

DRAFTING MANUAL FOR MEMBERS' BILLS FOR PACIFIC ISLAND PARLIAMENTS

This Legislative Drafting Manual is compiled under the auspices of the Office of the Clerk of the House of Representatives of New Zealand for drafters of Members' Bills in Pacific Islands Parliaments.

*ASSISTING PACIFIC ISLAND
DRAFTERS OF MEMBERS' BILLS TO
UNDERTAKE THEIR ROLE WITH
CONFIDENCE*

FOREWORD

Pacific Islands Parliaments face many challenges through size, remoteness, institutional capacity, resourcing, and vulnerability to climate, economic and political change. Parliamentary strengthening is an important contribution to supporting stability and prosperity in the Pacific region: better Parliaments make stronger democracies. Knowledge-sharing and developing specialist skills as a regional endeavour will assist in building capacity across Pacific Islands Parliaments. It is with great pleasure that we recommend this *Drafting Manual for Members' Bills for Pacific Island Parliaments*, and we trust that it will be of great benefit and use to the staff of Pacific parliaments who are called on to assist in drafting members' bills and to legislative drafters generally in the Pacific.

Seinimili Tu'i'onetoa Fonua was an Intern at the Office of the Clerk of the House of Representatives in New Zealand in the latter half of 2014, as part of her studies towards a Master of Laws degree at Victoria University of Wellington. This Manual is the result of work done during the internship. It brings together and adapts source material, especially material on bill drafting prepared by the Parliamentary Counsel Office's Pacific Desk, so as to customise information relevant to the intended use of the Manual.

The Manual will be available on the New Zealand Parliament's website, www.parliament.nz, in order to disseminate it as widely as needed throughout the Pacific region.

We commend this Manual, and thank and congratulate Seinimili Fonua for her efforts in bringing it together.



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I also express my warm thanks to Fiona Leonard, Deputy Chief Parliamentary Counsel of the Parliamentary Counsel Office, and especially the PCO staff who are serving at the Pacific Desk for their advice and for generously sharing their documents and templates that they have developed in relation to their work for Pacific parliaments, and allowing me to adapt them for the purposes of the Manual.

It is generally known that the usefulness of a Member's Bill is underutilised in most Pacific parliaments due to the lack of drafting resources. It is with sincere hope that this work will assist Pacific Islands parliaments develop clearer and more effective legislation. This Drafting Manual is a compilation of legislative drafting materials from within the Office of the Clerk of the House of Representatives, the Parliamentary Counsel Office of New Zealand, as well as the material from the Commonwealth of Learning Distance Training Course in Legislative Drafting for Commonwealth Lawyers. These sources material can be found in Appendix 4 of the Manual.

Thank you again for your great support in the successful compilation of the *Drafting Manual for Members' Bills for Pacific Island Parliaments* during my internship with the Parliament of New Zealand.

The skills and knowledge which I have gained throughout my internship and above all your good companionship will be a significant part of my future career and development.

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DRAFTING MANUAL OUTLINE

This Drafting Manual has six (6) parts. Each part of the Manual in descending order relates to each stage of the drafting of the Bill, from the initial policy proposal by the sponsoring member to the last component of a Bill, the schedules. The Appendices provide reference material.

Part 1 of this Manual is an introduction to the roles and responsibilities of the sponsoring member and of the drafter. This part outlines the importance of legislation and the crucial task of the drafter in translating policy into legislative terms.

Part 2 of the Manual further details the sponsoring member's role as the policy-maker. Well prepared instructions are important because a Bill is more likely to achieve the desired policy objective if the instructions that the member provides to the drafter are clear.

Part 3 generally describes the roles and responsibilities of the drafter. This part emphasises the obligations of the drafter to work within the policy instructions and within the limits of the Constitution, Interpretation Act and Standing Orders. It also emphasises the importance of clear drafting. A number of styles and examples are given as guides.

Part 4 is a special section dedicated to the style to be used for amendment Bills. As amendment Bills are the most prevalent form of members' Bills, this part provides instructions on approaches to the drafting of specific elements of an amendment Bill, drafting amendments to headings and then providing examples of amendment sentence structures.

Part 5 provides guidelines for clear drafting with a focus on using plain English. The clear drafting technique is demonstrated for specific parts of the Bill, beginning with the heading of the Bill and including the correct use of some of the words that most drafters might find problematic to work with.

Part 6 provides instructions on the use of the drafting templates and styles.

Appendices – This section comprises four appendices:

Appendix 1 Member's Bill Proposal and Instructions

Appendix 2 Member's Bill Flow Chart

Appendix 3 Drafting Template

Appendix 4 Source References

PART 1 INTRODUCTION

The most important business transacted by parliaments in the Pacific island countries, as in parliaments in Commonwealth countries, is the passing of legislation. Most of the Bills passed in parliaments are Government Bills, but members who are not Ministers can introduce their own Bills. Most members' Bills are the result of individual initiatives by members to remedy perceived policy gaps or defects in the law. Members' Bills can deal with any matter of public policy.

Drafting a member's Bill therefore is the act of *translating* the member's policy proposal into formal written rules. Drafting then is about making choices of approach, in light of experience of legislative solutions, to obtain the most effective and acceptable way by which policy can be given legal effect. It is about the testing of the policy against the manner of its implementation.

In the drafting process, the drafter is often confronted with these questions – Is legislation necessary? Will it work? How best can it be made to work? What are the likely legal consequences? Are these desired or should they too be modified? And so on.

To assist the drafter in achieving the answers to these questions, this Manual sets out a number of guidelines for use in drafting members' Bills. The aim of this Manual is that members as well as parliament staff who are responsible for drafting members' Bills in Pacific island countries will find the instructions and guidelines helpful in their respective roles in the law-making process.

This Drafting Manual is a compilation of legislative drafting materials from within the Office of the Clerk of the House of Representatives, the Parliamentary Counsel's Office of the Parliament of New Zealand, as well as the material from the Commonwealth of Learning Distance Training Course in Legislative Drafting for Commonwealth Lawyers.

It is hoped that with this Manual, the Pacific drafters of members' Bills will be able to undertake the role with confidence.

PART 2 MEMBERS' BILLS: WHO DOES WHAT? SPONSORING MEMBER

2.1 Member's responsibility

It is essential that the member ensures that the legislation is well thought out, accurate and legally sound because it uniquely impacts upon the rights and freedoms of people and society. Any mistake in legislation can only be corrected by another piece of legislation that must go through the entire parliamentary process¹.

Members are responsible for arranging for the drafting of Bills they wish to introduce, and must provide a copy of the Bill to the responsible officer for tabling in the legislature. In some Pacific island countries where there is no formal drafting service, a member's Bill may first be introduced to a parliamentary committee that is tasked with ensuring that the formatting style is consistent with that used for Government Bills before it is introduced to the House.

2.2 Policy proposal

Members should be aware that the legislative counsel or the drafter of the Bill only provides drafting services and they are not policy advisers. Members themselves are responsible for developing the policy proposal that they want their Bill to deal with. If there are gaps in the policy proposal or insufficient information, the drafter will refer the matter back to the member for further instructions. This could cause delay in the process of the Bill. In Pacific island countries where political parties exist, a member's Bill proposal may require caucus support and need to meet party policies before members prepare the drafting instructions.

2.3 Instructions

Instructions are the member's way of telling a drafter what his or her policy objectives are and how the law needs to be changed to achieve them. The member as an instructor will be the drafter's primary point of contact. You as the sponsoring member need to be able to answer most of the questions that come up during drafting, and to have a clear understanding of the proposed legislation.

Before giving instructions for a new Bill, members need to ask themselves the following questions –

- What are the policy problems am I trying to solve?
- What is the cause of the problem?
- How did it come to my attention?
- What are the risks am I trying to minimise, manage or mitigate?

¹ **The Member's Bill's Proposal & Instructions Form (Appendix 1)** to this Manual set out the "Policy Proposal" requirements that the sponsoring member needs to complete.

- Do I actually need legislation to solve the problem, or are there other alternatives to legislation?
- What are the implications (costs or benefits) for affected parties?
- Can the law be complied with and can it be enforced? In reality, legislation should not be enacted for ideals that cannot be complied with or enforced.
- If the Bill is prohibiting actions, it is creating an offence. What are the consequences of someone not complying?

2.3.1 Objective

The focus of the member's instructions should be the intended objectives. Do your instructions answer the questions of what, when, where, who, why and how?

The member should also include –

- a timetable setting out the time by which they require the Bill to be drafted, but must bear in mind that four (4) weeks should be the minimum;
- an indication of when any further instructions will come if the initial instructions are not complete; and
- the member's contact details as well as the contact details of any other person who may need to be consulted.

2.3.2 Supporting documents

It is important for the member to include all relevant material with their instructions or at least introduce appropriate references to the materials so that they can viably be sought or accessed. The legislative drafter needs as complete a picture of the proposal as possible. Relevant materials may include –

- all relevant legislation, particularly any legislation that is to be amended;
- all relevant court cases, legal opinions, reports, and so on;
- details of any relevant court proceedings that are contemplated;
- all relevant international agreements or obligations;
- documents created or obtained as part of any consultation process that the member has undertaken;
- if applicable, evidence of caucus approval for the proposed legislation; and
- any other relevant background material.

2.3.3 Explanatory memorandum or notes

The policy encompassed in a Bill is the member's mandate and must be prepared by him or her or their office. Generally, the legislative counsel or drafter should not draft the explanatory note for the Bill, but may make changes to the format or grammar in consultation

with the member or their office. However, this may not be the case in many Pacific island countries where the drafter is looked to to draft the explanatory with instructions from the member who sponsors the Bill as it sometimes reflects a particular partisan view. The explanatory note is to be in a written form and given to the drafter together with the policy proposal at the beginning of the drafting process as the drafter needs all the information necessary for drafting the Bill.

** Refer to Member's Bill Proposal & Instructions Form (Appendix 1) to be completed by the sponsoring member.*

2.4 Responding to drafts

When a member receives a draft, he or she must ensure –

- the Bill reflects the policy's needs;
- that nothing included in the instructions is missing;
- the Bill is internally consistent;
- he or she fully and clearly answers any questions asked by the drafter on that draft; and
- the Bill can be realistically complied with and will work in practice.

If the member finds a problem, he or she must respond to the drafter by explaining what is wrong. Focus on the concepts rather than on the words. Give examples of the problem. Clearly and fully explain any changes that you want made so the drafter can understand what you want the drafter to do.

A member sponsoring² a Bill may need to collect comments from other people in their constituencies or their caucus or even from interested organisations. Members should analyse any comments that they receive and filter out those that are unhelpful or that do not accord with their policy.

The drafter is likely to ask questions to clarify issues or resolve any uncertainties that arose during drafting. Members need to answer those questions accurately, clearly and completely. He or she may present their feedback in whatever form is best in the circumstances. The easiest and clearest method is usually by putting revision-tracked comments into the draft legislation, or by hand-writing comments on the draft.

The faster and more fully a member responds to a draft, the faster the drafter will be able to prepare the next draft and eventually finalise the draft Bill.

² The members who proposals a Bill.

