



Layperson's Guide to Reading Law

This guide is just my view on the subject as a layman required to understand legislation. I am not a lawyer nor have I been trained in law in any substantial way.

THE ORIGINS OF LAW IN CANADA

Making New Laws: Legislation, Statutes and Acts

Democratic countries usually have what is called a "Parliament" or "Congress" at the federal level and "Legislatures" at the provincial and state level (Note: Quebec has a National Assembly), which have the power to make new laws or change old laws. In its political structure, Canada is a federation: a union of several provinces, with a central government. Thus, it has both a parliament in Ottawa to make laws for all of Canada, and a legislature in each province and territory to deal with local matters. Laws created at either level are called "statutes", "legislation", or "acts". When Parliament or a provincial legislature passes a statute, that statute takes the place of common law (or law made by court proceedings) dealing with the same subject.

Making laws through legislation can be a complicated process. Suppose, for example, the federal government wanted to create a law that would help control pollution. First, government ministers or senior public servants would be asked to examine the problem carefully and suggest ways in which, under federal jurisdiction, a law could deal with pollution. Next, a draft of the proposed law would be made. This text would then have to be approved by the Cabinet, which is composed of members of Parliament chosen by the Prime Minister. This version would then be presented to Parliament as a "bill", and would be studied and debated by members. Bills only become laws if they are approved by all three parts of Parliament: a majority in both the House of Commons₁ and the Senate₂, and assented to by the Governor General₃ in the name of the Queen.

A similar process is used in every province to make laws. Laws enacted by provincial legislatures are assented to by the Lieutenant Governor.

Because of the complexity of modern society, more laws are made today than ever before. If our lawmakers had to deal with all details of all laws, the task would be nearly impossible. To solve this problem, Parliament and Provincial legislatures often pass general laws called "Acts" delegating authority to make more specific laws called "regulations". Regulations serve to carry out the purposes of or expand on the general laws (Acts) but are limited in scope by such laws.

Editorial

This area is called Administrative Law and covers the regulations that govern the activities of administrative bodies set up by the various levels of government for much of the day to day running of policy. These regulating bodies (as detailed below) are quasi-judicial and resolve the problems that arise. Their decisions are of some importance and affect much of every day life.

Administrative Boards and Tribunals

There are many administrative rules and regulations that are often dealt with outside the formal trial procedures. Disputes concerning such matters as broadcasting licenses, unemployment insurance, occupational safety standards or health regulations, may be placed in the hands of federal or provincial government departments or left with special administrative boards. These include such institutions as the Employment Insurance Commission, the Canadian Radio-television and Telecommunications Commission, labour relations boards and refugee tribunals.

The procedure before these administrative bodies is usually simpler and less formal than in the courts. However, to ensure that such bodies exercise only the authority conferred upon them by law and that their procedures are fair, their decisions and proceedings may be reviewed by the courts. In the case of federal boards, this review is done by the Federal Court of Canada.

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How to Read Law

Reading law need not be complicated. It is generally understandable by laymen or non-lawyers. A legal document may look intimidating but if you follow some relatively simple guidelines then the exercise can be very informative.

1. Once you decide to tackle a law (regulation, statute, or act) you need to set aside enough time per sitting to follow the “loops.”
2. You should be generally free of distractions. This is to assist you in concentrating on the task at hand.
3. Have all applicable laws on hand (the internet is a good resource for this) to assist in following “loops.” Most provinces now have Online legislation databases where anyone can access the latest, up-to-date versions of an Act or Regulation.

For the Laws of Canada go to:

[Federal e-Laws](http://laws-lois.justice.gc.ca/eng/acts/) (<http://laws-lois.justice.gc.ca/eng/acts/>)

4. Have on hand, a pencil, paper, highlighter, and something to hold your place amongst the piles of pages. OR if using a web browser and accessing legislation online, then be sure to use a browser capable of using Tabs.
5. Start by perusing the “definitions” list at the beginning of the piece of legislation. You should revisit the definitions section periodically when you run across a term that is included in the definitions. Similarly, some regulations use terms from the enacting Act so even though a definition may not be included in a regulation, doesn't mean there isn't a specific definition in the Act. What that particular piece of legislation may define something as may be different than your definition.
6. Start reading. I define the complexity of a piece of legislation by the amount of “loops” I must follow. By-Laws, Guidelines, Protocols (which are a type of law) usually have very little loops where as a Federal or Provincial Acts or Regulations may have many. The more advanced the law or the longer a particular Act. has been on the “books” has a bearing on the complexity and amount of loops. For instance, as the water industry continues to become more regulated, the legislation becomes more and more complex making each successive law more difficult to understand and interpret.

