

Legislative Drafting Conventions

Overview

In a letter to Balzac in 1840, Stendhal said that he used to read two or three pages of the French Civil Code each morning in order to help him maintain a natural writing style. Probably few people today read federal Acts for that purpose. Yet Acts have a style of their own, which drafters believe can be justified in terms of the functions that Acts and regulations have in contemporary society.

The principal resources of legislative drafters are the resources of natural languages such as English and French, supplemented as appropriate by the artificial language of mathematical formulas.

The use made by legislative drafters of natural languages is structured by legislative drafting conventions. A legislative drafting convention bears the same relationship to a rule of grammar of a natural language as a constitutional convention bears to a rule of constitutional law. Two important conclusions can be derived from this analogy.

First, legislative drafting conventions guide legislative drafters in their selection of the various grammatically possible ways of giving legal effect to policy, just as constitutional conventions control the various legally possible ways of exercising a power. Thus, as a matter of constitutional law, the Queen or her representative in Canada, the Governor General, is free to appoint as Prime Minister whomever they wish. This discretion is controlled, however, by the constitutional convention that the Prime Minister must be the leader of a political party that can command the confidence of a majority of the House of Commons. And, as a matter of grammar, drafters are free to draft in the singular or the plural. This freedom is limited, however, by a convention favouring the use of the singular. (See “Reducing Vagueness or Ambiguity” in this chapter)

Secondly, legislative drafting conventions do not go against the rules of grammar, even as constitutional conventions do not go against the rules of constitutional law. There is no such thing as a special language for Acts of Parliament. Past attempts to alter the rules of grammar for the purposes of legislative drafting (the proviso is one example) suggest that the problems created for drafters by the ambiguity or vagueness of natural languages can be solved only by using the resources of those languages.

One widely recognized set of drafting conventions are those of the Uniform Law Conference of Canada. They can be found on the Internet at www.law.ualberta.ca/alri/ulc/acts/edraft.htm.

Reducing vagueness or ambiguity

Perhaps the most important function of legislative drafting conventions is to reduce the ambiguity or vagueness of a natural language such as English or French.

An instance of such a convention is the practice of drafting in the singular rather than the plural. Commentators on drafting point out that multiple modifiers often result in ambiguity when the modified noun is plural, citing examples like:

- “charitable and educational institutions;” and
- “persons who have attained the age of 65 years and are disabled.”

Drafting in the singular compels drafters to determine whether the intended meaning is, for the first example,

- “a charitable and educational institution,” or
- “a charitable or educational institution”

and, for the second example,

- “a person who has attained the age of 65 years and is disabled,”
or
- “a person who has attained the age of 65 years or is disabled.”

(Note that “and” does not resolve the ambiguity in the plural.)

Some of the most important conventions for reducing ambiguity or vagueness relate to definitions and paragraphing.

Definitions

Some definitions in Acts of Parliament are just abbreviations. Common examples are definitions of “Minister,” “Board” or “licence.” Other definitions reduce ambiguity or vagueness by specifying which one of several usual meanings a word or expression is to have.

It is not the function of a definition in an Act of Parliament merely to reproduce the meaning of a word or expression in terms of the usage recorded in dictionaries, nor is the provision containing the definitions a sort of index or catalogue of frequently used words and expressions. Nor does the absence of a definition say anything about the importance of a word or expression in understanding the Act.

While a definition in an Act of Parliament compels the reader to read the defined word or expression in a particular way, there is a drafting convention prohibiting artificial or unnatural definitions, such as defining “apple” to include oranges. Artificial or unnatural definitions are an unnecessary obstacle to understanding an Act and often confuse drafters and policy makers alike.

Paragraphing

Paragraphing, in the context of Acts and regulations, refers to the practice of listing grammatically co-ordinate elements of a sentence in a series of indented, lettered “paragraphs.” By convention, each paragraph in a series must be connected grammatically in the same way as every other paragraph in the series to the portion of the sentence before the series.

The convention resolves any ambiguity that may exist in the sentence by making clear the intended syntax of the sentence.

Paragraphing can be abused. This is the case, for example, when it is used to justify excessively long or syntactically involved sentences.

Relationship of drafting conventions to bilingualism

Drafting conventions sometimes differ between English and French. This is not surprising, since:

- ambiguity and vagueness, while common to all natural languages, arise in different ways in different languages; and
- different languages have different resources available for dealing with ambiguity and vagueness.

Even where the drafting conventions do not differ between English and French, their application to a particular provision may produce different results. This is sometimes the case, for example, with definitions. A word in one language might have only one meaning, so that there is no need to define it in an Act, while the equivalent word in the other language might have several meanings, so that it is necessary to specify by definition the intended meaning.

A common example of a word that is defined in one language only is the word “prescribed” in the English version, which is often defined to mean “prescribed by regulation.” There is no adjective in English that corresponds to “regulation” in the sense of a certain kind of legal document. Drafters have, in effect, created such an adjective in English through the use of the definition of “prescribed.” But in French, there is an adjective that corresponds to “règlement,” namely “réglementaire.” This adjective can be (and is) used in the French version without being defined.

Parliamentary procedure

Some legislative drafting conventions are based on parliamentary procedure (See Chapter 2.4 “Summary of the Parliamentary Process”).

A parliamentary committee to which a bill is referred has the right to go through the bill clause by clause. A bill must consist of one or more numbered clauses so that parliamentarians can refer to and vote on particular provisions of the bill. It is also important to combine in a single clause only those elements needed to express a single concept. Combining more than one concept in a single clause, even with multiple subclauses, may make it more difficult for parliamentarians to debate and vote on the various concepts.

A motion for leave to introduce a bill in the House of Commons specifies the title of the bill. If the contents of the bill are not referred to in the title, the bill may subsequently be ruled out of order as having been irregularly introduced. The title of the bill must therefore cover the contents of the bill. This rule applies only to the parliamentary, or long, title of the bill. Any short title of the bill is just another clause, as far as Parliament is concerned.

Facilitating access to Acts and regulations

Some legislative drafting conventions facilitate access to Acts and regulations. Most users of Acts and regulations are not interested in reading a particular Act of Parliament or regulation through from beginning to end. It is important that Acts of Parliament and regulations be arranged so users can find the provisions that are relevant to them as easily as possible and so those provisions can be precisely identified.

The clauses of a bill are consecutively numbered from beginning to end so that each clause has a unique number. The numbering of the clauses does not, therefore, reflect the possible arrangement of the bill as a series of numbered parts or of any part as a series of numbered divisions.

Once the bill receives Royal Assent, the clauses become “sections” and the subclauses become “subsections.”

The renumbering of provisions in an existing Act or regulation should be avoided because it can lead to confusion about references to those provisions: do they refer to the new number or the old one?

The provisions in a bill should be grouped together thematically and should flow logically. For example, if a licensing process is being created, the provisions that deal with licence applications should be set out first and the provisions dealing with the revocation or suspension of licences should be set out after.

It is important to organize a bill in a way that meets the needs of those who are most affected by it. For example, Acts are usually drafted so that statements of principle and basic rules are at the

beginning. Enforcement provisions and regulation-making powers are usually placed at the end.

Facilitating the revision of Acts and regulations

Acts of Parliament and regulations are periodically “consolidated” and “revised.” The revision process facilitates access to the law by getting rid of repealed provisions and adding new text.

Several legislative drafting conventions have been established to facilitate the statute revision process. A series of conventions requires drafters to place at the end of a bill provisions that will be omitted during the statute revision process. Placing them at the end reduces the renumbering of other provisions. Examples of provisions that, by convention, are placed at the end of a bill include:

- transitional or temporary provisions that relate to the bill as a whole;
- provisions repealing or amending other Acts of Parliament; and
- provisions dealing with the coming into force of the bill.

Another series of conventions relating to techniques of amendment facilitates the consolidation of Acts, whether through the statute revision process or through public or private publications of the text of one or more Acts “as amended.” In order to facilitate consolidation, an amendment of one Act by another must be

- express and not implied—in other words, where it is known that the provisions of an Act are inconsistent with the provisions of a bill that is being prepared, the bill should expressly amend the Act, rather than leaving it for users and the courts to work out the inconsistency; and
- textual and not indirect—in other words, the bill should alter the text of the Act rather than providing that the Act is to be read or construed or applied or have effect in a certain manner or is deemed to operate in a certain manner, where that manner is not reflected in the text of the Act.

In addition, it is conventional to replace a provision, and not merely to insert or delete words in the provision, except where a single word or expression is being altered. This convention also facilitates consolidation because the drafter, aided by electronic databases of Acts of Parliament, rather than the user, produces the text of the provision as amended.

Bill Preparation Process in Detail

Who does what in the preparation of bills?

Departmental officials

Who are they?

A wide range of officials in the sponsoring department may be involved in the preparation and enactment of a bill. They are responsible for developing the policy that the bill expresses as law and are generally referred to as “program officials.”

Knowledgeability

Program officials should be knowledgeable about the various aspects of the bill's subject matter, particularly in terms of the organization and operation of the Government. Their knowledge permits them to guide the drafters and channel difficult questions toward those who can answer them.

They should have ready access to senior officials in their department so that they can get answers or decisions about priorities and policies. Many questions necessarily arise during drafting, usually requiring a quick response.

Departmental legal advisers

Who are they?

Legal services to each department of the Government are provided by the Department of Justice through its Legal Operations Sector. Each department has a legal services unit staffed by legal advisers from this Sector.

What is their role?

Departmental legal advisers can explain how the legislative process works and what it requires. They can also provide information about the time it takes to draft a bill and ensure that the detailed drafting instructions are carefully formulated.

They can also explain what effect particular provisions may have and can help departmental officials correct provisions that are likely to present legal problems, particularly as regards the *Canadian Charter of Rights and Freedoms*.

Departmental legal advisers can also sensitize departmental officials to the possibility that particular proposals may limit guaranteed rights and freedoms and may have to be justified as reasonable limits under section 1 of the Charter. They can provide information on the kinds of evidence that may be needed to justify the resulting Act if it is ever challenged. They also help provide advice on the constitutional implications of proposed bills through the Cabinet support system. (See “Constitutional Issues and the Cabinet Support System” in Chapter 2.2)

Finally, departmental legal advisers are in a good position to remind their clients of the importance of putting together a team of instructing officers who are familiar with the legislative process. They will also stress the uniquely Canadian bilingual and bijural aspects that must be addressed to produce quality legislation. (See “Co-drafting” in this chapter).

Instructing officers

Who are they?

Generally speaking, the instructing officers are departmental legal advisers in the sponsoring department. Because a bill is a complex legal document, the legal advisers are well-suited to the task of giving drafting instructions and commenting on both language versions of the successive drafts of the bill. Departmental legal advisers are familiar with the subject matter of the bill as well as the legal difficulties that it may involve. They also appreciate the care required in preparing drafting instructions and commenting on both versions of each draft.

Alternatively, instructing officers may be program officials from the sponsoring department. However, they should contact the director of their legal services unit as early as possible to involve the director or, at the very least, ensure the involvement of departmental legal advisers. The legal advisers assigned to the bill should be experienced, have a sound understanding of the subject matter and be capable of communicating effectively in both official languages.

How many instructing officers should there be?

The number of officials giving instructions varies with the scope and complexity of the bill. However, as a general rule, the group of instructing officers should be small. The role of instructing officers is to distill policy decisions made in the sponsoring department into drafting instructions. If there is a large group of officials involved in a drafting meeting, much of the time may be spent discussing policy issues, rather than providing drafting instructions.

Occasionally, the subject matter of a bill involves more than one department. In these cases, instructing officers may come from several departments.

Why should instructing officers be bilingual?

Instructing officers must be capable of working in both official languages. The *Cabinet Directive on Law-making* requires draft legislation to be prepared in both official languages. It also requires sponsoring departments to ensure that they have the capability to:

- instruct in both languages;
- respond to questions about the proposed legislation from drafting officers in either language and relating to each legal system; and
- critically evaluate drafts in both languages.

Because bills are drafted in both official languages, drafting is much easier when all the principal participants have a sound understanding of both languages. The resulting bill will take less time to draft and its quality will be better assured.

Drafters

Drafting involves transforming Government policy into legislative form and style. Drafters in the Legislation Section of the Department of Justice are active partners with the instructing officers and are equally responsible for ensuring that the bill gives effect to the policy.

Drafters are also concerned with the coherence and consistency of federal Acts, as well as their fairness and the integrity of the legal system. They have an advisory role on many issues involving legal principles and policies (See “Particular Legal and Policy Considerations” in Chapter 2.2).

In this way, and by keeping in mind the effectiveness and efficiency of the entire legislative process, drafters provide valuable advice on a number of matters, such as:

- the time required to draft and print the bill;
- whether the proposed provisions are appropriate to achieve their objectives;
- whether there are gaps in the proposals that need to be filled with additional details or whether it is better to leave matters to be dealt with through general provisions;
- the appropriate form of the provisions;
- the inclusion of certain types of provisions in the bill.

Drafters also provide a sense of perspective. Because they are less involved in developing the underlying policy, they are better able to draft language that will be understood by members of Parliament, the public and the courts. Drafters are attuned to the need for clarity and certainty in legislation. This need is met by adhering to legislative drafting conventions as well as keeping in mind the rules and principles applied by the courts when they interpret legislation.

The legislative process sometimes demands quick responses to problems as they arise. Given the importance of the drafters' role in influencing policy, it is essential that they be consulted as soon as possible in such circumstances since it is more difficult to change the course of policy downstream in the process than to do so further upstream.

Jurilinguists

Jurilinguists in the Legislative Services Branch of the Department of Justice are specialists in legal language. Their primary role is to help drafters achieve the highest possible quality of language when drafting legislation. They keep a watchful eye on linguistic quality, focusing in particular on style, terminology and phraseology, to make certain that the linguistic quality is appropriate to legislative drafting and the subjects dealt with. They also ensure that the two official-language versions of legislation are parallel in meaning.

