanding military service*

7.3 Semicolons

Use semicolons in the following circumstances:

- Between two independent clauses when they are not joined by *'and'*, *'or'*, *'but'*, *'nor'* or *'for'*;

Example(s):

E7.3a

Letters and other private communications in writing belong to the person to whom they are addressed and delivered; however they cannot be published against the will of the writer.

- In lists in which one or more of the items contains a comma;
- To separate groups of words, such as phrases or clauses, that are dependent on a general term or statement;
- To separate lengthy statements following a colon; and

Example(s):

E7.3b

Section 8 The department shall
1- Adopt rules;
2- Prosecute violators; and
3- Disseminate information

- After lettered or numbered text following a colon in outlined provisions as described in the next section.

7.4 Colons

Use colons to introduce lists or to emphasize or elaborate on an idea. Capitalize the first word after a colon when it introduces an independent passage or sentence; otherwise, do not.

Example(s):

E7.4

The director may enforce the following requirements for admission: Residents must be able to care for themselves; rent is payable on the first day of the month; and residents must designate a responsible person to be called in cases of emergency.

Colons are also used at the end of an introductory expression when outlining.

7.5 Parentheses

Parentheses are not used in the text of the Statutes except as part of a sample, such as a statutory will or lease that appears in the law or in certain legal citations. Generally, use commas or separate sentences to set off parenthetical language.

7.6 Brackets

Brackets generally are not used in law unless they are already included in text being quoted in the law, such as a deed description.

7.7 Quotation Marks

Quotation marks appear most often in definition sections of the Statutes. All types of punctuation, except colons, semicolons, and question marks, appear inside any quotation marks regardless of whether the punctuation is part of the quoted words. A question mark is placed inside the quotation marks if it belongs to the actual quotation and outside of the quotation marks if the question mark is not part of the quotation.

Example(s):

E7.7

- *'Domesticated animal' means an animal kept by ...*
- *'Do you favor amending the Constitution of Pakistan to provide property tax credits to low-income residents?'*

7.8 Hyphenation

Compound adjectives: Hyphenate a compound adjective.

<i>Example(s):</i>		<i><u>E7.8a</u></i>
<i>an after-school meeting</i>	<i>day-to-day operations</i>	<i>door-to-door soliciting</i>
<i>teacher-pupil relationship</i>	<i>well-planned program</i>	<i>one-story house</i>
<i>rule-making authority</i>		

Many words that are hyphenated as adjectives are not hyphenated as nouns. Such as, although it is correct to refer to *'the Director General's rule-making authority'*, it is likewise correct to require that the Director General be responsible for *'rulemaking'*.

Adverb or adjective ending in -ly: When one of the modifying words is an adverb or adjective ending in ‘-ly’, omit the hyphen.

Example(s):		<u>E7.8b</u>
<i>duly sworn official</i>	<i>wholly owned subsidiary</i>	

Certain prefixes: Use hyphens with all prefixes before proper nouns. With the prefixes ‘ex-’, ‘self-’, and ‘all-’, and the suffix ‘-elect’, use hyphens with any nouns.

Example(s):			<u>E7.8c</u>
<i>un-Urban</i>	<i>pro-British</i>	<i>self-taught</i>	
<i>self-respect</i>	<i>self-employed</i>	<i>all-knowing</i>	
<i>ex-President</i>	<i>President-elect</i>	<i>(except: selfless, selfsame)</i>	

Generally, do not use a hyphen between a prefix and the root word unless the root word is a proper noun.

Example(s):			<u>E7.8d</u>
<i>antisocial</i>	<i>intramural</i>	<i>nonofficial</i>	
<i>semiannually</i>	<i>retroactive</i>	<i>intercollegiate</i>	
<i>nonemergency</i>	<i>antipsychotic</i>	<i>nonsectarian</i>	
<i>mid-August</i>	<i>non-European</i>	<i>trans-Canada</i>	

Civil and military titles: Civil and military titles are not hyphenated.

Examples:

Example(s):			<u>E7.8e</u>
<i>Ambassador at Large</i>	<i>Chief of Police</i>	<i>Attorney General</i>	
<i>Chief of Army Staff</i>	<i>Chief Justice</i>	<i>Attorney at Law</i>	
<i>Vice President</i>	<i>Surgeon General</i>		

Notice that words denoting an office itself may be hyphenated, such as vice-presidency and attorney-at-law.

