

LEGISLATIVE DRAFTING SYLLABUS



Zambia Institute of Advanced
Legal Education

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1.0 PROGRAMME OBJECTIVES

The legislative drafting course is intended to equip course participants with practical skills and knowledge required for drafting legislation and rendering quality legal advice. The course emphasis is on the individual development of practical skills. It is centred on practical exercises and gives the participants the opportunity to apply the techniques and know-how of legislative preparation, which they acquire in class.

2.0 DURATION

The programme shall run for a period of five (5) months.

3.0 PROGRAMME OUTLINE

The programme will comprise the following courses:

- 3.1 Legislative Drafting
- 3.2 Context of Legislation
- 3.3 Judicial Review
- 3.4 Interpretation of Statutes
- 3.5 Comparative Constitutional Law
- 3.6 Law in Development
- 3.7 Computer Applications
- 3.8 Taxation

4.0 ENTRY REQUIREMENTS

Candidates must:

- 4.1 Have a Law Degree from any recognized University;
- 4.2 Be admitted to practice as an Advocate; and
- 4.3 Three years post admission experience will be an added advantage.

5.0 ASSESSMENT METHOD

The programme shall be assessed through assignments.

6.0 CERTIFICATION

The Zambia Institute of Advanced Legal Education will award successful candidates with a Post-graduate Diploma in Legislative Drafting.



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SUBJECT 1. LEGISLATIVE DRAFTING

Topic 1. LEGISLATIVE DRAFTING AND DRAFTING METHODS

1.1 General Introduction

1.1.1 Impressions from Orientation week

1.1.2 Basic Bibliography

1.1.3 Government Structures

1.1.4 Learning Legislative Drafting an assessment

1.1.4.1 Preparation for and entry into a drafting office

1.1.4.2 Role and responsibility of a drafter

1.2 Function and Development of Drafting

1.2.1 The Legislative process

1.2.2 The Development of Drafting form

1.2.3 Comparisons of general styles – Commonwealth and continental styles

1.3 Analysis Policy and Relevant Law

1.3.1 The analysis

1.3.1.1 Scope of the Bill and Legal Policy

1.3.2 The Law

1.3.2.1 Case Law

1.3.2.2 Statute Law

1.3.2.3 Use of Precedents

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- 1.4 Approach to Drafting and Drafting Styles
 - 1.4.1 The Legislative Code and the Statute book
 - 1.4.2 Programming and timing
 - 1.4.3 Drafting styles
 - 1.4.4 Reforms in Drafting Styles
- 1.5 Legislative Language
 - 1.5.1 Communication generally
 - 1.5.2 The language of Legislation
 - 1.5.3 Legal Vocabulary
 - 1.5.4 The Legislative Sentence
- 1.6 The Structure of Statutes and the Statute Book
 - 1.6.1 The Structure of statutes
 - 1.6.2 The Statute Book
- 1.7 Parts of the Bill (Theory and Actual Drafting)
 - 1.7.1 Commencement
 - 1.7.2 Application
 - 1.7.3 Interpretation section and Interpretation Acts
 - 1.7.4 Administrative Provisions
 - 1.7.5 Regulatory Provisions
 - 1.7.6 Penal provisions
 - 1.7.7 Repeal, Savings and Transitional Provisions
- 1.8 Amending Legislation
 - 1.8.1 General considerations
 - 1.8.2 Direct and Indirect amending styles
 - 1.8.3 Amending techniques

1.9 Subordinate Legislation (Legal Authority for Subordinate Legislation)

1.9.1 Executive processes and drafting

1.9.2 Parliamentary processes

Topic 2. LEGISLATIVE SYSTEMS

2.1 Parliamentary Institutions and Systems

2.1.1 Unicameral and bicameral systems and combinations – comparative study

2.1.2 Forms of practice and procedure

2.1.3 The committee system

2.1.4 The Legislative process

2.2 Common Law System

2.2.1 Sources of Law

2.2.2 “The Statute”

2.2.3 Britain

2.2.4 Zambia

2.2.5 Other selected commonwealth countries

2.3 Civil Law System

2.3.1 Sources of Law

2.3.2 The “Code”

2.3.3 French

2.3.4 Swedish

2.3.5 Other selected civil law countries

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2.4 A comparison of the Civil and common law systems

2.4.1 Improving drafting styles and processes

2.4.2 Local Government legislative institutions and
Systems

REFERENCE BOOKS

Thornton, G. C., Legislative Drafting 4th ed.



