



NATIONAL CONFERENCE

Legislative Architecture

Building with Words

September 10 & 11, 2012

**Ottawa Convention Centre
55 Colonel By Drive
Ottawa**



CANADIAN INSTITUTE
FOR THE ADMINISTRATION
OF JUSTICE

The Canadian Institute for the Administration of Justice participates in the improvement and advancement of the administration of justice by serving the legal drafting community. Its legal drafting conferences are a source of continuing legal education for the legislative drafting community across Canada.

REGISTRATION FORM

Legislative Architecture Building with Words

September 10 & 11, 2012
Ottawa Convention Centre

TO REGISTER,

please complete and return this form together with your cheque to:

Canadian Institute for the Administration of Justice
Faculty of Law, University of Montreal
PO Box 6128, Station "Centre Ville"
3101 chemin de la Tour, Rm. 3421
Montreal, Quebec, H3C 3J7
Tel.: (514) 343-6157 Fax : (514) 343-6296
e-mail : ciaj@ciaj-icaj.ca URL : <http://www.ciaj-icaj.ca>

Surname: _____ First Name: _____

Title to appear on name tag: _____

Organization: _____

Address: _____

Postal Code: _____ E-Mail: _____

Telephone: _____ Fax: _____

I am fluent in English _____ in French _____ both _____

(simultaneous translation is provided throughout the conference)

REGISTRATION FEE:

For CIAJ members \$ 695

For non members \$ 795

(Luncheons, reception and conference material provided)

Do you have any dietary restrictions?

Which? _____

Payment by

☐ Cheque ☐ MasterCard ☐ Visa ☐ AmEx ☐ Invoice

Account No. _____ Exp. Date _____

Signature _____

ACCOMMODATION: A block of rooms has been reserved at the Westin Ottawa Hotel, 11 Colonel By Drive, Ottawa, ON K1N 9H4 Tel. 1-866-716-8102 or (613) 560-7000 Fax (613) 234-5396, www.westin.com/ottawa at \$199.00 single or double occupancy (taxes not included). Participants are required to make their own hotel reservations before August 13, 2012 to take advantage of this rate.

CANCELLATION FEE: Requests for funds must be submitted in writing to CIAJ seven (7) days prior to the event. A handling fee of \$50.00 will be withheld on cancellations made in time. Except as noted, fees will not be reimbursed. Another participant may be designated as substitute.

The CIAJ also collaborates with key partners such as the Association of Parliamentary Counsel in Canada, the Association of Legislative Counsel in Canada and other related professional associations.

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☐ Yes ☐ No

(See Category checked above)

Payment included with registration fee

☐ Yes ☐ No (please invoice)

For more information about CIAJ, how you can serve CIAJ and member benefits, contact us in person or at <http://www.ciaj-icaj.ca>



This conference is organized by the CIAJ Legislative Drafting Committee co-chaired by Ms. Judith Keating, Q.C., Deputy Minister of Justice and Attorney General of New Brunswick and John Mark Keyes, Chief Legislative Counsel of Canada. The conference will examine the general structure of legislative systems, including the interplay of different forms of legislation with other regulatory instruments as well as regulatory reform and legislative revision.

It will also include updates on recent case law on legislative matters, the impact of international accessibility standards on the publication of legislation and workshops on practical aspects such as ethical issues for legislative counsel and drafting provisions authorizing the making of delegated legislation or governing the commencement of legislation.

Planning Committee

Judith Keating, Q.C. (chair)	Laura Hopkins John Mark Keyes
Mark Audcent	Barbara Kincaid
Pierre Charbonneau	Peter Pagano, Q.C.
Richard Denis	Michel Patrice
Janet Erasmus, Q.C.	Mark Spakowski
Philippe Hallée	

MONDAY, SEPTEMBER 10

8:30 REGISTRATION

9:00 WELCOME AND CONFERENCE OPENING

Conference Co-Chairs

Janet Erasmus, Q.C., Senior Legislative Counsel, Office of Legislative Counsel (British Columbia), Victoria, BC

