



ACT
Government

Justice and Community Safety

ACT Parliamentary Counsel's Office

Words and Phrases Guide

A Guide to Plain
Legal Language

February 2023

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Some thoughts

‘Make everything as simple as possible—but no more simple than that.’

Albert Einstein

‘(L)aws are not abstract propositions. They are expressions of policy arising out of specific situations and addressed to the attainment of particular ends.’

Justice Felix Frankfurter

‘The main aim of communication is clarity and simplicity. Usually they go together—but not always.’

‘Communication is always understood in the context and experience of the receiver—no matter what was intended.’

‘If unnecessary things add to clarity or simplicity they should be retained.’

Edward De Bono

‘Legislation should be written so that it is feasible for the ordinary person of ordinary intelligence and ordinary education to have a reasonable expectation of understanding and comprehending legislation and of getting the answers to the questions he or she has.’

‘We need to balance two important principles. The first is that clarity of language should be an aim in itself, so that the ordinary person can have a reasonable expectation of being able to comprehend legislation. The second is that the clarity of the language should enhance and not detract from the legal policy and the substance of the legislation. In the end result, clarity of language should assist with the development and formulation of legislative policy.’

Dennis Murphy QC

How to use this guide

The entries

Words and phrases are listed in alphabetical order and cross-referenced to other entries if appropriate.

How entries are arranged

Entries are listed in alphabetical order, arranged on a letter-by-letter basis.

In a letter-by-letter arrangement, spaces are ignored in entries consisting of 2 or more words. For example:

all	
allay	(ie allay)
allege	(ie alle...)
all ... not	(ie alln...)
allocate	(ie alloc...)
all of	(ie allof)
allowed	(ie allow...).

If a phrase contains 2 or more alternative words, only the first alternative is taken into account in working out the order of entries. For example, in the following phrases the second alternative ‘are’ is disregarded:

is/are not to	(ie isn...)
is/or	(ie iso...)
is/are required to	(ie isr...).

What each entry consists of

usage

try



extra information

examples of no change

examples of change

further reading

Each main entry contains a usage recommendation and suggested alternatives.

Suggested alternative words and phrases appear in *italic* type. Some suggested alternatives have an arrow before them (eg ▶ *remove* as a suggested alternative for *abate*). This means there is an entry for the suggested alternative. Check this entry before using the alternative. Not all alternatives are synonyms for the main entry. There may be other words that may work in the context or suggestions to recast or omit. Recasting may involve changing the narrative in the provision.

Extra information, examples of change and no change and references to relevant texts (under the heading ‘further reading’) are also included in many entries. In an entry containing an example of change, the changed words are struck through (eg ~~abated~~) and the alternative words are underlined (eg reduced).

Macquarie Dictionary

Though it is not listed under ‘further reading’, the Macquarie Dictionary is the primary source to be used when drafting ACT legislation.

Model laws

The following usage recommendations are not intended to apply to ACT legislation that adopts or is based on model law.

Usage recommendations

There are 3 recommendations for usage:

☹☹ never use

☹ avoid using

☺ consider alternatives

☹☹ never use

Practice The word or phrase must *never* be used.

Example

construe



usage—never use

try—*interpret* / omitting / recasting

example of change

1 in a proceeding to ~~construe~~ interpret a will, evidence of the testator’s intention

further reading

Fowler’s English Usage pp 175–6 (*construct/construe*)

☹ avoid using

Practice If possible, *avoid* using the word or phrase.

Example

forward [as a verb]



usage—avoid using

try—send / give

extra information

1 Except to mean send on, prefer *send* or *give*.

example of no change

1 For this Act, *sell* means send, forward or deliver for sale.

example of change

1 ~~forward~~ give a copy of the claim to the fund manager

further reading

Gowers' Plain Words p 230

Howard's Guide p 174

Howard's Handbook p 175

Longman English Usage p 294

☹ consider alternatives

Practice Before using the word or phrase, *consider* the alternatives. The alternatives are generally preferred, but always consider whether they are appropriate. Some entries include the option of omitting the word in question. Prefer brevity and omit the word or phrase if the meaning remains the same. 'No change' may be given as an option, but do this only if the alternative words are inappropriate.

Example

get



usage—consider alternatives

try—recasting (using more specific words, eg *become* / *buy* / ► *obtain* / *receive* / *take*) / omitting

extra information

1 *Get* is generally more appropriate in informal spoken English.

example of no change

1 adjourn the proceeding so the party can get representation

example of change

1 ~~get~~ acquire or use an assumed identity

further reading

Cambridge Guide pp 328-9 (*get*, *got* and *gotten*)

Working Words p 240

Classification of entries

Many entries are classified in the ‘extra information’ section of the entry into broad groups, eg formal words and archaisms.

This part of the guide gives an explanation of the classifications and examples.

Archaisms

Rule

Avoid using archaisms. Prefer a modern alternative.

Explanation

Archaisms are old-fashioned words and expressions that are no longer used in ordinary speech and writing.

Archaisms are often used to achieve a legalistic and formal style. However, they are not necessary and can always be readily replaced.

Examples

Archaisms	Try
aforementioned	recasting / omitting
aforesaid	recasting / omitting
amongst	► <i>among</i> / ► <i>between</i>
albeit	recasting / omitting
beforementioned	<i>the</i> [item] <i>mentioned in</i> / omitting / recasting
belowmentioned / belowlisted / belowquoted	<i>the</i> [item] <i>mentioned in</i> / omitting / recasting
forth	<i>out</i> / recasting
henceforth	<i>from now on</i> / recasting (using eg ► <i>on and after</i>) / omitting
henceforward	<i>from now on</i> / recasting (using eg ► <i>on and after</i>) / omitting
hereafter	<i>after</i> [X] / <i>from now on</i> / recasting
hereby	<i>then</i> / ► <i>by</i> [X] / <i>because of</i> [X] / omitting / recasting (supplying any necessary details)
herein	<i>in</i> [X] / recasting
hereinafter	<i>after</i> [X] / recasting / omitting
hereinbefore	<i>before</i> [X] / recasting / omitting
hereof	<i>of</i> [X] / recasting
hereto	<i>to</i> [X] / recasting
heretofore	<i>before</i> [X] / recasting / omitting
hereunder	<i>under</i> [X] / recasting (using, eg <i>follows</i> / ► <i>below</i>)
hereunto	<i>to</i> [X] / recasting

Archaisms	Try
herewith	<i>attached / with [X] / here is / recasting</i>
hitherto	<i>before [X] / previously / recasting</i>
howsoever	<i>no matter how / ►however / recasting</i>
in lieu of	<i>instead of / in place of / in substitution for</i>
pertaining to	<i>about / of / ►in relation to / on</i>
relict	<i>surviving spouse / spouse / domestic partner</i>
thence	<i>from that place / from there / from that source / recasting / from that direction / for that reason / therefore</i>
thenceforth / thenceforward	<i>from that time on(wards) / since then / from then / omitting / recasting</i>
thereabout(s)	recasting
thereafter	<i>afterwards / after [X] / then / omitting</i>
thereat	recasting (using, eg <i>at it / there</i>)
thereby	► <i>by [X] / by way of [X] / recasting</i>
therefor	<i>for [X] / recasting / omitting</i>
therefrom	► <i>from [X] / recasting</i>
therein	<i>in [X] / recasting</i>
thereinto	<i>in [X] / recasting</i>
thereof	<i>of [X] / ►from / out of / recasting</i>
thereon	<i>on / then / recasting</i>
thereout	<i>out of [X] / ►from [X] / recasting</i>
thereto / theretofore	<i>to [X] / recasting</i>
thereunder	<i>under [X] / recasting</i>
thereunto	recasting
thereupon	recasting
therewith	<i>with [X] / recasting</i>
touching [<i>as a preposition</i>]	<i>for / about / ►in relation to</i>
to wit	<i>omitting / recasting / for example / that is</i>
under the hand of	<i>signed by</i>
undermentioned	<i>the [item mentioned in section x] / omitting / recasting</i>
unto	<i>to / omitting / recasting</i>
verily	omitting
whatsoever	<i>of any kind / ►whatever / recasting</i>
whence	<i>from where / from which place / recasting</i>
whenever	► <i>when / ►whenever / omitting</i>
whereabout	<i>about that / about which / ►whereabouts / recasting</i>
whereat	<i>at which / recasting</i>
whereby	<i>under which / by which / according to which /</i>

Archaism	Try
	recasting
wherefor(e)	<i>for that</i> / ► <i>for which</i> / <i>why</i> / <i>for what purpose</i> / <i>therefore</i> / recasting
wherefrom	<i>from that</i> / <i>from which</i> / recasting
wherein	► <i>in which</i> / ► <i>where</i> / recasting
whereof	<i>of which</i> / recasting
whereon	► <i>on which</i> / ► <i>where</i> / <i>on what</i> / recasting
wheresoever	► <i>wherever</i> / recasting
whereto	<i>to which</i> / recasting
wheretofor	recasting
whereunder	recasting
whereupon	<i>at</i> / <i>after which</i> / <i>and then</i> / recasting
wherewith	<i>with which</i> / recasting
whichsoever	omitting / recasting / ► <i>whichever</i>
whilst	► <i>while</i> / <i>although</i> / ► <i>and</i> / <i>but</i> / ► <i>when</i>
whither	<i>to where</i> / <i>to which place</i> / ► <i>where</i> / <i>in which direction</i>
whosoever / whomsoever	► <i>whoever</i> / <i>whomever</i> / omitting
withal	► <i>in addition to</i> / <i>also</i> / <i>as well</i> / ► <i>nevertheless</i> / <i>with</i> / omitting / recasting
within / within-named [<i>as an adjective</i>]	omitting / ► <i>enclosed</i> / recasting

Further reading

Cambridge Style Guide p 57

Cutts pp 22, 77-8

Fowler's English Usage pp 65-6

Garner's Dictionary p 74

Garner's Legal Style pp 182-4

Longman English Usage pp 54-5

Partridge pp 31-6

Commercialese

Rule

Avoid using commercialese. Prefer plain language.

Explanation

Commercialese is the complex style of writing often found in older business documents, particularly correspondence. It sounds stilted and old-fashioned because it often uses many words and Latin abbreviations. Replace it with polite, but plain language.

Examples

► *advise*

► *as per*

Further reading

Cambridge Style Guide p 149

Fowler's English Usage p 163

Gowers' Plain Words pp 16–17

Partridge pp 216-18 (officialese, journalese and commercialese)

Working Words p 122

Compound prepositions

Rule

Use the simplest, appropriate preposition.

Explanation

A compound preposition is a preposition consisting of 1 or more elements, eg *because of* and *in the event of*.

A simple preposition consists of only 1 element, eg *about, above, after, as, at, between, by, for, from, in, into, of, off, on, over, since, than, to, under, up, with* and *without*.

Some compound prepositions have simpler alternatives (either a simple preposition or a shorter compound preposition) and can be readily replaced. Use of these compounds is rarely justified.

Other compound prepositions are entirely satisfactory (eg *because of*) or have useful roles in some contexts. Because of their lack of precision, compound prepositions can be especially useful in drafting to describe a relationship between concepts in the widest terms. However, frequently compound prepositions are unnecessary and are only clumsy devices applied mechanically without thought. Before using a compound preposition, always consider whether a simpler preposition would do.

Examples of compound prepositions that have ready alternatives

- | | |
|--------------------------------------|-------------------------------|
| ▶ <i>as a consequence of</i> | ▶ <i>in excess of</i> |
| ▶ <i>as regards</i> | ▶ <i>in favour of</i> |
| ▶ <i>as to</i> | ▶ <i>in order that/to</i> |
| ▶ <i>by means of</i> | ▶ <i>in regard to</i> |
| ▶ <i>by virtue of</i> | ▶ <i>in respect of</i> |
| ▶ <i>for the purpose/purposes of</i> | ▶ <i>in terms of</i> |
| ▶ <i>for the reason that</i> | ▶ <i>in the absence of</i> |
| ▶ <i>for which (there is)</i> | ▶ <i>in the affirmative</i> |
| ▶ <i>in accordance with</i> | ▶ <i>in the case of</i> |
| ▶ <i>in addition to</i> | ▶ <i>in the context of</i> |
| ▶ <i>in association with</i> | ▶ <i>in the course of</i> |
| ▶ <i>in case of</i> | ▶ <i>in the event that/of</i> |
| ▶ <i>in conjunction with</i> | ▶ <i>in the nature of</i> |
| ▶ <i>in connection with</i> | |

Example of compound preposition to be used with care

► *in relation to*

Further reading

Fowler's English Usage p 167

Gowers' Plain Words pp 54–7

Dogmatic words

Rule

Avoid the unjustified use of dogmatic words.

Explanation

Legal writing suffers from two contradictory vices. On the one hand, lawyers overqualify, and sound timid and doubtful or even evasive (see *Timid phrases*). On the other hand, lawyers overuse dogmatic words such as *clearly*, *obviously* and *undoubtedly*.

Used properly, dogmatic words are intensifiers. They reinforce the impact of other words by emphasising the writer's conviction about them. They are, however, often used unnecessarily or inappropriately.

Dogmatic words should be reserved for cases where their use is necessary and beyond contention. For example, *clearly* should be reserved for what is truly clear. If a dogmatic word is used to prop up an argument (especially a weak one), the word becomes a weasel word (see *Weasel words*). Rather than supporting the argument, the would-be intensifier destroys its force by obvious exaggeration.

Examples

► *actually* / *actual*

► *certain* / *certainly*

► *clearly* / *clear*

► *manifest* / *manifestly*

► *mere* / *merely*

► *necessarily*

► *obviously*

Further reading

Garner's Legal Style pp 32, 36–7, 188–90

Gowers' Plain Words pp 53–4

Doublets, triplets and synonym-strings

Rule

Avoid using doublets, triplets and longer synonym strings. Prefer the most specific suitable word.

Explanation

A doublet or triplet is a collection of 2 or 3 synonyms that express what can be said by 1 word. Doublets and triplets reflect the diverse sources of the English language and

the resulting availability of synonyms (and near synonyms), drawn from different sources, for many ideas.

During the medieval period, lawyers used a mixture of Latin, French and English. So that the meaning would be understood by all, and to avoid ambiguity, lawyers often used pairs of words from different languages. Examples of these kind of doublets include rest and residue (English/French), lands and tenements (English/French) and will and testament (English/Latin).

According to Garner, there are several reasons why doublets and triplets have become part of legal language:

- the language of the law originated in the more leisurely prose of past times
- English oral tradition led to the use of repetition to allow listeners time to understand the speaker's point
- unfamiliar words could be given meaning by using them with 1 or more synonyms
- lawyers seem to have a natural distrust of their ability to fully convey the intended meaning using just a single word, and so often use a number of synonyms in the hope of avoiding unintended meanings and potential misinterpretation. (A verbal scattergun instead of a rifle shot.)

Doublets and triplets detract from precise, concise and specific meaning. In most cases, a single word from a doublet or triplet will be enough to express the meaning given by each word of the group. Occasionally, it may be necessary to use a doublet or triplet as a term of art, eg *aid and abet*. However, these occasions are rare.

Examples

Doublet or triplet	Try
all and every	▶ <i>all</i> / <i>a</i> / ▶ <i>each</i> / <i>the</i> / omitting
all and singular	▶ <i>all</i> / ▶ <i>each</i> / <i>the</i> / omitting
any and all	▶ <i>all</i> / ▶ <i>any</i> / <i>each</i> / <i>1 or more of</i> / (<i>2 or more of</i>) / recasting
as and from	▶ <i>from</i> / <i>after</i> / ▶ <i>on and after</i> / recasting (using eg <i>6 months beginning on</i>)
as and when	▶ <i>when</i> / ▶ <i>if</i> / recasting
authorise and empower	recasting (using ▶ <i>may</i>) / ▶ <i>authorise</i> / <i>allow</i>
by and under	<i>under</i> / recasting
by and with	recasting
due and payable	see entry for 'due'
each and all	▶ <i>each</i> / ▶ <i>all</i> / <i>a</i> / <i>an</i> / <i>the</i> / recasting
each and every	▶ <i>each</i> / ▶ <i>every</i> / <i>a</i> / <i>an</i> / <i>the</i> / ▶ <i>all</i> / recasting
entirely and completely	<i>completely</i>
fair and equitable	<i>fair</i> / ▶ <i>equitable</i>

Doublet or triplet	Try
final and conclusive	<i>final</i> / recasting
finish and complete	<i>finish</i> / ► <i>complete</i> / recasting
fit and proper	► <i>appropriate</i> / <i>suitable</i> / recasting
fit and suitable	► <i>appropriate</i> / <i>suitable</i> / recasting
fitting and proper	► <i>appropriate</i> / <i>suitable</i> / recasting
for and during	► <i>while</i> / ► <i>during</i> / <i>for</i>
for and in connection with / for or in connection with	<i>in</i> / ► <i>in connection with</i> / ► <i>in relation to</i> / <i>about</i> / <i>for</i> / <i>to</i> / <i>of</i>
for and on behalf of / for or on behalf of	<i>for</i> / ► <i>on behalf of</i>
force and effect / force or effect	recasting (using <i>has</i> ► <i>effect</i> / <i>force</i>)
from and after	► <i>from</i> / <i>after</i> / ► <i>on and after</i> / recasting (using eg <i>6 months beginning on</i>)
full and complete	► <i>complete</i> / recasting
full force and effect	► <i>effect</i>
good and sufficient	► <i>adequate</i> / <i>enough</i> / ► <i>sufficient</i> / <i>suitable</i> / ► <i>appropriate</i> / <i>satisfactory</i>
give, devise and bequeath	<i>give</i> / <i>give by will</i>
hear and decide	<i>hear</i> / <i>decide</i> / <i>deal with</i> / no change
hear and determine	<i>hear and decide</i> / <i>hear</i> / <i>decide</i> / <i>deal with</i>
if and when	► <i>if</i> / ► <i>when</i> / ► <i>whenever</i> / recasting
in and / or in connection with	<i>about</i> / <i>for</i> / <i>in</i> / <i>of</i> / <i>over</i> / <i>to</i> / <i>with</i> / ► <i>in relation to</i> / ► <i>in connection with</i> / recasting
jointly and severally [also joint and several]	recasting (using ► <i>together</i> / <i>alone</i> / <i>individually</i> / <i>each of them</i>)
just and reasonable	<i>just</i> / <i>fair</i> / ► <i>reasonable</i> / <i>impartial</i>
means and includes	<i>means</i>
no force or effect	<i>no</i> ► <i>effect</i>
null and void	► <i>void</i> / <i>invalid</i> / recasting (using <i>of no (legal) effect</i>)
pay, satisfy and discharge	► <i>satisfy</i> / <i>discharge</i> / <i>comply with</i>
perform and discharge	► <i>perform</i> / <i>discharge</i> / recasting
possession, custody and control	<i>possession</i> / <i>ownership</i>
power and / or authority	<i>power</i> / omitting
relieve and discharge	<i>discharge</i> / recasting
rest, residue and remainder	<i>all other property</i> / <i>all remaining property</i> / <i>all the rest of the property</i> / <i>the balance of the property</i> / <i>all property left over</i> / <i>rest</i> / <i>balance</i> / <i>residuary estate</i> (in a will)
right, title and interest	<i>interest</i> / recasting
save and except	► <i>except</i> / <i>other than</i> / ► <i>subject to</i> / ► <i>unless</i> / recasting
separate and apart	<i>separate</i> / <i>apart</i>

Doublet or triplet	Try
separate and distinct	<i>separate / distinct</i>
signed, sealed and delivered	recasting
sole and exclusive	<i>exclusive / ►only / recasting</i>
terms and conditions	<i>terms / conditions</i>
terms and provisions	<i>terms / provisions</i>
to and / or in relation to	<i>to / about / for / of / ►in relation to</i>
to and / or in respect of	<i>about / for / to / of / ►in relation to</i>
transfer and assign	<i>transfer / give / sell / recasting (using more precise words)</i>
true and correct	<i>correct / accurate / true</i>
type and kind	omitting / ► <i>kind / ►type</i>
uncontroverted and uncontradicted	<i>not disputed / not denied / not opposed</i>
under and subject to	<i>under / recasting</i>
understood and agreed	recasting (using <i>agreed</i>) / omitting
undertake and agree	► <i>agree</i>
unless and until	<i>unless / ►when / ►if / until / recasting</i>
void and of no effect / void and unenforceable	► <i>void / of no (legal) effect / has no (legal) effect / invalid</i>
when and as	► <i>when / ►whenever / ►as / recasting</i>

Further reading

Garner's Dictionary pp 292–5
Garner's Legal Style pp 187–8

Euphemisms

Rule

Avoid the unnecessary use of euphemisms. Use the most direct word if appropriate.

Explanation

The word *euphemism* comes from 2 Greek words meaning *speaking nicely*. A euphemism is a vague, indirect word or phrase used to say something unpleasant in a less direct or confronting way. Euphemisms are used in 3 ways:

- to disguise harsh or disagreeable facts (eg *correctional facility* for *prison*)
- to dress things up or add status to something (*hair consultant* for *hairdresser*)
- as genteel substitutes for words considered to be indelicate (*lavatory* for *toilet*)

Euphemisms are generally not appropriate for legislation because of their tendency to become dated.

Examples

ablution facilities

►*decease / deceased*

- ▶ *demise* (for death)
- ▶ *imbibe*
inebriated
- ▶ *intoxicated*

- permanent layoff
- ▶ *predecease*
- revenue enhancement

Further reading

- Cambridge Style Guide pp 256-7
- Fowler's English Usage pp 267-8
- Garner's Dictionary pp 330-1
- Garner's Legal Style pp 34-5
- Gowers' Plain Words pp 42-4
- Howard's Guide p 154
- Longman English Usage p 254
- Partridge pp 108-10
- Right Words pp 143-4
- Working Words p 212

Foreign words and phrases

Rule

Avoid using foreign words. Write in English, not in Latin, Norman French or any other foreign language.

Explanation

Foreign words that have not been fully absorbed into English are obscure and irritating to readers who do not know the word or its meaning. They can be a sign of the writer's disregard for readers.

Technical legal expressions in Latin or Norman French are especially objectionable (see *Technical words*). Their obscurity can prevent non-lawyers from arriving at even a minimal understanding of the law.

Foreign words are sometimes used as a substitute for proper reasoning and to cloak an unjustified assumption with figleaf respectability. Their misuse can lead to the embarrassment of the pretentious blunder.

Foreign words usually have an English equivalent that can be readily substituted. If possible, use the English equivalent.

Examples

Foreign word	Try
ab initio	<i>see</i> —▶ <i>ab initio</i>
ad hoc	<i>see</i> —▶ <i>ad hoc</i>
ad idem	<i>see</i> —▶ <i>ad idem</i>
alia	<i>see</i> —▶ <i>inter alia</i>
ex officio	<i>without further appointment</i> / recasting
force majeure	<i>see</i> —▶ <i>force majeure</i>

Foreign word	Try
in camera	<i>see</i> —▶ <i>in camera</i>
in loco parentis	<i>see</i> —▶ <i>in loco parentis</i>
in personam	<i>see</i> —▶ <i>in personam</i>
in re <i>or</i> re	omitting / <i>about</i> / ▶ <i>regarding</i> / <i>on</i> / ▶ <i>concerning</i> / recasting
in rem	<i>against the thing</i> / <i>against the world at large</i> / <i>in the matter of</i> / recasting
in situ	<i>on site</i> / <i>on-the-spot</i> / <i>in [its] usual place</i> / <i>in</i> <i>[its] original place</i> / <i>undisturbed</i>
in toto	<i>completely</i> / <i>as a whole</i> / <i>entirely</i> / <i>fully</i> / ▶ <i>totally</i> / ▶ <i>wholly</i> / <i>without exception</i> / <i>total</i> / <i>in all</i> / recasting
ipso facto	<i>by that very fact</i> / recasting
per annum	<i>a year</i> / <i>by the year</i> / <i>for each year</i> / ▶ <i>per</i> <i>year</i> / <i>annually</i>
per diem	<i>a day</i> / <i>by the day</i> / <i>for each day</i> / ▶ <i>per day</i> / <i>daily</i>
per procuracionem / per proc. / per pro. / p.p	<i>for</i> / ▶ <i>on behalf of</i>
per se	<i>by itself</i> / <i>in itself</i> / ▶ <i>as such</i> / <i>essentially</i> / <i>for</i> <i>its own sake</i> / <i>standing alone</i> / <i>as a matter of</i> <i>law</i>
per stirpes	recasting (adding an explanation of the phrase)
precis	<i>summary</i>
primus inter pares	<i>first among equals</i> / <i>having precedence but no</i> <i>greater authority</i>
pro forma	<i>as a matter of form</i> / <i>for the sake of form</i> / <i>as</i> <i>a gesture</i> / recasting
pro tanto	<i>in part</i> / <i>to that extent</i> / <i>as far as it goes</i> / <i>so</i> <i>much</i> / recasting
pro tem(pore)	<i>for the time being</i> / <i>temporarily</i> / recasting (using <i>interim arrangement</i> / <i>informal</i> <i>arrangement</i>)
proximo mense <i>or</i> prox.	recasting (using <i>next month</i> or the name of next month eg <i>February</i>)
qua	▶ <i>as</i> / <i>in the capacity of</i> / recasting (using eg ▶ <i>as such</i>)
quantum	<i>amount</i> / <i>share</i> / ▶ <i>portion</i>
rata	<i>see</i> — <i>pro rata</i>
re	omitting / <i>about</i> / ▶ <i>regarding</i> / <i>on</i> / ▶ <i>concerning</i> / recasting
seriatim	<i>in a series</i> / <i>in turn</i> / <i>one after another</i> / <i>in</i> <i>sequence</i> / <i>successively</i> / <i>serially</i> / <i>one at a</i> <i>time</i> / <i>in the same order</i>

Foreign word	Try
simpliciter	<i>taken alone / taken by itself / summarily / unconditionally / absolutely / on its own</i>
sine die	<i>indefinitely / without fixing a day</i>
sine qua non	recasting (using <i>essential / indispensable / necessary / necessity</i>)
sui generis	► <i>unique / one of a kind</i>
sui juris	<i>of full legal capacity</i>
uberrima fidei	<i>of the utmost good faith</i> / recasting (adding an explanation of the phrase)
ultimo mense <i>or ult.</i>	recasting (using last month or the name of the last month eg <i>July</i>)
videlicet <i>or viz</i>	► <i>namely / that is to say</i> / recasting (using <i>the following</i>) / omitting
vires	<i>power</i> / ► <i>authority</i>
vis-à-vis	<i>face to face / opposite</i> / ► <i>in relation to / about</i> / ► <i>as regards</i> / ► <i>regarding</i> / <i>on / for / in / of / over / to / with</i> / recasting (using more precise words)
viva voce	<i>orally / spoken oral examination</i>
vivos	<i>see—intervivos</i>

Further reading

Cutts pp 37-9

Garner's Legal Style pp 3–4, 185–7

Gowers' Plain Words pp 16, 74–5

Howard's Guide pp 173, 239 (Latinisms)

Longman English Usage pp 288-9, 405 (Latinisms)

Right words pp 160-1

Legalese

Rule

Avoid using legalese. Prefer plain language.

Explanation

Legalese is the complicated, technical language and complex style of writing used in older legal documents. The reason for using legalese seems to be that it is believed to result in certainty. However, this is not always the case. Using legalese often makes documents incomprehensible—not only to non-lawyers, but often to lawyers as well.

Examples

► *as appropriate*

► *as the case may be / as the case requires / as the case may require*

▶ *but for*
 ▶ *call in question*
 ▶ *derogate*
 ▶ *except as otherwise provided*
 ▶ *pursuant to*
 seemle
 several

▶ *show cause*
 ▶ *subject of*
 time is of the essence
 ▶ *unless the contrary intention appears*
 wherever occurring
 ▶ *without limiting the generality of*

Further reading

Cutts pp 140-7 (lucid legal language)
 Fowler's English Usage pp 448-9
 Garner's Dictionary p 516
 Garner's Legal Style pp 182-90
 Gowers' Plain Words pp 6-7, 71-4
 Howard's Guide p 242 (legal English)

Padding

Rule

Do not use throat-clearing phrases, flotsam phrases or other padding. Write simply and directly.

Explanation

Padding is using woolly words, phrases and even sentences that contribute nothing to the reader's understanding of the writer's meaning. Much padding is the oral equivalent of throat-clearing—an opening flourish before the writer gets down to saying what he or she wants to say.

Other padding consists of the standard flotsam phrases (eg *the fact that*) that float idly in a sentence without carrying any meaning. Often using padding comes partly from an exaggerated feeling that wordiness is an ingredient of politeness, and that a blunt statement is crude, if not rude.

Padding can usually be left out or replaced by simpler words. Eliminating padding helps develop a simpler, more direct writing style.

Examples

▶ *in terms of*
 on a ... basis (see ▶ *basis*)

▶ *the fact that*

Further reading

Garner's Legal Style pp 55-7
 Gowers' Plain words pp 65-9

Technical words

Rule

Avoid using technical words. Explain any technical words that are necessary.

Explanation

Legal and other technical words are obscure and irritating to readers who do not know the words or their meaning. They can be a sign of the writer's disregard for the reader.

Technical legal expressions in Latin or Norman French are especially objectionable (see *Foreign words and phrases*).

Some legal expressions have no special legal meaning. They are either pomposities that have a non-technical, English equivalent, or expressions of imprecise meaning whose use merely provides a delusion of certainty. Before using a legal expression, decide whether it is either of these kinds.

Substitution of a non-technical equivalent for a legal or other expression may not, of itself, provide an appropriate solution. Your readers may be misled into believing that they understand the non-technical equivalent. If a technical expression is necessary, consider providing a brief, plain English explanation of its meaning using a textual note, footnote or explanatory provision.

Examples

- ▶ *chose in action*
- ▶ *in personam*
- ▶ *in rem*

Further reading

Cambridge Style Guide p 741 (technologese)

Cutts p 21

Garner's Legal Style p 185–7

Gowers' Plain Words pp 6–7, 71–2, 178–81

Law Words 1995

Vogue words and phrases

Rule

Avoid vogue words and phrases.

Explanation

A vogue word or phrase is a word or phrase that goes in and out of fashion; that has a relatively short life.

Garner (in Garner's Legal Style, at p 32) states:

Whenever you write a word or phrase that is on the tip of everyone's tongue, strike it out. Vogue words cheapen prose, partly because their fashionableness wears down their meaning to the blandest generality, and partly because they make you sound like an unthinking writer of ready-made phrases.

Examples

▶ *amenity*

aware (in its meaning as a blanket term of approval, eg a politically aware person or even an aware person) (see ▶ *aware*)

▶ *capability*

ceiling (meaning maximum) (see ▶ *ceiling*)

▶ *identify with*

▶ *target*

▶ *ultimate*

Further reading

Garner's Legal Style pp 32–3

Weasel words

Rule

Avoid weasel words.

Explanation

Webster's Third New International Dictionary (Vol. III, p 2590) defines 'weasel word' in the following way:

weasel word *n* [*weasel* = *word*; fr. the weasel's reputed habit of sucking the contents out of an egg [while] leaving the shell superficially intact]: a word that destroys the force of a statement by equivocal qualification ... : a word used in order to evade or retreat from a direct or forthright statement or position *weasel words* are the adman's way of crossing his fingers behind his back when he makes a somewhat elastic statement - Robert Littell.

The *Reader's Digest Reverse Dictionary* (pp 764–765) defines ‘weasel words’ as

... unreliable words or expressions, as in *We will use our best endeavours*, suggesting yet evading a promise or commitment [referring to eggs that when sucked dry by weasels keep their shape but are drained of their content].

Lawyers are notorious for qualifying every statement they make with weasel words. Weasel words are also dealt with under *Dogmatic words* and *Timid phrases*.

Examples

▶ *compelling*

▶ *if practicable*

▶ *substantial*)

▶ *unduly*

▶ *very*

Further reading

Garner's Dictionary p 926

Garner's Legal Style pp 36, 123, 129, 144, 192

Howard's Guide p 407

References

Asprey	Asprey, Michèle M (2010) <i>Plain Language for Lawyers</i> , 4th ed, Federation Press, Sydney, 2010
Butterworths Legal Dictionary	Nygh, Peter and Butt, Peter (gen eds) (1997) <i>Butterworths Australian Legal Dictionary</i> , Butterworths, Sydney
Cambridge Guide	Peters, Pam (2007) <i>The Cambridge guide to Australian English usage</i> , Cambridge University Press, Cambridge
Drafting Practice Guide	Parliamentary Counsel's Office, <i>Drafting Practice Guide</i> , Canberra
Fowler's English Usage	Burchfield, RW (ed) (2000) <i>The New Fowler's Modern English Usage</i> , 3rd rev ed, Oxford University Press, New York
Garner's Dictionary	Garner, Bryan A (1995) <i>A Dictionary of Modern Legal Usage</i> , 2nd ed, Oxford University Press, New York
Garner's Legal Style	Garner, Bryan A (1991) <i>The Elements of Legal Style</i> , Oxford University Press, New York
Gowers' Plain Words	Gowers, Ernest (1987) <i>The Complete Plain Words</i> , 3rd ed, revised by Sidney Greenbaum and Janet Whitcut, Penguin Books, London
Howard's Guide	Howard, Godfrey (1993) <i>The Good English Guide</i> , Macmillan Reference Books, London
Howard's Handbook	Howard, Godfrey (1997) <i>The Macmillan Good English Handbook</i> , Macmillan Publishers Ltd, London
LA	<i>Legislation Act 2001</i>
Longman English Usage	Greenbaum, Sidney and Whitcut, Janet (1988) <i>Longman Guide to English Usage</i> , Penguin Books, England

Macquarie Dictionary	<i>The Macquarie Dictionary</i> (2009) 5th ed, The Macquarie Library, Macquarie University New South Wales
Partridge	Partridge, Eric (1999) <i>Usage and Abusage</i> , 3rd ed, Janet Whitcut (ed), Penguin Books, England
Pearce and Geddes	Pearce, DC and Geddes, RS (2014) <i>Statutory Interpretation in Australia</i> , 8th ed, LexisNexis Butterworths, Sydney
Spelling Guide	Parliamentary Counsel's Office, <i>Spelling, Abbreviations and Symbols Guide</i> , Canberra
Working Words	Hughes, Barrie (ed) (1993) <i>The Penguin Working Words: An Australian Guide to Modern English Usage</i> , Penguin Books Aust Ltd, Ringwood Vic

A

abate



usage—avoid using

try—*end / stop / lapse / diminish / reduce / ►remove / recasting*

extra information

- 1 formal word
- 2 For the use of *end* and *stop*, see *cease*.

example of no change

- 1 counted to abate a greenhouse shortfall carried forward

examples of change

- 1 A proceeding by or against the Attorney-General does not ~~abate~~ end because of a change of office holder.
- 2 the practical measures that may be taken to prevent, control, ~~abate~~ reduce or mitigate environmental harm
- 3 The person must act to ~~abate~~ remove the nuisance caused by smoke emissions.
- 4 If the applicant dies before the application is decided, the application ~~abates~~ lapses.
- 5 rent ~~abates~~ is not payable for the period that the premises are unable to be used

further reading

Butterworths Legal Dictionary p 2 (*abatement; abatement of criminal proceedings; abatement of legacies; abatement of nuisance; abatement of purchase money*)
Garner's Dictionary p 4

abide



usage—never use

try—*comply with / live / accept / stay*

extra information

- 1 Archaism in most senses.
- 2 Becoming an archaism when used to mean ‘to accept and continue to observe’ (eg ‘to abide by the decision’).

examples of change

- 1 The licensee must ~~abide by~~ comply with the licence conditions.
- 2 where the party ~~abides~~ lives
- 3 The person must ~~abide by~~ accept the arbitrator's decision.

further reading

Fowler's English Usage p 4
Garner's Dictionary p 5
Longman English Usage p 2
Partridge p 31

ab initio

usage—never use

try—from the start / from the beginning / omitting

extra information

- 1 foreign phrase
- 2 For the use of *start* and *begin*, see *commence*.
- 3 It is not necessary to say that something is void *ab initio*. The words *ab initio* are redundant if the thing is void.

example of change

- 1 The contract was void ~~ab initio~~.

further reading

Asprey pp 162, 220

Butterworths Legal Dictionary p 1

Garner's Dictionary pp 5–6 (*ab initio*; *in initio*), 919–20 (*void ab initio*)

Garner's Legal Style p 194

able

see—*is / are able to*

abode

usage—never use

try—*home* / ► *house* / *address* / recasting (using, eg *place where the person lives / usually lives*)

extra information

- 1 formal word

examples of change

- 1 a person's ~~abode~~ home
- 2 a person who has no fixed ~~abode~~ address
- 3 ~~the person's usual place of abode~~ place where the person usually lives

further reading

Black's Law Dictionary p 5 (*abode*)

Butterworths Legal Dictionary p 3

Garner's Dictionary pp 7 (*abode*, *place of*), 301 (*dwelling house*; *dwelling*; *usual place of abode*)

Longman English Usage p 5

New Oxford Dictionary p 4

Partridge p 103

above



usage—consider alternatives

try—recasting (using *at least*) / ► mentioned in (state the provision) / ► *greater than* / *heavier than* / *larger than* / *longer than* / ► *more than* / ► *older than* / *taller than* / *over* / omitting

extra information

- 1 informal word for *more than*, *longer than* etc
- 2 For describing quantities, weight, age etc, prefer an alternative. Generally, prefer *over*, *at least*, or a more specific alternative, eg *older than*, to other alternatives.
- 3 *Above* also means on a higher level or in a higher position (than). *Over* means directly above or across. In some contexts the meaning of the words is identical.
- 4 If referring to text mentioned earlier in a document, state the location of the text in the document ('mentioned in section 14' rather than 'mentioned above').

examples of no change

- 1 8m above ground level
- 2 an employee who is classified at or above Legal 1
- 3 at a concentration above a stated concentration
- 4 airspace above the area

examples of change

- 1 The person must be ~~above the age of 16 years~~ at least 17 years old.
- 2 The mesh size ~~specified above~~ mentioned in section 52
- 3 prohibit vehicles and combinations larger or ~~above~~ heavier than a limit shown on a sign relating to a road
- 4 ~~above~~ for longer than the agreed term of 6 months
- 5 subject to section 14 ~~above~~
- 6 the ~~above~~ vehicle (ie can rely on the narrative ('the vehicle'), so there is no need to use 'above')

further reading

Asprey pp 124, 165, 220

Fowler's English Usage p 9

Garner's Dictionary p 8

Howard's Handbook p 330 (*see above* and *below*)

Longman English Usage p 5

Partridge pp 2 (*above* and *below*), 2–4 (*above* and *over*; *below* and *beneath* and *under*)

Working Words p 7 (*above/over*)

abovementioned / abovelisted / abovequoted



usage—never use

try—recasting

extra information

- 1 archaism
- 2 If referring to text mentioned earlier in a document, state the location of the text in the document ('mentioned in section 14' rather than 'mentioned above').

example of change

- 1 the ~~abovementioned~~ officer mentioned in section 14

further reading

Asprey pp 124, 220 (*abovementioned*)

Garner's Dictionary pp 8–9 (*above B; above-mentioned; above-quoted; above-styled; above-captioned*)

Garner's Legal Style p 100 (*above-mentioned; above-listed*)

Longman English Usage p 5 (*above*)

abscond



usage—avoid using

try—*leave* / recasting

extra information

- 1 Used in the context of criminal law and proceedings.

examples of no change

- 1 If a judge is satisfied that a person in relation to whom a summons has been issued has absconded or is likely to abscond, the judge may issue a warrant for the person's arrest.
- 2 This rule applies if—
 - (a) an application for punishment of a person for contempt has been filed in the court; and
 - (b) the court considers that the person is likely to abscond or otherwise withdraw from the court's jurisdiction.

example of change

- 1 If a child ~~absconds from~~ leaves the school grounds without permission,

further reading

Butterworths Legal Dictionary p 7

absence

see—*in the absence of*

abuts



usage—never use

try—▶adjoins / *is* ▶adjacent to / *is* ▶next to / recasting

extra information

1 formal word

examples of change

- 1 if the lots have a boundary ~~abutting~~ adjoining the same part of a road,
- 2 the lessee of land that ~~abuts~~ adjoins the land where the tree is located
- 3 the road ~~abutting~~ adjacent to the development

further reading

Butterworths Legal Dictionary p 10

Garner's Dictionary p 12 (*abutment; abuttals*)

Garner's Legal Style p 191 (*abutting*)

accede



usage—avoid using

try—▶agree on/to / ▶grant / allow / ▶consent / ▶permit

extra information

- 1 Used in the context of a country formally agreeing to a convention, protocol etc.
- 2 formal word

example of no change

- 1 when Australia accedes to the convention

example of change

- 1 if the party ~~accedes~~ agrees to the other party's request

further reading

Butterworths Legal Dictionary p 11

Garner's Dictionary p 12 (*accede; exceed*)

Gowers' Plain Words p 198

Longman English Usage p 7 (*accede, exceed, succeed*)

Partridge p 5 (*access; accession*)

Working Words p 8

accept

see—except

accommodation



usage—consider alternatives

try—*housing / houses / home / settlement / compromise* / recasting using eg

▶ *adapt*

extra information

- 1 Prefer a less formal alternative if appropriate.
- 2 Avoid using to mean adaptation or a settlement of differences.

example of no change

- 1 a high standard of accommodation

examples of change

- 1 ~~accommodation~~ housing for mine workers
- 2 any form of financial ~~accommodation~~ arrangement
- 3 If the parties ~~reach an accommodation about~~ settle the outstanding matters

further reading

Cambridge Guide p 13 (*accommodate*)

Fowler's English Usage p 15 (*accommodate, accommodation*)

Garner's Legal Style p 100

Gowers' Plain Words pp 198–9

Howard's Handbook p 6 (*accommodate/accommodation*)

Longman English Usage p 10 (*accommodation(s)*)

accompany



usage—consider alternatives

try—recasting (using *attached*)

examples of no change

- 1 the care instructions for goods may be given in a pamphlet accompanying the goods
- 2 the work safety representative for a worker may accompany an inspector during an inspection
- 3 An application for an employee licence must be accompanied by a certificate from an employee organisation.
- 4 (1) A person may apply to the licensing authority for a dangerous goods driver licence.
(2) The application must be accompanied by—
(a) the driver licence evidence; and

example of change

- 1 the question, the ground for objection, the answer (if any) and the opinion of the examiner must be set out in the deposition of the person being examined or in a statement ~~accompanying~~ attached to the deposition; and

further reading

Gowers' Plain Words p 199

Longman English Usage p 10

accord



usage—avoid using

try—▶ *agree on / to / recognise / recasting* (using more direct language)

extra information

- 1 Used to mean a formal agreement.
- 2 formal word

example of no change

- 1 the accord between Australia and Indonesia

examples of change

- 1 if a person ~~attends of the person's own accord~~ voluntarily attends
- 2 If the parties' views ~~accord~~ the parties agree

further reading

Butterworths Legal Dictionary p 14

Fowler's English Usage p 15

Garner's Dictionary pp 14 (*accord*; *accordance*), 14–5 (*accord*; *afford*), 15 (*accord*; *concord*)

Longman English Usage p 10 (*accord*, *account*)

accordance

see—*in accordance with*

accordingly



usage—avoid using

try—recasting (using neutral words or changing the narrative) / omitting

extra information

- 1 Used in phrases 'punishable accordingly' and 'enforced accordingly' to make it clear that punishment or enforcement is a consequence of deeming, eg, someone to have committed an offence or something to be a court order.
- 2 Can be a sentence adverb. For example, 'He did not breach the rules; accordingly, there will be no inquiry.'

examples of no change

- 1 If a person (the *offender*) who is a partner in a partnership commits an offence against a heavy vehicle road law in the course of the activities of the partnership, each other partner in the partnership, and each other person who is involved with, or takes part in, the management of the partnership, is taken to have committed the offence and is punishable accordingly.
- 2 A person who contravenes the order is taken to be in contempt of the Supreme Court and is punishable accordingly.
- 3 A registered family group conference agreement has effect as if it were a care and protection order of the Childrens Court and may be enforced accordingly.

examples of change

- 1 (1) The imposition of a condition on an authorisation does not create a right in anyone other than the Territory.
(2) ~~Accordingly, a~~ A decision to impose (or not to impose) a condition on an authorisation is final.

- 2 If a person fails to comply with a condition of a mass, dimension or loading concession—
- the concession does not operate while the failure to comply continues; and
 - ~~accordingly~~, the concession must be disregarded in deciding whether there has been a breach of a mass, dimension or loading requirement.

further reading

Asprey pp 182, 220

Fowler's English Usage pp 15, 702–3 (sentence adverbs)

Garner's Dictionary p 791 (sentence adverbs)

according to**usage**—consider alternatives**try**—recasting (using eg *show*) / under / *in line with* / ► *in accordance with***extra information**

- compound preposition
- According to* can be a weak form of attribution that carries a hint of doubt or even suspicion.

examples of no change

- A person must operate the equipment according to the instructions.
- dishonest according to the standards of ordinary people

examples of change

- ~~according to~~ the records show that
- the buyer wrongfully neglects to pay for the goods ~~according to the terms of~~ under the contract

further readingFowler's English Usage pp 15 (*according*), 167 (compound prepositions)Garner's Dictionary pp 15 (*according*), 81 (as *regards*; as *respects*; as *concerns*)

Gowers' Plain Words p 199

Longman English Usage p 10 (*according*)

Partridge p 80 (conjunctions, disguised)

account*see*—*on account of***accountable / accountability****usage**—consider alternatives**try**—*responsible* / *liable* / *answerable***extra information**

- formal word implying a high sense of personal responsibility
- Accountable* means to be personally responsible **to** someone for something, and is not appropriate to use for things, eg the weather.

examples of no change

- does not make the non-government entity accountable to ATSIEB for its operations

- 2 to require a registered agent to be accountable to the client
- 3 fiduciary safeguards established, or to be established, to provide for accountability to the licensee-in-charge

example of change

- 1 A director-general is accountable responsible for the efficient and effective operation of the director-general's directorate.

further reading

Butterworths Legal Dictionary p 15
 Fowler's English Usage p 16
 Garner's Dictionary pp 15–6
 Gowers' Plain Words pp 199–200
 Howard's Handbook pp 6–7 (*accountable/responsible*)
 Longman English Usage p 11
 Partridge p 5

accrue



usage—consider alternatives

try—*add / gain / arise / recasting*

extra information

- 1 formal word
- 2 *Accrue* does not mean simply to increase in size but rather to be added to bit by bit.
- 3 It may be appropriate to use *accrue* rather than *arise* in relation to a cause of action (see Garner's Dictionary).

examples of no change

- 1 interest accrues on the part of the original amount that remains unclaimed
- 2 the employee's long service leave accrues
- 3 a period when benefits did not accrue to the person

example of change

- 1 a benefit from any ~~added value that may accrue to the premises of the club~~ value added to the club's premises because of a gaming machine licence being issued to the club

further reading

Butterworths Legal Dictionary p 16
 Garner's Dictionary p 16

accustomed to



usage—avoid using

try—*usually/ used to / recasting*

extra information

- 1 formal phrase

example of no change

- 1 a person in accordance with whose instructions or wishes the directors of the corporation are accustomed to act

example of change

- 1 if a person is ~~accustomed to~~ used to getting goods or services

further reading

Garner's Dictionary p 17 (*accustomed*)
 Longman English Usage p 11 (*accustom*)

achieve

usage—consider alternatives

try—► *get / reach / recasting* (using, eg *becoming*)

extra information

- 1 *Achieve* implies successful effort in reaching a definite, desirable goal. It should not be treated as only the equivalent of getting or reaching.
- 2 A challenge can be taken up, answered or rejected, but it cannot be achieved.

example of no change

- 1 to achieve zero net emissions

examples of change

- 1 will allow the vehicle to ~~achieve~~ meet the response time required by the standards manual
- 2 If the resignation takes effect on or after the day the person ~~achieves the age of 55~~ turns 55 years old

further reading

Gowers' Plain Words p 200
 Longman English Usage p 12 (*achieve, achievement*)

acknowledge

usage—consider alternatives

try—recognise / admit / recasting

extra information

- 1 formal, impersonal word used in letter writing, eg I acknowledge ...

examples of no change

- 1 may ask the person to acknowledge receipt of the notice
- 2 a child or young person should be dealt with in a way that acknowledges his or her needs

examples of change

- 1 a person ~~acknowledged~~ recognised as the world authority in the field
- 2 the offender ~~acknowledges~~ admits guilt to the additional offence

further reading

Garner's Legal Style p 100 (*acknowledgment*)
 Gowers' Plain Words p 200
 Howard's Handbook p 7 (*acknowledge/acknowledgement*)

acquaint



usage—never use

try—*tell* / ► *inform* / ► *state* / ► *mention* / *say* / *find out* / *know* / recasting

extra information

1 formal word

example of change

1 transferees are allowed a reasonable time to ~~acquaint~~ tell their successors

further reading

Butterworths Legal Dictionary p 18

Gowers' Plain Words pp 18, 200

Longman English Usage p 12

Partridge p 5 (*acquaint with*)

Working Words p 11

acquire



usage—consider alternatives

try—► *get* / *buy* / ► *obtain*

extra information

1 formal word in some contexts

examples of no change

1 acquire or use an assumed identity

2 An interest in land may be acquired under this Act by agreement or compulsion.

examples of change

1 how to ~~acquire~~ get the information

2 if the person ~~acquired~~ bought the car from a licensed dealer

3 it is a condition of the licence that the licensee ~~acquire~~ obtain the person's authority

further reading

Butterworths Legal Dictionary p 18

Gowers' Plain Words p 200

Howard's Handbook p 7

Longman English Usage p 13

Partridge p 5 (*acquisition/acquirement*)

ACT

see—Drafting Practice Guide, ch 14, 'ACT or Territory'

acting [*in an office*]



usage—consider alternatives

try—omitting

extra information

1 It is usually unnecessary to refer to the person acting in an office (see LA, s 185 and s 220).

examples of no change

- 1 a broker or other person acting for a licensed insurer
- 2 I, Minister for ABC, acting under the XYZ Act, section 10 ...

examples of change

- 1 ~~assessor includes a person acting as assessor~~
- 2 ~~agent acting~~ for ...

action

see—chose in action

activate

usage—avoid using

try—*operate / motivate / inspire*

extra information

- 1 Used in scientific and mechanical contexts.
- 2 formal word
- 3 It is inappropriate to use in relation to people ie a person may activate something but is not him/herself activated.
- 4 *Activate and operate do not necessarily mean the same thing. To activate means to ‘make active’ ie to start something; to operate means to work or use a machine, apparatus etc.*

examples of no change

- 1 activated carbon
- 2 a brake control on the towing vehicle, which independently activates the service brake on the trailer

example of change

- 1 the controls that ~~activate~~ operate the vehicle’s gears [*where the controls do more than just start the gears*]

further reading

Fowler’s English Usage pp 18–9 (*activate/actuate*)
 Garner’s Dictionary p 21 (*actuate; activate*)
 Howard’s Handbook p 8 (*activate/motivate*)
 Longman English Usage p 14 (*activate/actuate*)
 New Oxford Dictionary p 18
 Partridge p 6 (*activate/actuate*)

actually / actual

usage—consider alternatives

try—omitting / recasting

extra information

- 1 *Actually* and *actual* are frequently used unnecessarily in writing, particularly for emphasis. However, *actual* is used in a number of legal concepts to distinguish things that arise from the facts rather than by operation of law.

- 2 *Actually* can be a sentence adverb. For example, ‘He actually expected me to be pleased about it!’
- 3 *In actual fact* is a tautology.
- 4 See also *definite / definitely / definitive* and *real / really*.

examples of no change

- 1 actual possession
- 2 a representative’s actual or apparent authority
- 3 a party may lodge a bond for the amount with the registrar instead of actually paying the amount into court
- 4 *consignee*, of goods, means a person who—
 - (a) is named or otherwise identified as the intended consignee of the goods; or
 - (b) actually receives the goods.

examples of change

- 1 when the machine, winch, or mechanism is not ~~actually~~ in use for raising or lowering the platform
- 2 The entire amount of the wages earned by, or payable to, a worker must be ~~actually~~ paid to the worker in money, and not otherwise.

further reading

Butterworths Legal Dictionary pp 23–4
 Fowler’s English Usage pp 19 (*actually*), 702–3 (sentence adverbs)
 Garner’s Dictionary pp 20–1 (*actual; constructive*), 21 (*actual fact, in*), 791–2 (sentence adverbs)
 Gowers’ Plain Words p 54
 Longman English Usage p 14 (*actual/actually*)
 Partridge pp 6 (*actual and actually*), 280 (*really, actually and definitely*)
 Working Words p 13 (*actual/actually*)

actuate



usage—never use

try—*motivate / operate* / ► *activate*

extra information

- 1 formal word
- 2 *Actuate* means to incite to action; to put into action.

examples of change

- 1 if the person was not ~~actuated~~ motivated by ill will or any other improper motive
- 2 proof that the publication was ~~actuated~~ motivated by malice
- 3 holding apparatus must not be ~~actuated~~ operated by foot

further reading

Fowler’s English Usage pp 18–9 (*activate/actuate*)
 Garner’s Dictionary p 21 (*actuate; activate*)
 Longman English Usage p 14 (*activate, actuate*)
 Partridge p 6 (*activate/actuate*)

adapt / adaptation / adaption



usage—consider alternatives

try—*change* / ► *adjust*

extra information

- 1 *Adapt* means to make suitable to requirements or conditions, or to adjust or change appropriately. This meaning is not picked up by using *change*.
- 2 For the differences between *adapt* and *adjust*, see *adjust*.
- 3 Use *adaptation* rather than *adaption*.

examples of no change

- 1 address and adapt to climate change
- 2 change software to adapt to any changes to the configuration of hardware
- 3 a substance that has undergone the processes necessary to adapt it for medical use
- 4 a thing, system or process that is the subject of a patent, registered design or copyright (or an adaptation or modification of the thing, system or process)

example of change

- 1 with any necessary ~~adaptations~~ changes

further reading

Cambridge Guide p 18 (*adaptation* or *adaption*)

Fowler's English Usage p 20 (*adaption*)

Garner's Dictionary p 21 (*adapt* and *adopt*; *adaptation*)

Garner's Legal Style p 101 (*adapt*; *adopt*)

Longman English Usage p 15 (*adapt*, *adopt*, *adept*)

Partridge p 6 (*adapt* and *adopt*)

Working Words p 14 (*adaptation/adaption*)

addition / additional



usage—consider alternatives

try—*more* / *extra* / *another* / omitting

extra information

- 1 Can lead to verbosity.
- 2 Do not use with *add*.
- 3 Use 'more', **not** 'further' information.
- 4 See also *in addition to*.

examples of no change

- 1 If the claimant adds a later respondent under this section, the claimant must tell each other respondent about the addition.
- 2 the offender admits guilt to the additional offence

example of change

- 1 The authority may, by written notice, ask the applicant for ~~additional~~ more information.

further reading

Cambridge Guide p 18 (*addition* or *additive*)

additionally



usage—never use

try—*also* / omitting

extra information

- 1 verbosity
- 2 See also *in addition to*.

example of change

- 1 the owner must give reasonable notice to the other lot's owner (and, ~~additionally~~, if the owner is not the occupier, the other lot's occupier)

further reading

Longman English Usage p 16 (*additionally*)

adduce



usage—never use

try—► *present* / *give* / *introduce* / *offer* / *lead*

extra information

- 1 formal word
- 2 *Adduce* should not be confused with *educate* or *deduce*. *Adduce* is to put forward for consideration evidence or arguments. *Educate* is to draw out, evoke or elicit. *Deduce* is to infer.

examples of change

- 1 The defendant may ~~adduce~~ present evidence.
- 3 evidence ~~adduced~~ given by a witness

further reading

Butterworths Legal Dictionary p 26 (*adducing evidence*)

Garner's Dictionary p 22 (*adduce; educate; deduce*)

Garner's Legal Style p 134 (*proof/evidence/testimony*)

Longman English Usage p 16 (*adduce, deduce*)

Partridge pp 6 (*adduce*), 113 (*evidence and testimony*)

Working Words p 16 (*adduce/deduce*)

adequate



usage—consider alternatives

try—recasting using more precise words / *enough* / *meets*

extra information

- 1 It is sometimes unclear when this word is used if it is referring to number or quality or both. Prefer recasting to achieve more precise meaning as alternatives such as *suitable*, *appropriate*, *sufficient* or *satisfactory* may also be unclear.
- 2 For the use of *enough*, *sufficient* and *adequate*, see *sufficient*.
- 3 Do not use *adequate enough*.
- 4 See also *adequate number of (an)*.

examples of no change

- 1 whether the form of notice given to the person about the person's obligations under this Act was adequate to tell the person about the obligation

2 appropriate, and adequate, food, water, shelter or exercise

example of change

1 the applicant's proposed plan ~~is adequate to give effect to~~ meets the program's purpose

further reading

Fowler's English Usage p 21

Garner's Dictionary p 23 (*adequate; sufficient*)

Garner's Legal Style p 191 (*adequate number of, an*)

Gowers' Plain Words p 200

Howard's Handbook p 153 (*enough/sufficient/adequate*)

Longman English Usage p 17

Partridge pp 6 (*adequate enough—adequate standard of living*), 351 (*tautology—adequate enough*)

adequate number of (an)



usage—never use

try—recasting (using *enough*)

extra information

1 verbosity

examples of change

1 the random selection of ~~an adequate number of~~ enough jurors for a trial

2 ensuring that ~~an adequate number of~~ enough taxis are available to operate the taxi service

further reading

Garner's Legal Style p 191

Gower's Plain Words p 200

Howard's Handbook p 153 (*enough/sufficient/adequate*)

Partridge p 6 (*adequate enough*)

ad hoc



usage—avoid using

try—recasting / *as required* / omitting

extra information

1 Foreign phrase. However, *ad hoc* has become assimilated into English. For example, an *ad hoc* committee is a committee set up for a particular and limited purpose, usually alongside a regular committee. An *ad hoc decision* is a decision that applies only to the present case and need not be a precedent for similar cases.