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SUBJECT 2. CONTEXT OF LEGISLATION

- Topic 1. IMPACT OF LEGISLATION
- Topic 2. EFFICACY OF LEGISLATION
- Topic 3. LEGAL REASONING
- Topic 4. LAW REFORM, REVISION AND CONSOLIDATION
- Topic 5. DOMESTICATION OF INTERNATIONAL LAW



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SUBJECT 3 JUDICIAL REVIEW

- Topic 1. GENERAL INTRODUCTION
- Topic 2. WHAT IS THE PUBLIC BODY FOR THE PURPOSE OF
 JUDICIAL REVIEW
- Topic 3. THE PROTECTION OF PUBLIC BODIES IN JUDICIAL
 REVIEW
- Topic 4. SHORTER TIME LIMIT WITHIN TO COMMENCE
 PROCEEDINGS
- Topic 5. DISCOVERY OF DOCUMENTS AND CROSS-
 EXAMINATION OF WITNESS
- Topic 6. THE SCOPE OF JUDICIAL REVIEW
- Topic 7. GROUNDS FOR JUDICIAL REVIEW
- Topic 8. THE DOCTRINE OF ULTRA VIRES
- Topic 9. ATTEMPTS TO EXCLUDE JUDICIAL REVIEW TODAY
- Topic 10. THE CONCEPT OF LEGITIMATE EXPECTATION
- Topic 11. CONCLUSION
- Topic 12. DRAFTING EXERCISES

REFERENCE BOOKS

Rules of the Supreme Court (White Book)

SUBJECT 4. INTERPRETATION OF STATUTES

- Topic 1. INTRODUCTION
- Topic 2. RULES OF LANGUAGE
- Topic 3. THE INTENTION OF PARLIAMENT (THE LEGISLATURE)
- Topic 4. INTERPRETATION OF THE CONSTITUTION
- Topic 5. GENERAL RULES OF STATUTORY INTERPERETATION
- 5.1 The Literal Rule
 - 5.2 The Golden Rule
 - 5.3 The Mischief Rule
 - 5.4 The Purposive approach
- Topic 6. AIDS TO STATUTORY INTERPRETATION
- 7.1 Introduction
 - 7.2 Internal (intra-textual or intrinsic) Aids
 - 7.3 External (extra-textual or extrinsic) Aids
- Topic 7. STATUTORY PRESUMPTIONS

REFERENCE BOOKS

Bennion on Statutory Interpretation, 5th Edition, Lexis Nexis

Cross, Statutory Interpretation, 3rd Edition, Lexis Nexis

G.E. Devenish, Interpretation of Statutes, Juta & Co Ltd

SUBJECT 5. COMPARATIVE CONSTITUTIONAL LAW

- Topic 1. GENERAL PRINCIPLES
- 1.1 Types of Constitution
 - 1.1.1 Written
 - 1.1.2 Unwritten
 - 1.1.3 Unitary/Federal Constitutions and the Law of States
 - 1.2 Supremacy of the Constitution
 - 1.2.1 Conflicts and Inconsistencies between Constitution and other Laws and their Resolution (The Role of Drafting)
 - 1.3 Separation of Powers
- Topic 2. DEMOCRATIC GOVERNANCE AND CONSTITUTIONALISM
- 2.1 Electoral Process
 - 2.1.1 Democratic Principles
 - 2.1.2 Types of Electoral System
 - 2.1.3 The Importance of an Electoral System
 - 2.1.4 The Electoral Process
 - 2.1.5 Electoral Systems and Processes in Constitutions of Certain Countries
 - 2.2 Constitutionalism – Fresh Perspectives and Recent Developments

Topic 3. PUBLIC PARTICIPATION IN LEGISLATION

3.1 Development of African Constitutions

3.2 Making a New Constitution

3.2.1 Agenda for a New Constitution

3.2.2 Consultative Process and Public Participation

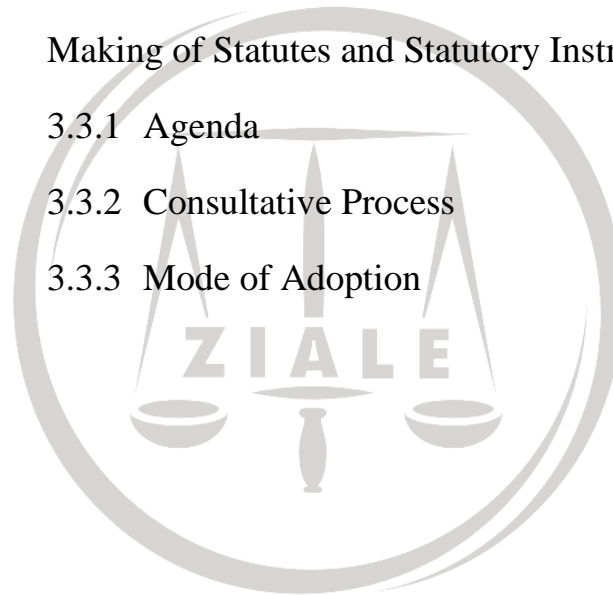
3.2.3 Mode of Adoption

3.3 Making of Statutes and Statutory Instruments

3.3.1 Agenda

3.3.2 Consultative Process

3.3.3 Mode of Adoption



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SUBJECT 6. LAW IN DEVELOPMENT