2.5 Finalising the draft legislation

Drafting legislation is an interactive and iterative process. Many drafts may be required before the legislation is finalised. Once the member has approved and finalised the draft legislation, she or he may send it to the Clerk of the legislature, the Table Officer or any other parliamentary officer responsible for the initial submission stages of a Bill.

2.6 Time for checking against Constitution, Interpretation Act and Standing Orders

Sufficient time must be provided to allow the drafter to undertake the drafting work and to be able to fully review the Constitution, Standing Orders, the Interpretation legislation and any related legislation to ensure that the Bill is legally sound. This can be a demanding task, particularly when it is a large Bill and covers complicated issues that are likely to affect several existing pieces of legislation.

A minimum of four (4) weeks may be allowed for the drafting process while longer and more complex Bills may take longer. The drafter and the member must agree on a timeframe and to notify each other of any changes.

****Refer to the flowchart (Appendix 2) for an outline of the Bill drafting process.***

PART 3 MEMBERS' BILLS: WHO DOES WHAT? DRAFTER

3.1 Drafter's aims

Well-drafted, easily understood and legally sound legislation is one of the cornerstones of a well-functioning democracy, legal system and society.

The drafter has the difficult task of working out exactly what it is that policy-makers have in mind and trying to ascertain how best to regulate through legal means activities that should be brought under the ambit of the law. Finding the right words and expressions to put in place exactly what is wanted and turning policy into law can be heavy responsibilities. What legislative drafters do, and how well they do their job, can significantly affect the quality and effectiveness of the law.

The aims of the drafter are to ensure that:

- (a) the intentions of the policy-maker are exactly met; and
- (b) as far as possible, both those general policy aims and the particular applications of the new policy are realised by means of draft legislation that is legally effective and accurate.

3.2 Some challenges

In some Pacific island countries, legislative counsel or drafters may play a central role in law making. In fact, they may sometimes have a major input in making the policy itself. This happens sometimes because instructions from members give limited guidance and the legislative counsel or drafters are looked to, to come up with appropriate legislative solutions.

Drafters in Pacific island countries may feel that they actually are the ones that are making the law. Administrative and legislative processes in some Pacific parliaments stand to give drafters considerable latitude in the way the legislation is to deal with the problem. In many cases, parliaments make very few changes to what counsel or drafters put into the legislation. Such situations could demand a very high standard of responsibility from the legislative counsel or drafter.

3.3 Responsibilities of drafter/legislative counsel

Function	Associated tasks
<i>Analyse</i>	Understand the policy and proposals by examining the instructions in detail
	Carry out background research
	Clarify the instructions
	Initiate consultations to refine the policy and proposals
<i>Design</i>	Advise on practicability

	Decide on the legislative approach
	Work out the legislative scheme and requirements
	Prepare the plan for the overall structure of the legislation
Compose	Draft the legislative text
	Revise and redraft following consultations
Scrutinise	Check each draft for accuracy, certainty and consistency
	Remove errors of substance and ambiguities of syntax and expression
Manage	Meet deadlines in the legislative timetable
	Monitor progress of the Bill through the Legislature
	Draft amendments required as the Bill proceeds
	Check all versions of the printed text
	Prepare the enacted text for assent and publication

3.4 A drafter's practical precepts

1. Analyse and plan, and prepare an overall design, *before* composing.
2. Start writing *early* and produce as many drafts as are needed and time allows.
3. Be systematic in your approach and your procedures.
4. Strive for-
 - certainty in application and accuracy of effect
 - logical presentation of the policy and the legislative scheme
 - clarity, directness and conciseness of expression
 - ease of use.
5. *Scrutinise* your drafts at every stage, checking constantly for:
 - ambiguities in syntax, grammar or use of words
 - inconsistency with other legal provisions.
6. Make time for a further consideration of a completed draft and for second thoughts.
7. *Invite* criticism of your draft from yourself and from colleagues.

3.5 What does a drafter need to facilitate the task of writing?

Here are some suggestions as to your physical or practical requirements for the work of legislative drafting. In some countries some may not be attainable. But these suggestions, and the seven practical precepts above, represent best practice.

1	Provide yourself with plenty of space, a large flat desk with a lot of room for your papers, good light and ventilation and, if possible, protection from interruptions.
2	Allow yourself plenty of time; do not leave preparation to the last moment.

3	<p>Have your reference material close to hand - in particular:</p> <ul style="list-style-type: none"> - your Constitution and related documents; - your Interpretation (or General Clauses) Act; - an up-to-date set of the legislation in force in your jurisdiction. (If possible acquire your own set, and keep the volumes up to date by regular and complete annotations); - a good dictionary and thesaurus; - a book on printing styles; - this Drafting Manual or Thornton's drafting Manual;
4	<p>Keep your research notes and the overall design for your draft handy for constant reference. (Research and planning should have been largely completed before the task of composing begins).</p>
5	<p>If you are working on paper, you will need plenty of drafting paper. Do not cram too much on a page; give yourself room on each page for second thoughts, which can be inserted in a legible form. You may find it easier if you:</p> <ul style="list-style-type: none"> - use wide lined paper; - work in double spaced lines; - start each new section on a separate sheet of paper; - draft in pencil; this enables you to make changes by using an eraser.
6	<p>If you are accustomed to working on a computer, you may prefer to use the Drafting Template provided in Appendix 3.</p> <p><i>* It is more likely that each Pacific Parliament has in place its own drafting template. The drafting template in Appendix 3 is an exception and not the norm. It is provided as guidance only and can be altered to fit each Parliament's drafting needs.</i></p> <p>In these cases:</p> <ul style="list-style-type: none"> - ensure that each page of text carries a distinctive directory/file reference (eg in a footer), so that you or others can readily retrieve it from the computer; - be sure to back up your work to a secondary source (eg a memory stick) at the end of each working session, make sure that it carries an appropriate label, and keep the source safely in another place; - do not confine your scrutiny to the text on screen. Print your drafts and check the text from the printed copy. It is easier to overlook flaws on screen; - do not rely exclusively on an electronic spell or grammar check. Always carry out a personal scrutiny too;

	<ul style="list-style-type: none"> - make use of any templates that have been developed to provide standard formats for your legislation; - if the instrument will go directly to the Printer after it leaves your computer, ensure that it complies with the Printer's requirements.
7	Make sure that each page of your draft and each separate provision is appropriately numbered, so that the text can be kept in an order.
8	As points strike you that will require to be attended to at a later stage, make a written note in a notebook or file kept for the purpose, so that the point is not forgotten.
9	If your text is in manuscript, when you are reasonably satisfied with it, word-process it or have it typed. A printed version helps to draw attention to places where improvements can be made. Proof-read the type-script of your final version particularly rigorously for typographical and substantive errors.
10	Keep all your drafts, papers and notes relating to a particular exercise systematically filed in a working folder until it is completed. Number each draft and date all the documents (whether paper or electronic) that you produce. This enables you to recover any of the material promptly, particularly any matter that you may have discarded and later think may be useful.

3.6 Working with the Constitution, Interpretation Act and Standing Orders

3.6.1 Constitution

- (1) Be prepared to work out the constitutional implications of legislative proposals and be on the lookout for any that may not be constitutional. In drafting Bills, you must:
 - (i) work within the constraints imposed by your Constitution; and
 - (ii) take full account of its requirements so that the legislation is not vulnerable to legal challenge.

- (2) Constitutional principles that are important to the drafter –
 - (i) supremacy of the Constitution (if your jurisdiction has an entrenched and supreme Constitution);
 - (ii) restricted powers of constitutional amendment;
 - (iii) separation of powers;
 - (iv) limitation of legislative authority;
 - (v) delegation of legislative power;

- (vi) principles of state policy;
 - (vii) protection of fundamental rights and freedoms.
- (3) In some jurisdictions, members are allowed to propose legislative amendments to the Constitutional instrument itself including the Bill of Rights. If this is the case then you need to be thoroughly knowledgeable about the constitutional requirements for amending the Constitution in your jurisdiction.

You should be familiar with how your courts have developed and applied the principles of constitutional law in your own jurisdiction before you proceed to amend the Constitution. This is because the implications of constitutional or administrative law principles that the proposed amendment may have on your Constitution are developed and enunciated in the decisions of the courts.

- (4) The legislative template for Bills is based upon a standard non-constitutional member's Bill. However, the format of the Bill may need to be altered to reflect the requirements of a Bill for amending the Constitution or the Standing Orders, etc.
- (5) The enacting formula for amendments to the Constitution is normally set out in the Constitution itself or any other legislation. However, in the absence of an enacting formula, here is the format that may be used for a Bill amending the Constitution.

“BE IT ENACTED by the Parliament of Pasifika in session assembled in accordance with the provisions of Article 41(1) of the Constitution of Pasifika and by the authority of the same as follows-.”

3.6.2 Interpretation Act

Your local interpretation legislation is of paramount importance in drafting. The interpretation legislation deals with how legislation is to be construed by your courts. But in many of its features, it has been devised by drafters for drafters.

Its purpose is to cause legislation to be interpreted as intended by the drafter. If the drafter complies with practices authorised by the interpretation legislation, the relevant provisions will be given effect as the interpretation legislation requires. So it offers useful rules about the form, application and presentation of enactments, many of which enable you to produce a text that is easier to use and to draft.

The interpretation legislation facilitates the work of the drafter by-

- (i) providing for the form and application of legislation;
- (ii) creating general rules for the commencement of legislation;
- (iii) prescribing standardised definitions;
- (iv) enabling convenient short-hand expressions to be used;

- (v) supporting a common legislative style;
- (vi) resolving uncertainties in interpretation; and
- (vii) specifying rules of substantive law that are to be implied into legislation.

3.6.3 Standing Orders

It is crucial to consult your Standing Orders about the requirements in relation to drafting of members' Bills. Standing Orders of some Pacific island countries prescribe the "enacting words" that must be used, some require that they be consistent with those used in Government Bills. Be especially vigilant about any requirements in the Standing Orders about drafting amendments to the Constitution or the Bills of Rights or their equivalent in your jurisdiction.

Specifically, refer to other Standing Order for requirements -

- 1) to conform with in relation to a specified type of Bill;
- 2) for separate Title and commencement clauses; and
- 3) for a One Theme clause – otherwise this is an omnibus bill.