2 *Ad hoc* is never qualified by *very* or *fairly*.

3 *Ad hoc basis* (or *way*) is a verbose way of saying *ad hoc*.

4 May imply hasty improvisation.

examples of no change

1 an ad hoc committee

2 an ad hoc decision

examples of change

- 1 The Scientific Committee may ask other scientists and experts for advice ~~on an ad hoc basis~~ as required.
- 2 continuing or specialist ~~ad hoc~~ tasks

further reading

Butterworths Legal Dictionary p 24
 Cambridge Guide p 17
 Fowler's English Usage p 21
 Garner's Dictionary pp 24, 813 (slipshod extension)

ad idem

usage—never use

try—*to the same effect / to that effect / in agreement*

extra information

- 1 foreign phrase

example of change

- 1 The parties must be ~~ad idem~~ in agreement.

further reading

Butterworths Legal Dictionary p 25
 Fowler's English Usage p 21
 Garner's Dictionary pp 24, 366 (forbidden words and phrases—A. generally useless words and phrases)

adjacent

usage—consider alternatives

try—*near / close to / ►next to / ►adjoining*

extra information

- 1 *Adjacent* is less specific than *adjoining* and may be used to mean close to, but not actually touching, as well as right up against.
- 2 See also *adjoining*. However, its meaning may not be completely clear in some contexts.

examples of no change

- 1 adjacent houses
- 2 Each designated outdoor smoking area must have a buffer on its perimeter wherever it is adjacent to other parts of the outdoor area of the premises ordinarily accessed by patrons.
- 3 *road related area* means...a footpath or nature strip adjacent to a road

examples of change

- 1 shed, store or premises attached to or ~~adjacent to~~ near the wharf
- 2 licensed premises should not be located where they would be likely to cause undue disturbance, inconvenience or offence to people lawfully at ~~adjacent~~ adjoining or nearby premises

further reading

Butterworths Legal Dictionary p 27
 Cambridge Guide p 19 (*adjacent* or *adjoining*)
 Fowler's English Usage pp 21–2

Garner's Dictionary p 24 (*adjacent; contiguous*)
 Gowers' Plain Words p 201
 Howard's Handbook p 265 (*next to/adjacent/adjoining*)
 Longman English Usage p 17
 Partridge p 6 (*adjacent; contiguous*)
 Working Words p 16

adjoining



usage—consider alternatives

try—connecting / connected to / *near* / ► *next to* / ► *adjacent*

extra information

- 1 If things are adjoining, they are actually touching each other, eg *adjoining* walls share a common wall; *adjoining* parcels of land share a common boundary.
- 2 If things are next to each other but not touching, see *adjacent*.
- 3 See also *contiguous*.

examples of no change

- 1 the adjoining terrace houses
- 2 entry onto the adjoining premises
- 3 licensed premises should not be located where they would be likely to cause undue disturbance, inconvenience or offence to people lawfully at adjoining or nearby premises

examples of change

- 1 each designated outdoor smoking area must have a buffer on its perimeter wherever it is ~~adjoining~~ adjacent to other parts of the outdoor area
- 2 land that is ~~adjoining~~ next to other land
- 3 shed, store or premises attached to or ~~adjoining~~ near the wharf

further reading

Butterworths Legal Dictionary p 27
 Cambridge Guide p 19 (*adjacent* or *adjoining*)
 Garner's Dictionary p 26 (*adjoin*)
 Howard's Handbook p 265 (*next to/adjacent/adjoining*)
 Longman English Usage p 19 (*adjoin, adjourn*)

adjust



usage—consider alternatives

try—*change* / ► *adapt* / recasting

extra information

- 1 *Adjust*, like *adapt*, can mean to make suitable to requirements or conditions. It can also mean to adapt to changed conditions. These meanings are not picked up by using *change*.
- 2 *Adapt* involves considerable change to meet new requirements, while *adjust* implies a minor change. *Adapt* also emphasises the purpose for which the change is made.

examples of no change

- 1 if the equipment was adjusted to comply with the standard

- 2 if the prices are adjusted for inflation
- 3 an authorised person may adjust a tap or other water outlet

examples of change

- 1 ~~adjust~~ change the office's opening hours
- 2 to help parties ~~adjust~~ adapt to a court order [Note: this would be in the context of people affected by the order having to change the way they do every day things. In other contexts, it might be more appropriate to use 'comply with a court order'.]
- 3 The insurer must ~~adjust~~ work out the amount to pay the insured person for the loss.

further reading

Fowler's English Usage p 24
 Gowers' Plain Words p 201
 Partridge p 103 (Elegancies—*adjust one's dress*)

administrate



usage—never use

try—*administer*

extra information

- 1 *Administrate* is a backformation from administration.

example of change

- 1 the body must ~~administrate~~ administer the program

administrator

see—*heirs, executors, administrators, successors and assigns*

admittedly



usage—never use

try—*admit* / recasting / omitting

extra information

- 1 Sentence adverb. For example, 'Admittedly, the salary was not wonderful but the duties were light'.

example of change

- 1 if a ~~document is admittedly misdated~~ a person admits to incorrectly dating a document

further reading

Fowler's English Usage pp 702–3 (sentence adverbs)
 Garner's Dictionary pp 791–2 (sentence adverbs)

adumbrate



usage—never use

try—*outline* / recasting

extra information

- 1 formal word

examples of change

- 1 Counsel must ~~adumbrate~~ outline the plaintiff's case.
- 2 This division ~~adumbrates~~ outlines the meaning of *net IBNR exposure*.

further reading

Fowler's English Usage pp 26, 350–1 (hard words)

Garner's Dictionary p 31

Gowers' Plain Words p 201

advantageous



usage—consider alternatives

try—*useful* / *helpful* / ► *beneficial* / *favourable*

example of no change

- 1 The lessor may offer to lease the premises to someone other than the tenant only if it would be substantially more advantageous to the lessor to lease the premises to the other person.

examples of change

- 1 An electricity supplier must not supply electricity to a person who uses alternative energy services on terms less ~~advantageous~~ favourable than the supplier's standard customer contract.
- 2 the award or agreement gives an employee rights that are more ~~advantageous~~ favourable to the employee

further reading

Gowers' Plain Words p 201

adverse



usage—consider alternatives

try—*unfavourable* / *harmful* / *against*

extra information

- 1 used if it has a technical legal meaning
- 2 formal word with archaic overtones
- 3 For adversely affected, see aggrieved.

example of no change

- 1 the person in adverse possession obtained good title against the owner

examples of change

- 1 the judge made ~~an adverse finding~~ a finding against
- 2 No ~~adverse~~ unfavourable inference may be drawn from the defendant's silence.

3 The drug had ~~adverse~~ harmful side effects.

further reading

Butterworths Legal Dictionary pp 32 (*adverse effect discrimination, adverse inference, adverse possession*), 33 (*adverse security assessment, adverse witness*)

Fowler's English Usage p 28 (*adverse, averse*)

advert to



usage—never use

try—► *mention* / ► *referred to* / ► *avert*

extra information

1 formal phrase

2 *Advert* is sometimes confused with *avert*. *Advert to* is to refer to or mention something. *Avert* is to ward off, turn away or avoid something.

examples of change

1 The person must not ~~advert to~~ mention matters that are not necessary for that purpose.

2 Counsel must not ~~advert to~~ refer to evidence that is not admissible.

further reading

Fowler's English Usage p 28

Garner's Dictionary pp 33 (*advert; avert*), 93 (*avert*)

Gowers' Plain Words pp 18, 201

Longman English Usage p 21 (*advert, avert*)

Partridge p 7 (*advert; avert*)

Working Words p 20 (*advert/avert*)

advise



usage—consider alternatives

try—*tell* / ► *inform* / ► *state* / *say* / ► *mention* / *notify* / *announce* / recasting

extra information

1 commercialese or pomposity for *tell, say* or *mention*

2 *Advise* has the connotation of counselling; of giving advice. It does not mean the same as *tell*.

examples of no change

1 A lawyer may advise a client about how to plead to a charge.

2 The functions of the council are ... to advise the Minister on any aspect of the ACT government school system.

example of change

1 The director-general must ~~advise~~ tell the person, in writing, about the decision.

further reading

Fowler's English Usage pp 29 (*advise, advice*), 163 (commercialese)

Garner's Dictionary p 33

Gowers' Plain Words p 18

Longman English Usage p 22 (*advice, advise*)

Partridge pp 7, 225 (commercialese or business English)

Working Words pp 20–1 (*advice/advise/counsel*)

affect**usage**—consider alternatives**try**—*change / hinder / delay / stop / ► effect***extra information**

- 1 vague word
- 2 *Affect* and *effect* are frequently confused. *Affect* is normally used only as a verb, meaning to influence, have consequences, make a change in, impress or assume a pose. *Effect* is used both as a verb and a noun, but most commonly as a noun. As a verb, it means to bring about, cause, accomplish, produce or result in. As a noun, it means a result, consequence or impression.
- 3 For the use of *stop*, see *cease*.

examples of no change for affect and effect

- 1 A person whose interests are affected by a reviewable decision may apply to the ACAT for review of the decision. (verb)
- 2 A person must not make a false or misleading representation about the effect of a warranty, guarantee, right or remedy. (noun)

examples of change

- 1 if the procedures will be ~~affected~~ by changed because of the incident
- 2 if the flight is ~~affected~~ delayed by bad weather
- 3 there is potential for the ~~affects~~ effects of waste to be cumulative
- 4 if a person does something to a fire alarm that ~~affects~~ hinders the effective use of the alarm

further reading

Cambridge Guide p 27 (*affect* or *effect*)
 Fowler's English Usage p 31 (*affect*, *effect*)
 Garner's Dictionary p 34 (*affect*; *effect*)
 Garner's Legal Style p 101 (*affect*; *effect*)
 Gowers' Plain Words p 201
 Howard's Handbook p 12 (*affect/effect*)
 Longman English Usage p 23 (*affect*, *effect*)
 Partridge p 8 (*affect* and *effect*)
 Working Words p 21 (*affect/effect*)

affirm**[as to truth]****usage**—consider alternatives**try**—*swear / take / ► state* (as a fact) / *assert* (strongly and publicly) / *declare* (support for) / omitting**extra information**

- 1 formal word
- 2 Consider if it is necessary to deal expressly with both swearing and affirming. Usually it is sufficient to deal only with swearing an oath (see LA, dict, pt 1, defs *oath*, *swear* an oath and *take* an oath).

example of no change

- 1 A person must take an oath or make an affirmation before giving evidence.

example of change

- 1 an affidavit that has been properly sworn ~~or affirmed~~

affirm
[confirm]

usage—consider alternatives

try—*confirm / uphold*

extra information

- 1 formal word

examples of change

- 1 The court may ~~affirm~~ confirm the decision appealed against.
- 2 The magistrate's order was ~~affirmed~~ upheld on appeal.

further reading

Garner's Dictionary p 35

Partridge p 39 (*assert*)

affirmative

usage—avoid using

try—recasting (using words to the effect of *yes* or *in favour*) / *positive*

extra information

- 1 formal word
- 2 See also in the affirmative.

example of no change

- 1 affirmative action

examples of change

- 1 if members vote ~~in the affirmative~~ for the resolution
- 2 ~~the test affirmed~~ a positive test result

further reading

Fowler's English Usage p 32

Garner's Dictionary p 36 (affirmative, in the; negative, in the)

Gowers' Plain Words p 201

Longman English Usage p 24

Partridge p 28 (*answer was...*)

affix

usage—never use

try—*attach / fix*

extra information

- 1 formal word

examples of change

- 1 if the seal of the corporation is ~~affixed~~ fixed to the document
- 2 The notice may be served by securely ~~affixing~~ attaching it to the vehicle.
- 3 whether or not ~~affixed~~ attached to land

afford

usage—consider alternatives

try—give / ►provide

extra information

1 formal word

example of no change

1 if the person cannot afford the cost of obtaining assistance from a private lawyer

examples of change

1 The thing will ~~afford~~ provide evidence of the commission of an offence.

2 ~~afford~~ give a person a reasonable opportunity to make submissions

further reading

Garner's Dictionary pp 14–15 (*accord*; *afford*)

Gowers' Plain Words p 202

after

see—on and after

afternoon**[for time]**

usage—avoid using

try—pm

extra information

1 Use *pm/am*, without full stops and with a space between the number and pm/am.

2 *Afternoon* is not usually precise enough for formal writing.

3 See also *12 am / pm* (in the chapter on figures).

example of no change

1 A shift worker is entitled to extra pay for non-rotating afternoon and night shifts.

example of change

1 five o'clock in the afternoon 5 pm

further reading

Partridge p 17 (*a.m.*, *pm.*)

afterward / afterwards**[as an adverb]**

usage—consider alternatives

try—*afterwards* / *later*

extra information

1 Prefer *afterwards* to *afterward*.

2 However, for the increasing trend not to use an 's' in words ending in -ward(s), see *forward* / *forwards*.

examples of no change

- 1 The making of a roads compensation order does not prevent another court or tribunal from afterwards awarding damages or compensation in a civil proceeding.
- 2 The person executing the order must afterwards return the prisoner to the custody from which the person has been brought.

example of change

- 1 a person who was a director of the corporation when the corporation first became liable to pay the assessment amount, or at any later time ~~afterward~~

further reading

Cambridge Guide pp 849-50 (-ward or -wards)

Fowler's English Usage pp 32-3

Garner's Dictionary p 924 (-ward(s))

Howard's Handbook p 13 (after/afterwards/in the wake of)

Longman English Usage p 24

Working Words p 23

age

usage—consider alternatives

try—recasting / omitting

extra information

- 1 In describing a particular age, generally prefer an alternative.
- 2 See Drafting Practice Guide, ch 14, 'age'.

example of no change

- 1 if the child is under the age that the first of the following happens

examples of change

- 1 **Adult** means an individual who ~~has attained the age of 18 years~~ is 18 years old or older.
- 2 **Child** means an individual who is under 18 years ~~of age~~ old.

further reading

Fowler's English Usage p 33

Longman English Usage pp 24-5

aggregate

usage—consider alternatives

try—▶ *total* / ▶ *sum* / *amount* / *quantity* / recasting (using, eg *all*)

extra information

- 1 The primary meaning of *aggregate* is 'to bring together a mass of discrete things or individuals into a whole'. (Garner's Dictionary)
- 2 *Aggregate* should not be used as a pretentious word for *total*.
- 3 *Aggregated together* is a redundancy.

examples of change

- 1 fines ~~aggregating~~ totalling \$100 000 or more
- 2 for a period of, or for periods that ~~aggregate~~ total, not less than 3 years

3 the ~~aggregate of~~ total amounts paid or payable by the person

further reading

Garner's Dictionary pp 39 (*aggregate; aggregation*), 39 (*aggregate*)

Longman English Usage p 25

Partridge p 9

aggrieved



usage—avoid using

try—(*adversely*) *affected* / recasting

extra information

- 1 Use only as a defined term.
- 2 *Aggrieved* implies a feeling of resentment at having been unfairly treated.
- 3 For a party's appeal or review rights, only need to specify who can appeal or seek review.
- 4 For reference to third-party appeal or review rights, use *adversely affected* other than for ACAT review. Avoids emotional overtones of *aggrieved*. For ACAT review, see example of change 3 and the *ACT Civil and Administrative Tribunal Act 2008*, s 22Q (4) (which provides that the tribunal may decide whether or not a person's interests are affected by a decision).

examples of no change

- 1 *aggrieved person* means a person against whom conduct that may be domestic violence has been, or is likely to be, directed.
- 2 For this Act, a reference to a *person aggrieved* by a decision includes a reference to a person whose interests are adversely affected by the decision.

examples of change

- 1 In deciding whether to issue a notice, the registrar must consider any reasonable precautions that a person ~~aggrieved~~ adversely affected by the nuisance has or has not taken to avoid or minimise the effects of the nuisance.
- 2 An application for reinstatement of the registration may be made to the court by a person ~~aggrieved~~ adversely affected by the deregistration.
- 3 The following may apply to the ACAT for review of a reviewable decision:
 - (a) an entity prescribed by regulation in relation to the decision;
 - (b) any other person ~~aggrieved~~ whose interests are affected by the decision.
- 4 If the applicant is ~~aggrieved~~ by the authority's decision, the applicant may appeal. The applicant may appeal against the authority's decision.

further reading

Butterworths Legal Dictionary p 40 (*aggrieved; aggrieved person*)

Garner's Dictionary p 39 (*aggrieve*)

agree on / to



usage—consider alternatives

try—▶ *permit / approve*

extra information

- 1 *Agreeing on* something implies mutual consent between people. *Agree on* is, therefore, not appropriate for a permission or approval given unilaterally.
- 2 See also *mutually agree*.

examples of no change

- 1 if the parties are unable to agree on a provider
- 2 the parties may agree on the process to be used by the mediator
- 3 a statement signed by the employer, and each organisation, that they agree to the extension

example of change

- 1 if the authority ~~agrees to~~ approves the application

further reading

- Butterworths Legal Dictionary p 41 (*agreement*)
 Fowler's English Usage p 34
 Garner's Dictionary pp 39–40, 40 (*agree with; agree to; agree on*)
 Garner's Legal Style p 196 (*agree and covenant*)
 Gowers' Plain Words p 202
 Longman English Usage p 26
 Partridge p 9

aid



usage—consider alternatives

try—*help / ▶ assist / encourage / recasting*

extra information

- 1 *Aid, abet, counsel* and *procure* are still to be used in relation to the commission of offences (see the Criminal Code, s 45 (Complicity and common purpose)).

examples of no change

- 1 foreign aid
- 2 legal aid

examples of change

- 1 An enforcement officer executing the warrant may ask a police officer to ~~aid~~ help the enforcement officer exercise the enforcement officer's powers under the warrant.
- 2 that the person may be able to ~~aid~~ assist the police officer execute a preventative detention order

further reading

- Butterworths Legal Dictionary p 42 (*aid and abet*)
 Cambridge Guide p 33 (*aid or aide*)
 Fowler's English Usage pp 36–7
 Garner's Dictionary p 40 (*aid and abet*)
 Garner's Legal Style p 196 (*aid and abet*)
 Gowers' Plain Words p 202
 Longman English Usage p 26 (*aid, aide*)
 Partridge p 39 (*assist to*)

aim for



usage—never use

try—*aim at*

extra information

1 non-standard English

further reading

Fowler's English Usage p 37 (*aim*)

Garner's Dictionary p 40 (*aim to; aim at*)

Gowers' Plain Words p 190

alia

see—*inter alia*

alibi



usage—consider alternatives

try—*excuse / defence*

extra information

- 1 Only use for contexts consistent with original meaning.
- 2 To plead an *alibi* originally meant to rebut a charge by providing evidence that the person charged was somewhere else at the time of the offence. However, *alibi* is now frequently used to mean any excuse or defence.

examples of no change

- 1 call a person to give evidence in support of an alibi
- 2 evidence to disprove an alibi

example of change

- 1 if the person has an ~~alibi~~ excuse for not voting

further reading

Butterworths Legal Dictionary p 45

Fowler's English Usage p 40

Garner's Dictionary pp 41–2, 813 (slipshod extension)

Garner's Legal Style pp 101, 194

Gowers' Plain Words pp 202–3

Howard's Handbook p 15

Longman English Usage pp 27–8

Partridge p 12

Working Words p 25

all



usage—consider alternatives

try—*a / an / the / omitting*

extra information

- 1 *All* should be used only when necessary. *All* may be appropriate if the collective application of a provision needs to be emphasised. However, *all* is generally unnecessary for plural subjects.

2 See also *all ...not; all of; any and all; at all times*.

examples of no change

- 1 The committee must report all findings to the director-general.
- 2 if the applicant took all reasonable steps to ensure

examples of change

- 1 ~~All members hold~~ A member holds office for 3 years.
- 2 ~~All applicants~~ An applicant served with a copy of a notice

further reading

Fowler's English Usage p 41
Partridge p 13

allay



usage—never use

try—► *remove / avoid / relieve / alleviate / diminish / reduce*

extra information

- 1 formal word

example of change

- 1 to ~~allay~~ remove any doubt, the outworker is taken to be a *worker* if

allege [also allegation]



usage—consider alternatives

try—► *claim / state / mention / contend / declare / assert / maintain / recasting (using eg charge)*

extra information

- 1 formal word
- 2 To *allege* is formally to state a matter of fact as being true or provable, without yet having proved it (Garner's Dictionary).
- 3 *Allege* has accusatory connotations and may suggest guilt of a crime or misconduct. It may be appropriate for contexts involving proceedings. It is inappropriate for more neutral contexts.

examples of no change

- 1 if a pleading alleges or otherwise deals with several matters
- 2 damage alleged to have happened because of the defendant's negligence

examples of change

- 1 may ~~allege~~ claim that the person is a related victim
- 2 The commissioner must, in writing, ~~allege~~ state the name and postal address of each candidate.

further reading

Butterworths Legal Dictionary p 47 (*allegation*)
Fowler's English Usage p 41 (*alleged*)
Garner's Dictionary pp 43 (*allege; contend*), 43–4 (*allegedly*)
Garner's Legal Style p 107 (*claim*)
Howard's Handbook p 16 (*allege/allegation*)
Longman English Usage p 28
Partridge p 13

all ... not



usage—consider alternatives

try—not all / ► every / no

extra information

- 1 Recast in positive terms if possible.
- 2 For negative constructions, prefer *not all* to avoid ambiguity.
- 3 See also *not*.

examples of change

- 1 This section applies if ~~all parties do not concur in the appointment of an arbitrator~~ every party does not agree to the appointment of an arbitrator OR a party does not agree to the appointment of an arbitrator.
- 2 ~~All rules to be followed by road users are not included in the Australian Road Rules.~~ The Australian Road Rules do not include all the rules to be followed by road users.

further reading

Garner's Dictionary p 43 (*all* B)

Garner's Legal Style p 101

allocate



usage—consider alternatives

try—give / divide / set apart / ► designate / ► assign / distribute

extra information

- 1 formal word

example of no change

- 1 the president must not allocate an assessor to a tribunal unless

examples of change

- 1 The shares must be ~~allocated~~ distributed among the survivors.
- 2 An agency head must ~~allocate~~ give an approved classification level to each job in the agency.
- 3 to ~~allocate~~ divide the costs of environmental protection and restoration equitably the Minister must

further reading

Butterworths Legal Dictionary p 47

all of



usage—consider alternatives

try—► *all*

extra information

- 1 *All of* is needed before personal pronouns (eg *them*) and *whom*, *whose* and *which*. In other cases, *all of* is unnecessary and should be replaced by *all*.

examples of no change

- 1 if 1 or more, but not all of them, stops being a pensioner

- 2 This section does not apply to a bare trustee for people all of whom are entitled in possession.

example of change

- 1 All ~~of~~ the claims were dismissed.

further reading

- Fowler's English Usage p 41 (*all* 1)
 Garner's Dictionary p 43 (*all* A)
 Garner's Legal Style p 102
 Howard's Handbook p 16
 Longman English Usage p 28 (*all* 1)
 Partridge p 13 (*all*)
 Working Words p 25 (*all/all of*)

allowed

*see—*is / are allowed to

allows

*see—*where / if the context permits / allows

allude to



usage—consider alternatives

try—► *referred to* / (indirectly or briefly) ► *mention* / *suggest*

extra information

- 1 formal word
- 2 For the difference between *illusion*, *delusion* and *allusion*—see *illusion*.
- 3 To *allude* is to indirectly mention, to *refer* is to directly or specifically mention.
- 4 *Allude* and *elude* are sometimes confused. To *elude* is to avoid, escape or evade or an elusive concept is one that is difficult to understand (Blamires Plain English).

examples of no change

- 1 For this section, the publication of a reference or allusion to a person is taken to be a publication of the person's name if—
- 2 A person must not make, or allude to, allegations under privilege against someone else.

example of change

- 1 the definition of the term ~~alluded to~~ mentioned in subsection (1)

further reading

- Cambridge Guide pp 207 (delusion or illusion), 250 (elusive or allusive)
 Fowler's English Usage p 44 (*allusion*, *allude*)
 Garner's Dictionary pp 45–6
 Garner's Legal Style pp 102 (*allude*; *elude*)
 Howard's Handbook p 17 (*allude*/*refer*)
 Longman English Usage p 29 (*allude*, *elude*)
 Partridge p 15 (*allude*) and (*allusion*; *reference*)
 Working Words p 27 (*allude/elude/evade*; *allusion/illusion/delusion*; *allusive/elusive/illusive*)

alter

usage—consider alternatives

try—*change / amend / ► modify*

extra information

- 1 *Alter* and *change* overlap in their meanings. However, *alter* may suggest a relatively slight change.
- 2 Use *amend* for changes to legislation.
- 3 Do not use *alter* in the sense of an amendment, change or modification *altering* something.

examples of no change

- 1 the date when the machine was opened, repaired, adjusted or altered
- 2 A person commits an offence if—
 - (a) a notice is displayed under subsection (1); and
 - (b) the person removes, alters, damages, defaces or covers the notice while the notice is in force.

examples of change

- 1 The director-general must ~~alter~~ amend the licence or refuse to ~~alter~~ amend the licence.
- 2 A person's name may be ~~altered~~ changed by registration of the ~~alteration~~ change.

further reading

Butterworths Legal Dictionary p 49 (*alteration*)
 Gowers' Plain Words p 203
 Howard's Handbook pp 18–9 (*alter/change*)
 Longman English Usage p 31 (*altar/alter*)
 Working Words p 29 (*altar/alter*)

alternate

[also alternately]

[as an adjective]



usage—consider alternatives

try—recasting / ► *alternative*

extra information

- 1 *Alternate* strictly means by turns, or every other one or second in a series—compare *alternative*.

examples of no change

- 1 a government member elected in accordance with the relevant procedures or an alternate government member elected
- 2 The lessor must, in every alternate year, paint the outside woodwork.
- 3 The air pipe must be made of alternate layers of rubber and canvas and must be reinforced with steel wire.

example of change

- 1 the ~~alternate~~ alternative energy efficiency requirements for the unaltered part of a substantially altered building are as follows

further reading

- Cambridge Guide p 39 (*alternate* or *alternative*)
 Fowler's English Usage p 45
 Garner's Dictionary p 47 (*alternate*; *alternative*)
 Garner's Legal Style p 102 (*alternative*; *alternate*)
 Gowers' Plain Words pp 203–4 (*alternate(ly)*, *alternative(ly)*)
 Howard's Handbook p 19 (*alternate/alternative*)
 Longman English Usage p 31 (*alternate*, *alternative*)
 Partridge p 16 (*alternate* and *alternative*), 377 (vogue words)
 Working Words p 29 (*alternate/alternative*)

alternative [also alternatively]



usage—consider alternatives

try—*different* / *other* / *new* / *revised* / ► *fresh* / ► *or* / ► *substitute* / ► *alternate* / option

extra information

- 1 can be a vague word (eg *alternative* energy, *alternative* medicine)
- 2 *Alternative* means available as another possibility or choice—compare *alternate*.
- 3 *Alternative* originally meant 1 of 2 choices. However, the word is now used to mean 1 of any number of choices.
- 4 Use *no alternative* rather than *no other alternative*.

examples of no change

- 1 if a performance requirement of the building code is to be complied with by use of an alternative solution under the code
- 2 may find the defendant not guilty of the offence charged but guilty of the alternative offence
- 3 establish alternative dispute resolution committees and prescribe the functions the committees may exercise

examples of change

- 1 ~~alternative~~ solar energy [What can be substituted depends on the context.]
- 2 if the destination of the driver's vehicle is a place reached from the road and there is no ~~alternative~~ other route by which to reach the destination
- 3 for a period less than 36 hours with no ~~alternative~~ other carer arrangements in place

further reading

- Cambridge Guide p 39 (*alternate* or *alternative*)
 Fowler's English Usage pp 45–6
 Garner's Dictionary p 47 (*alternate*; *alternative*)
 Garner's Legal Style p 102 (*alternative*; *alternate*)
 Gowers' Plain Words pp 17, 203–4 (*alternate(ly)*, *alternative(ly)*)
 Howard's Handbook p 19 (*alternate/alternative*; *alternative*)
 Longman English Usage pp 31 (*alternate*, *alternative*), 31–2 (*alternative*)
 Partridge pp 16 (*alternate* and *alternative*), 17 (*alternative* and *choice*), 377 (vogue words)
 Working Words p 29 (*alternate/alternative*)

ambiguous

see—ambivalent

ambivalent



usage—never use

try—*ambiguous* / recasting

extra information

- 1 formal word
- 2 *Ambivalent* means wavering or uncertain in direction or tendency. Originally it meant a psychological state in which a person suffers from irreconcilable desires.
- 3 *Ambiguous* means have more than 1 possible meaning. *Ambivalent* and *ambiguous* are often confused. There is a tendency to consider *ambiguous* as derogatory.
- 4 *Ambiguous* is sometimes used as a synonym for *vague*, but this should be avoided.

examples of change

- 1 if the provision is ~~ambivalent~~ ambiguous
- 2 a person whose sex is ambivalent an intersex person

further reading

Cambridge Guide p 41 (*ambiguity*)

Fowler's English Usage p 47

Gowers' Plain Words pp 40, 204

Howard's Handbook p 20 (*ambiguous*)

Longman English Usage pp 34–5 (*ambiguous, ambivalent*)

Partridge p 377 (vogue words)

Working Words pp 30–1 (*ambiguous/ambiguity*), 31

ameliorate



usage—never use

try—*improve* / *lessen* / *mitigate* / *reduce* / recasting

extra information

- 1 formal word
- 2 *Ameliorate* means to make or become better. It is not a synonym for *lessen* or *reduce*.
- 3 *Ameliorate* is also sometimes confused with *counteract* or *mitigate*. You can *ameliorate* conditions, but not difficult circumstances.

examples of change

- 1 The official visitor must return to the facility to find out if the conditions have ~~ameliorated~~ improved.
- 2 that the development incorporates measures to ~~ameliorate~~ reduce potential traffic noise

- 3 limit the consequences of the offence or ~~ameliorate~~ mitigate the damage caused by the offence

further reading

Garner's Dictionary p 50 (*ameliorate; meliorate*)

Gowers' Plain Words p 204

Longman English Usage p 35

Partridge p 25

Working Words p 31

amend

see—alter

amend and alter

see—alter

amenity



usage—consider alternatives

try—► *facility* / recasting (using *agreeable* / *useful* / *convenient* / *comfortable*) / omitting

extra information

- 1 formal word
- 2 vogue word to describe facilities (generally of an attractive or desirable kind)
- 3 *Amenity* is a concept in planning law.

examples of no change

- 1 will not detract from the amenity of the surrounding area
- 2 *amenities* means facilities for the welfare or personal hygiene needs of people.

Examples

toilets, seating, meal rooms, change rooms, drinking water, lockers for personal belongings and showers or washing facilities.

examples of change

- 1 a description of the ~~amenities~~ facilities to be provided as part of the proposed development
- 2 A *privilege*, in relation to a young detainee, is any ~~amenity~~, facility or opportunity the young detainee may have the benefit of in detention.

further reading

Butterworths Legal Dictionary p 52

Fowler's English Usage p 48

Garner's Dictionary p 50 (*amenability; amenity*)

Gowers' Plain Words p 204

Longman English Usage p 35

among

usage—consider alternatives

try—▶between

extra information

- 1 *Between* should be used to express the relation of a thing to many surrounding things together and individually. *Among* should be used to express a relationship between them collectively and vaguely.
- 2 *Between* suggests the idea of separating, and *among* suggests right in the middle of.
- 3 It is not correct that *between* must be used for 2 things and that *among* must be used if there are more than 2. However, *among* is generally still reserved for situations where at least 3 things are involved.

examples of no change

- 1 The Minister must, to the greatest extent practicable, ensure that the following people are among the members appointed:
- 2 trade and commerce with other countries, and among the States

examples of change

- 1 a treaty ~~among~~ between 4 countries
- 2 choose ~~among~~ between the 5 candidates
- 3 ~~among~~ between 2 spouses

further reading

Cambridge Guide pp 44 (*amid(st)* or *among(st)*), 90 (*between* or *among*)

Fowler's English Usage pp 49 (*among*, *amongst*), 106 (*between* 2)

Garner's Dictionary pp 53, 105–6 (*between* A), 857 (superstitions—H. Never use *between* with more than two objects)

Garner's Legal Style p 103 (*among*; *between*)

Gowers' Plain Words pp 107–8

Howard's Handbook p 49 (*between*; *between/among*)

Longman English Usage p 37 (*among(st)*)

Partridge p 48 (*between* and *among*)

Working Words p 32 (*among/between*)

amount equal to (the)

usage—avoid using

try—omitting / recasting

extra information

- 1 verbosity

examples of no change

- 1 The change of use charge for the variation must be increased by an amount equal to 25% of the added value for the variation.
- 2 The territory entity must pay to the ACAT trust account an amount equal to the filing fee for the application.
- 3 the payment by the grantee to the Minister of an amount equal to the amount of the grant or part of the grant if the grantee contravenes the agreement

- 4 The amount payable to the insurer is the amount equal to double the difference between the premium the employer paid and the premium the employer would have paid

example of change

- 1 an order that the person pay the Territory ~~an amount equal to~~ no more than—
 (a) for an individual (other than a utility)—\$10 000; or
 (b) for a corporation (other than a utility)—\$50 000; or

analogous



usage—consider alternatives

try—similar

extra information

- 1 formal word

example of no change

- 1 an amount that, although not payable under a contract of employment, is analogous to wages or salary

examples of change

- 1 overbraced or underbraced jib cranes used in blacksmithing, boilermaking, welding or ~~analogous~~ similar duties
 2 must not include compensation for shock, distress or humiliation, or other ~~analogous~~ similar hurt, caused to the person

further reading

Fowler's English Usage p 51
 Garner's Dictionary p 54 (*analogous*; *analogical*)
 Gowers' Plain Words p 205
 Longman English Usage pp 38–9
 Partridge p 27 (*analogous* and *similar*)
 Working Words p 33 (*analogy*/*analogous*)

and



usage—consider alternatives

try—recasting / *both ... and* / omitting *and* and starting a new sentence

extra information

- 1 *And* should be used only in a conjunctive sense, ie to join matters.
 2 However, *and* has been judicially interpreted in a disjunctive sense. If necessary, the conjunctive sense of *and* can be made more certain by recasting or using *both ... and* (see *both*).
 3 It is incorrect to write *and which* (and similar expressions such as *and who*, *and where*, *but which* and *or which*) except by way of introducing a second relative clause with the same antecedent as the one that has just preceded it. Gowers (in Gowers' Plain Words) states that 'she is a young woman of amiable manners and who does honour' is wrong, but it is correct usage if there is a relative in the first part of the sentence: 'She is a young woman whose manners are amiable and who'. If possible, avoid the use of *and which* and similar expressions.
 4 *And* should be used to join units of the same kind and not, for example, unequal phrases.

- 5 Nouns joined by *and* require a plural verb form unless they are considered a unit, eg Hide and seek was fun.
- 6 If *and* joins 2 different concepts, consider making 2 provisions out of them.
- 7 Do not substitute *while* for *and* just to vary the connective.
- 8 See Drafting Practice Guide, ch 15, “ ‘And’ and ‘or’ at end of paragraphs”.

example of change

- 1 if the buyer is both a wholesaler and retailer

further reading

- Asprey pp 187–192 (*And and or*)
 Cambridge Guide p 49
 Fowler’s English Usage pp 52–3
 Garner’s Dictionary pp 55–6
 Garner’s Legal Style pp 18, 49–50, 71, 76
 Gowers’ Plain Words pp 98 (sentences beginning with *and*), 98–100 (*And which*), 188 (*and which*)
 Howard’s Handbook p 24
 Longman English Usage pp 39–41
 Partridge pp 27–8 (*and to and yet which*)
 Working Words pp 34–5, 35–6 (*and which*)

and / or



usage—never use

try—► *or* / ► *and* / recasting (using *A or B or both*)

extra information

- 1 *And/or* is a way of giving 3 alternatives by only mentioning 2, ie A and/or B means A alone, B alone or both A and B. If it involves more than 2 items, the reader may have to think too much about the alternatives.

example of change

- 1 During the peak business period, an employee may only take annual leave on the first and/or the second day of the period [*Can the employee take leave on both days, or only 1 day?*] *Recast:*

During the peak business period, an employee may only take annual leave on the first or second day of the period, but not on both days.

or

During the peak business period, an employee may only take annual leave on the first or second day of the period, or on both days.

further reading

- Asprey pp 192–3
 Cambridge Guide pp 49–50
 Fowler’s English Usage p 53
 Garner’s Dictionary pp 56–7
 Garner’s Legal Style pp 28, 103
 Gowers’ Plain Words pp 16, 188
 Howard’s Handbook p 24
 Longman English Usage p 41
 Partridge p 27
 Working Words p 35

angle



usage—consider alternatives

try—recasting / *approach*

extra information

- 1 Used in the context of mathematical angles. Do not use to mean *point of view*, *standpoint* or *viewpoint*. Also, do not use *angle* in the sense of approach or technique.

examples of no change

- 1 The distance measured at right angles between the rear overhang line of a vehicle and the rear of any load the vehicle is carrying
- 2 angle parking

example of change

- 1 if the problem-solver decides that a new ~~angle~~ approach is needed to solve the problem

further reading

Fowler's English Usage p 54

Gowers' Plain Words pp 61–2

Longman English Usage p 42

Partridge pp 28, 330 (standpoint; point of view; viewpoint; angle and slant)

annex

[as a verb]



usage—avoid using

try—*attach* / *add* / *take* (without permission)

extra information

- 1 formal word
- 2 The verb is always spelt *annex*. The noun is spelt *annexe*.
- 3 Generally used only in court rules.

example of no change

- 1 the following documents must be annexed to the supporting affidavit (or a relevant supporting affidavit)

examples of change

- 1 the examiner must ~~annex~~ attach to the deposition of the other person the consent of each party
- 2 a certificate of conviction, or certified copy of conviction ~~annexed~~ attached to the affidavit

further reading

Fowler's English Usage p 55

Garner's Dictionary pp 59, 369 (formal words)

Howard's Handbook p 25

Partridge p 28

Working Words p 36 (*annex/annexe*)

another person

see—Drafting Practice Guide, ch 14, 'another person / someone else'

anticipate / anticipation



usage—consider alternatives

try—*expect / predict*

extra information

- 1 It has been suggested (eg see Gowers' Plain Words and Garner's Dictionary) that *anticipate* should not be used as a synonym for *expect* and that *anticipate* should be used to convey the idea of forestalling an event or foreseeing an event and doing something about it before it happens. On this approach, *anticipate* is used only with a noun or pronoun, never with an infinitive or that-clause.
- 2 Although *anticipate* is now frequently used as synonym for *expect*, the better approach is to use *anticipate* only in the narrower sense suggested above.
- 3 *Anticipate* may mean to predict and sometimes also to act before a predicted event occurs. If action is required then this should be made clear, if necessary, as in example 2 of examples of change.

examples of no change

- 1 the commissioner may authorise payment of a grant in anticipation of compliance with the residence requirements
- 2 the Supreme Court may make an order in a proceeding or in anticipation of a proceeding in the court

examples of change

- 1 it was reasonable to ~~anticipate~~ expect that the information would be readily accessible
- 2 to ~~anticipate~~ predict and resolve problems that may arise in the application of this Treaty
- 3 taking into account ~~anticipated~~ expected land releases

further reading

Fowler's English Usage pp 56–7
 Garner's Dictionary p 63
 Gowers' Plain Words pp 33, 51, 205
 Howard's Handbook p 26 (*anticipate/expect*)
 Longman English Usage p 46
 Partridge pp 28–9 (*anticipate* and *expect*)
 Working Words p 37

any



usage—consider alternatives

try—*a / an / ► each / the / 1 or more / 2 or more / omitting / recasting*

extra information

- 1 *Any* is frequently overused in drafting.
- 2 Use *any* (or *if any*) to indicate the possibility that there will *not* be any. *Any* may also be used (sparely) for emphasis.
- 3 *Any* may be ambiguous. In some contexts it can mean *every*.
- 4 *Any* should not be followed by a negative verb.
- 5 *Any* may be either singular or plural, but the singular usage is rarer.
- 6 See also *any and all / any or all; any other; at any time; if any*.

example of no change

- 1 if, for any reason, it is not practicable to comply with subsection (1),

examples of change

- 1 without ~~any~~ a resolution of the merging council
- 2 in giving ~~any~~ information or advice to the Minister
- 3 a person who exercises ~~any of the powers~~ a power of the owner
- 4 The authority may remove ~~any~~ a buoy that is obstructing navigation.
- 5 The committee may be given ~~any~~ 1 or more of the following functions in a reference:
- 6 A licence may authorise the licensee to do ~~any~~ 1 or more of the following things:

further reading

Asprey pp 165–6, 220 (*any, each, every and all*)

Fowler's English Usage pp 57–9

Garner's Dictionary pp 26 (adjectives G), 65

Garner's Legal Style p 196 (*any and all*)

Longman English Usage p 45

Partridge p 29

any and all / any or all

usage—never use

try—▶ *all* / ▶ *any* / ▶ *each* / *1 or more* / (*2 or more*) / recasting

extra information

- 1 doublet
- 2 unclear

examples of change

- 1 The Minister may appoint the same person to ~~any and all~~ 2 or more of the following offices: ... [*if the power to appoint exists elsewhere*]
- 2 The Minister may appoint a person to ~~any and all~~ 1 or more of the following offices: ... [*if the provision contains the power to appoint*]

further reading

Garner's Dictionary p 65

Garner's Legal Style p 196

any other

usage—consider alternatives

try—another / recasting (using eg anyone else / someone else / ▶ any)

examples of no change

- 1 the register may include information about licences and any other information the commissioner considers appropriate
- 2 this section is additional to the court's other powers under this Act or any other territory law

examples of change

- 1 if goods are found by the manager of a public pool or ~~any other person~~ someone else
- 2 A proceeding may be brought against the person who did the act or ~~any other person~~ anyone else knowingly concerned in the doing of the act.
- 3 **address for service**, for a plaintiff, defendant or ~~any other person~~ anyone else, means

further reading

Howard's Handbook p 27 (*any/any other*)

apparent

usage—consider alternatives

try—► *clear* / *plain* / ► *obvious* / recasting / omitting

examples of no change

- 1 property in apparent control of a person
- 2 a thing's apparent value

examples of change

- 1 unless it is ~~apparent~~ obvious from the circumstances of any health service provided
- 2 if it becomes ~~apparent~~ clear to the trustee that the trustee has an actual or potential conflict of interest
- 3 to correct a clerical error or ~~apparent~~ mistake

further reading

Fowler's English Usage p 62

Garner's Dictionary p 66

Gowers' Plain Words p 205

appear

see—*it appears that* / *it would appear that*

append

usage—never use

try—*attach* / *give with* / recasting (*using eg at the end* / *add to the end*)

extra information

- 1 formal word

example of change

- 1 a document ~~appended~~ attached to the certificate

further reading

Garner's Dictionary p 369 (formal words)

applicable



usage—avoid using

try—*that applies / applying / recasting*

extra information

- 1 Can be used as part of a defined term. See the example of no change.
- 2 formal word

example of no change

- 1 This section is a determinative provision so far as it applies to an applicable law or applicable provision.

examples of change

- 1 meet any relevant ACT or Commonwealth government policies ~~applicable that~~ apply to the proposed use of the land
- 2 subject to the same conditions ~~as were applicable that applied~~ immediately before that time
- 3 may be made by an industrial award to vary the salary ~~applicable applying~~ in relation to an office

further reading

Fowler's English Usage p 63

Garner's Dictionary p 68

application

see—make application

applies

see—to which this [provision] applies

appoint

[for date or time]



usage—never use

try—*fix / set / decide / recasting*

extra information

- 1 formal word

example of change

- 1 conclusive evidence that the day has been ~~duly appointed in accordance with~~ set under this section

appraise



usage—consider alternatives

try—*value / assess* (the value, quantity or performance of) / *estimate* (the value or quantity of)

extra information

- 1 formal word
- 2 For the use of *appraise* and *apprise*, see *apprise*.

examples of no change

- 1 representing the client in a case appraisal, mediation, arbitration, collaborative law practice and procedures, and any other form of alternative dispute resolution
- 2 performance appraisal of officers and employees
- 3 appropriate appraisal and pricing of environmental resources

examples of change

- 1 a balanced ~~appraisal~~ assessment of the consequences of any possible decision
- 2 the actuarial report must contain an ~~appraisal~~ estimate of the employer's current outstanding liability in relation to compensable injuries

further reading

- Fowler's English Usage p 63 (*appraise, apprise*)
 Garner's Dictionary pp 69–70 (*appraise; apprise*)
 Garner's Legal Style p 103 (*appraise; apprise; apprise*)
 Gowers' Plain Words pp 205–6 (*appraise, apprise*)
 Longman English Usage p 52 (*appraise, apprise*)
 Partridge p 30 (*appraise; apprise; apprise*)
 Working Words p 43 (*appraise/apprise*)

appreciable



usage—consider alternatives

try—► *considerable* / ► *substantial* / ► *significant* / recasting / omitting

extra information

- 1 The alternative words may also be vague. Prefer a more precise description if possible.
- 2 May be used if policy requires flexibility.

examples of no change

- 1 in deciding whether a breach of a mass, dimension or loading requirement involves an appreciable risk of harm to public safety
- 2 may issue guidelines to be applied in deciding whether a proposed subordinate law or disallowable instrument is, or is not, likely to impose appreciable costs on the community or a part of the community

examples of change

- 1 would cause ~~appreciable~~ substantial hardship for the customer
- 2 members who have demonstrated over ~~an appreciable~~ a considerable period of time

further reading

- Gowers' Plain Words p 52
 Howard's Handbook p 30

appreciate



usage—consider alternatives

try—*understand* / *realise* / *recognise* / *increase* (in value) / *value* (highly) / omitting

extra information

- 1 May be used in a financial context.

examples of no change

- 1 the owner or prospective owner of a lot may recover damages for the loss of a reasonably expected capital appreciation of the lot
- 2 those in the local Canberra community who value architecture and its contribution to the environment and the arts appreciate the innovative and visionary plan

examples of change

- 1 the ability of the person entering the premises to ~~appreciate~~ recognise the danger
- 2 impair their capacity to access and ~~appreciate~~ understand the warnings and public information being provided

further reading

Fowler's English Usage pp 63–4
 Garner's Dictionary p 70
 Gowers' Plain Words p 206
 Longman English Usage pp 52–3
 Partridge p 30
 Working Words p 43

apprehend



usage—consider alternatives

try—*arrest* / *detain* / *seize* / *believe* / understand

extra information

- 1 Use only in the context of a person being detained.

example of no change

- 1 use the force and assistance that is necessary and reasonable to apprehend the person

examples of change

- 1 if there is reason to ~~apprehend~~ believe that a danger to people employed in any excavation work
- 2 If a warrant has been issued for a person's arrest but the person has not yet been ~~apprehended~~ arrested.

further reading

Butterworths Legal Dictionary p 66 (*apprehension*)
 Fowler's English Usage p 64 (*apprehend, comprehend*)
 Garner's Dictionary p 70 (*apprehend; comprehend*)
 Howard's Handbook pp 30–1 (*apprehend/comprehend*)
 Longman English Usage p 53 (*apprehend, comprehend*)
 Partridge pp 30 (apprehended that, it is), 285 (reprehend)
 Working Words p 43 (*apprehend/comprehend*)

advise



usage—never use

try—*tell* / ► *advise*

extra information

- 1 formal word
- 2 *Advise* and *advise* are sometimes confused. To *advise* is to fix the value of something or to assess the value of someone or something. By contrast, to *advise* is to tell someone about something.

examples of change

- 1 agent must ~~advise~~ tell the principal of all offers
- 2 a victim must be ~~advised of~~ told about the charges against the accused

further reading

Fowler's English Usage p 63 (*advise, advise*)
 Garner's Dictionary pp 69–70 (*advise; advise*)
 Garner's Legal Style p 103 (*advise; advise; advise*)
 Gowers' Plain Words pp 205–6 (*advise, advise*)
 Longman English Usage p 52 (*advise, advise*)
 Partridge p 30 (*advise; advise; advise*)
 Working Words p 43 (*advise/advise*)

appropriate



usage—consider alternatives

try—*right* / *suitable* / ► *proper* / recasting (using more precise words)

extra information

- 1 Can be used in relation to the appropriation of funds.
- 2 Try to be more specific if possible.
- 3 See also as appropriate.

examples of no change

- 1 the Supreme Court may transfer the federal proceeding if it considers it appropriate, having regard to the interests of justice
- 2 all payments made under this section for the next financial year are taken for all purposes to have been paid out of money appropriated by that Act

examples of change

- 1 in accordance with ~~appropriate~~ proper accounting standards
- 2 In deciding whether premises are ~~appropriate~~ suitable premises for a licence or permit, the commissioner must consider [*suitable premises is a defined term*]

further reading

Gowers' Plain Words pp 206–7
 Longman English Usage p 53

approximately / approximate



usage—avoid using

try—*about / nearly / almost*

extra information

- 1 Prefer *about* for approximations.
- 2 *Approximately about* is a tautology.
- 3 *Approximate* means very close. An *approximate* estimate is one that need not be exact, but should be as near to exact as you can conveniently make it.
- 4 Never use *very approximate*.

example of no change

- 1 upper surfaces of all catwalks must be approximately horizontal in transverse planes

examples of change

- 1 a bag that is designed to be used on a regular basis for ~~approximately~~ about 2 years
- 2 the lessor intends to repair or reinstate the premises or building between the dates ~~approximately~~ stated in the notice.

further reading

Garner's Dictionary pp 8 (*about; approximately*), 71 (*approximate; approximal; proximate; approximately*), 369 (formal words)

Gowers' Plain Words p 207

Partridge p 30

are

see—*is / are to*

area



usage—consider alternatives

try— topic / ► issue / ► matter

extra information

- 1 Avoid using *area* as an omnibus word.
- 2 See also *kind*.

examples of no change

- 1 the defendant had no reasonable grounds for suspecting that entry into the reserved area was prohibited
- 2 There may be more than 1 designated outdoor smoking area at the premises.

examples of change

- 1 the Governor-General has power to make ordinances for the ACT on a limited number of ~~areas~~ topics
- 2 rules dealing with similar ~~areas~~ matters under the *Court Procedures Rules 2006*

further reading

Garner's Legal Style p 215

arguably



usage—never use

try—recasting (using ► *regarded as* / *might* / ► *may*)

extra information

- 1 Sentence adverb. For example ‘She is arguably the greatest woman golfer of all time.’
- 2 ambiguous

examples of change

- 1 leave may be granted if the judge is satisfied that the associate judge’s decision is ~~arguably~~ might be affected by error
- 2 financial or investment advice that could ~~arguably be~~ reasonably be regarded as being intended to influence the person to whom it is given

further reading

Fowler’s English Usage pp 66, 702–3 (sentence adverbs)

Garner’s Dictionary pp 791–2 (sentence adverbs)

Longman English Usage p 55

arising



usage—consider alternatives

try—recasting (using eg *because of* / *resulting from*) / omitting

extra information

- 1 vague word

examples of no change

- 1 arising out of or in the course of employment
- 2 arising under the Constitution

examples of change

- 1 each question ~~arising for decision~~ to be decided
- 2 any shortfall ~~arising~~ because the levy is not enough
- 3 the respondent is liable for costs to the claimant ~~arising~~ resulting from the failure

further reading

Gowers’ Plain Words p 4 (*arise*)

Partridge p 36 (conjunctions disguised)

around



usage—consider alternatives

try—*about* / *nearly*

extra information

- 1 Prefer *about* for approximations.
- 2 See also *approximately*.

example of no change

- 1 an inspector may enter land around the premises

example of change

- 1 if a person releases 20 or more balloons at or ~~around~~ about the same time

further reading

Fowler's English Usage pp 67–8 (*around, round*)
 Garner's Dictionary p 75
 Gowers' Plain Words p 207
 Howard's Handbook p 3 (*about/around/round*)
 Longman English Usage pp 56–7
 Partridge p 36
 Working Words pp 7 (*about/around*), 46 (*around/round*)

as

usage—consider alternatives

try—► *when* / ► *while* / *since* / *because* / *for* / ► *like* / omitting

extra information

- 1 *As* should generally not be used in the temporal sense of *while* or *when*, or in the sense of *since* or *because*. Its use in these senses may be ambiguous (see examples of change, example 2).
- 2 See also other entries starting with *as*; *during such time as*; *except as otherwise provided*; *regarded as being*.

examples of no change

- 1 A regulation may apply, adopt or incorporate an instrument *as* in force from time to time.
- 2 a person may apply for full registration *as* a teacher

examples of change

- 1 if the occupier is present at the premises ~~as~~ while a search warrant is being executed
- 2 the suspension takes effect ~~as~~ when the notice is given to the licensee

further reading

Cambridge Style Guide p 65
 Fowler's English Usage pp 68–72
 Garner's Dictionary pp 77–8, 78 (*as ... as A. And so ... as*)
 Garner's Legal Style pp 104–5
 Gowers' Plain Words pp 100–1
 Howard's Handbook p 34
 Longman English Usage pp 58–61
 Partridge pp 36–7
 Working Words pp 47–8, 48 (*as/since/because/for*)

as a consequence of

usage—avoid using

try—*because of* / recasting

extra information

- 1 compound preposition

example of no change

- 1 material that spontaneously emits ionising radiation *as a consequence of* nuclear transformation

examples of change

- 1 if, ~~as a consequence of the operation~~ because of section 4,
- 2 any covert surveillance records made ~~as a consequence~~ because of the covert surveillance

further reading

Gowers' Plain Words pp 55, 216

as appropriate

usage—never use

try—omitting / recasting

extra information

- 1 legalese

example of change

- 1 outside the time allowed under section 15 (1), (2) or (3), ~~as appropriate~~ [*or under section 15*].

as a / the result of

usage—avoid using

try—*because of* / recasting

extra information

- 1 compound preposition

example of no change

- 1 the child born as a result of the pregnancy

example of change

- 1 the claimant has incurred the cost of the rehabilitation services ~~as a result of~~ because of the personal injury caused by the motor accident

further reading

Gowers' Plain Words p 260

Howard's Handbook p 35

ascertain

usage—avoid using

try—*find out / decide* / ► *determine / work out* / ► *calculate / learn* / recasting

extra information

- 1 formal word
- 2 *Ascertain* means to find out by trial, examination or experiment, so as to know for certain (Macquarie Dictionary). It is not a synonym for find out.

example of no change

- 1 to ascertain whether the blood contains a pathogen

examples of change

- 1 The result of the polling at an election must be ~~ascertained~~ worked out by scrutiny in accordance with this part.