The first jurilinguists were employed in conjunction with the implementation of co-drafting. Their services were essential because the French version of federal Acts had been neglected for decades. Despite the constitutional rule that the French and English versions are equally authoritative, hasty translations from the English had peppered the French versions of federal legislation with peculiar anglicisms and clumsy constructions, which have been difficult to eradicate. The jurilinguists were given the mandate of ensuring that in future the French version of legislation would be true to that language and its idiom. More recently, with the growing impetus toward plain language, a need has emerged for similar support for the English version. In these circumstances the Jurilinguistic Services Unit was established in 1998. It consists of jurilinguists who work under the supervision of the Chief Jurilinguist and legislative counsel.

Jurilinguists keep abreast of the evolution of language in terms of both the law and legislation and the subjects dealt with, and, by carrying out the necessary research, they provide advice to drafters, either during the systematic revision of bills or in response to specific questions. The recommendations of jurilinguists are not binding on the drafters, who are ultimately responsible for their own files.

However, through the high calibre of their skills and the soundness of their advice, jurilinguists have been instrumental in bringing about a marked improvement in the quality of federal legislation over the years.

Legislative revisors and paralegals

Legislative revisors of the Legislative Revising Office in the Legislative Services Branch of the Department of Justice provide support to drafters by revising and editing draft legislation. The Office also prepares Acts for printing and maintains consolidated versions of all federal Acts and regulations.

Revising relates to the substance, form and language of legislation. In addition to checking for correct grammar and spelling, the legislative revisors check for clarity, consistency of language and the logical expression of ideas. They also verify the accuracy of cross-references, check historical precedents and citations, and ensure conformity with the rules and conventions governing the drafting and presentation of legislation. Revisors provide advice on appropriate wording of amending clauses, the format of schedules, the standard wording of particular expressions, the formulation of coming into force provisions, and other matters of a technical nature. Finally, they edit motions to amend bills and review reprints of bills amended by parliamentary committees.

In addition to performing revising functions, legislative paralegals in the Office also assist drafters by drafting consequential and related amendments to lengthy bills.

Another function carried out by the Office is overseeing the printing of government bills before they are introduced in Parliament and the printing of Acts after Royal Assent. Acts are published in the "Assented to" service, the *Canada Gazette* and in the Annual Statutes. The Office is also responsible for publishing the consolidation of the *Constitution Acts, 1967 to 1982* and the *Table of Public Statutes and Responsible Ministers*, an indispensable reference tool.

Finally, the Office maintains master copies of all federal Acts and regulations, including historical indexes of amendments. These master Acts and regulations are for internal use and are essential tools in the drafting of bills.

How are drafters assigned?

Once a legislative proposal has received Cabinet's approval, the Director of the Legislation Section assigns responsibility for drafting.

Each proposal is assigned to a team of two drafters: one responsible for the English version, the other for the French version. In exceptional cases, several teams of drafters may be assigned to draft very lengthy bills.

The choice of drafters depends on:

- the workload and experience of the drafters; and
- the complexity, subject matter and urgency of the bill.

Although specialization in particular fields is not encouraged, drafters are frequently assigned files on the basis of their experience in the same area or in a related area.

How are drafting timetables established?

Time constraints are among the most important matters to be considered in drafting a bill. Drafting timetables are based on the priorities established by the Leader of the Government in the House of Commons and approved by Cabinet.

A bill is much like a book: once the outline is out of the way, it still has to be written and published. The time required depends on its nature, the complexity of its subject matter, the quality of drafting instructions and comments from the instructing officers and the political requirements that the bill is called upon to answer. But, in every case, enough time is needed for drafting to produce an acceptable product. Without this time, the quality or effectiveness of the bill may be compromised.

The drafting phase ends with printing a series of page proofs of the bill. Printing is interspersed with revisions made by drafters, jurilinguists, editors and instructing officials. The time needed for these aspects also has to be taken into account. This is the quality control stage. It deals with not only the wording, but also the substance that the wording conveys. It is often only at this stage that central agencies (Privy Council Office, Treasury Board Secretariat, Department of Finance) can fully appreciate the proposed legislation.

It is no exaggeration to say that three weeks should be set aside for the printing stage. Printing in bill format is an effective way to focus attention on the details of the proposal.

Before promising the sponsoring minister to produce a bill within a particular time frame, instructing officers should discuss with the drafters the timetable for producing the bill. Once the instructing officers are attuned to the drafting considerations, they will be able to advise their minister realistically. It is crucial not to

underestimate the time required to prepare a bill that is well-drafted and effective.

The following are some of the things that should be taken into consideration:

- the legislative priorities of the Government;
- the parliamentary calendar
<http://www.parl.gc.ca/information/about/process/house/calendar/calpre-e.htm>;
- the schedule of the sponsoring minister;
- the workload of the drafters;
- the amount of drafting to be done by the drafters and the amount of review required by the sponsoring Department and central agencies;
- the amount of editing required and the comparison of the two versions;
- the time needed for printing the bill;
- the number of departments involved; and
- if Cabinet has agreed that the draft bill may be used for consultation, the amount of time needed for that consultation.

Questions about drafting priorities are determined by the Director of the Legislation Section and the Assistant Secretary to the Cabinet, Legislation and House Planning/Counsel Secretariat, taking into account the factors listed above. The approval of the Leader of the Government in the House of Commons is sought when necessary.

When does the drafting begin?

Ordinarily, drafting begins once a legislative proposal has been authorized by Cabinet through a Record of Decision. In exceptional circumstances, when it is necessary to meet the priorities of the Government, the Leader of the Government in the House of Commons may give approval for drafting to begin before the Cabinet authorization has been formally obtained. The sponsoring Department must contact the Assistant Secretary to the Cabinet, Legislation and House Planning/Counsel, who consults with the Director of the Legislation Section.

Co-drafting

What is co-drafting?

Co-drafting involves drafting the two versions of a bill together using a team of two drafters. One is responsible for the English version, while the other is responsible for the French. The Legislation Section uses the technique of co-drafting to ensure that each language version is properly drafted and reflects both the civil and common law systems.

History of co-drafting

Section 133 of the *Constitution Act, 1867* requires Acts to be enacted, printed and published in both official languages. The two versions must be enacted at the same time and are equally authoritative. If these requirements are not met, the Act is invalid.

It is also important to keep in mind that, when a federal Act is considered in court, the court interprets and applies both versions. This underscores even further the importance of ensuring that both versions reflect the intention of the Government.

In 1976, in response to severe criticism from the Commissioner of Official Languages, the Department established a committee to propose ways of ensuring the equality of French and English versions throughout the legislation preparation process and providing the Government with bills of the highest possible quality. The committee concluded that there was no magic solution and recommended co-drafting, an original drafting method that has since been adopted by other countries.

Co-drafting is now a well-established practice that has proven to be effective in drafting federal bills to reflect the equal status of both official languages enshrined in the *Official Languages Act* and later in the *Canadian Charter of Rights and Freedoms*. (See Chapter 1.2 “Legal Considerations”).

What is the object of co-drafting?

The object of co-drafting is to produce two original and authentic versions through the close and constant cooperation of the two drafters. Each version should fully reflect the departmental instructions while respecting the nature of each language as well as Canada’s twin legal systems (common law and civil law).

In co-drafting, neither version is a translation of the other. In contrast to the traditional approach of translation, one version is not

unchangeable. The two drafters often prompt each other to change or improve their versions.

Both versions include the same headings, sections and subsections. Although they need not be parallel at the level of paragraphs or subparagraphs, an effort is made to arrive at a parallel structure in order to make it easier to read both versions together.

How does co-drafting work?

The main feature of co-drafting is that each bill is carefully thought out and drafted by two drafters, rather than just one. Both work together very closely from beginning to end to produce a better bill. One of them co-ordinates the various steps in drafting the bill, but this drafter does not assume sole responsibility.

How does the Record of Decision affect the drafting?

The drafting instructions in a Cabinet Record of Decision form the basis on which a Government bill is drafted. These instructions both determine and limit what the draft bill contains. The instructions should be general enough and flexible enough to permit the bill to be drafted to express the underlying policy but to leave room for developing the details of the legislative scheme. (See “Preparing Bill-drafting instructions for a Memorandum to Cabinet” in Chapter 2.2)

In the course of drafting a bill, problems sometimes arise that were not foreseen when Cabinet approved the drafting instructions. The relevant PCO policy secretariat and the Legislation and House Planning/Counsel Secretariat must be consulted to determine whether any changes require approval by Cabinet.

Approval is required if the changes have an impact on the policy approved by Cabinet or raise policy considerations not previously considered by Cabinet. The changes are subject to the same procedure as the initial proposal, namely, the submission of a Memorandum to Cabinet for consideration by the original policy committee of Cabinet and approval by the Cabinet.

Urgent major changes need not follow the full procedure, but may be approved by the Prime Minister and the Chair of the relevant policy committee of Cabinet together with other interested Ministers.

How are detailed drafting instructions given?

Who is responsible for giving detailed instructions to the drafters?

Instructing officers are responsible for providing drafters with the instructions they need to prepare a bill that fits within the framework

set out in the Cabinet decision and that will be legally effective in implementing the proposals of the sponsoring department.

These detailed instructions are especially important because the drafting instructions in the Cabinet decision are usually quite general, regardless of how carefully they have been formulated. (See “Preparing Bill-drafting Instructions for a Memorandum to Cabinet” in Chapter 2.2)

What is their purpose?

In addition to being a necessary tool for drafters, the detailed instructions provide an opportunity for the sponsoring department to think through its proposals in order to produce a coherent set of provisions to implement the proposals.

What should they contain?

The instructions should contain complete and detailed information, as well as supporting documentation, about the following:

- the context of the desired provisions;
- the problems to be resolved and the solutions proposed;
- the particular objectives of the sponsoring department and the means by which they may be implemented;
- any regulations that may be needed;
- any amendments required to other Acts;
- any relevant legislative precedents;
- any legal difficulties;
- how contraventions of the Act will be dealt with; and
- any transitional provisions necessary to implement changes to an existing legislative scheme.

The quality of drafting instructions largely determines whether the drafting deadlines will be easily met, and whether the general quality of the resulting bill will be high. This is why it is important that instructions conform to a number of rules.

The instructions must be as complete as possible. They should reflect definite policies and decisions of the sponsoring department, rather than a range of options. They need not contain every detail involved in drafting the bill: details of lesser importance can be dealt with later in the course of examining, discussing and revising the drafts.

What form should they be in?

The instructions need not be in any particular form, as long as they are clear and concise.

When the bill is long and complex, the initial instructions should be in writing. However, instructions can also be orally transmitted at drafting meetings dealing with the intended meaning of particular provisions.

Should they be in the form of a bill?

In general, drafting instructions should not be in the form of a bill. Rather than making it easier to draft, this usually slows things down because the drafters have to interpret the text of the instructions to extract the policy objectives before they can begin to formulate their own drafts. The role of the instructing officials is to communicate these policy objectives to drafters clearly and precisely. The best way to accomplish this is through instructions expressed as simply as possible.

Occasionally, at the request of the drafters, it may be helpful to point to precedents in existing legislation to help them achieve a similar legislative effect. If the drafters clearly understand the policy objectives, reference to precedents can help them prepare a bill that fits into the body of federal legislation. However, precedents must be used with caution and can seldom be adopted without making adjustments so that they work effectively in the new legislative scheme.

How are drafts prepared, discussed and revised?

When are meetings held to discuss drafts?

Meetings are scheduled by the lead drafter after consultation with the second drafter to ensure her or his availability.

Who attends the meetings?

The meetings are attended by the drafters, the instructing officers and other officials from the sponsoring department as required.

It is of the utmost importance that both drafters actively participate at the meetings. The positions and points of view of the sponsoring department should be expressed and explained in as much detail as is required, as should the problems and situations that the bill is intended to deal with.

How to prepare for meetings

Before the first drafting meeting, the departmental officials and their legal advisers should prepare to brief the drafters on the background of the proposals and the Cabinet decision. Before meetings to discuss drafts, they should study both versions of the drafts to verify that each version reflects the policy developed by their department and approved by the Cabinet. They should also determine whether any legal or other problems are raised by either version.

The departmental review of the drafts must not be confined to one version on the assumption that the other will necessarily say the same thing. (See “Co-drafting” in this chapter). Both versions must be carefully examined by the sponsoring department to ensure that they accurately express the policy in each language.

As noted above, it is important to keep in mind that the courts interpret and apply both versions of federal legislation, and so it is crucial to ensure that both reflect the government’s intentions.

Drafters encourage instructing officers to be critical when they review a draft of the bill. The goal is to put together, with the support of each participant, a bill that meets the Government’s needs and is consistent with the policy and direction approved by Cabinet.

How are the meetings conducted?

Drafters pose any questions that they think will help them to understand the principles and objectives of the bill. The instructing officers explain the intention of the sponsoring department and allow the drafters to propose alternative solutions or solutions that are simpler or more compatible with existing federal Acts.

The meetings proceed in both official languages. The instructing officers provide their instructions and comments, as well as any supporting documentation, in both English and French. By the same token, the drafters usually ask questions and make comments in the language of their choice. The bilingual character of the meetings poses few problems when the instructing officers have been carefully chosen.

How are drafts prepared?

After each meeting, the drafters consult together on the best way to reflect the results of the meeting in their drafts. They also regularly consult the jurilinguists on terminology, syntax and other linguistic questions. Toward the end of the process, the drafters send their drafts to the jurilinguists as well as to the legislative revisors, who

- make suggestions for improving grammar, syntax, style, arrangement and coherence.

The drafters may also consult other sections or units of the Department of Justice in order to check particular points of law that arise when drafting.