3.7 Conventional Structure of a Bill

1. Non-statutory materials	Explanatory Memo/Notes
	Arrangement of sections
2. Introductory Apparatus	Long Title
	Preamble
	Enacting Words
3. Preliminary Provisions	Short Title
	Commencement
	Interpretation
	Objects
	Application
	Duration
	Overview
4. Principal Provisions	Substantive Matter
	Administration
5. General/Miscellaneous	Penal
	Evidence & Process
	Delegated legislation
6. Final Provisions	Amendments
	Repeals
	Savings & Transitional
	Schedule

<i>1. Non-statutory Material in a Bill</i>		
(1)	Explanatory Memorandum/ Note	<ul style="list-style-type: none"> • A statement of the general aims of the Bill and its individual sections, usually for the information of Parliament. Typically not printed with the Act. <p>This is provided by the member who sponsors the Bill. In many Pacific islands, this is drafted by the drafter as well.</p>
(2)	Arrangement of Sections	<ul style="list-style-type: none"> • A table of contents for all users of the Act, made up from the section notes and any headings to Parts.
<i>2. Introductory Apparatus</i>		
(1)	Long Title	<ul style="list-style-type: none"> • A statement of the scope of the Bill and the main ways in which it is intended to have effect. (This feature has been dispensed with in some jurisdictions). • For many Legislatures, a Long Title is an essential feature of Bills. It sets the bounds to the Bill. Amendments “beyond the scope” of the Long Title will be ruled out of order. <p>A number of drafting expressions are in common use for the Long Title. For example: "to provide for [as to] [regarding] [with respect to]"; "to make further [better] provision for"; "to authorise"; "to enable"; "to establish"; "to prohibit"; "to restrict"; "to regulate by".</p>
(2)	Preamble	<ul style="list-style-type: none"> • A recital of the circumstances and reasons leading up to the enactment. • Legislation or Standing Orders may require a preamble to be used for a member’s Bill. A Preamble is a preliminary statement that explains why legislation is needed, in contrast with the long title which states the main legal changes the Bill is to make to fill that need.

		<ul style="list-style-type: none"> • A Preamble may be drafted using any of the following expressions: <ul style="list-style-type: none"> - the first reason prefaced by "Considering that" or "Recognising that" or (more archaically) "Whereas", and those that follow by "and considering that" or "further recognising that" (or "and whereas"); - the last reason stating the conclusion to which the previously stated reasons lead, eg: and recognising that [whereas] it is expedient to [give effect to the Convention on Endangered Species]: . - Draft the reasons in the recital in descriptive terms that clarify the circumstances leading up to the legislation.
(3)	Commencement Date	The date when the Act comes into operation.
(4)	Enacting Words	<p>The formula that shows that the Bill has completed the enactment process.</p> <ul style="list-style-type: none"> • Precise words are required in the Bill to show the authority by which the legislative power is exercised. These are known as "words of enactment", "the enacting formula" or "enacting provisions". <p>For example:</p> <p>“BE IT ENACTED by the King and the Legislative Assembly of Tonga in the Legislature of the Kingdom”, are the enacting words for Bills in Tonga.</p> <p>Enactment words can be found in a number of Pacific islands legislation. Please check if this is the case in your country and follow the exact wording.</p>
<i>3. Preliminary Provisions</i>		
(1)	Short Title	<p>The name or label by which the Act will be known and cited.</p> <p>Naming Titles are found in all Acts (“Short Title”). For example:</p> <p>Short Title</p> <p>1. This Act may be cited as the Firearms Act 2013.</p> <p>In most jurisdictions, the name of a Bill that amends a current Act often mentions the name of the Act to be amended. In most cases,</p>

		<p>the amendment Bill refers to the Act it amends as “Principal Act”.</p> <p>For example,</p> <p>Short Title</p> <p>(1) This Act may be cited as the Firearms (Amendment) Act 2014.</p> <p>(2) This Act refers to the Firearms Act, 2002 as the Principal Act.</p>
(2)	Commencement	<ul style="list-style-type: none"> • A commencement provision is used to prescribe the date when the legislation is to come into force or, if that date is not settled at the time of the drafting of the Bill, the mechanism by which that date is to be fixed. The usual drafting expressions are: <p>The date on which the Act receives the Head of State’s assent, or at the end of a specified period (eg, 30 days) after that date.</p> <ul style="list-style-type: none"> • A <i>Duration</i> provision may be needed if the Bill is temporary, but this is used only rarely.
(3)	Interpretation Clause	<p>A definition is not stating a rule and must not be implied as providing rules of substantive law.</p> <p>All definitions must be placed in alphabetical order in one interpretation provision at the beginning of an Act unless –</p> <ul style="list-style-type: none"> • a separate section is required to define a term due to the complexity of the definition. In this case, a definition must also be inserted in the interpretation section at the beginning of the enactment stating “[defined term] has the meaning given to it in section x”; or • a definition is used only in one provision of the enactment, in which case it should be located in the last subsection of the provision and state “In this section, [defined term] means [insert definition]”; or • there are one or more definitions that are used in only one Part of the enactment. In this case, an interpretation section for that Part may be inserted as the first section in that stating – <p>“In this part, - [defined term] means [insert definition] [defined term] means [insert definition].”</p>

		<p>For the ease of readers, if an enactment uses a word or term that is defined in the Constitution of the Pacific island or in its Interpretation Act, the definition section must contain a definition stating “[defined term] has the meaning given to it by [Article 1 of the Constitution of Pasifika/section 4 of the Interpretation Act 1924]”.</p> <ul style="list-style-type: none"> • Double check to ensure all definitions are necessary and are actually used somewhere in the enactment.
(4)	Object/Purpose Clause	<p>A Purpose, or Objects clause is used to state the policy objectives of the Act and any subsidiary legislation made under it. In drafting a Purpose clause, state the objective in precise and concise terms. State the individual purpose in terms of what is to be achieved, that is, the <i>results</i> that are intended, rather than the means of achieving them.</p> <p>For example: Purpose of this Act 2. (1) The purpose of this Act is to prohibit the drinking of methylated spirits, and for that purpose to strictly control its importation, sale, possession and use.</p>
(5)	Application Clause	<p>Application clauses are most frequently used to apply to a class of persons, a geographic area, type of activity or a time factor:</p> <p><i>(a) Apply (extend or restrict) to persons or things affected</i></p> <p>Legislation is presumed to apply to all persons and all things in the jurisdiction who satisfy the description of the substantive rules. So, if a class in the jurisdiction is to be excluded or any class outside it is to be included, the Bill must say so expressly.</p> <p>You may use modifying words such as “only” or “also”, or “as they apply to [the standard case]”.</p> <p><i>(b) Apply to a geographic area</i></p> <p><i>* The application of a Bill to a specific geographic area is a feature that is unique to a “Local Bill” in New Zealand. A member in New Zealand is allowed to introduce any of the three classes of Bills (“Members’ Bill”, “Local Bill” or “Private Bill”) other than a Government Bill. A “Members’ Bill” deals</i></p>

		<p><i>with general public policy that applies to everyone as a Government Bill does, but is introduced by a member. The classification of the Bill is determined by the scope of its application.</i></p> <p>This is an important aspect in member’s Bills drafting because a member most often drafts a Bill that relates to a certain geographic area he or she is interested in.</p> <p>Legislation is presumed to apply to the entire jurisdiction within the authority of the Legislature. To restrict it to a part of the jurisdiction, requires an express provision. This is done in two ways:</p> <ul style="list-style-type: none"> - confine the Bill to a certain area; or - exclude those areas to which the Bill is not to extend. <p>For example: <i>This Act applies to the Mana Island group. Or This Act does not apply to the main island of Toko in the Mana Island group.</i></p> <p><i>(c) Restrict activity in a specified circumstance</i></p> <p>Legislation is presumed to apply to all acts, omissions and activities in the jurisdiction that satisfy the description in the substantive rules. To <i>exclude</i> an activity or class of activity from the ambit of the Bill, the Bill has to <i>expressly</i> say so. This can be done in two ways by:</p> <ul style="list-style-type: none"> - describing the acts to which the Bill is to apply so that the activity or class of activity is not caught; or - expressly state that the Bill does not apply to the activity or class of activity. <p>For example:</p> <p>Cinematographic Films Act This Act applies in relation to the showing of cinematographic films <i>in places of public entertainment.</i></p> <p>Fisheries (Reservation Areas) Act This Act does not apply to <i>subsistence fishing in traditional community fishing areas.</i></p> <p><i>(d) Applies to time factor</i></p> <p>Bills are usually drafted to cover all cases that arise after the</p>
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		<p>legislation comes into force (ie prospectively). But some provisions may have to apply to cases which began <i>before</i> that time.</p> <p>For example: Commencement 3. This Act comes into force on 21 April 2014.</p> <p>Application of this Act 4. This Act applies in relation to fishing boat licences issued on or after 1 January 2015, regardless of when the application for the licence was made.</p>
(6)	Duration provisions	Imposes some limitation upon the life of the Act.
(7)	Road map clause	Directions to users on how to find their way around the Act.
4. Principal Provisions		
1.	Substantive provisions	The main body of rules relating to the subject matter of the Bill
2.	Administrative provisions	Operational rules in support of the substantive provisions.
5. General/Miscellaneous		
(1)	Penal Provisions	Offences and penalties in support of the principal provisions.
(2)	Evidence & Process	Rule relating to proceedings arising out of the principal provisions.
(3)	Delegation of Legislative powers	Powers to make secondary legislation to supplement principal provisions
6. Final provisions		
<p><i>* You may not need to draft these provisions because Government would most often take over a legislative proposal that could substantively affect its existing policies. On the other hand, you may require the assistance of Government drafters because of the Government administrative issues involved at this stage.</i></p>		
(1)	Amendments and repeals	Alterations to existing law consequent upon the principal provisions.

(2)	Savings & transitional provisions	Temporary provisions made necessary by the alterations to existing law made by the Act.
(3)	Schedules	Annexed provisions that supplement the principal provisions.
	Not all of the final provisions are compulsory. Whether you need to include them in the Bill depends on whether or not the Bill requires that kind of provision.	

3.8 Sections

A section is the building block of an Act. Section heads must give a short, accurate description of the subject matter of the section. This will ensure that the contents page is as useful as possible for readers of legislation.

- One coherent group of ideas per section
- Use narrative style – avoid excessive cross-references
- Preferably no more than 5 subsections
- Avoid going down to subsubparagraphs.

3.8.1 Use narrative style to avoid excessive cross-reference

Use the narrative style in a section to avoid referring to something identified earlier in the section. However, do not use it if it would cause ambiguity.

In the following example, the provision is dealing with only one (1) type of licence. It is safe to assume that the references to an application and an applicant are references to the application referred to in subsection (1).

Therefore you do not need to say “the application under subsection (1) must be...” or “a person who makes an application under subsection (1) who is...”

For example-

Instead of	(1) A person who may apply to the Registrar for a licence to ...
	(2) An application under subsection (1) must be in triplicate...
	(3) A person who applies for a licence under subsection (1) and who is under 16 years must lodge...
	(1) A person who may apply to the Registrar for a licence to...

Use	<p>(2) The application must be in triplicate.</p> <p>(3) An applicant who is under 16 years must lodge a fourth copy of the application...</p>
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3.8.2 Subsections (Sentences)

- Avoid suspense. Get to the main point early. Indicate the topic sentence at the start. Let the reader know early on what the subject matter of the sentence is.
- Avoid using “sandwich” sections or subsubparagraphs ie, a legislative sentence that has a “filling” of paragraphs. They are an unnecessarily complicated sentence structure. They also offend against the principle of getting to the main point early and are therefore difficult for the readers to read and understand.

Example “If –

- (a) a Council has served notice; and
- (b) the time specified in the notice has passed, -
the Council may suspend the licence”.

The above “sandwich” sections can be stated in a simpler format. For example, “A Council may suspend a licence if...”

- Keep sentences short and simple:

Long sentences tax readers and keep them in suspense. Keep the sentences short and the number of ideas in a sentence to a minimum. Having more and shorter subsections is generally preferable to fewer longer ones. However, a mere count of the number of words is not really the point. The general rule in ordinary writing is to keep sentences to 30 words or less.