- 2 the wishes and feelings of the child or young person ~~have been ascertained~~ are known

further reading

Gowers' Plain Words p 208

Longman English Usage p 62

Working Words p 49

**as concerns /
as regards /
as respects**



usage—never use

try—for / about / ►regarding / ►concerning / ►respecting / ►in relation to / omitting / recasting

extra information

1 compound preposition

2 verbose

examples of change

- 1 if a partnership is dissolved after a partner has assigned the partner's share in the partnership, whether ~~as respects~~ in relation to all the partners or ~~as respects~~ the assigning partner,
- 2 ~~as regards applications in respect of~~ for applications in relation to a life estate or leasehold

further reading

Fowler's English Usage p 663 (*regard*)

Garner's Dictionary p 81 (as regards; as respects; as concerns)

Gowers' Plain Words pp 55–6 (*as regards*)

Howard's Handbook p 36 (*as regards*)

as / so far as ... is / are concerned



usage—never use

try—on / for / to / recasting

extra information

1 verbose, vague

2 See also *in so far as/insofar as*.

examples of change

- 1 ~~so far as concerns the formalities of~~ for the making, varying or discharging of a contract
- 2 Except ~~so far as concerns in relation to~~ income converted by a trustee, this section does not apply to an action to recover arrears of income.

further reading

Fowler's English Usage pp 169 (*concerned*), 284 (*far 4*)

Garner's Dictionary p 79 (*as far as*)

Garner's Legal Style p 104

Longman English Usage pp 158–9 (*concerned*)

as for

*see—*as to / as for

as from



usage—avoid using

try—▶ *from* / *after* / ▶ *on and after* / recasting (using eg 6 months beginning on)

extra information

- 1 compound preposition
- 2 *As from* may be ambiguous and should be used, if at all, with care.
- 3 Except when dealing with a retrospective date, the *as* in *as from* is a redundancy (but see LA, table 151, item 2 (Working out periods of time generally)).
- 4 See also *as of*.

example of no change

- 1 Costs must be awarded to the claimant as from the day the proceeding began.

examples of change

- 1 a statement to the effect that, ~~as from registration of beginning on the day the transfer is registered~~, the transferee holds the shares non-beneficially
- 2 A partnership is dissolved ~~as from~~ on the date mentioned in the notice as the date of dissolution.

further reading

Fowler's English Usage p 70 (*as* 7)
 Garner's Dictionary p 79
 Gowers' Plain Words p 60
 Howard's Handbook p 35 (*as from/as of*)
 Longman English Usage p 60 (*as* 11)
 Working Words p 47 (*as*)

as of



usage—never use

try—*on* / *by the time* / recasting (using eg *when*)

extra information

- 1 *As of* can indicate the effective legal date of a document, eg when the document is backdated or the parties sign at different times (Garner's Dictionary) but in other cases *on* or a more direct alternative, eg *when*, should be used.
- 2 See also as from; as of right.

examples of change

- 1 The fee applies ~~as of~~ on and after the date of the notice.
- 2 The date ~~as of which~~ an order is entered is the date the order is taken to be made.
- 3 This Act is taken to have commenced ~~as of~~ on 1 January 2008.

further reading

Fowler's English Usage p 70 (*as* 7)
 Garner's Dictionary p 80 (*as of* A)
 Howard's Handbook p 35 (*as from/as of*)
 Longman English Usage p 60 (*as* 11)

as of right



usage—avoid using

try—*without leave* / recasting

extra information

- 1 *As of right* is legal shorthand for as a matter of right. It means ‘by virtue of a legal entitlement’ (Garner’s Dictionary).
- 2 When used in relation to a legal proceeding, it often means that a party may take action without permission of the court, as opposed to requiring the leave of the court.

example of no change

- 1 This rule does not apply in relation to any debt on which interest is payable as of right, whether by agreement or otherwise.

examples of change

- 1 an appeal may be brought ~~as of right~~ without leave from an order of an amount of \$2 000 or more
- 2 ~~An appeal as of right lies~~ A person may appeal without leave to the Supreme Court in relation to any of the following orders of the Magistrates Court:

further reading

Garner’s Dictionary p 80 (*as of right*)

as long as / so long as



usage—consider alternatives

try—▶ *while* / *only if* / ▶ *if*

extra information

- 1 compound preposition that often implies a condition

examples of no change

- 1 A police officer may detain a person for as long as is reasonably necessary to conduct a search.
- 2 The suspension period is twice as long as the suspension period that would have applied to the person if the person had not made the election.

examples of change

- 1 An auditor is taken to be on the list ~~for so long as~~ while the auditor’s name is on a list of auditors maintained under a corresponding law.
- 2 A corporation is eligible to be licensed ~~as long as~~ only if the corporation has a nominee who is licensed.
- 3 The building may be sublet with the part of the building separately from the remainder of the parcel of land, ~~as long as~~ if the part of the parcel of land sublet adjoins the part of the parcel of land with the building on it.

further reading

Fowler’s English Usage p 468 (*long*)

Garner’s Dictionary p 80

aspect



usage—consider alternatives

try—omitting / recasting

extra information

- 1 *Aspect* has the same traps for writers as *angle* and *viewpoint*. Its use can lead to vagueness.
- 2 Avoid using *aspect* as an omnibus word. See also *kind*.
- 3 See also *angle*.

examples of no change

- 1 compliance with heavy vehicle road laws or stated aspects of heavy vehicle road laws
- 2 including any aspect of the treatment, living conditions, work or activities of the detainee

examples of change

- 1 The assessment must identify the ~~positive aspects or~~ benefits of the gaming machine proposal.
- 2 a plan for coordinating and managing ~~the aspects of~~ injury management

further reading

Garner's Legal Style pp 31 (vague word), 215 (omnibus word)
 Gowers' Plain Words p 62
 Longman English Usage p 62
 Partridge pp 4 (abstract nouns), 39

as per



usage—never use

try—▶ *according to* / ▶ *in accordance with* / *through* / ▶ *by* / ▶ *as* / recasting

extra information

- 1 commercialese

example of change

- 1 The executor must distribute the estate ~~as per~~ in accordance with the will.

further reading

Fowler's English Usage p 71 (*as* 10)
 Garner's Dictionary pp 80–1
 Garner's Legal Style p 104
 Partridge p 38

as provided by



usage—consider alternatives

try—*under* / ▶ *in accordance with* / ▶ *mention* / *mentioned* / recasting

extra information

- 1 compound preposition

examples of no change

- 1 A civil partnership terminates only as provided by division 2.4.

- 2 If an offence is expressly mentioned in the provision, the penalty indicates that the offence is punishable on conviction as provided by subsection (4).

examples of change

- 1 bankrupt ~~as provided by~~ under the *Bankruptcy Act 1966*
- 2 legal practice engaged in by an incorporated legal practice ~~as provided by~~ in accordance with part 2.
- 3 (2) Nothing done under this part affects any civil proceeding arising under a construction contract, whether under this part or otherwise, ~~except as provided by subsection (3).~~
 - (3) ~~In~~ However, in any proceeding

as quickly as possible / practicable

*see—*as soon as possible / practicable

assign

[as a verb]



usage—consider alternatives

try—*transfer* / *give* / ► *allocate* / ► *appoint*

extra information

- 1 formal word
- 2 Historically, *assign* was used in the context of the transfer of rights in personal property and leases (*transfer* was used for real property).
- 3 However, the term is also used in a legal context as a synonym for *transfer* in a general sense; in these cases *transfer* should be used instead.

examples of no change

- 1 The rights in the contract are assigned on the date the instrument of acceptance is signed.
- 2 The tenant may assign, sublease or mortgage the tenant's interest in the premises only if the tenant has the written consent of the lessor.

example of change

- 1 the chair may ~~assign~~ allocate board members to a division for the exercise of the board's supervisory functions

further reading

Butterworths Legal Dictionary pp 79–80 (*assignment*)

Garner's Dictionary pp 83, 369 (formal words)

Howard's Handbook p 36 (*assign/transfer*)

assign

[as a noun]



usage—never use

try—*assignee* / omitting / recasting

extra information

- 1 *Assignee* is the more commonly understood word.
- 2 *Assign* is usually only used in the plural in the doublet *heirs and assigns*.

- 3 It is unnecessary to define a person with an interest in property to include the person's assigns (see LA, s 168).
- 4 See also *heirs, executors, administrators, successors and assigns*.

further reading

Garner's Dictionary p 83 (*assign; assignee*)

assist / assistance

usage—consider alternatives

try—*help / encourage / recasting*

extra information

- 1 *Assist* is often a formal way of saying *help* and may sound pretentious.
- 2 *Assist* usually suggests less physical involvement in performing a task than *help*. You normally *assist* someone in doing something, but you *help* them to do something.

examples of no change

- 1 authorising the parliamentary counsel to do anything else in relation to an instrument to assist users of the register to identify or refer to the instrument
- 2 The registrar may do anything else to assist the hearing of the application that the registrar considers appropriate.

example of change

- 1 anyone who the organisation proposes to engage to **assist** help it to promote or conduct the game or the event at which it is to be conducted

further reading

Fowler's English Usage pp 73–4

Garner's Dictionary p 83 (*assist; assistance*)

Longman English Usage p 63 (*assist, assistance*)

Partridge p 39 (*assist to*)

association

see—*in association with*

as soon as is possible / practicable

usage—never use

try—▶ *as soon as possible / practicable* / recasting (mentioning a period, eg *within 14 days*)

extra information

- 1 verbosity

as soon as possible / practicable



usage—consider alternatives

try—recasting (mentioning a period, eg *within 14 days*)

extra information

- 1 It is not necessary to state that a thing must be done *as soon as possible*, as it is the default if no time is provided for doing a thing (see the LA, s 151B (Doing things for which no time is fixed)).
- 2 If using *as soon as possible* or *as soon as practicable*, consider which is more appropriate in the context; courts have determined that they do not mean the same thing. Andrews CJ in *Wills v Whiteside; Ex parte Wills* [1987]¹ stated that *as soon as possible* is “a more stringent requirement” than *as soon as practicable*, and that “ ‘as soon as practicable’ means ‘as soon as reasonably practicable’ ” (note that *as soon as reasonably practicable* is not to be used in legislation).
- 3 “Presumably, ‘as soon as possible’ requires a higher degree of expedition [than a requirement for notice within a reasonable time].”²
- 4 *As soon as practicable* appears to be more flexible than *as soon as possible*: see *Creely v Ingles*³. Pearce and Geddes⁴, relying on *Martin v Commonwealth*⁵, state that “The length of time permitted is to be judged against what is practicable from the viewpoint of the person or body who has to comply with the requirement having regard to its normal procedures and all other surrounding circumstances”.
- 5 “The words ‘as soon as possible’ express a relative concept; possibility must be measured by reference to limiting factors...[A] contract to do something ‘as soon as possible’ [does not mean] to do it as soon as anyone could do it...[T]he phrase means as soon as possible in the circumstances”⁶.

examples of no change—as soon as possible

- 1 If a declaration commences before it is notified under the Legislation Act, the Minister must give notice of the declaration to the required media as soon as possible after the declaration is made.
- 2 The Minister must review the operation of this Act as soon as possible after 1 July 2012.
- 3 The person in charge of a school must, as soon as possible, tell the chief health officer if the person in charge knows or suspects that a member of staff of the school has a vaccine preventable disease.

examples of no change—as soon as practicable

- 1 The institute must, as soon as practicable—
 - (a) if the institute decides not to register a person or grant a permit to teach—refund the fee, if any, paid by the person; or
- 2 the licensee must tell the commissioner, in writing, about the change as soon as practicable (but not later than 7 days) after the day the change happens
- 3 If a tribunal member (the *interested member*) has a material interest in a matter in an application, the interested member must, as soon as practicable after the relevant facts come to the interested member’s knowledge, disclose the nature of the interest

further reading

Butterworths Legal Dictionary p 77 (*as soon as reasonably possible*)

¹ *Wills v Whiteside; Ex parte Wills* [1987] 2 Qd R 284 at 288, per Andrews CJ; See also *Martin v R* (1975) 7 ACTR 1 at 3, per Joske J.

² *Vines v Djordjevitch* (1995) 91 CLR 512 at 522 (High Ct).

³ *Creely v Ingles* [1969] VR 732 at 734, per Little J; See also *Wills v Whiteside; Ex parte Wills* [1987] 2 Qd R 284 at 295, per Demack J.

⁴ DC Pearce, RS Geddes, *Statutory Interpretation in Australia*, 8th edition, 2014, p469

⁵ *Martin v Commonwealth* (1975) 7 ACTR 1.

⁶ *Amann Aviation Pty Ltd v Commonwealth* (1997) 92 ALR 600 at 632 (Full Fed Ct), applying *Verelst's Administrative v Motor Union Insurance Co Ltd* [1925] 2 KB 137 at 142, per Roche J.

as soon as reasonably possible / practicable



usage—never use

try—▶ *as soon as possible* / *practicable* / recasting (mentioning a period, eg *within 14 days*)

extra information

1 verbosity

further reading

Butterworths Legal Dictionary p 77 (*as soon as reasonably possible*)

as such



usage—never use

try—omitting / recasting / ▶ *so*

extra information

- 1 Often a redundancy, but is also used to avoid repeating earlier text.
- 2 The meaning of *as such* can be ambiguous.

examples of change

- 1 Property *directly derived* or *indirectly derived* from a drug offence does not lose its identity ~~as such~~ as that kind of property only because it is deposited with a financial institution or other entity for credit to an account or for investment.
- 2 the identification on a genuine basis by a person of one sex as a member of the other sex (whether or not the person is recognised ~~as such~~ as a member of the other sex)
- 3 *emergency vehicle* means a vehicle that:
 - (a) is designed and permanently fitted out for emergency response or search and rescue operations; and
 - (b) has external markings that identify it ~~as such~~ as a vehicle mentioned in paragraph (a).

further reading

Fowler's English Usage p 71 (*as* 11)

Gowers' Plain Words p 60

Longman English Usage p 59 (*as* 5)

assume

see—*presume*

as the case may be / as the case requires / as the case may require



usage—never use

try—omitting / recasting

extra information

- 1 formal phrase or verbosity
- 2 legalese
- 3 Use of ‘*or*’ is all that is needed to indicate alternatives.

examples of change

- 1 If a law practice does not disclose to a client or an associated third party payer anything required by this division to be disclosed, the client or associated third party payer (~~as the case may be~~) need not pay the legal costs unless they have been assessed under division 3.2.7.
- 2 If a disqualifying circumstance happens in relation to a registered unit trust scheme, the commissioner must make an assessment of duty chargeable under this Act in relation to any acquisition of an interest in the unit trust scheme as if the unit trust scheme had not been a wholesale unit trust scheme or public unit trust scheme, ~~as the case requires~~, on and after the disqualification date.
- 3 **accredited ART centre** means an entity accredited to carry out assisted reproductive technology by—
 - (a) the Reproductive Technology Accreditation Committee of the Fertility Society of Australia; or
 - (b) if a regulation prescribes another body or other bodies in addition to, or instead of, the body mentioned in paragraph (a)—that other body or any of those other bodies, ~~as the case requires~~.

further reading

Garner’s Dictionary p 133 (*case*)

Garner’s Legal Style p 106 (*case of, in the*)

as to / as for



usage—avoid using

try—► *by / in / into / for / of / on / to / with / about* / ► *in relation to* / omitting / recasting

extra information

- 1 compound preposition
- 2 vague phrase
- 3 Can be a redundancy.
- 4 See also *as to whether / as to who / as to how / as to what* etc.

examples of no change

- 1 the surveyor has, deliberately or through carelessness or incompetence, carried out a survey or a measurement survey that is so inaccurate or defective as to be unreliable

- 2 If the investigator certifies the failure to the Supreme Court, the court may—
- (a) order the involved person to comply with the investigator's requirement within a stated period; or
 - (b) instead of, or in addition to, making that order, punish the involved person as for a contempt of the court if satisfied that there was no lawful excuse for the failure to comply with the investigator's requirement.

examples of change

- 1 restrictions ~~as to~~ on imports
- 2 The person must give a clear indication ~~as to~~ of the person's intention.
- 3 if the officer is not satisfied ~~as to~~ about the matters mentioned in subsection (1)
- 4 at any time, enter premises if the inspector suspects on reasonable grounds that the circumstances are ~~of such seriousness and urgency as to require immediate entry to the premises without the authority of a search warrant~~ so serious and urgent that immediate entry to the premises without the authority of a search warrant is necessary

further reading

- Fowler's English Usage p 71 (*as to*)
 Garner's Dictionary pp 85–6 (*as to*)
 Garner's Legal Style pp 104–105
 Gowers' Plain Words pp 55–7
 Longman English Usage p 61 (*as to*)
 Partridge pp 38, 362 (*to*)
 Working Words p 50 (*as for/as to*)

as to whether / as to who / as to how / as to what etc



usage—never use

try—omitting *as to* / *of* / *about* / recasting

extra information

- 1 compound preposition
- 2 *As to* is a redundancy before *whether*.
- 3 See also *issue as to whether* and *whether / whether or not*.

examples of change

- 1 a decision ~~as to whether~~
- 2 a statement ~~as to~~ of whether each application made by a law enforcement officer for a warrant was granted
- 3 The correction tribunal may hear submissions from the parties ~~as to~~ about whether the correction should be made.
- 4 ~~it is a matter for the court as to what weight should be given~~ must decide the weight to be given

further reading

- Fowler's English Usage p 71 (*as to*)
 Garner's Dictionary pp 86 (*as to* 9); 727 (question (*as to*) *whether*; question (*of*) *whether*), 930 (*whether*)
 Garner's Legal Style pp 104–105 (*as to*), 136 (question *as to whether*; question *of whether*)
 Gowers' Plain Words pp 55–7 (*as to*), 57 (*as to whether*)
 Longman English Usage p 61 (*as to*)
 Partridge p 38 (*as to whether*)
 Working Words p 50 (*as for / as to*)

as well as ... both

see—both

as yet / as of yet



usage—never use

try—omitting / recasting

extra information

1 verbosity

examples of change

- 1 If no agreement has been reached ~~as yet~~.
- 2 If the damage ~~is as yet undetermined~~ has not been assessed,

further reading

Garner's Dictionary p 87

Garner's Legal Style p 105

Partridge p 38 (*as yet*)

at all times



usage—consider alternatives

try—*always* / omitting / recasting

extra information

1 Can be a redundancy, but may be useful for emphasis.

example of no change

- 1 If more than 6 firearms are on display, 2 people, each of whom has an appropriate licence for each category of firearm displayed, must be present at all times when the firearms are displayed.

examples of change

- 1 the prisoner must always be escorted ~~at all times~~
- 2 carry the required authorisation ~~at all times~~ while driving a vehicle in the ACT carrying explosives
- 3 ~~A person working with compressed air must at all times wear a compressed air worker's badge.~~ If a person is working with compressed air, the person must wear a compressed air worker's badge.

at any time



usage—consider alternatives

try—omitting

extra information

- 1 Can be a redundancy, but may be useful for emphasis.
- 2 See also *from time to time*.

examples of no change

- 1 This section applies if, at any time during the preliminary conference for an application for a non-emergency protection order, the registrar is satisfied that the application is likely to be more effectively resolved by mediation than by a hearing.
- 2 An authorised person may enter premises at any time when there are reasonable grounds for suspecting that liquor is being sold on the premises.

examples of change

- 1 A respondent may give an adjudicator a response to a claimant's adjudication application ~~at any time~~ before the later of the following:
- 2 An application may be made ~~at any time~~ during the term of the lease.

at present

usage—never use

try—*now* / ► *current* / *currently* / omitting

extra information

- 1 verbosity

examples of change

- 1 The chair may adjourn the meeting to a time, date and place to be decided by the people present at the meeting if the chair considers on reasonable grounds that in the circumstances it would be unfair to allow the meeting to go ahead ~~at present~~.
- 2 establish reasonable grounds for believing that the person is ~~at present~~ now of unsound character
- 3 The ACT legislation register must contain authorised republications of laws ~~at present~~ currently in force.

further reading

Garner's Dictionary p 90 (*at the present time; at this time; at present*)

Garner's Legal Style p 192

attain

usage—never use

try—*reach* / ► *achieve* / *become* / *turn* / ► *obtain* / recasting

extra information

- 1 formal word
- 2 *Attain* (which means achieve or reach) is sometimes confused with *obtain* (which means get).
- 3 Use 'turns' rather than 'reaches' for age (see example 5).

examples of change

- 1 An officer is inefficient only if the officer fails, in the performance of the duties that the officer is required to perform, to ~~attain~~ reach or ~~sustain~~ maintain a standard of efficiency.
- 2 the vehicle ~~attains~~ reaches a speed 40% greater than its rated speed
- 3 if a company ~~attains~~ insolvency ~~becomes~~ insolvent

- 4 **adult** means an individual who ~~has attained the age of 18 years~~ is at least 18 years old.
- 5 the date when the person ~~will attain the age of~~ turns 65 years old

further reading

Garner's Dictionary pp 88–9 (*attain; obtain*)
Working Words p 53

attempt

usage—consider alternatives

try—*try*

extra information

- 1 *Attempt* is a more formal word than *try*.
- 2 The use of *attempt* as a verb instead of *try* may sound pretentious and excessively formal. Prefer *try* as a verb unless the context needs a more formal word like *attempt*, for example, in a context implying a considerable effort to achieve a difficult task.
- 3 On the other hand, *attempt* should be used as a noun instead of *try* except in very informal contexts. In legislation the use of *try* as a noun is inappropriate.
- 4 *Attempt* is also the offence under the Criminal Code (and the common law) of *attempting* to commit an offence. This means it is not necessary to expressly mention an attempt to do something in a provision that makes it an offence to do that thing.

examples of no change

- 1 allow the person to attempt the examination
- 2 An attempt to commit an offence is punishable as if the offence had been committed.

examples of change

- 1 likely to ~~attempt~~ try to evade service of the summons
- 2 *sell* includes offer, agree or ~~attempt~~ try to sell.

further reading

Butterworths Legal Dictionary p 84
Garner's Dictionary p 89
Longman English Usage pp 65–6

attendance

see—*in attendance*

attest

usage—never use

try—witness / certify (*to the genuineness of*) / give evidence (*about*) / declare / say

extra information

- 1 formal word

examples of change

- 1 The attaching of the seal must be ~~attested~~ witnessed.

2 if a witness ~~attests~~ gives evidence that the defendant

further reading

Butterworths Legal Dictionary p 84

at the time of



usage—avoid using

try—► *when* / recasting

extra information

1 verbosity

examples of no change

- 1 if the consignor of the freight container is in Australia at the time of the consignment
- 2 The judge may comment on a failure to give evidence by a person who, at the time of the failure, was the defendant's domestic partner.
- 3 if the victim is under 10 years old at the time of the offence

examples of change

- 1 if a person does not have a will ~~at the time of the person's death~~ when the person dies
- 2 ~~at the time of the sale~~ when the sale happens
- 3 required to be paid ~~at the time of making an application~~ when an application is made

further reading

Garner's Dictionary pp 90 (*at the time that; at the time when*), 912 (*at the time of* in verbosity)
Garner's Legal Style p 192 (*at the time when*)

at the time that / at the time when



usage—never use

try—► *when* / omitting

extra information

1 verbosity

examples of change

- 1 if, ~~at the time that~~ when the defendant is sentenced, the defendant is not before the court or is not represented before the court by a lawyer
- 2 A photograph or signature may be used for a purpose mentioned in this section ~~at the time that~~ when the photograph or signature is taken by, or given to, the road transport authority or at any later time.
- 3 the value that the animal, premises or other thing would have had if, ~~at the time~~ when the assessment for compensation is made, it had not been infected with a disease

further reading

Garner's Dictionary pp 90 (*at the time that; at the time when*), 912 (*at the time of* in verbosity)
Garner's Legal Style p 192 (*at the time when*)

at this time / at this point of time / at this moment in time



usage—never use

try—omitting / recasting

extra information

- 1 vague phrase
- 2 verbosity

example of change

- 1 Criteria to be satisfied at time of decision
 - (1) The applicant has undergone a chest x-ray examination performed by a medical practitioner who is qualified as a radiologist in Australia.
 - (2) However, subsection (1) does not apply to an applicant if the applicant is a person who the Minister is satisfied should not be required to have a chest x-ray ~~at this time.~~

further reading

- Asprey pp 173, 220 (*at this particular point in time; at this point in time*)
 Garner's Dictionary p 90 (at the present time; at this time; at present)
 Garner's Legal Style p 32 (*point in time*)
 Gowers' Plain Words p 184
 Howard's Handbook p 39 (at this moment in time/at the end of the day)
 Working Words p 53 (at this moment in time; at this point in time)

attribute [as a noun]



usage—consider alternatives

try—► *feature / quality / property*

extra information

- 1 An *attribute* of someone or something is a feature or quality that is attributed to the person or thing.

examples of no change

- 1 based on verification and assessment of the practitioner's qualifications, experience, skill, professional standing and any other relevant professional attributes
- 2 the duties of the position can be performed only by a person having particular physical attributes (other than attributes of strength or stamina)

examples of change

- 1 any other ~~attribute~~ feature of the goods
- 2 *specifications*, of a vehicle, means the physical dimensions and other physical ~~attributes~~ features of the vehicle and its fittings.

further reading

- Garner's Dictionary p 91 (*attribute; attribution*)
 Partridge pp 38 (ascibe and attribute), 40 (attribute, attributed)
 Working Words p 53

attribute [as a verb]



usage—consider alternatives

try—recasting (using, eg caused by) / ► *result* / ► *effect*

examples of no change

- 1 attribute the direct costs to the different parties
- 2 the part of the rate attributable to land occupied only by a pensioner

example of change

- 1 if the medical condition may be ~~attributable to~~ caused by smoking

further reading

Partridge pp 38 (ascribe and attribute), 40 (attribute; attributed)
Working Words p 53

Australia



usage—consider alternatives

try—omitting

extra information

- 1 can be a redundancy
- 2 Connection with Australia is often implied and need not be stated.
- 3 See LA, dict, pt 1, defs *Australia* and *Commonwealth*.

examples of no change

- 1 the person has a work visa allowing the person to work in Australia
- 2 because of being convicted or found guilty by a court in Australia of an offence against the law of any jurisdiction

example of change

- 1 the Commonwealth ~~of Australia~~

Australian Capital Territory

see—*Territory*, Drafting Practice Guide, ch 14, ‘ACT or Territory’

authorise



usage—consider alternatives

try—recasting (using ► *may*) / ► *permit* / *allow* / *approve*

extra information

- 1 *Authorise* is an active word. It means to give official or legal approval to someone or permission to do something. (Often the approval will confer permission to do something.) By contrast, *permit* and *allow* can be passive words. They can mean to let something be done or happen.
- 2 See also *is / are authorised*.

examples of no change

- 1 an authorised act

- 2 authorised officer
- 3 **general licence** means a licence that authorises the licensee to sell liquor.
- 4 The parliamentary counsel may authorise written or electronic versions of a law.

examples of change

- 1 The person is ~~authorised to~~ may use a power boat.
- 2 This section applies if an Act requires or ~~authorises~~ allows a document to be served by post.

further reading

Butterworths Legal Dictionary p 97

authority



usage—consider alternatives

try—recasting (using ► *may*) / *power* / *right* / omitting

extra information

- 1 Prefer alternative of saying that someone has a right (or is permitted / has power) to do something.
- 2 See also *power and/or authority; is / are authorised*.

examples of no change

- 1 the administering authority may
- 2 the planning and land authority
- 3 authority to take affidavits
- 4 authority to complete

examples of change

- 1 powers ~~and authorities~~
- 2 the port captain may give a person written ~~authority~~ permission
- 3 ~~have the authority to~~ are allowed to

further reading

Butterworths Legal Dictionary p 98

Gowers' Plain Words p 208

LA, dict, pt 1, def *power*

Longman English Usage p 69

availability



usage—consider alternatives

try—recasting (using more precise words)

extra information

- 1 Using *availability* can contribute to abstract, loose writing.

examples of no change

- 1 The conservator must consider the impact of issuing the licence on the availability of fish of a priority species.
- 2 make a false or misleading representation about the availability of facilities for the repair of goods

examples of change

- 1 The committee must prepare a written notice telling the public ~~about the availability~~ that copies of the documents are available for public inspection at the electoral commission's office ~~of the copies of the documents~~.
- 2 ~~the availability of whether~~ the personal information is available from publicly accessible sources

further reading

Gowers' Plain Words pp 80–1

aver**[also averment]**

usage—avoid using

try—► *state* (positively) / *say* / *assert* (as a fact) / *swear* / ► *affirm* / *claim* (as a fact) / *declare* / ► *allege* / recasting

extra information

- 1 formal word
- 2 technical legal term, but *allege* is usually preferable even in this context
- 3 Use *aver* in solemn, formal context only.
- 4 *Say* is more neutral than *aver* and may not be a suitable alternative.

example of no change

- 1 A law that allows the prosecution to make an averment (however expressed) does not allow the prosecution to aver any fault element of an offence.

examples of change

- 1 a particular ~~averred~~ stated in a complaint
- 2 if a person ~~avers~~ alleges that the person is or would be a victim of the contravention

further reading

Butterworths Legal Dictionary pp 100 (*aver*), 101 (*averment*)

Fowler's English Usage pp 80–1

Garner's Dictionary p 93 (*aver*; *asseverate*; *averment*; *averral*)

Longman English Usage p 70

avert

usage—avoid using

try—avoid / prevent / deflect

extra information

- 1 formal word
- 2 To *avoid* something is to keep away from it; to *prevent* something is to stop it happening; to *avert* something is to ward it off, to turn it away or deflect it.
- 3 *Avert* is sometimes confused with *advert*. For the use of *avert* and *advert*, see *advert to*.

example of no change

- 1 a person's life, health or property is under serious and imminent threat and the disclosure [*of information obtained in a mediation session*] is necessary to avert the threat

example of change

- 1 The driver of a vehicle approaching an intersection must take the action necessary to ~~avert~~ avoid the collision at the intersection.

further reading

Garner's Dictionary pp 33 (*advert; avert*), 93

Longman English Usage pp 21 (*advert, avert*), 70–1 (*avoid, prevent, avert*)

Partridge p 7 (*advert; avert*)

Working Words p 20 (*advert/avert*)

aware

usage—consider alternatives

try—recasting (using, eg *know*)

extra information

- 1 *Aware* is a vogue word that has become a blanket term of approval, eg a politically aware person or even an aware person.
- 2 A person can be made aware of something. But a person cannot be made to know something.

examples of no change

- 1 the licensee was aware that the breath-testing machine was not operating correctly
- 2 The objection must be made as soon as practicable after the person becomes aware of the right to object.

example of change

- 1 A person commits an offence if the person ~~becomes aware~~ knows a game is an unlawful game.

further reading

Fowler's English Usage p 82

Gowers' Plain Words p 208

Longman English Usage p 71

Partridge p 377 (vogue words)

Working Words p 59

B

background



usage—consider alternatives

try—*explanation* / ► *cause* / recasting (using more precise words)

extra information

- 1 vague word
- 2 Do not use as a verb.

examples of no change

- 1 The court must take into account the ethnic and cultural background of the witness.
- 2 A sign displayed at premises must be printed in a colour that contrasts with the background colour of the sign.
- 3 The commission may take into account the business associate's current financial position and financial background.

example of change

- 1 The written notice must set out ~~the background for an explanation of~~ how the amount was worked out.

further reading

Gowers' Plain Words pp 208–9
Longman English Usage p 73

backward / backwards



usage—consider alternatives

try—*backwards* / *backward* / recasting

extra information

- 1 Use *backward* as an adjective.
- 2 As an adverb, prefer *backwards* if appropriate. However, for the increasing trend not to use an 's' in words ending in ward(s), see *forward* / *forwards*.

examples of no change

- 1 travel backwards and forwards
- 2 if the light faces backwards

example of change

- 1 The ~~backwards~~ backward movement, towards the truck, must not be more than 6° from the vertical.

further reading

Fowler's English Usage p 86
Garner's Dictionary p 924 (-ward(s))
Howard's Handbook p 42
Longman English Usage p 73
Working Words p 62

basis

usage—consider alternatives

try—recasting / *reason*

extra information

- 1 vague word
- 2 often associated with padding
- 3 Phrases using *on a ... basis* can usually be more succinctly stated (eg ~~on a regular basis~~ regularly)
- 4 See also on the basis of.

examples of no change

- 1 The employer's records must show the way the contribution is worked out and any actuarial basis for it.
- 2 A *former caregiver* does not include a person providing care for the child or young person if the person provides care on a casual basis and is not a family member.

examples of change

- 1 a bag that is designed to be used ~~on a regular basis~~ regularly over a period of approximately 2 years
- 2 Subsection (1) (b) does not apply if the registered keeper is unable to care for the dog and the person is temporarily caring for the dog ~~on a temporary basis~~.
- 3 A prohibition notice must state the ~~basis~~ reason for the authorised person's belief that the activity is a dangerous activity.

further reading

- Fowler's English Usage pp 93–4 (*base*)
 Garner's Dictionary pp 100, 362 (flotsam phrases)
 Garner's Legal Style pp 56, 105
 Gowers' Plain Words pp 4, 85–6
 Partridge p 45

bear**[as a verb]**

usage—consider alternatives

try—*have / carry / [be / is] responsible for*

extra information

- 1 formal word

examples of no change

- 1 The parties to an application must bear their own costs.
- 2 *relevant proportion*, in relation to GST payable on a supply to which wages relate, means the proportion that the amount or value of the wages bears to the consideration for the supply to which the wages relate.

examples of change

- 1 A defendant ~~bears~~ has an evidential burden in relation to the matters mentioned in subsections (1) and (2).

- 2 **non-structural work** means work on a part of a building that does not, or is not intended to, ~~bear~~ carry a structural load imposed or transmitted by another part of a building.
- 3 The charitable organisation ~~bears responsibility~~ is responsible for the promotion and conduct of the game.

further reading

Fowler's English Usage p 309 (formal words)

Longman English Usage pp 79 (*bear* (verb)), 92 (*born/borne*)

before

see—before the end of; on or before

before the end of



usage—consider alternatives

try—recasting (using *before* / *within* / ► *by* / ► *not later than* / no later than)

extra information

- 1 See Drafting Practice Guide, ch 14, 'within / not later than'.
- 2 See LA, s 151 (Working out periods of time generally).

example of no change

- 1 unless the person pays the fee before the end of the financial year

examples of change

- 1 If a postponed law has not commenced ~~before the end of the period of~~ within 6 months beginning on its notification day, it automatically commences on the first day after that period.
- 2 The treasurer must lodge financial statements ~~before the end of the period of~~ within 28 days after 1 July. [*This change means the financial statements cannot be lodged before the end of the financial year.*]

begin

see—commence

behalf

see—on behalf of

being



usage—consider alternatives

try—recasting / omitting

extra information

- 1 Do not use *being* and *not being* to join relative (or adjectival) clauses. A relative clause serves either to define, or to describe and evaluate, the noun to which it is attached.

- 2 See *not being; regarded as being* and Drafting Practice Guide, ch 14, ‘being and not being’.

examples of no change

- 1 an issue being considered
- 2 a misrepresentation resulting in a vehicle being incorrectly classified
- 3 if the person stops being an inspector

examples of change

- 1 a person who is 70 years old or older ~~being a person who has a driving licence and has a driving licence~~
- 2 The land is ~~to be taken as being~~ taken to be land granted in fee simple.
- 3 the authority must take into account a decision ~~being a decision~~ if ...
- 4 If the person:
 - (a) ~~being~~ for a person who has received household support—has a child ...
- 5 the document known as ..., ~~being the document~~ as in force ...

below



usage—consider alternatives

try—under / less than / lighter than / shorter than / smaller than / younger than / omitting / recasting (using not more than)

extra information

- 1 informal word for *less than, shorter than* etc.
- 2 For describing quantities, weight, age etc, prefer an alternative. Generally, prefer *under, less than*, or a more specific alternative, eg *younger than*, to other alternatives.
- 3 *Below, beneath, under* and *underneath* are all prepositions that mean *lower than*. *Below* is the opposite of *above* and is often used in relation to levels. *Under* is generally the opposite of *over*, and can mean covered by. *Under* also means *subject to*. *Beneath* can often be substituted for the other 3 and can also mean unworthy. *Underneath* can be used for *under* to mean covered by. The choice between the 4 prepositions often depends on what is most natural for the context. However, *beneath* has become somewhat restricted in its use and is becoming slightly archaic. *Under* has the broadest range of meanings.

examples of no change

- 1 below ground level
- 2 providing education at or below the secondary level of education
- 3 below average general intellectual function

examples of change

- 1 ~~below~~ fewer than 7 people
- 2 The page of the register for the Act contains the heading ‘Legislative instruments’ and the agreement is listed ~~below~~ underneath.
- 3 ~~below~~ less than the minimum age
- 4 The signature of the testator on a will does not give effect to a direction that is ~~below~~ under or after that signature.

further reading

Asprey pp 165, 220 (*above, below*)

Fowler's English Usage p 103 (*below, under; beneath*)
 Garner's Dictionary p 103
 Howard's Guide p 362 (*see above and below*)
 Longman English Usage pp 82–3
 Partridge pp 2–4 (*above and over; below and beneath and under*)
 Working Words p 67 (*below/beneath/under/underneath*)

beneficial



usage—consider alternatives

try—*useful / helpful / favourable*

extra information

- 1 *Beneficial* has several technical legal meanings.
- 2 In other contexts, *beneficial* can be a vague word.

examples of no change

- 1 a legal or beneficial interest in the business
- 2 beneficial owner of the shares
- 3 ecosystem sustainability and integrity and beneficial use of the environment

examples of change

- 1 if the authority considers it necessary or ~~beneficial~~ helpful—state where the plan is available for inspection
- 2 if the commission is satisfied that the thing is likely to be ~~beneficial~~ useful to the investigation
- 3 a second offer on terms no less ~~beneficial~~ favourable than the first offer

further reading

Butterworths Legal Dictionary pp 120 (*beneficial interest; beneficial legislation*), 120–1 (*beneficial owner*), 121 (*beneficial ownership; beneficial ownership; beneficial use*)
 Garner's Dictionary pp 103–4 (*benefic(ent); beneficial; benevolent*)
 Gowers' Plain Words pp 209
 Working Words p 68 (*benevolent; beneficent; beneficial; benign*)

beneath

see—below

bequeath



usage—never use

try—*give / ►present / give by will / leave*

extra information

- 1 *Bequeath* is a technical legal term meaning to give personal property by will. The equivalent term for real property is *devise*. However, *bequeath* will be taken to include real property if that is clearly the intention of the testator.
- 2 If *give by will* is used in legislation, consideration should be given to including a note explaining that it means the same as the technical legal term.
- 3 Sometimes *bequeath* is used as a pretentious way of saying *give* or *present*.
- 4 See also *devise* [*by will*].

example of change

- 1 A person may, ~~by his or her will, devise, bequeath or dispose of~~ give by will any real or personal property to which the person is entitled at the time of the person's death.

further reading

Butterworths Legal Dictionary p 123
Garner's Dictionary pp104-5 (devise, bequeath)

between

usage—consider alternatives

try—▶ among

extra information

- 1 For the use of *between* and *among*, see *among*.
- 2 Avoid using *between* with *each* or *every*.
- 3 Do not use *between ... or ...* or *between ... to ...* (eg *between 10 to 20%*). Instead, use *between ... and ...*.
- 4 *Between ... and ...*, like *both ... and ...*, needs proper balancing of the sentence—see *both*.
- 5 Be careful using *between* in relation to time, age, measurement, etc. Using *between* normally excludes the mentioned limits, eg the period *between 1 October and 1 November* does not include either of the mentioned dates (see LA, table 151, item 5 (Working out periods of time generally)).

examples of no change

- 1 For a law of this jurisdiction, unless otherwise agreed between the originator and the addressee of an electronic communication
- 2 To maintain consistent numbering between this Act and the Commonwealth Act

example of change

- 1 The Advisory Council may conduct its business by circulating papers ~~between~~ among all the members of the Advisory Council.

further reading

Cambridge Guide pp 90 (*between* or *among*)
Fowler's English Usage pp 105–7
Garner's Dictionary pp 105–6
Garner's Legal Style pp 103 (*among*; *between*), 105
Gowers' Plain Words pp 102, 107–9
Partridge p 48

blueprint

usage—never use

try—scheme / plan / model

extra information

- 1 metaphorical word often used inappropriately
- 2 Historically, in engineering and architecture the *blueprint* referred to a particular technological process for printing the final stage of design. The *blueprint* has been replaced by other printing and digital technology so that technical use of the term can now be regarded as archaic.

example of change

- 1 In 1993, the National Occupational Health and Safety Commission released a package of regulations, standards and codes of practice as a ~~blueprint~~ model for legislation to control hazardous substances in the workplace.

further reading

Gowers' Plain Words pp 40, 88, 209

Longman English Usage p 91

Partridge p 377 (vogue words)

body

see—body corporate; person or body

body corporate

usage—avoid using

try—*corporation*

extra information

- 1 legal term
- 2 See LA s160 and dict, pt 1, defs *corporation*, *person* and *body*.
- 3 Use *corporation* instead of *body corporate* when referring to an entity that has its own legal identity.
- 4 *Body corporate* may be necessary if referring to certain entities under the Corporations Act. See Corporations Act, s 9 (def *body corporate*) and s 57A (def *corporation*).

example of no change

- 1 a private company and a trustee are associated people if a related *body corporate* of the company is a beneficiary of the trust

examples of change

- 1 The commission is a ~~body corporate~~ corporation.
- 2 On the registration of a community title scheme, a ~~body corporate~~ corporation is established.

further reading

Butterworths Legal Dictionary p 135 (*body corporate*), p 286 (*corporation*)

Garner's Dictionary p 112 (*body corporate*), p 225 (*corporation*)

bona fide

usage—never use

try—*in good faith / genuine / honest*

extra information

- 1 foreign phrase that has become assimilated into English
- 2 legal term for *in good faith*
- 3 Careful consideration should be given if using alternatives to *good faith*. While *good faith* has a core meaning of *honesty*, the courts have interpreted the expression in the context of the particular statute. In some instances, *good faith*

has been interpreted as having an additional, objective standard of reasonableness: (see *Words and phrases legally defined* (4th ed), Butterworths).

examples of change

- 1 No action or proceeding, civil or criminal, lies against a health professional in relation to ~~bona fide~~ reliance by the health professional, in good faith, on consent given by a health attorney.
- 2 a person who is living with the pensioner as the pensioner's spouse on a ~~bona fide~~ genuine domestic basis although not married to the pensioner
- 3 The charge does not have effect against a ~~bona fide~~ an honest purchaser of the parcel of land for value.

further reading

Cambridge Guide p 99 (*bona fides* and *bona fide*)
 Fowler's English Usage p 112 (*bona fide(s)*)
 Garner's Dictionary p 113 (*bona fide* and *bona fides/good faith/bonne foi*)
 Garner's Legal Style p 194
 Gowers' Plain Words p 209 (*bona fides*)
 Howard's Handbook p 54
 Partridge p 50
 Working Words p 76 (*bona fide/bona fides*)

both



usage—consider alternatives

try—omitting / ► *each*

extra information

- 1 *Both* is often superfluous.
- 2 *Both* should be used with *and* only if particular emphasis is needed or it is otherwise necessary to clarify the meaning of a sentence.
- 3 When using *both ... and*, make sure the words are in their right positions and carry equal weight. Nothing that comes between *both* and *and* can be regarded as applying to anything after *and*, it must come before *both*; if it does not come before *both*, it must be repeated after *and*.
- 4 *Both* should not be used to refer to more than 2 people or things.
- 5 Never use *both* with *as well as*.

examples of no change

- 1 Maximum penalty: 100 penalty units, imprisonment for 1 year or both.
- 2 it may be seized under the warrant if both of the following apply

examples of change

- 1 ~~Both form A and form B~~ Forms A and B must be given to the registrar.
- 2 The judge must decide all questions ~~both of law and of fact~~ of law and fact.

further reading

Fowler's English Usage pp 113–4
 Garner's Dictionary p 115
 Garner's Legal Style p 71 (*both ... and*)
 Gowers' Plain Words pp 101–2
 Howard's Handbook pp 55–6
 Longman English Usage pp 93–4
 Partridge pp 38 (*as well as*), 50
 Working Words p 77

break down / breakdown



usage—consider alternatives

try—*analyse / divide / classify / change / ►alter / convert / recasting* (using more precise words)

extra information

- 1 *Break down* is a verb. *Breakdown* is a noun.
- 2 officialese
- 3 Avoid contexts where there is a possibility of confusion with the literal meaning, eg a complete breakdown of the processes.

examples of no change

- 1 it was not practicable for the defendant to move the vehicle because the vehicle was broken-down
- 2 a breakdown in the relationship between the adopted person and the adoptive parents must not be taken to be a circumstance justifying a discharging of the order

examples of change

- 1 a person whose function is to identify and ~~break down~~ analyse security risks and provide solutions
- 2 The Minister must, by deposited plan, ~~break down~~ divide the land in the ACT into districts.

further reading

Fowler's English Usage p 116 (*breakdown*)
 Garner's Dictionary p 117 (*breakdown*)
 Gowers' Plain Words p 210
 Howard's Handbook p 58 (*breakdown/break down*)
 Longman English Usage p 97 (*breakdown, break down*)
 Partridge p 52

but

see—but for

but for



usage—avoid using

try—*apart from / other than for / unless / recasting*

extra information

- 1 legalese

example of no change

- 1 where an arbitration is commenced but for any reason the arbitration fails

examples of change

- 1 remuneration that ~~but for the cessation of employment,~~ would have been payable by the employer if the employment had not ended

- 2 Where, but for this subsection, there would be payable to the public trustee and guardian under this section an amount in respect of fees or expenses An amount for fees or expenses is payable to the public trustee and guardian under this section unless

further reading

Garner's Dictionary p 124

by



usage—consider alternatives

try—*under* / recasting (using another preposition)

extra information

- 1 *By* has many meanings and care needs to be taken to avoid ambiguity in its use.
- 2 Be careful not to draw artificial distinctions in legislation by using different words to say essentially the same thing. In particular, take particular care in legislation not to draw unnecessary distinctions between *by* and *under*. As *under* is the word with the widest meaning, prefer *under* to *by* if appropriate.

examples of no change

- 1 The relevant instrument may make provision about the matter by applying an ACT law.
- 2 This Act commences on a day fixed by the Minister by written notice.

example of change

- 1 A preventative detention order cannot be applied for, or made, ~~by~~ under this Act for the person on the basis of preserving evidence of, or relating to, the same terrorist act.

further reading

Fowler's English Usage p 123

Longman English Usage p 103

Partridge p 57 (*by* for *beside*)

Working Words p 561 (*with/by/of*)

by and / or under



usage—never use

try—*under* / recasting

extra information

- 1 doublet
- 2 redundancy
- 3 LA dict def ***under*** (in relation to an Act or statutory instrument) includes 'by'

examples of change

- 1 a percentage prescribed by ~~or under~~ regulation
- 2 the tests required ~~by or under~~ section 10
- 3 ~~by or under a law of the Territory~~ law

by means of



usage—avoid using

try—omitting / ► *by* / *with* / *using*

extra information

- 1 compound preposition
- 2 usually verbose for *by*

example of no change

- 1 *tow coupling* means a mechanical assembly by means of which a flexible connection is made between 2 vehicles in a combination.

example of change

- 1 if the equipment indicates by ~~means of~~ a signal or other message that the document has been sent

further reading

Garner's Dictionary p 125
Gowers' Plain Words p 55

by reason of



usage—never use

try—*because of*

extra information

- 1 compound preposition
- 2 verbose for *because of*

example of change

- 1 if a person dies ~~by reason of~~ because of the injuries

further reading

Garner's Dictionary p 125

by reason only



usage—never use

try—*only because* / recasting

extra information

- 1 compound preposition
- 2 See also *by reason of*

example of change

- 1 The effect of a savings law does not end ~~by reason only of~~ only because of its repeal.

by the name of**usage**—never use**try**—omitting / *called* / *named***extra information**

1 compound preposition

2 can be a redundancy

further reading

Gowers' Plain Words p 247

Partridge p 57

by virtue of**usage**—never use**try**—*because of* / *under* / ► *by***extra information**

1 compound preposition

further readingGarner's Dictionary p 917 (*virtue of*, *in* and *by*)

Gowers' Plain Words p 55

by way of**usage**—avoid using**try**—► *by* / *with* / *using* / recasting**extra information**

1 compound preposition

example of no change

1 The parliamentary counsel may make editorial changes by way of format, layout and printing style.

example of change1 The registrar-general may give the information in any form (including ~~by way of electronic data~~ electronically) that the registrar-general considers appropriate.**further reading**Garner's Dictionary p 125 (*by means of*)

C

calculate



usage—consider alternatives

try—*work out / find out / decide / suppose / assume* / recasting (using, eg a formula)

extra information

- 1 Do not use *calculate* for *suppose* or *assume*.
2. Prefer *work out* for formulas.

example of no change

- 1 a person must separately calculate the correct amount of payroll tax

example of change

- 1 The daily rate is ~~calculated in accordance with the following formula~~ worked out as follows:

$$\frac{\text{yearlyrate}}{365}$$

further reading

Fowler's English Usage p 125 (*calculate* for *suppose/reckon*)

Howard's Handbook p 64

Longman English Usage p 105 (*calculate* for *suppose/assume*)

Partridge p 58

calendar month



usage—avoid using

try—*month*

extra information

- 1 see LA, dict, pt 1, defs *month* and *calendar month*
- 2 *Month* is defined as calendar month.

call in question



usage—never use

try—*challenge* / recasting

extra information

- 1 formal phrase
- 2 legalese
- 3 See also *question*.

example of change

- 1 If the Full Court is divided in opinion about the decision to be given on a question, the question must be decided according to the majority's opinion, if there is a majority, but if the judges are equally divided in opinion—
 - (a) if ~~an order of the master is called in question~~ the question is about an order of the master—the order is confirmed; and

called

see—in this [provision] called

can**[also could]**

usage—consider alternatives

try—► may / is / are able to

extra information

- 1 *Can* generally emphasises the objective (or physical) ability to do something. *May* (or *might*) generally emphasises permission or possibility. However, in practice the meaning of *can* and the meaning of *may* are hard to distinguish.
- 2 If in doubt prefer *may*.
- 3 See LA, s 146 (Meaning of *may* and *must*).

examples of no change

- 1 to ensure that users can authenticate an approved web site or the material accessible on an approved website
- 2 believes on reasonable grounds that a person can give information or produce a document or something else

examples of change

- 1 The committee ~~can~~ may be given any of the following functions
- 2 a standby person ~~can~~ is able to communicate continuously with anyone in the confined space

further reading

Cambridge Guide pp 114–5 (*can* or *may*), 179–80 (*could* or *might*), 356 (hedge words)

Fowler's English Usage pp 126, 186 (*could*)

Garner's Dictionary p 128 (*can*; *may*)

Garner's Legal Style p 106 (*can*; *may*)

Howard's Handbook pp 64–5 (*can/may*)

Longman English Usage p 106 (*can/may*)

Partridge p 58 (*can* and *may*)

Working Words p 90 (*can/may*)

cancel



usage—consider alternatives

try—▶revoke / end

extra information

- 1 For the use of *cancel* and *revoke*, see *revoke*.

example of no change

- 1 the commissioner for fair trading must cancel a licence if

examples of change

- 1 The Minister may amend or ~~cancel~~ revoke an exemption at any time on reasonable grounds
- 2 The Minister may ~~cancel~~ end a person's appointment

further reading

Garner's Legal Style p 196

capability



usage—avoid using

try—*capacity* / *ability* / omitting

extra information

- 1 vogue word

examples of no change

- 1 The chief officer of an emergency service must advise the commissioner on the service's capability.
- 2 if the firearm has a rapid fire capability

examples of change

- 1 ~~capability~~ capacity to contract
- 2 evidence of the applicant's ~~capability~~ ability to collect and analyse information

further reading

Garner's Dictionary p 129 (*capacity*; *capability*)
Gowers' Plain Words p 211

capable of



usage—consider alternatives

try—recasting (using eg ▶*can*, ▶*may* or ▶*must*)

examples of no change

- 1 *optical surveillance device* means a device capable of being used to record visually or observe an activity.
- 2 if the facilitator considers the support person appropriate and capable of giving the participant assistance

examples of change

- 1 *liquor* means a substance that ~~is capable of being~~ can be ingested
- 2 However, the clerk ~~is not capable of being~~ must not be retired from office on the ground of invalidity unless

further reading

Garner's Dictionary p 129

Gowers' Plain Words p 137 (*capable of doing*)

Partridge p 61

capita

see—per capita

carry on / out

usage—consider alternatives

try—*make / conduct / ►perform / recasting (using more specific words)*

extra information

1 See also *undertake*.

examples of no change

- 1 a person does not carry on business as a motor vehicle repairer only because the person
- 2 carry out work in the person's business or undertaking

examples of change

- 1 If an inspector may ~~carry out~~ make inquiries
- 2 ~~carry out~~ conduct an inquiry

case

usage—consider alternatives

try—recasting (using more precise words) / omitting

extra information

- 1 Using *case* can contribute to loose writing.
- 2 Avoid using *case* as an omnibus word. See *kind* for extra information.
- 3 See also as the case may be / as the case requires / as the case may require; *if this is not the case; if this is the case; in a / any case in which / to which / where; in any case; in case; in every case; in the case of*.

examples of no change

- 1 in any other case—the jurisdiction in which the employer's principal place of business is located
- 2 a party may re-open the party's case

examples of change

- 1 that other body or any of those other bodies, ~~as the case requires~~
- 2 ~~in the case of~~ for a share—someone else allots the share to the person

further reading

Asprey pp163-5 (where)

Garner's Dictionary p 133

Garner's Legal Style pp 106, 192, 215

Gowers' Plain Words pp 57–8

Longman English Usage pp 112–3

Partridge pp 4 (abstract nouns), 61 (*case (of)*)

category



usage—consider alternatives

try—omitting / ► *kind*

extra information

- 1 Most legal drafting is expressed in the singular and it is usually unnecessary to distinguish between a class (using, eg *category*) and its members (see LA, s 145 (b)). Avoid mentioning *category* unless it is necessary. See *class* for extra information.
- 2 If it is necessary to mention *class*, prefer *kind* if appropriate.
- 3 *Category* originally had a narrower meaning than *class*. Although the extension of its meaning to a synonym for *class* has been criticised, it is now well established.

example of no change

- 1 For this Act, breaches of mass, dimension or loading requirements are categorised as follows:

example of change

- 1 different levels of services for different ~~categories~~ kinds of victim, or for victims in different circumstances

further reading

Fowler's English Usage p 135

Partridge p 62

cause



usage—consider alternatives

try—*proceeding* / *ensure* / omitting / recasting

extra information

- 1 Actions need not usually be taken personally, but can be taken by employees, agents, delegates or, for Ministers and senior officers, by officers of their directorates. It is, therefore, usually unnecessary to talk of someone causing something to be done.
- 2 However, in drafting offences it may be necessary to use *cause* as a verb to ensure that the thing caused is a result of conduct, eg use 'cause harm' rather than use harm as a verb.
- 3 A *cause* is someone or something that makes an event happen. Since the word *cause* itself covers the idea of an explanation of an event, it should not be combined with *because of*, *due to*, *as a result of* or a similarly linking phrase.
- 4 legal term for *lawsuit* or *proceeding*
- 5 See also *show cause*.

examples of no change

- 1 the costs of an adjournment caused by the failure
- 2 cause of action
- 3 would cause financial hardship to the applicant
- 4 A unit owner must not use the unit in a way that causes a nuisance.
- 5 the coroner's findings about a cause of death

examples of change

- 1 The Minister must ~~cause~~ give a copy of the reference ~~to be given~~ to the authority.
- 2 The Minister must ~~cause~~ present a copy of the report ~~to be tabled~~
- 3 remove a vehicle that is ~~causing, or may cause, an obstruction to~~ obstructing, or may obstruct, an emergency vehicle
- 4 The registrar must ~~cause~~ enter the notice ~~to be registered~~ in the register.
- 5 The directors of a company must ~~cause accurate accounts to be kept~~ keep accurate accounts.
- 6 If the authority refuses the application, it must ~~cause the applicant to be informed of~~ tell the applicant about its decision.

further reading

Butterworths Legal Dictionary pp 38 (*agent*), 341–2 (*delegate*)
 Garner's Dictionary pp 138–9 (causation), 139–40 (cause), 140 (cause of action; right of action; ground of action) and (cause to be)
 Garner's Legal Style p 192 (*cause to be done*)
 Howard's Handbook p 71 (*cause/causation*)
 Longman English Usage p 118
 Partridge pp 62-3 (*cause and reason*) and (*cause to be informed*), 317 (*source and cause*)

cease



usage—consider alternatives

try—*stop* / *end* / recasting

extra information

- 1 formal word
- 2 Do not use *stop* or *end* if use seems artificial or unusual, but don't use 'cease' just to avoid using 'stop' more than once (see example of change 4).