Foreign phrases as adjectives: Foreign phrases used as adjectives are not hyphenated such as ‘in vitro fertilization’.

The main purpose of providing citations for the sources that one is relying upon, either while drafting a legal instrument or during court proceedings is to ensure credibility and intellectual honesty. The reader should be able to verify a properly researched and thorough legal instrument from figment someone's imagination.

In this regard, intelligibility of the citation style is another major concern. A number of citation and referencing styles are available online such as MLA⁶, APA⁷, Chicago⁸ and OSCOLA⁹ with comprehensive guidelines. The reader might get confused if the author is using more than one citation style. Therefore, in order to ensure coherence and intelligibility, the drafter should choose one citation style and use that consistently for the entire legal instrument. However, it should be noted that the aforementioned internationally recognized citation styles do not deal particularly with the legal instruments executed in Pakistan. In order to fill this gap, we are providing a standard citation style to be used in Pakistan based on the peculiarities of our state structure.

It should be noted that the citations should be provided in the form of footnotes or endnotes. Citations provided in-text disturb the flow of the text and cause inconvenience for the readers.

8.1 Selective Referencing Styles Using OSCOLA

8.1.1 Provision in Constitutions or Referencing for Statutes

For the particular provision of the constitution, use the following format:

[Number of the Article/Schedule], [*Full title*].¹⁰

Example(s):

E8.1.1.a

- *Article 25, The Constitution of Islamic Republic of Pakistan 1973.*
- *Section 498, Code of Criminal Procedure, 1898.*
- *Section 30, The Civil Procedure Code 1908.*
- *Section 420, Pakistan Penal Code 1860.*

⁶ *Modern Language Association*

⁷ *American Psychological Association*

⁸ *The Chicago Manual of Style*

⁹ *Oxford University Standard for Citation of Legal Authorities*

¹⁰ OSCOLA referencing guide

While referring to a particular statute /rule /regulation, use the following format:

[Number of the respective Section/Rule/Regulation], [Title of the Statute/Rule/Regulation], [Standard Citation of the Law Report where it was published].¹¹

Example(s):

E8.1.1.b

Section 27, The Sample Law Act 1964, PLD 1964 Central Statutes 536.

8.1.2 Court Opinions

While referring to a case law, use the standard format of citations used in the courts:

[Title of the case], [Citation of the law report where it was published].¹²

Example(s):

E8.1.1.b

- *Asma Bibi v Nadeem Chan, PLD 2020 SC 353;*
- *Naeem Sheikh v Aslam Ansari, 2025 CLC 1212*

8.2 Referencing Style Recommended for Legal Documents

In order to cite secondary sources from books, research articles and online websites. It is highly recommended that the drafter use OSCOLA for which the guidelines are available on the following URLs:

1. https://www.law.ox.ac.uk/sites/files/oxlaw/oscola_4th_edn_hart_2012.pdf
2. https://www.law.ox.ac.uk/sites/files/oxlaw/oscola_4th_edn_hart_2012quickreferenceguide.pdf

¹¹ Ibid

¹² Ibid

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A1: referred from Example E4.11.1