The drafting shuttle

Depending on the urgency of the bill and the drafters' other priorities, they prepare a draft reflecting the consensus reached at the meeting.

Drafts are sent out in both languages at the same time for review by the instructing officers.

Other drafting meetings and drafts follow until those involved in the drafting process, and particularly the sponsoring Minister, are satisfied with the ultimate draft.

What security measures must be taken with draft bills?

A draft bill is a confidence of the Queen's Privy Council for Canada and is protected by section 69 of the *Access to Information Act* and section 39 of the *Canada Evidence Act*. As a general rule, draft bills are classified as secret and should be handled accordingly. They should not be shown to persons outside the public service without prior Cabinet authority, which may be sought in the Memorandum to Cabinet.

Bill summary

The sponsoring department must prepare for each bill (with minor exceptions such as *Appropriation* bills) a summary of its contents. The purpose of the summary is to help parliamentarians and members of the public understand the bill. The summary is printed on page 1a of the bill. If the bill is enacted, the summary is to be printed with the resulting Act.

The summary should be a clear, factual, non-partisan overview of the bill and its main purposes and provisions. It should not contain any reference to Cabinet decisions, Records of Decision or other Cabinet confidences.

The summary must be prepared in both English and French. Its length should be proportionate to the length of the bill and should not as a rule exceed two pages of single-spaced type in each language.

The sponsoring department should provide the summary (in electronic format, if possible) to the drafters at least one week before the bill is to be printed as a page proof.

Finally, the summary should be drafted so that no changes are needed when the note is published with the resulting Act. For example, verbs should be in the present indicative and the words “enactment” or “amendments” should be used, rather than “bill”.

Explanatory notes

Explanatory notes provide details about particular provisions that are being amended by a bill. The Legislation Section of the Department of Justice is responsible for the preparation of these notes, which are published in bills at first reading to explain changes being made to existing Acts. These notes describe only the changes being made or quote the existing provisions of the Acts being amended.

Printing and distribution of draft bills

Introduction

This section deals with the printing of draft bills in final form for introduction in Parliament. It also discusses how and to whom the copies are distributed. This process is distinct from the production and distribution of computer printouts of earlier drafts by the drafters themselves. Printing occurs once the drafters and the instructing officers are satisfied that the text of a draft bill will not require major changes. The drafters arrange for printing instructions to be given to St-Joseph Print Group.

Requests for release of government bills

Draft government bills are classified “Secret”. Consequently, the text or partial text of draft bills may be released only to members of the Legislation Section or the Legislation and House Planning/Counsel Secretariat (L&HP/C) (Privy Council Office) or to the instructing officer of the sponsoring department or a person designated by that officer. Requests from other persons for information about a Government draft bill not yet introduced in Parliament should be referred to the instructing officer.

Printing

Normally, a bill is printed and revised three times before it is scheduled for review by the Leader of the Government in the House

of Commons to determine whether it should be approved for introduction. The first version is called the page proof. (If there is another version before the examination page proof, it is called the revised page proof.) The examination page proof is the version that goes to the Leader of the Government in the House of Commons for review. The next version is called the final page proof. (If the bill is printed again before introduction, it is called a revised final page proof.)

The examination page proof must be sent to L&HP/C no later than 10 days before the day on which the Leader of the Government in the House of Commons will be conducting the bill review. This rule may be varied only in exceptional circumstances. Once the Government House Leader has reviewed the bill, it may be printed in final page proof. No further changes may be made, except those requested by the Government House Leader.

Draft bills are printed by St-Joseph Print Group. Printing is requested by the Director of the Legislation Section by letter when the drafters of the bill, in consultation with the instructing officers, consider that it is ready for printing. The bill is printed from electronic data provided by the drafters to Informatics Services in the Legislative Services Branch of the Department of Justice. The data is coded and verified by Informatics Services before being transmitted to St-Joseph Print Group for photo-composition (the production of a camera-ready page) and the printing of proofs. For subsequent “press runs”, changes to the data are input by Informatics Services on the basis of a manuscript prepared by the legislative revisors responsible for the bill on the instructions of the drafters. The data is then transmitted to St-Joseph Print Group for printing.

Special printing arrangements

If the sponsoring department requires extra copies, the instructing officers should indicate this to the drafters who will make sure the extra copies are ordered. The instructing officers should also advise the drafters if they wish to pick up their copies from the printer, for example when a bill is printed on Friday evening and they want to have copies Saturday morning.

Changes to printer's copy

A printer's copy is controlled by the Legislative Revising Office to ensure that all changes have been properly proofread and to provide an authoritative record of the changes so that there is no confusion about what the changes are.

After a draft bill has been printed, drafters make changes by writing them in hand on a copy of the bill or by preparing “strips”. A strip is

typed text that is inserted where the change is made and should be used whenever the changes are lengthy.

Successive printer's copies are kept on file in the Legislative Revising and Publishing Office and are not to be taken from that office without the knowledge of its members.

Minor, necessary technical changes to draft bills that are in final or revised final page proof form may be made if the signature copy (the copy that is to be tabled for introduction) has not been signed by the Government House Leader. The legislative revisors responsible for the bill communicate the changes to L&HP/C and to the House of Commons Legislative Services. This ensures that changes made on the signature copy are included in the printed copies for first reading.

Steps involved in each printing

The following describes in detail the steps usually involved in each printing and the time they may take. The times are given as a general model and may be shortened or lengthened in particular cases.

Page proof and revised page proof

Instructions for the printing request letter should be given before noon and all English and French WordPerfect documents of the draft bill and any table of contents and explanatory notes should be available to Informatics Services by noon. Draft bills are printed overnight and copies are available in the morning on the next working day.

Examination page proof

This printing should be regarded as the last chance for changes before introduction, other than those required as a result of the examination by the Leader of the Government in the House of Commons.

Instructions for the printing request letter should be given before noon. All corrections and changes, in English and French, should be given to the legislative revisors before 1 p.m. The legislative revisors process the corrections and changes and provide a printer's manuscript to Informatics Services. Copies will be available on the next working day after processing by Informatics Services. This print should be available no later than the Friday that is 11 days before the scheduled meeting of Cabinet at which the bill is to be considered. L&HP/C may waive this requirement in exceptional circumstances.

Final Page proof and revised final page proof(s)

This is the print of the bill that will be introduced in Parliament. Instructions for the print request letter should be given before noon and all corrections and changes, both English and French, should be given to the legislative revisors before 1:00 p.m. The legislative revisors process the corrections and changes and provide a printer's manuscript to Informatics Services. Copies will be available on the next working day after processing by Informatics Services.

Time required for printing

The time required to print a bill must be taken into consideration in determining when the bill will be ready for examination by the Leader of the Government in the House of Commons and delegation of authority for introduction.

The time required may vary depending on a number of factors:

- The timetable is based on average-length bills (50 pages or less); larger bills will likely require more time.
- Bills that have been significantly changed since the last print will require more time.
- Priorities will be set by the Director of the Legislation Section in consultation with L&HP/C if many bills are being processed and printed on the same day. This will likely delay the printing of some lower-priority bills.
- Bills that contain non-standard text (for example, schedules with tables, equations) usually require more time.

Sample calendar

The following sample calendar illustrates the time requirements. Each step in the printing process is represented by a letter. The meaning of each letter is explained after the calendar.

SUN	MON	TUE	WED	THU	FRI	SAT
1	2	3	4	5 A	6 B	7
8	9	10	11	12 C	13 D	14
15	16	17	18	19	20 E	21
22	23 F	24 G/H	25	26 I	27	28

- A Page proof printing: The drafters notify the Director of the Legislation Section before noon of page proof printing and send all documents in French and English to Informatics Services by noon.
- B The page proofs are delivered in the early morning to the Legislative Revising Office and distributed in the Legislation Section. The drafters, jurilinguists, legislative revisors and sponsoring department have five working days to review the page proofs.
- C Examination page proof printing: The drafters notify the Director of the Legislation Section before noon of examination page proof printing, and all changes in French and English are given to the legislative revisors by 1 p.m. The legislative revisors prepare the printer's copy in the afternoon and Informatics Services processes the changes in the evening and sends the document to the printer.
- D The examination page proofs are delivered in the early morning to PCO and to the Legislative Revising and Publishing Office for distribution in the Legislation Section.
- E Final page proof printing: The drafters notify the Director of the Legislation Section before noon of final page proof printing, and all changes in French and English are given to the legislative revisors by 1 p.m. The legislative revisors prepare the printer's copy in the afternoon. Informatics Services process the changes in the evening and send the document to the printer. This print may be as late as the Monday before the Cabinet meeting, depending on when the Leader of the Government in the House of Commons examines the bill.

- F The final page proofs are delivered in the early morning to PCO and to the Legislative Revising Office for distribution in the Legislation Section.
- G Cabinet meeting.
- H Notice of introduction must be published in the House of Commons Notice Paper 48 hours in advance (no notice is required for introduction in the Senate).
- I Introduction in Parliament.

Printing alternative copies

Unless a bill is of extreme urgency or importance (such as strike legislation), only one version, drafted in accordance with the record of decision of Cabinet (the RD) should be printed in page proofs.

If additional alternative versions of the bill are desired, they should be in computer printout form only.

This practice will prevent the possibility of the wrong draft being introduced.

Distribution and number of copies of bills

The Privy Council Office and the Department of Justice each require a fixed number of copies of each print page. The sponsoring department receives 10 copies, unless it requests additional copies. Usual distribution:

- page proof and revised page proof (39 copies)
 - 20 for Justice
 - 9 for PCO
 - 10 for the sponsoring department
- examination page proof (48 copies)
 - 20 for Justice
 - 18 for PCO
 - 10 for the sponsoring department
- final page proof and revised final page proof (98 copies)
 - 20 for Justice
 - 66 for PCO
 - 10 for the sponsoring department
 - Two for the House of Commons Legislative Counsel (including bills that are introduced first in the Senate).

Bills are printed and distributed in accordance with the instructions in the print-request letter for each printing.

All copies for the sponsoring department and the Department of Justice (unless the print-request letter indicated that the sponsoring department will pick up its copies) are received in the Legislative Revising and Publishing Office, which is responsible for internal distribution. The first drafter provides the sponsoring department with its copies.

Printing costs

The department sponsoring the bill is responsible for all printing costs of a draft bill before its introduction in Parliament and for the cost of copies of the bill that it requires after it is introduced.

St-Joseph Print Group currently charges \$8.50 for each camera-ready page it produces for a page proof, revised page proof or examination page proof and \$10.50 per page for final page proofs. It then charges six cents for each page printed from the camera-ready copy. To estimate the cost of printing, use the following formula:

Cost of camera-ready pages: $\$8.50 \times \text{X no. of printed pages}$

$\times \$10.50$ for final or revised final page proof

Cost of copies: six cents \times no. of copies \times no. of printed pages

= cost of camera-ready pages plus cost of copies

Thus, if a bill is 20 pages long and 32 copies are printed, St-Joseph Print Group will charge

$(8.50 \times 20) + (20 \times .06 \times 32) = \208.40 (for page proof, revised page proof or examination page proof)

$(10.50 \times 20) + (20 \times .06 \times 32) = \248.40 (for final page proof or revised final page proof).

Printing and reprinting of bills in Parliament

Once a bill is introduced, subsequent printings are arranged by the Office of the Legislative Counsel of the House of Commons or the Senate.

Obtaining copies after introduction

A limited number of copies are provided to Ministers and other Members of the House of Commons and Senators.

Bills are available on the Internet at

<http://www.parl.gc.ca/common/bills.asp?Language=E&Parl=37&Session=1>. Paper copies can be obtained through Canadian Government

Publishing (45 Sacré-Coeur Blvd., Hull, Québec K1A 0S9, (613) 956-4800) if they are ordered in advance. Copies may also be obtained from the Lowe-Martin Group (363 Coventry Road, Ottawa, Ontario K1K 2C5, (613) 741-0962). However, they must be ordered from Lowe-Martin before the bill is printed.

Copies are also available through stores that sell government publications.

Activities and Products for Bill Preparation and Approval

This table sets out the steps that a legislative project team must follow to prepare a bill and have it submitted for Cabinet approval. Key activities and products are indicated for each step.

Throughout this stage it is essential for instructing officers to keep in touch with the Legislation and House Planning/Counsel Secretariat (L&HP/C) of the Privy Council Office about their progress in preparing the bill and when it will be ready for review by the Leader of the Government in the House of Commons.