- Focus on verbs:

In legislation, the verbs of most sentences will:

- prohibit something (must not/ may not)
 - require something (must do)
 - enable something (may do)
 - declare something (this is).
- Combining “must” and “may” with strong verbs will produce direct legislative writing (as opposed to nominalisations).

- The declaratory sentence is widely used in legislation. For example, “All charges incurred by the Public Trust are a first charge on the property of the deceased person” or “This section is subject to section 9”. Declaratory sentences have the effect they say they have, or do the thing they say they do.
- Beware of mistaking a declaratory sentence with a sentence that uses an impersonal construction. Impersonal constructions use an impersonal pronoun (such as “it” or “there”). These constructions should generally be avoided because they fail to clearly identify the legal actor, and are wordy.

For example –

Do Not use	It is the purpose of this Act...
Use	The purpose of this Act is to
Do Not use	There is no need to include in the application....
Use	The application need not include...

- A verb should be in the present tense where possible. For example –

Do Not use	A person who, on the close of the day before the commencement date, held a licence issued under the old Act, will be deemed on the commencement date to hold a licence issued under this Act.
Use	A person who, on the close of the day before the commencement date, holds a licence issued under the old Act is deemed, on the commencement date, to hold a licence issued under this Act.

- Here is an example of a provision that must use a past tense –

“**surviving de facto partner**, in relation to a deceased person, means a person who was living in a de facto relationship, with the deceased person at the time of his death or her death.”.

3.9 Amending a Bill –Role of the Drafter during the legislative process.

- During the discussion of a member’s Bill in Parliament, or in select committees, amendments to the Bill could be expected. In this case, the legislative counsel or the Parliamentary drafter are most often relied upon to incorporate these amendments to the member’s Bill.

- In some jurisdictions, when the Bill is sufficiently popular or addresses some significant issues that are of national interest, Governments may take over the Bill. However, in some cases where substantive amendments are proposed or the public calls for rethinking of some of the features of the Bill, drafting of these proposals will be the responsibility of the original parliamentary drafter or legislative counsel, in consultation with the sponsoring member.
- The drafter may be required to be in attendance when the Bill is being debated especially at the Committee and Report stages, in order to tender advice on amendments or issues raised. In some jurisdictions, attendance is routine whenever the Bill is before the Legislature.

3.9.1 Style Guide for Amending of Members' Bills

- In some jurisdictions, the amendments to Bills are set out on Supplementary Order Papers (SOPs).
- The following style guides for amending Bills that are already in the legislative process may be used for SOPs, or in any other instrument that are used for this purpose. Generally, follow the same style as for drafting amendment Bills, except that lines and page numbers are inserted, and clauses of the Bill are deleted not repealed.

<u>Instead of</u>	<u>Use</u>
<i>Clause 4</i> To omit this clause (lines 7 to 11 on page 3)	<i>Clause 4</i> Delete <i>Clause 4</i> (line 7 to 11 on page 3).
<i>Clause 6</i> <i>Paragraph (b)</i> of the definition of dog in <i>subclause (1)</i> : to omit this paragraph (lines 27 to 29 on page 4)	<i>Clause 6</i> In <i>clause 6(1)</i> , definition of dog , delete <i>paragraph (b)</i> (lines 27 to 29 on page 4)
<i>Subclause (2)</i> : to omit this subclause (lines 12 to 17 on page 5) and substitute the following subclause:	Replace <i>clause 6(2)</i> 9lines 12 to 17 on page 5) with:
<i>New clause 6A</i> To insert the following clause after <i>clause 6</i> (after line 17 on page 5):	<i>New clause 6A</i> After <i>clause 6</i> (after line 17 on page 5), insert:
<i>Clause 8: new section 50</i> <i>Subsection (3)(a)(ii)</i> :to omit “or 1 January” (line 5 on page 7) and substitute “or 1 March”.	<i>Clause 8, new section 50.</i> In <i>clause 8, new section 50(3)(a)(ii)</i> , replace “or 1 January” (line 5 on page 7) with “or 1 March”.

<p><i>Clause 9</i> To add the following subclause 9 after line 21 on page 8):</p>	<p><i>Clause 9</i> After <i>clause 9(4)</i> (after line 21 on page 8), insert:</p>
<p><i>Clause 10: new section 56A(3)</i> To insert the following paragraph after <i>paragraph (b)</i> (after line 30 on page 8):</p>	<p><i>Clause 10: new section 56A</i> In <i>clause 10, new section 56A(3)</i>, after <i>paragraph (b)</i> (line 30 on page 8), insert:</p>

PART 4 AMENDMENT BILLS

The purpose of a great number of members' Bills is to amend existing legislation. Your own country may have its own amendment Bill drafting style. If not, then the following is a good guide to follow. Set out below are some of the legislative expressions that are used for amending an existing law. The column on the left uses more complicated expressions and invariably the passive voice, while the expressions in the column on the right are preferred because they are succinct and comply with clear drafting principles.

4. 1 Style Guide to Drafting Amendment Bills

<u>Instead of</u>	<u>Use</u>
Section 41 is repealed	Repeal section 41
Section 41 is amended by inserting the following definition in its appropriate alphabetical order:	In clause 4(1), insert in its appropriate alphabetical order:
Cite locator references from the largest element to the smallest, and keep each one complete (ie, do not rely on the heading).	
<u>Instead of</u>	<u>Use</u>
The item relating to dogs in Part 3 of Schedule 2 is amended by inserting "or rabbits" after "cats".	In Schedule 2, Part 3, item relating to dogs, after "cats", insert "or rabbits".
Paragraph (a) of the definition of wombat in section 2(1) is amended by omitting "from Tasmania".	In section 2(1), definition of wombat , paragraph (a), delete "from Tasmania".
Paragraph (a) of the definition of wombat in subsection (1): repeal.	In section 2(1), definition of wombat , repeal paragraph (a).
Use delete instead of omit	
<u>Instead of</u>	<u>Use</u>
Section 17(2) is amended by omitting "or dog".	In section 17(2), delete "or dog".
Use delete only for text within quote marks, and use repeal or revoke for text that does not need to be quoted.	
<u>Instead of</u>	<u>Use</u>
Section 17(2) is amended by omitting "or dog".	In section 17(2), delete "or dog".
The item relating to Australia in Schedule 2 is	In Schedule 2, repeal the item relating to

amended by omitting note 6.	Australia.
Form 7 in Schedule 2 is amended by omitting note 6.	In Schedule 2, form 7, revoke note 6.
Use replace instead of substitute	
<i>Instead of</i>	<i>Use</i>
Section 13 is repealed and the following section substituted:	Replace section 13 with:
Section 4(1) is amended by repealing the definition of animal and substituting the following definition:	In section 13(4), replace the definition of animal with:
Section 13(4) is amended by omitting “dogs and cats” and substituting “fish and birds”.	In section 13(4), replace “dogs and cats” with “fish and birds”.
Do not use the following to precede new whole elements	
<i>Instead of</i>	<i>Use</i>
Section 12 is amended by inserting the following subsection after subsection (2):	After section 12(2), insert:
Section 12 is amended by repealing subsection (2) and substituting the following subsection:	Replace section 12(2) with:
Use insert only (not add)	
<i>Instead of</i>	<i>Use</i>
Section 12 is amended by inserting the following subsection after subsection (2):	After section 12(2), insert:
Section 12 is amended by adding the following subsection:	After section 12(5) insert:
Section 17(2) is amended by adding the following paragraph:	After section 17(2)(c), insert:
Principal Act clause - In the Principal Act clause, remove amended from the heading and define the Principal Act.	
<i>Instead of</i>	<i>Use</i>
Principal Act amended This Act amends the XYZ Act 2010	Principal Act This Act amends the XYZ Act 2010 (the Principal Act).
Heading to provision amending single provision Cite the number of the relevant provision, state that it is amended, then include (in brackets) the heading to the provision being amended	

<i>Instead of</i>	<i>Use</i>
Written caution to person holding interest in motor vehicle	Section 95 amended (Written caution to person holding interest in motor vehicle)
Offence	Section 5 amended (Offence)
<p>Heading to provision repealing or revoking whole provisions When repealing or revoking whole provisions, cite the number(s) of the provision(s) being repealed or revoked and state that they are being repealed or revoked. If only one (1) provision is repealed or revoked, include the heading of that provision (in brackets).</p>	
<i>Instead of</i>	<i>Use</i>
Section 94 repealed	Section 94 repealed (Issue of warrant)
Sections 94 to 96 repealed	Sections 94 to 96 repealed
<p>Heading to provision replacing whole provisions – when replacing whole provisions, cite the number(s) of the existing provision(s) being replaced (not of the new provisions as in the current style) and state that they are replaced. If only one (1) provision is being replaced, include the heading of the existing provision (in brackets).</p>	
<i>Instead of</i>	<i>Use</i>
New section 99 substituted	Section 99 replaced (Review of written caution)
New sections 99 and 100 substituted	Section 99s and 100 replaced
New sections 99 and 99A substituted	Section 99 replaced (Review of written caution)
<p>Heading to provision inserting whole provisions – when inserting whole provisions, cite the number(s) of the new provision(s) being inserted and state that they are being inserted. If only one (1) provision is being inserted, include the heading of the new provision (in brackets).</p>	
<i>Instead of</i>	<i>Use</i>
New section 101A inserted	New section 101A inserted (Reminder notices)
New sections 101A to 101D inserted	New sections 101A to 101D inserted

4. 2 Headings to Amending Provisions

Headings to amending provisions state:

- the number(s) of the provision(s) being amended, then
- the action being performed (amended, repealed, revoked, inserted or replaced), then
- if only one (1) provision is being amended, repealed, revoked, inserted, or replaced, the heading of the provision (in brackets).

For example:

Section 94 amended (Issue of warrant)

However, the heading of the provision or element being amended is not included when repealing, revoking, inserting or replacing:

- more than one (1) provision
- a Part or subpart
- a schedule
- a form.

Follow the examples in the Table below:

Provision amended	Section 94 amended (Issue of warrant)
Provision(s) repealed or revoked	Section 94 repealed (Issue of warrant)
Provision(s) inserted	New section 101A inserted (Cat licences)
	New sections 101A to 101D inserted
Provision(s) replaced	Section 99 replaced (Review of written caution) (Note: when replacing provisions, the references are to the existing provisions, not the new provisions that replace them)
Whole Part	Part 3 repealed
	Part 2 revoked
	New Parts 3A to 3C inserted
	Part 3 replaced
Whole subpart	Subparts 2 and 3 of Part 2 repealed
	Subparts 2 and 2A of Part 3 revoked
	New subpart 3A of Part 3 inserted
	Subpart 4 of Part 3 replaced
Schedule	Schedule 2 amended
	Schedule 4 repealed
	New Schedules 3A and 3B inserted
	Schedules 6 and 7 replaced

Form	Schedule 1, form 3 amended
	Schedule 1, form 7 revoked
	New Schedule 1, forms 3 to 6 replaced
Part heading	Part 2 heading amended
	Part 2 heading repealed
	Part 2 heading revoked
	New Part 4 heading inserted
	Part 2 heading replaced

Subpart heading	Subpart 3 heading in Part 2 amended
	Subpart 3 heading in Part 2 repealed
	Subpart 3 heading in Part 2 revoked
	Subpart 3 heading in Part 2 replaced

PART 5 CLEAR DRAFTING

5.1 Guidelines to clear drafting

All legislation should be drafted in plain English. The aim in drafting legislation is to communicate clearly, simply and effectively, not to make it sound fancy or legalistic. Therefore, use short, simple and direct sentences. Always use everyday words rather than fancy or archaic ones. Countries may use the spelling convention appropriate in their jurisdictions. However, when drafting in English, it is preferable to use the correct English (UK) spelling.

