
Drafting in the 21st Century—How the role has developed and where it is now

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“Softly my Future climbs the stair”¹

You might ask why open with a quote from Emily Dickinson? A rather obscure – it has been said - American poet from the mid 19th Century. Well, apart from the lyricism of her phrasing about the future, the real reason is that an old friend of mine from my days working in the European Commission (a remarkable Belgian lawyer who drafts – almost simultaneously - in Dutch, French and English) once said to me that there are many parallels between Emily’s life and work and the life and work of a legislative drafter. I *think* he was being serious – although his quirky sense of humour is one of his greatest assets in coping with multi-lingual drafting in Europe!

His explanation goes something like this: –

- Emily lived a mostly introverted and reclusive life – rarely venturing from the room where she wrote,
- she was regarded as an eccentric by her peers,
- most of her interactions with people were carried out through the medium of the written word,
- she was prolific although less than 1% of her output was published during her lifetime (and many drafts of her work were simply lost over time)
- her drafting style was unique for the period – containing very short lines (the one I have quoted is one of her longer ones) - the poems generally lack titles, they employ novel and daring use of capitalization and punctuation, and
- she was ahead of her time in English language poetry drafting techniques – most of her poems use half or slant rhyme (a style which didn’t find fashion and widespread use in English poetry until the 20th Century)
- those works of hers which were published were often substantially altered or amended by others (in her case her publishers) in order to comply with the conventions and rules applying at the time
- much of her work deals with death, mortality and similarly important but not exactly “fun” topics
- three of her works (the Master Letters) continue to this day to cause speculation, controversy and confusion over their meaning and intent
- and finally, it was not until well after her death that she became recognised as a major contributor to her field.

As you can see my Belgian drafting friend suffers from Flemish melancholy about his life’s work!²

¹ Emily Dickinson c. 1862 poem 461

So leaving poetry behind - onto my themes for today – first Plain language drafting and the demands for greater explanation of draft legislation

- First, some expressed wisdom on plain language drafting from the growing bookshelf **Professor Robert Eagleson** “Plain English is clear, straightforward expression, using only as many words as are necessary. It is language that avoids obscurity, inflated vocabulary and convoluted sentence construction. It is not baby talk, nor is it a simplified version of the English language.”
- “A communication is in plain language if it meets the needs of its audience - by using language, structure, and design so clearly and effectively that the audience has the best possible chance of readily finding what they need, understanding it, and using it.” **Clarity** Number 64, November 2010)
- **Martin Cutts “The Plain English Guide” (1995)**
“Plain English is the writing and setting out of essential Information in a way that gives a co-operative, motivated person a good chance of understanding the document at first reading, and in the same sense that the writer meant it to be understood.”

The New Zealand PCO established a Clear Drafting Group (or CDG for short) in January 2010 to review our current drafting approaches and language in respect of amending terminology and to review the queries and recommendations of an independent plain language consultant Michèle Asprey who reported to the PCO back in 2004 (but whose recommendations had not been formally taken any further since then). The CDG comprised of parliamentary counsel, a drafter from the Inland Revenue department’s drafting unit (which drafts tax bills), editors, the head of our reprint team and the head of our publishing team. Consultation with the rest of the office was carried out by this group and both I and the Deputy CPC were also kept informed of progress and consulted when the group wanted assistance. The final report and recommendations were largely accepted by me and welcomed by the Attorney-General. The changes will come into practice from the start of the next parliament in February 2012. Of particular note perhaps is the decision to change our amending style to a style broadly modelled on that used in Victoria so that the locator references, including the position where new text is inserted, are incorporated into the amending sentence. The CDG also considered the use of the word “delete” rather than “omit” and after much discussion and consideration the arguments in favour of using the plainer delete (not least because it is now the more commonly used word given its use on English language keyboards). Because we use “replace” rather than the Victorian “substitute” – our sentence structure is slightly different but the elegance of the Victorian style is preserved.