STEP	ACTIVITIES AND PRODUCTS
Assignment of drafters to draft the bill	The Director of the Legislation Section of the Department of Justice assigns drafters to draft each language version of the bill once Cabinet approves the Memorandum to Cabinet. Drafters may be assigned before MC approval if the Leader of the Government in the House of Commons so authorizes. This authorization is granted on the advice of the Assistant Secretary to the Cabinet (Legislation and House Planning/Counsel), who should be contacted first about this authorization and who will in turn consult the Director of the Legislation Section.
Establish a critical path for drafting and introduction in Parliament	Within the framework of the Government's legislative agenda, the instructing officers and the drafters, in consultation with the L&HP/C, agree on a timetable for drafting and a target date for having the draft bill ready for Cabinet consideration. The timetable may be revised from time to time.
Detailed drafting instructions	The drafting instructions are contained in the Cabinet Record of Decision approving the drafting of the bill. The details of these instructions are fleshed out by the instructing officers either in writing or orally at meetings with the drafters.
Financial aspects	The financial aspects of a bill should be taken into account as early as possible in the drafting process in order to determine whether a royal recommendation (for spending provisions) or a ways and means motion (for taxing provisions) is needed. This will allow the drafters to advise L&HP/C on these matters. The Department of Finance must also be consulted if a ways and means motion is needed.
Preparation, review and revision of drafts	Drafters prepare drafts for review by the instructing officers and other departmental officials concerned. Drafters advise L&HP/C on the status of drafting through the Legislation Section's weekly status report on bills. The Legislation Section also advises L&HP/C on the need for a royal recommendation through the weekly status report on bills.
Jurilinguistic review	Once the main elements of a bill are established, it is submitted for review by jurilinguists with respect to the terminology, sentence structure, style and organization of ideas.
Drafts edited	Once the drafting is nearing completion, the draft is reviewed by legislative revisors in the Legislative Services Branch.
Comparison both versions of draft	Once the drafting is nearing completion, both versions of the draft are reviewed by a jurilinguist in the Legislative Services Branch to ensure they are consistent with one another.
Consultation	The sponsoring department may wish to consult on drafts with other interested departments. Consultation may also take place with persons outside the

STEP	ACTIVITIES AND PRODUCTS
	Government, if Cabinet has authorized the consultation.
Finalization of draft before printing	The Director of the Legislation Section, on the advice of the drafters, determines when the drafting of the bill is sufficiently advanced for it to be printed.
Draft to L&HP/C	Instructing officers provide L&HP/C with a copy of the draft bill before it is printed in page proof form.
Printing draft bill	Draft bills are ordinarily printed three times (page proof, examination page proof and final page proof). St-Joseph Print Group prints the bill, generally overnight. Instructing officers, drafters, legislative revisors and PCO review the copies. Instructing officers provide further instructions.
Preparation of bill-summary	Departmental program officials prepare a short bilingual summary of the bill. The drafters review the summary and incorporate it into the printed bill.
Advise L&HP/C on need for a royal recommendation	When a draft bill is sent for final page proofs, the Director of the Legislation Section sends L&HP/C a letter indicating whether a royal recommendation is required and, if so, the particular provisions that attract the requirement.
Internal departmental approval of draft bill	Approvals are required before the draft bill is sent to L&HP/C for Cabinet approval. The draft bill and the legislative plan, which includes a communications strategy, are sent to the Minister as a package for approval. Speeches, press releases and backgrounders are prepared. Once the Minister approves the bill and the plan, the Minister's staff notify L&HP/C.
Preparation of information packages	Legislative project team prepares information packages for the Minister, Parliamentary Secretary and the sponsoring Senator. Copies are also forwarded to the Deputy Minister and Associate DM. Packages contain: <ul style="list-style-type: none"> • Backgrounder • Clause by clause explanatory notes • Qs and As • Talking points (if necessary) • a description of the consultation process • an outline of the regulations, if any • letters of support and other material such as press releases. A version of the information package is also prepared for Members of the House of Commons, Senators, Opposition critics and committee members. These packages contain all the documents that are in the briefing book with the exception of any confidential material.
Preparation of speeches and press releases	This involves a speech meeting with the speechwriter, departmental communications branch, program officials, parliamentary relations officials and the Minister's office. A meeting usually takes place after the planning session on the legislation plan. Program officials should bring copies of any background material that would be

STEP	ACTIVITIES AND PRODUCTS
	<p>useful to the speechwriter.</p> <p>The number and length of speeches required are determined by the Minister's Office and depend on the legislation in question.</p> <p>Press releases are normally required at introduction and at Royal Assent.</p>
Bill review by the Leader of the Government in the House	<p>The Leader of the Government in the House of Commons (LGHC) conducts a review of the bill before seeking delegated authority from Cabinet to approve its introduction.</p> <p>Examination page proofs must be sent to L&HP/C in both languages at least 10 days before the bill review.</p> <p>Senior departmental officials are required to present the bill to the LGHC clause by clause and they should be prepared to explain each clause and answer any questions, including technical or drafting questions. They also explain the projected time frame for passage and the reasons for it (for example, costs, implementation date, etc.).</p>
Cabinet approval (delegated authority)	<p>Depending on the outcome of the bill review, the LGHC may seek Cabinet authority to approve introduction of the bill.</p>

Chapter 2.4 Parliamentary Process

Overview

This section supplements section 5 of the “Cabinet Directive on Law-making.” It follows the progress of a bill from its introduction in Parliament through to Royal Assent and describes the supporting materials that have to be ready at each stage.

Additional information about the parliamentary process can be found in:

- *Précis of Procedure*, published by the House of Commons and available on the Internet at <http://www.parl.gc.ca/information/about/process/house/precis/titpg-e.htm>
- *Rules of the Senate*, published by the Senate and available on the Internet at <http://www.parl.gc.ca/information/about/process/senate/rules-e/senrules-e.htm>

In this Chapter

- Summary of the Parliamentary Process
- Certification of Government Bills
- Activities and Products in the Parliamentary Process

Audience

- Officials responsible for assisting in the progress of the bill through the House of Commons and the Senate.
- Those who prepare briefing materials for use in Parliament or attend briefing sessions.

Key Messages

- Once a bill has been printed and is submitted to Parliament for consideration, there is still a significant amount of work for departmental officials to do—briefing materials, speaking notes, news releases, advice on proposed amendments, etc.
- Preparation of some of these products can be completed while the bill was being drafted.
- The time it takes to complete these tasks should be factored into the project planning schedule.

Summary of the Parliamentary Process

A bill must pass through a series of parliamentary stages before it becomes law. These stages begin with the introduction of the bill in either the Senate or the House of Commons. Once introduced, the bill is studied, debated and adopted in that House. It is then introduced in the other House, where it is again studied, debated, and adopted. The final stage is Royal Assent.

The House of Commons and Senate sit for approximately 26 weeks or 130 days during a calendar year. However, some of these days are allotted to consideration of the Estimates, the Address in Reply to the Speech from the Throne, and budget debates. This leaves approximately 100 days to consider Government bills.

The timing of each parliamentary stage is determined by the Leader of the Government in the House of Commons in consultation with the sponsoring Minister. The main stages in each House are:

- Introduction and First Reading
- Second Reading
- Committee Study
- Report Stage
- Third Reading.

Passage in the House of Commons

Most Government bills are first introduced in the House of Commons. However, a Government bill may be first introduced in the Senate if it does not impose or increase taxes and does not provide for the spending of public money.

Introduction

To introduce a public bill in the House of Commons, a Minister must give 48 hours written notice. The Legislation and House Planning/Counsel/Counsel Secretariat (L&HP/C) with the office of the Leader of the Government in the House of Commons arranges for this notice to be given by including the title of the bill in the House of Commons Order Paper. Introduction by a Government Minister then takes place automatically without debate. The Minister introducing the bill does not speak at this time.

Royal Recommendation

Bills that involve expenditure of public money must be introduced first in the House of Commons (rather than the Senate) and they

must be “recommended” by the Crown before they are introduced. The L&HP/C staff obtain a royal recommendation from the Governor General or a Deputy of the Governor General (a judge of the Supreme Court of Canada):

When a royal recommendation is required for a bill, it is communicated to the House of Commons before the bill is introduced and is included on the Order Paper. After the bill has received first reading, the recommendation is printed in The Journals and included on Page 1a of the First Reading Print. The recommendation is worded as follows:

His or Her Excellency the Governor General recommends to the House of Commons the appropriation of public revenue under the circumstances, in the manner and for the purposes set out in a measure entitled “(long title of the bill).”

Briefings

Government bills are not made public until introduced and, therefore, briefings of parliamentarians and the media on bills follow introduction. However, pre-introduction briefings of parliamentarians and the media may be appropriate in exceptional cases, such as with particularly important or complex legislation.

If a media briefing occurs before the introduction of a bill, effective measures (such as an embargo or a lock-up) must be taken to ensure the protection of the information until the time of introduction and a similar advance briefing must be offered to parliamentarians. The briefing of parliamentarians may take place before or at the same time as the media briefing, but not after. Any pre-introduction briefing of parliamentarians must be offered both to Government and opposition members.

Immediately after introduction, a sufficient number of copies of the bill should be made available for parliamentarians and the media. These principles also apply if a Government bill is first introduced in the Senate.

Ways and Means Motion

A ways and means motion must be adopted by the House of Commons before the introduction of a bill that would impose or increase taxes. Like expenditure bills, these bills must also be introduced first in the House of Commons (rather than the Senate).

First Reading

First reading follows immediately after introduction and is also adopted automatically without debate. Following that, the Speaker asks:

When shall the bill be read a second time?

The response to which is:

At the next sitting of the House.

This formality allows the bill to be placed on the Order Paper for second reading.

Second Reading

Second reading is the first substantive stage in Parliament's consideration of a bill. The principle and object of the bill are debated and either accepted or rejected. The clauses of the bill are not discussed in detail at this stage.

Three types of amendments may be proposed to the motion to read the bill a second time:

- the six months' hoist: "That Bill [number and title] be not now read a second time but that it be read a second time this day six months hence";
- the reasoned amendment, which expresses specific reasons for opposing second reading;
- an amendment to refer the subject matter to a committee before the principle of the bill is approved.

Committee Stage

The *Standing Orders of the House of Commons* provide that a bill be read twice and then referred to a committee. Bills based on supply motions are referred to a committee of the whole; other types of bills are referred to a standing, special or legislative committee specified in the motion for second reading. The committee then considers the bill clause by clause. Amendments to the text of the bill are considered at this stage.

Before beginning clause-by-clause study, the committee usually invites the sponsoring Minister to appear before it. The committee may also hear witnesses, including departmental officials, on technical matters. Amendments in committee must be in keeping with the principle of the bill as agreed to at second reading in the House. Generally, the committee may make amendments to any part of a bill (for example, the title, preamble, clauses and schedules). Clauses and schedules may be omitted and new ones added. However, amendments requiring a royal recommendation must be done at report stage. After a committee has completed its consideration of a bill, it orders that the bill be reported to the House.

Report Stage

The Standing Orders require that every bill examined and reported by a committee be considered by the House at report stage. Except for those bills considered in Committee of the Whole, report stage cannot begin sooner than the second sitting day after the bill has been reported unless the House orders otherwise. Motions in amendment at this stage must be filed not later than the sitting day prior to the beginning of consideration and placed on the Notice Paper. Those with financial implications require a Royal Recommendation, which must also comply with this notice requirement. Ministers of the Crown may, without notice, propose amendments that address only the form of government bills. Once report stage has begun, no further motions in amendment may be introduced.

The Speaker may select and group proposed amendments for debate and may also rule on whether each motion should be voted on separately or as part of a group. This decision is made at the beginning of report stage, at which time the Speaker may also indicate the amendments he or she considers procedurally dubious. Normally, the Speaker will not select for debate at report stage any motion in amendment that was introduced in similar form and rejected previously at the committee stage.

It should be noted that in 2001 the House of Commons and its Speaker placed new and stricter limits on the acceptability of report stage amendments. As a result of procedural changes, the Speaker is also unlikely to select amendments, including those proposed by the Government that could have been proposed at the committee stage.

When deliberations at report stage are concluded, a motion is moved that the bill (with any amendments) be concurred in. The question is put immediately, without amendment or debate. If no amendments are put down for consideration at report stage, this stage becomes more of a formality, and report and third reading stages may then occur on the same day.

Alternative Procedure—Committee Stage Before Second Reading

Tradition dictates that the adoption of the motion for second reading of a bill defines the principle contained in the bill and therefore limits the scope of the amendments that may be made to the bill in committee and at report stage. By referring a bill to committee before the principle has been adopted by the House, the House can give itself more flexibility to review and fine-tune the legislation. In recognition of this, some of the new Standing Orders adopted in February 1994 defined procedures by which the House could refer a bill to a committee for detailed examination before second reading.

A Minister wishing to have a Government bill referred to a committee before second reading will propose a motion that the bill be referred to a committee. This is done immediately after the reading of the Order of the Day for second reading and after notifying representatives of the opposition parties. Under the rules of the House, there may be up to three hours of debate on the motion. The motion is not amendable and there is a specific speaking order for Members of the different parties. At the end of three hours, or when no other Member rises to speak, the Speaker will put the question to the House. If the motion is adopted, the bill will be referred to committee for study.

Generally speaking, the committee will conduct its clause-by-clause examination of the bill subject to the same rules and procedures governing the committee study of bills after second reading. However, the scope of amendments that can be made to the bill is much wider. At the conclusion of its study, the committee will report the bill to the House, with or without amendments. The report stage of this bill cannot be taken up until three sitting days after the bill is reported to the House.

When the bill is reported back to the House, what follows is essentially a combined report and second reading stage. The procedures for dealing with amendments are the same as those for report stage after second reading. However, while Members of the House can offer amendments to the legislation, notice of amendments to be proposed at report stage must be given in writing two sitting days before the bill is to be taken up. When the bill has been concurred in and read a second time, it will be set down for third reading and passage at the next sitting of the House.

Third Reading

At third reading the House decides whether to adopt the bill.

The same types of amendments as may be proposed at second reading may also be proposed at third reading; that is, the six months' hoist and the reasoned amendment.

In addition, an amendment may be proposed to refer the bill back to committee to be further amended in a specific area or to reconsider a certain clause or clauses.

Passage by the Senate

After a bill has been passed by the House of Commons, a message is sent to the Senate requesting that the bill be passed by the Upper Chamber, where procedures for passage of a bill are similar to those in the House. However, there are some important differences:

- notice of introduction is not required for bills;
- bills are only referred to committee after second reading;
- bills can be amended at third reading.

If the Senate passes the bill without any amendment, a message to that effect is sent to inform the House of Commons.

If there are amendments to the bill, the Senate communicates this to the House by message. In the House, a 24 hour written notice is required for any motion respecting Senate amendments to a bill.

Consideration of Senate amendments appears on the Orders of the Day and proceeds under a motion moved by the sponsor of the bill, as follows: "That the amendments made by the Senate to Bill ..., be now read a second time and concurred in". If the House agrees to the Senate amendments, a message is sent informing the Senate accordingly, and the bill is returned to the Senate for Royal Assent.

