



# Introduction to legal drafting

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**Veterinary Legislation** means laws, regulations and all associated legal instruments that pertain to the veterinary domain.

**Veterinary Domain** means all the activities that are directly or indirectly related to animals, their products and by-products which help to protect, maintain and improve animal health, animal welfare and veterinary public health.

**Legal instrument** means the legally binding rule that is issued by a body with the required legal authority to issue the instrument.

**Stakeholder** means a person, group or organisation that can affect or be affected by the impacts of veterinary legislation.

**Primary legislation** means the legal instruments issued by the legislative body of a Member Country (legislative power)

**Secondary legislation** means the legal instruments issued by the executive body of a Member Country under the authority of primary legislation (executive power).

1. Ex: Competent authority and chain of command: should be clearly defined in the primary legislation
2. Ex: Penalties and sanctions remain one of the means required for implementation of legal texts – should be defined in the secondary legislation/regulations to be easily adjusted for inflation.

Those in charge of the executive and legislative powers are defined typically by the national constitution.

It is generally easier to amend or modify secondary legislation than primary legislation.

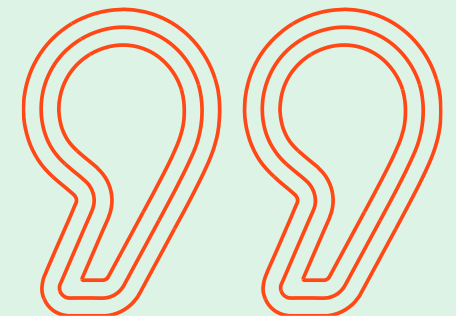
Therefore, things that are likely to require change (ex. Notifiable disease list) should be included in secondary legislation.



# How to assess “quality” legislation?

Options:

- Internal + External Quality
- Substantive + Technical + Procedural Quality





## General considerations:

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Design and position within the hierarchy of legal texts respecting the political and legal system

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Relevance of the technical solution covered by the text;

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Compliance with international standards;

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Rigour of the legal drafting and the legal security that this provides;

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Intelligibility;

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Accessibility;

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Acceptability;

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Applicability (technical and legal);

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Implementation;

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Cost for the administration and for stakeholders.

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Internal quality =  
inherent  
characteristics of the  
legislation

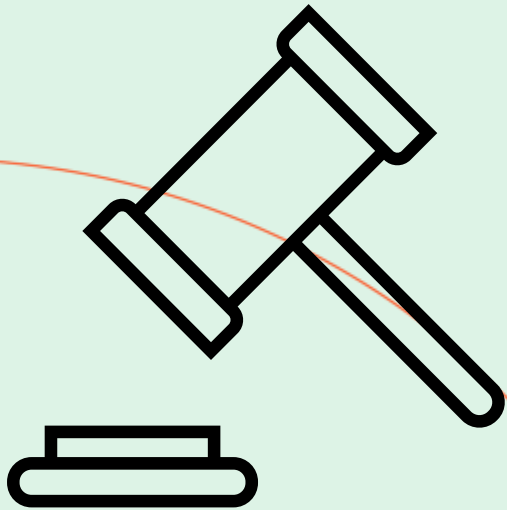
structure, format and  
organization, language

External = effects or  
impacts on  
stakeholders or target  
groups

accessibility to the  
target group: how easily  
it can be understood,  
implemented, and  
enforced



# Substantive quality:



## Four components:

1. Formulation & development of policy objectives;
2. Harmonisation of legislation with national laws and international standards;
3. Practical and effective legislation
4. Penal provisions



## Identified problem → policy formulation

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Policy serves as the ***foundation of legislation***, which serves as a tool for implementing specific policies and policy objectives.

### **STEPS:**

1. Identify the problem
2. Analyses and explanation of the cause of the problem
3. Canvassing of multiple options to solve the problem
  - What would influence change in behaviour?
  - Which option would best serve the purpose of the policy and is implementable?
  - Implementable = cost-effective, acceptable politically, administratively, by the target group and international partners?
4. Consultation with stakeholders
5. Drafting instructions
6. Collaboration between stakeholders (veterinarians and lawyers in case of veterinary domain)



# Policy formation: Options for implementation

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Enact regulations under an existing law;

Enhance enforcement of an existing law;

Education campaigns to promote awareness and compliance;

Adopt of a voluntary code;

Self-regulation via common interest

Regulation by professional bodies;

Financial incentives to promote desired behaviours and compliance;

Professional negotiations, guides to good practice;

Private certification mechanisms; and

Informing operators or consumers about risks.



Harmonized: meets legality requirements, are complementary and complies with all substantive legal requirements

### Practical and effective

- Implements policy, achieve intended objectives in the most cost-effective manner, aligned with the interests of society and seen as legitimate
- easy for the target group to exercise self-compliance & eliminates the need for supervision and
- Allows for enforcement by the invocation of state authority coercive powers of state authorities.

### Penal provisions

- Implementable
- Cost-effective
- Proportionate

# Technical Quality:

Norms: legislation states *who, what, when, where, why*

Structure, organization, format:

- Includes all required components put in the correct order, distinguished and separated; and excludes extraneous materials.
- Provisions...
  - Arranged in a logical manner and temporal order (General provisions → specific provisions & exceptions)
  - Have limited subsections
  - Divided into sections under headings.
  - Numbered consecutively.

# Key components of legislation include:

## Title

- Long title (general purpose and intention of the legislation).
- Short title (brief description of the legislation + convenient means of identifying and citing

## Preliminary provisions

## Definitions or interpretations

Substantive or normative provisions, setting out prohibitions, obligations and/or rights.

Procedural and administrative provisions, relating to implementation.

## Sanctions and penalties

## Financial requirements

## Transitional provisions:

- coming into force / effective date
- repeals and amendments
- schedules



# SOUND DRAFTING: Achieving legal clarity

## Plain language

### Sentence structure:

- Clear, concise, short
- Avoiding adjectives and other undefined terms
- Written in the present tense and active voice
- Reflecting intended audience, type of legislation, nature of subject, and scope

## Gender-neutral language

### Definitions:

- Words and terms not used in legislation should not be defined in the legislation.
- Defined words and terms consistently used internally and also be consistent with other legislation.
- Do not create prohibitions or rights, impose obligations, or include terms that are being defined or specific references to legislation



### To protect the public interest, legislation should be:

- Consistent with fundamental legal principles;
- Compliant with constitutional and other legal requirements;
- Adherent to the Interpretation Act (where one exists in the jurisdiction);
- Implementable, effective, clear and unambiguous;
- Successfully withstand court challenges and criticisms;
- Does not impose undue compliance costs on both the target groups and the enforcement agencies;
- Stakeholder engagement during the process of developing legislation is *critical* to producing legislation that fosters compliance with policy objectives and is effective in achieving its goals



# Thank you

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