example of no change

- 1 The existing Act ceases to have effect at the registration commencement time.

examples of change

- 1 the appointment of a person ~~ceases~~ ends
- 2 The court may issue an injunction even though the conduct has ~~ceased~~ stopped.
- 3 This section applies if a person who is a tribunal member allocated to the tribunal for an application ~~ceases to be~~ stops being a tribunal member, or ~~ceases to be available~~ becomes unavailable, before the tribunal finishes dealing with the application.
- 4 the individual stops being a working director other than because the individual ~~ceases to carry~~ stops carrying out work

further reading

Fowler's English Usage p 137
 Garner's Dictionary pp 141, 369 (formal words)
 Garner's Legal Style p 196 (*cease and desist*)
 Howard's Handbook p 344 (*stop/cease/discontinue/terminate*)
 Longman English Usage p 119

ceiling [meaning maximum]



usage—avoid using

try—▶ maximum / *upper* limit

extra information

1 vogue word

example of no change

1 *statutory ceiling*, in relation to an amount, means 150% of AWE at the time the amount is to be paid.

example of change

1 A person is not liable in damages in relation to the cause of action above the monetary ~~ceiling~~ maximum if the person can satisfy the court that

further reading

Fowler's English Usage pp 137–8

Garner's Dictionary p 141

Gowers' Plain Words pp 40, 75, 88, 211–2

Howard's Handbook p 72

Longman English Usage p 119

Partridge p 63

certain / certainly



usage—avoid using

try—omitting

extra information

- 1 Use only if unable to describe more precisely.
- 2 *Certain* may be used in provision heading where details are contained in the provision itself.
- 3 *Certain* is often redundant, eg A *certain* car ran him over.
- 4 *Certainly* is a sentence adverb.
- 5 *Certain* and *certainly* can be dogmatic words.

examples of no change

- 1 Engagement of certain former officers and employees prohibited [*in heading*]
- 2 if the DNA testing of the blood shows that the blood is almost certainly not the victim's blood

examples of change

- 1 the collection of ~~certain amounts~~ the amounts mentioned in section 6
- 2 collect, manage, and administer the personal estate of the supposed dead persons as if the person were ~~certainly~~ dead

further reading

Garner's Dictionary pp 142–3 (*certain*), 161 (*clearly*), 611 (*obviously*), 632 (overstatement), 791–2 (sentence adverbs), 926 (weasel words)

Garner's Legal Style pp 129–30 (*obviously*; *certainly*; *clearly*; *undeniably*)

Howard's Handbook p 73

Partridge pp 64 (*certain*), 72 (comparatives, false)

chairman / chairwoman



usage—never use

try— *chair / convenor / coordinator / moderator / president / presiding member*

extra information

- 1 gender-specific word
- 2 LA, s 187 (1) provides that, if a law establishes a position of chair or chairperson of an entity, the chair or chairperson may be referred to as the chairman, chairwoman, chairperson or chair. LA, s 187 (2) makes similar provision for deputy chairperson.

example of change

- 1 if the ~~chairman~~ chair adjourns the meeting

further reading

- Cambridge Guide pp134-5 (*chairman*), 611 (*-person*)
 Fowler's English Usage p 140 (*chair, chairperson*)
 Garner's Dictionary pp 144–5 (*chairman; chairwoman; chairperson; chair*), 799–803 (sexism)
 Garner's Legal Style p 212 (*chairman*)
 Gowers' Plain Words pp 177–8 (*chairman, chairperson*)
 Howard's Handbook p 74 (*chairman/chairperson/the chair*)
 Longman English Usage p 122 (*chairperson*)
 Partridge p 64 (*chairman*)

chairperson [for chair]



usage—avoid using

try— *chair / convenor / coordinator / moderator / president / presiding member*

extra information

- 1 Prefer *chair*, which can be used for either sex with ease.
- 2 This term was created as a gender-neutral alternative to *chairman* or *chairwoman*.
- 3 See also LA, s 187 (Chair and deputy chair etc).

example of change

- 1 if the ~~chairperson~~ chair adjourns the meeting

further reading

- Cambridge Guide p 134-5 (*chairman*)
 Fowler's English Usage p 140 (*chair, chairperson*)
 Garner's Dictionary pp 144–5 (*chairman; chairwoman; chairperson; chair*), 799–803 (sexism)
 Garner's Legal Style p 213 (*chair*)
 Gowers' Plain Words pp 177–8 (*chairman, chairperson*)
 Howard's Handbook p 74 (*chairman/chairperson/the chair*)
 Longman English Usage p 122
 Partridge p 64 (*chairman*)
 Working Words p 103 (*chair*)

change and alter

see—alter

character



usage—consider alternatives

try—omitting / recasting / ► *kind*

extra information

- 1 Words like *character* are vague and abstract, but can be useful on occasion. However, they are often overused and are occasionally redundant.
- 2 Prefer available words that are more direct and specific.

examples of no change

- 1 if evidence presented to prove (directly or by implication) that a defendant is generally a person of good character has been admitted
- 2 satisfied about the appointee's suitability (whether in terms of knowledge, experience, character or any other personal quality)
- 3 the characters (whether numbers, letters or both) in the field

examples of change

- 1 ~~conduct of an unethical character~~ unethical conduct
- 2 offences of the same ~~character~~ kind

further reading

Fowler's English Usage p 141

Garner's Dictionary p 148 (*character; reputation*)

Garner's Legal Style p 106 (*character; reputation*)

Gowers' Plain Words p 189

Howard's Handbook p 74 (*character/personality/persona*)

Partridge pp 5 (abstract nouns), 65 (*character*)

chattels



usage—never use

try—*goods* (if necessary, listing or defining the items to be covered) / *personal property*

extra information

- 1 legal archaism
- 2 A chattel is personal property, as distinct from real property. The property may be a leasehold (chattel real) or a movable article of property (chattel personal) (see Butterworths Legal Dictionary).
- 3 If *personal property* is used as an alternative, consider including a note explaining what it means. For example, a note along the following lines could be included:

Note Personal property can include intangible personal property, eg a right.

examples of change

- 1 *bill of sale* includes bills of sale, assignments, transfers, declarations of trusts without transfer, and other assurances of personal ~~chattels~~ property
- 2 The public trustee and guardian may accept for safe custody a trust instrument, a debenture or other security, a document of title to property, any other document ~~and any chattel~~ or personal property.
- 3 *goods* includes all ~~chattels~~ personal property other than things in action and money.

further reading

Butterworths Legal Dictionary pp 185–6
Garner's Dictionary p 149

chose in action

usage—never use

try—recasting (eg by defining what is intended) / *thing in action*

extra information

- 1 Technical legal term. Sometimes partially anglicised to *thing in action*.
- 2 A note should be included explaining what a thing in action is:

Note A **thing in action** (also called a **chose in action**) is an intangible personal property right recognised and protected by the law. Examples include debts, money held at a bank, shares, rights under a trust, copyright, and the right to sue for breach of contract.

example of change

- 1 the right may be deemed or held to be a ~~chose~~ thing in action [*and include note*]

further reading

Butterworths Legal Dictionary pp 192–3
Garner's Dictionary p 153 (*chose*)

Christian name

usage—never use

try—*given name* / full name [by contrast with *surname* / *family name*]

extra information

- 1 inappropriate term for non-Christians

example of change

- 1 A person's surname and each ~~Christian~~ given name must be entered on the roll.
OR A person's full name must be entered on the roll.

further reading

Cambridge Guide p 297 (*first name* or *forename*)
Garner's Dictionary pp 153, 859–60 (*surname*; *Christian name*)
Gowers' Plain Words p 229 (*forenames*)
Partridge p 66 (*Christian name*)

claim**[as a verb]**

usage—consider alternatives

try—*assert* / ► *allege* / *charge* / *declare* / ► *mention* / *say* / ► *state*

extra information

- 1 The strict meaning of *to claim* is to demand recognition of a right.
- 2 *Claim* may imply a degree of suspicion about the truth of what is claimed. Consider a more neutral alternative.
- 3 The use of *claim* as a substitute for *charge*, *declare*, *mention*, *say* or *state* is still considered incorrect by some.

examples of no change

- 1 a claim for compensation
- 2 a claim against the estate
- 3 A person commits an offence if the person claims to provide an accredited education program and the program is not an accredited education program.

example of change

- 1 if the authority ~~claims~~ states that restructuring is necessary

further reading

Fowler's English Usage pp 148–9
 Garner's Dictionary p 159
 Garner's Legal Style p 107
 Gowers' Plain Words pp 33, 213
 Howard's Handbook p 79
 Partridge pp 66-7

class

usage—consider alternatives

try—omitting / ► *kind*

extra information

- 1 Most legal drafting is expressed in the singular and it is usually unnecessary to distinguish between a class (using, eg *category, class, group, kind or type*) and its members (see LA, s 48 and s 145 (b)). Avoid using *class* unless it is necessary.
- 2 If it is necessary to use *class*, use it as infrequently as possible consistently throughout the draft. Avoid making unnecessary, artificial distinctions in using *classes* (eg the use of *kind* and *type*, or *class* and *kind*).

examples of no change

- 1 a class 2 dangerous substance
- 2 a class action

examples of change

- 1 the Minister may authorise a person ~~or persons included in a class of persons~~
- 2 different levels of services for different ~~classes~~ kinds of victim, or for victims in different circumstances

further reading

Garner's Dictionary p 159

clearly / clear

usage—consider alternatives

try—omitting

extra information

- 1 *Clearly* may be a sentence adverb.
- 2 *Clearly* and *clear* are dogmatic.

examples of no change

- 1 clearly marked
- 2 clearly visible

example of change

- 1 if the party's conduct is ~~clearly~~ harsh and oppressive

further reading

- Fowler's English Usage p 150 (*clear, clearly*)
 Garner's Dictionary pp 161, 632 (overstatement), 792–3 (sentence adverbs), 926 (weasel words)
 Garner's Legal Style pp 35, 129 (*obviously; certainly; clearly; undeniably*), 200
 Howard's Handbook p 80 (*clear/clearly; clear/plain*)
 Longman English Usage pp 137–8

close proximity

see—in close proximity

cohabit

usage—never use

try—*live together (in a domestic relationship)*

extra information

- 1 formal word
- 2 See also LA s 169 (References to *domestic partner* and *domestic partnership*).

example of change

- 1 The hearsay rule does not apply to evidence of reputation about whether a man and a woman ~~cohabiting~~ living together at a particular time were married to each other at the time.

commence

usage—consider alternatives

try—▶ start / begin

extra information

- 1 formal word
- 2 However, *commence* should be used to describe legislation starting (see LA, s 11 (Meaning of *commencement notice*) and s 80 (References to *commencement* of law)).
- 3 Definite nuances exist with *start* as opposed to *begin* or *commence*. Usually used for physical movement, in some contexts *start* may suggest an abruptness.
- 4 Use *begin* for periods of time (use *begin* with *end*, not *finish*).
- 5 See also Drafting Practice Guide, ch 14, “‘commencement day’ when used as a defined term”.
- 6 For working out periods of time, see LA, s 151 (Working out periods of time generally).

example of no change

- 1 on the commencement of this section

examples of change

- 1 to ~~commence~~ start an appeal
- 2 the period ~~commencing~~ beginning on the day the appointment takes effect

3 to ~~commence~~ start a proceeding

further reading

Fowler's English Usage pp 163, 309 (formal words)

Garner's Dictionary pp 102 (*begin*), 174–5 (*commence, begin, start*), 369 (formal words)

Garner's Legal Style p 107

Gowers' Plain Words p 213

Howard's Handbook p 90 (*commence/start*)

Longman English Usage p 151

Partridge pp 71, 331 (*start*)

Working Words p 122

common



usage—consider alternatives

try—▶ mutual / reciprocal

extra information

1 *Common* means shared by 2 or more. *Mutual* involves reciprocity. *Common* contrasts with *mutual* in emphasising sharing rather than reciprocation in a relationship.

examples of no change

- 1 common interest
- 2 common to each of them
- 3 common property

examples of change

- 1 the sharing of information between insurers for the ~~common~~ mutual benefit of insurers
- 2 The commission, if it is practicable to do so, must make ~~common~~ reciprocal arrangements with other commissions.

further reading

Cambridge Guide p 159 (*common or mutual*)

Garner's Legal Style p 107 (*common; mutual*)

Howard's Handbook p 91 (*common/mutual*)

Longman English Usage p 463 (*mutual/reciprocal/common*)

Partridge pp 71-2 (*common*)

Working Words p 122 (*common/mutual/reciprocal*)

Commonwealth



usage—consider alternatives

try—omitting / ▶ Australia / *federal*

extra information

- 1 can be a redundancy
- 2 Connection with the Commonwealth is often implied and need not be stated.
- 3 For geographical references, prefer *Australia*. For other references, use *Commonwealth* or *Australia* as is most appropriate in the context.
- 4 See also LA, dict, pt 1, def *Commonwealth*

further reading

Cambridge Guide p 160

CwIth Style Manual p 124

comparatively



usage—consider alternatives

try—omitting / recasting

extra information

- 1 *Comparatively* can only properly be used if something has been mentioned or implied giving a standard of comparison. If there is no standard of comparison (direct or implied), the use of *comparatively* is meaningless.

example of no change

- 1 The criteria for the assessment of the heritage significance of places are....a place which is the only known or only comparatively intact example of its kind.

example of change

- 1 The responsible officer must ensure that the time for making submissions is ~~comparatively~~ short.

further reading

Fowler's English Usage p 164

Gowers' Plain Words p 50

Working Words p 124 (*comparatively/relatively*)

compare to / with



usage—consider alternatives

try—*compare with* / *compare to* / recasting

extra information

- 1 Something can be *compared to* or *with* something else. Historically, a distinction has existed between compare to and compare with, but is no longer consistently observed. *Compare to* was used to emphasise the way in which people or things are similar to others. In other words, *compare to* was used when *liken to* could be substituted. *Compare with* was used when both similarities and differences are being considered.
- 2 However, *compared to* and *compared with* are becoming indistinguishable in meaning.
- 3 If *compare* is used without an object, only *with* can be used.
- 4 In using *compare*, make sure that like is compared with like.

example of no change

- 1 information may be compared with information from the databases of other participating jurisdictions

examples of change

- 1 The person's entitlement is smaller ~~compared to~~ than the other person's entitlement.
- 2 proof that the copy was compared ~~to~~ with the original

further reading

Cambridge Guide p 161 (*compare with* or *compare to*)

Fowler's English Usage pp 164–5

Garner's Dictionary p 183 (*compare (with) (to)*)

Garner's Legal Style pp 107–8 (*compare (to) (with)*)

Gowers' Plain Words pp 213–4

Howard's Handbook p 93 (*compare to/with*)

Longman English Usage pp 152–3
 Partridge p 73 (*compare to; compare with*)
 Working Words pp 124–5

compelling



usage—consider alternatives

try—recasting (using more precise words) / *persuasive*

extra information

- 1 Can be a weasel word.
- 2 *Compelling* is not synonymous with *impelling*. If something is *compelling*, it forces you to do something; if something is *impelling*, it encourages or urges you to do something.
- 3 *Compelling* should not be used as an adjective.

example of no change

- 1 the lessor's conduct has the effect of preventing a tenant from forming or joining, or compelling a tenant to form or join, an association to represent or protect the interests of tenants

examples of change

- 1 on ~~compelling~~ compassionate grounds
- 2 satisfied that there are ~~compelling~~ persuasive reasons of public policy

further reading

Garner's Dictionary p 926 (weasel words)
 Howard's Handbook pp 93-4 (*compelling/compulsive*)
 Longman English Usage p 155 (*compel/impel*)

compile



usage—avoid using

try—*prepare*

extra information

1 *Compile* means to make a book, list, report etc by putting together information from different places.

example of no change

1 to compile and maintain up-to-date information about the water resources of the Territory

example of change

- 1 The board must ~~compile~~ prepare a list of approved service providers.

further reading

Butterworths Legal Dictionary p 233 (compilation)
 Longman English Usage p 157 (*compile*)

complete [as adjective]



usage—consider alternatives

try—recasting (*using more precise words*)

extra information

- 1 *Complete* means having all its parts or elements, whole, entire, full. Do not qualify *complete*, eg *more complete*, *less complete*, *most complete* and *least complete*.

example of no change

- 1 include complete details of suitability information

example of change

- 1 a further ~~or more complete~~ post-mortem examination

further reading

Howard's Handbook p 94 (*complete*)

Longman English Usage p 156

complete [as verb]



usage—consider alternatives

try—*finish / end / fill in*

extra information

- 1 formal word
- 2 For the use of *end*, see *cease*.

example of no change

- 1 The warrant form was properly completed.

examples of change

- 1 if the person has satisfactorily ~~completed~~ finished a course of training
- 2 ~~on the completion of~~ when the repairs are finished
- 3 payable by the party to the party's lawyer up to the ~~completion~~ end of the conference

further reading

Garner's Dictionary p 369 (formal words)

Howard's Handbook p 94 (*complete*)

Longman English Usage p 156

completely void



usage—never use

try—► *void*

extra information

- 1 redundancy

further reading

Butterworths Legal Dictionary p 1249 (*void*; *voidable*)

Black's Law Dictionary p 1604 (*void*)

Garner's Dictionary p 919 (*void*; *voidable*)

compliance

see—in compliance with

comply

see—fail to / fail to comply

component



usage—consider alternatives

try—*part*

extra information

1 May be used in technical or mechanical contexts.

example of no change

1 the speed measuring device component of the camera detection device

example of change

1 This section applies to a ~~component~~ part of the worker's earnings or hours attributable to overtime.

compose

see—comprise

compound [as a verb]



usage—consider alternatives

try—*add to / aggravate / complicate / exacerbate / heighten / increase / multiply / worsen*

extra information

1 formal word

2 *Compound* means, among other things, to mix together into a composite whole, to settle by mutual agreement. It does not mean (or, at least, did not originally mean) to multiply, make worse, aggravate or complicate. However, usage is shifting.

examples of no change

1 mix, compound or formulate the substance with another regulated substance or any other substance

2 The amount of penalty payable under subsection (2) compounds at 3-monthly intervals.

example of change

1 ~~compound~~ exacerbate the adverse consequences of a serious danger to public health

further reading

Fowler's English Usage p 167

Garner's Dictionary pp 187–8, 813 (slipshod extension)

Gowers' Plain Words pp 214–5

Longman English Usage p 157

comprise



usage—never use

try—*consist of* / *composed of* / *include* / *contain* / *made up of* / *have* / *formed of* /
 ► *constitute* / *is* / ► *state* / ► *set out* / ► *described in*

extra information

- 1 formal word
- 2 *Comprise* can mean ‘include’. However, that use is criticised in favour of it meaning all of the components that make up a thing.

examples of change

- 1 The application must be accompanied by the documents that ~~comprise~~ make up the proposed community title scheme.
- 2 A statement of responsibility must ~~comprise~~ consist of—
- 3 The register must ~~comprise~~ set out particulars of land in relation to an order made under section 91.
- 4 the whole of the land ~~comprised~~ described in the new lease is land that was ~~comprised~~ described in the development lease.

further reading

Cambridge Guide p 165 (*comprise* or *composed of*)
 Fowler’s English Usage pp 167–8, 387 (*include, comprise*)
 Garner’s Dictionary p 187 (*compose; comprise*)
 Garner’s Legal Style p 108 (*comprise; compose*)
 Gowers’ Plain Words p 215
 Longman English Usage pp 157–8 (*comprise, consist, compose, constitute, include*)
 Partridge p 76 (*comprise and constitute*)
 Working Words pp 126–7 (*compose/comprise/constitute*)

conceal



usage—consider alternatives

try—*hide*

extra information

- 1 formal word
- 2 *Conceal* is commonly used in relation to offences and offending behaviour. However, drafting practice is moving towards *hide*.

example of no change

- 1 a modified article of clothing, accessory or adornment to disguise or conceal a weapon

example of change

- 1 A person commits an offence if the person ~~conceals~~ hides an infected animal.

further reading

Fowler’s English Usage p 309 (formal words)
 Garner’s Dictionary pp 189–90, 369 (formal words)
 Howard’s Handbook p 95 (*conceal/hide*)
 Longman English Usage p 158

concept



usage—consider alternatives

try—*idea / plan / design / invention*

extra information

1 vogue word

example of no change

Chapter 3 Important concepts

example of change

1 the ~~concepts~~ ideas in the 2 provisions must not be regarded as different only because different words are used

further reading

Fowler's English Usage p 169

Garner's Dictionary p 190 (*concept; conception*)

Gowers' Plain Words p 215

Longman English Usage p 158

Working Words p 128

concerned

see—as / so far as ... is / are concerned

concerning



usage—avoid using

try—*about / ► in relation to / ► affect*

extra information

1 formal word

2 *Concerning* can be used as a conjunction (introducing a clause) or a preposition (introducing a noun).

3 *Concerning* is often used in sentences constructed in the passive voice. The passive voice should be avoided, if possible, in drafting legislation.

4 For the use of *affecting*, see *affect*.

example of no change

1 an alleged deficiency concerning the vehicle or dangerous goods

examples of change

1 arrangements between licensed distributors and suppliers ~~concerning~~ about the use of a network

2 Any relevant indigenous organisation must be consulted about every issue ~~concerning~~ affecting the child or young person.

3 doing work, or transacting business, ~~concerning~~ in relation to the law of a foreign country where the lawyer is registered

further reading

Garner's Legal Style p 47 (as acceptable dangler)

Gowers' Plain Words pp 18, 135

Partridge p 80 (conjunctions, disguised—*concerning*)

concerns

see—as concerns / as regards / as respects

conclude



usage—avoid using

try—*end / finish / decide*

extra information

1 formal word

2 May be used to refer to ratifying or formalising a treaty or convention.

example of no change

1 the countries concluded a free trade agreement

examples of change

1 The first day of the period ~~concludes~~ ends at midnight on the day when the unpaid rent was due.

2 it would be reasonable to ~~conclude~~ decide that the person entered into or carried out the scheme principally for the purpose of obtaining the tax reduction

further reading

Garner's Dictionary p 191

Fowler's English Usage p 170

Partridge p 77

concur



usage—avoid using

try—▶ *agree on/to*

extra information

1 formal word

example of no change

1 A person commits an offence if the person dishonestly makes, or concurs in making, an entry that is false or misleading.

examples of change

1 the parties ~~concur~~ agree that environmental considerations will be integrated into government decision-making

2 if the regulator and the owner do not ~~concur~~ agree on the amount of compensation

further reading

Fowler's English Usage p 170

Garner's Dictionary p 194

conditions

see—terms and conditions

confer



usage—avoid using

try—consult / *discuss* / give

extra information

1 formal word

2 *Confer and give*, in relation to a function, include impose (see LA, dict, pt 1).

example of no change

1 *supply* includes—

(a) in relation to goods—supply (or re-supply) by way of sale, exchange, lease, hire or hire-purchase; and

(b) in relation to services—provide, grant and confer.

examples of change

1 ~~confer a function on~~ give a function to

2 ~~confer~~ discuss with the group's representative

3 under the authority ~~conferred~~ given by a search warrant

4 ~~conferring jurisdiction on~~ giving jurisdiction to the ACAT

conform



usage—consider alternatives

try—*comply* / recasting (using eg ► *in accordance with*)

extra information

1 formal word

examples of no change

1 existing data collections and assessment processes that conform to national estate assessment criteria

2 material presented as fact is based on and conforms with accurate, verifiable facts

example of change

1 the applicant ~~conformed to~~ complied with the direction

further reading

Cambridge Guide p 167 (*conform to / conform with*)

Garner's Dictionary p 201

Howard's Handbook p 97 (*conform to/with*)

conformity



usage—avoid using

try—▶ *in accordance with / in agreement with / under*

extra information

1 formal word

example of no change

1 If the goods do not conform with the contract, the buyer may require delivery of substitute goods only if the lack of conformity is a fundamental breach of contract.

examples of change

- 1 The registrar must register an instrument lodged ~~in conformity~~ accordance with this Act.
- 2 an act done ~~in conformity with~~ under a registered power of attorney

conjunction

see—*in conjunction with*

connection

see—*in connection with*

consensus



usage—avoid using

try—*agreement*

extra information

- 1 *Consensus* is inappropriate for an agreement between 2 people because it means general agreement or collective opinion.
- 2 Do not use *consensus of opinion* or *general consensus*.

example of no change

1 has been adopted based on the consensus of the literature reviewed

example of change

1 The mutual rights and duties of partners, whether by ~~consensus~~ agreement or defined by this Act

further reading

- Cambridge Guide p 171 (*consensus* or *concensus*)
- Fowler's English Usage p 172
- Garner's Dictionary p 205
- Garner's Legal Style p 108
- Gowers' Plain Words p 216
- Howard's Handbook pp 98–9 (*consensus of opinion*)
- Partridge p 80

consent



usage—consider alternatives

try—▶ *agree on/to* / *approve* / ▶ *permit*

extra information

- 1 In general terms, to *consent* means to give permission for something to happen or to agree to something. *Consent* has different elements in various areas of the law and needs to be used with care.

examples of no change

- 1 a suspect gives informed consent to a forensic procedure if
- 2 the occupier gives a conservation officer consent to enter the place and exercise powers under this Act

examples of change

- 1 if the authority ~~consents~~ agrees to the request
- 2 the solicitor must not accept service without the client's ~~consent~~ permission

further reading

Butterworths Legal Dictionary pp 249–50, 250 (*consent award or decision; consent judgment; consent of the owner; consent order; consent to prosecution; consent to act; consent to marriage; consent to nomination*)

Working Words p 48–9 (*ascent/assent/consent*)

consequence



usage—consider alternatives

try—▶ *result* / ▶ *effect* / *outcome*

extra information

- 1 formal word
- 2 See also *as a consequence of*; *in consequence of*

example of no change

- 1 the consequences of any failure by the person to comply with the condition

examples of change

- 1 minimise the ~~consequence~~ effect of a motor vehicle accident
- 2 a financial hardship or other ~~consequence~~ result of the interest remaining subject to the order

consequential



usage—consider alternatives

try—*follows from* / ▶ *effect*

examples of no change

- 1 the court may make consequential or ancillary orders
- 2 Working with Vulnerable People (Consequential Amendments) Act 2011

example of change

- 1 minimise the ~~consequential~~ effect of a motor vehicle accident

further reading

Fowler's English Usage pp 172–3

Garner's Dictionary p 205 (*consequent/consequential*)
 Gowers' Plain Words p 216
 Howard's Handbook p 99 (*consequent/consequential*)
 Partridge p 80
 Working Words p 131 (*consequent/consequential/subsequent*)

consequently



usage—never use

try—*as a result* / recasting

extra information

1 sentence adverb

example of change

1 Consequently, to terminate a community title scheme other than a basic scheme, it is necessary for the scheme first to become a basic scheme. For a community title scheme to be ended it must be, or become, a basic scheme.

further reading

Fowler's English Usage pp 702–3 (sentence adverbs)
 Garner's Dictionary pp 791–2 (sentence adverbs)

consequent on



usage—avoid using

try—*because of* / *under* / omitting / recasting

extra information

1 May be used if the provision describes something that follows in time from or comes as a direct result of some other thing. It may not be necessary to use *consequent on* if the association between the elements, while related, is more indirect.

2 compound preposition

example of no change

1 an Act relating to personal property securities to make provision consequent on the enactment by the Parliament of the Commonwealth of the *Personal Property Securities Act 2009* (Cwlth)

examples of change

1 the territory authority or an associated person may give the information to someone else for a purpose related to ~~or consequent on~~, the transfer of the authority's assets

2 any claim for gratuitous services ~~consequent on~~ because of the claimant's personal injury

further reading

Garner's Dictionary p 205 (*consequent*)
 Howard's Handbook p 99 (*consequent/consequential*)

consider

see—*give consideration to* and Drafting Practice Guide, ch 14, 'consider / take into account / have regard to'

considerable



usage—avoid using

try—► *significant* / ► *substantial* / omitting / recasting

extra information

- 1 It is sometimes unclear whether *considerable* refers to number or quality or both.
- 2 As alternatives such as *significant* or *substantial* may also be unclear, consider if the context requires recasting to achieve a more precise meaning.
- 3 *Considerable* is not generally appropriate for concrete things, eg a ‘large’ house rather than a ‘considerable’ house.

example of no change

- 1 members who have demonstrated a capacity for outstanding service as practising barristers over a considerable period of time

example of change

- 1 the exemption is not likely to cause a ~~considerable~~ substantial detriment to consumers

further reading

Fowler’s English Usage pp 173–4

Gowers’ Plain Words p 52

Longman English Usage p 163

Partridge p 81

Working Words p 131

consideration



usage—consider alternatives

try—*consider* / recasting

extra information

- 1 Use in the legal sense of a promise by which a right or benefit accrues to one party in return for which the party who receives the benefit promises or conveys something to the other (see Macquarie Dictionary).
- 2 Sometimes used as a defined term—see example of no change 2.
- 3 Sometimes used in a section heading where the provision lists a number of matters to be considered.

examples of no change

- 1 a contract with a total consideration, or estimated total consideration, worth less than \$20 000
- 2 The consideration must be a commission-initiated consideration.
- 3 the planning strategy is not a relevant consideration for a decision under the following provisions
- 4 Import and export licences—relevant considerations

example of change

- 1 the regulator’s consideration must relate to regulator must consider

further reading

Fowler’s English Usage p 174 (*Considerateness, consideration*)

Garner’s Legal Style p 31, 215

Gowers’ Plain Words p 4

constitute



usage—consider alternatives

try—*form* / ► *establish* / *is* / *made up* / *be* / recasting

extra information

- 1 *Constitute* should not be used to identify behaviour that is the subject of an offence (see Drafting Standards Decisions of 16 August 2016).
- 2 Do not use *constitute* in relation to the formation of tribunals or meetings. In this context, use less formal words such as *form*, *establish* and *make up*.

example of no change

- 1 This section applies if a law changes how an entity established under a law is constituted.

examples of change

- 1 evidence of what ~~constitutes~~ is appropriate professional conduct or practice
- 2 the terms of the standard customer contract ~~constitute~~ form an enforceable contract between the utility and the person
- 3 to be reviewed by a court, or by a tribunal ~~constituted by or under an enactment~~ established under a law
- 4 an appeal tribunal is ~~constituted by~~ made up of
- 5 to prevent the act or omission alleged to ~~constitute~~ form the offence or an element of the offence

further reading

Partridge p 76 (*comprise* and *constitute*)

construct



usage—consider alternatives

try—*build* / *form* / *make*

extra information

- 1 *Construct* and *construction* are frequently used in laws regulating planning and development, in relation to the construction industry and the occupations that are involved in that industry.

examples of no change

- 1 A licence authorises the licensee to provide construction services in each construction occupation or occupation class to which it relates.
- 2 A registered worker for the building and construction industry is entitled to long service leave in accordance with this schedule.
- 3 require the owner of the land to construct the drains in the situations stated in the notice

examples of change

- 1 ~~construct~~ build additional retail space at the shopping centre
- 2 *install* includes ~~construct~~ build, place, connect or erect.

construe



usage—never use

try—*interpret* / omitting / recasting

example of change

1 in a proceeding to ~~construe~~ interpret a will, evidence of the testator's intention

further reading

Fowler's English Usage pp 175–6 (*construct/construe*)

consult with



usage—never use

try—*consult* / *ask* / *seek* (information or advice) / *discuss* (with) / recasting

extra information

1 phrasal verb

2 use the simple verb

examples of change

1 the employer must consult ~~with~~ the worker in good faith about

2 in exercising its functions, an advisory committee may ~~consult with~~ ask for comments from members of the public

3 the planning and land authority must consult ~~with~~ the entities prescribed by section 26 (1)

further reading

Cambridge Guide p 618 (phrasal verbs)

Fowler's English Usage pp 594–5 (phrasal verbs)

Gowers' Plain Words p 184

Howard's Handbook p 98 (*consult* or *consult with*)

Longman English Usage p 164 (*consult*)

contained in



usage—never use

try—*in* / *under*

extra information

1 verbosity

examples of change

1 the integrity of the information ~~contained in~~ the document

2 a restriction or prohibition ~~contained in~~ under the objects or rules of the association

contemplate / contemplation



usage—avoid using

try—*consider* / ► *think* / *regard* / *recognise* / *realise* / *intend* / *plan* / *expect* / ► *anticipate* / recasting

extra information

1 vague word

examples of change

- 1 The advisory committee must ~~contemplate~~ consider actions required to give effect to the policy.
- 2 if the representation was prepared or obtained for the purpose of conducting, ~~or for or in contemplation of~~ or in relation to, an Australian or overseas proceeding
- 3 the transferor's ~~contemplation of the transferor's marriage to,~~ or intention to marry or enter into a civil partnership with, another person
- 4 a will made by a child who may marry or enter into a civil union and that is made in ~~contemplation~~ anticipation of a marriage or civil union

context

see—*in the context of; where/if the context permits/allows*

contiguous



usage—avoid using

try—► *adjoining* / *next to* / ► *adjacent*

extra information

1 formal word

2 used in planning and land contexts

examples of no change

- 1 a lease of public land to the lessee of a contiguous lease
- 2 the lessee of a lease that is contiguous with the proposed lease
- 3 The registrar-general may issue 1 certificate of title for several parcels of land even if they are not contiguous.

example of change

- 1 if a person parks a vehicle ~~contiguous with~~ next to an emergency vehicle

further reading

Butterworths Legal Dictionary p 260 (*contiguous*; *contiguous zone*)

Garner's Dictionary pp 24 (*adjacent*; *contiguous*), 26 (*adjoin*), 213

Garner's Legal Style p 192

Longman English Usage p 166 (*contiguous*, *contagious*)

Partridge p 6 (*adjacent*; *contiguous*)

contrary intention

see—except where a contrary intention appears; unless the contrary intention appears

controvert



usage—never use

try—*dispute / deny / oppose*

extra information

1 formal word

example of change

1 if a person ~~controverts~~ disputes another person's statement

convene



usage—never use

try—*call / arrange*

extra information

1 formal word

example of change

1 the commissioner may, by reasonable written notice given to the other liquor advisory board members, ~~convene~~ call a meeting.

convey



usage—avoid using

try—*give / ►transmit / communicate / tell / ►inform / ►advise / take / transfer / carry*

extra information

1 formal word

2 has a technical meaning in land law: *convey* means to transfer real property

examples of no change

1 *high pressure consumer piping system* means a consumer piping system that conveys gas at a pressure greater than 21 kPa.

2 In a conveyance, it is not necessary to use the word 'grant' to convey land.

examples of change

1 A police officer who ~~conveys~~ takes an accused person to an approved health facility

2 to ensure that firearms are stored and ~~conveyed~~ carried in a safe and secure way

convict

usage—consider alternatives

try—*find guilty* / recasting

extra information

- 1 *Convict* needs to be used with care. It may be possible for a defendant to be found guilty of an offence, but be discharged without conviction.
- 2 Do not use *convict* in provisions creating offences.
- 3 See also LA, dict, pt 1, def *found guilty*.

example of no change

- 1 a court in a proceeding against a person for a speeding offence in which the prosecution is relying on evidence of the average speed of the vehicle may convict a person, or find a person guilty, of the offence

example of change

- 1 ~~A person who contravenes a notice is guilty of an offence punishable on conviction by...~~ A person must not contravene a notice.

Maximum penalty:

corporate

see—body corporate

could

see—can

course

see—during the course of; in the course of

covenant

usage—consider alternatives

try—*contract under seal* / *contract* / *agreement* / *condition*

extra information

- 1 formal word
- 2 vague word (with a number of meanings)
- 3 *Covenant* has a technical legal meaning ie a formal agreement (including an international covenant) or promise in a deed or under seal.

examples of no change

- 1 A lease permitting the carrying of stock on land is taken to include a covenant by the occupier of the land to pay stock levy payable in relation to the land.
- 2 a copy of any encumbrance that is shown on the certificate of title (for example, a restrictive covenant or an easement)

example of change

- 1 The board may enter into a ~~covenant~~ contract to transfer land.

further reading

Butterworths Legal Dictionary pp 297–8
Garner's Dictionary p 234

credibility

usage—consider alternatives

try—recasting (using *credible* or a simpler alternative)

extra information

- 1 formal word
- 2 *Credence*, *credibility*, *credible*, *creditable*, *credulity* and *credulous* are sometimes confused. *Credence* means belief or trust and also plausibility; *credibility*, the quality of being believable or trustworthy; *credible*, believable, convincing or impressive; *creditable*, deserving of credit or respect; *credulity*, the quality of being ready to believe; and *credulous*, gullible or ready to believe. *Credulity*, like *credulous*, has negative connotations and implies being too ready to believe.
- 3 However, there are different views about whether *credible* can be used to mean convincing or impressive.

example of no change

- 1 the assessment of the credibility of the witness or person

example of change

- 1 warn the jury that the evidence of children as a class ~~has~~ is inherently less ~~credibility~~ credible than the evidence of adults

Crown

usage—avoid using

try—► *Territory* / ► *Commonwealth* / *State* / *government* / *prosecution* / recasting

examples of no change

- 1 the Attorney-General's functions are to be the chief legal representative of the Crown in right of the Territory and
- 2 land has become vested in the Commonwealth as Crown land

example of change

- 1 The property is forfeited to the ~~Crown~~ Territory.

further reading

Fowler's English Usage pp 191–2

current / currently



usage—consider alternatives

try—recasting / omitting

extra information

- 1 *Current* and *currently* are frequently redundant because currency is implicit in the context.

example of no change

- 1 The ACT legislation register must contain authorised republications of laws currently in force.

examples of change

- 1 The inquiry must consider whether, on the documents ~~currently~~ before the board, the offender should be released on parole.
- 2 the premises where the machine is ~~currently~~ held
- 3 if a person who applies for the issue or amendment of a driver licence under this part is the holder of a ~~current~~ an Australian driver licence

further reading

Howard's Guide p 109

Howard's Handbook p 111

curtilage



usage—never use

try—recasting

extra information

- 1 formal word
- 2 What is included in a *curtilage* can be uncertain.

further reading

Butterworths Legal Dictionary p 313

Garner's Dictionary p 241

customary



usage—consider alternatives

try—usual

example of no change

- 1 customary laws

example of change

- 1 a mercantile agent having in the ~~customary~~ usual course of his or her business

D

date



usage—consider alternatives

try—*day* / recasting

extra information

- 1 Do not use *date* if *day* would be appropriate.

examples of no change

- 1 The magistrate must tell the officer the date and time the warrant was signed.
- 2 the time and date stated in the notice
- 3 the claimant's date of birth

examples of change

- 1 beginning on the ~~date~~ day after its expiry
- 2 on or before the closing ~~date~~ day

decease / deceased



usage—consider alternatives

try—*die* / *deceased person* / *dead* / *death*

extra information

- 1 formal words
- 2 euphemisms
- 3 Prefer *die*, *deceased person* or *death*, unless the effect would be too abrupt or harsh.
- 4 Never use 'the deceased'.

example of no change

- 1 in a proceeding against the estate of a deceased person

example of change

- 1 A worker is not entitled to weekly compensation if the worker is ~~a deceased person~~ dead.

further reading

Garner's Dictionary pp 249 (*death*; *demise*; *decease* etc), 251 (*decease* and *deceased* etc)

Gowers' Plain Words p 218

Longman English Usage p 188

Partridge p 88

decide

see—*hear and decide*

decide to grant / decide to refuse to grant

usage—never use

try—*give / refuse to give / ►grant / refuse to ►grant*

extra information

- 1 verbosity

decision

see—*make a decision*

deduct

usage—consider alternatives

try—*subtract*

extra information

- 1 *Subtract* and *deduct* both express diminution in total or quantity. However, *deduct* is broader than *subtract*. *Subtract* should only be used in mathematical contexts.

examples of no change

- 1 The director-general may deduct amounts from a young detainee's trust account for payment of any fine.
- 2 *surplus* means the amount remaining after the following are deducted from the amount paid for the article:

example of change

- 1 the amount charged is ~~deducted~~ subtracted from the amount of the contribution

further reading

Partridge pp 88 (*deduce; deduct*), 338 (*subtract*)

Working Words p 163 (*deduce/deduct*)

deem / deemed

usage—avoid using

try—*taken / treated as / ►regarded as / recasting*

extra information

- 1 *Deem* is a formal word for *consider, think, judge, treat as* or *esteem*.
- 2 *Deemed* used to be frequently used in legislation to create fictions. The abandonment of *deemed* for this purpose in Australia is now too well established to revert to its previous use. Use *taken* to create legal fictions.
- 3 In creating a legal fiction, you should ask—
 - are you actually creating a legal fiction?
 - is the artificiality really necessary and appropriate?
- 4 However, *deem* or *deemed* may be useful in a provision heading or note (eg *Payroll Tax Act 2011* section heading (Deemed choice of relevant day in special cases) and note (See also s 11 (Wages taxable in the ACT), that deems the wages to be paid or payable in relation to services performed.)

example of change

- 1 A person is ~~deemed~~ taken to consent if [*or*, if consent is not ‘fictional’, a person consents if]

further reading

Butterworths Legal Dictionary pp 332 (*deem*) and (*deemed credit sale contract*), 333 (*deemed dividend*), (*deemed employee*), (*deemed employer*), (*deemed income*), (*deemed manufacturer*), (*deemed supply*) and (*deeming clause*)

Fowler’s English Usage p 201 (*deem*)

Garner’s Dictionary pp 254 (*deem*), 369 (formal words)

Garner’s Legal Style p 110 (*deem*)

Gowers’ Plain Words p 218 (*deem*)

Longman English Usage p 190 (*deem*)

Partridge pp 32 (archaisms), 89 (*deem*)

Working Words p 163 (*deem*)

default

usage—consider alternatives

try—*failure* / recasting

extra information

- 1 formal word

examples of no change

- 1 the default setting
2 If an offender defaults in paying a fine, the director-general must send the fine defaulter a default notice.

example of change

- 1 ~~in default of appearance~~ if the person does not appear

further reading

Butterworths Legal Dictionary p 334

Working Words p 165

defer

usage—consider alternatives

try—*delay* / *postpone*

extra information

- 1 Do not use *defer* if *delay* is meant. The Macquarie Dictionary distinguishes the terms as follows: *defer* is defined as ‘to put off to a future time’, and *delay* as ‘to put off to a later time’. A clearer distinction is that a deferral is a deliberate decision, while a delay is due to circumstances.

examples of no change

- 1 The court may defer the operation of the order.
2 The owner of a parcel of land may apply to the commissioner for a determination deferring payment of rates payable for the parcel.

examples of change

- 1 a scheduled transport service is ~~deferred~~ delayed or cancelled
- 2 On application by a party or on its own initiative, the court may adjourn or ~~defer~~ postpone a trial at or before the trial.

further reading

Fowler's English Usage p 201 (extended forms and derivatives)

Longman English Usage p 191

definitely / definitive

usage—never use

try—omitting / recasting

extra information

- 1 vogue words
- 2 *Definitely* and *definite* are often used unnecessarily as emphasisers.
- 3 *Definitive* differs from *definite* by giving the idea of authority, conclusiveness, exhaustiveness or finality. A *definite* offer is an offer clear and precise in its terms. A *definitive* offer is an offer said to be the last word by the person making it.
- 4 See also *actually/actual*; *real/really*.

examples of change

- 1 if a substance is ~~definitely~~ harmful to a worker's health
- 2 if an employer makes a ~~definitive~~ final offer to the employer's employees

further reading

Cambridge Guide p 206 (*definite* or *definitive*)

Fowler's English Usage pp 19 (*actually*), 202 (*definite*, *definitely*) and (*definite*, *definitive*)

Garner's Dictionary pp 257 (*definite*; *definitive*), 919 (*vogue* word)

Garner's Legal Style p 32 (*vogue* word)

Gowers' Plain Words pp 53, 219 (*definitive*)

Howard's Handbook p 120 (*definite/definitive*)

Longman English Usage p 191 (*definite*, *definitive*)

Partridge pp 89 (*definite* and *definitive*), 280 (*really*, *actually* and *definitely*)

Working Words p 165 (*definite/definitive*)

degree

usage—consider alternatives

try—omitting / recasting

extra information

- 1 *Degree* is vague and abstract, but can sometimes be useful. Consider if it is necessary because it is often overused.

examples of no change

- 1 the degree of mutual commitment to a shared life
- 2 sexual assault in the first degree
- 3 the degree of rotation allowed
- 4 the degree of responsibility of the licensee for the act or omission that made up the ground for occupational discipline

5 kind or degree of disability

examples of change

- 1 ~~to a serious degree~~ seriously
- 2 ~~the degree of~~ public concern about the action is, or is expected to be, low
- 3 may use a reasonable ~~degree of~~ force

further reading

Butterworths Legal Dictionary p 339 (*degree of force, degree of risk*)
 Fowler's English Usage pp 202–3
 Gowers' Plain Words p 189
 Howard's Handbook p 120 (to a *degree*)
 Longman English Usage p 192
 Partridge pp 4 (abstract nouns), 89 (*degree, in a*)

delegate

[as a noun]



usage—consider alternatives

try—omitting

extra information

- 1 can be a redundancy
- 2 It is usually unnecessary to refer to delegates exercising powers (see LA, s 239 and on delegations generally, see LA, pt 19.4.)

example of no change

- 1 A delegate must exercise the delegation subject to any conditions, limitation of directions in the instrument making or evidencing the delegation.

example of change

- 1 The commissioner, ~~or the commissioner's delegate~~, must comply with a direction given by the Minister under subsection (1).

further reading

Butterworths Legal Dictionary p 340

deleterious



usage—never use

try—*harmful*

extra information

- 1 formal word

example of change

- 1 a substance that has a ~~deleterious~~ harmful effect on the user

further reading

Gowers' Plain Words p 219
 Longman English Usage p 192

deliver



usage—consider alternatives

try—*give* / ► *provide* / *supply* / recasting

extra information

- 1 can be formal word for *give*, *provide* or *supply*
- 2 can be a vogue word, eg ‘Will the Government deliver on tax cuts?’

examples of no change

- 1 if a person in charge of travelling stock delivers stock to someone else
- 2 *sell* includes consign or deliver for sale.

examples of change

- 1 the cost of ~~delivering~~ providing services
- 2 The tribunal may ~~deliver~~ give the decision on another date or a date to be set.
- 3 a notice must be ~~delivered~~ given personally to the person

further reading

Butterworths Legal Dictionary p 342 (*delivery*)
 Garner’s Dictionary pp 262–3 (*delivery*)
 Howard’s Handbook p 121
 Longman English Usage p 193
 Partridge p 377 (vogue words)

demand



usage—consider alternatives

try—► *require* / *ask* / ► *request*

extra information

- 1 Can be formal word for *require* or *ask* but that formality may be appropriate in circumstances such as a letter of demand or similar demands for compliance.

examples of no change

- 1 letter of demand
- 2 The authority may, by written notice to the person, demand that the person give possession of the land to the authority within the reasonable period stated in the notice.

examples of change

- 1 The food must be of the nature or substance ~~demanded~~ requested by the purchaser.
- 2 Votes at a general meeting may be cast by proxy (whether or not a poll is ~~demanded~~ required).

further reading

Fowler’s English Usage p 204 (for preposition usage with *demand*)
 Howard’s Handbook p 121 (*demand from/of/on*)
 Longman English Usage p 193
 Partridge p 89

demise



usage—never use

try—*lease / transfer / omitting*

extra information

- 1 formal word
- 2 Has various technical legal meanings particularly in relation to freehold or leasehold estates.
- 3 Do not use *demise* to mean *death, end* or *downfall*.

example of change

- 1 A person must not assign, transfer, ~~demise~~ or sublet the lease.

further reading

Butterworths Legal Dictionary pp 343–4

Garner's Dictionary pp 264, 369 (formal words)

Partridge p 89

demonstrate



usage—consider alternatives

try—*show*

extra information

- 1 Can be formal word for *show*.
- 2 Appropriate when used in the sense of 'making evident by arguments or reasoning; proving' (see Macquarie Dictionary, 5th ed).

example of no change

- 1 if the average speed demonstrates that the driver exceeded the speed limit

example of change

- 1 a person must be able to ~~demonstrate~~ show that the person is continuing to study

de novo



usage—never use

try—recasting

extra information

- 1 foreign phrase
- 2 A trial *de novo* is a completely new trial, as distinguished from a review of the first trial.

example of change

- 1 The appeal is a new hearing ~~de novo~~ of the matter.

further reading

Butterworths Legal Dictionary p 322

depart



usage—never use

try—*leave* / recasting

extra information

- 1 formal word

examples of change

- 1 ~~depart from~~ leave the ACT
- 2 if the document ~~departs from the authorised form~~ is not the same as the authorised form
- 3 If a person carries out the person's business in a way that ~~departs significantly~~ is significantly different from the business plan, the person must tell the regulator.

depend



usage—consider alternatives

try—*depend on*

extra information

- 1 It is wrong in writing, though common in speech, to omit the *on* after depends.

example of change

- 1 depends on whether

further reading

Fowler's English Usage p 205
 Gowers' Plain Words p 219
 Howard's Handbook p 124 (*depend on/upon*)
 Longman English Usage p 195

dependant / dependent



usage—consider alternatives

try—*dependent* / *dependant*

extra information

- 1 *Dependant* is a noun meaning a person who depends on someone else for support.
- 2 *Dependent* is an adjective meaning relying on or subject to something else.

further reading

Cambridge Guide pp 209 (in support of a more flexible approach)
 Fowler's English Usage p 205
 Gowers' Plain Words p 219
 Howard's Handbook pp 96 (conditional/dependent), 123 (dependant/dependent)
 Longman English Usage p 195
 Partridge p 90
 Working Words p 169

derogate



usage—never use

try—recasting (using, eg *does not limit / is in addition to*)

extra information

- 1 formal word
- 2 legalese

examples of change

- 1 This section does not ~~derogate from~~ limit section 10.
- 2 A regulation may relate to matters other than the health and safety of people or the environment, but must not ~~derogate from~~ adversely affect the health and safety of people or the environment.

described



usage—consider alternatives

try—► *mentioned* / ► *stated*

extra information

- 1 Be careful not to draw artificial distinctions in provisions by using different words to say essentially the same thing, eg do not say in one provision ‘a person mentioned in section x’, and in another provision ‘a thing described in section y’, if the person or thing is only being identified by the reference.

examples of no change

- 1 a training organisation (however described)
- 2 the land must be correctly described

examples of change

- 1 must comply with any condition ~~described~~ stated in the notice
- 2 a person ~~described~~ mentioned in section 6

designate



usage—avoid using

try—*name / choose / declare*

extra information

- 1 formal word

example of no change

- 1 The purpose of this Act is to designate the ACT as an area in which certain genetically modified plants may not be cultivated.

examples of change

- 1 The members of a group may ~~designate~~ choose a qualified member of the group to be the *designated group employer* for the group for this Act.
- 2 The licensee of the premises may ~~designate~~ declare part of the licensed outdoor area of the premises as an area in which drinking and smoking is allowed.

desires



usage—never use

try—*wants* / *wishes*

extra information

- 1 ‘Desirable’ is frequently used in ACT legislation, most commonly in the phrase ‘necessary or desirable’ (eg *Children and Young People Act 2008*, *Domestic Violence and Protection Orders Act 2008* and *Unit Titles (Management) Act 2011*), and is also used on its own (eg in LA, s 114).

examples of change

- 1 A person who ~~desires~~ wants to carry out work on a road must give written notice to the authority.
- 2 a statutory declaration made by each person stating that the person ~~desires~~ wishes to enter into a civil partnership with the other person

further reading

Gowers’ Plain Words p 219

Howard’s Handbook p 125 (*desire/want/wish*)

Longman English Usage p 198

desist



usage—never use

try—*stop* / *end* / ► *cease*

extra information

- 1 formal word
- 2 For the use of *end* and *stop*, see *cease*.

example of change

- 1 a person must ~~desist from entering~~ not enter premises

further reading

Garner’s Dictionary pp 270, 369 (formal words)

Gowers’ Plain Words p 219

Longman English Usage p 198

despatch

see—dispatch

despite



usage—consider alternatives

try—omitting / *although* / recasting

example of no change

- 1 A regulation under subsection (2) has effect despite anything elsewhere in this Act or another territory law.

example of change

- 1 However, the director-general may agree with the occupier of the land that the stock, ~~despite being~~ although impounded by the director-general, remain on the occupier's land.

further reading

Butterworths Legal Dictionary p 803 (*notwithstanding*)
 Howard's Handbook p 126 (despite/despite of/in spite of)
 Longman English Usage p 198

detain

usage—consider alternatives

try—*hold* (in custody) / *arrest*

extra information

- 1 formal word
- 2 Used in *Evidence Act 2011* (model legislation).

example of no change

- 1 If a power is exercised in accordance with subsection (1) in relation to a vehicle, the relevant inspector may stop and detain the vehicle.

example of change

- 1 A police officer must not allow a person ~~detained~~ held in custody under subsection (1) to remain at a police station where the person was ~~detained~~ held for longer than 12 hours after the person is first ~~detained~~ held.

further reading

Garner's Dictionary pp 270 (*detention*), 369 (formal words)

determine

usage—consider alternatives

try—*decide* / *settle* / *fix* / ► *conclude* / *end* / recasting (using *work out* / *find out*)

extra information

- 1 formal word
- 2 Never use as an alternative to *end*.
- 3 Never use in the context of courts and tribunals (see example of change 2).

examples of no change

- 1 A determination under subsection (4) is a disallowable instrument.
- 2 The Minister may determine fees for this Act.

examples of change

- 1 the amount ~~determined in accordance with~~ worked out as follows:
- 2 In ~~determining~~ deciding whether to make the order, the court must take into account
- 3 a device to help ~~determine~~ fix a ship's position
- 4 Either party may ~~determine~~ end the lease.

further reading

Butterworths Legal Dictionary p 354
 Garner's Dictionary pp 271, 369 (formal words)
 Gowers' Plain Words p 219

Howard's Handbook p 126 (*determine/find out*)
 Longman English Usage p 200

detriment



usage—consider alternatives

try—*harm / injury / damage / loss*

extra information

1 formal word

examples of no change

- 1 An authorised officer must take reasonable steps to ensure that the authorised officer causes as little inconvenience, detriment and damage as practicable.
- 2 The Minister must not grant the exemption unless satisfied on reasonable grounds that the exemption is not likely to cause a substantial detriment to consumers.

example of change

- 1 the person knows that a consumer of the food who relies on the description will, or is likely to, suffer physical ~~detriment~~ harm

further reading

Butterworths Legal Dictionary p 354
 Gowers' Plain Words p 219 (*detrimental*)

develop



usage—consider alternatives

try—*arise / happen / take place*

extra information

1 vague word

- 2 The primary use of *develop* is to give the idea of a gradual unfolding or building up. But increasingly used in the sense of any change in a situation (eg 'a sudden development').

examples of no change

- 1 The Minister has the following functions...to develop, adopt or promote policies and programs relating to climate change
- 2 This section applies if an animal or bird develops a condition that is a serious risk to public health.

example of change

- 1 the liability to pay tax ~~develops~~ arises

further reading

Gowers' Plain Words pp 17, 220
 Howard's Handbook p 127
 Longman English Usage p 200
 Partridge p 92

devise [by will]



usage—never use

try—*give / present / give by will / leave*

extra information

- 1 *Devise* is a technical legal term meaning to give an interest in land by will. The equivalent term for personal property is *bequeath*. However, *devise* will be taken to include personal property if that is clearly the intention of the testator.
- 2 See also *bequeath*.

example of change

- 1 A person may, ~~by his or her will, devise, bequeath or dispose of~~ give by will any real or personal property to which the person is entitled at the time of the person's death.

further reading

Butterworths Legal Dictionary p 355

Garner's Dictionary pp 104–5 (*bequeath*), 273 (*devise; bequeath*)

devise [plan or invent]



usage—consider alternatives

try—*plan / arrange / work out / design*

extra information

- 1 *Devise* means to plan or invent a complex procedure, system or mechanism by careful thought. It should not be used as a synonym for any plan or arrangement.

example of no change

- 1 devise a test for assessing a young person's functional ability

examples of change

- 1 All manual and semiautomatic brakes must be ~~devised~~ designed, constructed and located so that in an emergency they can be instantly applied.
- 2 communicate effectively with each other about the dispute and ~~devise~~ work out strategies for resolving the dispute

further reading

Longman English Usage p 201 (*device, devise*)

Partridge p 92 (*device; devise*)