If the House does not agree to the Senate amendments, it adopts a motion stating the reasons for its disagreement, which it communicates to the Senate. If the Senate wishes the amendments to stand nonetheless, it sends a message to this effect to the House, which then accepts or rejects them. If it decides to reject them, the House may adopt a motion requesting a conference between the two Houses, where their respective representatives attempt to resolve the impasse.

Royal Assent

The *Constitution Act, 1867* states that the approval of the Crown, signified by Royal Assent, is required for any bill to become law after passage by both Houses. Royal Assent brings together the three constituent parts of Parliament: the Crown (represented by the Governor General), the Senate, and the House of Commons.

Although the Governor General in person may give Royal Assent to major pieces of legislation and at prorogation, a Deputy of the Governor General in the person of a Judge of the Supreme Court may represent the Governor General at other times.

The timing of Royal Assent is arranged by the Leader of the Government in the House of Commons in consultation with the Leader of the Government in the Senate. Royal Assent is generally held before an adjournment or prorogation or when a bill of particular urgency requires assent.

In the ceremony for Royal Assent the Senate Clerk, officially styled Clerk of the Parliaments, reads the short titles of the bill or bills to be approved. The formula of assent is then pronounced by the Senate Clerk on behalf of the Crown's representative. If supply bills are to receive assent, the Commons' Speaker addresses the Crown's

representative according to an established formula and presents a copy of each bill to the Senate Clerk Assistant. The Clerk of the Parliaments, in the name of the Sovereign, then thanks the House for its loyalty and benevolence and announces the Royal Assent. At the conclusion of the ceremony, the Speaker returns to the House and reports what has just occurred. The proceeding usually takes 15 or 20 minutes, after which the House resumes the business interrupted by the arrival of the Usher of the Senate or adjourns the sitting.

Other Procedures

The previous discussion has described the traditional parliamentary process and one of its variants. (See in this chapter *Alternative Procedure—Committee stage Before Second Reading*). However, a number of other methods have been developed for the parliamentary consideration of bills. Some have been prompted by the desire to consult members of Parliament and allow them to have effective input into legislative proposals. Another is designed to meet a need to correct minor problems in the statute book.

The choice of process depends not only on the type and scope of the legislative proposals, but also on the Government's strategy. The sponsoring department should examine the various options and consult L&HP/C or, in the case of corrections to minor problems, the Legislation Section of the Department of Justice.

The following is a brief description of the other procedures that may be used.

Tabling Draft Bills

The Government may prepare a draft bill for tabling by the sponsoring Minister and referral to a committee for study. The draft bill is not formally introduced or given first reading. Because of this, the committee can study the draft and make detailed recommendations for its revision without procedural constraints.

The committee's report can then be taken into account by the Government when it finalizes the bill and tables it for first reading as a Government bill.

Committee to Bring in a Bill

The changes to the Standing Orders in 1994 provide that a committee can be instructed to recommend the principles, scope and general provisions for a bill or actually draft a bill. If the House of Commons concurs in the committee's report, that concurrence becomes an order to bring in a bill based on the report.

The Government then introduces the bill. There is no debate at second reading, but the bill goes directly to committee for study. This procedure might be suitable where consensus is probable and MPs are particularly interested in the subject matter

Miscellaneous Statute Law Amendment Acts

Miscellaneous Statute Law Amendment Acts are subject to an accelerated enactment process involving committee study of legislative proposals before they are introduced as a bill (see above “Miscellaneous Statute Law Amendments” in Chapter 2.1).

Certification of Government Bills

The Minister of Justice is required to examine every bill introduced in or presented to the House of Commons by a Minister of the Crown. This requirement arises from section 3 of the *Canadian Bill of Rights* and section 4.1 of the *Department of Justice Act*. The purpose of the examination is to determine whether any provision of the bill is inconsistent with the purposes or provisions of the *Canadian Bill of Rights* or the *Canadian Charter of Rights and Freedoms*. The Minister of Justice is required to report any inconsistency to the House of Commons at the first convenient opportunity.

The Clerk of the House of Commons sends the Minister of Justice two copies of each bill. A member of the Legislation Section of the Department of Justice examines the bill and the Chief Legislative Counsel signs the certificate stating that it has been examined on behalf of the Deputy Minister of Justice.

If a bill is considered to be inconsistent with the *Canadian Bill of Rights* or the *Canadian Charter of Rights and Freedoms*, the Deputy Minister and Minister of Justice are advised immediately for the purpose of making the required report to the House of Commons.

Activities and Products in the Parliamentary Process

The following table sets out the steps that a legislative project team must follow when a bill is going through the parliamentary process. Key activities and products are indicated for each step.

In some cases, responsibility for a particular product varies depending on how the sponsoring department is organized. In these cases, the product is identified without an indication of who is responsible for it.

You should also consult the parliamentary calendar to determine when Parliament is in session:

<http://www.parl.gc.ca/information/about/process/house/calendar/calpre-e.htm>.

A number of supporting documents are needed during this stage. They should be prepared well in advance, ideally before this stage begins. They include the following:

Legislative Support Materials

- clause-by-clause analysis;
- issues papers;
- general Qs and As;
- Minister's speeches in the House for second reading, report stage and third reading;
- Minister's statements before committees of the House and the Senate;
- caucus and opposition briefing decks;
- speeches to be used by supporting government MPs.
- speeches to be used by supporting government senators;

Public and Media Relations Materials

- highlights sheets,
- backgrounders,
- Minister's press conference remarks,
- media information kits,
- press releases,
- any other necessary communications material.

In the House of Commons

Notice, Introduction, and First Reading

STEP	ACTIVITIES AND PRODUCTS
Notice of introduction	Discuss with Legislation and House Planning/Counsel Secretariat (L&HP/C) of the Privy Council Office the timing of the notice for introduction. L&HP/C makes arrangements for the notice to be given. Not needed for bills requiring a ways and means motion.
Ways and means motion	<p>Needed for bills that impose or increase taxes. L&HP/C and the Department of Finance make arrangements for the motion. If a bill requires a ways and means motion, it cannot be introduced until the motion is adopted.</p> <p>A bill requiring a ways and means motion must originate in the House of Commons. It cannot originate in the Senate.</p>
Royal Recommendation	<p>A royal recommendation is required if the bill contains any provisions requiring the expenditure of public money. L&HP/C makes arrangements for the Governor General to give any required recommendation.</p> <p>A bill that requires a royal recommendation must originate in the House of Commons; it cannot originate in the Senate.</p>
Pre-introduction briefings	Pre-introduction briefings may be given in exceptional cases. If a media briefing occurs before the introduction of a bill, effective measures must be taken to ensure the protection of the information until the time of introduction. In addition, a similar advance briefing must be offered to parliamentarians. Any advance briefing of parliamentarians must be offered to Government and opposition members.
Introduction and First Reading	<p>There is no debate or vote at this point. The sponsoring Minister must be in the House of Commons at this time. If the sponsoring Minister is unable to be present, another Minister may introduce the bill on the Minister's behalf.</p> <p>If applicable, regional office and program officials keep client groups advised of all activities and progress.</p>
Bill summary for lobby	A one- or two-page summary is made available in both official languages for use by those wishing to join the debate. Copies of the bill should also be provided by the Minister's office to the Government and opposition lobbies at the time of introduction.
Information packages and briefings for opposition critics and other parliamentarians	<p>Immediately after introduction and first reading, the Minister's office sends the information packages to the opposition critics and any other Members of Parliament identified by the Minister's office.</p> <p>The Minister or his/her Legislative Assistant offers briefings to the Opposition critics. Briefings are conducted by members of the legislative project team.</p> <p>All material for distribution must be in both official languages.</p>
Referral to committee	A government bill may be referred to a committee before second reading. A decision to do this will have been discussed by the sponsoring Minister and the Leader of the Government in the House of Commons earlier in the process when the strategy for the bill is being established.

STEP	ACTIVITIES AND PRODUCTS
Certification of bill	Department of Justice examines the bill to determine whether it is inconsistent with the <i>Canadian Charter of Rights and Freedoms</i> or the <i>Canadian Bill of Rights</i> . A certificate stating that the bill has been examined is then sent to the Clerk of the House of Commons and the Clerk of the Privy Council Office (See "Certification of Government Bills" in this chapter). The Minister of Justice is required to report any inconsistency to the House of Commons at the first convenient opportunity.

Second Reading (House of Commons)

This stage involves debate on the principle of the bill. No amendments to the bill are allowed. This stage concludes with a vote.

STEP	ACTIVITIES AND PRODUCTS
Support for the Minister	The Minister may request departmental officials (including members of the legislative project team) to be available in the government lobby. The program ADM decides which officials will attend. The departmental legal adviser is usually asked to attend.
Speeches	Minister's legislative assistant usually determines the number of speeches required. In addition to the Minister's speech, two to four speeches of about 10 minutes are usually required at this stage. The speeches are usually discussed at a speech meeting involving the communications branch, the legislative project team and the Minister's legislative assistant.
Debate	Legislative project team members prepare and send an analysis and highlights of the debate to senior management, program officials, parliamentary relations officials, the departmental legal adviser and the Minister's legislative assistant. This involves <ul style="list-style-type: none"> • describing the issues raised and including relevant segments of the debate; • preparing a list of questions that flow from these issues; • reviewing the questions in the context of existing Qs and As.

Committee Stage (House of Commons)

A committee of the House studies the bill at this stage. It hears witnesses and then reviews the bill clause by clause. The committee may adopt amendments during its clause-by-clause review. When the review is complete, the committee prepares a report to the House, including any amendments it has adopted. The committee chair tables the report in the House.

STEP	ACTIVITIES AND PRODUCTS
Preparation	The Minister's briefing book should be reviewed and updated as required after second reading debate. The departmental communications branch prepares material for an opening statement by the Minister to the committee. The Minister may also request a briefing from the project team.

STEP	ACTIVITIES AND PRODUCTS
Contact committee clerk	Contact the committee clerk to find out when committee will review the bill and who will be appearing as witnesses. Notify the Minister's office, senior management, program officials, parliamentary relations officials and departmental legal adviser of the progress of the bill.
Information packages to committee clerk	The legislative project team provides an additional 30+ copies of the information packages to the committee clerk, either directly or via the Minister's office (as directed by the Minister's legislative assistant). All material must be provided in both official languages.
Regulation-making authority	If the bill contains regulation-making authority, the departmental officials should be prepared to answer questions about what regulations would be made.
Identifying and assisting departmental witnesses	<p>The Program ADM decides which program officials will appear as witnesses before Committee or accompany the Minister or Parliamentary Secretary.</p> <p>Legislative project team provides program officials appearing as witnesses with background material, analysis of debates and additional questions raised during the debates. Departmental officials are required to answer questions on technical or complex policy matters, but do not defend policy or engage in debate on it.</p>
Potential public witnesses	Legislative project team prepares a list of potential public witnesses and their positions on the bill.
Minister's appearance	The Minister or Parliamentary Secretary appears before the committee to deliver an opening statement and answer questions from committee members. All statements must be bilingual and written copies are given to the Clerk of the Committee and to the interpreters.
Other witnesses	Witnesses deliver short (five-minute) opening statements and answer questions from committee members. All statements must be bilingual and written copies are given to the Clerk of the Committee and to the interpreters.
Clause-by-clause review and amendments	<p>Amendments may not go beyond the principle of the bill as adopted at second reading. The scope for amendment is greater when a bill is referred to a committee before second reading.</p> <p>Government amendments are prepared, or at the very least reviewed, by the bill drafters and reviewed by jurilinguists and legislative revisors.</p> <ul style="list-style-type: none"> • Amendments that are merely technical may be agreed to by the sponsoring Minister with no need for Cabinet approval. • Amendments that have an impact on the policy approved by Cabinet or that raise policy considerations not previously considered by Cabinet are subject to the same procedure as the initial proposal, namely, the submission of a Memorandum to Cabinet for consideration by the original policy Committee of Cabinet and approval by the Cabinet. • In exceptional cases, urgent major amendments need not follow the full procedure referred to above, but may be approved by the Prime Minister and the Chair of the relevant policy committee of Cabinet together with other interested Ministers. <p>In the case of amendments requiring policy approval, PCO must be contacted to make the necessary arrangements.</p> <p>The Parliamentary Secretary generally proposes Government amendments by filing</p>

STEP	ACTIVITIES AND PRODUCTS
	<p>them with the committee clerk before clause-by-clause review.</p> <p>Program officials should be prepared to comment on amendments proposed by the committee members. They should prepare a written (if time permits) critique of the proposed amendments, outlining their possible repercussions. They should also be prepared to explain why they should, or should not, be adopted.</p>
Notification of outcome	Legislative project team notifies the Minister's office, Parliamentary Secretary, senior management, program officials, legal adviser and parliamentary relations officials of the outcome of the hearing, the clause-by-clause review of the bill and the tabling of the committee's report in the House.
Committee of the whole house	A committee of the whole is used for appropriation bills and, exceptionally, for other bills to expedite their passage. Proceedings take place on the floor of the House. Up to three officials are allowed on the Commons floor to assist the Minister on factual or technical questions at the Minister's request, but they cannot speak in the debate.

Report Stage (House of Commons)

This stage involves the debate of the bill as amended by Committee. Further amendments may be proposed.