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Organisation of a Statute (Act) - pg1 - Below portion from Government of Alberta

Preambles

Some acts begin with a preamble. The preamble is part of the act and may be used to interpret the act.

Definitions

Most acts contain a definition section that lists, in alphabetical order, definitions of terms used in the act. The definition section is usually at the beginning of the act. However, definitions that are restricted in their application to a section, part, division or other portion of an act may be at the beginning of that section, part, division or other portion. Legislative definitions may differ from dictionary definitions, thus if included, they must be read and understood within the context of the legislation.

Marginal Notes and Section Headers (Sidenotes)

Marginal notes and section headers (sidenotes) are not part of the statute and should not be relied on to interpret the act. They are included only for convenience of reference and may be changed editorially whenever appropriate.

Sections, Subsections, etc.

Every act is composed of numbered sections, cited as section 1, 2, 3, etc.

- many sections are further divided into two or more subsections, cited as subsection (1), (2), (3), etc.
- some sections and subsections contain clauses, cited as clause (a), (b), (c), etc., subclauses, cited as subclause (i), (ii), (iii), etc., paragraphs, cited as paragraph (A), (B), (C), etc., and subparagraphs, cited as subparagraph (I), (II), (III), etc.

Decimal Numbering

The numbering system can be easily understood by regarding each section number as if it were followed by a decimal point and some zeros that are not shown; that is, section 4 can be thought of as 4.0 or 4.00 etc.

In applying the system, only one decimal place is usually needed, so that between sections 4 (4.0) and 5 (5.0) sections 4.1 to 4.9 can be added (4.10 is not used since it is the same as 4.1), for a total of nine sections.

By later amendments, up to nine more sections can be added between any two sections by using two decimal places, for example:

- between section 4 and 4.1, sections 4.01 to 4.09 can be added,
- between sections 4.1 and 4.2, sections 4.11 to 4.19 can be added, and
- between sections 4.9 and 5, sections 4.91 to 4.99 can be added

and in the same manner a further nine sections can be added between any of those sections by using three decimal places.

If it is necessary to add more than nine sections in the same place at the same time, then some of the sections are numbered using an additional decimal place.

The same rules apply to adding new subsections, clauses, subclauses and paragraphs, so that

- subsections are numbered (1.1) to (1.9),
- clauses are numbered (a.1) to (a.9),
- subclauses are numbered (i.1) to (i.9),
- paragraphs are numbered (A.1) to (A.9), and
- subparagraphs are numbered (I.1) to (I.9).

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Organisation of a Statute (Act) - pg2 - Below portion from Government of Alberta

Parts, Divisions

Some acts are divided into numbered parts, cited as Part 1, Part 2, etc. A part may be divided into divisions cited as Division 1, Division 2, etc.

Transitional Provisions

If an act or provision cannot come into force on an intended day without hardship or confusion occurring, the act may contain a transitional provision. Transitional provisions are used to provide for the transition from an earlier act to the act that replaces it, or to phase in how a new or an amending act applies to persons affected by it. A transitional provision may be included in an act if, for example, certain provisions of the previous act will apply for a significant period of time or if the provisions may affect many persons. Transitional provisions are usually located near the end of the act.

Consequential Amendments

Consequential amendments in an act amend other acts that are affected by that act. Consequential amendments are included in the acts as published in the annual volume.

In the loose-leaf statutes and office consolidations, all amendments are incorporated into the amended acts. If an act made consequential amendments to other acts, an editorial note to that effect is included in the consolidated amending act.

Repeal Provisions

Provisions repealing other acts are placed near the end of the act, immediately before the coming into force section.

Coming Into Force Provisions

The section dealing with the coming into force of an act or of provisions of an act is usually the last section of the act. If there is no coming into force provision in an act, the Interpretation Act (RSA 2000 cI-8) provides that the act comes into force on the date of Royal Assent. The Royal Assent date is on the first page of each act in the annual statute volume, following the chapter number.

If an act, or a portion of an act, comes into force in a manner other than by Royal Assent, the last section of the act will set out the method. The act, or portion of the act, may come into force on proclamation or on a named future date, or may be deemed to have come into force on a named previous date.

Citations (Historical References)

Each section of a consolidated act is followed by the citation for that section and the citations of any amendments to that section. Citations do not form part of the act. They are added editorially.