² see the paintings of the late masters of early Flemish art Hugo van der Goes, Hans Memling and Gerard David for a pictorial exposition of this national “condition”
<http://www.britannica.com/EBchecked/topic/209989/Flemish-art> (last accessed 30 July 2011)

5 Use Replace instead of Substitute.

Examples

<i>Current practice</i>	<i>Proposed practice</i>
Section 13 is repealed, and the following section substituted:	Replace section 13 with:
Regulation 15 is amended by revoking subclause (3) and substituting the following subclauses:	Replace regulation 15(3) with:
[<i>Schedule of amendments to principal Act</i>] Section 53 Omit and substitute:	[<i>Schedule of amendments to principal Act</i>] Section 53 Replace section 53 with:
[<i>Schedule of amendments to other enactments</i>] Regulation 53: omit and substitute:	[<i>Schedule of amendments to other enactments</i>] Replace regulation 53 with:

But beyond these improvements to the plainness of the language used in drafting is there a need to shift further the balance between increasing the plain language we use in drafting and the provision of more simple explanations of the draft?

Ruth Sullivan³ in “The promise of plain language drafting” reviewed that promise 10 years ago and concluded that the primary audience for our work, legislation, remains the courts and judiciary rather than the people whose lives it directly affects. The New Zealand Law Commission possibly shares this view in certain cases concluding, in a recent Issues paper that:

“It is not really the proper role of the statute to be drafted for public information purposes. Legislation is unlikely to be the best vehicle for informing debtors about all the possible types of conduct that may amount to unreasonable entry, for example; and if that was attempted, the Act would be unlikely to serve its legal purposes particularly well.”⁴

The English and Welsh Law Commission – rather more elliptically I have to say - has stated that “[A] statute should be drafted so that it can be understood as readily as its subject matter allows, by all affected by it”⁵. (That “as the subject matter allows” probably gives some relief to those among us who have had to draft emissions trading or climate change control legislation in recent years!)

³ Professor, Faculty of Law, University of Ottawa. “The promise of plain language drafting” (2001) 47 McGill L.J. 97

⁴ Review of the Credit (Repossession) Act 1997 (NZLC IP25) at paragraph 3.26.

http://www.lawcom.govt.nz/sites/default/files/publications/2011/07/credit_repossession_act_fa_web.pdf

⁵ Cited by Dale “Legislative Drafting: A New Approach” (London, Butterworths 1977) p.331

Our colleagues in the Scottish OPC whilst noting that “the case for the average person with no specialist knowledge being able to understand legislation is compelling”⁶ also recognise that “[l]egislation differs from many other types of formal writing in that it has a very disparate potential audience. Critically they make the point that, at least in its primary form, legislation has two distinct stages with very different audiences: - a Bill in Parliament and an Act on the bookshelf being used to regulate or control some aspect of life. They argue for a more tailored approach to the plainness of language used in drafting legislation suggesting that “Certain legislation will be more relevant to particular types of bodies or individuals and, where it is, the needs of those particular users should have more weight.” “Doing so”, they say “may allow drafters to assume a commonly held knowledge of the topic of the Bill and, in some cases, of the legal rules which underpin it.”

I am not sure whether I agree with that conclusion. It is seductively attractive and justifies, for example the absence of definitions or interpretations of specific phrases or concepts used in some sectoral legislation (for example you will look in vain for a definition of “financial hedge contracts” in the New Zealand Electricity Act 2010 – but I was assured that allegedly all who need to use and operate them under sections 42 and 130 of the Act understand what they are.

I have to say that I suspected that had probably also been said about those who needed to understand the meaning and definition of collateralized mortgage obligations before the global financial crisis they produced!

So – the idea that drafters can “assume a commonly held knowledge of the topic of the Bill” by particular users of the legislation – strikes me as dangerous. At the very least it assumes that the judiciary who may eventually be called upon to adjudicate on the text in the statute will have that level of understanding and that – frankly – the rest of us – rather patronisingly, “don’t need to worry ourselves about it”. That seems to me to weaken the strength of the rule of law in a democratic society.

Interestingly, pressure and influence on drafters over their use of language starts from the very beginning of the process. Policy instructions in the form of Cabinet minutes, correspondence or drafts from policy officials in the responsible agency and messages from Ministers start to influence the way in which we look at the drafting task. The traditional description of legislation as being the correspondence between Parliament and the judiciary tends to undervalue these earlier influences on the text of that letter. Time also plays a critical role in that plain language drafting can take more time to achieve consistently through a large bill to which many people have contributed.

To be fair to those who drafted and those who passed the Electricity Act 2010 – the PCO enquiry e-mail address has not been deluged with website enquiries from members of the public seeking assistance with the interpretation of electricity financial hedge contracts!

So – is the answer to be found in the provision of greater explanatory material either in the legislative text (by way of examples or notes) or accompanying it (in explanatory memoranda and the like)?