STEP	ACTIVITIES AND PRODUCTS
Notice of amendments	Notice of amendments must be given in the House of Commons <i>Notice Paper</i> no later than 6:00 p.m. the night before report stage begins. Additional amendments cannot be proposed after report stage has begun.
Government amendments	Government amendments are drafted or, at the very least, reviewed by Department of Justice drafters. They may also require Cabinet approval (see above: "Committee Stage—Clause-by-clause review and amendments").
Notice of amendments	The legislative project team reviews the daily order paper for notice of any non-government amendments and, if there are any, the team notifies the sponsoring Minister's office, senior management, program officials, parliamentary relations officials and the departmental legal adviser.
Responses to amendments	If there are non-government amendments proposed, the program officials prepare briefing materials (recommended government position and speaking notes) on each amendment. Departmental recommendations are forwarded to the sponsoring Minister's office. If the Minister wishes to support the amendment, Cabinet approval may be required (see above: "Committee Stage—Clause-by-clause review and amendments").
Support for Minister	During report stage, the Minister's office will usually request the support of officials in the government lobby. The program ADM decides which program officials will attend. The legal adviser also attends. If there are no amendments proposed at this stage, the House proceeds immediately to third reading after the vote on concurrence in the committee report.
Debate and motion for concurrence	<p>Amendments to the bill as reported are debated and voted on. Then there is a vote on the motion for concurrence in the bill as reported and amended.</p> <p>If the bill is referred to committee before second reading, the debates at report stage and second reading are combined.</p>

Interventions	While speeches as such are not usually required, short statements, quotes, etc., may be prepared for the Minister or other Government members wishing to intervene at this point.
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Third Reading (House of Commons)

This stage involves a debate on the bill in its final form. No amendments to the bill are permitted.

STEP	ACTIVITIES AND PRODUCTS
Debate	Debate may begin no earlier than the next sitting day after the conclusion of report stage. However, if there are no report stage amendments, debate may begin immediately.
Speech	Although the Minister's speech is usually about 10 minutes, the actual length is determined by the Minister's legislative assistant, taking into account the complexities of the bill. It is discussed during a speech meeting organized by officials responsible for preparing the speech.
Briefing books	The legislative project team incorporates into the briefing books any changes or new information added at second reading, during committee review or at report stage . During debate at third reading, the Minister's office may request the support of officials in the government lobby. The program ADM decides which program officials attend. The legal adviser also attends.

In the Senate

Introduction and First Reading

STEP	ACTIVITIES AND PRODUCTS
Sponsoring Senator	<p>The Leader of the Government in the Senate, in consultation with the Minister's office, identifies a sponsoring Senator to introduce the bill.</p> <p>Contact the office of the Leader of the Government in the Senate about briefings for the sponsoring Senator and the committee chair and about information sessions for opposition senators.</p>
Briefing books to Senate house leader and sponsoring senator	<p>Program officials prepare the briefing books and forward them to the Minister's office with a covering letter for the Minister's signature. This material is provided well before the First Reading in the Senate to the Leader of the Government in the Senate and to the Senator who sponsors the bill.</p> <p>They also prepare a summary of all major arguments raised during the House of Commons debate for the briefing books and prepare the speeches for use in the Senate.</p> <p>Ensure that copies of the bill kits (press release, copy of the bill, backgrounders) are provided to all senators.</p>
Brief sponsoring senator	The Minister's legislative assistant arranges for program officials and the legal adviser to brief the sponsoring Senator.
Introduction	No notice of introduction is required. L&HP/C makes the arrangements for introduction in consultation with the office of the Leader of the Government in the Senate and the sponsoring Minister and with the approval of the Leader of the Government in the House of Commons.
First reading	There is no debate and no vote at this point.

Second Reading (Senate)

The debate at second reading focuses on the principle of the bill and is followed by a vote.

STEP	ACTIVITIES AND PRODUCTS
Speech for sponsoring senator	Although usually a 10-minute speech, its actual length is determined by the Minister's legislative assistant, taking into account the complexities of the bill. It is discussed during a speech meeting organized by officials responsible for preparing the speech.
Debate	<p>The sponsoring Senator may request that program officials be present in the Senate Gallery. The program ADM decides which program officials attend. The legal adviser also attends.</p> <p>The legislative project team monitors the debate and provides a summary of the opposition's main arguments to the Minister's office, the Parliamentary Secretary, senior management, program officials, the legal adviser and parliamentary relations officials. The program officials update the sponsoring Senator's briefing book.</p>

Committee Stage (Senate)

A committee of the Senate studies the bill at this stage. It hears witnesses and then reviews the bill clause by clause. The committee may adopt amendments during its clause-by-clause review. When the review is complete, the committee prepares a report to the Senate, including any amendments it has adopted. The committee chair tables the report in the Senate.

STEP	ACTIVITIES AND PRODUCTS
Preparation	The briefing books should be revised and updated as required. The Minister's opening statement is also revised as required. The Minister may also request a briefing from the project team.
Contact committee clerk	Contact the committee clerk to find out when committee will review the bill and who will be appearing as witnesses. Notify the Minister's office, senior management, program officials, parliamentary relations officials and the departmental legal adviser of the progress of the bill.
Information packages to committee clerk	Forward approximately 20 updated information packages to the committee clerk for distribution to members. All material must be provided to the committee clerk in both official languages.
Identifying and assisting departmental witnesses	The program ADM decides which program officials are to appear before committee as witnesses or accompany the Minister (if he or she attends). The project team develops an analysis of the debates and an overview of additional questions raised during the debates and provides them to the departmental witnesses.
Minister's appearance	The Minister appears before the committee to deliver an opening statement and answer questions from committee members. All statements must be bilingual and written copies are given to the committee clerk and to the interpreters.
Committee deliberations	The legislative project team monitors hearings, assists departmental witnesses and government senators during the committee deliberations and prepares summary notes to be distributed to the Minister's office, the sponsoring senator, senior management, program officials, parliamentary relations officials and the departmental legal adviser.

STEP	ACTIVITIES AND PRODUCTS
Clause-by-clause review and amendments	<p>Government amendments are prepared, or at the very least reviewed, by the Department of Justice drafters.</p> <ul style="list-style-type: none"> • Amendments that are merely technical may be agreed to by the sponsoring Minister with no need for Cabinet approval. • Except in urgent cases, amendments that have an impact on the policy approved by Cabinet or that raise policy considerations not previously considered by Cabinet are subject to the same procedure as the initial proposal, namely, the submission of a Memorandum to Cabinet for consideration by the original policy committee of Cabinet and approval by the Cabinet. • Urgent major amendments need not follow the full procedure referred to above, but may be approved by the Prime Minister and the chair of the relevant policy committee of Cabinet together with other interested Ministers. <p>In the case of amendments requiring policy approval, PCO must be contacted to make the necessary arrangements.</p> <p>The sponsoring Senator generally proposes Government amendments by filing them with the committee clerk before clause-by-clause review.</p> <p>Program officials should be prepared to comment on amendments proposed by the committee members. They should prepare a written (if time permits) critique of the proposed amendments, outlining their possible repercussions and be prepared to explain why they should, or should not, be adopted.</p>
Committee of the whole house	<p>If the bill is referred to a committee of the whole rather than a standing Senate committee, the Minister will usually be invited to appear before the Senate committee of the whole in the Senate Chamber. Two officials will accompany the Minister into the Senate Chamber and the Minister will give the opening statement.</p>

Report Stage (Senate)

This stage involves a debate of the bill as amended by committee. Further amendments may be proposed.

STEP	ACTIVITIES AND PRODUCTS
Report stage	<p>If there are no amendments, the report stands adopted. If there are amendments, there is a debate and a vote.</p>
Responses to amendments	<p>If there are non-government amendments proposed, the program officials prepare briefing materials (recommended government position and speaking notes) on each amendment. Departmental recommendations are forwarded to the sponsoring Minister's office. If the Minister wishes to support the amendment, Cabinet approval may be required (see above: "Committee Stage—Clause-by-clause review and amendments").</p>

Third Reading (Senate)

This stage involves a debate on the bill in its final form.
Amendments to the bill are permitted.

STEP	ACTIVITIES AND PRODUCTS
Speeches	A third reading speech is prepared for the sponsoring Senator (usually 10 minutes).
Debate and vote	<p>The sponsoring Senator may request that program officials be in the Senate Gallery while he or she is speaking. The program ADM decides which program officials attend. The legal adviser also attends.</p> <p>If the bill receives third reading and has not been amended in the Senate, it is ready for Royal Assent.</p> <p>If there have been Senate amendments, the bill is returned to the House of Commons. The House of Commons can either concur in the amendments or reject them. If there is no agreement between the two Houses, representatives of the House of Commons and the Senate may meet to discuss how to resolve the matter.</p>

Royal Assent

STEP	ACTIVITIES AND PRODUCTS
Timing	<p>The Leader of the Government in the House of Commons determines the timing of Royal Assent in consultation with the Leader of the Government in the Senate and L&HP/C.</p> <p>Notify the Minister's office, senior management, program officials, the legal adviser and parliamentary relations officials of the timing.</p>
Press release	The communications branch prepares a press release announcing that the bill has received Royal Assent.

Chapter 2.5

Coming into Force

Overview

This section supplements section 6 of the “Cabinet Directive on Law-making.” It discusses how and when Acts come into force.

In this Chapter

- Coming into Force of Acts
- Activities and Products for Bringing an Act into Force

Audience

Officials responsible for the general administration of the Act or for preparing orders in council required to bring it into force or regulations necessary for its operation.

Key Messages

Bringing an Act into force is a critical step in its implementation and requires careful consideration and planning.

Coming into Force of Acts

On Royal Assent, a statute has the force of law unless it provides otherwise. Quite frequently, a statute provides that it, or any of its provisions, comes into force on a day or days to be fixed by order of the Governor in Council. This order is prepared by officials in the department that administers the Act and is submitted to the Special Committee of Council by the responsible Minister. If approved, the order is sent to the Governor General for signature and published in the *Canada Gazette*. A draft order should be submitted for approval well in advance of the day or days that it proposes for provisions to come into force.

Activities and Products for Bringing an Act into Force

This table sets out what is involved in bringing an Act into force.

STEP	ACTIVITIES AND PRODUCTS
Determine when the Act comes into force	An Act comes into force on Royal Assent, unless it says otherwise. If the Act says that it comes into force on a date to be fixed by the Governor in Council, determine what that date should be. This involves assessing whether any regulations or administrative arrangements are needed for the Act to operate. Coming into force dates cannot be established until these matters are settled.
Prepare draft order in council to bring Act into force	If the Act comes into force on a date fixed by the Governor in Council, prepare a draft of the necessary order in council with the assistance of the departmental legal adviser.
Send draft order in council to Minister for recommendation	Orders in council must be recommended by a Minister before they can be considered by the Cabinet.
Send the draft order in council to PCO	Send the draft order in council with the Minister's recommendation to the Assistant Clerk of the Privy Council (Orders in Council)
Statutory requirement for tabling	Notify parliamentary relations officials of any statutory requirements for tabling reports or other material in Parliament once a bill comes into force. Ensure that they follow up on these requirements.
Regulations and other delegated legislation or directives	Essential elements of a legislative scheme are sometimes provided by regulations or other delegated legislation or directives. Without them, the scheme cannot operate.
Implementation	These activities are specific to each department and each legislative initiative.

Chapter 2.6

Post-enactment Review

Overview

This chapter encourages officials to conduct a review of each legislative project once the bill has been enacted by Parliament.

Audience

Legislative project managers and other officials who were involved in policy development and in the preparation and enactment of a bill.

Key Messages

A review of the legislative project is indispensable for improving the management and execution of future projects.

Post-enactment Review: Issues to be considered

Evaluating the performance of the legislative project team against its legislative plan is an essential part of all project planning. Once a bill has been passed, the team should spend some time looking at what happened and why. You may have to do this at several stages, calling together the team members at various levels.

Suggested issues to cover during a post-enactment review are:

- *Resources*: Were they sufficient?
- *Infrastructure*: Was it adequate?
- *Support*: Did the team successfully mobilize all areas of the department needed to support the project (for example, officials responsible for communications, consultation and parliamentary relations)?
- *Cooperation*: Did the team work successfully with the Minister's office and with parliamentary personnel?
- *Planning*: Was it accurate?
- *Project control and management*: Was the project well managed?

Part 3

Making Regulations

Overview

This part provides an overview of the regulatory process and is intended to situate the process of making regulations within the broader context of making laws. Persons directly involved in the development and the processing of regulations should refer to the *Regulatory Policy* and the Process Guides at <http://www.pco-bcp.gc.ca/raoics-srdc/default.asp?Language=E&Page=Publications>.

In this part

- What are regulations?
- What is the legal framework for regulations?
- What is the policy framework for regulations?
- Summary of the regulatory process

Audience

All Government officials involved in the law-making process and other interested persons.

Key Messages

- The *Statutory Instruments Act* and the *Regulatory Policy* govern the making of regulations.
- The *Statutory Instruments Act* establishes a process designed to ensure that regulations are made on a legally secure foundation and are accessible through the *Canada Gazette*.
- The *Regulatory Policy* establishes requirements for a Regulatory Impact Analysis as a means of ensuring that the Government's regulatory activity serves the public interest, particularly in the areas of health, safety, the quality of the environment and economic and social well-being.
- Ensuring that the public's money is spent wisely is also in the public interest. The Regulatory Impact Analysis also involves weighing the benefits of alternatives to regulation, and of alternative regulations, against their cost, and focusing resources where they can do the most good.
- To these ends, the federal government is committed to working in partnership with industry, labour, interest groups, professional organizations, other governments and interested individuals.

What are regulations?

Regulations are a form of law, often referred to as delegated or subordinate legislation. Like Acts, they have binding legal effect and usually state rules that apply generally, rather than to specific persons or situations. However, regulations are not made by Parliament. Rather, they are made by persons or bodies to whom Parliament has delegated the authority to make them, such as the Governor in Council, a Minister or an administrative agency. Authority to make regulations must be expressly delegated by an Act. Acts that authorize the making of regulations are called enabling Acts.

An Act generally sets out the framework of a regulatory scheme and delegates the authority to develop the details and express them in regulations.

Most regulations are designated as such in the Act that authorize them to be made. However, Acts sometimes authorize the making of documents that have the same legislative effect, but which are called by another name, for example, “by-laws,” “rules,” “tariffs,” “ordinances” or “orders.” Usually, these documents are made in the same way as regulations and are subject to the same policy and legal constraints.