Topic 1. GENERAL PRINCIPLES

1.1 General Introduction

1.1.1 Historical, Colonial and Post Independence Perspectives

1.1.2 Current Developments and the Law

1.1.3 Public Participation

1.2 Function of the Law in Development

1.1.4 Economics

1.1.5 Culture and Education

1.1.6 Health

1.1.7 Politics

1.3 Natural Resources

Topic 2. CURRENT DEVELOPMENTS IN NATIONS

2.1 Emerging Securities Markets

2.2 Environmental and Natural Resource Law

2.3 Revenue and Tax Laws

2.4 Labour and Trade Laws etc.

2.5 Regional and international perspectives

SUBJECT 7. COMPUTER APPLICATIONS

Topic 1. INTERNET SEARCH METHODOLOGIES

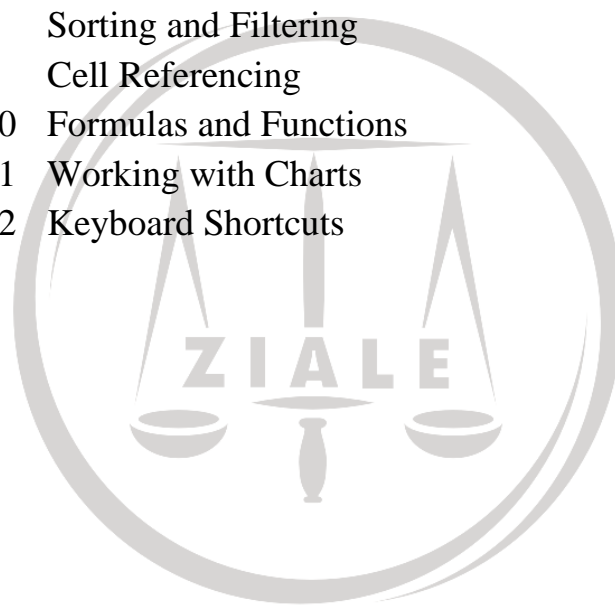
- 1.1 What is the Internet?
- 1.2 Using the Web
- 1.3 Safe Surfing
- 1.4 Effective Web Searching Techniques
- 1.5 Filtering a Search to get desired Results
- 1.6 Internet Search Terms
- 1.7 Understanding Search Results

Topic 2. WORD PROCESSING FOR LEGAL PROFESSIONALS

- 2.1 Using Document Styles and Outlines
- 2.2 Paragraph Formatting
- 2.3 Manage Document Changes and Mark a Document Final
- 2.4 Autocorrect and Spell Checks
- 2.5 Auto-paragraph Numbered Multi-level Listing
- 2.6 Creating an automated Table of Contents and a Table of Authorities
- 2.6 Sections and Page Numbering
- 2.7 Compatibility Mode
- 2.8 Working with Tables
- 2.9 Keyboard Shortcuts

Topic 3. WORKING WITH MICROSOFT EXCEL SPREADSHEETS

- 3.1 Working with Excel
- 3.2 Creating a Workbook and Worksheets
- 3.3 Excel Data Types
- 3.5 Protection
- 3.5 Cell Comments
- 3.6 Formatting a Worksheet
- 3.7 Working with Templates
- 3.8 Sorting and Filtering
- 3.9 Cell Referencing
- 3.10 Formulas and Functions
- 3.11 Working with Charts
- 3.12 Keyboard Shortcuts



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SUBJECT 8. TAXATION

Topic 1. BACKGROUND

1.1 Tax and Taxes

1.1.1 What is a Tax?

1.1.2 Understanding the Tax Types and Objectives; Income Tax, Value Added Tax, Excise Tax and Customs Duty

Topic 2. TAX LEGISLATIVE PROCESS

2.1 Institutionalising the Tax Reform Process

2.2 Identifying the Problem to be addressed

2.3 Interdisciplinary Nature of Taxation Reform Process

2.4 Drafting Process

Topic 3. LEGAL FRAMEWORK FOR TAXATION

3.1 Legal Foundation; Power to Make Tax Laws

3.2 General Principles and Limitations on Power to Make Tax Laws

3.3 Legality principle

3.4 Principle of Equality

3.5 Principle of Proportionality and Ability to Pay

3.6 Principle of Nonretroactivity

3.7 Other Constitutional Limitations

3.8 Interpretation of Tax Laws

- Topic 4. DRAFTING TAX LEGISLATION
- 4.1 Understandability
 - 4.1.1 Brevity
 - 4.1.2 Transparency
 - 4.1.3 Avoiding Legalistic Language
 - 4.1.4 Numbering of Sections
 - 4.1.5 Section Headings
 - 4.1.6 Sentence Structure
 - 4.2 Organisation
 - 4.3 Effectiveness
 - 4.3.1 Relationship between Policy and Drafting
 - 4.3.2 Anticipating Application and Interpretation
 - 4.3.3 Drafting for a Judicial Audience
 - 4.4 Integration
 - 4.3.2 Local Drafting Style
 - 4.3.3 Gender Neutral Language
 - 4.3.4 Relationship Between Tax Law and Other Legislation
 - 4.3.5 Specific Problems of Terminology
- Topic 5. TAX TREATIES