Pierre Charbonneau, Senior Legislative Counsel, Department of Justice of Quebec, Quebec City, QC

9:15 KEYNOTE ADDRESS

RE-THINKING LEGISLATIVE METHODOLOGY FOR THE MODERN STATE

Introduction **Laura Hopkins**, Legislative Counsel, Office of Legislative Counsel (Ontario), Toronto, ON

Keynote Speaker **Edward L. Rubin**, Professor of Law and Political Science, Vanderbilt Law School, Nashville, TN (USA)

10:15 NETWORKING BREAK

10:45

LEGISLATIVE BUILDING BLOCKS - 1

Basic Design - Statutes, Regulations, Rules, Principles and Discretion

This session will discuss some fundamental choices that are made in the design of legislative schemes. This will include choices about what should go in a statute and what should be left to the regulations, how general or particular requirements should be and the amount of discretion officials who administer or enforce legislative schemes have. Such choices have implications for how legislation is drafted and raise a number of issues including rule of law considerations and practical issues relating to administration and enforcement.

Moderator **Mark Spakowski**, Chief Legislative Counsel of Ontario, Toronto, ON

Panelists **Cristie Ford**, Professor, Faculty of Law, University of British Columbia, Vancouver, BC
Rodney Fehr, Legislative Counsel, Office of Legislative Counsel (British Columbia), Victoria, BC

12:00 NETWORKING LUNCH

13:30

LEGISLATIVE BUILDING BLOCKS - 2

Alternative Design - Emerging Trends in Instrument Choice

Traditional law-making approaches, such as Acts and Regulations, are becoming less and less able to respond to the pressures the modern day regulator faces. While the "regulation" was once touted as the solution to reducing the burden of the law-making process for the functional details of Acts, policy-making and regulatory processes can no longer keep pace with the expectations of an increasingly complex and fast-moving technology-based world. This panel will discuss the emerging reliance on the incorporation by reference technique and on quasi-legal instruments as companion tools to legislation, as well as the benefits and challenges of these approaches.

Moderator **Philippe Hallée**, Deputy Chief Legislative Counsel, Justice Canada, Ottawa, ON

Panelists **Jacqueline Kuehl**, Senior Counsel, Justice Canada, Ottawa, ON
Dianne Flood, Commissioner for Teacher Regulation, Victoria, BC

14:45 NETWORKING BREAK

15:15

WORKSHOPS

1) Provisions authorizing delegated legislation

The workshop will consider issues relating to regulation-making provisions, with a particular emphasis on those that have the effect of amending the enabling statute. It will include discussions on exemption clauses and basket clauses, and terms connected to regulation-making provisions, such as "in accordance with the regulations" and "subject to the regulations".

Group Leader (for English Session)

Peter Pagano, Q.C., Chief Legislative Counsel of Alberta, Edmonton, AB

Group Leader (for French Session)

Bernard Auger, General Counsel, Justice Canada, Ottawa, ON

2) Ethical Issues for legislative counsel

This workshop will explore ethical issues relating to legislative drafting in terms of such matters as the nature and quality of drafting services, confidentiality and conflict of interest. The workshop will involve the discussion of practical problems designed to raise these issues.

Group Leader (for English Session)

Mark Audcent, Law Clerk and Parliamentary Counsel, Senate of Canada, Ottawa, ON

Group Leader (for French Session)

Louis Sormany, Deputy Secretary, Ethics and Legislation, Department of Executive Council of Quebec, Quebec City, QC

17:30 **RECEPTION AT THE HOUSE OF COMMONS**

TUESDAY, SEPTEMBER 11

9:00

LEGISLATIVE CASE LAW UPDATE

Presenter **Ruth Sullivan**, Legislative Counsel, Justice Canada, Ottawa, ON

9:15

WEB ACCESSIBILITY OF VISUAL COMPONENTS OF LAWS

This session will consider the standards and technology for making websites accessible to persons with visual disabilities. Although this technology works well with written content, there are particular challenges for visual content such as maps, graphs and images, which are sometimes part of Acts and regulations. Alternative texts must be posted with this content to be read aloud by automated screen-readers. The speakers will describe the technology, the standards that have been developed and the way they have been implemented in practice with particular reference to Justice Canada's Laws Website.