Working Words p 176 (*device/devise*)

dichotomy



usage—never use

try—*difference / conflict / gap / recasting*

extra information

- 1 formal word
- 2 *Dichotomy* is properly used to differentiate between 2 mutually exclusive groups and should not be used to mean simply difference, conflict or gap.

example of change

- 1 if there is no ~~dichotomy~~ difference between the medical specialist's assessment and the medical evidence

further reading

Fowler's English Usage p 211
 Gowers' Plain Words p 220
 Longman English Usage p 203
 Partridge p 93
 Working Words p 177

different than

usage—never use

try—*different from* / recasting

extra information

- 1 *Different from* (but *indifferent to*) is the normal usage in Australian English.
- 2 The use of *different than* has been criticised although it is commonly used in American English.

example of change

- 1 the average premium rate used in the calculation may be different ~~than~~ from the premium rate negotiated by the employer

further reading

Cambridge Guide pp 216–217 (*different from*, *different to*, and *different than*), 746 (*than*)
 Fowler's English Usage pp 212–3 (*different*)
 Garner's Dictionary pp 275–6 (*different (from) (than)*)
 Garner's Legal Style p 111 (*different than*)
 Gowers' Plain Words p 220 (*different*)
 Howard's Handbook p 131 (*different from/to/than*)

differ with

usage—consider alternatives

try—*differ from* / recasting

extra information

- 1 In the sense of *to be different*, the idiom is *to differ from*. In the sense of *to disagree*, it is *to differ with*. However, *differ from* is the normal usage.
- 2 *Differ from* can be ambiguous in some contexts. For example, 'She differs from her brother' can mean that they are different in particular respects or hold different opinions.

example of no change

- 1 the commissioner may differ with the Minister in relation to the reporting requirements

example of change

- 1 any law prescribing rules for choice of law that ~~differ with~~ differ from the rules prescribed by this section

further reading

Fowler's English Usage p 212 (*differ*)
 Garner's Dictionary p 275 (*differ (from) (with)*)
 Gowers' Plain Words p 220 (*differ*)

Howard's Handbook pp 131–2 (*differ from/with*)
 Longman English Usage p 206 (*differ*)
 Partridge p 94 (*differ from; differ with*)

directly



usage—consider alternatives

try—*direct* / ► *when* / ► *immediately* / recasting

extra information

- 1 *Direct*, although an adjective, is, like *directly*, an adverb. To avoid ambiguity, it is better to confine *directly* to its meaning of immediately in time and so avoid the possibility of confusion between, eg 'the Minister is going to Sydney direct' and 'the Minister is going to Sydney directly'.

examples of no change

- 1 the person can, directly or indirectly, control the exercise of the voting power
- 2 the carrying of grey water directly to a grey-water irrigation area

example of change

- 1 as in force ~~directly~~ immediately before the commencement day

further reading

Cambridge Guide pp 219 (*direct* or *directly*)
 Fowler's English Usage p 215
 Gowers' Plain Words p 221
 Howard's Handbook p 133 (*direct/directly*)
 Longman English Usage p 208
 Partridge p 94

disburse

[also disbursement]



usage—avoid using

try—*pay* / *pay out*

extra information

- 1 *Disburse* must only be used in relation to the distribution of money but a simpler word is preferred if appropriate. *Disburse* should not be used to mean distribution of other things, such as crowds or diseases. The word *disperse* should be used instead.

example of no change

- 1 A conditional costs agreement may provide for disbursements to be paid irrespective of the outcome of the matter.

example of change

- 1 The DI fund manager may ~~disburse~~ pay out of the fund any amount the Minister directs be transferred to the terrorism cover temporary reinsurance fund.

further reading

Butterworths Legal Dictionary p 363 (*disbursement*)
 Gowers' Plain Words p 221

disclaim



usage—consider alternatives

try—recasting (using *not responsible / not claimed / not accepted / deny*)

extra information

1 formal word

example of no change

1 a written statement that the beneficiary has disclaimed a bequest to which the beneficiary was entitled under the will

example of change

1 Leave must not be given if the court is satisfied that the insurer is entitled under the terms of the contract of insurance to ~~disclaim~~ deny liability

further reading

Butterworths Legal Dictionary p 365 (*disclaim*) and (*disclaimer*)

Garner's Dictionary p 252 (*disclaim; declaim*)

disclose



usage—consider alternatives

try—► *inform* / ► *mention* / *show* / ► *state* / *tell*

extra information

1 formal word

example of no change

1 A person who is or has been a gaming officer must not disclose any information obtained under or in relation to the administration of a gaming law.

example of change

1 The infringement notice must also ~~disclose to~~ state the following:

further reading

Gowers' Plain Words p 221

Howard's Handbook p 135 (*disclose/reveal*)

Longman English Usage p 210

discontinue



usage—consider alternatives

try—*end* / *stop* / *finish* / ► *cease*

extra information

1 Suitable for use in relation to legal proceedings.

2 Do not use *discontinue* as a pretentious synonym for *end*, *stop*, *finish* or *cease*.

3 For the use of *end* and *stop*, see *cease*.

examples of no change

1 proceedings in relation to an offence to which the identification material relates have not been started or have been discontinued

2 a proceeding for any offence to which the detention relates is discontinued or dismissed

example of change

- 1 The convenor may cancel or ~~discontinue~~ stop the conference only if there is no significant prospect of promoting the objects of this Act.

further reading

Butterworths Legal Dictionary pp 366–7 (*discontinuance of proceedings*)
 Longman English Usage p 210
 Howard's Handbook p 344 (stop/cease/discontinue/terminate)

disinterested

usage—avoid using

try—*unbiased / impartial*

extra information

- 1 *Disinterested* means unbiased by personal interest. It is sometimes also controversially used to mean *uninterested* or indifferent. As a result it may be better to use a word that clearly indicates what is intended in the context.

examples of no change

- 1 A person commits an offence if the person holds the person out to the public as being engaged in a business or activity of making disinterested selections or examinations or expressing disinterested opinions in relation to property or services.
- 2 a process of the court must be directed to a disinterested person appointed by the court

example of change

- 1 The allegations can be met without materially diminishing the barrister's ~~disinterestedness~~ impartiality.

further reading

Cambridge Guide p 223 (*disinterested* or *uninterested*)
 Fowler's English Usage pp 218–9, 808 (*uninterested*)
 Garner's Legal Style p 111
 Gowers' Plain Words p 222
 Howard's Handbook p 137 (*disinterested/uninterested*)
 Longman English Usage p 212
 Partridge p 95
 Working Words p 185 (*disinterested/uninterested*)

dispatch

usage—never use

try—*send / post*

extra information

- 1 formal word for *send*

examples of change

- 1 The Minister must decide the appeal ~~with all reasonable dispatch~~.
- 2 the electronic communication is taken to have been ~~dispatched~~ sent

further reading

Howard's Handbook p 137 (*dispatch/despatch*)
 Partridge p 95

disseminate



usage—never use

try—*circulate / distribute / publish*

extra information

1 formal word

examples of change

- 1 a member must not ~~disseminate~~ publish or present the member's individual views as the view of the board
- 2 **publish** means communicate or ~~disseminate~~ distribute information in a way or to an extent that makes it available to, or likely to come to the notice of, the public or a section of the public.

diverge / divergent



usage—never use

try—*differ / different / move*

extra information

- 1 If 2 paths *diverge*, they get further away from each other. *Diverge* and *divergent* do not mean the same thing as *differ* and *different*. Their meanings *differ*, but they do not *diverge*.
- 2 See also *different than*.

examples of change

- 1 If a driver ~~diverges~~ moves to the left or right within a marked lane, the driver must give way to any vehicle that is in the lane.
- 2 The rules must not ~~diverge~~ differ from the model rules.

further reading

Gowers' Plain Words p 222

Howard's Handbook p 136 (*discrepancy/divergence*)

Longman English Usage p 217

Working Words p 178 (*differ/diverge*)

divided into



usage—consider alternatives

try—*made up of / separated*

extra information

- 1 An apple, halved, is *divided into* sections, but an apple is *made up of* seeds, flesh and skin.

examples of no change

- 1 a section of part 7 that is not divided into subsections
- 2 Under this Act, **licences** are divided into 5 classes: master licences, employee licences, trainer licences, temporary licences and temporary visitor licences.

example of change

- 1 The staff is ~~divided into~~ made up of employees, contractors and volunteers.

does not exceed



usage—consider alternatives

try—► *not more than / up to / recasting (using *under / less than / lighter than / shorter than / smaller than / younger than*)*

extra information

- 1 Use a more specific alternative if appropriate.
- 2 See also *exceed; not exceeding; in excess of*.

example of no change

- 1 The provision is valid to the extent to which it does not exceed power .

examples of change

- 1 the aggregate quantity ~~does not exceed~~ is not more than
- 2 the building ~~does not exceed~~ is not larger than the size limitation for the block

domicile



usage—avoid using

try—(place of) *residence / recasting (using, eg *place where the person lives*)*

extra information

- 1 Can have technical legal meaning eg domicile of origin, domicile of choice, domicile of dependence
- 2 The *Domicile Act 1982* (Cwlth) applies to the ACT.

example of no change

- 1 The Supreme Court must not grant the relief sought unless it has made a finding about the domicile of the deceased person at the time of death.

examples of change

- 1 ~~domiciled~~ lived in the ACT
- 2 place of ~~domicile~~ residence

further reading

Butterworths Legal Dictionary p 383
Garner's Dictionary p 291
Partridge p 96

donate

[also donation]



usage—consider alternatives

try—*give / gift (donation)*

extra information

- 1 formal word
- 2 *Donation* means the act of presenting something as a gift (Macquarie, 5th ed). To *donate* can imply a charitable or benevolent purpose. The less formal *give* may be appropriate if, for example, the charitable nature of the giving is expressly stated.

example of no change

- 1 For subsection (1), it is immaterial whether the money or benefit is solicited or received as a donation or otherwise.

examples of change

- 1 *food donor* means a person who ~~donates~~ gives food to the public in good faith for a charitable or benevolent purpose.
- 2 The entity must pay all ~~donations~~ gifts into a tax-compliant fund.

further reading

Fowler's English Usage pp 225–6, 309 (formal words)
 Garner's Dictionary pp 292, 369 (formal words)
 Gowers' Plain Words p 222
 Longman English Usage p 220

doubt whether / if / that

usage—consider alternatives

try—*doubt whether / doubt that*

extra information

- 1 Idiom requires *whether* or *if* after a positive statement and *that* after a negative statement.

examples of no change

- 1 if the court is not satisfied beyond reasonable doubt that the defendant committed the offence
- 2 This rule applies if a proceeding has been started in the name of the wrong person as plaintiff or there is doubt whether the proceeding has been started in the name of the right person as plaintiff.

further reading

Gowers' Plain Words pp 222–3
 Howard's Handbook p 142 (*doubt if/that/whether*)
 Longman English Usage p 223
 Partridge p 97

due

usage—consider alternatives

try—*payable / owing / ►proper / recasting*

extra information

- 1 Traditionally, *due* (when used in relation to a payment) contained an ambiguity, because it could mean either (1) 'payable; owing; constituting a debt' or (2) 'immediately payable'. Sense (1) relates to the fact of indebtedness, sense (2) to the time of payment. Today, sense (2) is almost invariably the intended one.
- 2 Because a debt cannot be *due* without also being *payable*, the doublet *due and payable* is unnecessary in place of *due*. However, *due and payable* has been interpreted to mean required to be paid immediately. If that meaning is intended, it is preferable to say so rather than use the doublet *due and payable*.
- 3 The use of *due* to mean the proper quality or extent is often unnecessary.
- 4 See also *due to*.

examples of no change

- 1 the day when the licence is due for renewal
- 2 due diligence
- 3 due date (for, eg payment)

examples of change

- 1 ~~due and~~ payable [*or* payable immediately]
- 2 ~~due for payment~~ payable
- 3 ~~payments due~~ amounts payable
- 4 the commissioner must ~~have due regard to~~ consider [*or take into account*]
- 5 the amount of the levy is ~~due and owing~~ payable
- 6 debt ~~due~~ payable to the Territory
- 7 The new boundaries will take effect for the election ~~that is due~~ to be held before 2008.
- 8 the amount that ~~is due to~~ must be released
- 9 ~~due~~ proper administration of justice
- 10 ~~due~~ proper skill and care

further reading

Butterworths Legal Dictionary pp 393 (due administration of justice), (due and payable) and (due diligence), 1104-5 (standard of care)
 Garner's Dictionary pp 298-9, 299 (*due process of law*)

due to [as adjective / preposition]



usage—never use

try—*because of / caused by / recasting*

extra information

- 1 compound preposition
- 2 The traditional view is that *due to* (in the sense of because) is an adjective and must be attached to a noun. Despite the increasing use of *due to* as a preposition, the traditional view still has its strong supporters. Until the use of *due to* as a preposition becomes more firmly established, it is best not used as a preposition.
- 3 *Due to the fact that* can usually be replaced by *because* (see *the fact that*).

examples of change

- 1 loss of hearing ~~due to~~ because of age
- 2 damage ~~due to~~ caused by lightning, explosion, fire, or rain

further reading

Cambridge Guide p 233 (*due to or owing to*)
 Fowler's English Usage pp 232-3
 Garner's Legal Style p 111
 Garner's Dictionary pp 298-9
 Gowers' Plain Words p 109
 Howard's Handbook p 144 (*due to/owing to*)
 Longman English Usage p 227
 Partridge p 98
 Working Words p 66 (because of/owing to/due to)

duly

usage—never use

try—recasting / omitting

extra information

- 1 formal word
- 2 *Duly* is usually unnecessary.

example of change

- 1 the exercise of the power under a warrant issued under this section was ~~duly~~ authorised

further reading

Garner's Dictionary pp 299 (*duly authorised*), 926 (weasel words)
Howard's Handbook p 144

duration

see—for the duration of

during

usage—consider alternatives

try—*in / for / throughout* / ► *when* / ► *while*

extra information

- 1 Consider using *throughout* if the law needs to make it clear that something needs to continue to be the case, or continue to happen regularly, during a period.

examples of no change

- 1 if the direction is given during the journey of the vehicle
- 2 a period during which an employee was absent

examples of change

- 1 dividing the total number of hours worked by the employee ~~during~~ in the year by 52
- 2 the number of claims received ~~during~~ in the previous month
- 3 ~~During a period for which any~~ when a public baths has been reserved for the exclusive use of an organisation
- 4 an employer who pays or is liable to pay taxable wages ~~during~~ throughout that financial year

during such time as / during the time that

usage—never use

try—► *while* / *as long as* / ► *during*

extra information

- 1 verbosity

further reading

Garner's Dictionary p 300

Gowers' Plain Words p 60
 Longman English Usage p 228 (*during*)

during the course of



usage—never use

try—▶ *while* / ▶ *during*

extra information

1 verbosity

examples of change

- 1 This section does not prohibit a person, ~~during the course of proceedings~~ during a proceeding, publishing or otherwise disclosing
- 2 at the commencement or during ~~the course~~ of the tenancy

further reading

Garner's Dictionary p 300
 Longman English Usage p 228 (*during*)

during which



usage—consider alternatives

try—▶ *when*

extra information

1 compound preposition

examples of no change

- 1 A direction takes effect at the end of the period during which it is disallowable.
- 2 any part of the proceeding during which evidence or information is given

example of change

- 1 the hours of the day ~~during which~~ when

duty



usage—consider alternatives

try—*function* / recasting (using ▶ *must*) / *role* / *obligation*

extra information

- 1 *Function* is defined in the LA, dict., pt 1 to include authority, duty and power (see also def *exercise*).
- 2 Prefer *function* to *duty*, except to refer exclusively to an obligation.
- 3 See also Drafting Practice Guide, ch 14, 'functions powers and duties and their exercise'.
- 4 *Duty* may be used to describe a tax imposed on goods or transactions.

examples of no change

- 1 A tax default does not happen for the Taxation Administration Act if duty is paid within 90 days after the liability to pay it arises.
- 2 A person can have more than 1 duty if the person is in more than 1 class of duty-holder.

examples of change

- 1 ~~It is the duty of the insurer to make payments to the claimant. The insurer must pay the claimant.~~
- 2 the ~~duties~~ functions of an inspector under this Act include the following

dwell**usage**—never use**try**—*live* / ► *reside* / recasting**extra information**

- 1 formal word for *live* (as a resident).
- 2 becoming an archaism for *live*

examples of change

- 1 members of the same association work or ~~dwelt in~~ live in the same premises
- 2 the child or young person is allowed to ~~dwelt~~ reside permanently in Australia

further reading

Fowler's English Usage p 234
 Longman English Usage p 229
 Partridge p 32 (archaism)

dwelling**usage**—consider alternatives**try**—► *house* / *home* / recasting (using, eg *place where the person lives* / *usually lives* / ► *resides*)**extra information**

- 1 *Dwelling* is used frequently in planning and development law in the ACT.
- 2 In other legislation use an alternative if possible.
- 3 See also Drafting Practice Guide, ch 14, 'home and business address'.

examples of no change

- 1 a variation to limit the number of dwellings permitted on the land under the lease
- 2 if the works assessor or building surveyor assesses that a single dwelling is exempt under schedule 1
- 3 a parcel of land or dwelling is taken to be rented if it is rented on the 1st day of a quarter

examples of change

- 1 the chief veterinary officer may, in writing, direct an authorised person or someone else to destroy infected premises (other than a ~~dwelling~~ place where a person usually lives)
- 2 take reasonable steps to ensure that each child does not enter a private ~~dwelling~~ home

further reading

Garner's Dictionary p 301 (*dwelling*)

dwelling house



usage—avoid using

try—► *house / home / dwelling* / recasting (using, eg *place where the person lives / usually lives / ►resides*)

extra information

- 1 formal word
- 2 *Dwelling house* has an established legal meaning. It is used in defined terms in the *Planning and Development Act 2007*, the *Crimes Act 1900* and the *Administration and Probate Act 1929*.

examples of no change

- 1 this Act applies to a single dwelling house lease granted by the planning and land authority
- 2 a partner may require the personal representative of the intestate to have the interest in the dwelling house valued

example of change

- 1 This regulation does not apply to machinery used only ~~in or about a dwelling house~~ at a home for domestic purposes.

further reading

Butterworths Legal Dictionary p 399 (*dwelling house*)

Garner's Dictionary p 301 (dwelling house; usual place of abode)

E

each



usage—consider alternatives

try—*a / an / the* / ► *all* / omitting / recasting

extra information

- 1 *Each* should be used only when necessary.
- 2 If the subject of the sentence is plural, it is almost never necessary to use *each*. If the subject is singular, use *each* only if the meaning of the sentence would be unclear without it, eg use of *a* would allow the unintended interpretation that an obligation is discharged by applying it to a single member of a class rather than any or all of them.
- 3 If *each* is the subject of a sentence, the verb is singular and so is any pronoun, eg ‘Each student has a room to herself’. If a plural noun or pronoun is the subject, with *each* in opposition, the verb is plural, eg ‘They have a room each’.
- 4 If singular nouns linked by *and* are accompanied by *each*, the verb is singular, eg ‘Each student and graduate is entitled to attend the ceremony’.
- 5 Avoid using *between* with *each*.
- 6 See also *on each occasion when*

example of no change

- 1 if the owner (or an owner) of the brothel or escort agency is an individual—the name and home address of each individual who is an owner

example of change

- 1 ~~The receipts~~ A receipt must ~~each~~ be made in triplicate.

further reading

Cambridge Guide pp 30–1 (1. verb–subject agreement)

Fowler’s English Usage p 235

Garner’s Dictionary pp 301–2

Gowers’ Plain Words pp 108 (*between each*), 129–30

Howard’s Handbook p 146 (each; each and every; each other/one another)

Partridge p 99

Working Words p 196

earnt



usage—never use

try—*earned*

extra information

- 1 generally regarded as non-standard English

example of change

- 1 the value of any income ~~earnt~~ earned from the asset

further reading

Fowler’s English Usage p 236 (*earn*)

Howard’s Handbook p 146 (*earned/earnt*)

easterly (direction) / eastwardly /eastward(s)



usage—consider alternatives

try—*east / eastward / eastwards / eastern*

extra information

- 1 *Easterly* is appropriately applied to winds, airstreams, currents etc, and means ‘from the east’. It is also appropriately used to modify words implying motion or a position (notionally) arrived at by previous motion.
- 2 Do not use *in an easterly direction*. Substitute *east* or *eastwards*.
- 3 Use *eastward* as an adjective.
- 4 As an adverb, prefer *eastwards*. However, for the increasing trend not to use an ‘s’ in words ending in ward(s), see *forward/forwards*.

examples of no change

- 1 the easterly prolongation of a line parallel to, and 5m southerly from, a stone retaining wall
- 2 the eastern region of the State

examples of change

- 1 ending ~~in an easterly direction~~ east of Tyagarah Street
- 2 The ~~easterly~~ eastern side of Coulter Drive.

further reading

Cambridge Guide pp 238–9 (*east, eastern* or *easterly*), 552-3 (*north, northern* and *northerly*), 748—9 (*south, southern* and *southerly*), 849–50 (*-ward* or *-wards*), 854-5 (*west, western* or *westerly*)
 Fowler’s English Usage pp 236 (*easterly* etc) and (*eastward*), 528 (*northward(s)*)
 Garner’s Dictionary pp 278 (directional words), 924 (*-ward(s)*), 927 (*westerly*)
 Howard’s Handbook pp 268-9 (North/north; Northern/northern; northward/northwards/northerly...)
 Longman English Usage pp 231 (*eastward*), 478 (*north, northern*) and (*northward(s)*), 664 (*southward(s)*), 762 (*-ward(s)*), 767 (*westwards*)
 Partridge pp 100 (*easterly* and *eastern*), 216 (*northward; northwards*), 317 (*southward; southwards*)

economic / economical



usage—consider alternatives

try—*financial*

extra information

- 1 *Economic* is used for matters related to economics and the structure of the economy at large. Garner (Garner’s Redbook) suggests that *financial* should be used when writing about a company’s or household’s money. *Economical* is used for economy measures by which extravagance and waste are avoided.

examples of no change

- 1 a statement of the economic or other assumptions used to make the budget estimates
- 2 ensure that legal assistance is provided in the most effective, efficient and economical way

example of change

- 1 provides ~~an economic~~ a financial incentive to undertake activities resulting in the reduction of greenhouse gas emissions by imposing a penalty on greenhouse gas emitters

further reading

Cambridge Guide pp 240-1
 Garner's Dictionary pp 303, 899 (*uneconomic(al)*)
 Gowers' Plain Words p 223
 Howard's Handbook p 148
 Longman English Usage p 232
 Partridge p 101

effect

usage—consider alternatives

try—do / produce / is / applies / force / make / operate / begin / ►start / outcome / ►affect / ►result / omitting / recasting (using more precise words)

extra information

- 1 vague word
- 2 Do not use *effect* for *make*.
- 3 Use as a noun is more acceptable than as a verb.
- 3 For the use of *effect* and *affect*, see *affect*.
- 5 Prefer *in force* to *in effect* when referring to legislation.
- 6 See also affect; *to the effect that*.

examples of no change

- 1 The order ceases to have effect.
- 2 an effective, efficient and accountable system of local government
- 3 describing the general effect of the recommendation
- 4 the effectiveness and efficiency of the maritime industry
- 5 exercise effective control of a motor vehicle

examples of change

- 1 This section ~~has effect~~ is subject to section 10.
- 2 section 11 ~~has effect~~ applies
- 3 until a further valuation ~~takes effect for~~ applies to the land
- 4 if an amendment ~~has the effect of changing~~ changes a rate
- 5 Service of a document by post may be ~~effected~~ made by properly addressing, prepaying and posting the document as a letter.

further reading

Cambridge Guide p 27 (*affect* or *effect*)
 Fowler's English Usage p 31 (*affect, effect*)
 Garner's Dictionary p 34 (*affect; effect*)
 Garner's Legal Style p 101 (*affect; effect*)
 Howard's Handbook p 12 (*affect/effect*)
 Longman English Usage p 23 (*affect, effect*)
 Partridge p 8 (*affect* and *effect*)
 Working Words p 21 (*affect/effect*)

effectual



usage—never use

try—*effective* / ► *adequate* / *satisfactory* / recasting

extra information

1 formal word

example of change

1 an instrument ~~is not effectual in passing~~ does not pass any interest in land until the instrument is entered on the register

effort

see—*in an effort to*

eg



usage—consider alternatives

try—*for example* / recasting

extra information

- 1 For the use of *eg* and *ie*, see *ie*.
- 2 Abbreviations such as *eg* can be freely used in legislation in notes, tables and non-text examples where brevity is of particular importance.
- 3 A comma or another punctuation mark (eg an opening bracket or dash) should usually be used before *eg*. A comma should not be used after *eg*.
- 4 Use without full stops.
- 5 See Drafting Practice Guide, ch 16.3 ‘Abbreviations and contractions—*eg* / *ie* / etc’

example of no change

1 defines terms used for offences to which the Code applies (eg *conduct*, *intention*, *recklessness* and *strict liability*).

further reading

Asprey p 162
 Cambridge Guide pp 244-5
 Fowler’s English Usage p 240
 Garner’s Dictionary p 307
 Garner’s Legal Style p 112 (*eg*; *ie*)
 Howard’s Handbook p 150 (*eg/ie*)
 Longman English Usage pp 234–5 (*eg*, *ie*)
 Working Words p 200 (*eg/ie*)

either ... or



usage—consider alternatives

try—recasting

extra information

- 1 *Either ... or* requires proper balancing of the sentence.
- 2 Avoid using *either* for more than 2 choices because *either* suggests a duality.
- 3 When using *either ... or*, make sure the words are in their right positions and carry equal weight. Nothing that comes between *either* and *or* can be regarded as applying to anything after *or*, it must come before *either*; if it does not come before *either*, it must be repeated after *or*. See example of change 1.

example of no change

- 1 the power of attorney has been revoked, either completely or in relation to the person purporting to exercise power under the power of attorney

example of change

- 1 The registrar must ensure ~~either~~ the relevant document is either published on the approved website or available for inspection at the registrar's office.

further reading

Garner's Legal Style pp 45 (*either*), 66, 67, 128–9 (*either...or*)
 Gowers' Plain Words p 102
 Howard's Handbook pp 150-1 (*either*)
 Working Words p 201

elect [also election]



usage—consider alternatives

try—*choose* / recasting (using ► *may*) / omitting

extra information

- 1 can be a formal word

example of no change

- 1 an election for members of the Legislative Assembly

examples of change

- 1 A person may ~~elect to~~ make a claim.
- 2 If the chair is not present at a meeting, the members present may ~~elect~~ choose a member present to preside.

elucidate



usage—never use

try—*clarify* / *explain*

extra information

- 1 formal word

example of change

- 1 if the record keeper unreasonably fails to ~~elucidate~~ explain the content of the record

further reading

Gowers' Plain Words p 223

emolument**usage**—never use**try**—*bonus / pay / wages / salary* / ► *remuneration / earnings / money / income / benefit / amount***extra information**

1 formal word

example of change1 wages or salary, including any fee, bonus, commission, overtime pay or other ~~emolument~~ amount payable in addition to wages or salary**further reading**

Butterworths Legal Dictionary p 413

Fowler's English Usage p 309 (formal words)

Garner's Dictionary p 370 (formal words)

Gowers' Plain Words p 223 (*emoluments*)**employ****[as use / apply]****usage**—never use**try**—*use / apply***extra information**1 Formal word for *use* or *apply*.**examples of change**1 A person must not ~~employ~~ use spurs with sharpened or fixed rowels on an animal.2 if the computer software can be ~~employed~~ applied without modification**further reading**

Garner's Dictionary p 370 (formal words)

Gowers' Plain Words p 223

empower**usage**—never use**try**—recasting (using ► *may*) / ► *permit / allow* / ► *authorise***extra information**

1 formal word

examples of change1 subsection (1) does not ~~empower~~ authorise the ombudsman to exercise any of the powers of the Commonwealth ombudsman2 a trustee may not retire, unless another person is ~~empowered to~~ may appoint trustees

enable



usage—consider alternatives

try—*allow* / recasting (using *for*)

extra information

- 1 formal word

example of no change

- 1 to enable people with disabilities to receive services that

examples of change

- 1 the notice must provide enough information to ~~enable~~ for the tree to be identified
- 2 The object of this Act is to ~~enable~~ allow the temporary operation of a supervised injecting place.

further reading

Gowers' Plain Words p 224

Longman English Usage p 242

enclose



usage—consider alternatives

try—*attach* / recasting (using, eg *inside* or *with*)

extra information

- 1 formal word

example of no change

- 1 the person covers or encloses a fire hydrant

example of change

- 1 place it in an envelope, seal the envelope and endorse it to indicate the kind of spoilt ballot paper ~~enclosed~~ inside the envelope

further reading

Gowers' Plain Words p 224 (*enclosed*)

Howard's Handbook p 152 (*enclose/inclose*)

Partridge p 107

encounter



usage—never use

try—*meet* / recasting

extra information

- 1 formal word

examples of change

- 1 the person wants to ~~encounter~~ meet an official visitor
- 2 a police officer ~~encounters the person or is otherwise~~ in a position to arrest the person but is not carrying the warrant at the time

endeavour



usage—never use

try—▶ *attempt* / *try* / recasting (using eg *reasonable steps*) / omitting

extra information

- 1 formal word
- 2 *Endeavour* may suggest more effort than *try* or *attempt*. If greater effort is required use *reasonable steps* or *all reasonable steps* (see Drafting Practice Guide ch 14, ‘reasonable steps’).

examples of change

- 1 the public advocate must ~~endeavour~~ attempt to find a suitable person to be appointed
- 2 the director-general must ~~endeavour~~ try to give the occupier of premises written notice of any action proposed
- 3 the council must ~~use its best endeavours~~ take reasonable steps to give each person
- 4 a transferor and a transferee must ~~endeavour to~~ assist each other in the provision of evidence

further reading

Fowler’s English Usage p 309 (formal words)
 Garner’s Dictionary pp 314–5, 370 (formal words)
 Gowers’ Plain Words p 18
 Howard’s Handbook p 146

enhance

[also enhancement]



usage—consider alternatives

try—*increase* / *improve* / *raise* (the value or price of)

extra information

- 1 formal word
- 2 *Enhance* may be applied to things, values, reputations.

examples of no change

- 1 the present generation should ensure that the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations
- 2 provided in ways that promote in the community a positive image of people with disabilities and enhance their self-esteem

example of change

- 1 equipment designed or adapted to provide or ~~enhance~~ improve security or for the protection or watching of any property

further reading

Fowler’s English Usage p 250
 Longman English Usage p 244

enjoin



usage—never use

try—*direct / order* / ► *require* / recasting (using, eg ► *must* / *prevent* / *stop*)

extra information

- 1 formal word
- 2 Technical legal word.

examples of change

- 1 The Supreme Court may, on application by the mortgagor, ~~enjoin~~ order the mortgagor ~~against starting or continuing~~ not to start or continue a proceeding.
- 2 A person must not ~~enjoin~~ require a crane, lift, hoist or scaffolding to be subject to a greater load than the load mentioned in this section.

further reading

Garner's Legal Style p 113
Longman p 244

enough

see—*sufficient*

enquire



usage—never use

try—*inquire* / *ask* / *question* / *investigate* / *query*

extra information

- 1 formal word
- 2 Like the use of *enquiry* and *inquiry*, there is not a completely settled practice in Australia for the use of *enquire* and *inquire* (see *enquiry*).
- 3 Use *inquire* rather than *enquire* in all contexts.

examples of change

- 1 an authorised person must ~~enquire into~~ investigate
- 2 A person dealing with a deputy registrar-general need not ~~enquire~~ ask whether the deputy registrar-general was subject to a direction of the registrar-general.

further reading

Cambridge Guide pp 411–12 (*inquiry* or *enquiry*, *inquire* or *enquire*)
Fowler's English Usage pp 252, 309 (formal words)
Garner's Dictionary p 452 (*inquire*; *enquire*)
Gowers' Plain Words p 224
Howard's Handbook p 154 (*enquire*/*inquire*/*enquiry*/*inquiry*)
Longman English Usage p 245 (*enquire*, *inquire*)
Partridge p 108

enquiry



usage—never use

try—*inquiry* / *investigation* / *recasting* (using, eg *asked* / *questioned* / *queried*)

extra information

- 1 There is not a completely settled practice in Australia for the use of *enquiry* and *inquiry*. However, *inquiry* is increasingly used for all applications. *Enquiry* appears to have formal overtones in Australia and appears to be limited in its use to single or ad hoc queries.
- 2 Use *inquiry* rather than *enquiry* in all contexts.

examples of change

- 1 This section applies if the official visitor is satisfied that the complainant cannot be found after reasonable ~~enquiry~~ investigation.
- 2 after inspection and ~~enquiry~~ inquiry by the officer or person

further reading

Cambridge Guide pp 411–12 (*inquiry* or *enquiry*, *inquire* or *enquire*)
 Fowler's English Usage p 252
 Gowers' Plain Words p 224
 Howard's Handbook p 154 (*enquire*/*inquire*/*enquiry*/*inquiry*)
 Longman English Usage p 245 (*enquire*, *inquire*)
 Partridge p 108

entail



usage—never use

try—*need* / ► *cause* / ► *impose* / ► *involve* / ► *require* / *recasting*

extra information

- 1 formal word with technical legal meaning

examples of change

- 1 the sentence will ~~entail~~ require a period of imprisonment
- 2 An affirmation has the same force and effect, and ~~entails~~ involves the same liabilities, as an oath.

further reading

Gowers' Plain Words p 225

enter / entry



usage—consider alternatives

try—*add to* / *include* / *put* / *write* / *note*

extra information

- 1 can be a formal word

examples of no change

- 1 The registrar-general must register a birth by making an entry in the register relating to the birth.
- 2 An authorised person may enter premises that the public is entitled to use.

example of change

1 The registrar must ~~enter~~ include the applicant's details in the register.

further reading

Gowers' Plain Words p 225

entered into

usage—consider alternatives

try—omitting

extra information

1 can be a redundancy

example of no change

1 A civil partnership may be entered into by any 2 adults.

example of change

1 the parties ~~who entered into~~ to the agreement

entitled to

see—is/are [not] entitled to

entitlement

usage—consider alternatives

try—*claim / right*

extra information

1 formal word

example of no change

1 a worker's entitlement to long service leave

example of change

1 the young detainee's ~~entitlements~~ rights and obligations under this Act

further reading

Gowers' Plain Words p 225

envisage

usage—never use

try—*consider / ►think / regard / recognise / realise / intend / plan / expect /*

►anticipate / recasting

extra information

1 formal word meaning to visualise

examples of change

1 A development application may ~~envisage~~ anticipate the undertaking of development in stages.

2 The transfer is to take place in the way ~~envisaged by~~ mentioned in section 60.

further reading

Fowler's English Usage p 254 (*envisage, envision*)

Garner's Dictionary pp 319–20 (*envisage; envision*)
 Gowers' Plain Words p 225
 Longman English Usage pp 246–7 (*envisage, envision*)
 Partridge p 108
 Working Words p 207 (*envisage/envision*)

equal

see—amount equal to (the)

equally as



usage—never use

try—*equally in / equally to*

extra information

1 non-standard English

examples of change

- 1 the partners in a firm are entitled to share ~~equally as to~~ equally in the capital and profits of the firm
- 2 other than a benefit that is available ~~equally as to~~ equally to all voting members of the club

further reading

Garner's Dictionary p 320 (*equally as*)
 Gowers' Plain Words p 225 (*Equally*)
 Howard's Handbook p 34 (*as*)
 Partridge p 37 (*as, equally*)

equitable



usage—consider alternatives

try—*fair / just / reasonable*

extra information

1 formal word with various legal meanings

examples of no change

- 1 This section applies if 2 or more people are beneficially entitled as tenants in common to an equitable estate in property.
- 2 Nothing in this Act affects any equitable jurisdiction to refuse relief.

example of change

1 Consultation should be open, ~~equitable~~ fair, respectful and transparent.

further reading

Butterworths Legal Dictionary p 425
 Longman English Usage p 248 (*equable, equitable*)
 Partridge p 109
 Working Words p 208 (*equable/equitable*)

equivalent



usage—consider alternatives

try—*equal / the same as / corresponding*

extra information

- 1 formal word
- 2 Something is *equivalent to* something else, or is the *equivalent of* it, but not *the equivalent to* it.

examples of no change

- 1 participation in any combination of the following that is equivalent to full-time participation in 1 education course
- 2 whether equivalent evidence or evidence of equivalent probative value could have been obtained by other means

examples of change

- 1 the public debt of the State less an amount ~~equivalent~~ equal to the sum of the balance standing to the credit of the State
- 2 the number of candidates nominated is the ~~equivalent to~~ the same as the number of candidates to be elected.

further reading

Gowers' Plain Words p 226

Longman English Usage p 249

erroneous



usage—never use

try—*wrong / incorrect / mistaken / false / recasting*

extra information

- 1 formal word

examples of change

- 1 there was an ~~erroneous~~ incorrect omission or understatement in an appropriation
- 2 a person does not know that conduct is ~~erroneous~~ wrong if the person cannot reason

escalate



usage—avoid using

try—*rise / expand / ►develop / increase / grow*

extra information

- 1 formal word
- 2 *Escalate* properly means increase step by step and is often overused.

example of no change

- 1 understanding the aggravating circumstances that escalate the behaviour

example of change

- 1 if the leak or spill has the potential to ~~escalate~~ develop into fire, explosion or release of toxic materials

further reading

Garner's Dictionary pp 325, 919 (vogue words)
 Garner's Legal Style p 33
 Gowers' Plain Words pp 40, 88, 226

escrow

usage—never use

try—recasting

extra information

- 1 technical legal word
- 2 Recast in whichever of the following ways is appropriate:
 - *for a conditional deed:*
a deed takes effect only when X [the condition] is satisfied.
 - for a third party holding a deed on trust:
A third party holds a deed until Y [the condition] is satisfied.

examples of change

- 1 Exploration rights ~~to be held in escrow in certain circumstances~~ must not be granted unless agreement is given in the following circumstances
- 2 ~~On deposit of the conveyance with the public trustee and guardian the conveyance is taken to be delivered by the vendor in escrow pending discharge of the contract by performance or otherwise. A conveyance that is given to the public trustee and guardian must be held on trust until the contract is discharged by performance or otherwise.~~

further reading

Butterworths Legal Dictionary pp 429–30
 Garner's Dictionary p 326

establish

usage—consider alternatives

try—*show / find out / set up / form / prove* / recasting

extra information

- 1 *Establish* is defined in LA, dict, pt 1.
- 2 Use *establish* when legislation creates an advisory or administrative body to perform functions set out in the legislation.

example of no change

- 1 The Work Safety Council is established.

examples of change

- 1 The director-general must assist the community to ~~establish~~ set up programs for the protection of children.
- 2 It is a defence to the publication of defamatory matter if the defendant ~~establishes~~ proves that the defamatory imputations

further reading

Gowers' Plain Words p 226

estate



usage—consider alternatives

try—*interest* / recasting

extra information

- 1 *Estate* is broadly defined in LA, dict, pt 1.
- 2 technical legal word, with archaic overtones
- 3 Do not use *estate* or *interest*.

examples of no change

- 1 grant probate of the will, or administration of the estate
- 2 the part of the person's estate that includes stock bearing the mark is finalised

example of change

- 1 adversely affecting, or likely to affect adversely, the ~~estate or~~ interest of the mortgagor

further reading

Butterworths Legal Dictionary p 430

Fowler's English Usage p 264

Garner's Dictionary p 328

estop



usage—avoid using

try—*stop* / *prevent* / *hinder*

extra information

- 1 technical legal word
- 2 For the use of *stop*, see *cease*.

example of no change

- 1 If a person acts honestly on a matter stated in a certificate, then, in an action by or against the body corporate, the body corporate is estopped, as against that person, from denying the truth of that or any other matter stated in the certificate.

example of change

- 1 that there are exceptional circumstances that ~~estopped~~ prevented completion before 1 July 2011

further reading

Butterworths Legal Dictionary p 431 (*estop*) and (*estoppel*)

Garner's Dictionary p 328

etc



usage—consider alternatives

try—omitting / recasting

extra information

- 1 Use *etc* without commas before or after and without a full stop at the end.

- 2 Use *etc* only in provision headings and notes. Use *etc* sparingly and with care in provision headings to avoid overloading provisions. If it is necessary to use *etc* in a provision heading, always consider whether the provision should instead be broken up.
- 3 Do not use *etc* in chapter, part, division or subdivision headings.
- 4 Do not use *etc* at the end of a list preceded by ‘including’, ‘for example’, ‘such as’ or a similar expression.
- 5 Do not use *and* before *etc*.

example of no change

- 1 Offences against Act—application of Criminal Code etc

further reading

Cambridge Guide pp 269-70
 Fowler’s English Usage p 265
 Garner’s Dictionary p 329
 Garner’s Legal Style pp 113-4
 Howard’s Handbook pp 156-7
 Longman English Usage p 253
 Partridge pp 27 (*and etc.*), 109
 Working Words p 211

even if / though



usage—consider alternatives

try—*even if / even though* / recasting (using, eg ► *whether or not*)

extra information

- 1 As a general rule, *even* should be placed immediately before the word it qualifies:
 - Julia did not *even* see Tony last night
 - Julia did not see *even* Tony last night
 - Julia did not see Tony *even* last night.
- 2 Although *even though* and *even if* are increasingly used as interchangeable terms (even the Macquarie Dictionary states that *though* can mean *even if* and *if* can mean *even though*), some argue that *even though* should only be used when referring to a fact, and *even if* should be used when referring to a possibility, as in the examples below.

examples of no change

- 1 A test may be carried out on an item even if it may result in the destruction of, or damage to, the item.
- 2 The Supreme Court may make an order under subsection (4) even though the party is not in the ACT or Australia.

examples of change

- 1 An affidavit made by a witness is admissible as evidence ~~even though~~ if the witness does not attend the proceeding.
- 2 the person may install the component in an aircraft ~~even if~~ whether or not the person ~~does not satisfy~~ satisfies the requirements in section 32 (a) and (b)

further reading

Cambridge Guide pp 273-4
 Gowers’ Plain Words pp 95, 97

Longman p 255
 Partridge p 112
 Working Words p 213

event

see—in the event that / of

every



usage—consider alternatives

try—*a / an / the* / ► *all* / omitting / recasting (using, eg ► *each* or ► *any*)

extra information

- 1 *Every* should be used only when necessary. See *each* for further information.
- 2 *Every* takes a singular verb. This rule applies even where *every* is used with singular nouns linked by *and*, eg ‘Every school and university was closed that day’.
- 3 Avoid using *between* with *every*.
- 4 See also *in every case*.

example of no change

- 1 at least once every 12 months

example of change

- 1 ~~Every~~ A reference in a document to the Legislative Assembly secretariat is to be read as a reference to the office, except in relation to anything that happened before this Act commenced.

further reading

Cambridge Guide p 274
 Gowers’ Plain Words pp 108 (use of *between* with *every*), 129, 150
 Howard’s Handbook p 159
 Longman p 256
 Working Words p 213 (*every/everybody/everyone*)

evidence

see—proof

evident



usage—avoid using

try—*clear / plain* / ► *obvious* / recasting

extra information

- 1 formal word

example of no change

- 1 ensure that the container is sealed with a tamper-evident seal that has a unique identifying number marked on it

examples of change

- 1 The Legislative Assembly wishes to enact legislation in accordance with the COAG agreement in recognition of the ~~evident~~ clear need for laws to combat terrorism.
- 2 if the seller sends the goods to the buyer before ~~the matters mentioned in subsection (1) become evident~~ finding out about the matters mentioned in subsection (1)

evolve

usage—consider alternatives

try—*change* / ► *develop* / omitting

extra information

- 1 *Evolve* means a process of natural change or development that is gradual and usually self-generated.

examples of no change

- 1 *flashpoint*, of a liquid, means the temperature at which the liquid first evolves vapour in a sufficient quantity to be ignited
- 2 A wilderness area must be managed to preserve its capacity to evolve in the absence of significant human interference.

example of change

- 1 the capacities of children may ~~evolve~~ develop as they mature

further reading

Gowers' Plain Words p 227

examine

usage—consider alternatives

try—*check* / *consider*

examples of no change

- 1 examine and cross-examine witnesses
- 2 a thing found at premises entered under a warrant may be moved to another place for examination or processing

examples of change

- 1 the police officer must ~~examine~~ check the person's identification
- 2 The commissioner must ~~examine~~ consider the application

exceed**[also exceeding]**

usage—consider alternatives

try—*over* / ► *greater than* / *heavier than* / *larger than* / *longer than* / ► *more than* / ► *older than* / recasting (using *at least*)

extra information

- 1 Use a more specific alternative if appropriate.
- 2 See also *does not exceed*; *not exceeding*; *in excess of*.

examples of no change

- 1 a concentration of alcohol in the person's blood that exceeds the amount permitted by an ACT law
- 2 if the campaign costs for the campaign are likely to exceed \$40 000

example of change

- 1 it may extend that period by a further period not ~~exceeding~~ longer than 28 days

except

usage—consider alternatives

try—*other than / but /* ► *excluding / apart from / unless / recasting (using ► only or ► however)*

extra information

- 1 Use *except* or *other than* consistently.
- 2 See also *except as otherwise provided; except as provided in; except where a contrary intention appears*.

examples of no change

- 1 the person must not sell a stated declared fuel by retail to anyone, except on stated days and at stated times
- 2 No-one may be deprived of liberty, except on the grounds and in accordance with the procedures established by law.

examples of change

- 1 the interim order (~~except~~ other than an interim workplace order) may do something mentioned in section 48 (2)
- 2 within 7 days after the day the offender stops being in government custody (~~except~~ excluding days in government custody)

further reading

Longman English Usage p 257

Partridge p 114

except as otherwise provided

usage—never use

try—omitting / recasting (to identify the exceptions)

extra information

- 1 legalese
- 2 General expressions like *except as otherwise provided* are very unhelpful to readers, lead to loose drafting, and may give rise to legal uncertainty. The provisions that are the exceptions should be identified as precisely as possible.
- 3 See also *subject to*.

example of change

- 1 an appropriation must not, ~~except as otherwise provided in this section~~, be made in relation to a settled legacy, share or interest unless 1 of the following consents in writing

further reading

Garner's Dictionary p 601 (notwithstanding anything to the contrary contained herein)

except as provided in



usage—never use

try—► *subject to* / omitting / recasting

extra information

- 1 legalese
- 2 Expressions like *except as provided in/prescribed by* are technical drafting devices used to indicate that there are exceptions to a provision and what the exceptions are but they have appropriate alternatives (see *subject to*). To avoid the problems of elegant variation, they should never be used.

example of change

- 1 ~~Except as provided in subsection (4), a ship does not include a seaplane~~
 - (1) A ship does not include a seaplane.
 - (2) However,....

exception

see—with the exception of

except where a contrary intention appears



usage—avoid using

try—► *unless the contrary intention appears* / *except to the extent that a contrary intention appears* / recasting

extra information

- 1 legalese
- 2 General expressions like *except where/if the contrary intention appears* are technical drafting devices that are rarely necessary. If a general expression is necessary, an appropriate alternative may include *unless the contrary intention appears*.
- 3 If the extent to which some statutory concept applies is dependent on the extent of the contrary intention then the use of *except to the extent that a contrary intention appears* may be justified. See LA, s 155 (Definitions apply subject to contrary intention).

examples of change

- 1 ~~except where a contrary intention appears~~ unless a contrary intention appears in the will—
- 2 This section applies to a trust ~~except where a contrary intention appears~~ except to the extent that a contrary intention appears in the trust instrument.

excess

see—in excess of

excessive number of



usage—never use

try—*too many / excessive*

extra information

- 1 verbosity

examples of change

- 1 a capital contribution charge imposed by the respondent is ~~an excessive number~~ excessive
- 2 if ~~an excessive number of~~ too many members are appointed or elected

further reading

Garner's Legal Style p 183

excluding



usage—consider alternatives

try—*apart from / other than / ►except*

extra information

- 1 Use *excluding* or *other than* consistently.

example of no change

- 1 within 7 days after the day the offender stops being in government custody (excluding days in government custody)

example of change

- 1 If semen used in the procedure was produced by a man ~~excluding~~ other than the woman's domestic partner

further reading

Gowers' Plain Words p 227

exclusively



usage—consider alternatives

try—►*only*

examples of no change

- 1 trust money deposited in a general trust account of the practice exclusively for the person on whose behalf it is received
- 2 born with reproductive organs or sex chromosomes that are not exclusively male or female

example of change

- 1 words indicating that the person will sell fuel ~~exclusively~~ only to people who operate an account with, or who are regular customers of, the business

further reading

Gowers' Plain Words p 227

execute



usage—consider alternatives

try—► *carry out* / ► *perform* / *sign* / *make* / *enforce* / ► *complete* / recasting

extra information

- 1 formal word
- 2 *Execute* has technical legal meanings.

example of no change

- 1 The warrant may be executed according to its terms.

examples of change

- 1 An order or direction of the court or tribunal addressed to all escorts may be ~~executed~~ carried out by any escort.
- 2 A power of attorney does not authorise an attorney to ~~execute~~ sign an assurance or other document, or do anything else, that would result in a benefit being given to the attorney.

further reading

Asprey p 118
Butterworths Legal Dictionary p 444
Garner's Dictionary p 337

executor

see—*heirs, executors, administrators, successors and assigns*

exhibit



usage—consider alternatives

try—*show* / *display* / recasting

extra information

- 1 Can be a formal word for *show* or *display*.
- 2 *Exhibit* also has a technical legal meaning of an object received in evidence when tendered by a party to the proceeding.

example of no change

- 1 This section does not apply in relation to the inspection of an exhibit by the court or, if there is a jury, by the jury.

example of change

- 1 Before any vote is taken in the election, the OIC must, in the presence of any scrutineers, ~~exhibit~~ show that the ballot box for the election is empty

further reading

Butterworths Legal Dictionary pp 446-7

expedient



usage—never use

try—▶ *appropriate / suitable / convenient / omitting*

extra information

- 1 Formal word with negative overtones.

examples of change

- 1 if the court considers it ~~necessary or expedient~~ appropriate to do so
- 2 if ~~necessary or expedient~~ in the public interest

expedite



usage—avoid using

try—recasting (using, eg *quickly*)

extra information

- 1 formal word

example of no change

- 1 the court has already ordered that the trial be expedited or listed as a special fixture

example of change

- 1 if the mediator considers that it would ~~expedite the reaching of an~~ help the parties to reach agreement more quickly on any matter that is the subject of mediation

further reading

Garner's Dictionary p 370 (formal words)
Gowers' Plain Words p 227

expeditiously



usage—never use

try—*quickly / promptly / immediately / as soon as possible / practicable*

extra information

- 1 formal word
- 2 'Quickly' or 'promptly' is unlikely to be precise enough when imposing a legislative obligation. See *as soon as possible / practicable*.

example of change

- 1 a court may take into account whether it was in the public interest in the circumstances for the matter published to be published ~~expeditiously~~ quickly

further reading

Gowers' Plain Words p 228

expend [also expenditure]



usage—avoid using

try—*spend / pay / recasting* (using *costs* as a noun)

extra information

1 formal word

examples of no change

1 income and expenditure

2 ***expected sinking fund expenditure*** means expenditure for the following purposes that the owners corporation reasonably expects will be necessary to maintain in good condition the common property and any other property it holds:

3 ***contribution***, by a licensee, includes the value of a contribution made in kind by the licensee, but does not include expenditure on commercial activities.

example of change

1 ~~expend~~ spend money for the repair, maintenance or renovation of property;

further reading

Garner's Dictionary pp 340, 370 (formal words)

expire



usage—consider alternatives

try—*end / ceases to have effect / die / stop*

extra information

1 formal word

2 *Expire* is used to describe legislation coming to an end (see LA, s 82, def *repeal*).

example of no change

1 This part expires 3 years after the day it commences.

example of change

1 An acting appointment ~~expires~~ ends if the appointee resigns by signed notice of resignation given to the appointer.

further reading

Cambridge Guide p 280 (*expiry* or *expiration*)

Garner's Dictionary pp 341, 370 (formal words)

exportation



usage—avoid using

try—*export*

extra information

1 *Exportation* means the act of exporting.

2 *Exportation* can be a verbose way of saying export.