Alternatives for Nouns and Adjective			
<u>Do not use:</u>	<u>Use:</u>	<u>Do not use:</u>	<u>Use:</u>
<i>alderman</i>	<i>municipal officer</i>	<i>mailman</i>	<i>mail carrier</i>
<i>boatman</i>	<i>boater</i>	<i>man</i>	<i>person or humanity</i>
<i>bondsman</i>	<i>bonding institution</i>	<i>mankind</i>	<i>humankind</i>
<i>brakeman</i>	<i>brake tender</i>	<i>manmade</i>	<i>artificial or synthetic</i>
<i>businessman</i>	<i>member of the business community</i>	<i>manned</i>	<i>staffed; operated</i>
<i>chairman</i>	<i>chair</i>	<i>manpower</i>	<i>work force; personnel</i>
<i>clergyman</i>	<i>member of the clergy; cleric</i>	<i>militiaman</i>	<i>militia member</i>
<i>committeeman</i>	<i>committee member</i>	<i>motorman</i>	<i>driver</i>
<i>congressman</i>	<i>member of Congress</i>	<i>nurseryman</i>	<i>nursery operator</i>
<i>councilman</i>	<i>council member</i>	<i>parts man</i>	<i>parts clerk or worker</i>
<i>craftsman</i>	<i>skilled worker; artisan</i>	<i>patrolman</i>	<i>patrol officer</i>
<i>dairyman</i>	<i>dairy farmer</i>	<i>policeman</i>	<i>police officer; law enforcement</i>
<i>doorman</i>	<i>doorkeeper</i>	<i>repairman</i>	<i>repairer</i>
<i>draftsman</i>	<i>drafter</i>	<i>salesman</i>	<i>sales representative</i>
<i>enlisted man</i>	<i>enlisted member</i>	<i>selectman</i>	<i>municipal officer</i>
<i>ferryman</i>	<i>ferry operator</i>	<i>serviceman</i>	<i>mechanic; member of the Forces</i>
<i>fieldman</i>	<i>field worker</i>	<i>signal man</i>	<i>signaler</i>
<i>fireman</i>	<i>firefighter</i>	<i>spokesman</i>	<i>representative; spokesperson</i>
<i>fisherman</i>	<i>person who fishes commercially</i>	<i>storageman</i>	<i>storage agent; storer</i>
<i>fisherman</i>	<i>angler</i>	<i>talesman</i>	<i>substitute juror</i>
<i>flagman</i>	<i>flagger</i>	<i>thresherman</i>	<i>thresher</i>
<i>foreman</i>	<i>supervisor</i>	<i>tillerman</i>	<i>tiller</i>
<i>guardsman</i>	<i>guard; guard member</i>	<i>tradesman</i>	<i>skilled worker; merchant</i>
<i>lawman</i>	<i>law enforcement officer</i>	<i>vestryman</i>	<i>vestry member</i>

A2: referred from Example E5.11.3

Use of Simple Language			
<u>Complex</u>	<u>Simple</u>	<u>Complex</u>	<u>Simple</u>
<i>absolutely null and void</i>	<i>void and of no effect</i>	<i>contiguous to</i>	<i>next to</i>
<i>Accorded</i>	<i>given</i>	<i>do and perform</i>	<i>do</i>
<i>adequate number of</i>	<i>enough</i>	<i>does not operate to</i>	<i>does not</i>
<i>adjudged, ordered and decreed</i>	<i>adjudged</i>	<i>donate</i>	<i>give</i>
<i>admit of</i>	<i>allow</i>	<i>during such time as</i>	<i>While</i>
<i>Afforded</i>	<i>given</i>	<i>during the course of</i>	<i>during</i>
<i>among and between</i>	<i>among (if more than two things or persons are involved); between (if two or more things are involved but are treated individually)</i>	<i>for the purpose of holding (or other gerund)</i>	<i>to hold (or comparable infinitive)</i>
<i>attain</i>	<i>reach</i>	<i>enter into a contract with</i>	<i>to contract with</i>
<i>at the place</i>	<i>where</i>	<i>evidence,</i>	<i>evidence</i>
<i>at the same time</i>	<i>when</i>	<i>Evince</i>	<i>Show</i>
<i>at the time</i>	<i>when</i>	<i>except that</i>	<i>But</i>
<i>attempt (as a verb)</i>	<i>try</i>	<i>expiration</i>	<i>end</i>
<i>cause it to be done</i>	<i>have it done</i>	<i>excessive number of</i>	<i>too many</i>
<i>cease</i>	<i>stop</i>	<i>for the duration of</i>	<i>during or while</i>
<i>commence, institute</i>	<i>start, begin</i>	<i>endeavor (as a verb)</i>	<i>Try</i>
<i>conceal</i>	<i>hide</i>	<i>for the reason that</i>	<i>because</i>
<i>consequence</i>	<i>result</i>	<i>forthwith</i>	<i>immediately</i>
<i>constitute and appoint</i>	<i>appoint</i>	<i>frequently</i>	<i>Often</i>