Moderator **Ruth Sullivan**, Legislative Counsel, Justice Canada, Ottawa, ON

Speakers **David MacDonald**, President, CanAdapt Solutions Inc., Ottawa, ON
Ted Glas, Legislative Counsel, Justice Canada, Ottawa, ON

10:15 **NETWORKING BREAK**

10:45

CLEANING UP REGULATIONS: Regulatory Reform

Regulatory reform is never far from the law-making agenda. It ranges from processes for disciplining regulation-making to review exercises for culling unnecessary or unduly burdensome regulations. This panel will look at these features and their implications for legislative drafting.

Moderator **Peter Pagano**, Q.C., Chief Legislative Counsel of Alberta, Edmonton, AB

Panelists **Roger Scott-Douglas**, Assistant Secretary, Priorities and Planning, Treasury Board Secretariat (Canada), Ottawa, ON
Alan Nymark, Associate, Regulatory Governance Institute and former Deputy Minister, Ottawa, ON

12:00 **NETWORKING LUNCH**

12:45

WORKSHOP

Transitional Law in Transition

This workshop will discuss recent developments in Canadian transitional law, focussing in particular on the presumption against the retrospective application of law and the effect of declaratory legislation. It will consider when transitional provisions are advisable by working through a series of problems.

Leader **Ruth Sullivan**, Legislative Counsel, Justice Canada, Ottawa, ON

13:30

CLEANING UP THE STATUTE BOOK

Canada and the Provinces have a fine history of effective housecleaning for the Statute Book through (more or less regular) general revisions of all public statutes. But have traditional statute revisions become impossible, at least in practical terms?

Contemporary tools for updating and maintaining the Statute Book include legislation that authorizes the revision of statutes (globally or on a smaller scale), the updating of references, the correction of errors and protocols for the automatic repeal of unproclaimed legislation. In this session, panelists will discuss the use of these and other tools and will assess their effectiveness in maintaining a coherent statute book.

Introduction **Judith Keating**, Q.C., Deputy Minister of Justice and Attorney General of New Brunswick, Fredericton, NB

Panelists **Kimberly A. Poffenroth**, Acting Assistant Deputy Attorney General, Legislative Services (New Brunswick), Fredericton, NB

Tamara Kuzyk, Legislative Counsel, Office of Legislative Counsel (Ontario), Toronto, ON

John Mark Keyes, Chief Legislative Counsel of Canada, Ottawa, ON

14:45 **NETWORKING BREAK**

15:15

WORKSHOPS

1) Commencement Provisions: Drafting and Implementation

Topics that will be addressed at this workshop include the respective roles of royal assent and the coming into force of the law, the different ways to bring legislation into force, the difficulties of piece-meal and staggered coming into force and whether the government should have the discretion to never bring a law into force. These are all subjects that drafters must master in order to be able to adequately deliver the desired legal product.

Group Leader (for English Session)

Patricia Pledge, Senior Counsel, Justice Canada, Ottawa, ON

Group Leader (for French Session)

Richard Tremblay, Professor of legislative drafting, Université Laval, Quebec City, QC

2) Ethical Issues for Legislative Counsel

This workshop will explore ethical issues relating to legislative drafting in terms of such matters as the nature and quality of drafting services, confidentiality and conflict of interest. The workshop will involve the discussion of practical problems designed to raise these issues.

Group Leader (for English Session)

Mark Audcent, Law Clerk and Parliamentary Counsel, Senate of Canada, Ottawa, ON

Group Leader (for French Session)

Louis Sormany, Deputy Secretary, Ethics and Legislation, Department of Executive Council of Quebec, Quebec City, QC

16:30 **CONFERENCE CLOSING**

Conference Co-Chairs

Janet Erasmus, Q.C., Senior Legislative Counsel, Office of Legislative Counsel (British Columbia), Victoria, BC

Pierre Charbonneau, Senior Legislative Counsel, Department of Justice of Quebec, Quebec City, QC