5.2 Gender neutral language

All legislation should be drafted using gender neutral words and in a gender neutral manner unless the subject matter requires otherwise (for example, when the law applies to only one gender).

5.3 Words to avoid using

The words “shall” and “will” should not be used. Instead, use one of the following words, as appropriate:

- “must” – if it is mandatory;
- “may”- if it is permissive;
- “is”- if it is declaratory; or nothing at all, if no word is needed.
- avoid using “notwithstanding”. Instead, use “despite”.
- Latin words must be avoided. Instead, use the English equivalent.
- Avoid using “and/or”. Instead, use “and” or “or” or an alternative like “one or more of the following”.
- Be precise in the language you use so that the meaning is clear.

5.4 Put yourself in the reader’s shoes

As a general rule, put yourself in the reader’s shoes. Ask yourself what readers need to know to help them understand.

Headings	<ul style="list-style-type: none">• Summarise if possible, otherwise indicate specific topic <i>Eg, “Minister’s power” does not tell the reader much. “Minister’s powers concerning licences” is much more specific and useful.</i>
	<ul style="list-style-type: none">• Keep brief <i>Headings should not go over one line. Preferably omit all articles, eg, “the” and “a”, except in “Act binds the Crown”.</i>
	<ul style="list-style-type: none">• Draft with an eye to use in contents <i>Design your heading with the purpose that it should be read together with other parts of the Bill in the content page as if in a summary.</i>
	<ul style="list-style-type: none">• Use headings liberally

	<i>If you use cross-headings within a Part, beware that every section in the Part must live under an appropriate cross-heading.</i>
Sections	<ul style="list-style-type: none"> • One coherent group of ideas per section <p><i>Each sentence (subsection) in a section should relate to the main theme of the section. The main theme should come first in subsection (1). The heading must indicate the subject matter of the section.</i></p> <ul style="list-style-type: none"> • Use narrative style – avoid excessive cross-referencing <p><i>The narrative style rule applies so that when a person or thing is mentioned in a paragraph readers will assume that a later reference to the same thing is a reference to the one mentioned before. Avoid using cross-referencing to refer to something identified earlier in the section, unless it would be to avoid ambiguity.</i></p> <ul style="list-style-type: none"> • Preferably no more than five subsections <p><i>If there are more than five subsections in a section, see if you can split the section.</i></p> <ul style="list-style-type: none"> • Avoid going down to subsubparagraphs <p><i>A sentence structure that requires you to use subsubparagraphs is probably too complex. Try turning the subsection into a section.</i></p>
Sentences	<p>Get to the main point (from reader’s point of view) early</p> <p>Keep sentences short and simple –</p> <ul style="list-style-type: none"> • Focus on verbs <ul style="list-style-type: none"> - <i>Prohibit something (must not/may not);</i> - <i>Require something (must do);</i> - <i>Enable something (may do);</i> - <i>Declare something (this is)</i> - <i>Verbs should be in the present tense where possible. For example “A person, who on the close of the day before the commencement date, holds (not held) a licence issued under the old Act is (not will be) deemed, on the commencement date, to hold a licence issued under this Act”.</i> • Avoid nominalisations. <p><i>Use:</i></p> <ul style="list-style-type: none"> - <i>“to apply” not “to make an application”;</i> - <i>“to comply” not “to ensure compliance”;</i> - <i>“to deliver” not “to effect/make delivery”;</i> - <i>“to hear” not “to conduct a hearing”;</i> - <i>“to discover” not “to make a discovery”;</i> - <i>“to consult” not “to undertake consultation”.</i> <ul style="list-style-type: none"> • Avoid passive constructions unless they are necessary to convey the

desired meaning

Use: “The Minister may appoint 9 persons to be members of the Advisory Committee” **not** “Up to 9 persons may be appointed by the Minister to be members of the Advisory Committee”.

Passive voice may be perfectly acceptable at other times.

For example:

- “Applications must be in writing”;
- “A new co-op may accept a supply for milk that is the subject of an application...”.

- Keep the subject and predicate close

Use:

“The Minister may issue a licence to the applicant if the Minister is satisfied that the applicant has sufficient funds.”

Not:

“The Minister may, if satisfied that the applicant has sufficient funds, issue a licence to the applicant”.

- Punctuate effectively
 - punctuate sparingly and with purpose;
 - punctuate for structure and not for sound;
 - use conventional punctuation;
 - punctuate consistently;
 - avoid using bullet points in legislation as they create difficulty for cross-referencing.

Words

- Use the simplest word that conveys the meaning

Where possible, use simple and familiar words unless they do not accurately express the intended meaning. The following is a list of words that can be replaced by the plainer equivalents shown:

Fancy	Plain	Fancy	Plain
appoint	decide/fix	assist	help
attempt	try	balance	rest
confer	give	data	information
deceased	dead	effected	made/done
endeavour	try	expiration	end
facilitate	help	furnish	give/state/show
grant	give	permit	let/allow
location	place	mitigate	lessen
obtain	get	permit	let/allow
prior	earlier	prior to	before
purchase	buy	quantum	amount
request	ask	retain	keep
subsequent	later	subsequent to	after
substitute	replace	sufficient	enough

- Eliminate unnecessary words

An obvious way to shorten sentences is by eliminating redundant words. Some phrases that have traditionally been used in legislation can be replaced by single words or shorter phrases.

Tradition	Suggested equivalents
As to whether	Whether
By reason of	Because
If there are any conditions that do not comply	If any conditions do not comply
In lieu of	Instead of
In like manner as	As/in the same way
In relation to/in respect of	For/to/about/concerning
In the event that	If
Is allowed to/ is permitted to	May
Is void and of no effect/ does not have any force or effect	Has no effect
Meets the requirements of	Complies with
Otherwise than	Except
Pursuant to	Under/in accordance with
Take such steps as are appropriate	Take appropriate steps
With the permission of the Minister	With the Minister's permission

- Do not use archaic language

Archaic language should be avoided in legislative drafting. They include –

Archaic words and phrases	
Abovementioned	Hitherto
Aforesaid	Hereto
Hereinafter	Wherewithal
Beforementioned	Save that
Foregoing	Thereafter
Hereafter	Thereby
Herein	Therefrom
Hereinafter	Whatever
Hereinbefore	Whatsoever
Hereto	Whomsoever

- Always use gender-neutral language

Here are a number of techniques for converting gender-specific language into gender-neutral language.

	Technique	Gender-specific version	Gender-neutral version
	Omit the pronoun	A member of the Tribunal may resign his office.	A member of the Tribunal may resign office.
	Repeat the noun	A member of the Tribunal may resign his office.	A member of the Tribunal may resign the member's office.
	Use masculine and feminine pronouns	A member of the Tribunal may resign his office.	A member of the Tribunal may resign his or her office.
	Recast the sentence into the plural	A member of the Tribunal may resign his office.	Members of the Tribunal may resign their office.
	Convert the noun to a verb form	The Commissioner may give his consent...	The Commissioner may consent
	Use a relative clause	Where a mortgagee exercises a power of sale, he must not...	A mortgagee who exercises a power to sell mortgaged property must not...
	Use a passive construction	The Registrar must advise the applicant of his decision	The applicant must be advised of the Registrar's decision.
	<p>-Avoid terms for occupations or activities that are gender-specific. Use "chairperson" instead of "chairman".</p> <p>-If you are amending legislation that contains gender-specific language, draft the amendment using gender-neutral language as if you were starting from scratch. Don not amend the existing gender-specific language unless it can be done within the confines of the amendment.</p>		
	<ul style="list-style-type: none"> • Define terms in a way that is truthful and helpful to the reader <p><i>A defined word must be:</i></p> <ul style="list-style-type: none"> - intuitive (it should of itself convey some indication of its meaning); - accurate (the meaning that it conveys of itself should not be misleading); <p>and</p> <ul style="list-style-type: none"> - obvious (its form and use should suggest that it is a defined term). <p><u>NOT intuitive</u> "Mode B means an appropriation for the costs to be incurred by a department or Office of Parliament in the supply of a specified class of outputs.";</p>		

	<p><u>Inaccurate (euphemism)</u> “<i>Special education means education for children who, because of physical or mental handicap or of some educational difficulty, require educational treatment beyond that normally obtained in an ordinary class in a school providing primary, secondary, or continuing education.</i>”</p> <p><u>Inaccurate (misleading as to the extent of category)</u> “<i>Horse means any horse, mare, gelding, colt, filly, or foal; and includes an ass, hinney, or mule, or the carcass of any of them.</i>”</p>
General	<ul style="list-style-type: none"> • Be consistent <ul style="list-style-type: none"> - Use words and forms consistently within a piece of legislation. For example, if a licence is ”granted”, do not later refer to it as being “issued”; - If you create a number of offences, use the same formulation for all of them, if possible. • Use a positive statement unless a negative one is better <ul style="list-style-type: none"> - Affirmative statements are usually more direct and straightforward than negative statements. Multiple negatives should only be used if there is no other way of expressing the provision.
Problematic Words	<ul style="list-style-type: none"> • “all”, “each” and “every” These words are often used where they would be better omitted or replaced by “a”, “an”, or “the”. <p>Use “<i>An elected member holds office for 3 years</i>” not “<i>All elected members hold office for 3 years</i>”.</p> <ul style="list-style-type: none"> • “and”, “or”. The use of “and” and “or” in these sentences is correct. <p>“Animal means dogs, cows and pigs”.</p> <p>“Animal means dogs, cows or pigs”.</p> <p>Examples of extra words you could use to clarify the meaning of an “and” or an “or” –</p> <p><i>Either A or B or both.</i></p> <p><i>Either A or B but not both.</i></p> <p><i>Any one of the following: A:B:C.</i></p> <p><i>Any one or more of the following: A:B:C.</i></p> <p><i>Each of the following, together or separately: A:B:C.</i></p> <p><i>All of the following together but not individually: A:B:C.</i></p>

- “Any”

Avoid using “any” in an ambiguous situation where it might be carrying the same meaning as “every”.

Do not use, for example “*The Minister must consult **any** organisation that appears to the Minister to represent a substantial number of citrus growers*”.

- At, on, with, by, between, before, after, from, or within (a period)

Check with the Interpretation Act of your jurisdiction for rules for interpreting various terms in relation to periods of time. However, here is some general guidance on their use.

