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Course Objective

This course aims at providing a practical guidance of the principles and techniques of legislative drafting. It also aims to provide a thorough analysis of the nuances involved in drafting of a legislation. The course lays down a methodical study of the manner in which the drafter should proceed with the drafting. It further explores the pre-requisites which a draftsman needs to equip himself with. It highlights the problems and challenges faced by a draftsman in carrying out the task of drafting a legislation.

It is expected that the students will acquire analytical skills and knowledge to analyse the tools and techniques employed by the draftsman.

UNIT 1: The Basics of Legislative Drafting

Topic 1: What is legislative drafting all about?

- a. Drafting and legislative Counsel
- b. Legislative expression

Topic 2: What is legislation?

- a. Types of legislation
- b. Classification of primary legislation (Bills and Acts)
- c. Structure and format Bills and Acts
- d. Conventional structure of Bills and Acts

Topic 3: Why do we draft as we do in parliamentary systems?

- a. Historical development of legislative drafting
- b. Theoretical foundations of this form of drafting
- c. Principle characteristics of this form of drafting
- d. Drafting objectives

Topic 4: Preparation of legislative scheme

- a. Clear concept of the legislative proposals; Preparation of conceptual outline
- b. Check the existing law
- c. Importance and preparation of skeleton legislation and legislative scheme

Topic 5: Basic Techniques of Legislative Drafting

- a. Style
- b. Simplicity of Language
- c. Over Drafting
- d. Vagueness

UNIT 2: Structure and style

Topic 1: Grammar and punctuation marks

- a. Why is grammar important for drafting?
- b. What grammatical terms do we need to know?
- c. What common grammatical mistakes should we watch for?
- d. How do we punctuate and capitalize

Topic 2: How do we put together the components of legislative sentences?

- a. Principal subject

- b. Principal predicate
- c. Predicate modifiers

Topic 3: Main parts of legislation

Topic 4: Common phrases and their significance

Topic 5: How should we structure a legislative text?

- a. General considerations
- b. Drafting sections
- c. Drafting sentences in sections
- d. Paragraphing
- e. Numbering
- f. Ordering and linking sentences in a section
- g. Linking sections
- h. Incorporation by reference
- i. Grouping Section

Topic 6: How should we organise a legislative text?

- a. General considerations
- b. Preparing an outline
- c. Factors influencing an outline for a Bill

Topic 7: How can we develop good legislative style?

- a. General considerations
- b. Developing good legislative style
- c. Gender-neutral drafting
- d. Some additional matters of style

UNIT 3: WORKING WITHIN LIMITS

Topic 1: How do we work with interpretive approaches and rules?

- a. General considerations
- b. Judicial approaches to interpretation
- c. Interpretive assumptions and presumptions
- d. Aids to interpretation

Topic 2: How do we work with Interpretation Acts?

- a. Importance of Interpretation Acts
- b. Application of Interpretation Acts
- c. Using Interpretation Acts to facilitate drafting

UNIT 4: DRAFTING CONSTITUTIONS

Topic 1: How do we work with the Constitution?

- a. The Constitution and the legislative counsel
- b. Particular constitutional constraints

Topic 2: How do we work with fundamental rights and freedoms?

- a. Drafting under a bill of rights
- b. International standards

Prescribed Legislation:

General Clauses Act, 1897

Prescribed Books:

1. B.R. Atre, Legislative Drafting (Principles and Techniques), Universal Law Publishing- An Imprint of LexisNexis, 5th edn. (2017).
2. Arthur J. Rynearson, Legislative Drafting Step-by-Step, Carolina Academic Press (2013).
3. Nirmal Kanti, R. Cambray's Principles of Legislation and Legislative Drafting, (2017).
4. T. K. Viswanathan, Legislative Drafting: Shaping the Law for the New Millennium, Indian Law Institute, 2nd edn., (2007).
5. V.P. Sarathi, Interpretation of Statutes, Eastern Book Company, 4th edn., (2003).
6. Lectures on Constitutional Law and Legislative Drafting, Vol. I, Institute of Judicial Training and Research, Uttar Pradesh, (1989).

Suggested Readings:

1. P.M. Bakshi, "The Discipline of Legislative Drafting", Vol. 34, No.1, *JILLI*, p. 1 (1992).
2. O.P. Motiwal, "The Principles of Legislative Drafting", Vol.16, No.1, *JILLI*, p. 11 (1974).
3. P.M. Bakshi, "Proviso in Legislative Drafting", Vol. 34, No. 2, *JILLI*, p. 179 (1992).
4. S. K. Hiranandani, "Legislative Drafting: An Indian View", Vol. 27, No.1, *The Modern Law Review*, p. 1 (1964).
5. Namrata Mukherjee, Shankar Narayanan, *et al.*, "Manual on Plain Language Drafting", Vidhi Centre for Legal Policy, (2017).
6. Law Commission of India, 60th Report (1974) and 183rd Report (2002) on General Clauses Act, 1897.