



**SEMESTER-II**

**B.A./B.B.A. LL.B. (Hons.)**  
**COURSE TITLE: LEGISLATIVE DRAFTING**

**PAPER CODE: LB 202**  
**CREDITS-04**

**A-COURSE-CONTENT**

**Module-1**

**Fundamentals of Law Making Process**

- 1.1 Role of Legislations
- 1.2 Legislative Drafting: Theoretical foundation
- 1.3 Legislation: Types & Classification: Primary (Bills and Acts) & Secondary Legislation (Regulations, Rules, By-Laws etc.); Structure and format of bills and Acts:
- 1.4 Agencies for Legislation: Legislature and Executive; Enacting statutes- the Constitutional framework and constraints (delegated legislation);
- 1.5 Monitoring Agencies- *ex-ante* (Executive branch) and *ex-post* (Legislature and Court)

**Module-2**

**Writing Legislative Sentences**

- 2.1 Stages of Legislative Drafting: Legislative proposals-Preparation of conceptual outline- Relation with existing statutes and the provisions of the Constitution- Skeleton Legislation
- 2.2 Legislative Sentences: Basic components of legislative sentences; Types of legislative sentences
- 2.3 Order of legislative sentences: (a) Principal Subject (b) Principal Predicate (c) Predicate Modifier
- 2.4 Punctuation and capitalise legislation
- 2.5 Legislative Expression: Subjects, Verbs and Modifiers

**Module-3**

**Legislative Drafts Structure**

- 3.1 Structure of Legislation: The Long Title; Preamble; Short title; Parts; Headings; Definition or Interpretation Clause; Marginal Notes; Sections, sub-sections and clause; Proviso; Explanations and Illustrations; Schedules and Forms.
- 3.2 Common Phrases and their Significance: (i) As he deems fit; thinks necessary; consider necessary, (ii) Any other sufficient reason, (iii) Further and other relief, (iv) Non-obstante clause, (v) Or any other public purpose, (vi) Having regard to, (vii) Means and includes, (viii) Subject to a contrary context, (ix) Against the provisions of this Act, (x) As nearly as may be, (xi) As far as possible, (xii) As soon as possible, (xiii) As the court shall see fit, (xiv) In pursuance of any enactment, (xv) Except where otherwise expressly enacted, (xvi) Record its reasons in writing, (xvii) Ejusdem Generis, (xviii) Conjective and disconjunctive words 'or' and 'and' (xix) Safeguards Against Common Errors etc.

- 3.3 Structuring legislative texts: General considerations; Drafting sections, Drafting Sentences in Sections; Paragraphing; Numbering; Arranging and linking sentences in a section; linking sections; Incorporation by reference; Grouping of sections.
- 3.4 Factors affecting Legislative Texts: General considerations; Preparing an outline; Factors influencing an outline for a bill
- 3.5 Legislative Style And Limits: General considerations; Gender-neutral drafting

#### **Module-4**

#### **Legislative Drafting and Interpretation**

- 4.1 Theories of Statutory interpretation: Textualism, Purposivism, Presumption of Constitutionality, Rule of Lenity, dynamic interpretation etc.
- 4.2 Tools of Statutory Interpretation: Dictionary, Canons, Legislative History, Legislative inaction, *stare decisis* etc.
- 4.3 Application and Importance of Interpretation Acts facilitating legislative drafting
- 4.4 Drafting under a bill of rights
- 4.5 International standards

#### **Prescribed Readings**

1. Lawrence E. Filson and Sandra L. Strokoff, *The Legislative Drafter's Desk Reference*, (2nd Edn.) CQ Press, Washington (2008)
2. B.R. Atre, *Legislative Drafting (Principles and Techniques)*, Universal Law Publishing - An imprint of LexisNexis; Fourth edition (2014).
3. T.K. Viswanthan, *Legislative Drafting*, Indian Law Institute, the Drafting of Laws (1980)
4. Vepa P. Sarathi, *Interpretation of Statutes*, Eastern Law Book Co. Lucknow (1981)

#### **Suggested Readings**

1. Allen, *Law in the making* (7<sup>th</sup> Edn.) Oxford University Press, (1966)
2. G.C. Thomson, *Legislative Drafting*, Butterworths, London (1987)
3. M. Zander, *The law Making Process*, (3<sup>rd</sup> Edn.) Widenfeld & Icholson, London (1989)
4. Dale, W, *Legislative Drafting: a New Approach*, (1977, Butterworths, London)
5. Dick, Robert C, *Legal Drafting in Plain Language* (3rd ed, 1995, Carswell, Toronto)
6. Dickerson R, *The Fundamentals of Legal Drafting* (2nd ed, 1986, Little, Brown & Co, Boston)
7. Thornton, Garth C, *Legislative Drafting* (4th ed, 1996, Butterworths, London)
8. Cross, R (ed, Bell, J & Engle, G), *Statutory Interpretation* (3rd ed, 1995, Butterworths, London)
9. Sullivan, R, *Sullivan on the Construction of Statutes* (6th ed, 2014, LexisNexis Canada)
10. Bennion, FAR, *Understanding Common Law Legislation - Drafting and Interpretation* (2001, OUP, Oxford)