- In many cases, it is better to define exactly the period concerned. For example, a period may be expressed to begin ON or WITH a specific day and to end ON or WITH (the close of) another day;
- When fixing the beginning of a period, it is better to use AFTER instead of FROM. For example, say that a period begins AFTER a specified day, rather than FROM the specified day. This is because FROM is often used in everyday speech to include the specified day.
- It is better to state that an enactment comes into force ON a particular day rather than that it comes into force FROM a particular day;
- If you use “WITHIN” to fix a period, it is usually clearer to fix the beginning of the period exactly. When doing so, do not use “WITHIN x days OF” a specified day, since it may not be clear whether the specified day is to be included or excluded in calculating the period. You can instead say “WITHIN x days AFTER” the specified day to exclude it or “WITHIN x days beginning WITH” or “WITHIN x days beginning ON” the specified day to include it.

- Being, Not being

Do not use “being” and “not being” to join relative clauses.

Use “*A person who is 70 years or over and has a driver’s licence.*” **Not** “*A person who is 70 years or over, **being** a person who has a driver’s licence.*”.

- Comprise, Compose

A whole comprises the parts of which it is constituted, but the parts do not comprise a whole. Thus, the Kingdom of Tonga comprises five island groups. It is not correct to say that five island groups comprise the Kingdom of Tonga.

- Country

Sometimes there is confusion as to whether we should refer to “countries” or “states”. The proper word at international law is usually “state”.

- Deem

As a rule, use “deem” only to create a legal fiction. Even then, it should be avoided if there is a sensible alternative way of achieving the same result. For example, “deem” is often appropriate in validation provisions because of the need to convey the notion that illegal action has been made lawful, but that it was initially illegal (otherwise people might take it as a sign that Parliament has condoned the illegal action and that they can do it again!).

To create a legal fiction without using “deem” may be along the following line –

***For example** - “To avoid doubt, it is declared that every consent to which this section applies is, and always has been, as valid and effectual as if the power to give it had been lawfully delegated to the officer who purported to give it.”*

Never use “deem” if it bears the meaning of “think” or “consider”. In the following example, the use of “deem” is NOT appropriate.

***DO NOT USE** - “Nothing in this Act shall be **deemed** to affect a right to compensation under any other law.”*

***USE** – “Nothing in this Act affects a right to compensation under any other law.”*

- Except, Unless

If a provision is expressed to apply “except” in specified circumstances or “unless” something happens, consider whether there is provision for the consequences if that circumstance does occur or that something else does happen, that is, when the provision no longer applies. A complementary

provision may be necessary, as supplied in the following example:

A mortgagee who exercises a power to sell mortgaged property must not become the purchaser of the mortgaged property except, -

- (a) in accordance with section 166, at a sale of land or goods through the Registrar; or*
- (b) in accordance with an order of a court made under section 168.*

- Existing

This word requires an unambiguous reference to a fixed point in time. A definition may be desirable.

- Less Than, More Than

To provide for “less than x” and “more than x” has the effect of excluding x itself and leaving it unprovided for. Use “not exceeding/exceeding” or “less than/at least” instead. “Above/below” and “over/under” should be similarly avoided.

- May, Must, or Shall

- “**May**” should be used where a power, permission, benefit, or privilege given to some person may, but need not, be exercised, ie, exercise is discretionary. For example –

The District Court Judge may impose any other conditions on the person’s release that the Judge considers necessary.

- “**Must**” should be used where a duty is imposed that must be performed. For example -

Before questioning a person who is entitled to the question safeguards, a police officer must enquire whether the person wishes to consult a lawyer.

- “**Shall**” and “**Must**” are often used unnecessarily in declarative expressions in an attempt to capture a sense of authority and obligation. In this situation, the present tense is often more appropriate.

For example –

Use	Instead of
A parent <i>is</i> entitled to appear	A parent <i>shall be</i> entitled to appear

It <i>is</i> lawful	It <i>shall be</i> lawful
Only a person who is a resident <i>is</i> eligible; <p style="text-align: center;">Or</p> A person <i>is</i> eligible only if resident.	A person <i>must</i> be a resident to be eligible.
No person <i>may</i> do x, y, and z	No person <i>shall</i> do x, y, and z

- Month or Year

Again, please consult your Interpretation Act for the meaning of "month" and "year" in your jurisdiction.

These are some useful guidelines. The meaning of "month" can pose problems of interpretation, generally connected with the precise terminating point of the months specified by the enactment. At common law, "a calendar month ends at midnight on the day in the ensuing month immediately preceding the day numerically corresponding to the commencing day".³

It may be possible to resolve doubt with the provision along the following lines:

USE – "This Act comes into force on the day immediately after the expiry of the period of 3 months that commences on the day on which this Act receives Royal assent".

Effectively, if the Act receives Royal assent on 14 February, the 3 month period will start on that day and expires at midnight 13 May. The Act will be in force by 14 May.

- Notwithstanding, Subject to

- "**Subject to**" should never be used when the intended meaning is "in accordance with". These phrases do not have the same meaning. The first denotes a conditional relationship and the second, compliance.

DO NOT being sentences with "Subject to" or "Except as provided". Put the qualifier in a separate section or subsection. For example, -

USE - "Subsection (1) is subject to subsection (3)...";

³ *Police v Maindonald* 1971 NZLR 417, applying *Migotti v Colvill* (1879) 4 CPD 233; *Dodds v Walker* 1981 2 All ER 609.

	<ul style="list-style-type: none"> - <i>“Subsection (1) is subject to section 14 of the Supreme Court Act 2003 ...”</i>; or - <i>“However, subsection (1) does not apply if subsection (3) applies”</i>. <p>- “Notwithstanding anything in this Act...” is a formula quite often used in New Zealand statutes.</p> <p>Similar formulas are –</p> <p><i>“Except as provided in this Part...”</i>; or</p> <p><i>“This Part of the Act shall apply notwithstanding anything in any other Part of this Act...”</i>.</p> <p>However, these formulas create some difficulties relating to the uncertainty of application, incomplete communication of the legal effect of the provision or the possibility of a broader application than that intended. So, the use of affirmative rather than negative statements, and specific identification of the affected provisions is preferred.</p> <p>For example – <i>“Payment must be made within 21 days, except in the circumstances described in subsection (1).” OR “Part 3 of the Land Transfer Act 1952 prevails over sections 10 to 15 of this Act when...”</i>.</p>
	<ul style="list-style-type: none"> • Where, If <p>“Where” is commonly used to suggest a place. It also refers to situations or sets of circumstances, which may be actual or hypothetical. For example:</p> <p>Use “where” or “if” – <i>The complainant is not required to state his or her address or occupation in courts, except where (or if) leave is given under paragraph (c).</i></p> <p>Use “if” rather than “where” to introduce a conditional clause. For example: <i>This section applies if the conviction subsisted when the statement in question was made.</i></p> <p>Avoid using “Where” and “If” at the beginning of sections and subsections.</p> <ul style="list-style-type: none"> • Which, That

	<p>In non-defining relative clauses, with commas, use “which”.</p> <p>Use – <i>“The recommendations that were put forward have been accepted.”</i>.</p> <ul style="list-style-type: none"> - “that were put forward” = defining relative clause - “which” = relative pronoun, “that” functions as a pronoun/subject <p>Use – <i>“The recommendations, which were finished only yesterday, have been accepted.”</i></p> <ul style="list-style-type: none"> - “that were finished only yesterday” = non-defining relative clause - “which” = relative pronoun. <p>The defining relative clause defines the recommendations that we are talking about. The non-defining relative clause does not define the kind of recommendations we are talking about. This is indicated by the commas and the use of “which”.</p>
	<ul style="list-style-type: none"> • Whose, of Which <p>Although “whose” refers to persons, it may be used for objects to avoid awkward constructions requiring “of which”.</p> <p>For example – <i>Leonard vanilla, whose seedlings were supplied by Tefisi Vava’u, has grown vigorously in silt loam.</i></p>
	<ul style="list-style-type: none"> • Have Regard To, Take Account of <p>It is advisable to regard the phrase “take into account” as imposing a stricter requirement than “have regard to”.</p> <p>We generally use “take into account” if the intention is to require the decision-maker to address each matter and give it some weight. We generally use “have regard to” if the intention is to require the decision-maker to consider each matter and to allow the decision-maker to disregard any matter that the decision-maker considers irrelevant.</p>

PART 6 STYLE AND TEMPLATE

Each of the Pacific Island Parliaments where members' Bills are allowed may have its own drafting templates. For consistency of form, some Pacific Parliaments use the same drafting template as that used by the Government for Government Bills.

A drafting template is provided in this Manual in Microsoft Word 2013 to assist drafters. This online version will be made available to the offices of the Clerk in each jurisdiction. Please contact your parliament office for an updated version of this template.

****Refer to the Members Bills Drafting Template for Pacific Island Parliaments (Appendix 3)***

Click this link for the online working template. Follow the instructions below.

6.1 Using the Drafting Template - General

The layout of the Member's Bill Drafting Template includes –

- a number of sections that most Bills are likely to require (and Schedules which are not likely to be required in most members Bills);
- Part 2, which demonstrates the various levels that may be used in a Bill and their correct names and formatting;
- Part 3, which demonstrates the style and formatting conventions for an amending Bill; and
- an administrative information block located (which is always located at the very end of a Bill after any schedules that may be required).

The steps you need to take to use the template differ slightly depending upon whether you are using Microsoft 2010, 2007 or 2003 on your computer. Instructions for each of these are set out below, and are the same for both the written and online templates.

6.1.1 Enabling macros

Depending upon the security settings on your computer, you may need to enable the macros when you open the template or a document created by using the template. If you need to do this, it will be apparent to you because a yellow banner, a grey box, or something similar will appear on the page when you open the template or document saying something like "Security Warning. Macros have been disabled".

Regardless of the actual wording of this warning, click on "Enable Content". This will enable the macros in the template or document to function.

This applies regardless of whether you are using Microsoft 2010, 2007, or 2003.

6.1.2 Save as a new document

When you use a template to draft an enactment and save changes for the first time, you will be prompted to “Save As” to a new document. The template does not change.

6.1.3 Bringing up style menu

All of the drafting formats that can be used for drafting a member’s Bill are set out in a style menu from which you can select the format you want to use. You will need to bring up the style menu the first time you create a document using the template. However, the style menu should open automatically each time you open the document after that.

6.1.4 Microsoft Word 2010

If you use Microsoft Word 2010, access the style menu as follows-

- click on the “Home” tab in the top row of the main Toolbar;
- in the “Styles” area of the Toolbar, click on the bottom down-arrow to the left of the words “Change Styles”;
- click on “Apply Styles”;
- in the “Apply Styles” box that appears, click on the “AA” button;
- the template’s style menu will appear;
- close the “Apply Styles” box.

Alternatively, use the right click button of your mouse as follows –

- right click anywhere in the template;
- in the box that appears, click on “Styles”;
- in the second box that appears, click on “Apply Styles” (you can shortcut these first three steps by pressing Ctrl+Shift+S on your keyboard all at the same time);
- in the “Apply Styles” box that appears, Click on the “AA” button;
- the template’s style menu will appear;
- close the “Apply Styles” box.

6.1.5 Selecting and using drafting formats from style menu

Once you have brought up the style menu, you can select the particular format you want to draft in. To do this –

- place your cursor wherever you want to be in the document;
- press “Enter” so that you are on a new line;
- click on the format that you want from the style menu;
- start typing. The words will appear in the format that you have selected.