3 Generally prefer *export*.

4 See also *import*.

example of no change

- 1 *exportation from the Territory* does not include exportation to Australia or to another Territory

example of change

- 1 an offence that involves the illegal importation or exportation ~~import or export~~ of fauna into or out of Australia

expressed

usage—consider alternatives

try—► *stated* / recasting / omitting

example of no change

- 1 an electricity supplier's energy savings obligation must be expressed as a number of tonnes of carbon dioxide

example of change

- 1 the amount ~~expressed~~ stated in the contract

expression

see—the expression

expunge

usage—never use

try—*strike out / delete* / ► *cancel / destroy* / ► *remove*

extra information

- 1 formal word

example of change

- 1 the record was ~~expunged~~ destroyed [*or deleted*]

extend

usage—consider alternatives

try—*give*

examples of no change

- 1 The Minister may extend the time for making an objection.
- 2 An example in an Act or instrument...may extend, but does not limit, the meaning of the Act or instrument.

example of change

- 1 ~~extend~~ give credit

further reading

Garner's Dictionary p 370 (formal words)

Gowers' Plain Words p 228

extent

see—to the extent that

extinguish

usage—consider alternatives

try—*end / put out / ►remove*

extra information

- 1 formal word
- 2 For the use of *end*, see *cease*.

example of no change

- 1 held that native title rights may be extinguished by valid government acts

examples of change

- 1 the right to recover the amount ~~is extinguished~~ ends
- 2 fails to contain or ~~extinguish~~ put out a fire that was lit by the person

F

facilitate



usage—consider alternatives

try—*help* / ► *assist* / *encourage*

extra information

- 1 formal word
- 2 *Facilitate* means to help to bring about. You facilitate what is being done, eg ‘We used the database to facilitate a search for consequential amendments’. You do not facilitate the people who are doing something, eg ‘We were assisted in our search for consequential amendments by the database’ [*or* we used the database to do a search for consequential amendments].
- 3 For the use of *help* and *assist*, see *assist* / *assistance*.

examples of no change

- 1 the cost of connecting the generator to the network, including any network augmentation that was required to facilitate the connection
- 2 The underlying principles of this Act are...to facilitate a national approach to the control of firearms.

example of change

- 1 The registrar may do anything else to ~~facilitate~~ assist the hearing of the application that the registrar considers appropriate.

further reading

Gowers’ Plain Words p 228

Working Words p 220

facility



usage—consider alternatives

try—recasting (using more precise words)

extra information

- 1 vague word

examples of no change

- 1 a residential aged care facility that accommodates a person with disability who is less than 65 years old
- 2 an overdraft or credit facility

examples of change

- 1 ~~educational facility~~ school
- 2 ~~a banking facility~~ an authorised deposit-taking institution

further reading

Cambridge Guide p 283 (*facility* or *faculty*)

facsimile / facsimile transmission



usage—never use

try—*fax / copy / true copy / exact copy*

extra information

- 1 *Fax* is now standard English and is perfectly appropriate in formal contexts.
- 2 *Fax* is both a noun and a verb, and describes—
 - a document sent by fax
 - the method of transmission (including the scanning of the original document and the printing of the transmitted data to produce an exact copy of the original document)
 - a machine that transmits faxes, and
 - the sending of a document by fax.

examples of change

- 1 an authorised person may apply for a warrant by phone, ~~faecsimile~~ fax, radio or other form of communication
- 2 a ~~faecsimile~~ copy of the registrar-general’s signature produced by a stamp, machine imprint or any other method prescribed by regulation
- 3 the person certified the copy as a ~~faecsimile~~ true copy
- 4 a statement certifying that the electronic copy is a ~~faecsimile~~ an exact copy of the text of the subordinate law as made

further reading

Fowler’s English Usage p 288 (*fax*)

Garner’s Dictionary p 350 (*fax*)

Working Words p 222 (*fax*)

fact

see—the fact that

factor



usage—consider alternatives

try—recasting (using more precise words)

extra information

- 1 The traditional meaning of *factor* is something contributing to a particular result. *Factor* has, however, come to be used as an omnibus word and as a substitute for words such as circumstance, component, consideration, constituent, element, event, fact, feature or happening.
- 2 *Factor* should be used in its traditional sense. For other meanings, prefer more precise words.
- 3 *Factor* also has a technical legal meaning. It means a commercial agent, entrusted with possession of the goods of another to sell in the person’s own name as apparent owner, remunerated by commission (Butterworths Legal Dictionary). However, this meaning is not widely known so it is preferable to use a defined term in this context.

example of no change

- 1 the asbestos-related disease was a contributing factor to the person’s death

example of change

- 1 An offer to settle is a ~~factor~~ circumstance that must be taken into account by the court.

further reading

Butterworths Legal Dictionary p 456

Fowler's English Usage p 281

Garner's Legal Style pp 114, 205

Gowers' Plain Words p 4

fail to / fail to comply

usage—consider alternatives

try—*contravene* / recasting (using ► *must not*) / *does not*

extra information

- 1 LA, dict, pt 1 defines *contravene* as including fail to comply with and *fail* as including refuse.
- 2 See Drafting Practice Guide, ch 14, 'fail to comply with and contravene'.

example of no change

- 1 the corporation's failure to collect the insurance premium in full

examples of change

- 1 The Minister may remove all or any members of the corporation if it ~~fails to~~ does not comply with its obligations under the Act.
- 2 If an insurer ~~fails to~~ does not make a payment

further reading

Gowers' Plain Words p 228

far

see—*as / so far as ... is / are concerned; in so far as / insofar as*

farther / farthest

see—*further / farther*

favour

see—*in favour of*

feasible

usage—consider alternatives

try—► *practicable / possible*

extra information

- 1 *Feasible* means practicable or capable of being done. It should not be used to mean probable or plausible.

example of no change

- 1 The conduct may be engaged in if there is no feasible or prudent alternative.

example of change

- 1 it is more ~~feasible~~ practicable to do so having regard to the timeliness and cost of examining or processing the thing

further reading

Garner's Legal Style p 144 (*viable*)
 Gowers' Plain Words p 228
 Working Words pp 222–3

feature

usage—consider alternatives

try—recasting (using more precise words)

extra information

- 1 Avoid using *feature* as a verb in the sense of to offer as a special attraction.

examples of no change

- 1 to contribute to social or cultural features in the ACT
- 2 *identifying particulars* includes any noticeable distinguishing marks or features

example of change

- 1 including a person ~~featured~~ mentioned in the report

further reading

Longman English Usage p 273

feedback

usage—avoid using

try—*answer / response / recasting*

extra information

- 1 vogue word
- 2 *Feedback* has certain technical meanings in electronic, mechanical and biological systems.

example of no change

- 1 *automatic biocide dosing device* means a device that automatically discharges a measured amount of biocide to a cooling water system using a feedback control loop or timer.

examples of change

- 1 The forum should ensure that opportunities are provided for ~~feedback~~ responses about the area of interest discussed.
- 2 The provider must give information to service consumers about how ~~feedback~~ comments on the service may be given to the service provider.

further reading

Gowers' Plain Words pp 228–9
 Longman English Usage p 274

fewer



usage—consider alternatives

try—► *less*

extra information

- 1 *Fewer* relates to number. *Less* relates to degree, quantity or extent.
- 2 A good rule of thumb is to use *fewer* with plural nouns (eg *fewer* people, worries etc) and *less* with singular nouns (eg *less* land, boredom etc). The same rule of thumb applies to *fewer than* and *less than*.
- 3 Measurements (eg money, time, distance and weight), although expressed in the plural, are thought of as single units and require *less than* (eg to pay *less than* \$100 and weigh *less than* 30g).
- 4 Alternatively, *less* applies to mass nouns (ie nouns almost always used in the singular because they refer to concepts, substances or quantities with no clear-cut boundaries, eg salt, butter, honesty and education) and *fewer* applies to count nouns (ie nouns that refer to things that can be counted and so can be pluralised, eg cars, books, people and offices).
- 5 However, *less* is gradually replacing *fewer* in most contexts and the issue of using *fewer* rather than *less* is now more a matter of style than grammar. Using *fewer* is more formal than using *less*.
- 6 Note that it is necessary to write *a smaller number* or *fewer* rather than *a fewer number*. Garner (Garner's Redbook) states that it is redundant to say *a fewer number* because the sense of a number is included in the meaning of *fewer*.
- 7 See also *not fewer than*.

examples of no change

- 1 the premises have fewer than 12 rooms
- 2 A container must be fixed to the floor with no fewer than 2 anchor bolts.

example of change

- 1 The appointment must be for the term stated in the appointment, which must be no ~~fewer~~ less than 7 years.

further reading

Cambridge Guide pp 292-3 (*fewer* or *less*)

Garner's Legal Style pp 123-4

Gowers' Plain Words p 241

Howard's Handbook p 167 (*fewer/less*)

Working Words pp 223-4

field



usage—consider alternatives

try—recasting (using more precise words) / omitting

extra information

- 1 Avoid using *field* as an omnibus word. See *kind* for extra information.

example of no change

- 1 people with experience or expertise in a field the commissioner considers relevant

example of change

- 1 to conduct an educational institution to foster excellence in ~~the fields of~~ technical and further education

further reading

Garner's Legal Style p 205

finalise

usage—consider alternatives

try—*end* / ► *complete* / *decide* / *finish*

extra information

- 1 formal word
- 2 For the use of *end*, see *cease*.

examples of change

- 1 sell and ~~finalise~~ complete the sale of property
- 2 The inspector must ~~finalise~~ finish the investigation within 1 month.

further reading

Garner's Legal Style p 114

Longman English Usage p 279

Working Words p 225

firstly

usage—never use

try—*first* / recasting

extra information

- 1 needless variant
- 2 much criticised

example of change

- 1 ~~firstly~~ first, with payments of amounts due

further reading

Cambridge Guide p 296-7 (*first* or *firstly*)

Fowler's English Usage p 298 (*first*)

Garner's Dictionary pp 319 (enumerations), 359

Garner's Legal Style p 83

Gowers' Plain Words p 229

Howard's Handbook p 170 (*first, second .../firstly, secondly...*)

Longman English Usage p 280

Working Words p 225

firstmentioned / first-mentioned / first mentioned

usage—never use

try—*first* / recasting

extra information

- 1 formal word

- 2 Repeat words rather than use *firstmentioned* to avoid repetition. Alternatively, use a tagged term. Readers may otherwise have difficulty in working out what is referred to.
- 3 For similar reasons, avoid substituting *former* (see *former*).
- 4 See also *lastmentioned* / *last mentioned* / *last-mentioned*.

example of change

- 1 If a person (the *buyer*) buys stolen goods from a person who stole the goods, the ~~firstmentioned person~~ buyer

first name



usage—never use

try—*given name* [by contrast with *surname* / *family name*]

extra information

- 1 Use of *first name* is inappropriate for people in whose culture the family name is given first, eg Chinese, Japanese, Koreans and Vietnamese.
- 2 See also *Christian name*.

example of change

- 1 an application to change the ~~first name~~ given name of the adopted child or young person

further reading

Cambridge Guide p 297 (*firstname* or *forename*)

Howard's Handbook p 170 (*first name/Christian name/forename*)

first to happen / occur



usage—never use

try—*happens first* / ► *whichever happens first*

extra information

- 1 needless variant

fit



usage—avoid using

try—► *appropriate* / *suitable* / recasting (using more precise words)

extra information

- 1 vague word
- 2 value-loaded word
- 3 *Fit for purpose* or *fit for use* may be used in the context of consumer protection law and sale of goods law (see the *Competition and Consumer Act 2010* (Cth), sch 2, part 3-2, div 1 (Consumer guarantees)).
- 4 Do not use *thinks fit* (see also *think*).
- 5 See also *fit and proper*.

example of no change

- 1 the person is apparently physically and mentally fit to drive the vehicle

examples of change

- 1 if the public trustee and guardian ~~thinks fit~~ considers appropriate
- 2 the building is ~~fit~~ suitable for occupation

further reading

Garner's Dictionary p 361 (*fit, fitted*)

fit and proper

usage—never use

try—► *appropriate / suitable* / recasting (using more precise words)

extra information

- 1 doublet
- 2 *Fit and proper* has no settled general legal meaning and only provides an illusion of certainty. It has been suggested that it delegates the job of deciding criteria to the courts.
- 3 Use an alternative and provide criteria, eg how to work out if a person is suitable (see *Gaming Machine Act 2004*, s 6).

example of change

- 1 the applicant is a ~~fit and proper~~ suitable person to be approved if the applicant meets the following criteria

further reading

Butterworths Legal Dictionary p 481 (*fit and proper*) and (*fit and proper person*)
Garner's Dictionary pp 293 (doublets, triplets and synonym strings), 361

flat rate

usage—consider alternatives

try—omitting *flat* / recasting (using more precise words)

extra information

- 1 *Flat rate* may not have a clear meaning.

example of no change

- 1 a rate of royalty prescribed for this section may be expressed as a flat rate for each animal or plant

example of change

- 1 a service charge imposed by a licensee may be a fixed ~~flat~~-rate

further reading

Butterworths Legal Dictionary p 484 (*flat interest rate*)

following

usage—consider alternatives

try—*after* / ► *next* / *because (of)* / recasting

extra information

- 1 The use of *following* before paragraphs should generally be limited to cases where the paragraphs are pure tabulation or it is desirable to clarify that the paragraphs are both cumulative and alternative (eg using 1 or more of the following:), ie a series of separate things in the form of a list. Applying current

drafting practice, the use of *following* would result in the paragraphs not ending in *or* or *and*. Dot points could also be used in appropriate cases without punctuation at the end of each paragraph other than the last.

- 2 *Following* should not generally be used before paragraphs that are not pure tabulation, but rather an ordinary sentence broken up into paragraphs.

examples of no change

- 1 a licence must include the following information:
- 2 the medicines and poisons standard sets out the following things to which it does not apply:

examples of change

- 1 an arrangement that is completed before the end of the month ~~following~~ after the month in which it is started.
- 2 an approval holder must give the monthly return to the commission on or before the 14th day of the ~~following~~ next month
- 3 if a rate is set between 1 September and ~~the following~~ 30 June in a financial year

further reading

Fowler's English Usage p 305
 Garner's Dictionary p 364
 Longman English Usage p 286
 Working Words p 228

for

see—but for

forbear



usage—never use

try—recasting

extra information

- 1 formal word

example of change

- 1 the Minister may direct an officer to ~~forbear from taking an action~~ not to act

further reading

Garner's Legal Style p 115
 Working Words p 230

force majeure



usage—never use

try—recasting

extra information

- 1 foreign phrase
- 2 *Force majeure* means a coercion which cannot be resisted; a superior force. A circumstance beyond the control of a party to a contract, that enables the party to escape liability for failing to perform the contract as a result of the circumstance (Butterworths).

- 3 *Force majeure* is not a synonym for *act of God*. *Act of God* has a more restricted meaning. Neither expression should be used in legislative drafting.

example of change

- 1 the person's obligation to make payments is not affected by ~~an event of force majeure~~ a circumstance beyond the person's control or other circumstance that otherwise would end the agreement

further reading

Butterworths Legal Dictionary p 489
Garner's Dictionary p 366

foregoing



usage—never use

try—omitting / recasting

extra information

- 1 archaism
2 *Foregoing* is sometimes confused with *following*.

example of change

- 1 An incorporated association has the legal capacity of an individual and, without limiting the generality of the foregoing, has power

Recast as:

- (1) An incorporated association has the legal capacity of an individual.
(2) Without limiting ~~the generality of the foregoing subsection (1)~~, an incorporated association has power

further reading

Garner's Dictionary p 367
Garner's Legal Style p 115
Howard's Handbook p 174 (*forgo/forego*)

forename



usage—never use

try—*given name* [by contrast with *surname* / *family name*]

extra information

- 1 *Forename* is open to the same objections as *first name* (see *first name*).

example of change

- 1 On the making of a parentage order about a child, the child has as his or her ~~forename~~ given name a name the Supreme Court approves in the parentage order.

further reading

Cambridge Guide p 297 (*firstname* or *forename*)
Garner's Dictionary pp 859–60 (*surname*; *Christian name*)
Gowers' Plain Words p 229

forfeit

usage—consider alternatives

try—*lose* / *give up*

extra information

1 formal word

examples of no change

- 1 The forfeited property must be transferred to the public trustee and guardian.
- 2 If this section applies to the seized thing—
 - (a) it is forfeited to the Territory; and

example of change

- 1 If a person does not comply with a condition, the person ~~forfeits~~ loses the right to compensation.

former

[as opposite of latter / to refer to 1st of 2 things]



usage—never use

try—recasting / *first*

extra information

- 1 formal word
- 2 Repeat words rather than use *former* to avoid repetition. Alternatively, use a tagged term. Readers may otherwise have difficulty in working out what is referred to.
- 3 For similar reasons, avoid substituting *firstmentioned* and similar terms (see *firstmentioned* / *first mentioned* / *first-mentioned*).

example of change

- 1 If a container is made of plastic or metal—
 - (a) a red label must be attached to the container; and
 - (b) if the container is made of ~~the former~~ plastic—a blue label must be attached to the container's lid.

further reading

Cambridge Guide p 307 (*former* and *latter*)

Fowler's English Usage p 309

Garner's Dictionary p 370

Gowers' Plain Words p 115

Longman English Usage pp 292–3

Partridge p 122

for the duration of



usage—never use

try—▶ *during* / *for* / *throughout* / ▶ *while* / ▶ *as long as* / *so long as* / omitting / recasting

extra information

- 1 compound preposition

examples of change

- 1 if a fixed term ~~for the duration of~~ a partnership
- 2 Each person mentioned in subsection (2) must be present ~~for the duration of~~ throughout the hearing.
- 3 the running of the limitation period is suspended ~~for the duration of~~ while the person is under the legal disability

further reading

Garner's Dictionary p 372
Garner's Legal Style p 183

for the purpose / purposes of



usage—consider alternatives

try—*in this* [eg provision/Act] / *for this* [eg provision/Act] / *because of* / *under* / *to* / *for* / omitting / recasting

extra information

- 1 compound preposition
- 2 The LA, dict, pt 1 defines *for*, in relation to an Act or statutory instrument, as including for the purposes of the Act or statutory instrument.

example of no change

- 1 All amounts of wages paid or payable in the same month by the same employer in relation to the same employee must be aggregated for the purpose of deciding whether they are taxable in the ACT.

examples of change

- 1 created by a stratum plan ~~for the purposes of~~ under this Act
- 2 ~~For the purposes of~~ In this Act, a reference to X does not include a reference to Y.
- 3 ~~for the purposes of~~ the Act, section 10
- 4 amounts not immediately required ~~for the purposes of~~ the fund may be invested
- 5 The authority may invite a person to attend a meeting ~~for the purpose of~~ advising to advise it

further reading

Gowers' Plain Words p 55 (*for the purpose of*)
Longman English Usage p 580 (*purpose*)

for the reason that



usage—never use

try—*because*

extra information

1 compound preposition

example of change

1 the decision must be taken to be a decision refusing to grant access to the document in accordance with the request ~~for the reason that~~ because the document would, if it existed, be an exempt document

further reading

Garner's Dictionary p 372

Garner's Legal Style p 183

Gowers' Plain Words p 55

forward / forwards

[as adjective / adverb]



usage—consider alternatives

try—*forwards / forward / recasting*

extra information

- 1 Most directional words ending in *ward(s)* are used as adverbs, adjectives or nouns, eg *backward(s)*, *downward(s)*, *forward(s)* and *upward(s)*. An exception is *towards* which is used as a preposition.
- 2 In Australian (and British) English, the adverb form of these directional words has traditionally ended with an 's', and the adjective and noun forms have not. In American English adjectives, nouns and adverbs are treated in the same way and do not usually end in an 's'. There is an increasing trend in Australian English not to end adverb forms with an 's'. The trend is more advanced with some directional words than others.
- 3 The trend is perhaps most advanced in relation to *forward(s)*. There have been various attempts to rationalise the cases in which *forwards* should nevertheless continue to be used as an adverb, eg for moving straight ahead (Longman English Usage), for a physical movement, or for movement towards a place (Working Words). However, the rationalisations are not persuasive.
- 4 It is now too late to say that the adverb form of *forward(s)* **always** ends with an 's'. However, as an adverb, prefer *forwards* if appropriate.
- 5 Use *forward* as an adjective.
- 6 See also *afterward / afterwards*; *backward / backwards*; *easterly* (direction) / *eastwardly / eastward(s)*; *onward / onwards*; *toward / towards*.

examples of no change

- 1 the driver's forward view (adjective)
- 2 if the company carries the losses forward to the next year (adverb)

example of change

1 must be able to be driven both backwards and ~~forward~~ forwards (adverb)

further reading

Fowler's English Usage pp 311, 833 (-ward(s))

Garner's Dictionary p 924 (-ward(s))

Howard's Handbook p 175
 Longman English Usage pp 294, 595 (*rearward(s)*), 762 (*-ward(s)*)
 Partridge pp 122-3, 382 (*-ward/ -ward(s)*)
 Working Words pp 233, 553 (*-ward words*)

forward [as a verb]



usage—avoid using

try—*send / give*

extra information

1 Except to mean send on, prefer *send* or *give*.

example of no change

1 For this Act, *sell* means send, forward or deliver for sale.

example of change

1 ~~forward~~ give a copy of the claim to the fund manager

further reading

Gowers' Plain Words p 230
 Howard's Guide p 174
 Howard's Handbook p 175
 Longman English Usage p 294

for which there is



usage—avoid using

try—*with / recasting*

extra information

1 compound preposition

examples of no change

- 1 *uninsured motor vehicle* means a motor vehicle for which there is no CTP policy in force
- 2 A document for use in relation to a proceeding, and for which there is an approved form,

example of change

1 *participating jurisdiction* means a State ~~for which there is~~ that has in force an Act of its Parliament that refers to the Parliament of the Commonwealth.

frame [as a verb]



usage—never use

try—►*develop / make / prepare*

extra information

1 vogue, vague word

examples of change

- 1 ~~frame~~ develop a budget
- 2 a shareholder may ~~frame~~ prepare a question

frequently



usage—consider alternatives

try—*often* / *regularly*

extra information

- 1 Prefer *often* if appropriate.

example of no change

- 1 If the court is satisfied that a person has frequently commenced vexatious proceedings, the court may declare the person to be a vexatious litigant.

example of change

- 1 provision for the financial statements of the cooperative to be audited annually or more ~~frequently~~ often

fresh



usage—consider alternatives

try—*new* / recasting (using *again*)

extra information

- 1 overused word

examples of no change

- 1 the asserted fact was fresh in the memory of the person
- 2 the fresh or dried parts of a cannabis plant

examples of change

- 1 the availability of ~~fresh~~ new evidence or information relevant to the granting of bail
- 2 the planning and land authority may invite ~~fresh~~ applications for the lease to be made again

further reading

Gowers' Plain Words p 230

Howard's Handbook p 265 (*new/fresh/renewed*)

from



usage—consider alternatives

try—► *on and after* / *after* / recasting (using eg *6 months beginning on* / ► *inclusive*)

extra information

- 1 Be careful using *from*. Use of the word will usually mean that time is reckoned exclusive of the mentioned day (see LA, table 151, item 2)
- 2 Prefer *after* to *from*, because it is less likely to be ambiguous.
- 3 In recasting, the words *the period of* are unnecessary if the period itself is mentioned (see *period*).
- 4 See also *as from*; *on and from*

examples of change

- 1 the registrar may give notice that the special resolution has no effect ~~as from the day it was passed~~

2 within 2 weeks ~~from~~ after the day the person becomes or stops being a partner

further reading

Asprey pp 179–80

from and including



usage—never use

try—▶ *on and after* / recasting (using eg *6 months beginning on / after* / ▶ *from / inclusive*)

extra information

- 1 For working out periods of time see LA, s 151 and s 151A.
- 2 Pearce and Geddes (Statutory Interpretation in Australia, 8th edition, p 296) suggest using *from and including* [a particular day] *to and including* [another day] to precisely fix the beginning and end of a period of time. However, this formulation should not be used in the ACT because the LA, table 151, item 2 provides that a time beginning from a stated day does not include the stated day.
- 3 In recasting, the words *the period of* are unnecessary if the period itself is mentioned (see *period*).

examples of change

- 1 14 days ~~from and including~~ on and after the day the notice is served
- 2 continue in force for a period of 2 years ~~from and including~~ beginning on the day the certificate of registration is issued

from time to time



usage—consider alternatives

try—omitting / recasting

extra information

- 1 can be a redundancy
- 2 References to *from time to time* are usually unnecessary. LA, s 197 provides that, if a law gives a function to an entity, the function may be exercised *from time to time*. See also the following provisions of the LA:
 - s 42 (3) (Power to make statutory instruments)
 - s 47 (2) (b) (Statutory instrument may make provision by applying law or instrument)
 - s 52 (2) (Instrument may authorise determination of matter etc)
 - s 102 (References to laws include references to laws as in force from time to time)
 - s 131 (Signpost definitions)
 - s 148 (Terms used in instruments have same meaning as in authorising laws).
- 3 However, *from time to time* is necessary if, for example, provision is to be made in relation to a matter by adopting etc the provisions of a law (other than an ACT law or instrument) as in force from time to time (see LA, s 47 (3)). See also the following provisions of the LA:
 - s 207 (1) (b) (Appointment may be by name or position)

- s 217 (1) (b) (Acting appointment may be made by name or position)
- s 233 (1) (b) (Delegation may be made by name or position).

example of no change

- 1 A regulation may apply, adopt or incorporate a law or instrument as in force from time to time.

examples of change

- 1 The Loan Council may make rules of procedure ~~and from time to time may alter such rules~~ and alter rules of procedure.
- 2 as amended ~~from time to time~~ under section 10

further reading

Asprey pp 173–5, 222

fulfil



usage—consider alternatives

try—*comply with* / ► *satisfy* / ► *carry out* / *do* / ► *complete* / *meets*

extra information

- 1 formal word

example of no change

- 1 the applicant's ability to fulfil the responsibility of a parent

examples of change

- 1 a person is eligible for a licence only if the person ~~fulfils~~ satisfies the conditions mentioned in
- 2 take reasonable care to ~~fulfil~~ comply with the taxpayer's obligations under a tax law

function

[as a verb]



usage—avoid using

try—*work* / *operate* / *act* / ► *perform* / *recasting*

extra information

- 1 *Function* should be used only in relation to machinery or something that works like a machine (eg the heart).
- 2 formal word

example of no change

- 1 for the purpose of studying the ideas behind the computer program and the way that it functions

examples of change

- 1 every part must be proportioned so that it ~~functions~~ operates without excessive vibration
- 2 a description of the explosive, including the intended use of the explosive and how it ~~functions~~ works

further reading

Gowers' Plain Words p 230

Partridge p 124

Working Words p 235

furnish (meaning *give*)



usage—never use

try—*give* / ► *provide* / *supply* / *send* / recasting (using ► *inform*, ► *mention* or *tell*)

extra information

1 formal word

example of change

1 require the occupier of the premises to ~~furnish~~ give the inspector ~~with~~ any information or documents

further reading

Garner's Dictionary p 378 (as a useful vague word for contracts)

Gowers' Plain Words p 230

Longman English Usage p 300

further / farther



usage—consider alternatives

try—► *additional* / *also* / ► *and* / omitting

extra information

1 formal word

2 Prefer *further* to *farther* in all contexts.

3 *Further to that* is a verbose elaboration of *further* or *furthermore* and should not be used.

example of no change

1 if an application for a covert surveillance authority is refused by the Magistrates Court, a further application in relation to the same surveillance may only be made

example of change

1 the ~~further~~ additional information

further reading

Cambridge Guide p 316 (*further* or *farther* etc)

Fowler's English Usage pp 285–6 (*farther*, *further*)

Garner's Dictionary pp 349–50 (*farther*; *further*)

Garner's Legal Style p 114 (*farther*; *further*)

Howard's Handbook pp 164–5 (*farther/further*)

Longman English Usage p 300 (*further*, *furthest*, *farther*, *farthest*)

Partridge p 117 (*farther/farthest/further/furthest*)

Working Words pp 221–2 (*farther/farthest/further/furthest*)

G

gainfully employed



usage—never use

try—recasting / *employed* / *working*

extra information

1 verbosity

example of change

1 ill-health (whether physical or mental) that caused the RSA holder to stop ~~being gainfully employed~~ working

further reading

Gowers' Plain Words p 230

geared to



usage—never use

try—► *adapted to* / ► *adjusted to* / *suited to* / recast

extra information

1 vogue phrase

examples of change

1 a prohibited weapon, commonly known as a laser pointer, that is designed or ~~geared~~ adapted to emit a laser beam

2 A light fitted to a vehicle must be built and ~~geared~~ adjusted to provide the necessary amount of light.

3 the desirability of the care provided to a young detainee being ~~geared~~ suited to the particular needs of the young detainee

further reading

Gowers' Plain Words p 231

gender



usage—consider alternatives

try—*sex*

extra information

1 *Gender* is a grammatical term. The ordinary term for describing whether a person or animal is male or female is *sex*.

2 However, there is a trend to limit the use of *sex* to refer to the biological differences between men and women and to extend the use of *gender* to refer to psychological and social differences.

examples of no change

- 1 words indicating a gender include every other gender
- 2 This Act applies to discrimination on the ground of any of the following attributes:
 - (a) sex;
 - (b) sexuality;
 - (c) gender identity;
- 3 The following details must be entered in the teachers register in relation to a teacher:
 - (e) the teacher's gender;

example of change

- 1 identifies as a member of a different ~~gender~~ sex by living, or seeking to live, as a member of that ~~gender~~ sex

further reading

Cambridge Guide pp 321-2
 Fowler's English Usage p 325
 Howard's Guide p 182 (*gender* or *sex*)
 Working Words pp 238-9

generality

see—without limiting the generality of

get

usage—consider alternatives

try—recasting (using more specific words, eg *become* / *buy* / ► *obtain* / *receive* / *take*) / omitting

extra information

- 1 *Get* is generally more appropriate in informal spoken English.

example of no change

- 1 adjourn the proceeding so the party can get representation

example of change

- 1 ~~get~~ acquire or use an assumed identity

further reading

Cambridge Guide pp 328-9 (*get*, *got* and *gotten*)
 Working Words p 240

give consideration to



usage—never use

try—*consider / take into account*

extra information

1 verbosity

2 See Drafting Practice Guide, ch 14, ‘consider / take into account / have regard to’.

example of change

1 In deciding whether to grant or refuse an application, the Minister must ~~give consideration to~~ consider

further reading

Asprey pp 148, 221

Garner’s Dictionary p 912 (verbosity)

give recognition to



usage—never use

try—*recognise*

extra information

verbosity

example of change

1 providing for the care and protection of children and young people in a way that ~~gives recognition to~~ recognises their right to grow in a safe environment

further reading

Garner’s Dictionary p 912 (verbosity)

good faith



usage—consider alternatives

try—*genuine / honest*

extra information

1 Careful consideration should be given if using alternatives to *good faith*. While *good faith* has a core meaning of *honesty*, the courts have interpreted the expression in the context of the particular statute. In some instances, *good faith* has been interpreted as having an additional, objective standard of reasonableness: see *Words and phrases legally defined* (4th ed), Butterworths.

got

see—*get*

grant



usage—consider alternatives

try—give / make / ►agree to / approve / transfer / accept / ►issue / omitting

extra information

- 1 *Grant* is a word with formal overtones.
- 2 *Give* and *grant* are interchangeable in most contexts. *Give* is the more general and less formal word. *Grant* has certain technical meanings in real property law, eg a grant of freehold title. In other contexts, *grant* implies that a person gives something out of generosity, mercy or a sense of justice. It points strongly to the giver's discretion to do as the giver pleases, and the would-be receiver as depending on that discretion. Applied to the giving of licences and other forms of permission, it has overtones inconsistent with modern administrative law concepts.
- 3 See Drafting Practice Guide, ch 14, 'grant / issue'.

examples of no change

- 1 if a lease is surrendered for renewal and a new lease is granted
- 2 The Magistrates Court may grant an injunction restraining a person from contravening this Act.

examples of change

- 1 The authority may ~~grant~~ issue a licence.
- 2 The authority may ~~grant~~ agree to the request.

further reading

Fowler's English Usage p 341 (*granted*)

Garner's Dictionary p 391

Partridge p 80 (conjunctions, disguised—*granted/granting*)

greater than



usage—consider alternatives

try—►more than / heavier than / larger than / longer than / ►older than / taller than / higher than / over / recasting (using, eg *at least* / *or more*)

extra information

- 1 Prefer *more than* when using numbers to count something or measurements, unless a more specific term is appropriate, for example 'higher than 7m'.
- 2 Consider whether it is more accurate to use *at least*.
- 3 See also *not greater than*.

example of no change

- 1 the latest CPI number is greater than the earlier CPI number

examples of change

- 1 a motor vehicle with a gross vehicle mass ~~greater~~ heavier than 4.5t
- 2 if the wall is ~~greater than~~ higher than 4m
- 3 the runway must be ~~greater~~ longer than 500m ~~in length~~
- 4 if a factor worked out under subsection (4) is ~~greater~~ more than 4

greatest

see—the greatest number of

ground

see—on the ground / grounds of / that

group



usage—consider alternatives

try—► *kind* / omitting

extra information

- 1 Most legal drafting is expressed in the singular, and it is usually unnecessary to distinguish between a class (using, eg *group*) and its members (see LA, s 48 and s 145 (b)). Avoid mentioning *group* unless it is necessary. See *class* for extra information.
- 2 If it is necessary to mention class, prefer *kind* if appropriate.

examples of no change

- 1 a vehicle in a group of vehicles that are physically connected
- 2 A place has ***heritage significance*** if it exhibits outstanding design or aesthetic qualities valued by the community or a cultural group.

example of change

- 1 if the directorate is made up of a ~~group of~~ 2 or more administrative units

further reading

Gowers' Plain Words p 210 (*brackets, groups*)

guilty of



usage—consider alternatives

try—*commits* / *engages in*

extra information

- 1 A person should not be said to be *guilty of* an offence unless the context relates to a person who has been found guilty by a court.
- 2 A person *commits* an offence by engaging in conduct that constitutes the offence. However, the person is *guilty of* the offence only if guilt is decided by the trier of fact in a prosecution for the offence.
- 3 See LA, dict, pt 1, def ***found guilty***.

example of no change

- 1 a person who is convicted or found guilty of a disqualifying offence

example of change

- 1 A person ~~is guilty of~~ commits an offence if

further reading

Garner's Legal Style p 116

H

happen

see—first to happen / occur

happens first

see—whichever happens first

has / have a liability to



usage—never use

try—▶ *must* / ▶ *is / are liable to*

extra information

1 verbosity

example of change

1 A person ~~has a liability to~~ must pay the fee.

has / have a responsibility to



usage—never use

try—▶ *must* / *is responsible for*

extra information

1 verbosity

example of change

1 a person is taken to ~~have responsibility~~ be responsible for contamination on land

has / have knowledge of



usage—never use

try—*know* / ▶ *aware*

extra information

1 verbosity

example of change

1 the person ~~has knowledge of~~ knows what happened

further reading

Garner's Dictionary p 912 (verbosity)

has / have need of

- ☹ **usage**—avoid using
try—*needs* / ► *requires* / *wants* / *wishes*
extra information
 1 verbosity
further reading
 Garner’s Dictionary p 912 (verbosity)

has / have no power to

- ☹ **usage**—consider alternatives
try—*cannot* / *must not* / *may not*
extra information
 1 verbosity
example of no change
 1 This section applies if—
 (a) a child charged with an indictable offence is brought before the Childrens Court; and
 (b) the court—
 (i) has no power to hear and decide the charge summarily; or
 (ii) has the power to hear and decide the charge summarily, but decides not to.
example of change
 1 A CTP insurer ~~has no power to~~ must not cancel a CTP policy.

has / have power to

- ☺ **usage**—consider alternatives
try—► *may* / ► *can*
extra information
 1 verbosity
example of no change
 1 This section applies if—
 (a) a child charged with an indictable offence is brought before the Childrens Court; and
 (b) the court—
 (i) has no power to hear and decide the charge summarily; or
 (ii) has the power to hear and decide the charge summarily, but decides not to.
example of change
 1 the Minister ~~has power to~~ may approve a code of practice

has / have the option of

usage—never use

try—► *may*

extra information

1 verbosity

example of change

1 an insurer ~~has the option of avoiding~~ may avoid the contract

have regard to

usage—never use

try—► *consider / take into account*

extra information

- 1 Although the dictionary definitions indicate that ‘consider’, ‘take into account’ and ‘have regard to’ do mean the same thing, there are shades of differences between them in ordinary usage, with ‘have regard to’ tending to have the least force, and ‘take into account’ tending to have the most.
- 2 See Drafting Practice Guide, ch 14, ‘consider / take into account / have regard to’.

example of change

1 ~~having regard to~~ taking into account all the circumstances, it would be in the best interests of the child

he

usage—avoid using

try—recasting (avoiding gender-specific personal pronouns)

extra information

- 1 Consistent with the recognition of sex and gender diverse people, the use of personal pronouns in the masculine or feminine form should be avoided.
- 2 Words indicating a gender include every other gender (see LA, s 145 (a)).
- 3 If a provision applies only to the neuter form (eg to a corporation), a personal pronoun in the neuter form only (eg *it*) may be used wherever appropriate.
- 4 See also *they*.

examples of change

- 1 a coroner may exercise any of ~~his or her~~ the coroner’s powers under this Act
- 2 if a child or young person is charged with an offence, ~~he or she~~ the child or young person may apply to
- 3 ~~if~~ a child or young person who is charged with an offence, ~~he or she~~ may apply to

further reading

Asprey pp 152–61

Cambridge Guide pp 351–3 (*he* and/or *she*)

Fowler’s English Usage p 358 (*he* or *she*)

Garner’s Dictionary pp 799–803 (sexism)

Garner’s Legal Style pp 45, 200–3

Gowers' Plain Words pp 118–9 (*they* for *he* or *she*)
 Howard's Handbook pp 190–1 (*he* or *she*; *he/they*), 360 (unisex grammar)
 Working Words pp 184 (discriminatory language), 254 (*he/she*)

hear and decide



usage—consider alternatives

try—*hear* / *decide* / *deal with*

extra information

- 1 doublet
- 2 Use both *hear* and *decide* only if necessary.
- 3 *Hear and decide* may be necessary to refer to the entire court procedure giving rise to issue estoppels (see example of no change).

example of no change

- 1 The magistrate must not hear and decide the charge.

example of change

- 1 if the defendant chooses to have the offence ~~heard and decided~~ dealt with by a court

heirs, executors, administrators, successors and assigns



usage—never use

try—omitting / recasting

extra information

- 1 word-string with technical legal meanings
- 2 Contracts occasionally define a *party* to include the party's *heirs, executors, administrators, successors* and *assigns*. Similar definitions are sometimes included in legislation.
- 3 Expanding the definition of *party* in this way has little or no legal effect on its own. It is mostly descriptive of the way in which the general law would operate anyway. However, it may give rise to legal difficulties and should be avoided.
- 4 It is unnecessary to define a person with an interest in property to include the person's personal representatives, successors and assigns (see LA, s 168).
- 5 See also *assign*.

further reading

Garner's Dictionary pp 29 (*administrator; executor*), 83 (*assign; assignee*), 338 (*executor; executer*), 400 (*heir*)
 Garner's Legal Style p 184 (*and the heirs of his body*)

help

see—*assist* / *assistance*

her



usage—avoid using

try—recasting (avoiding gender-specific personal pronouns) / omitting
extra information

1 See *she*.

example of no change

1 a person may give written consent to the removal from his or her body of stated regenerative tissue

example of change

1 a person may give ~~his or her~~ written consent to the removal

further reading

Garner's Legal Style pp 31, 200 (*him/her*)

him



usage—avoid using

try—recasting (avoiding gender-specific personal pronouns)

extra information

1 See also *he*.

further reading

Garner's Legal Style pp 31, 200 (*him/her*)

his



usage—avoid using

try—recasting (avoiding gender-specific personal pronouns)

extra information

1 See also *he*.

further reading

Garner's Legal Style p 201

house



usage—consider alternatives

try—*home* / ► *dwelling* / recasting (using, eg *place where the person lives* / *usually lives* / ► *resides*)

extra information

1 See LA, dict, pt 1 for definition of *home address*.

2 See Drafting Practice Guide, ch 14, 'home and business address'.

examples of no change

1 *single residential building* means a detached house or building making up not more than 2 residences.

2 boarding house

3 The casino is not a public or private nuisance only because it is used as a gaming house.

- 4 An intimate relationship may exist between people although they are not part of the same household.
- 5 This Act does not affect the law relating to privileges of any Australian Parliament or any house of any Australian Parliament.

examples of change

- 1 state the driver's name, date of birth and ~~house~~ home address
- 2 a motor vehicle driven by the person has stopped at or near the ~~person's house~~ place where the person usually lives

further reading

Butterworths Legal Dictionary p 554 (*home*)
 Fowler's English Usage p 363 (*home, house*)
 Longman English Usage p 341 (*home*)

how

*see—*as to whether / as to who / as to how / as to what etc

however



usage—consider alternatives

try—omitting / recasting / *but* / *yet* / *no matter how* / *how*

extra information

- 1 There is no rule preventing the use of *however* at the beginning of a sentence. The placement of *however* is governed by the nature of the sentence in which it appears.
- 2 *However* is often used at the beginning of a sentence to provide a contrast or exception to a provision immediately above, avoiding the need to state 'subject to' in that provision.
- 3 *However* should generally be used sparingly as an intensifier, and generally only when it is necessary to emphasise the universal application of a provision.
- 4 See also *whatever*; *whenever*; *wherever*; *whichever*.

examples of no change

- 1 (1) The Executive may appoint a person to be the Solicitor-General for the Territory.
 (2) However, the Executive must not appoint a person as solicitor-general unless the person is a legal practitioner and has been for not less than 5 years.
- 2 the chief of police (however described) of the participating State to which the permit applies

examples of change

- 1 A parent of a child victim of an offence (~~however~~ no matter how old the child victim is) is eligible for restorative justice in relation to the offence.
- 2 The institute board has at least 12, ~~however~~ but not more than 14, members.

further reading

Cambridge Guide pp 258–9 (*-ever* or *ever*), 347–8
 Fowler's English Usage p 367
 Garner's Dictionary p 409
 Gowers' Plain Words p 163

Howard's Handbook p 196
Longman English Usage p 346
Partridge p 147
Working Words p 260 (*how ever/however*)

husband



usage—never use

try—*spouse / partner / domestic partner / civil partner / civil union partner*

extra information

- 1 Discrimination on the ground of marital status is unlawful under the *Discrimination Act 1991*.
- 2 See LA, s 169 for definition of *domestic partner*.
- 3 See LA, dict, pt 1 for definition of *civil partner* and *civil union partner*.

idem

see—ad idem

identified in



usage—consider alternatives

try—► *mentioned in*

extra information

- 1 Be careful not to draw artificial distinctions in provisions by using different words to say essentially the same thing, eg do not say in one provision ‘a person mentioned in section x’, and then in another provision ‘a thing identified in section y’, if the person or thing is only being identified by the reference.

example of no change

- 1 a person identified in the police report as being at fault in the motor accident

example of change

- 1 state that the judge or magistrate is satisfied of the matters mentioned in section 13 (1) and has had regard to the matters ~~identified~~ mentioned in section 13 (2)

identify



usage—consider alternatives

try—*name*

- 1 See also *identified in; identify with*.

example of no change

- 1 A discloser need not be told information if the information would identify a person who has given information in relation to the disclosure.

example of change

- 1 The registrar-general may require a person to ~~identify~~ name the person who last had custody of the books and state where the ~~identified~~ named person can be found.

further reading

Garner’s Legal Style pp 117-8

identify with



usage—avoid using

try—*associate with / understand / support / recasting*

extra information

- 1 vogue phrase
- 2 Do not use *identify with* without a direct object.

example of no change

- 1 In deciding whether an adoption order for a child should include an order that the child keep an existing given name, the court must consider whether the child identifies with any of the child's existing names.

example of change

- 1 A person discriminates against another person on the ground of disability if the person treats the other person unfavourably because the person has a guide dog or other aid ~~identified with~~ associated with the disability.

further reading

Cambridge Guide pp 384
 Garner's Dictionary pp 413, 919 (vogue words)
 Garner's Legal Style p 118
 Gowers' Plain Words p 233

ie



usage—consider alternatives

try—*that is / ►eg / for example*

extra information

- 1 This is sometimes used (by confusion with *eg*) to introduce an example. It stands for *id est* (that is) and introduces a definition, eg 'the outposted officers, ie Ms X and Mr Y'. *Eg* stands for *exempli gratia* (for the sake of example) and introduces an illustration, eg 'a domestic animal eg a cat'.
- 2 In legislation, abbreviations such as *ie* can be used in notes and tables where brevity is particularly important. They can also be used in provisions (including examples) inside brackets. However, they should not be used in a provision heading.
- 3 A comma or another punctuation mark (eg an opening bracket or dash) should usually be used before *ie*. A comma should not be used after *ie*.
- 4 Use without full stops.
- 5 See Drafting Practice Guide, pt 16.3 (Abbreviations and contractions—eg / ie / etc).

example of no change

- 1 *Note* A **devise** is a disposal of real property by will. To **bequeath** property is to dispose of personal property (ie property other than real property) by a will.

example of change

- 1 A security officer may require a person to open a container, ~~ie~~ for example, a box or carton, that the person is carrying.

further reading

Asprey p 162
 Cambridge Guide pp 385

Fowler's English Usage p 376
 Garner's Dictionary p 414
 Garner's Legal Style p 112 (*eg/ie*)
 Gowers' Plain Words p 234
 Howard's Handbook p 150 (*eg/ie*)
 Longman English Usage pp 234–5 (*eg, ie*), 758 (*viz, ie*)
 Working Words p 200 (*eg/ie*)

if



usage—consider alternatives

try—*though / but / and / however / whether / whether or not / although*

extra information

- 1 The use of *if* for *though, but, and* or *however* may give rise to ambiguity or absurdity (see example 1, examples of change).
- 2 Care is also needed in the use of *if* in the sense of *whether*. This too can give rise to ambiguity. For the use of *whether* and *if*, see *whether*.
- 3 *If* can also be a source of ambiguity if combined with *not*. *If not* is best avoided.
- 4 It is usually unnecessary to use *then* after an *if* clause (see example 2, examples of change).
- 5 For the use of *if, when* and *where*, see *where*.
- 6 Blamires, in *The Penguin Guide to Plain English* (2000), at pp 212–213, states that the word *if* should link directly with a verb eg 'He will die if he continues smoking like that' (*if* links directly with the verb *will die*). It is not correct to make *if* hang on a noun eg 'Workers are threatening a strike if their demands are not met' (*if* hangs on *a strike*). The threat is there without any condition. It is the strike that is conditional. Instead, 'The workers are threatening to strike if their demands are not met'.
- 7 See also *if and when; if any; if practicable; if this is not the case; if this is the case*.

examples of no change

- 1 if the entity is an individual
- 2 a vehicle is an emergency vehicle if the vehicle has

examples of change

- 1 *Spouse*, in relation to a person, includes anyone who, ~~if~~ although not legally married to the person, is living with the person in a domestic relationship as the husband or wife of the person.
- 2 if the notice is given, ~~then~~ the plaintiff must

further reading

Cambridge Guide pp 387
 Fowler's English Usage pp 376–7
 Garner's Dictionary pp 414, 414–5 (*if not*)
 Garner's Legal Style p 65
 Gowers' Plain Words p 103
 Howard's Handbook pp 34–5 (*as and when/if and when*), 200 (*if/whether*)
 Longman English Usage p 355
 Partridge p 152
 Working Words p 268

if, and only if / if, but only if



usage—avoid using

try—► *if* / *only if* / recasting (using *eg must not...unless* or *may...only if*)

extra information

- 1 In legislation, *if, and only if*, is often used simply as a more emphatic form for *if* or *only if* conditional statements.
- 2 But in legislation *if, and only if*, is sometimes used to combine both a grant of power (*if*) with a restriction on the exercise of the power (*only if*). Care must be taken in recasting existing provisions using the term to ensure that the dual senses of grant and restriction are retained.

example of no change

- 1 An authorised person who has the care of a cat seized under this division must release the cat to a person claiming its release if, but only if, satisfied about the following:

examples of change

- 1 The integrity of information contained in a document is maintained ~~if, and only if~~, the information has remained complete and unaltered.
- 2 An act or practice breaches an information privacy principle ~~if, and only if~~, only if it is contrary to, or inconsistent with, the principle.
- 3 An inspector may enter premises ~~if, and only if~~, only if the entry is made—
 - (a) in accordance with a search warrant; or
 - (b) with the occupier's consent.

if and when



usage—avoid using

try—► *if* / ► *when* / ► *whenever* / recasting

extra information

- 1 doublet
- 2 compound preposition
- 3 *If and when* should be reserved for cases where there is substantial doubt about whether an event will happen and it is necessary to reinforce the doubt.

example of no change

- 1 The lease as varied must provide that the lessee is to pay a nominal rent if and when that rent is demanded.

examples of change

- 1 if ~~and when~~ there is a dispute between the parents of a child about the child's name
- 2 if ~~and when~~ whenever a stated event happens

further reading

- Fowler's English Usage p 377
 Garner's Dictionary p 414
 Garner's Legal Style p 118
 Gowers' Plain Words p 61
 Howard's Handbook pp 34-5 (*as and when/if and when*)
 Longman English Usage p 355 (*if* 4.)

Partridge p 152
Working Words p 268

if any



usage—avoid using

try—recasting (using eg *any*)

extra information

- 1 *If any* should be used sparingly.
- 2 If used, use brackets not commas, ie (*if any*), not, *if any*,.
- 3 See Drafting Practice Guide, ch 14, ‘if any’.

example of no change

- 1 on the conditions (if any) stated in the certificate

example of change

- 1 if an agent made the sale for the owner—the agent’s name and address (~~if any~~)

further reading

Garner’s Dictionary p 414

if not

see—if

if possible



usage—consider alternatives

try—►*if practicable* / recasting (using more precise words)

extra information

- 1 can be weasel words
- 2 See also *possible*.

example of no change

- 1 a brief statement of the facts, including, if possible, the time and place of the offence

example of change

- 1 if ~~possible~~ practicable, the device must be fitted with a visual indicator

if practicable



usage—consider alternatives

try—►*if possible* / recasting (using more precise words)

extra information

- 1 can be weasel words
- 2 See also *practicable*.

example of no change

- 1 the application must be accompanied by the grounds the employer has for suspecting a worker is involved in an unlawful activity and the name of the worker (if practicable)

example of change

- 1 A coroner holding an inquest must find, if ~~practicable~~ possible, the identity of the deceased person.

further reading

Garner's Dictionary p 926 (weasel words)

if the context permits / allows

see—where / if the context permits / allows

if this is not the case

usage—avoid using

try—*if not* / recasting

extra information

- 1 verbosity

if this is the case

usage—avoid using

try—*if so* / recasting

extra information

- 1 verbosity

illusion

usage—consider alternatives

try—*delusion / allusion / mirage*

extra information

- 1 *Illusion, delusion* and *allusion* are sometimes confused.
- 2 The Cambridge Guide states that *illusion* and *delusion* both refer to false perceptions, although their implications are slightly different. *Delusion* suggests that the misapprehension is subjective and results from distorted thinking or a disordered mind. *Illusion* suggests that the misapprehension is produced by external circumstances, eg 'an optical illusion'.
- 3 An *allusion* is, by contrast, a passing reference or an incidental mention of something, either directly or by implication.

further reading

Cambridge Guide p 195 (*delusion or illusion*)

Fowler's English Usage pp 44 (*allusion, allude*) 203, (*delusion, illusion*)

Garner's Dictionary pp 46 (*allusion; illusion*), 418 (*illusion; delusion*)

Garner's Legal Style p 102 (*allusion; illusion*)

Garner's Redbook pp 185 (*allusion; illusion*), 212 (*illusion; delusion; hallucination*)

Longman English Usage pp 29 (*allusion, reference*), 193 (*delusion, illusion*)

Working Words p 27 (*allusion, illusion, delusion*)

imbibe



usage—never use

try—*drink*

extra information

1 formal word

2 euphemism

further reading

Fowler's English Usage p 309 (formal words)

Garner's Dictionary pp 370 (formal words), 418

Longman English Usage p 358

imbue



usage—avoid using

try—*inspire (with) / infuse (with) / instil (into)*

extra information

1 Prefer a less formal alternative.

further reading

Fowler's English Usage pp 395–6 (*infuse*)

Gowers' Plain Words p 235 (*inculcate*)

Howard's Handbook p 203 (*imbue/infuse*)

Longman English Usage pp 358, 368 (*inculcate*)

Partridge p 153

Working Words p 270 (*imbue/infuse/instil*)

immediately



usage—consider alternatives

try—omitting / *quickly* / ► *promptly* / *at once* / *now* / ► *as soon as possible* / *practicable* / *as quickly as possible* / *practicable* / ► *when* / *straight away* / recasting (mentioning a period, eg *within 14 days*)

extra information

1 It is generally unnecessary to use *immediately* with *before* or *after*. For example, it is unnecessary to say in a provision *the day immediately after the day when payment is made*. *The day after the day when payment is made* would be sufficient. *The day after* indicates that the provision cannot be referring to any day after the day of payment, rather it can be referring only to the very next day after that day.

2 For the use of *as quickly as practicable* and *as quickly as possible*, see *as soon as possible* / *practicable*.

example of no change

1 A person who was a member immediately before the commencement of the scheme may ...

examples of change

1 the ~~immediately preceding~~ last financial year

2 28 days ~~immediately preceding~~ before the day this Act commences

further reading

Asprey pp 176–7

Gowers' Plain Words p 234

Howard's Handbook p 203 (immediately/forthwith/straightaway)

impact**[as a noun]****usage**—consider alternatives**try**—► *effect* / *influence* / recasting**extra information**

1 vogue word

2 Prefer *effect* or *influence* if appropriate.**example of change**1 The development of the graphical interface has had a significant ~~impact~~ effect on the popularity of personal computers.**further reading**

Garner's Dictionary pp 420, 919 (vogue words)

Garner's Legal Style p 118

Gowers' Plain Words p 234

impart**usage**—avoid using**try**—*give* / *tell* / *pass on* / ► *inform* / *instruct* / ► *mention* / *point out* / *say* / *show* / ► *specify* / ► *state***extra information**

1 formal word

implement**[as a verb]****usage**—consider alternatives**try**—► *carry out* / ► *perform* / *conduct* / *do* / *keep* / *set up* / *put in place* / ► *fulfil***extra information**

1 formal word

example of no change

1 An agency head must implement fair employment practices.

examples of change1 to ~~implement~~ carry out the commissioner's recommendations2 The committee must ensure that an effective quality assurance system is ~~implemented~~ set up for complaints.**further reading**

Garner's Legal Style p 119

Gowers' Plain Words p 234

imply



usage—consider alternatives

try—▶ *infer* / *suggest* / *hint*

extra information

1 For the use of *imply* and *infer*, see *infer*.

further reading

Garner's Legal Style p 119

Gowers' Plain Words pp 235–6 (*infer*)

Working Words p 272 (*imply/infer*)

import

[as a noun in the sense of giving meaning]



usage—never use

try—*meaning*

extra information

1 formal word

example of change

1 'Try' does not have the same ~~import~~ meaning as 'endeavour'.

important



usage—consider alternatives

try—▶ *significant* / ▶ *substantial* / *critical* / *key* / recasting (using more precise words)

extra information

1 *Important* is a vague, omnibus word. See *kind* for extra information about avoiding omnibus words.

examples of no change

1 A person is competent to give unsworn evidence if the court has told the person that it is important to tell the truth.