What is the legal framework for regulations?

A regulation-making authority does not have a free hand in making regulations. There are a number of legal constraints, including the Constitution and other generally applicable laws discussed in Chapter 1.2 “Legal Considerations”. One of the most important of these for regulations is the *Statutory Instruments Act* (SI Act) and the *Statutory Instruments Regulations* (SI Regulations), which are made under it. They set out three basic legal requirements for making regulations:

- legal examination,
- registration,
- publication in the *Canada Gazette*.

Enabling Acts provide an additional source of legal constraints. Regulations must stay within the scope of the authority that the enabling Act grants and must not conflict with it or restrict or extend the scope of its application.

What is the policy framework for regulations?

The *Regulatory Policy* of the Government of Canada provides the primary policy framework for making regulations. Its objective is to ensure that use of the government's regulatory powers results in the greatest net benefit to Canadian society. It states that regulatory authorities must ensure that:

1. Canadians are consulted, and that they have an opportunity to participate in developing or modifying regulations and regulatory programs.
2. They can demonstrate that a problem or risk exists, federal government intervention is justified and regulation is the best alternative.
3. The benefits outweigh the costs to Canadians, their governments and businesses. In particular, when managing risks on behalf of Canadians, regulatory authorities must ensure that the limited resources available to government are used where they do the most good.
4. Adverse impacts on the capacity of the economy to generate wealth and employment are minimized and no unnecessary regulatory burden is imposed. In particular, regulatory authorities must ensure that:
 - information and administrative requirements are limited to what is absolutely necessary and that they impose the least possible cost;
 - the special circumstances of small businesses are addressed; and
 - parties proposing equivalent means to conform with regulatory requirements are given positive consideration.
5. International and intergovernmental agreements are respected and full advantage is taken of opportunities for coordination with other governments and agencies.
6. Systems are in place to manage regulatory resources effectively. In particular, regulatory authorities must ensure that:
 - the Regulatory Process Management Standards are followed;
 - compliance and enforcement policies are articulated, as appropriate; and
 - resources have been approved and are adequate to discharge enforcement responsibilities effectively and to ensure compliance where the regulation binds the government.

7. Other directives from Cabinet concerning policy and law making are followed such as:

- *Cabinet Directive on Law-making*,
- *1999 Cabinet Directive on the Environmental Assessment of Policy, Plan and Program Proposals* http://www.ceaa-acee.gc.ca/0012/0006/sea_e.htm,
- *Cost Recovery and Charging Policy* http://www.tbs-sct.gc.ca/Pubs_pol/oepubs/TB_H/CRP_e.html.

The Special Committee of Council (a committee of the Cabinet) is responsible for the *Regulatory Policy*. The Regulatory Affairs Division of the Regulatory Affairs and Orders in Council Secretariat of the Privy Council Office supports the Special Committee in this responsibility by providing advice, developing guides, supporting capacity-building to help regulatory authorities comply with the policy, and monitoring the effectiveness of this policy.

Summary of the Regulatory Process

Most regulations and some other documents have to meet the requirements of a series of steps known as the regulatory process. This process is a combination of requirements that flow from the legal and policy frameworks. It includes the following steps:

- development of a regulatory proposal by a department responsible for an enabling Act or an administrative agency or other body that has regulation-making authority (sponsoring department or agency),
- central agency review (by Privy Council Office, Treasury Board Secretariat, Department of Justice);
- pre-publication;
- making or approval;
- registration;
- coming into force;
- publication;
- distribution;
- parliamentary scrutiny.

Who is involved in the process?

The following are the main participants in the regulatory process:

- the authority that “makes” or “approves” the regulation
 - usually the “Governor in Council,” which is the Governor General acting on the advice of the Privy Council (this advisory role is usually exercised by the Special Committee of Council)
 - sometimes another Cabinet committee (such as the Treasury Board) or a particular Cabinet minister,
 - sometimes an administrative agency, such as the Canadian Radio-television and Telecommunications Commission, or other body;
- the Minister and the officials in the sponsoring department (in the case of Governor in Council or ministerial regulations) or the officials in the sponsoring agency (in the case of regulations made by an agency);
- the Clerk of the Privy Council;
- the Regulatory Affairs and Orders in Council Secretariat of the Privy Council Office;

- the Deputy Minister of Justice;
- the Regulations Section of the Department of Justice;
- the Treasury Board Secretariat;
- the Canada Gazette Directorate of the Department of Public Works and Government Services;
- the Standing Joint Committee of the Senate and the House of Commons for the Scrutiny of Regulations.

What documents are subject to the regulatory process?

The regulatory process applies to most regulations, as defined in the *Statutory Instruments Act* (SI Act). Four types of documents are regulations:

- documents described as “regulations” in an Act;
- rules, orders and regulations governing the practice or procedure in proceedings before a judicial or quasi-judicial body established by or under an Act;
- statutory instruments (as defined in the SI Act) made in the exercise of a legislative power conferred by or under an Act; and
- statutory instruments (as defined in the SI Act) for the contravention of which a penalty, fine or imprisonment is prescribed by or under an Act.

Some regulations are not subject to the regulatory process. They are wholly or partially exempted by their enabling Act or by the *Statutory Instruments Regulations*.

The Regulations Section of the Department of Justice provides advice on whether documents are regulations. Information on this question is also found in Part 2, section 2 of the *Federal Regulations Manual* (which is published by the Regulations Section).

The legal requirements of registration and publication (but not the policy requirements) also apply to a second group of documents. These include statutory instruments that fall outside the definition of “regulation” (for example, an order fixing the day on which an Act comes into force). Although there is no legal requirement for the examination of these documents, in practice the Regulations Section examines them as well.

Conception and development of regulations

Having the authority to make a regulation does not justify making it. The requirements of the *Regulatory Policy* must also be met. This includes demonstrating that a problem or risk exists, that the

Government should intervene and that regulation is the best option. A regulation may not be the best tool or the only one to be used to achieve a policy objective.

Before deciding whether to regulate a particular field of activity, the sponsoring department or agency must assess all the possible solutions for achieving its objectives. If it concludes that a regulation should be pursued, it must initiate a process of planning, analysis and public consultation in accordance with the *Regulatory Policy*.

Early notice of proposed major regulations is given in departmental and agency annual *Reports on Plans and Priorities* submitted to Parliament. The extent to which a regulation has achieved its stated objective is subsequently reported to Parliament in the annual departmental *Performance Reports*.

The department or agency then drafts its regulatory proposal with the assistance of its legal advisers and, in some cases, the Regulations Section of the Department of Justice.

Regulatory Impact Analysis

An analysis of the expected impact of each regulatory initiative must be done. The results of this analysis are summarized in a Regulatory Impact Analysis Statement (RIAS). Each section of the RIAS implements one or more elements of the *Regulatory Policy*. The RIAS is, in effect, a public accounting of the need for each regulation in terms of this policy.

The RIAS explains:

- the elements of the regulatory proposal, including what problems or situations it addresses and what it is meant to achieve;
- what alternatives to regulation have been considered;
- what are the anticipated costs and benefits of the regulations;
- what consultations have been carried out and what opportunities Canadians have had to be heard;
- what is the response of the department or agency to the concerns voiced or suggestions made;
- what mechanisms are built in to ensure compliance with the regulations once they are in force;
- how the effectiveness of the regulations will be measured.

The RIAS serves the same purpose as a Memorandum to Cabinet, used by ministers to make informed decisions on the making of laws. The RIAS also becomes a public document that helps the Government to be accountable to Canadians and parliamentarians in the exercise of delegated authority for the making of laws. Each of

these audiences demands that the RIAS be prepared with close attention, ensuring that material submitted for consideration:

- is written in simple, clear, complete and concise language that the general public can easily understand;
- describes the problem or situation that it is intended to address; and
- describes the potential impact of the proposal and the measures to be taken to minimize any adverse effects.

Detailed guidance to the preparation of a RIAS may be found in the *RIAS Writers' Guide* (http://www.pco-bcp.gc.ca/raoics-srdc/publications_e.htm). This guide explains the objectives of the RIAS and some approaches that will result in an excellent finished product.

For regulations that have to be made or approved by the Governor in Council, a communications plan is required and, if needed, a supplementary note. The communications plan covers, among other things, the strategy to be used by the department or agency to bring the regulatory measures to the attention of the groups affected once they are made. As well, confidential information to support decision making should be placed in a supplementary note and be separate from the RIAS.

Central Agency Review

Clerk of the Privy Council and Deputy Minister of Justice

The roles of the Clerk of the Privy Council and the Deputy Minister of Justice are set out in the SI Act. They are supported in these roles by the Regulatory Affairs and Orders in Council Secretariat of the Privy Council Office and by the Regulations Section of the Department of Justice.

Regulatory Affairs and Orders in Council Secretariat

The Regulatory Affairs and Orders in Council Secretariat (RAOIC) is responsible for monitoring, coordinating and advising on regulatory and Orders in Council issues and policies, and their consistency with economic, social and federal-provincial policies. The RAOIC secretariat is divided into the Regulatory Affairs Division and the Orders in Council Division. The secretariat provides support to the Special Committee of Council (SCC) with respect to regulatory and Orders in Council matters.

The prime responsibilities of the Regulatory Affairs Division include:

- the monitoring of regulatory proposals;

- the provision of substantive support to SCC through analysis, briefing, and advice with respect to regulatory proposals; and
- support for the implementation and development of the *Regulatory Policy*.

In more specific terms, it reviews each regulatory proposal from an overall policy perspective and may request additional information or analyses from the sponsoring department prior to the proposal being submitted to the SCC for consideration.

The Orders in Council Division's main responsibilities include:

- the management of the approval process for all Orders in Council, regulations, and other statutory instruments;
- the provision of secretariat services to the SCC;
- the provision of advice on the use of Orders in Council and/or Instruments of Advice;
- the production and distribution of Orders in Council;
- the registration and publication of regulations in Part II of the *Canada Gazette* (see http://canada.gc.ca/gazette/gazette_e.html); and
- the maintenance of records of approved Orders in Council, the Consolidated Index of Statutory Instruments, and a number of Oath Books (see http://canada.gc.ca/howgoc/oic/oic_e.html).

Regulations Section

The tasks of the Deputy Minister under the SI Act are carried out by the Regulations Section, which examines all proposed regulations submitted by departments and agencies (except those exempted from examination), to ensure that:

- they are authorized by the enabling statute;
- they do not constitute an unusual or unexpected use of the authority under which they are to be made;
- they do not trespass unduly on existing rights and freedoms and are not, in any case, inconsistent with the *Canadian Bill of Rights* or the *Canadian Charter of Rights and Freedoms*; and
- their form and drafting are in accordance with established standards.

When it has finished its examination, the Regulations Section stamps the draft regulations. If the solution found for any legal problems in the file involves some legal risk, the Regulations Section writes to the department or agency explaining what the risk is. If

serious legal issues remain unsettled, the Regulations Section reports its concerns to the Clerk of the Privy Council.

Regulations are not invalid just because they have been made without being examined by the Regulations Section. However, the Clerk can refuse to register them and the Governor in Council can, on the recommendation of the Minister of Justice, repeal all or part of any regulation that was made without having been examined.

Treasury Board Secretariat

The Treasury Board Secretariat examines draft regulations that, under their enabling statutes, require Treasury Board approval or recommendation. It also examines regulations that are liable to have significant financial implications, including those related to cost recovery programs.

Pre-publication

The purpose of pre-publication is to give those who are interested in a regulatory proposal an opportunity to determine the extent to which the proposal is in keeping with previous consultations.

A Cabinet Directive of 1986 requires draft regulations to be pre-published in Part I of the *Canada Gazette*, before they can be made. In some cases this requirement is imposed by the enabling Act. Part I of the *Canada Gazette* can be accessed at http://canada.gc.ca/gazette/hompar1_e.html.

An exemption from pre-publication may be granted unless pre-publication is required by the enabling Act. For regulations made or approved by the Governor in Council, exemptions may be granted by the Special Committee of Council and are considered on a case by case basis. For more information on exemptions, see the *Federal Regulatory Process*. For regulations made by a Minister or agency, exemptions may be granted by the Minister or agency.

The pre-publication requirement does not apply to documents that are not regulations, unless the enabling Act says so.

Draft regulations must be approved before they are pre-published. If the regulations are made or approved by the Governor in Council, the approval is given by the Special Committee of Council. If they are made by a minister or agency, the approval is given by the minister or agency. The RIAS is published along with the draft regulations.

When draft regulations are pre-published, interested persons are allowed a period of time to express their views. The period is usually 30 days in the case of regulations pre-published under the Cabinet policy. In other cases, the length of pre-publication may be specified

in the enabling Act. The pre-publication period may also be determined by international agreements, such as the World Trade Organization agreements and the North American Free Trade Agreement. In general, it is both prudent and a requirement of the *Regulatory Policy* that regulations covered under international trade agreements be pre-published for a minimum of 75 days.

Making or Approval of Regulations

A regulation is “made” when it is officially established by the regulation-making authority. This is usually done through a separate document called an executive order. The regulation is attached to the order as an annex.

If the authority is the Governor in Council, the executive order is an “order in council” and the regulation is made when the Governor General indicates that the order in council is made. If the authority is a minister, the executive order is a “ministerial order” and the regulation is made when the minister signs the ministerial order. In the case of an agency or other body, the executive order is usually a resolution or other document, depending on its decision-making process.

In the case of regulations made by the Governor in Council, the sponsoring department must seek the approval of the responsible Cabinet committee, which is usually the Special Committee of Council. In preparing this submission, the department must augment its original RIAS documents with information relating to the comments received during the pre-publication period, any actions taken to address those comments and the rationale for the department's response.