For example, if you want to insert a section heading, click your cursor in the appropriate place, press “Enter” so that you are on a new line, then click on “section heading” in the menu. When you start typing, it will automatically appear in the section heading format.

If you have drafted in a format that you subsequently want to change, place your cursor within the relevant text then click on the different format that you want to use from the style menu.

There is a shortcut built into the template. Each time you press “Enter”, the template will automatically select the format that you are most likely to require next. If this is the correct format, then you can simply start typing after you have pressed “Enter” and there is no need to choose the next format yourself.

For example, if you have just created a Part number and you then press “Enter”, the template will automatically select the Part title format for you because a Part title always comes after a Part number. If you press “Enter” after a Part title, the template will automatically select the section heading format for you because the format that you are most likely to require after a Part title is a section heading. And so on.

6.1.6 Using the style menu for drafting amendments to Bills

You must use the amendment drafting formats from the style menu when drafting an amendment provision that is to be inserted into another enactment. This is to ensure that the table of contents and the numbering of the enactment that you are drafting are unaffected by the amendment provision.

If you are drafting an amendment section, use the “Amdt section heading” format. The section will then auto-number an amending format.

If you are drafting a stand-alone provision that is less than an amendment section (for example, a subsection, a paragraph, and so on), use the “Amdt orphan subsection/para/subpara” format. Auto numbering does not operate in this amending format.

Part 3 of the legislative template demonstrates the use of the amendment drafting formats from the style menu.

6.1.7 “Clean pasting” – copying and inserting material from other documents

If you copy material from another document and insert it into the Bill you are drafting, there is a strong likelihood you will also insert the formatting from the other document. This may result in the formatting in your draft enactment going wrong. To avoid this, it is important that you always “clean paste” material from other documents into the enactment you are drafting.

If you accidentally insert material without clean pasting it, it is best to undo that action and reinsert the material using clean paste.

Microsoft Word 2010 and Microsoft 2007

If you are using Microsoft 2010 or Microsoft 2007, you can clean paste material from another document by doing the following –

- copy the material you want to insert into the template in the usual way (eg, by highlighting the text with your mouse and then pressing Ctrl + C on your keyboard at the same time);
- place your cursor in the template in the place where you want to insert the copied material;
- if you are not already in it, click on the “Home” tab in the top row of the main Toolbar;
- click on the down-arrow under the “Paste” button in the “Clipboard” area of the Toolbar;
- in the “Paste options” box that appears, click on the button that contains the capital “A”;
- the copied material will automatically be inserted. Any formatting rules that were in the copied material will have been removed;
- apply the appropriate template formatting to the pasted text.

6.1.8 Table of Contents

The Table of Contents has been created so that it will automatically update.

6.1.9 Schedules

To create a schedule, take the following steps –

- place your cursor wherever you want the document;
- press “Enter” so that you are on a new line;
- insert a page break by pressing Ctrl+Enter on your keyboard at the same time, or by clicking on the “Insert” tab, then in the “Pages” box click “Page Break”;
- In the Style menu, choose ‘Schedule number’. Insert the Schedule number, then press “Enter”;
- In the Style menu, choose “Schedule heading”, then press “Enter”.
- In the Style menu, choose “Numbered Schedule Section” or “Unnumbered Schedule section” as appropriate then press “Enter”.

6.1.10 Section, Part and Schedule numbering

Section numbering automatically updates when you insert a new section. This also happens for subsections, paragraphs, and so on within a section (although if you are using the “Single subsection” formatting, the formatting of the first subsection will need to be changed to “numbered subsection”);

The numbering for Parts and schedules does not automatically update. You need to number each Part and schedule sequentially yourself.

6.1.11 Version Tracking

A function has been inserted in the template to keep track of versions. You can see on the top right hand corner of the first page. When you draft a Bill, you should insert your name in the “Drafted by” line.

When you save the Bill and close it, the ‘Last edited by’ and ‘Last Save time’ lines will automatically update. You do not need to fill in this information. The template sources it directly from the computer you are using.

If you want to retain a particular version of an enactment, you need to save it as a different document in the usual way by pressing “File” then “Save As” and completing the usual process of naming and choosing where to save the document before pressing “Save”.

.....

APPENDICES

APPENDIX 1

MEMBER'S BILL PROPOSAL AND INSTRUCTIONS

Date	
Member's Name	
Portfolio	
Advisor	
Contact person for the Bill	

Name of Proposed Bill
List the <u>Results</u> that the proposed Bill intends to achieve

Factors to be considered	
Alignment with key priorities	
Popularity/Resonance with public	
Likelihood of passing 1 st Reading	
Likelihood of Bill being taken over by Government	

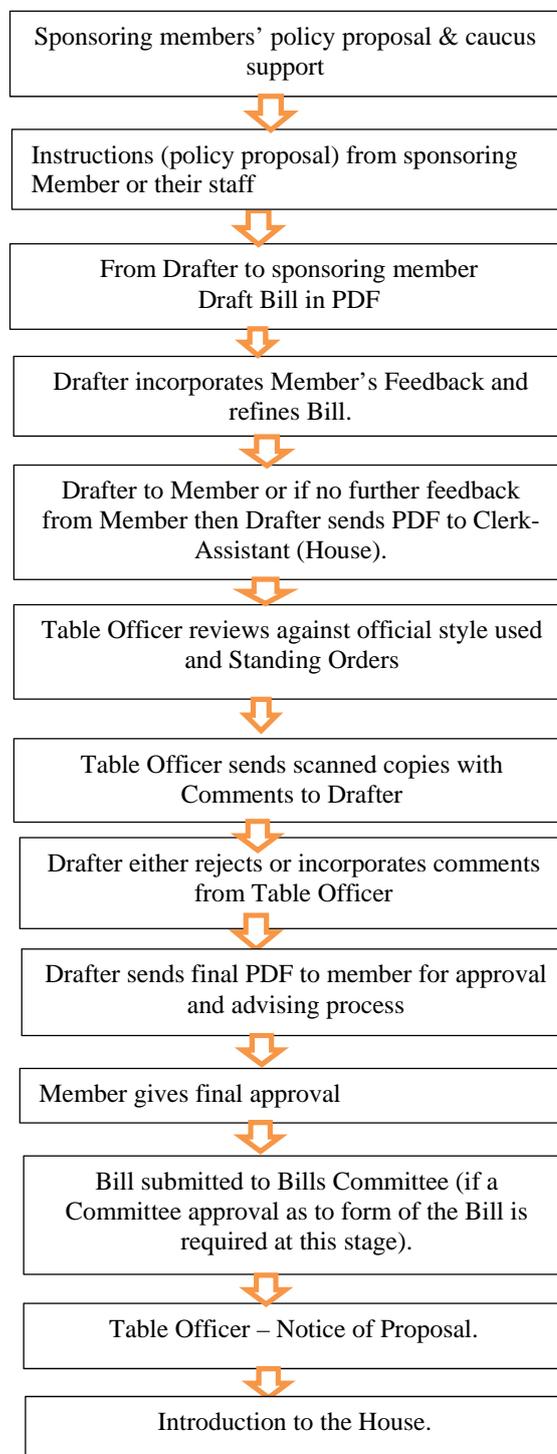
Instructions

***to be completed by members sponsoring the Bill**

1	I (or someone other than the drafter) have drafted a draft Bill on this subject <i>(If yes, attach the draft Bill to this form)</i>	Yes	No
2	Before I resorted to propose this Bill, I have already sought other available alternatives to solving the problem.	Yes	No
3	This Bill aims to amend or repeal the following existing Act or Acts, copies of which I have attached to this Form 1. 2. 3. ...		
4	The Bill is to commence on theday of 20.....		
5	The Bill expressly applies to the following geographic area(s). 1. 2. 3.		
	I am attaching a map or diagram of the official boundaries of these area(s) to this Form.	Yes	No
6	The Bill is to expressly stop/prohibit or create certain activities or acts including:- 1. 2. 3. ...		
7	The Bill is to expressly apply to the following persons or classes of persons: 1. 2. 3. ...		
8	I attach to this Form an Explanatory Note to the Bill <i>If "no" then member must draft an explanatory to accompany the Bill.</i>	Yes	No
9	Other instruction from the member to the drafter:		

APPENDIX 2

MEMBERS' BILL FLOWCHART



APPENDIX 3

DRAFTING TEMPLATE

[Hon A Member]

[Placeholder for Crest]

[Title of Bill] Bill 2014

[Note: see the Pacific Island Member’s Bill Drafting Manual for instructions on how to use this template, including—

- bringing up the style menu; and
- “clean pasting” material from another document into this template; and
- automatically updating the contents; and
- many other features.]

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PART 1

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[THIS IS A PART HEADING]

SUBPART 1—[THIS IS A SUBPART HEADING]

[This is a crossheading]

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PART 3

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SCHEDULE 1

AMENDMENTS TO ACTS

SCHEDULE 2

AMENDMENTS TO REGULATIONS

An Act to—

- (a) [insert a short description of what the Bill does]; and
- (b) [insert a short description of what the Bill does].

[Note: refer to your country’s requirement for a long title. For example, a long title is required by Standing Order 221 of the Standing Orders of the Parliament of the (name of Pacific island country).]

[Note: to insert an editorial note like this one, use the “Editorial note” style in the style menu.]

The Parliament of (refer to enactment words for the island State) enacts as follows—

1 Title

This Act is the [insert Title of Act] Act 2014.

2 Commencement

- (1) Sections X and Y come into force on [insert first commencement date].
- (2) Part Z comes into force on [insert secondary commencement date].
- (3) The rest of this Act comes into force on [insert final commencement date].

[Note: use this format if some provisions of the Bill commence before the rest of the Bill. If the entire Bill commences on the same date, say “This Act comes into force on [insert commencement date].”]

3 Principal Act amended

This Act amends the [insert name and year of principal Act].

[Note: if you are drafting a principal Bill, then—

- **delete this section and Part 3; and**
- **retain all of the rest of the Bill (as required).**

If you are drafting an amendment Bill, then—

- **retain this section, Part 3, and (if required) the savings and transitional provisions from Part 4; and**
- **delete Part 1, Part 2, and all of Part 4 other than the savings and transitional provisions (if required).]**

**Part 1
Preliminary matters**

4 Purpose

The purpose of this Act is to [insert purpose of Act].

[Note: only include a purpose clause if it adds something to the Long Title and is necessary.]

5 Interpretation

In this Act, unless the context otherwise requires,—

defined term means [insert definition]

defined term means [insert definition].

6 Act binds the Crown/State etc.

This Act binds the Crown.

7 Application of Act

This Act applies to [insert application].

Part 2
[This is a Part heading]

Subpart 1—[This is a subpart heading]

[This is a crossheading]

- 8 [This is a section heading]**
- (1) This is a subsection.
 - (2) This is a subsection—
 - (a) this is a paragraph—
 - (b) this is a paragraph—
 - (i) this is a subparagraph—
 - (ii) this is a subparagraph—
 - (A) this is a subsubparagraph—
 - (B) this is a subsubparagraph.]