2 This chapter defines some important concepts.

example of change

1 The statement must state the key financial measures that the government has identified as being ~~important~~ critical.

further reading

Fowler's English Usage pp 382–4

Garner's Legal Style pp 31, 215

importation



usage—avoid using

try—*import*

extra information

- 1 *Importation* means the act of importing.
- 2 *Importation* can be a verbose way of saying import.
- 3 Generally prefer *import*.
- 4 See also *exportation*.

example of no change

- 1 This section does not apply if the importation is by an entity prescribed by regulation.

examples of change

- 1 The Minister may declare an area of land outside the ACT to be subject to an ~~importation~~ import restriction.
- 2 The director-general may issue a written permit for the propagation, ~~importation~~ import or supply of a thing.
- 3 *involvement in the transport of dangerous goods* includes importing, or arranging for the ~~importation~~ import of, dangerous goods into Australia.

impose



usage—consider alternatives

try—► *provide* / ► *prescribe* / *give* / omitting / recasting

extra information

- 1 Use *impose* only for obligations or punishments.

examples of no change

- 1 A penalty is imposed on the operator for an offence against this Act.
- 2 this regulation imposes an obligation on a person

examples of change

- 1 the ~~obligation imposed on the lessor by~~ lessor's obligation under the lease
- 2 the period of limitation ~~imposed~~ under this section

in a / any case in which / to which / where



usage—avoid using

try—► *if* / recasting (using eg *for*)

extra information

- 1 verbosity

example of no change

- 1 This section applies to a case to which section 102 applies if—

examples of change

- 1 ~~in a case in which~~ if the person was believed to have died intestate
- 2 ~~in a case to which~~ if paragraph (a) does not apply

further readingAsprey p 163 (*where*)**in accordance with****usage**—consider alternatives**try**—*under* / ► *by* / *as required under* / *as required* ► *by* / ► *according to* / *as mentioned in* / *as stated in* / *agrees with* / recasting**extra information**

- 1 compound preposition
- 2 Generally, prefer *under* to *in accordance with*. However, use *in accordance with* if it is necessary to emphasise, or make it clear, that something must be done in a particular way or in a way complying with certain requirements.
- 3 See LA, dict, pt 1, def *under*.

examples of no change

- 1 An exemption under subsection (1) must be made in accordance with the guidelines (if any) made under subsection (4).
- 2 A person is authorised under this section to carry out a forensic procedure under this part only in accordance with part 2.6.

example of change

- 1 Despite the filing of a caveat in the Supreme Court ~~in accordance with~~ under subsection (1) (e)

further reading

Garner's Dictionary p 14 (*accord; accordance*)
 Gowers' Plain Words p 55

in actual fact*see*—*actually/actual***in addition to****usage**—consider alternatives**try**—► *additional to* / *as well as* / *other than* / recasting (using *also* or ► *and*)**extra information**

- 1 compound preposition
- 2 Can lead to verbosity.
- 3 See also *addition* / *additional* and *additionally*.

example of no change

- 1 This section is in addition to the *ACT Civil and Administrative Tribunal Act 2008*, section 14.

example of change

- 1 (3) ~~In addition to any payment to which the officer is entitled under subsection (2), the~~ The officer is also entitled to

further reading

Gowers' Plain Words p 55
 Longman English Usage p 16 (*additional(ly)*)
 Working Words p 273

in a ... manner / way



usage—avoid using

try—recasting (using the appropriate adverb ending in *ly*)

extra information

- 1 verbosity
- 2 See also *in a timely manner / way*.

example of no change

- 1 including behaving in an obscene, indecent, offensive, racist or disorderly way

examples of change

- 1 ~~in a careful way~~ carefully
- 2 ~~in a cautious manner~~ cautiously

further reading

- Garner's Dictionary pp 882–3 (*timely*)
 Garner's Legal Style p 125
 Gowers' Plain Words p 85 (*in a cautious manner*)

in an effort to



usage—avoid using

try—*to*

extra information

- 1 verbosity

examples of no change

- 1 unless the licensee establishes that the licensee maintained control over and supervision of the activities of the manager of the licensed premises in an effort to prevent the contravention happening
- 2 the affidavit must state what other legal action has been taken in an effort to enforce the obligation

example of change

- 1 An impounding authority must take all reasonable steps ~~in an effort~~ to find out the name of the owner of an impounded item.

in any case



usage—avoid using

try—omitting / recasting

example of no change

- 1 An application for a restraining order in relation to an ordinary offence must be made before the end of the longer of the following periods:
 - (a) if an indictment has been presented against the offender for the offence, and the offender has not been convicted or cleared of the offence—2 years after the day the indictment was presented;
 - (b) if the offender has been convicted of the offence (and not cleared)—2 years after the day of the conviction;

- (c) in any case—6 years after the day the offence was committed (or is alleged to have been committed).

example of change

- 1 (h) if the deceased person had been in a domestic partnership at any time—
- (i) if the person had been married, in a civil union or civil partnership—the date and place of each marriage, civil union or civil partnership; and
- (ii) ~~in any case~~—the name and any former name of each domestic partner;

[and should switch order of subparagraphs]

further reading

Garner's Dictionary p 133 (*case*)
Garner's Legal Style p 106

in a particular respect



usage—never use

try—omitting / recasting

extra information

- 1 redundancy

example of change

- 1 if, apart from this section, the advice or consent of a person would be necessary ~~in a particular respect~~, the advice is taken to have been obtained or the consent is taken to have been given

in a position



usage—consider alternatives

try—recasting (using more direct words)

extra information

- 1 vague phrase

example of no change

- 1 the officer was in a position to influence the conduct of the corporation in relation to the contravention

example of change

- 1 if the chair is ~~not in a position~~ unable to attend the meeting

further reading

Gowers' Plain Words pp 62 (*not in a position*), 254

in association with



usage—consider alternatives

try—*with* / ► *in relation to*

extra information

- 1 compound preposition
- 2 *In association with* implies a looser connection with something than *with*.

example of no change

- 1 the competition promotes the name or interests of a manufacturer or distributor of a smoking product in association, directly or indirectly, with the smoking product

examples of change

- 1 establishing and maintaining library, museum, art and other collections either by itself or ~~in association with~~ with other entities
- 2 *activities* means—
 - (a) in relation to an agency that supplies gas, electricity, water or sewerage services—construction, repair or maintenance carried out by the agency ~~in association with~~ in relation to the supply of those services; or

further reading

Gowers' Plain Words p 55

Longman English Usage p 63 (*association*)

in a timely manner / way



usage—avoid using

try—► *promptly* / *quickly* / ► *as soon as possible* / *practicable* / ► *immediately* / *at once* / *as quickly as possible* / *practicable* / recasting

extra information

- 1 verbosity
- 2 For the use of *as quickly as possible* / *practicable*, see *as soon as possible* / *practicable*.

example of no change

- 1 relevant information is provided in a timely and accessible way to allow maximum community participation

example of change

- 1 that the residents consulted are advised of the outcome of the consultation ~~in a timely way~~ as soon as practicable

further reading

Garner's Dictionary pp 882–3 (*timely*)

in attendance



usage—avoid using

try—*present* / omitting / recasting

extra information

- 1 formal phrase
- 2 verbosity

example of no change

- 1 if the people in attendance at, or identified during, the neutral evaluation session consent to the admission of the evidence

examples of change

- 1 the member chosen by the members ~~in attendance~~ present presides
- 2 Evidence of anything said or done at a negotiation session is not admissible in evidence in any proceeding in a court or tribunal unless the parties ~~in attendance~~ at the session consent to the admission of the evidence.

in behalf of

see—on behalf of

in camera



usage—never use

try—*in closed court* / *in the absence of the public* / *in chambers* / recasting

extra information

- 1 foreign phrase

examples of change

- 1 the court may make an order for registration of the foreign confiscation order ~~in camera~~ in closed court and in the absence of the parties
- 2 the examination hearing may be conducted in open court or ~~in camera~~ in the absence of the public as the registrar directs

further reading

Butterworths Legal Dictionary p 575

Cambridge Guide p 395

Garner's Dictionary pp 428–9

incapable



usage—consider alternatives

try—*cannot* / *unable* / *may not*

extra information

- 1 For the use of *can* and *may*, see *can* and *may*.

example of no change

- 1 even if the person was legally incapable of forming the intent

examples of change

- 1 if the person taking an affidavit considers that the person making it is ~~incapable of reading~~ unable to read the affidavit
- 2 A child is ~~incapable of~~ cannot consent to the carrying out of a forensic procedure.

incapacitated



usage—consider alternatives

try—*unable to* (eg *work* or *earn income*)

extra information

- 1 formal word with negative overtones

example of no change

- 1 suspend or cancel a person's registration if the person has become mentally or physically incapacitated and the incapacity prevents the person

example of change

- 1 **significant injury** means an injury that is likely to result in the injured person being ~~incapacitated for~~ unable to work

further reading

Gowers' Plain Words p 19

incapacity



usage—consider alternatives

try—*illness / disability*

extra information

- 1 formal word with negative overtones

example of no change

- 1 suspend or cancel a person's registration if the person has become mentally or physically incapacitated and the incapacity prevents the person

example of change

- 1 if the offender has ~~a mental or physical incapacity~~ a disability that makes it impracticable for the offender to make a report in person

in case



usage—avoid using

try—▶ *if*

extra information

- 1 compound preposition
- 2 See also *in the case of*.

examples of no change

- 1 the intruder alarm must be connected to the mains power with a battery in case of power failure
- 2 the use of the valves in case of emergency

example of change

- 1 ~~in case of the insolvency of~~ if the buyer is insolvent

further reading

Cambridge Guide p 395 (in case of, in case and in the case of)
 Garner's Legal Style pp 106, 183
 Gowers' Plain Words p 55
 Longman English Usage p 112 (*case*)

inception

usage—avoid using

try—▶ *start / beginning*

extra information

- 1 formal word
 2 For the use of *start* and *begin*, see *commence*.

example of no change

- 1 for an entity that has been in existence for less than 2 years—since the entity's inception

examples of change

- 1 a contract under which a builder undertakes to build a home on land from the ~~inception~~ start of the building work
 2 *avoid*, in relation to a contract of insurance, means avoid from its ~~inception~~ beginning

further reading

Gowers' Plain Words p 235

incidence

usage—consider alternatives

try—*how often / extent*

example of no change

- 1 facilities that are designed to reduce the incidence of mental dysfunction or mental illness in the community

example of change

- 1 the ~~incidence~~ extent of the disease in the ACT

incidentally

usage—consider alternatives

try—omitting

extra information

- 1 can be a redundancy

example of no change

- 1 if it consists only of carbon dioxide and a substance incidentally derived from the process called carbon dioxide capture

example of change

- 1 if the temporary copy is ~~incidentally~~ made as a necessary part of a technical process of using a copy of the subject-matter

further reading

Garner's Legal Style pp 119, 120 (*incident(al) to*)
Gowers' Plain Words p 54

in close proximity

usage—never use

try—*near / close / nearby*

extra information

- 1 verbosity

examples of change

- 1 The child may be placed with a carer who lives ~~in close proximity~~ near the child's family or community.
- 2 fails to display a licence details notice at or ~~in close proximity~~ close to the point of sale

further reading

Butterworths Legal Dictionary p 948 (*proximity*)
Garner's Dictionary p 711 (*proximate; proximal*)
Gowers' Plain Words p 85
Longman English Usage p 575 (*proximity*)

includes

see—the term includes / also includes

inclusive

usage—consider alternatives

try—omitting / recasting

extra information

- 1 can be a redundancy
- 2 See LA, s 106 (References to provisions of laws are inclusive) and s 151 (Working out periods of time generally).

examples of no change

- 1 supply food under a contract, together with accommodation, service or entertainment, in consideration of an inclusive charge for the food supplied and the accommodation, service or entertainment
- 2 must be covered by professional indemnity insurance that is for at least the relevant amount inclusive of any legal costs arising from claims under the insurance

example of change

- 1 sections 1 to 3 (~~inclusive~~)

in compliance with



usage—consider alternatives

try—► *in accordance with* / recasting (using, eg *complying with*) / *under* / *as required* ► *by* / *as required under*

extra information

- 1 formal phrase

example of no change

- 1 The functions of a health and safety representative for a work group are to monitor the measures taken by the person in compliance with this Act in relation to workers in the work group

example of change

- 1 If a parentage test is carried out ~~in compliance with~~ in accordance with section 10, ...[or If a parentage test complies with section 10,...]

in conjunction with



usage—avoid using

try—*with* / ► *and* / ► *in connection with*

extra information

- 1 compound preposition

examples of no change

- 1 This chapter does not apply to care provided for a child—
 - (a) at a playgroup; or
 - (b) by an education and care service within the meaning of the *Education and Care Services National Law (ACT)*; or
 - (c) in conjunction with a meeting, function or similar activity that involves a person who has daily care responsibility for the child, at the same or adjacent premises.
- 2 provided in conjunction with the person's usual employment

examples of change

- 1 The Act must be read ~~in conjunction with~~ with the *Taxation Administration Act 1999*.
- 2 if an amateur boxing contest is to be conducted ~~in conjunction with~~ with a professional boxing contest

in connection with



usage—avoid using

try—*about* / *for* / *in* / *of* / *over* / *with* / *to* / ► *in relation to* / recasting

extra information

- 1 compound preposition
- 2 connecting phrase
- 3 If it is necessary to use a connecting phrase, prefer *in relation to* wherever appropriate (see *in relation to*).

example of no change

- 1 the record is disclosed to a member of a law enforcement agency for use in connection with the detection, investigation or prosecution of an offence

examples of change

- 1 The corporation has the legal capacity and powers of an individual ~~for or in connection with the performance of~~ for carrying out its functions. [*or omit all words after 'individual'*]
- 2 The committee may do anything necessary or convenient to be done for, or in ~~connection with~~ relation to, its functions.

further reading

Butterworths Legal Dictionary p 576 (*in connection with or caused by*)

Garner's Dictionary p 434

Gowers' Plain Words pp 4, 18, 55–6

in consequence of

usage—avoid using

try—*because of* / recasting (using ► *so* or *therefore*)

extra information

- 1 compound preposition

example of no change

- 1 Evidence that was obtained in consequence of an impropriety or of a contravention of an Australian law

example of change

- 1 Any person deprived of land or of any interest in land ~~in consequence~~ because of fraud

further reading

Gowers' Plain Words p 216

increment

usage—avoid using

try—*step* / *increase* / ► *addition* / *growth* / *profit*

extra information

- 1 formal word

example of no change

- 1 The payment of an increment to a member of staff is subject to the satisfactory conduct of the member of staff.

examples of change

- 1 the export earnings ~~increment~~ profit of a person for a grant year
- 2 the interest rate ~~increment~~ growth applied to determine the credited amount
- 3 an ~~increment to~~ increase in the salary of an eligible employee

incumbent on



usage—never use

try—recasting (using ► *must*)

extra information

1 formal word

example of change

1 if the map or plan deposited by the registered proprietor is not approved by the surveyor-general, ~~it shall not be incumbent on the registrar-general~~ is not required to proceed with the registration of register the transfer or lease

further reading

Garner's Dictionary p 435

incur



usage—avoid using

try—recasting

extra information

1 formal word

example of no change

1 the board believes on reasonable grounds that it is likely to incur extraordinary expenses

examples of change

1 the entity may deduct from the interest received by the entity for the investment the entity's reasonable expenses ~~reasonably incurred by the entity~~

2 ~~incurred expense~~ spent money on

further reading

Butterworths Legal Dictionary p 585 (*incurred*) and (*incurring a debt*)

indebtedness



usage—avoid using

try—*debt*

extra information

1 formal word

example of no change

1 the payment of wages in acquittal of the indebtedness of ACTEW for them

examples of change

1 the employer's indebtedness ~~debt~~ to the employee

2 the order is a valid discharge of the ~~indebtedness of the person~~ person's debt

3 *debenture* means a document issued by a cooperative that evidences or acknowledges ~~indebtedness~~ a debt of the cooperative.

indicate



usage—consider alternatives

try—*direct* / ► *mention* / *name* / *nominate* / *say* / *show* / ► *state* / *tell*

extra information

1 formal word

examples of no change

- 1 factors that indicate whether there is an intimate relationship between 2 people include, but are not limited to
- 2 This section applies if it appears to the tribunal that applications to the tribunal indicate a systemic problem

examples of change

- 1 The applicant must ~~indicate to~~ tell the registrar
- 2 the concentration of alcohol in the person's blood ~~indicated~~ shown by the test
- 3 An approved form may ~~indicate~~ state that convictions of a particular kind need not be disclosed for the purposes of the current application.

further reading

Garner's Dictionary pp 370 (formal words), 438

Garner's Legal Style p 120

Gowers' Plain Words p 235

individual



usage—consider alternatives

try—► *person* / *people*

extra information

- 1 Use *individual* to distinguish a natural person from a corporation (see LA, dict, pt 1, defs *individual* and *person*).
- 2 *Individual* is also appropriate to contrast a person with an organisation or body of people (whether express or implied).
- 3 However, it is inappropriate as a synonym for person.

examples of no change

- 1 An individual may apply to the commission in writing for a casino employee licence.
- 2 A *penalty unit* is—
 - (a) for an offence committed by an individual—\$110; or
 - (b) for an offence committed by a corporation—\$550.

example of change

- 1 ~~An individual or corporation~~ A person may apply for a licence.

further reading

Fowler's English Usage pp 391-2

Garner's Dictionary p 439

Garner's Legal Style p 439

Howard's Handbook p 209

Longman English Usage p 370

Partridge p 157

in every case



usage—avoid using

try—▶ *if / always / recasting*

example of no change

- 1 The document is admissible in evidence to the same extent and for that purpose in all ACT courts without further proof in every case in which the original document could have been received in evidence.

examples of change

- 1 ~~in every case in which~~ if the defendant is entitled to indemnity from the Territory
- 2 the contribution will, ~~in every case,~~ always be taken to be a mandated employer contribution

further reading

Garner's Dictionary p 133 (*case*)

Garner's Legal Style p 106 (*case of, in the*)

inevitably



usage—avoid using

try—omitting

extra information

- 1 *Inevitably* is usually only needed if the element of inevitability needs to be stressed.

example of no change

- 1 adaptation to circumstances that will inevitably be caused by climate change

example of change

- 1 the defendant acted intentionally knowing that harm ~~would inevitably,~~ probably ~~or possibly~~ may result from the defendant's act

further reading

Gowers' Plain Words p 54

in excess of



usage—avoid using

try—*over / ▶ exceed [s] / ▶ greater than / heavier than / larger than / longer than / ▶ more than / ▶ older than / taller than / recasting (using at least)*

extra information

- 1 compound preposition

example of no change

- 1 the cost of any repairs for damage to the residential premises in excess of fair wear and tear

examples of change

- 1 any amount ~~in excess of~~ over \$5 million
- 2 a concentration of alcohol in the person's blood that ~~is in excess of~~ exceeds the amount permitted by an ACT law

further reading

Gowers' Plain Words p 55

infant**usage**—avoid using**try**—*child / not an adult / baby / recasting (using a defined term, eg *young person*)***extra information**

- 1 *Infant* is an imprecise term. The Macquarie Dictionary states that an *infant* is a baby or a child during the earliest period of its life, yet also states that in law it means a person who is not of full age, especially one who is under 18 years old.
- 2 Prefer *child* or recasting.
- 3 If using *infant* and age is an important factor, you should define the term (see example of no change).

example of no change

- 1 *infant* means a person under the age of 2.

example of change

- 1 ~~an infant~~ a child who can sign his or her name

further reading

Butterworths Legal Dictionary pp 596-7

Gowers' Plain Words p 235

in favour of**usage**—consider alternatives**try**—*for / supporting***extra information**

- 1 compound preposition

example of no change

- 1 judgment is entered in favour of the plaintiff against a defendant

example of change

- 1 sign a document containing a statement that the person ~~is in favour of~~ supports a resolution

further reading

Gowers' Plain Words p 55

infer**usage**—consider alternatives**try**—► *imply* / ► *conclude***extra information**

- 1 It is a common error to use *infer* for *imply*. You may *imply* something by suggesting something with your actions or words, but you *infer* something by deducing it from something you eg see, hear or read. Although the distinction between *infer* and *imply* is becoming blurred in practice, the distinction should continue to be observed.

examples of no change

- 1 A reference in this section to disclosing something's existence includes disclosing information from which a person could reasonably be expected to infer its existence.
- 2 The existence of the request or direction can be found only by inference from the actions of people or from other relevant circumstances.

example of change

- 1 if the person ~~infers~~ implies, by refusing to answer questions, that he or she

further reading

Butterworths Legal Dictionary p 597 (*inference*)

Cambridge Guide pp 392–3 (*imply*)

Garner's Legal Style p 119

Gowers' Plain Words pp 235–6

infirmity

usage—avoid using

try—► *incapacity / illness / disability*

extra information

- 1 formal word

examples of no change

- 1 *mental illness* is an underlying pathological infirmity of the mind, whether of long or short duration.
- 2 residential accommodation and nursing care for patients who, because of infirmity, illness, disease, incapacity or disability have a continuing need for nursing care

example of change

- 1 may suspend the person on the ground of physical or mental ~~infirmity~~ incapacity

further reading

Gowers' Plain Words p 19

inflammable

usage—never use

try—*flammable*

extra information

- 1 *Flammable* and *inflammable* both mean easy to set on fire. However, for this meaning, *flammable* should be used to avoid confusion.
- 2 *Inflammable* is sometimes mistaken for a negative. The correct negative is non-flammable.

example of change

- 1 any explosive, corrosive or ~~inflammable~~ flammable substance

further reading

Cambridge Guide p 299 (*flammable* or *inflammable*)

Fowler's English Usage p 302 (*flammable*)

Garner's Dictionary p 361 (*flammable; inflammable*)

Gowers' Plain Words p 32

Longman English Usage p 372 (*inflammable, flammable, inflammatory*)

Partridge pp 120 (flammable), 158 (inflammable and inflammatory)
Working Words p 226 (flammable/inflammable/nonflammable)

inform



usage—consider alternatives

try—► *mention / say / state / tell / advise / ask*

extra information

- 1 formal word
- 2 It is incorrect to use *inform* for *tell* or *ask* where someone is being asked to do something.

example of no change

- 1 the discloser has asked in writing not to be kept informed about the public interest disclosure

examples of change

- 1 The director-general must ~~inform~~ tell the person, in writing, about the decision.
- 2 A lawyer may ~~inform~~ advise a client about how to plead to a charge.

further reading

Fowler's English Usage p 395
Gowers' Plain Words pp 18, 236
Longman English Usage p 373
Partridge p 158
Working Words p 281

in isolation



usage—avoid using

try—*in itself / alone / on its own*

example of no change

- 1 the person must keep the crocodile in a way that ensures it is kept in isolation until

example of change

- 1 A number of acts that form part of a pattern of behaviour may amount to psychological abuse of a child or young person, even though some or all of the acts, when viewed ~~in isolation~~ alone, may appear to be minor or trivial.

further reading

Gowers' Plain Words p 239

initial



usage—consider alternatives

try—*first*

example of no change

- 1 provided by the person who made the allegation or provided the initial information

example of change

- 1 A person engaged under this section may be re-engaged with no break in the person's service if—
- (a) the total period of engagement is not longer than 5 years; and
 - (b) the head of service complied with the following in relation to the person's ~~initial~~ first engagement:

initiate

usage—avoid using

try—*begin* / ▶ *start* / *propose* / *open* / *introduce*

extra information

- 1 formal word
- 2 For the use of *start* and *begin*, see *commence*.

example of no change

- 1 the advisory committee must initiate, consider, develop, and advise the rule-making committee on, proposals for making rules and approving

example of change

- 1 a computer program or an electronic or other automated means used to ~~initiate~~ start an action or respond to data messages

further reading

Garner's Dictionary pp 370 (formal words), 448
Gowers' Plain Words p 236

in like manner as

usage—never use

try—▶ *as* / *in the same way as*

example of change

- 1 sections 6 to 8 apply to performances given in that country ~~in like manner as those provisions~~ in the same way that they apply to performances given in Australia

in loco parentis

usage—never use

try—~~*acting in place of a parent*~~ *person with parental responsibility*/ recasting

extra information

- 1 foreign phrase

example of change

- 1 a person who is a parent, step-parent, guardian or person ~~in loco parentis~~ acting in place of a parent with parental responsibility

further reading

Butterworths Legal Dictionary p 577
Drafting Practice Guide, 14.34

in order that / to / for



usage—avoid using

try—► *so* / ► *that* / *so that* / *to* / *for* / recasting

extra information

- 1 *In order to* and *in order for* are complex prepositions. *In order that* is used to begin a noun phrase expressing purpose.
- 2 All are formal phrases and are usually verbose.
- 3 *In order to* can usually be replaced by *to*, and *in order for* can usually be replaced by *for*. Sometimes recasting is necessary to preserve clarity. The use of *in order to* instead of *to* may be justified by considerations of rhythm, emphasis or the nearby presence of a *to* – infinitive (see example of no change).
- 4 *In order that* can usually be replaced by *so*, *that* or *so that*.

example of no change

- 1 it is necessary to exercise powers under this section in order to protect the health and safety of people

examples of change

- 1 return the record to the other court ~~in order that~~ so that the court may give the judgment
- 2 resigned ~~in order~~ to become a candidate for election as a member of the Legislative Assembly
- 3 ~~in order to effect the installation of~~ to install a speed-limiting device
- 4 ~~In order for~~ For a person to be convicted of an offence

further reading

Fowler's English Usage pp 398-9 (*in order that*), 399 (*in order to*)

Garner's Dictionary pp 450-1 (*in order (to) (for) (that)*), 517 (*in order to* in legalisms and lawyerisms)

Garner's Legal Style pp 121, 183 (*in order to*)

Gowers' Plain Words pp 55 (*in order to*), 249 (*order, in order that*)

Longman English Usage p 500 (*order*)

Working Words p 284 (*in order to/ in order that*)

in personam



usage—never use

try—*against the person* / recasting

extra information

- 1 foreign phrase and technical legal term
- 2 A right *in personam* is a right primarily available against a particular person. By comparison, a right *in rem* is a right available against the world at large (see *in rem*).
- 3 Civil proceedings are divided into proceedings *in personam* and proceedings *in rem*. A judgment *in personam* is directed at a particular person, eg compelling a person to do what the person is required to do. A judgment *in rem* is a judgment made by a court that directly affects particular property, eg the arrest of a ship.

example of change

- 1 an amount payable under a judgment given in an action *in personam* against the person by a court of a country

further reading

Butterworths Legal Dictionary p 577
Garner's Legal Style p 121

in receipt of

usage—never use

try—*receiving / have / ► get / recasting*

extra information

- 1 verbosity
- 2 compound preposition

examples of change

- 1 if the applicant is not already ~~in receipt of~~ receiving an allowance
- 2 a person who is entitled to receive, or is ~~in receipt of~~ receiving, a pension
- 3 if the registrar is ~~in receipt of~~ has a written notice from the owner

in regard to

usage—never use

try—*about / on / for / in / of / over / to / with / ► in relation to / recasting*

extra information

- 1 compound preposition and connecting phrase
- 2 Prefer a simple preposition if appropriate. If it is necessary to use a connecting phrase, use *in relation to* if appropriate (see *in relation to*).
- 3 See LA, dict, pt 1, def *in relation to*.
- 4 See Drafting Practice Guide, ch 14, 'in respect of / in relation to / with respect to etc'.

example of change

- 1 the authority's responsibilities ~~in regard to~~ for the preservation of heritage buildings

further reading

Fowler's English Usage p 663 (*regard*)
Gowers' Plain Words pp 18, 55–6

in relation to

usage—consider alternatives

try—*about / for / in / of / over / to / with / omitting / recasting*

extra information

- 1 compound preposition

- 2 If possible, avoid using connecting phrases (eg *in connection with*) as compound prepositions by using simple prepositions (eg *for* or *of*). When defining something that has a relationship with something else, it is not usually necessary to use a connecting phrase. A simple preposition is usually sufficient.
- 3 If it is necessary to use connecting phrases, use the least number of different connecting phrases and use them consistently throughout the draft. Avoid making unnecessary, artificial distinctions between different connecting phrases.
- 4 If it is necessary to use a connecting phrase, use *in relation to* if appropriate.
- 5 See LA, dict, pt 1, def *in relation to*.
- 6 See Drafting Practice Guide, ch 14, ‘in respect of / in relation to / with respect to etc’.
- 7 See also *to and / or in relation to*.

examples of no change

- 1 if an inspector exercises a power in relation to a person
- 2 A member of a committee is not subject to the direction of anyone else in relation to anything done in his or her capacity as a member.

examples of change

- 1 This part does not apply ~~in relation~~ to dangerous goods.
- 2 (a) ~~in relation to~~ for premises—an occupier of the premises;
- 3 a consumer ~~in relation to~~ of particular goods
- 4 consult with the commission ~~in relation to~~ about the allocation of funds
- 5 vary ~~in relation to~~ with the child’s age

further reading

Gowers’ Plain Words pp 18, 55–6

in respect of / to



usage—never use

try—*about / for / in / of / over / to / with / ► in relation to / recasting*

extra information

- 1 compound preposition and connecting phrase
- 2 Prefer a simple preposition if appropriate. If it is necessary to use a connecting phrase, use *in relation to* if appropriate (see *in relation to*).
- 3 See LA, dict, pt 1, def *in relation to*.
- 4 See Drafting Practice Guide, ch 14, ‘in respect of / in relation to / with respect to etc’.

examples of change

- 1 payments ~~in respect of~~ for the year
- 2 if the insurer issues a certificate ~~in respect of~~ for the vehicle
- 3 The amount of compensation to which a mortgagee is entitled under this part ~~in respect of~~ in relation to the acquisition of a mortgage interest
- 4 This Act does not apply to a construction contract to the extent to which it deals with related goods and services supplied ~~in respect of~~ for construction work carried out outside the ACT.
- 5 The ombudsman is appointed on the terms (if any) ~~in respect to~~ in relation to matters not provided for in this Act that are prescribed by regulation.

further reading

Fowler's English Usage p 671 (*respect*)

Garner's Dictionary p 764 (*respect*)

Garner's Legal Style p 137

Gowers' Plain Words pp 55–6

in so far as / insofar as

usage—never use

try—*as far as / so far as / ► as / so that / ► to the extent that*

extra information

1 compound preposition

2 See also *as / so far as ... is / are concerned*.

example of change

1 ~~except in so far as~~ to the extent that the provision relates to a right of indemnity or a right of subrogation

further reading

Butterworths Legal Dictionary p 578

Gowers' Plain Words p 104

inspect

usage—consider alternatives

try—*check / test*

example of no change

1 each visitable place that an official visitor must inspect

example of change

1 The inspector may ~~inspect~~ check the vehicle's roadworthiness.

instance

usage—consider alternatives

try—*example / recasting*

extra information

1 *Instance* beguiles writers in the same way as *case* into roundabout ways of saying simple things (Gowers p 58).

examples of no change

1 a single instance of significant harm or multiple instances of harm that together make up significant harm

2 there is clear evidence that 1 or more instances of disclosable conduct mentioned in the disclosure

example of change

1 if the employer has an amount the employer ~~in most instances~~ usually charges employees for making a periodic payment

further reading

Gowers' Plain Words pp 57–8

Partridge pp 4 (abstract nouns—*instance*), 159 (*instance*)

institute [as a verb]



usage—never use

try—*begin* / ► *start* / ► *commence* / *set up* / ► *establish*

extra information

- 1 formal word
- 2 For the use of *begin* and *start*, see *commence*.

example of change

- 1 to ~~institute~~ start a proceeding

further reading

Garner's Dictionary pp 370 (formal words), 456

instrument



usage—consider alternatives

try—*document* / recasting (using ► *in writing*) / omitting

extra information

- 1 *Instrument* has both general and technical legal meanings. For non-lawyers, *instrument* used in its legal sense can be confusing (or give rise to derision).
- 2 See LA, s 14 (Meaning of *instrument*).
- 3 See also *instrument in writing*; *written instrument*.

example of no change

- 1 A determination is a notifiable instrument.

example of change

- 1 by the person's agent authorised ~~by instrument~~ in writing

further reading

Butterworths Legal Dictionary p 606

Garner's Dictionary p 456

instrument in writing



usage—never use

try—► *instrument* / ► *written notice* / *notice* / *document* / *certificate* / recasting

extra information

- 1 A redundancy (see LA, s 14, s 42 (2) and dict, pt 1, defs *document* and *writing*).

example of change

- 1 declare by registered instrument ~~in writing~~ that the person no longer holds the property as executor

further reading

Butterworths Legal Dictionary pp 606-7

Garner's Dictionary p 456 (*instrument*)

in support of



usage—consider alternatives

try—*for / supporting / to support*

extra information

- 1 compound preposition

example of no change

- 1 The party whose case is presented first (the *first party*) may make an address opening the first party's case and may then present evidence in support of the case.

examples of change

- 1 the permit is ~~in support of~~ for the person's business
- 2 documents relied on by the applicant ~~in support of~~ to support the application
- 3 the grounds ~~in support of~~ supporting the application

integrate



usage—consider alternatives

try—*amalgamate / coordinate / combine / join / consolidate*

extra information

- 1 vague word
- 2 *Integrate* can be useful to describe the process of combining different elements into a whole, especially to mean bringing racially or culturally different people into equal membership of society.

example of no change

- 1 the person's circumstances, to the extent that they relate to the conduct sought to be prohibited;

Examples

- 1 the person's accommodation, employment, health, cultural and social needs
- 2 the need to integrate the person into the community

example of change

- 1 decision-making processes should effectively ~~integrate~~ combine both long-term and short-term economic

further reading

Fowler's English Usage p 403

Gowers' Plain Words pp 17, 236

inter alia



usage—never use

try—*include* / recasting

extra information

- 1 foreign phrase

example of change

- 1 ~~The health profession board for a profession is responsible for, inter alia. The responsibilities of the health profession board for a profession include—~~

- (a) registering health professionals in the profession; and

further reading

Butterworths Legal Dictionary p 611

Cambridge Guide p 416

Garner's Legal Style p 121

interim



usage—consider alternatives

try—*provisional* / *temporary*

extra information

- 1 Prefer the simplest, appropriate word.

example of no change

- 1 the Chief Minister may make an interim determination of the remuneration

example of change

- 1 the Executive may appoint a person as ~~an interim~~ a temporary presidential member of the tribunal

in terms of



usage—avoid using

try—*about* / *for* / *in* / *of* / *to* / ► *in relation to* / recasting / omitting

extra information

- 1 compound preposition
- 2 often only padding

example of no change

- 1 the appointer (or someone else) to be satisfied about the appointee's suitability (whether in terms of knowledge, experience, character or any other personal quality) before appointing the appointee to the position

example of change

- 1 the protection of consumers from abuses of monopoly power ~~in terms of~~ in relation to prices, pricing policies

further reading

Garner's Legal Style pp 57, 121

Garner's Dictionary p 872 (*terms, in*)

Gowers' Plain Words pp 4, 55–6

Longman English Usage p 702 (*terms*)

interrogate

- ☹️ **usage**—consider alternatives
try—*question / ask*
extra information
 1 formal word
further reading
 Garner's Dictionary p 370 (formal words)

interval

- ☹️ **usage**—consider alternatives
try—omitting / recasting
extra information
 1 *Interval* is sometimes misused to describe only a space or period of time, rather than a space or period between 2 things or events (Gowers).
example of change
 1 ~~6 monthly intervals~~ every 6 months [*or twice a year*]
further reading
 Gowers' Plain Words p 237

inter vivos

- ☹️☹️ **usage**—never use
try—*between living people / recasting (using, eg during the life of)*
extra information
 1 foreign phrase
example of change
 1 an agreement ~~inter vivos~~ between living people
further reading
 Butterworths Legal Dictionary p 612

in the absence of

- ☹️ **usage**—avoid using
try—*without / not having*
extra information
 1 compound preposition
 2 pomposity
example of change
 1 ~~In the absence of~~ Without additional information your application cannot be dealt with. [*or Your application cannot be dealt with without additional information*]
further reading
 Gowers' Plain Words p 55
 Howard's Handbook p 3 (*absence*)
 Longman English Usage p 5 (*absence*)

in the affirmative



usage—avoid using

try—recasting (using words to the effect of *yes* or *in favour*)

extra information

- 1 formal phrase
- 2 See also *affirmative*

example of change

- 1 The court ruled ~~in the affirmative~~ in favour of the plaintiff.

further reading

- Fowler's English Usage p 32 (*affirmative*)
 Garner's Dictionary p 36 (affirmative, in the; negative, in the)
 Gowers' Plain Words p 201 (*affirmative*)
 Longman English Usage p 24 (*affirmative*)
 Partridge p 28 (*answer was...*)

in the case of



usage—avoid using

try—*for / in / recasting* (using *if ... applies*) / omitting

extra information

- 1 compound preposition

examples of change

- 1 ... ~~in the case of~~ for a fatal injury, includes ...
- 2 ~~in the case of~~ for a licence mentioned in subsection (3) (a)

further reading

- Cambridge Guide p 372
 Garner's Dictionary pp 133 (*case*), 877 (*the case of*)
 Garner's Legal Style p 106 (*case of, in the*)
 Gowers' Plain Words pp 18, 55–6
 Longman English Usage p 112 (*case*)

in the context of



usage—avoid using

try—*for / of / to / recasting*

extra information

- 1 compound preposition

examples of change

- 1 The emergency beacon is not needed ~~in the context of~~ for the ferry's normal operations.
- 2 The operation of the account by a single person is impossible ~~in the context of~~ if there is a proper system of financial control.

further reading

- Gowers' Plain Words pp 56, 188

in the course of



usage—avoid using

try—▶ *during* / ▶ *while* / ▶ *when* / *throughout* / omitting

extra information

1 compound preposition

example of change

1 ~~in the course of~~ during the journey

further reading

Gowers' Plain Words p 55

in the event that / of [also in the eventuality of]



usage—never use

try—▶ *if* / ▶ *when* / recasting

extra information

1 compound preposition

examples of change

1 ~~In the event of~~ If conflict arises between the public interest and the private interest of a person, ...

2 ~~In the event of~~ If there is a short pay by a machine, ... [*or* If a person is short-changed by a machine...]

3 The member presiding at a meeting has a deliberative vote and, ~~in the event of an equality of voting~~ if the votes are equal, a deciding vote.

further reading

Garner's Legal Style p 183

Gowers' Plain Words pp 55, 184, 227

in the first instance



usage—never use

try—*first*

extra information

1 verbosity

example of change

1 The parties to a dispute must ~~in the first instance~~ first attend mediation.

further reading

Garner's Legal Style p 57

Gowers' Plain Words p 58

in the interest of



usage—never use

try—*for*

extra information

1 compound preposition

example of change

1 The tribunal must consider whether releasing the information is ~~in the interest of promoting~~ would promote the effective exercise of the tribunal's functions.

further reading

Garner's Legal Style p 183

in the nature of



usage—never use

try—▶ *like / similar*

extra information

1 compound preposition

example of change

1 made under a provision ~~in the nature of~~ like those mentioned in section 6

further reading

Garner's Legal Style p 128 (*nature, of a—*)

Gowers' Plain Words pp 55, 247

in the negative



usage—never use

try—recasting (using words to the effect of *no* or *against*)

extra information

1 formal phrase

2 See also *in the affirmative*

example of change

1 if the court rules ~~in the negative~~ against the plaintiff

further reading

Garner's Dictionary p 36 (*affirmative, in the; negative, in the*)

Gowers' Plain Words p 247

Partridge p 28 (*answer was...*)

in the vicinity of



usage—never use

try—*about / near / nearby*

extra information

1 compound preposition

example of change

1 a person who is in, ~~or in the vicinity of,~~ or near a prohibited area

further reading
Gowers' Plain Words p 55

in this [provision] called



usage—never use

try—omitting

extra information

- 1 It is unnecessary to state the provisions for which a term is defined unless the term is to have a limited operation within the section in which the term is defined. If a term is defined for a particular provision only and it is used outside that section, a signpost definition should be included in the dictionary.
- 2 See LA, s 156 (Application of definitions in dictionaries and sections).

example of change

- 1 the Minister may prepare a report (~~in this section called~~ a *summary report*)

intoxicated



usage—consider alternatives

try—*under the influence of* (eg *alcohol* or *drugs*) / recasting (using *affected by ...*)

extra information

- 1 Using *intoxicated* may be useful as a defined term in legislation where there are many references to a person being under the influence of alcohol or drugs, for example, in the *Liquor Act 2010*.

example of no change

- 1 A person is *intoxicated* if under the person's speech, balance, coordination or behaviour is noticeably affected and it is reasonable in the circumstances to believe that the affected speech, balance coordination or behaviour is the result of the consumption of liquor.

example of change

- 1 A person must not sell a firearm to another person if the person believes the other person is ~~intoxicated~~ under the influence of alcohol or any other drug.

further reading

Garner's Legal Style p 33

in view of



usage—avoid using

try—*because of* / ► *as* / *since*

extra information

- 1 compound preposition
- 2 For the use of *in view of* with *the fact that*, see *the fact that*.

example of no change

- 1 Something is *published* if it is publicly exhibited in view of people on a street or in a public place.

example of change

- 1 If the registrar-general is satisfied that, ~~in view of~~ because of a finding of a court, an entry in the register is incorrect, the registrar-general must correct the register in accordance with the finding.

further reading

Gowers' Plain Words p 55

involve

usage—consider alternatives

try—omitting / recasting (using more precise words)

extra information

- 1 vague word

example of no change

- 1 The Attorney-General may certify that the disclosure of information about a stated matter is not in the public interest because it would involve the disclosure of decisions of the Cabinet.

example of change

- 1 details of how copies may be obtained, including an indication of ~~whether there is a cost involved~~ the cost (if any)

further reading

Gowers' Plain Words pp 4, 17, 33, 237–8

involvement

usage—consider alternatives

try—*connection* / recasting (using more precise words)

extra information

- 1 vague word

example of no change

- 1 The main objects of this Act include recognising a birth parent's involvement in making decisions about their child's future.

example of change

- 1 if the applicant ~~maintained direct involvement in managing~~ managed eligible investments

further reading

Gowers' Plain Words p 238–9

in which

usage—consider alternatives

try—► *where* / ► *when* / *how*

extra information

- 1 See also *which*.

example of no change

- 1 the way in which the person's interests are affected by the decision

examples of change

- 1 the State ~~in which~~ where the exemption was granted
- 2 the month ~~in which~~ when the corporation files its claim

in writing



usage—consider alternatives

try—omitting / *written* / recasting

- 1 A reference to ‘in writing’ is redundant if the thing required to be in writing is an appointment, delegation or statutory instrument because the Legislation Act requires those things to be in writing (see ss 42, 206 and 232).
- 2 See also *instrument in writing*; *notice in writing*.

example of no change

- 1 only if the defendant agrees in writing

examples of change

- 1 The registrar must ~~note, in writing,~~ make a written note of ...
- 2 a ~~statement in writing~~ written statement
- 3 a ~~report in writing~~ written report

irrespective of



usage—avoid using

try—recasting (using ► *whether or not* or ► *even if*)

example of no change

- 1 In this Act, a reference to an animal of a particular kind is a reference to an animal of that kind irrespective of age or sex.

example of change

- 1 This section applies in relation to a person asserted to have a transmissible notifiable condition ~~irrespective of the truth of the assertion~~ whether or not the assertion is true.

further reading

Garner’s Legal Style p 121

Gowers’ Plain Words p 239

is / are able to



usage—avoid using

try—► *can* / ► *may*

extra information

- 1 verbosity
- 2 See also *is/are unable to*.

example of no change

- 1 the entity is able, or will be able, to exercise significant influence in relation to the conduct of the business

example of change

- 1 If the child ~~is able to~~ can form and express views about the child's wellbeing, those views must be sought and considered.

further reading

Garner's Legal Style p 56

is / are allowed to

usage—avoid using

try—► *may* / ► *can*

extra information

- 1 verbosity

example of no change

- 1 to the extent that the person is allowed to do the activity under the person's registration

examples of change

- 1 a person ~~is allowed to~~ may give by will any real or personal property
- 2 Other entities ~~are allowed to~~ may choose to be subject to obligations of public authorities.

further reading

Garner's Legal Style p 56

is / are authorised

usage—avoid using

try—► *may* / ► *can*

extra information

- 1 verbosity

example of no change

- 1 A person may be taken to a health facility in another State under this section by a person who is authorised by this Act.

example of change

- 1 An authorised person ~~is authorised to~~ may require a person to state the person's name and home address.

is / are [not] entitled to

usage—consider alternatives

try—► *may* / ► *can* / [*may not* / *must not*]

extra information

- 1 verbosity
- 2 *Is entitled to* can be appropriate to make it clear that someone has a right to something. However, often *may* is sufficient.

examples of no change

- 1 A member is entitled to be paid the remuneration and allowances the Minister decides. [*if a member can decline payment, but otherwise has a right to payment*]
- 2 The complainant and the person about whom the complaint is made are not entitled to legal representation.

examples of change

- 1 The carrier ~~is entitled to~~ may enter the property.
- 2 A registered insurer ~~is not entitled to~~ must not decline CTP business.

further reading

Garner's Dictionary p 942 (words of authority)

Garner's Legal Style p 183

is / are liable to

usage—consider alternatives

try—► *must* / *is given to* / *is likely to* / *is expected to* / *is responsible for*

extra information

- 1 verbosity
- 2 Do not use *liable to* as a substitute for *likely*. Use *likely to* mean expected or probable.
- 3 *Liable to* means responsible or subject to liability, eg to taxation, civil or criminal liability.

example of no change

- 1 The licensee is liable to pay the levy.

examples of change

- 1 the workload is ~~liable~~ likely to increase
- 2 A beneficiary ~~is liable to~~ must tell the authority about any changed circumstances.

further reading

Cambridge Guide p 471 (*liable*)

Fowler's English Usage 455 (*liable, likely*), 460 (*likely*)

Garner's Dictionary pp 527 (*liable*), 530 (*likely*)

Garner's Legal Style p 124 (*liable; likely*)

Gowers' Plain Words p 241

Longman English Usage p 54 (*liable, likely*)

Working Words p 44 (*liable/prone/likely*)

is / are [not] required to

usage—avoid using

try—► *may* / ► *can* / ► *must* / *need not* / *does not have to* / *may, but need not*,

extra information

- 1 verbosity
- 2 See also *require*

examples of no change

- 1 a licence or permission is required to carry on consumer trading

- 2 containers that are required to maintain the temperature, quality or integrity of the product

examples of change

- 1 an undertaking ~~is required to~~ must be given
 2 the records ~~are required to~~ must be kept for 7 years

is / are not to



usage—avoid using

try—*must not / does not*

extra information

- 1 See also *is/are to*.

example of no change

- 1 a whole number that is the total of the entitlements of all lots that are not to be common property

examples of change

- 1 An additional penalty ~~is not to~~ must not be imposed on the person.
 2 the rate at which the charges are made ~~are not to~~ must not exceed the maximum rate
 3 this agreement ~~is not to~~ does not have effect while the State is a party to another agreement

issue

[as a noun]



usage—consider alternatives

try—*subject / concern / dispute / ►matter*

extra information

- 1 formal word

example of no change

- 1 if the application raises an issue

examples of change

- 1 if a member has an interest in ~~an issue~~ a matter being considered
 2 if the director-general ~~has an issue with~~ a concern about the proposal
 3 if the ~~issue~~ dispute relates to the care and maintenance of children

further reading

Gowers' Plain Words pp 4, 239

issue

[as a verb]



usage—consider alternatives

try—*make / give / transfer / send / omitting*

extra information

- 1 formal word

example of no change

- 1 The registrar may issue licences.

examples of change

- 1 The Minister may ~~issue~~ make standards.
- 2 The director-general must ~~issue~~ give an identity card to each inspector.

issue as to whether

usage—never use

try—*issue about whether / issue of whether / issue whether*

extra information

- 1 verbosity
- 2 See also *as to whether / as to who / as to how / as to what etc*

example of change

- 1 if the party against whom evidence of the admission is presented has raised in the proceeding an issue ~~as to~~ about whether the admission or its making were influenced in a way mentioned in subsection (1)

further reading

Garner's Dictionary pp 470, 930 (*whether*)

Garner's Legal Style pp 136 (*whether, as to*), 146 (*whether (or not)*)

is / are to

usage—avoid using

try—▶*must* / ▶*will* / omitting / recasting

extra information

- 1 Use *must* if a duty is to be imposed.
- 2 There is no rule preventing *must* being used in relation to the Executive, Ministers or courts.
- 3 See also *is to be read; is to be taken*.

example of no change

- 1 the committee's function is to

examples of change

- 1 if the notice is ~~to be~~ served by post, the notice may be addressed to
- 2 the election ~~is to~~ must be conducted as if
- 3 All land ~~is to keep~~ keeps its previous designation.
- 4 an order that a claimant ~~is to have~~ has leave
- 5 The commissioner is ~~to be~~ appointed under the XYZ Act.

is to be read

usage—avoid using

try—recasting

extra information

- 1 verbosity

example of change

- 1 the provision ~~is to be read~~ applies with the changes

is to be taken

usage—never use

try—*is / is taken*

extra information

- 1 verbosity

examples of change

- 1 the proposed resolution is ~~to be taken as having been~~ taken to be lost
- 2 a claimant is ~~to be~~ taken to have remedied noncompliance if

further reading

Garner's Legal Style p 199 (*be-verbs*)

is / are unable to

usage—avoid using

try—*cannot / may not*

extra information

- 1 verbosity

examples of change

- 1 ~~is unable to~~ cannot give notice to the owner
- 2 If a person ~~is unable to~~ cannot comply with subsection (1)
- 3 if the detainee ~~is unable~~ cannot, because of inadequate knowledge of the English language or a disability, ~~to~~ communicate with reasonable fluency in English

it appears that / it would appear that

usage—avoid using

try—omitting / recasting

extra information

- 1 timid phrase

example of no change

- 1 if, on a trial for murder, it appears that the act or omission causing death occurred under provocation

example of change

- 1 This rule applies if ~~it appears that~~ the deceased person may have lived outside the ACT.

further reading

Garner's Legal Style p 35 (*it would appear that*)

item

usage—consider alternatives

try—omitting / recasting

example of no change

1 a provision mentioned in an item in table 33

example of change

1 includes duty paid on any other ~~items~~ goods

further reading

Gowers' Plain Words p 240

it would appear that

see—it appears that / it would appear that

J

jointly and severally [also joint and several]



usage—avoid using

try—recasting (using ► *together / together and separately / alone / individually / each of them*)

extra information

- 1 doublet
- 2 The words *jointly* and *severally* (and *joint* and *several*) are not legal terms of art. They can be replaced with plainer alternatives without loss of legal effect.
- 3 To clarify the application of a provision to combinations, the words ‘or in any combination’ could be added.

further reading

Butterworths Legal Dictionary p 643 (joint and several), (joint and several liability), (joint and several obligation) and (joint and several promise)

Garner’s Dictionary pp 479 (*joint and several*), 799 (*several*)

justify



usage—consider alternatives

try—*prove / defend / give reasons for*

example of no change

- 1 exceptional circumstances justify action without a written complaint

example of change

- 1 the prosecution may offer evidence to ~~justify~~ prove the other contention

juvenile



usage—never use

try—*child / not an adult / young* / recasting (using a defined term, eg *young person*)

extra information

- 1 *Juvenile* may have negative connotations.

example of change

- 1 functions under this Act may be exercised for a ~~juvenile~~ young offender

further reading

Fowler’s English Usage p 431

K

kind



usage—consider alternatives

try—omitting / recasting (using more precise words)

extra information

- 1 Most legal drafting is expressed in the singular and it is usually unnecessary to distinguish between a class (using, eg *category, class, group, kind or type*) and its members (see LA s 48 and s 145 (b)). Avoid using *class* unless it is necessary.
- 2 If it is necessary to use *class*, use it as infrequently as possible consistently throughout the draft. Avoid making unnecessary, artificial distinctions in using *classes* (eg the use of *kind* and *type*, or *class* and *kind*).
- 3 If it is necessary to mention *class*, prefer *kind* if appropriate.
- 4 Avoid using *kind* as an omnibus word. ‘Whatever is generic in writing is an enemy to good legal writing. Just as glib generalities weaken the arguments they would support, so omnibus words detract from the message they would convey. Expunge these words from your vocabulary and you will find your writing more vigorous, concrete and vivid.’ (Garner)
- 5 Never use *kind of* as a hedge word (diminisher), eg ‘He was kind of late’.
- 6 Never use *kind of a* as a contraction for *a kind of a*.

example of no change

- 1 A warrant issued under this section must give a description of the kind of thing authorised to be seized.

examples of change

- 1 a person ~~of the kind~~ mentioned in section 14
- 2 A regulation may exempt a vehicle or person, ~~or a kind of vehicle or person.~~

further reading

Cambridge Guide p 427 (*kind of*)
Fowler’s English Usage pp 433–4
Garner’s Legal Style pp 122, 215 (*kind of*)
Gowers’ Plain English p 134 (*those kinds of things*)

knowledge

see—has / have knowledge of

L

lack



usage—consider alternatives

try—recasting

extra information

- 1 *Lack* can contribute to abstract, loose writing.

examples of no change

- 1 a lack of fire prevention measures
- 2 the investigating entity is reasonably satisfied that the lack of assistance makes it impracticable for the disclosure to be investigated

further reading

Gowers' Plain Words pp 80–1

laid before

see—lay / laid before

landlord



usage—never use

try—*lessor*

extra information

- 1 formal word
- 2 *Landlord* is not gender-neutral.

last will and testament



usage—never use

try—*will*

extra information

- 1 It is not necessary to use *last will and testament*. The word *last* serves no legal purpose and the word *will* includes *testament*.

example of change

- 1 An interest in land cannot be created or disposed of by a person except by the person's ~~last will and testament~~ will.

lastly

usage—never use

try—*last* / *finally* / omitting / recasting

example of change

- 1 ~~lastly~~ finally, in payment of the balance to or on behalf of the person

further reading

Cambridge Guide p 434

lastmentioned / last-mentioned / last mentioned

usage—never use

try—recasting / *last*

extra information

- 1 formal word
- 2 It is better to repeat words rather than use *lastmentioned*. Alternatively, use a tagged term. Readers may otherwise have difficulty in working out what is referred to.
- 3 For similar reasons, avoid substituting *latter* (see *latter*).
- 4 If you want to refer otherwise than specifically to the first of 2 or more things, try *last*.
- 5 See also *firstmentioned* / *first-mentioned* / *first mentioned*.

example of change

- 1 The power of attorney is revoked in relation to the ~~lastmentioned~~ person mentioned in paragraph (b).

later

see—*not later than* / *no later than*

latter

usage—never use

try—recasting / *last*

extra information

- 1 formal word
- 2 It is better to repeat words rather than use *latter*. Alternatively, use a tagged term. Readers may otherwise have difficulty in working out what is referred to.
- 3 For similar reasons, avoid substituting *lastmentioned* and like terms (see *lastmentioned*).
- 4 *Latter* can refer to only one of 2 things and if you use it for more than 2 you may puzzle your readers.
- 5 If you want to refer otherwise than specifically to the first of more than 2 things, try *first*.
- 6 See also *former*.

further reading

Cambridge Guide p 291 (*former* and *latter*)

Fowler's English Usage pp 443–4

Garner's Dictionary p 370 (*former*)

Gowers' Plain Words p 115

lawful

usage—consider alternatives

try—*valid* / *legal* / omitting / recasting (using ► *may*)

extra information

- 1 It is sometimes desirable to mention that some conditions depend on whether the action mentioned in the conditions is itself not an offence (see example of no change).
- 2 Usually, *lawful* is an unnecessary gloss if what is intended is a reference to legal competency. In phrases such as *it is lawful*, *may* is then appropriate (see *may*).

example of no change

- 1 without lawful justification or excuse

further reading

Cambridge Guide p 439 (legal, legalistic, legitimate or lawful)

lay / laid before

usage—avoid using

try—*present to* (the Legislative Assembly)

extra information

- 1 *Present to* is the concept used in the Standing Orders of the Legislative Assembly and the LA.

example of change

- 1 The Minister must ~~lay before~~ present the report to the Legislative Assembly.

legal practitioner

usage—consider alternatives

try—*lawyer*

extra information

- 1 formal phrase
- 2 See LA, dict, pt 1, defs *lawyer* and *legal practitioner*.
- 3 See Drafting Practice Guide, ch 14, 'legal practitioner / lawyer'.

legally

usage—consider alternatives

try—recasting (using 'neutral' words)

extra information

- 1 *Legally* can be a sentence adverb (ie an adverb that qualified a sentence as a whole)

further reading

Fowler's English Usage pp 702–3 (sentence adverbs)
 Garner's Dictionary pp 791–2 (sentence adverbs)

less

usage—consider alternatives

try—► *fewer* / ► *lesser*

extra information

- 1 For the use of *less* and *fewer*, see *fewer*.
- 2 For the use of *less* and *lesser*, see *lesser*.
- 3 Note that to provide for less than X and more than X has the effect of excluding X itself and leaving it unprovided for.
- 4 See also *not less than*; or *less*.

example of change

- 1 A container must be fixed to the floor with no ~~less~~ fewer than 2 anchor bolts.

lesser

usage—consider alternatives

try—► *less*

extra information

- 1 *Lesser* means smaller in importance, significance or status. It is used with count nouns (see *fewer*).
- 2 *Less* is used with mass nouns (see *fewer*) and means smaller in amount.

further reading

Cambridge Guide p 441

let

usage—consider alternatives

try—*leased* / *allow* / ► *permit* / *leave*

extra information

- 1 It is unnecessary to refer to both *let* and *leased*.

example of no change

- 1 The individual must not let anyone else possess or use a firearm.

example of change

- 1 if the land were ~~let~~ leased at a nominal rent

further reading

Fowler's English Usage p 448 (*leave, let*)

level



usage—consider alternatives

try—omitting / recasting (using more specific words)

extra information

1 *Level* can be vague and abstract, but can sometimes be useful.

example of no change

1 state the educational level or levels for which the school is registered

examples of change

1 ~~overall level of total~~ expenditure

2 significantly higher ~~level of~~ expenditure

further reading

Gowers' Plain Words p 189

liable to

see—~~is~~ / are liable to

liability to

see—has / have a liability to

liaise with



usage—avoid using

try—*coordinate / contact / work with*

extra information

1 vogue phrase

example of change

1 The directors-general must ~~liaise with~~ work with each other.

like



usage—consider alternatives

try—▶ *as / as if / as though / just as / such as / similar / the same*

extra information

1 *Like* should not, as a rule, be used as a conjunction (see example of change 1).

2 *Like* should not be used to create an example (see example of change 2).