⁶ Plain Language and Legislation – web only publication, The Scottish Government/Riaghaltas na h-Alba , 8 March 2008 Chapter 2
<http://www.scotland.gov.uk/Publications/2006/02/17093804/0> (last accessed 23 July 2011)

And – in passing - does this link with a growing concern I have, as a late-born baby boomer about Generation Y – or the echo-boomers - and the Text-speak Generation Z which follows them? How will legislative drafting cope with their demands and needs within what, the social historians, William Strauss and Neil Howe have identified as the “Fourth turning” in their recurring pattern of 4 generations stretching back to 1584, each with its own mood or “turning”⁷. In this, the fourth turning, society is dominated by a period of crisis (which could be financial but also societal) during which “a redefinition of its very structure, goals and purposes is established.”

These are the generations which have grown up surrounded by and engaged with MTV, YouTube, Facebook, Google plus and Twitter (let alone on-line games and virtual worlds like Second Life). They have been identified as multi-taskers (instant messaging/texting while also reading/watching a screen and or listening to a conversation or music). It is said they have short attention spans, and crucially an expectation of immediate understanding using a range of different sources or media if the first one doesn't immediately meet their needs. You only have to watch some of the younger members of parliament in a select committee (including recent visitors from the Queensland parliament), tweeting on their i-Phones, listening to a submitter present their case on a bill, passing comments to a colleague, visually tracking the drafting changes proposed on their desk-top screen and also summoning the committee staff for a consultation, to realise that there is a significant challenge for a profession that has traditionally relied upon the written word in black and white.

It is perhaps a comment on us that – at present the New Zealand PCO is only involved with one of the icons on the slide – the lowly RSS⁸ feed from our legislation website (although we have just been offered the legislation.nz twitter account).

Taking instructions from these generations is going to be light years away from the tradition I grew up with in the 1980s (which had changed little from the 1950s). Then everything was done in writing – long letters of instruction were carefully and thoughtfully composed with huge appendices and annexes of related policy documents and Cabinet decisions, relevant case law and international comparisons were analysed. This two volume set of papers was delivered complete and whole in one go – never in stages - and Parliamentary Counsel would then send a preliminary draft accompanied by a host of queries, alternatives and suggestions. The process would continue for some weeks or even months until a well-honed draft was available for introduction – largely – but not always, on the intended date. In the era before word processing I fondly remember working with a master of legislative drafting who (in a handwritten version of tracked changes in Word – used different coloured pencils for each revise of his draft – and it was a bad day for the policy officials when he had to reach for his green pencil – since that was the last colour in his box).

Now we operate on much more rapid turnaround times, especially for the original and introduction versions, even in the UK (amendments during the House were always done at speed). Are our instructions better or worse than 15 years ago? And what does the answer to that question mean for our dealings 15 years down the line when the Fourth Turning generation and their successors will form the bulk of our instructors – and crucially – our drafters, our MPs and our judges?

Frankly this is all too difficult to answer in this brief paper. I must leave that to others who will be faced with providing the solutions over the next 10 years.

⁷ William Strauss and Neil Howe “The Fourth Turning: An American Prophecy” Broadway Books, NY ©1999

⁸ Resource Description Framework Site Summary – or “Really Simple Syndication”

Back then, to the current demands for more explanation of legislation – in accompanying material.

A presentation by my colleagues from the New Zealand Office later in the conference will set out in detail, one of the government responses to the Canterbury Earthquake which was to pass urgent legislation to enable changes by secondary legislative order to be made to other legislation. The responsible select committee in the New Zealand Parliament for the examination and consideration of such secondary legislation is the Regulations Review Committee (RRC)⁹.

There wasn't a great deal of good news for us from their interim report on the Orders in Council made under the Canterbury Earthquake Response and Recovery Act 2010¹⁰. In that report they record – among other things - the outcome of their correspondence with me over the content of the explanatory notes to the first few orders they had considered. Their letter had expressed concern that the explanatory notes in the orders were of "limited value to anyone without a high level of knowledge of the legislation modified or extended" by the relevant order. In what some have said was an excess of honesty, I admitted that the early orders had been required very urgently and that as an office we had, in my view rightly, concentrated upon drafting the details of the substantive law changes made by the orders and that the nature of the material contained in the explanatory notes was necessarily curtailed by circumstances (time pressure in the main).

