

Legislative Drafting Processes & Policies – An Overview

Date	Available from now until 31 December 2024
Method	Online, on-demand
Fee	€280
Discounted* Fee	€230* Law Society Skillnet fee
CPD Hours	3 general (by eLearning)
Event Code	S2418

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Testimonials from participants who took this online course last year:

“This is an excellent course. I think it is easy to access and is very informative.”

“All of the information provided in the training will be useful to me in my work.”

“[T]he pace is good and easy to follow, examples are provided and also reference material... it was great that it was also with subtitles.”

“Speaker was very knowledgeable.”

Aim and objectives

This online, on-demand course demonstrates the importance to legislative drafting of ‘upstream’ processes such as legislative planning, policymaking and the emergence of regulatory reform and regulatory management policies to improve the quality of policymaking and legislation. Equally, it demonstrates the importance of ‘downstream’ activities such as law reform, statute law revision, and consolidation of legislation.

Module 1 An Overview of Legislative Drafting

- An overview of the context for legislative drafting – the policy cycle – sources of policy ideas – legislative planning – policy formulation or where appropriate instructions for legislative drafting.
- An overview of the three broad approaches to legislative drafting globally, the common law approach, the civil law approach, and hybrid approaches combining the best and the worst of the first two approaches.

Module 2 The Process of Legislative Drafting

- A detailed look at the process of legislative drafting. Drafting instructions (common law countries but similar approaches should be used elsewhere). Once the policy has been conceived the drafter of legislation has to:
 - a. Understand the policy objectives
 - b. Analyse the policy proposals in the context of issues such as constitutionality, conformity with general principles of law and coherence with other legislation, consideration of whether legislation is the best approach to solving a policy problem, deciding a rational order for structure separating substantive from procedural or administrative provisions, commencement date and provision for secondary legislation
 - c. Design the best structure for the legislation
 - d. Draft the legislation
 - e. Be open to the scrutiny of the final product
- A detailed look at the structure of legislation:
 - a. Preambles
 - b. Enacting formulae
 - c. Definitions
 - d. Substantive issues
 - e. Procedural issues
 - f. Enforcement (penal or civil)
 - g. Commencement
 - h. Powers to create secondary legislation
- A detailed look at the Secondary legislation, regulations, rules orders, décrets. Consideration of where delegated legislation is necessary or appropriate. Similar principles apply to drafting secondary legislation as applying to primary legislation.
- Drafting amendments to legislation
- A detailed look at the explanatory materials
- A detailed look at the education and training of legislative drafters:
 - a. the traditional approach is to adopt the apprenticeship model
 - b. the modern approach is a combination of lectures on theory, practical exercises, and some form of apprenticeship

Module 3 An overview of the policies developed over the last 30 years

- An overview of the policies developed over the last 30 years to improve the quality of legislation. These include work by the OECD, the World Bank, and other international organisations to develop Better Regulation policies. These policies are characterized using tools such as:
 - a. Public consultation as part of the policy formulation process
 - b. Regulatory impact assessment
 - c. A hybrid of policy and tools - administrative simplification
 - d. Interpretation of legislation (interpretation provisions, interpretation statutes, decisions of courts).
- A consideration of the challenges to be faced when drafting legislation:
 - a. The ambiguity of language
 - b. Words to avoid such as adjectives
 - c. Punctuation

- d. Style, clarity (the plain language phenomenon)
- e. Tax legislation (a world of its own)

- An overview of the role of Parliaments, National Assemblies, and review bodies. Model in USA of Executive President and role of Senate and House of Representatives

Module 4 The Issues and Challenges Associated with Legislative Drafting

- A detailed look at the ex-post issues associated with legislative drafting:
 - a. Law Reform (common law and civil law approaches compared)
 - b. Managing stocks of legislation (consolidation, reprints, statute law revision programmes)
 - c. Publication of legislation (in print and online)
 - d. Coping with different languages (translation (Ireland) and co-drafting (Canada)).

Trainer

Edward Donelan, PhD, MA, Barrister-at-Law (Kings Inns, Middle Temple), Dip. Eur. Law, Dip. Arb.

Edward Donelan is Adjunct Professor of Regulatory Governance, University College Dublin. He has worked with governments worldwide as a specialist in legislative drafting and developing regulatory governance and regulatory management. This work has included policy making, legislative drafting, public consultation, Regulatory Impact Assessment and managing stocks of legislation. He has been a speaker and trainer of legislative drafting at seminars and workshops in over 30 countries. His latest book is *Policy - Making, Law Drafting and Managing the Stock of Legislation in the 21st Century* (published by Palgrave Macmillan May 2022).

IMPORTANT

- On receipt of payment, login details will be sent to you by a member of our team to your provided email address. If you have not received login details within 2 working days of your booking, please contact us on lawsocietyskillnet@lawsociety.ie or call a team member on 01 881 5727.
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- This course is available from date of registration to 31 December 2024. You should download any course materials you require before this date as you cannot access the course after 31 December 2024.
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