[Note: this Part demonstrates the various levels that may be drafted into a Bill and their correct names and formatting. If you are going to use Parts, subparts, and crossheadings in a Bill there should always be—

- **2 or more Parts in a Bill:**
- **2 or more subparts in a Part:**
- **2 or more crossheadings in a Part or a subpart.]**

Part 3
Demonstrations of amending style and format

[Note: this Part demonstrates the amending style and format that must be used in an amending Bill. Note that—

- **the amending styles from the style menu must be used when setting out amending text so that the contents table and the numbering of the Bill are unaffected by the amending text; and**
- **use the “Amdt orphan subsection/para/subpara” style from the style menu when setting out amending text that is less than a section. For example, when inserting a subsection, paragraph, or subparagraph that is not part of an inserted section.]**

- 9 Demonstration of amending styles from the style menu**
The following Part is inserted after Part 4—

“Part 4A
“This Part heading uses the “Amdt Part number/title” style

“Subpart 1—This subpart heading uses the “Amdt subpart number/title” style

This crossheading uses the “Amdt crossheading” style

“26A This section heading uses the “Amendment section heading” style

“(1) This subsection uses the “Amdt numbered subsection” style—

“(a) this paragraph uses the “Amdt paragraph” style; and

“(b) this paragraph uses the “Amdt paragraph” style; and
this subparagraph uses the “Amdt subparagraph” style; and
this subparagraph uses the “Amdt subparagraph” style.

“(2) This subsection uses the “Amdt numbered subsection” style.”

10 Demonstration of “Amdt orphan subsection/para/subpara” style from the style menu

Section 15 is amended by inserting the following subsections after subsection (4)—

“(4A) This subsection uses the “Amdt orphan subsection/para/subpara” style—

“(c) this paragraph uses the “Amdt paragraph” style; and

“(d) this paragraph uses the “Amdt paragraph” style; and

“(i) this subparagraph uses the “Amdt subparagraph” style; and

“(ii) this subparagraph uses the “Amdt subparagraph” style.

“(4B) This subsection uses the “Amdt orphan subsection/para/subpara” style.”

11 Demonstration of style for inserting amendments

(1) The following section is inserted after section 20—

“20A Dogs must not be walked in the rain

“(1) A person must not walk a dog in the rain.

“(2) However, subsection (1) does not apply if the dog is wearing a waterproof jacket.”

(2) Section 25 is amended by inserting the following subsection after subsection (4)—

“(4A) The owner of a dog must not get the dog wet.”

(3) Section 30 is amended by inserting “, cat, and goat” after “dog”.

12 Demonstration of style for adding amendments

Section 35(1) is amended by adding “; or” and by adding the following paragraph after paragraph (c)—

“(d) a wet dog.”

13 Demonstration of style for substituting amendments

(1) Section 40 is repealed and the following section is substituted—

“40 Dogs must not be walked in the rain

“(1) A person must not walk a dog in the rain.

“(2) However, subsection (1) does not apply if the dog is wearing a waterproof jacket.”

(2) Section 45(1) is amended by repealing paragraph (d) and substituting the following paragraph—

- “(d) the owner of a dog must not get the dog wet; and”.
- (3) Section 50 is amended by omitting “dog” and substituting “cat”.

14 Demonstration of style for repealing

- (1) Section 55 is repealed.
- (2) Section 60 is amended by repealing subsection (4).
- (3) Section 65 is amended by omitting “dog”.

Part 4
General and miscellaneous provisions

Offences

15 [Insert description of offence here]

A person who [insert elements of offence] commits an offence and is liable on conviction,—

- (a) in the case of an individual, to a fine not exceeding \$[insert amount], or to imprisonment for a term not exceeding [insert length of imprisonment], or both; or
- (b) in any other case, to a fine not exceeding \$[insert amount].

16 General penalty for offences

A person who commits an offence under this Act, or regulations made under this Act, for which no penalty is otherwise provided by this Act or by the regulations is liable on conviction to a fine not exceeding \$[insert amount].

Regulations

17 Regulations

The Minister/Cabinet/Queen’s Representative etc, may, by Cabinet Decision, Order in Council, Order in Executive Council etc., [insert any pre-conditions here, eg, “on the advice of the Minister given in accordance with a recommendation of the Commission,”] make regulations for all or any of the following purposes—

- (a) prescribing forms to be used for the purposes of this Act:
- (b) prescribing matters for which fees are payable under this Act and the amounts of those fees:
- (c) prescribing grounds for an exemption from fees, in whole or in part:
- (d) [insert regulation-making power]:
- (e) [insert regulation-making power]:
- (f) providing for any other matters contemplated by this Act, necessary for its full administration, or necessary for giving it full effect.

Repeals and amendments

18 Repeals

The following enactments are repealed—

- (a) [insert name of enactment]:
- (b) [insert name of enactment].

19 Amendments to other enactments

- (1) The Acts listed in Schedule 1 are amended as set out in that schedule.
- (2) The regulations listed in Schedule 2 are amended as set out in that schedule.

Transitional and savings provisions

20 Transitional provisions

[Insert transitional provisions].

21 Savings provisions

[Insert savings provisions].

[insert shoulder reference, eg, “s 19(1)”]

Schedule 1
Amendments to Acts

[Set out amendments to Acts]

[insert shoulder reference, eg, “s 19(2)”]

Schedule 2
Amendments to regulations

[Set out amendments to regulations]

This Act is administered by the [insert name of administering department].
Printed under the authority of the (name of Pacific Island Parliament)—2014.

APPENDIX 4

SOURCE MATERIALS REFERENCES

<u>DRAFTING MANUAL</u> PARTS AND PARAGRAPH		<u>SOURCES REFERENCES</u>
PART 2	MEMBER'S BILL: WHO DOES WHAT? SPONSORING MEMBER	<ul style="list-style-type: none"> • <i>Sources have been adapted and customised for incorporation into the Drafting Manual. Paragraph numbers not referenced have substantially been contributed by compiler.</i> <p><i>Interviews:</i></p> <ol style="list-style-type: none"> 1. Interview with Anita Williams, Senior Policy Advisor for New Zealand First Party (Seinimili T. Fonua, compiler, <i>Drafting Manual for Pacific Islands Members' Bills</i>, 12 August, 2014). 2. Interview with Holly Donald, House Advisor for Greens Party (Seinimili T. Fonua, compiler, <i>Drafting Manual for Pacific Islands Members' Bills</i>, 13 August, 8. 2014. <p><i>LCO & PCO documents:</i></p> <ol style="list-style-type: none"> 3. Legislative Counsel's Office, <i>Guide for Developing Policy for members' Bills</i>, Office of the Clerk of the House of Representatives. 4. Parliamentary Counsel's Office Pacific Desk, <i>Guide to Preparing Instructions for the Drafting of Legislation</i>, Parliamentary Counsel's Office, at 4.
Para. 2.2	<i>Policy Proposal</i>	
Para. 2.3	<i>Member's Instructions</i>	
Para.2.3.1	Objective	
Para. 2.3.2	Supporting Documents	
Para. 2.3.3	Explanatory memorandum or notes	<ol style="list-style-type: none"> 5. Ibid No. 4 at 4 & 5.
Para. 2.4	Responding to Drafts	

PART 3	MEMBERS' BILLS: WHO DOES WHAT? DRAFTER	
Para. 3.1	Drafter's Aim	6. Parliamentary Counsel's Office Pacific Desk, <i>Solicitor-General's Legislative Drafting Directives for the Cook Island</i> , Parliamentary Counsel's Office, at 2.
Para. 3.2	Some challenges	
Para. 3.3	Responsibility of drafter/ legislative Counsel	<i>Drafting Manual:</i>
Para. 3.4	A Drafter's practical precepts	7. Parliamentary Counsel's Office <i>Drafting Manual 2014</i> , at [2.2]. <i>Text:</i> 8. Keith Patchett <i>Training Materials on Legislative Drafting</i> (Commonwealth of Learning, 2013) [Mod 1.1] URL: http://dspace.col.org/handle/123456789/504
Para. 3.5	What does a drafter need to facilitate the task of writing?	
Para. 3.6	Working with the Constitution, Interpretation Act and Standing Orders	9. Ibid No. 4 at 12.
	Constitution	10. Ibid No. 8 at [Mod 4.3]
Para. 3.6.1		
Para. 3.6.2	Interpretation Act	11. Ibid No. 8 at [Mod 4.2]
Para. 3.7	Conventional Structure of a Bill	12. Ibid No 7 at [4.7] 13. Ibid No. 6, at 16-18. 14. Ibid No. 8 at [Mod1.2]
Para. 3.8	Sections	15. Ibid No. 6 at 16-18.
Para. 3.8.1	Use narrative style to avoid excessive cross-reference.	16. Ibid No. 7 [Cap.3]
:Para. 3.8.2	Subsections (Sentences)	17. Ibid No. 8 at [Mod3]

Para. 3.9	Amending a Bill – Role of the Drafter during the legislative process	<i>Interview:</i> 18. Interview with Tim Workman, Table Officer (Seinimili T. Fonua, compiler, Drafting Manual for Pacific Islands Members’ Bills, 26 August, 2014).
Para. 3.9.1	Style Guide for Amending of Members’ Bills	
PART 4	Amendment Bills	
Para. 4.1	Style Guide to Drafting Amendment Bills	<i>Style Guide:</i> 19. Renato Guzman, <i>Guide to New Amending Styles: Appendix 4</i> , 3 rd ed, Office of the Clerk of the House of Representatives, 2011)
Para. 4.2	Headings to Amending Provisions	
PART 5	CLEAR DRAFTING	20. Ibid No. 7 at [Cap 3] 21. Ibid No. 8 at [Mod.3]
Para. 5.1	Guidelines to clear drafting	
Para. 5.2	Gender neutral language	
Para. 5.3	Words to avoid using	
Para. 5.4	Put yourself in the reader’s shoes	
PART 6	STYLE AND TEMPLATE	22. Ibid No. 6 at 7-12.
Para. 6.1	Using the Drafting Template - General	
Para. 6.1.1	Enabling macros	
Para. 6.1.2	Save as new document	
Para. 6.1.3	Bringing up style menu	
Para. 6.1.4	Microsoft Word 2010	
Para. 6.1.5	Selecting and using drafting formats from style menu	
Para. 6.1.6	Using the style menu for drafting amendments to Bills	
Para. 6.1.7	“Clean pasting” – copying and inserting material from other documents	
Para. 6.1.8	Table of contents	
Para. 6.1.9	Schedules	
Para. 6.1.10	Section, Par and Schedule numbering	
Para. 6.1.11	Version Tracking	
Appendix 1	Appendix 1 Member’s Bill Proposal and Instructions	23. Ibid above No. 3
Appendix 2	Appendix 2 Member’s Bill Flow Chart	<i>LCO & PCO documents:</i> 24. Legislative Counsel’s Offices, <i>Member’s Bills Process between LC, Members and Table Office</i> , Office of the

		Clerk of the House of Representative.
Appendix 3	Appendix 3 Drafting Template	25. Parliamentary Counsel's Office Pacific Desk, <i>Template for Government Bill, Cook Islands</i> , Parliamentary Counsel's Office. 4.