Clearly, the Committee's focus was on two things – that some of them would be required to explain law changes directly to their electorate (indeed 4 of the Committee are based in the affected region) or that members of the public would be seeking to read and understand the modifying orders themselves.

In response to this concern we have altered our usual approach and now provide much more detailed explanation of the nature and effect of the particular orders; indeed providing so much more detail about each individual clause that it can run to more pages than the order itself.

I am fairly confident that this may well become the norm going forward for all orders and regulations considered by the RRC – so we shall see greater use of plain language explanations of plain language legislation.

Another example of the demands which members and others are now making on us which has a significant effect on both our work and the software system we rely upon for drafting and publishing is the request for "prospective consolidations" of statutes being amended by bills under consideration. As a subset of this we have been developing, together with the Office of the Clerk to the Parliament, the provision of government amendments at our Committee of the whole House stage in the form of a complete republication of the Bill with the proposed insertions and deletions included in tracked version – rather than the current format of a list of specific insert and omit instructions. To be fair, I have to say that these initiatives have been welcomed by both Generation X and Y members of parliament!

⁹ see http://www.parliament.nz/en-NZ/PB/SC/Details/RegsReview/e/e/f/00DBHOH_BBSC_SCRR_1-Business-before-the-Regulations-Review-Committee.htm (last accessed 29 July 2011).

¹⁰ See http://www.parliament.nz/NR/rdonlyres/1DC08524-BC02-4096-B5BA-7904179459BA/174917/DBSCH_SCR_4941_InterimreportontheOrdersinCouncilma.pdf (last accessed 28 July 2011)

As a final aside about the coming generations – I noticed this in relation to managing Millennial or Y Generation staff on Wikipedia (more about Wiki's in a minute) "The UK's [Institute of Leadership & Management](#) researched the gap in understanding between Generation Y recruits and their managers in collaboration with Ashridge Business School.^[86] The findings included high expectations for advancement, salary and for a coaching relationship with their manager, and suggested that organisations will need to adapt to accommodate and make the best use of Generation Y. They will demand high levels of feedback, responsibility and involvement in decision-taking. Perhaps even more telling for our profession – they will expect to change jobs frequently. I venture to suggest that delivering all of that will be a challenge for those responsible for leading and managing legislative drafting office into the future.

And as a final comment about new technology and its effects on drafting, few of us will forget the New Zealand experiment with a Wiki Bill back in September 2007. Actually it was a Wiki Policing Act – I think those responsible for it thought they could dispense with constitutional law-making as well as the mere work of parliamentary counsel and cut straight to implementing the Act!

At the time Superintendent McCardle said "Launching a wiki version of a statute is a novel move, but one we hope will yeild [sic] a range of views from people interested in having a direct say on the shape of a new Policing Act,"¹¹

The Police media statement even went on to say that "If successful, one outcome is for the wiki Act to be given to the parliamentary select committee considering the official Policing Bill next year, along with other consultation information generated during the 18 month long review." – no mention of what the Select Committee were supposed to do with it given that they would also have the bill drafted by us on instructions from Police and other departments!

So radical was this that it was picked up by the BBC¹² thousands of miles away. Aaron Smith - from the US-based Pew Internet Project, which studies the evolution of internet uses - told the BBC News website that the **wiki** was a new frontier in online government.

"You see a lot of government sites worldwide allowing for various feedback mechanisms... but in terms of bringing this to the public in the form of writing laws, that's obviously a different thing entirely and something that we certainly haven't seen yet," Mr Smith said.

The wiki Act received nearly 26,000 visits, with the vast majority of hits coming as referrals from embedded links in online news stories such as the one published on line by the BBC so the distribution of visitors to the wiki seemed to follow media pick-up of the story, and interest in the wiki Act was international. This was an unintended consequence of the format given that the aim was "to allow New Zealanders to have a say in shaping future police legislation". Admittedly some of the international contributors might have been expatriate kiwis but there is no way of knowing this – for example hits from American IP addresses rose rapidly (by over 7,000 per cent) immediately after Slashdot.org publicized the BBC story.