A2: Continued

Use of Simple Language			
<u>Complex</u>	<u>Simple</u>	<u>Complex</u>	<u>Simple</u>
<i>from July 1, 2005</i>	<i>after June 30, 2005</i>	<i>is required to</i>	<i>shall</i>
<i>full and adequate or full and complete</i>	<i>Full</i>	<i>is directed to</i>	<i>shall</i>
<i>hereafter</i>	<i>after this ... takes effect</i>	<i>is empowered to</i>	<i>may</i>
<i>heretofore</i>	<i>before this takes effect</i>	<i>is entitled (in the sense of has the name)</i>	<i>is called</i>
<i>however or provided</i>	<i>if, unless, except or state the condition</i>	<i>is required to</i>	<i>shall</i>
<i>in order to</i>	<i>To</i>	<i>is unable to</i>	<i>cannot</i>
<i>in a case in which</i>	<i>When</i>	<i>it is the duty</i>	<i>shall</i>
<i>in case</i>	<i>If</i>	<i>it shall be lawful to</i>	<i>may</i>
<i>indicate (in the sense "to show")</i>	<i>Show</i>	<i>manner</i>	<i>way</i>
<i>inquire</i>	<i>Ask</i>	<i>maximum</i>	<i>most, largest, greatest</i>
<i>institute</i>	<i>begin, start</i>	<i>minimum</i>	<i>least, smallest</i>
<i>interrogate</i>	<i>question</i>	<i>modify</i>	<i>change</i>
<i>in the event that</i>	<i>If</i>	<i>necessitate</i>	<i>require</i>
<i>in the interest of</i>	<i>For</i>	<i>negotiate (in the sense of enter into a contract)</i>	<i>make</i>
<i>is able to</i>	<i>Can</i>	<i>no later than June 30, 2005</i>	<i>before July 1, 2005</i>
<i>is applicable</i>	<i>applies</i>	<i>obtain</i>	<i>get</i>
<i>is authorized and</i>	<i>shall</i>	<i>occasion (as a verb)</i>	<i>cause</i>
<i>is authorized to</i>	<i>may</i>	<i>of a technical nature</i>	<i>technical</i>
<i>is binding upon</i>	<i>binds</i>	<i>on and after July 1, 2005</i>	<i>after June 30, 2005</i>

A2: Continued

Use of Simple Language			
<u>Complex</u>	<u>Simple</u>	<u>Complex</u>	<u>Simple</u>
<i>on the part of</i>	<i>by</i>	<i>purchase (as a verb)</i>	<i>buy</i>
<i>party of the first part</i>	<i>(the party's name)</i>	<i>remainder</i>	<i>rest</i>
<i>on or before June 30, 2005</i>	<i>before July 1, 2005</i>	<i>render (in the sense of give)</i>	<i>give</i>
<i>on the person's own application</i>	<i>at the person's own request</i>	<i>render (in the sense of cause to be)</i>	<i>make</i>
<i>or, in the alternative</i>	<i>or</i>	<i>require (in the sense of need)</i>	<i>need</i>
<i>per annum</i>	<i>per year</i>	<i>retain</i>	<i>keep</i>
<i>specified (in the sense of expressly mentioned or listed)</i>	<i>named</i>	<i>with the object of changing (or other gerund)</i>	<i>to change (or comparable infinitive)</i>
<i>per centum</i>	<i>percent</i>	<i>subsequent</i>	<i>later</i>
<i>period of time</i>	<i>period, time</i>	<i>subsequent to</i>	<i>after</i>
<i>portion</i>	<i>part</i>	<i>suffer (in the sense of)</i>	<i>permits</i>
<i>possessed</i>	<i>have or had</i>	<i>sufficient number of</i>	<i>enough</i>
<i>preserve</i>	<i>keep</i>	<i>summon</i>	<i>send for, call</i>
<i>prior or prior to</i>	<i>earlier or before (or immediately preceding)</i>	<i>shall have the power to</i>	<i>may</i>
<i>proceed</i>	<i>go, go ahead</i>	<i>the manner in which</i>	<i>how</i>
<i>procure</i>	<i>obtain, get</i>	<i>to the effect that</i>	<i>that</i>
<i>prosecute its business</i>	<i>carry on its business</i>	<i>under the provisions of</i>	<i>under</i>
<i>provision of law</i>	<i>law</i>	<i>until such time as</i>	<i>until</i>
<i>provided that</i>	<i>as long as, if, unless, but or except</i>	<i>within or without the Pakistan</i>	<i>inside or outside the Pakistan</i>
<i>when</i>	<i>if</i>	<i>where</i>	<i>in which</i>
<i>with reference to</i>	<i>for</i>	<i>utilize, employ (in the sense of use)</i>	<i>use</i>
Source: Legislative Council, Maine State, 2009			