Sometimes an enabling Act not only authorizes someone to “make” regulations, it also says that some other person or body must “approve” them. For example, the enabling provision may say “The Commission may, with the approval of the Governor in Council, make regulations ...” Approval is given through an executive order, such as an order in council or a ministerial order.

Registration

The SI Act requires regulations to be transmitted to the Clerk of the Privy Council within seven days after they are made so that they can be registered, unless the SI Regulations exempt them from this requirement because they are too numerous.

For regulations, the Clerk records the title of the regulation, the name of the regulation-making authority, the source of the power to make the regulation, the date of making and the date of registration,

and assigns it a number, preceded by the designation "SOR." For other documents, the Clerk records much the same information and assigns each its own number, preceded by the designation "SI". In practice, the Clerk's responsibilities are fulfilled by the Orders in Council Division of the Regulatory Affairs and Orders in Council Secretariat.

Coming into force

Registration is a crucial step in the case of regulations because it determines when they take effect. Regulations that must be registered come into force on the day they are registered, unless the enabling statute or the regulations themselves specify another commencement date (see subsection 6(2) of the *Interpretation Act*). Other regulations and documents come into force on the day they are made, unless they specify another commencement date.

Commencement dates before the making of a regulation or other document can only be specified if there is authority to do so in the enabling Act. Such a commencement date makes a regulation or document retroactive and clear statutory authority is required for this.

Publication

The SI Act and SI Regulations provide for the publication of regulations in Part II of the *Canada Gazette* within 23 days after their registration. Some regulations are exempt from publication. They are listed in section 15 of the *SI Regulations*.

The *Canada Gazette* is published by the Queen's Printer, whose responsibilities in this regard are carried out by the Canada Gazette Directorate of the Department of Public Works and Government Services.

What if a regulation is not published even though it is supposed to be? Failure to publish it does not make it invalid, but it prevents conviction for an offence of contravening the regulation. The reason is the constitutional principle of the rule of law: the terms of the law must be knowable, not secret. If a regulation is not published, people cannot be presumed to have had any way of finding out what their rights and responsibilities were under it.

There is one exception. Someone who has contravened an unpublished regulation can be convicted if the regulation is exempt from publication or if it expressly provides that it applies according to its terms before it is published in the *Canada Gazette*. However, in such cases it must also be proved that reasonable steps had been

taken to bring the gist of the regulation to the notice of those likely to be affected by it.

Distribution

All Orders in Council, including regulations, are made available to the public three working days after they have been approved by the Governor General. A list of all approved orders is available at http://canada.gc.ca/howgoc/oic/oic_e.html. In addition, electronic versions of regulations and other documents published in Part II of the *Canada Gazette* are available at http://canada.gc.ca/gazette/hompar2_e.html.

Parliamentary Scrutiny

The Standing Joint Committee for the Scrutiny of Regulations monitors the exercise of regulatory power on behalf of Parliament. Its mandate, set out in section 19 of the SI Act, is to review regulations and other statutory instruments after they are made.

The Committee checks the instruments against the criteria that the Senate and the House of Commons have approved at the beginning of each session of Parliament. Some of these criteria are the same as those applied by the Regulations Section of the Department of Justice in its examination of proposed regulations.

When the Committee finds a problem with a statutory instrument, it tells the regulation-making authority and suggests solutions. If the Committee and the regulation-making authority are unable to agree on a solution, the Committee may make a report drawing the matter to the attention of both Houses of Parliament. If the instrument is made by the Governor in Council or a minister, the Committee is also authorized, under subsection 123(1) of the *Standing Orders of the House of Commons*, to make a report to the House of Commons proposing the disallowance of the instrument. A disallowance resolution, if not rejected, becomes an Order of the House enjoining the Governor in Council or minister to revoke the statutory instrument.

References

- *Regulatory Policy* and the Policy and Process Guides of the Regulatory Affairs and Orders in Council Secretariat of the Privy Council Office <http://www.pco-bcp.gc.ca/raoics-srdc/default.asp?Language=E&Page=Publications>,
- *Federal Regulations Manual*, Regulations Section of the Department of Justice.

Appendix

Reference Material

Overview

This appendix provides a comprehensive list of reference materials and other documents that may be useful to anyone participating in the law-making process.

In this Appendix

Sources of additional reference material on:

- Parliamentary Democracy
- Preparing Legislation
- Parliamentary Process—General
- Parliamentary Process—House of Commons
- Parliamentary Process—Senate of Canada
- Regulatory Process

Audience

Everyone

Key Messages

There are many places to look for additional information.

Parliamentary Democracy

TITLE	AUTHOR	REFERENCE AND LANGUAGE	ASSESSMENT
How Canadians Govern Themselves, 4 th ed. 1997	Eugene A. Forsey	http://www.parl.gc.ca/information/about/process/library/forsey/how-e.htm Bilingual	Easily understood
Parliamentary Process – Canada's Parliament at Work	Parliament of Canada	http://www.parl.gc.ca/common/AboutParl_Process.asp?Language=E Bilingual	Portal to a wide range of information about the parliamentary process
The Question of Confidence in Responsible Government, 1985	Eugene A. Forsey and G.C. Eglinton	Printed English	Technical
Parliament: Canada's Democracy and How it Works, 1995	Maureen McTeer	ISBN 0-394-22006-4 English	Easily understood
The Parliament of Canada, 1987	C.E.S. Franks	ISBN 0-802-05735-7 English	Good introduction
The Law-Making Process, 1991	Law Clerk and Parliamentary Counsel of the Senate	Printed Bilingual	Easily understood

Preparing Legislation

TITLE	AUTHOR	REFERENCE AND LANGUAGE	ASSESSMENT
The Role and Structure of the Privy Council Office, current	Privy Council Office	http://www.pco-bcp.gc.ca/default.asp?Page=Publications&Language=E&doc=Role/role_e.htm Bilingual	Easily understood
Memoranda to Cabinet: A Drafters' Guide	Privy Council Office	http://www.pco-bcp.gc.ca/default.asp?Language=E&Page=publications&Sub=mc&Doc=mc_e.htm Bilingual	Easily understood
Responsibility in the Constitution, 1993	Privy Council Office	ISBN 0-662-58782-0 Bilingual	Easily understood
Designing Regulatory Laws that Work	Department of Justice (Constitutional and Administrative Law Section)	Printed Bilingual	Detailed and technical
Manual for Designing Administrative Tribunals, 1998	Department of Justice (Constitutional and Administrative Law Section)	Electronic version available on the Department of Justice Intranet Bilingual	Detailed and technical
Composition of Legislation, 2nd ed., 1976	E. A. Driedger	ISBN 0-660-00443-7 English	Detailed and technical
Legislation Deskbook	Department of Justice (Legislative Services Branch)	Electronic version available on the Department of Justice Intranet Bilingual	Detailed and technical
Legistics	Department of Justice (Legislative Services Branch)	Printed English	Detailed guidance on drafting in English

Parliamentary Process—General

TITLE	AUTHOR	REFERENCE AND LANGUAGE	ASSESSMENT
Making Canada's Laws, 1997	Senate	http://www.parl.gc.ca/information/about/process/senate/senatetoday/making_laws-e.htm Bilingual	Easily understood
Erskine May's Treatise on the Law, Privileges, Proceedings and Usage of Parliament, 22nd ed., 1997	Sir D. Limon, et al.	ISBN 0-406-89587-2 English	Technical
Bourinot's Parliamentary Procedure and Practice in the Dominion of Canada, 4th ed., 1916	John Bourinot	ISBN 0-716-52021-4 English	Technical
Glossary of Parliamentary Procedure, 2 nd ed., 1997	House of Commons	ISBN 0-662-63075-0 http://www.parl.gc.ca/information/about/process/house/glossary/gloss-e.htm Bilingual	Explanation of terminology
The Legislative Process, 1992	House of Commons	ISBN 0-662-58828-2	Good introduction
Parliamentary Calendar, current	Library of Parliament	http://www.parl.gc.ca/information/about/process/house/calendar/cal-pre-e.htm Bilingual	Easily understood
Canadian Parliamentary Handbook, 1998	John Bejerimi	ISBN 0-714-8143 Bilingual	Technical
Canadian Parliamentary Guide, 1997	Parliament	ISBN 0-969-31580-5	Easily understood
Notes on the Responsibilities of Public Servants in relation to Parliamentary Committees, 1990	Privy Council Office	http://www.pco-bcp.gc.ca/default.asp?Page=Publications&Language=E&doc=pco-notes/cover_e.htm Bilingual	Easily understood
Guidelines for Preparing Government Responses to House of Commons Committee Reports	Privy Council Office	http://www.pco-bcp.gc.ca/default.asp?Page=Publications&Language=E&doc=legislation/govresp_e.htm	Easily understood

Parliamentary Process—House of Commons

TITLE	AUTHOR	REFERENCE AND LANGUAGE	ASSESSMENT
Standing Orders of the House of Commons, current	House of Commons	http://www.parl.gc.ca/information/about/process/house/standingorders/toc-e.html Bilingual	Technical
Annotated Standing Orders of the House of Commons, 1989	House of Commons	ISBN 0-660-54620-5	Technical
Précis of Procedure, 5 th ed., 1997	House of Commons	http://www.parl.gc.ca/information/about/process/house/precis/titpg-e.htm Bilingual	Easily understood
House of Commons Procedure and Practice, 2000	R. Marleau, C. Montpetit	ISBN 2-89461-378-4 Bilingual	Technical
Beauchesne's Rules and Forms of the House of Commons of Canada, 6th ed., 1989	A. Fraser, et al.	ISBN 0-459-32481-0 Bilingual	Technical
The House of Commons at Work, 1993	John Fraser	ISBN 2-893-10164-X English	Easily understood
Committee Business, current	House of Commons	http://www.parl.gc.ca/common/committee.asp?Language=E&Parl=37&Ses=1	Easily understood
Time limits on Speeches, Statements and Debates, 1994	House of Commons	Printed Journals Branch: Tel.(613) 996-1086 Bilingual	Easily understood
A User's Guide to House of Commons Publications, 1993	House of Commons	ISBN 0-662-60087-8 Bilingual	Easily understood
Order Paper, Journals, Hansard, Proceedings of Committees	House of Commons	http://www.parl.gc.ca/english/ebooks.html Bilingual	Easily understood, Some technical
House of Commons Calendar	House of Commons	http://www.parl.gc.ca/information/about/process/house/calendar/calendar-pre-e.htm Bilingual	Easily understood

TITLE	AUTHOR	REFERENCE AND LANGUAGE	ASSESSMENT
List of Members of the House of Commons	House of Commons	http://www.parl.gc.ca/common/SenatorsMembers_house.asp?Language=E&Parl=37&Ses=1&Sec=t=hoccur Bilingual	Easily understood
Privilege in the Modern Context, 1990	House of Commons	ISBN 0-662-57585-7 Bilingual	Easily understood
Privilege in the Historical Context, 1990	House of Commons	ISBN 0-662-57584-9 Bilingual	Easily understood
Committees of the House of Commons: A Practical Guide, 5th ed., 1997	House of Commons	ISBN 0-662-63076-9 Committees Branch: Tel. (613) 996-1190 Bilingual	Easily understood
A Guide for Witnesses Appearing Before Committees of the House of Commons	House of Commons	http://www.parl.gc.ca/infocom/documents/guide-witness-e.htm Bilingual	Easily understood
Parliamentary Privilege in Canada, 1997	J. Maingot	ISBN 0-773-51718-9 Bilingual	Technical

Parliamentary Process—Senate

TITLE	AUTHOR	REFERENCE AND LANGUAGE	ASSESSMENT
The Senate Today	Senate	http://www.parl.gc.ca/information/about/process/Senate/senatetoday/senate_today-e.htm Bilingual	Easily understood
The Canadian Senate in Focus (1987-1993), 1993	Senate	Printed Committees Directorate: Tel.: (613) 990-0088 English	Good comparison of Senate and House of Commons
Rules Of The Senate Of Canada, 1996	Senate	http://www.parl.gc.ca/information/about/process/senate/rules-e/senrules-e.htm Bilingual	Technical
Proceedings of the Committee on Standing Rules and Orders Standing Rules and Orders, Issue No. 1, 1991	Senate	Printed ISBN 1187-2489 Bilingual	Clear explanation of 1991 rules
Party Standings and Senators	Senate	http://www.parl.gc.ca/common/SenatorsMembers_senate.asp?Language=E&Parl=37&Ses=1&Select=sencur Bilingual	Easily understood
Order Paper, Minutes, Committee hearings and proceedings	Senate	http://www.parl.gc.ca/english/ebus.html Bilingual	Easily understood
A Guide to Witnesses Appearing before Senate Committees	Senate	http://www.parl.gc.ca/37/1/parlb/commbus/senate/com-e/pub-e/witness-e.htm Bilingual	Easily understood
List of Standing, Special and Joint Committees of the Senate	Senate	http://www.parl.gc.ca/Common/Committee_SenList.asp?Language=E&Parl=37&Ses=1 Bilingual	Easily understood

Regulatory Process

TITLE	AUTHOR	REFERENCE AND LANGUAGE	ASSESSMENT
Government of Canada <i>Regulatory Policy</i>	Privy Council Office (Regulatory Affairs and Orders in Council Secretariat)	Bilingual http://www.pco-bcp.gc.ca/raoics-srdc/default.asp?Language=E&Page=Publications&Sub=GovernmentofCanadaRegula	Easily understood
Guide to the Regulatory Process	Privy Council Office (Regulatory Affairs and Orders in Council Secretariat)	Bilingual http://www.pco-bcp.gc.ca/raoics-srdc/default.asp?Language=E&Page=Publications&Sub=RegulatoryProcessGuide	Easily understood
Federal Regulations Manual, 1998	Department of Justice (Regulations Section)	Bilingual	Technical, but easily understood