¹¹ see press release at <http://www.police.govt.nz/news/release/3370.html> (last accessed 29 July 2011)

¹² <http://webcache.googleusercontent.com/search?q=cache:Rrl9FvBiKb4J:news.bbc.co.uk/2/hi/7015024.stm+wiki+police+Act&cd=7&hl=en&ct=clnk&gl=nz&source=www.google.co.nz> (last accessed 31 July 2011)

One of the major criticisms of this formula (apart from the overwriting involved – so that comments made by one commentator are edited and overwritten by a subsequent commentator) is that it is too narrow and focussed. We know the inherent danger in giving a draft to instructors too soon – it can limit the breadth of consideration of the policy issues and narrow the discussion and analysis to the given text too soon. This was also evident with the police wiki since:

“It became clear that many participants also wished to discuss the material they were adding to the wiki or comment on that of other contributors.....so the review team added separate notes pages to each section of the wiki to allow this discussion to take place. *away from the main pages.(emphasis added)*¹³

The Law and Order Select committee of the New Zealand Parliament, in the introduction to their report of the actual bill merely noted that:

“The New Zealand Police has undertaken a comprehensive consultation process, beginning in April 2006. The consultation took many forms, including traditional public meetings and published documents as well as unique means such as a Policing Act wiki.”¹⁴

Perhaps it is premature to note this – but there has been no similar exercise in New Zealand – or elsewhere - to my knowledge since that first experiment. Are we, perhaps, beyond Wiki statutes already?

A word about Regulatory reform statutes

In his 1982 book “A common law for the age of statutes”, Guido Calabresi, concluded, in a chapter entitled “Choking on Statutes”, that the USA had, in the preceding 50 to 80 years, gone from a legal system, divined by courts, to one in which statutes ... [had] become the primary source of law.” He then identified problems and legal-political phenomena arising from this shift, in particular the increasing ossification of the statute book. With more legislation being passed and with no common-law mechanism of deciding that a particular law had reached its sell-by date (as happened for example with the common law of pure economic loss as a head of negligence following some high water mark cases¹⁵) he identified pressures to include self-repeal or sun-setting clauses as a response to the increasing ossification of the statute book before arguing for the development of a sort of common law for statutes which would enable courts to strike down statutes which had become obsolete.

I am not aware of a common law jurisdiction which has adopted Calabresi’s common law for statutes other than in very specific circumstances (such as the power to strike down regulations under UK human rights law or for being ultra vires). What has happened however, and continues to press upon us is an anxiety about the quality and validity of legislation which we or our predecessors have drafted. This movement has many forms and descriptions but is described here as the “better regulation imperative”.

¹³ “Public has a say in shaping legislation” Supt Hamish McCardle in Royal Canadian Mounted Police Gazette Vol. 70 No.1

¹⁴ http://www.parliament.nz/NR/rdonlyres/CE0CDDCA-1A35-4B8D-AFF4-0F1000F69660/85522/DBSCH_SCR_4083_6019.pdf

¹⁵ **D & F Estates Ltd v Church Commissioners for England** [1989] AC 177 was the landmark House of Lords judgment restricting the duty of care in negligence to cases of physical damage and injury after the high watermark of negligent economic loss in **Junior Books Ltd v Veitchi Co Ltd** [1983] 1 AC 520

Typically with such a broad ranging concept which has a wide scope of coverage it is concerned with a number of related and overlapping issues including (but probably not exhaustively) the following:

- The quality of the drafting of legislation (including its accessibility and comprehension)
- The quantity of legislation
- The effectiveness of the legislation in righting the wrong/preventing the damage it was intended to do
- The (continuing) relevance of, or need for, the legislation in the changed circumstances of today/tomorrow
- The costs of compliance as set against the benefits of preventing non-compliance
- The reach of the legislation and the appropriateness of the intrusion by the state into individual affairs

In many of our jurisdictions taskforces, agencies or parts of government Departments, Ministers and stakeholder consultative groups have been tasked with delivering the better regulation imperative. This is not a particularly new phenomenon, New Labour in the UK for example established the Better Regulation Task Force in 1997 which itself followed on from Conservative government initiatives stemming back to an Enterprise and Deregulation Unit in 1986. Given the elasticity of the subject matter covered by the imperative it is difficult to come to firm conclusions but there appear to be some consequences for drafters and here I talk particularly with a focus on recent experience for the New Zealand office.

First, there is the inevitability that the problem is described as “poorly drafted legislation”, sometimes simply in error¹⁶, sometimes as a cloak for an attack on the underlying policy¹⁷, sometimes indicating that drafting style and terminology, underlying policy and serial amendments of an existing statute have left it stranded in the modern world of legislative drafting. For a recent example of this see the New Zealand Law Commission’s analysis, in their recently published Issues Paper¹⁸, of the drafting issues arising from the Credit (Repossession) Act 1997. We need, as ever, not to rise to the bait that what is being attacked is inevitably our approach to drafting. However, we do need to admit when this is the case – I will return to this point later.

Second, there is an inevitable tendency to politicise the imperative through the setting of an agenda of actions to be covered by the government in delivering better regulation. So, better regulation is equated to less regulation or deregulation which can then become a political football kicked by political parties forward and back again. For example, when announcing the first ever “statement on regulation”, made by the current New Zealand government, which sets out two commitments:

- to introduce new regulation only when the government is satisfied that it is required; and
- to review existing regulation and remove requirements that are unnecessary, ineffective and costly

¹⁶ A particularly unfortunate instance was the claim that a reference to 2009 in the Title clause to a Bill being considered in 2010 was evidence of poor drafting when in fact it was evidence of the bill having been introduced in 2009 see New Zealand Parliament debates Volume:662;Page:10509 http://202.68.89.83/en-NZ/PB/Debates/Debates/f/5/5/49HansD_20100427_00001267-Employment-Relations-Rest-Breaks-and-Meal.htm (last accessed 22 July 2011)

¹⁷ It could be argued that Di Lucas commenting on an article about the Takutai Moana Bill is really compling about the policy not the drafting see comment #5 at <http://www.stuff.co.nz/the-press/opinion/columnists/chris-trotter/4656942/Separatist-law-strikes-at-heart-of-liberal-democracy> (last accessed 22 July 2011).

¹⁸ Review of the Credit (Repossession) Act 1997 (NZLC IP25) at paragraphs 3.22 to 3.29 and 3.34 to 3.39

But the Minister for Regulatory Reform (a member of the ACT party which is a coalition partner of the current National-led government) went on to say this about it:

“But more importantly, the statement takes a sledgehammer to the nanny state approach of the previous Government by reasserting traditional kiwi values like individual autonomy and responsibility.”¹⁹

As legislative drafters we need to ensure that we are above this debate and contribute only in terms of our professional responsibilities as drafters. I would argue that this is not limited simply to the wordsmithing elements involved in legislative drafting. We can, and should, contribute to discussions about legislative design, institutional and legal architecture created through our drafting of legislation²⁰.

Third, the debate frequently conflates different concepts – principles of good drafting, accessibility of legislation, revision and consolidation of old or much-amended statutes with philosophical or rights-based principles of state intervention, the risk and cost/benefit assessments of state regulation or control and, libertarian versus communitarian philosophy. Plain language drafting even gets dragged in on some occasions.

The taskforce that produced the current bill before the New Zealand Parliament said this:

...first, as matters of both principle and practicability, there can and should be less legislation and better legislation; and, second, the existing constitutional and operational framework cannot be expected to deliver those outcomes without significant changes.

Regulatory Responsibility Taskforce Report 29/10/2009

We are at the beginning of the parliamentary process with respect to the Regulatory Standards Bill in New Zealand, and although we have been here before with its predecessors now seems the moment when this might actually become law. There are high expectations for it. For example, the President of New Zealand's Federated Farmers organisation said:

"This is one of those Bill's that has the potential to make a tangible difference to the way our country works. It will help to avoid the introduction of unnecessary regulation and red tape that has stifled New Zealand's economic growth for so long." ²¹

Conclusion

I have touched upon only two subject facing drafting lawyers currently – continuing developments in making legislation easily understandable and the imperative for regulatory reform (itself prompted by the mass – or even morass – of legislation created in the past 50 years or so). Both will create major challenges for the legislative drafting profession now and in the future.

¹⁹ “Making life easier for ratepayers and businesses” Speech by the Hon. Rodney Hide MP 17 August 2009 (<http://www.beehive.govt.nz/speech/making-life-easier-ratepayers-and-businesses> last accessed 22 July 2011)

²⁰ In New Zealand there exists a Legislation Design Committee whose function, according to the Cabinet Manual, is to advise “on the appropriateness of the legislative vehicle from a legal and constitutional perspective, and on any implementation issues.” The CPC is a member of LDC and PCO members frequently attend and contribute. <http://www.cabinetmanual.cabinetoffice.govt.nz/7.19> paras 7.34 – 36 (last accessed 21 July 2011)

²¹ <http://www.fedfarm.org.nz/standardsbill> (last accessed 29 July 2011)