3 See also *in like manner as*.

example of no change

1 All periodic payments in the nature of income are, like interest on an amount lent, taken to accrue daily.

examples of change

1 in ~~like~~ similar [*or the same*] circumstances

- 2 in working out what is reasonable compensation consideration must be given to any concession given to the tenant, ~~like reduced rent~~

further reading

Cambridge Guide pp 447–8 (in support of use of like as conjunction)
Gowers' Plain Words p 104

likewise



usage—never use

try—*also* / recasting

example of change

- 1 the council must ~~likewise~~ be asked to convene a meeting in accordance with subsection (1)

further reading

Cambridge Guide p 449

limited number of



usage—avoid using

try—recasting

extra information

- 1 imprecise

example of no change

- 1 [*as a note*] the Governor-General has power to make ordinances for the ACT on a limited number of topics

example of change

- 1 The Minister may approve ~~a limited number of~~ no more than [x] licences.

further reading

Gowers' Plain Words p 241 (*limited*)
Partridge p 177 (*limited*)
Working Words p 316 (*limited*)

limiting

see—without limiting the generality of

listed



usage—consider alternatives

try—► *mention* / ► *state* / ► *set out* / recasting

extra information

- 1 Be careful not to draw artificial distinctions in legislation by using different words to say essentially the same thing, eg do not say in one provision 'a (thing) listed in section x' and then in another provision say 'a person mentioned in section y'.
- 2 Prefer *mention* or *state* if appropriate. For the use of *mention*, *state* and *set out*, see *state*.

example of no change

- 1 the species was listed in the extinct category of the threatened native species list

example of change

- 1 Removal allowance is payable if the transfer is to a place ~~listed~~ mentioned in section 50.

livelihood

usage—avoid using

try—*living / occupation / business*

extra information

- 1 formal word

locality

usage—avoid using

try—*place / ► area / district*

extra information

- 1 formal word

lodge

usage—consider alternatives

try—*file / made to / give / send / recasting*

extra information

- 1 formal word
- 2 LA, dict, pt 1 defines *file* to include lodge.

examples of change

- 1 A claim for compensation must be ~~lodged with~~ made to the director-general.
- 2 A claimant may apply for compensation by ~~lodging~~ giving a completed form ~~with~~ to the Minister.
- 3 An application must be ~~lodged~~ made in writing ~~with~~ to the authority.

logically / logical

usage—avoid using

try—recasting (using ‘neutral’ words)

extra information

- 1 *Logically* can be a sentence adverb (ie an adverb that qualified a sentence as a whole).
- 2 *Logically* and *logical* can be value-loaded words.

further reading

Fowler’s English Usage pp 702–3 (sentence adverbs)
Garner’s Dictionary pp 791–2 (sentence adverbs)

L

long

see—as long as / so long as

M

maiden name



usage—never use

try—*former name*

extra information

- 1 archaic

example of change

- 1 ~~the maiden name~~ any former name or other family name of the child's mother

maintain



usage—consider alternatives

try—*keep / continue / have* / ► *state* / recasting

example of no change

- 1 A regulation may prescribe the standards to be achieved and maintained.

examples of change

- 1 The tribunal must ~~maintain~~ keep a register of decisions.
- 2 To ~~maintain~~ keep consistent section numbering between this Act and the Commonwealth Act.
- 3 The director-general must ~~maintain~~ provide care and support for a young person.

major



usage—consider alternatives

try—*main* / ► *principal / serious* / recasting (using ► *important / large / strong / great*)

extra information

- 1 vague, overused word

examples of no change

- 1 major road (in contrast with minor road)
- 2 a major political party

example of change

- 1 a ~~major~~ serious illness

further reading

Fowler's English Usage p 476
Gowers' Plain Words p 243

majority



usage—consider alternatives

try—recasting (using, eg *most / the greater part of*)

extra information

- 1 *Majority* may be treated as singular or plural according to whether the people or things mentioned are being considered as a group or individually (see examples of no change).

examples of no change

- 1 The majority of members support the decision.
- 2 majority shareholder

example of change

- 1 if ~~the majority of~~ most of the building was damaged by fire

further reading

Cambridge Guide pp 461 (*majority*), 486 (*minority*)

Fowler's English Usage pp 476–7

Gowers' Plain Words pp 133, 243

Working Words p 324

make a decision



usage—avoid using

try—*decide*

extra information

- 1 verbosity

example of change

- 1 it is necessary to ~~make a decision~~ decide

make an order



usage—avoid using

try—*order*

extra information

- 1 verbosity

example of change

- 1 the court may ~~make an order~~ order that

make application



usage—avoid using

try—recasting (using, eg *apply*)

extra information

- 1 verbosity

example of change

- 1 A person may ~~make an application~~ apply to the Minister for a licence.

further reading

Garner's Dictionary p 912 (verbosity)

make a statement



usage—consider alternatives

try—► *state* / *tell* / ► *mention*

extra information

1 verbosity

example of no change

1 the clerk must make a statement to the Legislative Assembly

example of change

1 a person must not ~~make a statement~~ state

further reading

Garner's Dictionary p 11 (abstractitis)

make payment



usage—avoid using

try—*pay*

extra information

1 verbosity

further reading

Garner's Dictionary p 912 (verbosity)

make provision for



usage—avoid using

try—► *provide (for)*

extra information

1 verbosity

further reading

Garner's Dictionary pp 543, 912 (verbosity)

make reference to



usage—avoid using

try—► *refer to* / ► *mention*

extra information

1 verbosity

further reading

Garner's Legal Style p 125

make sure



usage—never use

try—*ensure* / ► *verify* / *clarify*

man / men



usage—avoid using

try—► *person* / ► *individual* / *human being* / recasting

extra information

1 only use man for gender specific application

2 See also *man-made*.

example of change

1 each ~~man~~ person has 1 vote

further reading

Cambridge Guide pp 463–4

Fowler's English Usage pp 705–6 (sexist language), 182–5 (discriminatory language)

Garner's Dictionary pp 799–803 (sexism)

...man / men



usage—avoid using

try—recasting (using gender-neutral words)

extra information

1 gender-specific word

2 For a list of gender-neutral alternatives for gender-specific job titles, see Cwlth Style Manual (6th ed) pp 58-60 (Occupational titles).

3 See also *chairman/chairwoman*.

further reading

Garner's Dictionary pp 801-2 (sexism)

Garner's Legal Style p 212-13

manhole



usage—never use

try—*accesshole* / *sewerhole* / *utility hole* / *trapdoor* / recasting

extra information

1 use a gender-neutral alternative

further reading

Garner's Legal Style p 212-13

manhood



usage—never use

try—*adulthood* / recasting

extra information

1 use a gender-neutral alternative

manhour



usage—never use

try—*working hour* / *work hours* / *labour hours* / recasting

extra information

1 use a gender-neutral alternative

further reading

Cambridge Guide p 464

manifestly / manifest



usage—consider alternatives

try—recasting (using ‘neutral’ words)

extra information

1 dogmatic words

example of no change

1 a manifest contrary intention

further reading

Garner’s Dictionary pp 161 (*clearly*), 926 (weasel words)

mankind



usage—never use

try—*humanity* / *human beings* / *humans* / *people* / *the human race* / *humankind* /

▶ *persons* / recasting

extra information

1 use a gender-neutral alternative

example of change

1 the problems of ~~mankind~~ humanity

further reading

Cambridge Guide pp 463–4 (*man*)

Fowler’s English Usage pp 479, 705–6 (sexist language)

man-made



usage—never use

try—*artificial* / *manufactured* / ▶ *constructed* / *fabricated* / *handmade* / *handcrafted* / recasting

extra information

- 1 use a gender-neutral alternative

further reading

Cambridge Guide p 464

manner

usage—consider alternatives

try—*way* / ► *method* / omitting / recasting (using, eg *how*)

extra information

- 1 can lead to verbosity
- 2 See also *in a ... manner / way; in a timely manner / way; in like manner as*.

examples of change

- 1 ~~in like manner~~ the same way as
- 2 ~~the manner in which~~ how
- 3 ~~in a manner similar to~~ like
- 4 The objects of this Act include promoting the protection of children in a ~~manner~~ way that ...

further reading

Garner's Dictionary p 547 (*manner in which*)

Longman English Usage p 433

Working Words p 326

manpower

usage—never use

try—*workforce* / *staff* / *workers* / *employees* / ► *personnel* / *people* / recasting

extra information

- 1 use a gender-neutral alternative

further reading

Working Words p 183 (discriminatory language)

master**[as a noun]**

usage—never use

try—*employer* / *teacher* / *principal* / *captain* (of ship/harbour) / *registrar* / *person in charge* / *person in control* / *associate judge* (of Supreme Court)

extra information

- 1 use a gender-neutral alternative
- 2 If what is intended is a reference to the master in a master–servant relationship, *employer* and *employee* are usually sufficient. *Master* in this context is dated and can have negative overtones.

examples of change

- 1 the ~~master of the Supreme Court~~ associate judge
- 2 a ~~schoolmaster~~ teacher [*or principal*]

further reading

Garner's Dictionary pp 312 (*employer and employee; master and servant*), 550

material

[as an adjective]



usage—consider alternatives

try—*essential* / ► *important* / *necessary* / ► *significant* / ► *relevant* / ► *appropriate* / recasting (using more precise words)

extra information

- 1 vague word that can mean, eg *essential*, *important* or *relevant*
- 2 *False or misleading in a material particular* [respect] has a well established meaning in criminal law (see, eg *Minister for Immigration v Dela Cruz* (1992) 110 ALR 367, 371, 372, and *R v Marslen and Shaw* (1995) 79 A Crim R 199, 202-3).
- 3 *Material* is also used in a number of other legal concepts (see Butterworths Legal Dictionary). In these concepts it also has a well-established meaning.

example of no change

- 1 false or misleading in a material respect

example of change

- 1 A claim for benefit must include all ~~material~~ information necessary to enable the claim to be decided.

further reading

Butterworths Legal Dictionary pp 731 (*material*), (*material alteration*), (*material fact*) and (*material form*), 732 (*material omission*), (*material particular*), (*material personal interest*) and (*material representation*)

Garner's Dictionary pp 550–1, 813 (slipshod extension)

Garner's Legal Style p 125 (*material; relevant*)

Working Words p 239 (*germane/material/relevant*)

matter



usage—consider alternatives

try—► *issue* / ► *thing* / *substance* / *subject* / *topic* / *concern* / ► *consideration* / *dispute* / recasting

extra information

- 1 formal word
- 2 See also *any other*.

examples of no change

- 1 A standard may include matters prescribed by regulation.
- 2 A certificate stating any of the following matters:
- 3 the matters contained in a document
- 4 the client's matter

example of change

- 1 a change has happened in relation to a ~~matter~~ something that

maximum**usage**—consider alternatives**try**—recasting (using eg *most* / *biggest* / *greatest* / *heaviest* / *oldest* / *thickest*)**example of no change**

- 1 a motorised wheelchair with a maximum speed of less than 10km/h

further reading

Gowers' Plain Words pp 245, 246–7

may**usage**—consider alternatives**try**—► *can***extra information**

- 1 *May* should be used if a power, permission, benefit or privilege given to someone may, but need not, be exercised—the exercise is discretionary.
- 2 *May* should not be used in cases where the ability to do something is being emphasised (see *can*).
- 3 See also *as the case may be* / *as the case requires* / *as the case may require*.

example of no change

- 1 the Minister may, in writing, require the applicant to give

further reading

Cambridge Guide pp 107–8

Garner's Dictionary pp 128 (*can*; *may*), 552–3, 942 (words of authority)**means****[as a noun]****usage**—consider alternatives**try**—*way* / *form* / ► *type* / *financial resources* / *income* / ► *kind***extra information**

- 1 formal word
- 2 See also *by means of*.

example of no change

- 1 a channel or other means (including mechanical means) by which water could be taken

examples of change

- 1 another ~~means~~ kind of communication
- 2 ~~by any means~~ in any way

measure [as a noun]



usage—consider alternatives

try—omitting / recasting

extra information

1 can be vague and abstract

2 prefer words that are more direct and specific

example of no change

1 withholding or withdrawal of a life-sustaining measure

example of change

1 detained for up to 14 days as a ~~measure~~ of last resort

further reading

Gowers' Plain Words p 189

medical practitioner



usage—consider alternatives

try—*doctor*

extra information

1 See LA, dict, pt 1 def *doctor* and *medical practitioner*.

2. See Drafting Practice Guide, ch 14, 'medical practitioner / doctor'.

meets the requirements of



usage—never use

try—*complies with* / ► *satisfies* / ► *fulfils* / recasting

extra information

1 verbosity

example of change

1 if a vehicle ~~meets all the requirements of~~ complies with the vehicle standards

mens rea



usage—never use

try—*state of mind* / *mental element* / recasting (using *means to* / *intends to*)

extra information

1 foreign phrase

2 Technical term in criminal law to describe the state of mind required to constitute an offence: the mental element of the offence.

3 If it is necessary to use the term, include a note explaining what it means.

example of change

1 this section does not apply to a person's knowledge or ~~mens rea~~ state of mind

further reading

Butterworths Legal Dictionary p 740

Garner's Dictionary p 556

mention / mentioned



usage—consider alternatives

try—► *state* / ► *set out*

extra information

- 1 See *state* for a discussion of the use of *mention*, *set out* and *state*.
- 2 See also *abovementioned* / *abovelisted* / *abovequoted*; *firstmentioned* / *first-mentioned* / *first mentioned*; *lastmentioned* / *last-mentioned* / *last mentioned*.

mere / merely



usage—consider alternatives

try—omitting / recasting

extra information

- 1 *Mere* can be used as a depreciative, dogmatic word.
- 2 Prefer a more ‘neutral’ alternative if appropriate.

example of no change

- 1 conduct that is more than merely preparatory

further reading

Garner’s Legal Style p 36

method



usage—consider alternatives

try—*way* / *system*

methodology



usage—consider alternatives

try—*way* / ► *method*

extra information

- 1 *Methodology* means a body of methods or an analysis of procedures.
- 2 Sometimes used as a formal word for way or method.
- 3 Prefer *way* or *method* if appropriate.

further reading

Gowers’ Plain Words p 246

minimum



usage—consider alternatives

try—recasting (using, eg *least* / *lightest* / *smallest* / *thinnest* / *youngest*)

example of no change

- 1 the director-general may determine minimum qualifications

further reading

Gowers’ Plain Words pp 245, 246–7

minor



usage—never use

try—*child / not an adult / young* / recasting (using a defined term, eg *young person*)

extra information

1 formal word

example of change

1 a ~~minor~~ child may apply to the Supreme Court

minority



usage—consider alternatives

try—recasting

extra information

1 It has been suggested that *minority* (and *majority*) should be used to refer only to people or things that can be counted, and not to a single thing or uncountable nouns, eg tolerance.

2 *Minority* when used for voting numbers can be ambiguous. It can mean either the shortfall between the votes for and against or the smaller set of votes.

3 *Minority* may be treated as singular or plural according to whether the people or things mentioned are being considered as a group or individually.

example of no change

1 anyone who belongs to a linguistic minority

example of change

1 The motion was lost ~~by a minority of 4~~ by a vote of 50 to 4 [*or with only 4 voting for it*].

further reading

Cambridge Guide pp 461 (*majority*), 496 (*minority*)

Fowler's English Usage pp 476–7 (*majority*), 496 (*minority*)

Gowers' Plain Words pp 133, 243

Working Words p 324

minus



usage—consider alternatives

try—▶ *less / without / negative* / recasting

extra information

1 can be a colloquialism as an alternative to *without*

example of change

1 ~~minus~~ less any administrative costs

further reading

Cambridge Guide p 487

modify



usage—consider alternatives

try—*change* / ► *alter* / ► *adapt* / *amend*

extra information

- 1 *Modify* has a specific meaning under the Legislation Act in relation to legislation.

example of no change

- 1 if a proposed modification of a motor vehicle would change its class

examples of change

- 1 A business plan may be ~~modified~~ changed by the corporation.
- 2 The provision applies with any necessary ~~modifications~~ changes.

modus operandi



usage—never use

try—*way of operating* / *way of proceeding* / *way of working* / ► *method*

extra information

- 1 foreign phrase

further reading

Cambridge Guide p 491

Working Words p 348 (*modus operandi/modus vivendi*)

moneys / monies



usage—never use

try—*money* / *amounts*

extra information

- 1 In ordinary usage, *money* is a mass noun (see *fewer*) with a collective sense and should not be pluralised.
- 2 To express the idea of individual quantities of money, use *amounts* rather than *moneys*.

examples of change

- 1 must pay all ~~moneys~~ amounts of the fidelity fund into a separate account
- 2 all ~~moneys~~ amounts must be accounted for

further reading

Cambridge Guide p 492 (supporting use of moneys as pluralised count noun)

Garner's Dictionary p 571 (*monies*)

Longman English Usage p 454

Working Words p 349 (supports either spelling)

month

extra information

- 1 see LA, dict, pt 1, defs *month* and *calendar month*
- 2 *Month* is defined as calendar month.

moreover

usage—never use

try—omitting / ► *and / also / in addition / ► further*

extra information

1 formal word

further reading

Gowers' Plain Words p 247

Longman English Usage p 457

more than

usage—consider alternatives

try—► *exceeds / over / ► greater than / heavier than / larger than / longer than / ► older than / higher than / recasting (using at least)*

extra information

1 Generally, prefer *over / at least*, or a more specific alternative.

2 See also *not more than; more than 1*.

more than 1

usage—avoid using

try—recasting (using *2 or more*)

examples of change

1 if there is ~~more than 1 transferee~~ are 2 or more transferees

2 This Act does not prevent ~~more than 1~~ 2 or more infringement notices being served on a person for an offence.

morning
[for time]

usage—avoid using

try—*am / day*

extra information

1 Use *pm/am*, without full stops and with a space between the number and pm/am.

2 *Morning* is not usually precise enough for formal writing.

3 See also *12 am / pm* (in the chapter on figures).

examples of change

1 ~~6 o'clock in the morning~~ 6 am

2 ending at 7 am ~~in the following morning~~ day

example of no change

1 morning shift

motivation



usage—consider alternatives

try—recasting (using more precise words)

extra information

1 *Motivation* can be a vague word.

further reading

Garner's Legal Style p 32

must



usage—consider alternatives

try—▶ *should* / ▶ *will* / *necessary* / ▶ *is* / *are to* / ▶ *may* / recasting (using eg *may...only if*)

extra information

1 Use *must* if a duty is to be imposed.

2 There is no rule preventing *must* being used in relation to the Executive, Ministers or the Courts.

3 *Must* is sometimes used unnecessarily in declarative expressions, in an attempt to capture a sense of authority and obligation. In such cases, the present tense is often more appropriate.

4 See Drafting Practice Guide, ch 14, 'must'.

examples of change

1 A person ~~must be a resident to be eligible~~ is eligible only if the person is a resident.

2 An applicant ~~must~~ may use only an approved form. [*or ...must use an approved form*]

3 an applicant ~~must not~~ may bid ~~unless~~ only if

further reading

Garner's Dictionary pp 577–8, 939–43 (words of authority)

mutatis mutandis



usage—never use

try—*with the necessary changes* / *with the appropriate changes*

extra information

1 foreign phrase

further reading

Cambridge Guide p 499

mutual

usage—consider alternatives

try—▶ *common / reciprocal*

extra information

1 For the use of *common* and *mutual*, see *common*.

examples of no change

1 the degree of mutual commitment to a shared life

2 mutual recognition

example of change

1 that relevant information about the matter is ~~mutually~~ shared

mutually agree

usage—never use

try—▶ *agree on / to*

extra information

1 tautology

example of change

1 if the parties ~~mutually~~ agree to extend the time

N

name

see—by the name of; Christian name; first name; forename

namely



usage—never use

try—omitting / recasting

extra information

1 redundancy

examples of change

- 1 The following information must be included in the application, ~~namely~~:
- 2 Section 6 deals with ~~the other kinds of driver licences, namely~~, conditional and public vehicle licences.

natural person



usage—never use

try—► *individual / human being*

extra information

- 1 legalese
- 2 See LA, dict, pt 1, defs *individual* and *person*

example of change

- 1 ~~A natural person~~ An individual or corporation may apply for a licence.

further reading

Garner's Dictionary p 582

nature



usage—consider alternatives

try—omitting / recasting

extra information

- 1 Words like *nature* are vague and abstract, and can be useful on occasion. However, they are often overused. Therefore, consider if use is necessary.
- 2 See also *in the nature of*.

example of no change

- 1 timing, location or nature of the development proposal

example of change

- 1 if the officer considers the item is ~~of a dangerous nature~~

further reading

Garner's Legal Style p 128

Gowers' Plain Words p 189

necessarily

usage—consider alternatives

try—omitting / recasting

extra information

1 dogmatic word

2 Only use *necessarily* if there is an element of necessity.

example of no change

1 the expenses necessarily incurred by the commissioner

example of change

1 This Act does not make unlawful anything done ~~necessarily~~ for the purpose of complying with a requirement of a territory law.

further reading

Gowers' Plain Words p 54

necessitate

usage—never use

try—► *require / make necessary / oblige / need / force / ► cause / have to*

extra information

1 formal word

further reading

Garner's Dictionary pp 370 (formal words), 583

need

see—has / have need of

negative

see—in the negative

neither

see—nor

nevertheless

usage—avoid using

try—► *however / still / regardless*

extra information

1 Prefer the simplest appropriate word.

example of no change

1 the trier of fact may nevertheless find the defendant guilty of the offence

example of change

1 ~~Nevertheless~~ However, this section does not apply to a dog owner.

next

usage—consider alternatives

try—recasting

extra information

- 1 The meaning of *next* is sometimes unclear when used to mention a future day, eg ‘*next Saturday*’. Usually it means the relevant day nearest in time. However, many people draw a distinction between this and *next*, using *this* to mean the day, eg Saturday, of the current week and *next* to mean the day, eg Saturday, of the following week.

examples of no change

- 1 The standards do not apply to a vehicle designed to be controlled by a person walking next to it.
- 2 The thing must or may be done on the next day that is a working day.

example of change

- 1 remains in force until the end of 31 August ~~next~~ immediately following the grant of the licence

further reading

Cambridge Guide p 513

night
[for time]

usage—avoid using

try—*pm / am*

extra information

- 1 Use *pm/am*, without full stops and with a space between the number and *pm/am*.
- 2 *Night* is not usually precise enough for formal writing.
- 3 See also *12 am / pm* (in the chapter on figures)

example of no change

- 1 night shift

example of change

- 1 ~~9 o'clock at night~~ 9 pm

no

see—*has / have no power to; not later than / no later than*

no later than

see—*not later than / no later than*

nonetheless

usage—never use

try—► *however* / recasting

example of change

- 1 however, an action ~~nonetheless~~ may be brought

non-flammable

see—*inflammable*

nor

usage—consider alternatives

try—► *or*

extra information

- 1 *Nor* is used with *neither* and *or* with *either*.
- 2 If the initial negative is *not* or *no*, either *nor* or *or* may be used if the meaning of the sentence is clear. However, *nor* is usually used if it is necessary to repeat the negative, and *or* is usually used if it is not necessary to repeat the negative. It is not usually necessary to repeat the negative because the original *not* or *no* remains in force throughout the rest of the sentence and does not need reinforcing with *nor*.
- 3 *Neither ... nor* requires proper balancing of the sentence (see *both ... and*).

example of no change

- 1 if the child can neither read nor write

example of change

- 1 if the child cannot read ~~nor~~ or write

further reading

Cambridge Guide pp 509 (*neither with nor*), 519 (*nor or or*)

Garner's Legal Style pp 66, 128–9

Gowers' Plain Words pp 102, 148–9

northerly (direction) / northwardly / northward(s)

see—*easterly (direction)/eastwardly/eastwards*

not

see—*is / are [not] entitled to; is / are not to; not being; not exceeding; not fewer than; not greater than; not later than / no later than; not less than; not more than; not un-/in-*

not being



usage—avoid using

try—*other than* / ► *except* / recasting

extra information

1 Do not use *not being* or *being* to join relative clauses (see *being*).

example of no change

1 The interference places the animal in danger of not being able to breed.

example of change

1 a person, ~~not being~~ other than an applicant,

not entitled to

see—*is* / *are* [not] *entitled to*

not exceeding



usage—consider alternatives

try—► *not greater than* / ► *not more than* / *at most* / *not over* / *up to* / recasting (using *under* / ► *maximum* / *less than* / *lighter than* / *shorter than* / *smaller than* / *younger than*)

extra information

1 Generally, prefer recasting if appropriate.

2 See also *exceed*.

example of no change

1 retail value not exceeding the value stated in the permit

example of change

1 it may extend that period by a further period ~~not exceeding~~ longer than 28 days

not fewer than



usage—avoid using

try—*at least* / recasting (using *over* / ► *minimum* / ► *exceeds* / ► *greater than* / *heavier than* / *larger than* / *longer than* / ► *more than* / ► *older than* / *taller than* / ► *not less than*)

extra information

1 Generally, prefer *at least* or recasting.

2 For the use of *fewer* and *less*, see *fewer*.

example of change

1 a meeting must be held by ~~not fewer than~~ at least 2 members

not greater than



usage—consider alternatives

try—*not* ► *exceeding* / ► *not more than* / *at most* / *not over* / *up to* / recasting (using *under* / ► *maximum* / *less than* / *lighter than* / *shorter than* / *smaller than* / *younger than*)

extra information

- 1 Generally, prefer recasting if appropriate.
- 2 See also *greater than*.

nothing in this ...



usage—avoid using

try—recasting

extra information

- 1 indirect phrase

examples of change

- 1 ~~Nothing in this~~ This section is taken to does not imply
- 2 ~~Nothing in this Act affects~~ This Act does not affect the operation of any other territory law.

notice in writing



usage—never use

try—► *written notice* / *notice* / recasting

notification



usage—avoid using

try—notice

extra information

- 1 formal phrase
- 2 See also LA, dict, pt 1, def *notification*.

examples of change

- 1 On giving ~~notification~~ notice, ...
- 2 If the person receives ~~notification in writing~~ written notice before...

notify



usage—consider alternatives

try—► *inform* / *instruct* / ► *mention* / *point out* / *say* / ► *specify* / ► *state* / *tell*

extra information

- 1 formal word

example of no change

- 1 The scheme commences 2 months after it is notified.

example of change

- 1 The board must ~~notify~~ tell each applicant ~~of~~ what the decision is.

further reading

Gowers' Plain Words p 248

not in-

see—not un-/in-

not later than / no later than

usage—consider alternatives

try—recasting (using *before* / *within* / ► *by*)

extra information

- 1 *Not later than* is preferred to *no later than* because it is more commonly used, although 'within' may be a more appropriate alternative (see Drafting Practice Guide, ch 14, 'no later than / not later than' and 'within / not later than').
- 2 See *on or before* for further information.
- 3 See LA, s 151 (Working out periods of time generally).

examples of change

- 1 The registrar must review each standard ~~not later than~~ within 7 years after its approval.
- 2 ~~no later than 30 June~~ before 1 July
- 3 ~~no later than~~ by 30 June

not less than

usage—consider alternatives

try—*at least* / recasting (using *over* / ► *minimum* / ► *exceeds* / ► *greater than* / *heavier than* / *larger than* / *longer than* / ► *more than* / ► *older than* / *taller than*) / ► *not fewer than*

extra information

- 1 Prefer *at least* or recasting.
- 2 For the use of *fewer* and *less*, see *fewer*.
- 3 See also *less*.

example of change

- 1 ~~Not less than~~ At least 5 days after the publication of the notice,

not more than

usage—consider alternatives

try—► *not exceeding* / ► *not greater than* / *at most* / *not over* / recasting (using *under* / *less than* / ► *maximum* / *lighter than* / *shorter than* / *smaller than* / or ► *less* / or ► *fewer* / *younger than*)

extra information

- 1 Generally, prefer recasting if appropriate.

example of no change

1 The Minister may extend the period for not more than 2 months.

example of change

1 was manufactured not ~~more~~ longer than 10 years before the time it is sold

not required to

*see—*is / are [not] required to

not to

*see—*is / are not to

not un- / in-

usage—consider alternatives

try—recasting

extra information

1 Because they are double negatives, *not in-* and *not un-* constructions (eg ‘not incapable’ and ‘not unwelcome’) should always be used with care. Used appropriately, the constructions can be very useful in avoiding bald assertions and subtly underscoring the tentativeness of a statement. Instead of simply negating the other word, *not* operates to modulate its force. For example, *not impossible* means that something is possible, but difficult.

further reading

Cambridge Guide pp 215–6 (double negatives), 521–2
Gowers’ Plain Words p 43

notwithstanding

usage—never use

try—► *despite* / *although* / ► *even if* / *though* / ► *subject to* / ► *however* / *but* / *still* / *yet* / recasting

extra information

1 archaism

2 Avoid using *despite* [*provision* / *instrument*] or *subject to* [*provision* / *instrument*] (see *subject to*).

further reading

Garner’s Dictionary pp 600–1, 601 (*notwithstanding the fact that*; *notwithstanding that*)
Garner’s Legal Style p 184 (*notwithstanding the fact that*)

nought



usage—never use

try—▶ *0 / zero / nil / no*

extra information

- 1 Except at the beginning of a sentence, express the number *0* as a figure and not as a word.
- 2 If a word is necessary, prefer *zero*.
- 3 For percentages use *nil* not ‘0%’—see Drafting Practice Guide pt 16.9.

further reading

Cambridge Guide p 504

null and void



usage—never use

try—▶ *void / invalid / recasting (using of no (legal) effect)*

extra information

- 1 doublet

example of change

- 1 This contract is ~~null and void~~ void.

further reading

Garner’s Dictionary pp 293 (doublets, triplets and synonym-strings), 604, 919 (*void*; *voidable*)
Garner’s Legal Style p 129

number

see—*limited number of*; *adequate number of (an)*; *excessive number of*; *the greatest number of*

numerous



usage—consider alternatives

try—*many*

extra information

- 1 The Macquarie Dictionary defines *numerous* as meaning ‘very many; forming a great number’.

example of no change

- 1 if a document appears to be printed or otherwise produced by means adapted for the production of numerous copies

example of change

- 1 if an authorised person finds ~~numerous~~ many packages at premises

further reading

Fowler’s English Usage p 535
Garner’s Legal Style p 129

O

object

see—with the object of

observe

[also observance / observation]



usage—consider alternatives

try—*comply with / see / notice / keep / ►retain / ►preserve / remark / ►maintain / recasting*

extra information

- 1 *Observance* is a formal word and should be used only for contexts implying a reverence for custom, ritual or tradition (and duties arising out of them).
- 2 *Observation* should be used only for contexts implying watching and noticing, including comments based on watching and noticing.
- 3 For other contexts, prefer a simpler alternative.

examples of no change

- 1 young detainees must have reasonable opportunities for religious, spiritual and cultural observances
- 2 The person is entitled to observe the search.
- 3 A document may include a report, observation, opinion, advice, recommendation or any other confidential information.

examples of change

- 1 A licensee must ~~observe~~ comply with the licence conditions.
- 2 A person may make ~~observations~~ comments on the report.

further reading

Cambridge Guide p 534 (*observance* or *observation*)

Garner's Dictionary p 611 (*observance/observation*)

Fowler's English Usage pp 538-9 (*observance, observation*)

Working Words p 373 (*observance/observation*)

obtain



usage—consider alternatives

try—►*get / receive / ►acquire / find out*

extra information

- 1 *Obtain* is a formal word for *get*.

example of no change

- 1 the licence was obtained by fraud or mistake

example of change

- 1 The court may adjourn the proceeding so the party can ~~obtain~~ get representation.

further reading

Garner's Dictionary pp 88-9 (*attain; obtain*), 611

obviously / obvious

usage—consider alternatives

try—omitting / recasting (using ‘neutral’ words)

extra information

- 1 *Obviously* can be a sentence adverb (ie an adverb that qualifies a sentence as a whole).
- 2 *Obviously* and *obvious* are dogmatic words.

example of no change

- 1 A person in an identification parade must not be dressed in a way that would obviously distinguish the person from the other participants.

example of change

- 1 The road transport authority may correct any ~~obvious~~ mistake, error or omission in the register.

further reading

Garner’s Dictionary pp 161 (*clearly*), 926 (weasel words)
 Garner’s Legal Style pp 36, 129

occasion**[as a noun]**

see—on each occasion when

occasion**[as a verb]**

usage—avoid using

try—▶ *cause / leads to / results in*

extra information

- 1 formal word

example of change

- 1 if the act ~~occasions~~ causes death

further reading

Garner’s Dictionary p 370 (formal words)

occur

usage—consider alternatives

try—*happen / omitting*

extra information

- 1 Prefer *happen* if appropriate.
- 2 See also *whichever first occurs / occurs first*.

examples of change

- 1 a change ~~occurs~~ happens
- 2 after ~~the occurrence of~~ any of the following events happens

further reading

Longman English Usage p 490

Working Words p 373

of / on its own motion**usage**—avoid using**try**—*on its own initiative***extra information**

1 formal phrase

example of change1 A court may, ~~of its own motion~~ on its own initiative**older than****usage**—consider alternatives**try**—*over / at least***extra information**1 Prefer *at least* if appropriate.**example of change**1 a person who is ~~older than~~ over 18 years old may**on***see—on or about***on a ... basis***see—basis***on account of****usage**—avoid using**try**—*because of / for / ► on behalf of***extra information**

1 compound preposition

example of no change

1 a person who holds, or may subsequently hold, money for or on account of the grant recipient

example of change1 detrimental action against people ~~on account~~ because of public interest disclosures**further reading**Fowler's English Usage pp 15-6 (*account*)Longman English Usage pp 10-1 (*account*)

on and after



usage—avoid using

try—recasting (eg *after* / ► *inclusive* / *6 months beginning on*)

extra information

- 1 Prefer recasting.
- 2 See *on or before* for more information.
- 3 See LA, s 151 (Working out periods of time generally).

example of change

- 1 ~~on and after~~ 1 July after 30 June

on and from



usage—avoid using

try—recasting (eg *after 6 months*)

extra information

- 1 See also *from*.
- 2 See *on or before* for more information.
- 3 See LA, s 151 (Working out periods of time generally).

on behalf of



usage—consider alternatives

try—*for* / ► *by*

extra information

- 1 *On behalf of* has 2 current meanings in Australian (and British) English: 1 ‘in the place of’ (someone) or ‘as the agent or representative’ (of someone) and 2 ‘in the interest of or for the benefit of’ (someone else, a cause etc). In American English *in behalf of* is sometimes used for the second meaning. *In behalf of* is not an accepted Australian usage and should never be used.
- 2 *For* can often be substituted for *on behalf of* without loss of meaning. Prefer *for* if appropriate.
- 3 *On behalf of* is sometimes confused for *on the part of* (which means *by*).
- 4 See also *on the part of*.

examples of no change

- 1 a claim on behalf of the deceased person’s dependants or estate
- 2 The application must be signed by or on behalf of the applicant.

examples of change

- 1 conduct engaged in ~~on behalf of~~ for a corporation by its representative
- 2 the objects of this Act include ensuring that services provided by or ~~on behalf of~~ for government

further reading

- Fowler’s English Usage p 101 (*behalf*)
 Howard’s Handbook p 277 (*on behalf of/on the part of*)
 Garner’s Dictionary p 102 (*behalf*)
 Longman English Usage p 81 (*behalf*)

one



usage—consider alternatives

try—► *1* / *same* / recasting

extra information

- 1 Except at the beginning of a sentence, express the number *1* as a figure and not as a word.
- 2 The number *1* should not be confused with the word *one* used in a non-numeric way (see examples 1 to 3, examples of no change).
- 3 The use of *one* is sometimes unnecessary (see example 4, examples of change).
- 4 See Drafting Practice Guide, ch 14, ‘one or 1’.

examples of no change

- 1 one another
- 2 anyone
- 3 no one

examples of change

- 1 within ~~one~~ 1 year after
- 2 more than ~~one~~ 1
- 3 imprisonment for ~~one~~ 1 year
- 4 it is constituted by only ~~one~~ 1 person
- 5 if 2 people die at the ~~one~~ same time

further reading

Gowers’ Plain English p 116 (unnecessary use of one)

on each occasion when



usage—avoid using

try—► *whenever* / ► *when* / recasting

extra information

- 1 compound preposition
- 2 verbosity

on grounds that

see—*on the ground* / *grounds of* / *that*

only



usage—consider alternatives

try—recasting

extra information

- 1 Adverbs like *only* are sometimes awkwardly separated from the words they are intended to qualify. They should be placed where it will be perfectly clear which word or words they are intended to qualify and where natural usage requires them to be placed. There are no strict rules about where *only* should be placed in a sentence. However, it is usually best to place it directly before the words it qualifies.
- 2 Misplacement of *only* can lead to ambiguity or unintended outcomes.
- 3 See also *if, and only if / if, but only if*.

examples of change

- 1 a person may ~~only~~ surrender a licence only if
- 2 the Minister may ~~only~~ be satisfied only after considering the following

further reading

Cambridge Guide p 541
 Garner's Legal Style p 130
 Gowers' Plain Words pp 95–7

on or about



usage—avoid using

try—*on / about / near* / recasting

example of no change

- 1 if it happened on or about 1 January 1879

example of change

- 1 any person working on or ~~about~~ near the crane

further reading

Garner's Legal Style p 184

on or before



usage—consider alternatives

try—▶ *not later than* / recasting (using *before* / *not less than* / *at least* / *x months ending on or at the end of* / ▶ *inclusive*)

extra information

- 1 See LA, s 151 (Working out periods of time generally).

example of no change

- 1 on or before the date stated in the notice

example of change

- 1 ~~on or before 30 June~~ before 1 July

further reading

Pearce and Geddes (8th ed) pp 295-301

on the basis of



usage—avoid using

try—► *by* / ► *from* / *because of* / *using* / recasting

extra information

1 compound preposition

example of change

1 The amount of the fee is to be decided ~~on the basis of~~ using the schedule of fees approved by the director-general.

further reading

Gowers' Plain Words p 56

on the ground / grounds of / that



usage—avoid using

try—*because of*

extra information

1 compound preposition

2 verbosity

example of change

1 refusal to approve a unit title application ~~on the grounds~~ because of inconsistency

further reading

Garner's Legal Style p 184

Gowers' Plain Words p 55

on the part of



usage—never use

try—► *by* / *recasting (using, eg ► by)* / ► *among* / *for* / omitting

extra information

1 compound preposition

2 verbosity

example of change

1 a decision ~~on the part of~~ by the plaintiff

further reading

Fowler's English Usage p 101 (*behalf*)

Garner's Dictionary p 620

Garner's Legal Style p 130

Gowers' Plain Words p 55

Howard's Handbook p 277 (*on behalf of/on the part of*)

Longman English Usage p 81 (*behalf*)

onward / onwards



usage—consider alternatives

try—*onwards* / *onward* / recasting

extra information

- 1 Use *onward* as an adjective.
- 2 As an adverb, prefer *onwards*. However, for the increasing trend not to use an 's' in words ending in ward(s), see *forward* / *forwards*.

example of no change

- 1 writing numbers from 8 onwards in the other boxes

further reading

Fowler's English Usage p 554

Howard's Handbook p 279

Longman English Usage p 497

on which



usage—consider alternatives

try—► *when*

extra information

- 1 Prefer *when* if appropriate

examples of change

- 1 the day ~~on which~~ when the licence is due for renewal
- 2 the day ~~on which~~ when the application was received by the board

option

see—*has* / *have the option of*

or



usage—consider alternatives

try—*either ... or ... but not both* / ► *nor* / recasting

extra information

- 1 *Or* should be used only in a disjunctive sense (ie to express alternatives).
- 2 However, *or* has been judicially interpreted in a conjunctive sense. This is in accordance with normal usage. If necessary, the disjunctive sense of *or* can be made more certain by recasting or using *either ... or ... but not both*.
- 3 *Or* should be used to join units (eg clauses) of the same type and not, for example, to join unequal phrases.
- 4 For the use of *or which*, see *and*.
- 5 See also *and / or*; *either ... or*.

example of change

- 1 Buyers who are either wholesaler or retailer, but not both.

further reading

Gowers' Plain Words pp 98–100

oral [also orally]



usage—consider alternatives

try—► *verbal* / *spoken* / *unwritten*

extra information

- 1 *Oral* and *verbal* are frequently confused. *Oral* has to do with the mouth; *verbal* has to do with words. What is spoken is *oral*. What is expressed in words, whether written or spoken is *verbal*. Although this distinction is not always observed in practice, maintaining the distinction helps to avoid ambiguity.

examples of no change

- 1 oral agreement [an agreement expressed by word of mouth, not in writing]
- 2 verbal misunderstanding [a misunderstanding about words rather than substance]

example of change

- 1 a ~~verbal~~ oral agreement must be put into writing

further reading

Cambridge Guide p 789 (*verbal*)

Fowler's English Usage pp 820–1 (*verbal*)

Garner's Dictionary pp 813 (slipshod extension), 910–11 (*verbal*), 911 (*verbal contract*)

Garner's Legal Style p 144

Gowers' Plain Words p 249

Working Words p 380 (*oral/verbal*)

or both



usage—consider alternatives

try—omitting

extra information

- 1 Because *or* generally includes *and*, it is not usually necessary to use *or both*.

examples of no change

- 1 The officer may exercise the power under either provision or both provisions.
- 2 The person may recover damages from the owner or driver of the vehicle (or both).

order

see—*make an order*; *in order that* / *to* / *for*

or less



usage—consider alternatives

try—► *not exceeding* / ► *not greater than* / ► *not more than* / *at most* / *not over* / *up to* / recasting (using *under* / *less than* / ► *maximum* / *lighter than* / *shorter than* / *smaller than* / *younger than*)

example of no change

- 1 a maximum capacity of 500L or less

or otherwise



usage—consider alternatives

try—▶ *or* / omitting / recasting (substituting the appropriate noun or verb)

extra information

- 1 Although usage appears to be changing, *otherwise* has traditionally been regarded as an adverb, to be used only in parallel with other adverbs (see examples of no change). Because there is little to be gained by using *otherwise* in any other way, this view should be preferred.

examples of no change

- 1 whether with the occupier's consent or otherwise
- 2 the motion has been withdrawn or otherwise disposed of

example of change

- 1 The court must decide ~~the validity or otherwise of the instrument~~ whether the instrument is valid.

further reading

Cambridge Guide p 550

Fowler's English Usage pp 559–60 (*otherwise*)

Gowers' Plain Words pp 249–50

other

see—any *other*

otherwise

see—*except as otherwise provided; or otherwise; otherwise than*

otherwise than



usage—avoid using

try—*other than* / *apart from* / ▶ *however* / *but* / ▶ *except* / ▶ *excluding* / recasting (using eg ▶ *only*)

extra information

- 1 *Other* has traditionally been regarded as an adjective and its use as an adverb instead of *otherwise* has been strongly criticised. However, current usage seems to accept that *other than* can be used as an adverb. If practicable, the problem should be avoided by preferring an alternative.

example of no change

- 1 requires service of a document otherwise than as provided under this rule

examples of change

- 1 A proceeding may ~~not~~ be started in a court ~~otherwise than~~ only under this part.
- 2 ~~an if an~~ application is ~~not~~ made ~~otherwise than~~ in person
- 3 a boat used ~~otherwise~~ other than in accordance with

further reading

Cambridge Guide p 550 (*other than* and *otherwise*)

Fowler's English Usage p 559 (*other*)

Gowers' Plain Words pp 249–50 (*otherwise*)

outside of



usage—consider alternatives

try—*outside*

extra information

- 1 compound preposition
- 2 can be non-standard English

example of no change

- 1 the outside of the house

example of change

- 1 outside of the ACT

further reading

Fowler's English Usage p 562
 Garner's Dictionary p 629
 Garner's Legal Style p 131
 Oxford English Usage p 154

over

see—above

overall



usage—consider alternatives

try—omitting / ► *total* / recasting

extra information

- 1 vague word

example of no change

- 1 The overall area of the house, including the verandahs and carport, is 250m³.

example of change

- 1 the ~~overall~~ total output for the month is 550 units

further reading

Garner's Legal Style p 33
 Gowers' Plain Words pp 17, 33, 56, 250–1

oversee



usage—consider alternatives

try—*supervise / monitor / direct / manage*

extra information

- 1 formal word

example of no change

- 1 to oversee the exercise of the functions of official visitors

further reading

Cambridge Guide p 553
 Fowler's English Usage p 564

own motion

see—of / on its own motion

P

parameter



usage—avoid using

try—*boundary / framework / limit / variable / recasting*

extra information

1 vague word

2 *Parameter* is sometimes confused with perimeter or boundary.

further reading

Garner's Dictionary pp 637, 919 (vogue words)

Garner's Legal Style pp 33, 131, 205

Gowers' Plain Words p 251

part

see—*on the part of*

partial



usage—consider alternatives

try—*biased / prejudiced / unfair / recasting*

extra information

1 *Partial* can mean exhibiting favouritism or bias.

2 See also *partially*.

example of no change

1 partial discharge of a debt

partially



usage—consider alternatives

try—*partly / recasting (using eg biased / prejudiced / unfair / incomplete)*

extra information

1 *Partially* and *partly* are synonyms in most contexts.

2 It has been suggested that *partly* implies that only some parts of the whole are concerned, and *partially* implies that it is a question of degree over the whole. On this basis, a *partly* finished draft is a draft only parts of which have been finished, and a *partially* finished draft is a draft whose parts have all been finished in some degree but which needs further work. The distinction is a fine one and, in most contexts, is of little practical significance.

3 However, *partially* is stylistically more formal, and grammatically less flexible than *partly*. Therefore, prefer *partly* if appropriate.

4 See also *partial*.

example of no change

- 1 a partially constructed nest that has not been used as a nesting place

example of change

- 1 proceedings in the ACT court that have been heard, or ~~partially~~ partly heard

further reading

Cambridge Guide p 566
 Fowler's English Usage pp 573–4
 Garner's Dictionary p 640
 Garner's Legal Style pp 131–2
 Longman English Usage p 516 (*partial*)
 Working Words p 392

particular

usage—consider alternatives

try—omitting / *respect* / *detail* / *fact* / *information* / *example*

extra information

- 1 *Particular* is occasionally used unnecessarily in writing, especially for emphasis.
- 2 See also *in a particular respect*; *in a material particular* (see *material*)

examples of no change

- 1 (1) The operator must not change the nature of the service without the chief executive's written approval.
 (2) In particular, the operator must not increase the number of the service's child care places without the director-general's written approval.
- 2 Subsection (1) does not apply if the statement is not false or misleading in a material particular.

examples of change

- 1 and, ~~in particular~~ for example
- 2 has become correct in an essential ~~particular~~ respect
- 3 this ~~particular~~ section deals with

further reading

Gowers' Plain Words pp 54 (*particular*), 97 (*in particular*)

partly

see—partially

payable due

see—due

payment

see—make payment

peaceable

see—peaceful

peaceful



usage—consider alternatives

try—*peaceable*

extra information

- 1 *Peaceable* applies to a person or group of people who are disposed to keep good relations with others. It can also be applied to human character or intentions.
- 2 *Peaceful* applies to non-human subjects. It refers to situations, periods or general activities that are calm and free of disturbance and conflict.

further reading

Cambridge Guide p 572

pecuniary



usage—avoid using

try—*financial / monetary*

extra information

- 1 formal word

example of change

- 1 direct or indirect ~~pecuniary~~ financial interest

pending



usage—consider alternatives

try—*before / recasting (using, eg until)*

extra information

- 1 formal word

example of no change

- 1 an anticipated or pending Australian or overseas proceeding

example of change

- 1 a person must not use the land ~~pending~~ before the commissioner's decision

further reading

Gowers' Plain Words p 252

people

see—persons

per



usage—consider alternatives

try—*through* / ► *by* / *for each* / *a* / *for*

extra information

- 1 foreign phrase, but absorbed into English
- 2 See also *as per*; *per capita*; *per cent* / *percent* / *per centum*; *per day* / *month* / *year*.

examples of no change

- 1 \$200 a day per person
- 2 greenhouse gas emissions produced per person in the ACT

examples of change

- 1 1 bottle ~~per~~ for each person
- 2 100 ~~kilometres per hour~~ km/h

further reading

Cambridge Guide p 572
 Cwith Style Manual pp 202, 205
 Fowler's English Usage pp 583-4
 Garner's Dictionary p 649
 Howard's Handbook p 291

per capita



usage—never use

try—*for each person* / *per person* / ► *each* / recasting (adding an explanation of the phrase)

extra information

- 1 foreign phrase
- 2 Also a technical legal term in succession law relating to the distribution of the estate (or a part of the estate) of a deceased person. A distribution *per capita* means that the class of distributees take an equal share in the estate in their own right. A distribution *per stirpes* is the opposite of a *per capita* distribution. If it is necessary to use the term, include a note (or provision) explaining what it means.

example of change

- 1 20 tonnes of carbon ~~per capita~~ for each person

further reading

Cambridge Guide p 572
 Fowler's English Usage p 584
 Garner's Dictionary p 649
 Gowers' Plain Words p 252
 Howard's Handbook p 291 (*per*)

per cent / percent / per centum



usage—never use

try—%

example of change

1 9 ~~per cent~~ %

further reading

Cambridge Guide p 573

Fowler's English Usage p 584

Garner's Dictionary pp 649–50

Howard's Handbook pp 291 (*per*), 292 (*per cent/percentage*)

Working Words pp 396–7 (*per cent / percentage*)

percentage



usage—consider alternatives

try—*some / few / many / most* / recasting (by, eg including a figure or adding an adjective such as *high, low, large* or *small*)

extra information

- 1 A *percentage* is the proportion of a number to 100.
- 2 *Percentage* should be used only to express the relationship between a number and another number, not to express an absolute number.
- 3 Do not use *percentage* when you mean *some, few, many* or *most*. *Percentage* should be used only if it is possible to express the size of a relationship either by a number, or by a useful description, eg 'a high *percentage*'.
- 4 A *percentage* does not mean a small part. 'A part is always less than the whole, but a percentage may be the whole or more than the whole.' (Fowler)

example of no change

1 expressed as a percentage of the total amount

example of change

1 ~~a high percentage of the majority~~ of the votes cast

further reading

Cambridge Guide pp 573–4

Fowler's English Usage pp 584–5

Gowers' Plain Words pp 252–3

Howard's Handbook p 292 (*per cent/percentage*)

Working Words pp 396–7

per day / month / year



usage—consider alternatives

try—*a [day/month/year] / for each [day/month/year]*

extra information

1 legalese

further reading

Fowler's English Usage pp 583–4 (*per*)

Garner's Dictionary p 649 (*per*)
 Gowers' Plain Words pp 16, 252
 Howard's Handbook p 291 (*per*)

perform



usage—consider alternatives

try—► *carry out* / *exercise* / *make* / *conduct* / *do* / recasting (using more specific words)

extra information

- 1 Prefer the most specific, available word. However, prefer *carry out* to *perform* if appropriate.
- 2 *Exercise* a function includes perform a function (see LA, dict, pt 1, def *exercise*).

example of no change

- 1 The report must include performance indicators.

example of change

- 1 in ~~performing~~ exercising the function

further reading

Gowers' Plain Words p 253

period [of time]



usage—consider alternatives

try—omitting / *term* / ► *time* / *day* / ► *date* / recasting

extra information

- 1 Use of *period* leads to verbosity. *Period of* is unnecessary when the period itself is mentioned, eg 'a *period of 20 years*' means no more than '20 years'.
- 2 Do not use *period of time*.
- 3 A *period* is a length of time, not an instant in time. If you want to describe when something happened or is to happen, use *day* or *date* rather than *period*.

examples of no change

- 1 if the offence took place over a period
- 2 the period of registration
- 3 allowing the claimant a reasonable period

examples of change

- 1 within ~~the period of~~ 1 year beginning on 1 July 2007
- 2 A member is to be appointed for a ~~period~~ term of not longer than 2 years.
- 3 ~~For a period of~~ Within 2 weeks before ...

further reading

Garner's Legal Style p 184
 Gowers' Plain Words p 253

permit [as a verb]



usage—consider alternatives

try—▶ *let / allow / recasting (using ▶ may)*

extra information

- 1 See also *where / if the context permits / allows*.

per month

see—*per day/month/year*

person



usage—consider alternatives

try—▶ *individual / corporation*

extra information

- 1 Use *individual* to distinguish a natural person from a corporation (see LA, dict, pt 1, def *individual*).
- 2 See also *another person; any other; body corporate; natural person*.

person or body



usage—consider alternatives

try—*entity (if necessary after defining entity) / ▶ person*

extra information

- 1 can be a redundancy
- 2 See LA, dict, pt 1, defs *body, corporation, entity, individual* and *person*.

example of change

- 1 an instrument made by ~~a person or body~~ an entity

persons



usage—never use

try—*people / peoples / anyone / someone / omitting*

extra information

- 1 It has been suggested that *persons* is used when speaking of a number of people who can be counted and *people* is used when speaking of a large or uncounted number of individuals (Harper quoted in Fowler's English Usage). However, in current usage *persons* is tending to yield to *people* in all contexts.
- 2 It is sometimes necessary to use *persons* in a national law.

examples of change

- 1 ~~persons~~ people with disability
- 2 children and young ~~persons~~ people

further reading

Fowler's English Usage p 583 (*people, persons*)
 Garner's Dictionary pp 649-50 (*people*)
 Garner's Legal Style p 132 (*people; persons*)
 Gowers' Plain Words p 253
 Howard's Handbook p 291 (*people/persons*)
 Longman English Usage p 525
 Partridge pp 241 (*people*), 244 (*persons*)
 Working Words p 396 (*people*)

personnel

usage—consider alternatives

try—*staff / people / employees / workers*

extra information

- 1 Prefer the simplest appropriate word.

peruse

usage—avoid using

try—*read / study / consider / ► examine*

extra information

- 1 Formal word, however, still commonly used in legal practice.
- 2 One meaning of *peruse* is to read, study, consider or examine carefully or thoroughly.

example of no change

- 1 of any other document, if it is necessary to peruse—\$6.90 per 100 words

example of change

- 1 the commissioner may refuse to ~~peruse~~ consider the application further

further reading

Fowler's English Usage pp 309 (formal words), 591
 Garner's Dictionary pp 370 (formal words), 656
 Working Words p 400

per year

see—*per day / month / year*

phase

usage—consider alternatives

try—recasting (using more precise words)

extra information

- 1 Avoid using *phase* as an omnibus word. See *kind* for extra information.

example of no change

- 1 a 3-phase electrical system

further reading

Garner's Legal Style pp 32 (as vague word), 132 (as vague word), 205 (as omnibus word)

point of time

see—at this time / at this point of time / at this moment in time

portion



usage—consider alternatives

try—*part / share*

extra information

- 1 formal word
- 2 Prefer *part* or *share* if appropriate.
- 3 A *portion* is something cut or taken away from the whole (eg ‘a portion of cake’). By contrast, *part* is only a constituent part of the whole (eg ‘a part of the house’).

example of change

- 1 the ~~portion~~ part of the rate attributable to land occupied only by a pensioner

further reading

Garner’s Dictionary pp 370 (formal words), 672

position

[as a noun]



usage—consider alternatives

try—omitting / recasting (using more precise words)

extra information

- 1 can be a vague word
- 2 never use *position in regard to*
- 3 See also *in a position*.
- 4 See Drafting Practice Guide, ch 14, ‘position’.

examples of no change

- 1 if a law gives a function to the occupant of a position
- 2 a person the commissioner suspects on reasonable grounds is in a position to exercise significant influence

further reading

Gowers’ Plain Words pp 4, 253–4

Partridge pp 4 (abstract nouns—position), 251 (*position to do (something), not to be in a*)

position

[as a verb]



usage—avoid using

try—*place / put*

extra information

- 1 formal word

example of change

- 1 to set up or ~~position~~ place the crane

possess

usage—consider alternatives

try—*have / keep / own*

extra information

1 formal word

2 See also Criminal Code, s 600, def *possession*.

further reading

Garner's Dictionary pp 370 (formal words), 673

possession, custody and control

usage—never use

try—*possession / ownership*

extra information

1 triplet

2 If necessary, define *possession* to include particular kinds of control.

further reading

Garner's Legal Style p 186

possible

see—*as soon as is possible/practicable; as soon as possible/practicable; if practicable*

power

see—*has/have no power to; has/have power to*

practicable

usage—consider alternatives

try—*practical / possible / ►feasible* / recasting (using more precise words)

extra information

1 *Practical*, with its implied antithesis of *theoretical*, means useful in practice or responding effectively to actual conditions. *Practicable* means capable of being done or used, possible, or feasible (Gowers).

2 *Practicable* (in the sense of *feasible*) is virtually a synonym of *possible*.

3 See also *as soon as is possible/practicable; as soon as possible/practicable; if practicable*.

further reading

Cambridge Guide p 599

Fowler's English Usage p 612

Garner's Dictionary pp 676 (*possible; practicable*), 678 (*practical; practicable*)

Garner's Legal Style p 133

Gowers' Plain Words p 254

Working Words pp 410–1

practical

see—practicable

practically



usage—consider alternatives

try—*almost / nearly / virtually*

extra information

- 1 Since *practically* can also mean *in a practical way*, avoid using it in phrases where it might be ambiguous, eg ‘practically trained lawyers’.

further reading

Gowers’ Plain Words p 254

practice



usage—consider alternatives

try—*practise*

extra information

- 1 *Practice* is the spelling for the noun. *Practise* is the spelling for the verb.

further reading

Cambridge Guide p 599

Garner’s Legal Style p 133

practise

see—practice

preceding



usage—avoid using

try—*last / before / earlier / previous / recasting*

extra information

- 1 formal word

examples of change

- 1 28 days ~~immediately preceding~~ before the commencement day
- 2 the day ~~immediately preceding~~ before
- 3 the ~~preceding~~ previous year
- 4 during the 3 years ~~immediately preceding~~ before the accident

further reading

Gowers’ Plain Words p 255

preclude



usage—avoid using

try—*prevent / exclude / recasting*

extra information

- 1 formal word
- 2 may be appropriate when included in a statement of principle

example of no change

- 1 to preclude torture or cruel, inhuman or degrading treatment

examples of change

- 1 a price direction in relation to a regulated industry does not ~~preclude~~ prevent a further investigation of prices in the industry
- 2 a term of an agreement that purports to ~~preclude~~ exclude any right of action is void

predecease



usage—never use

try—*die before*

extra information

- 1 formal word
- 2 euphemism

further reading

Gowers' Plain Words p 18

preliminary to



usage—avoid using

try—*before*

extra information

- 1 compound preposition

example of change

- 1 site preparation work ~~preliminary to~~ before the performance of any construction work

further reading

Garner's Legal Style p 133

preparatory



usage—avoid using

try—*introductory / recasting (using *prepare for / make ready*)*

extra information

- 1 formal word

example of no change

- 1 conduct is more than merely preparatory

further reading

Garner's Legal Style p 133

prerequisite**usage**—consider alternatives**try**—*condition***extra information**

- 1 formal word
- 2 *Prerequisite* means a prior condition.

further reading

Cambridge Guide p 607

prescribe**usage**—consider alternatives**try**—*set / fix / prescribed* ► *by regulation / recasting / omitting***extra information**

- 1 formal word
- 2 *Prescribed* is defined in LA, dict, pt 1 to mean, in an Act, 'prescribed by the Act or by regulation under the Act'. See also LA, dict, pt 1, def *by regulation*.
- 3 *Prescribe* should continue to be used, as appropriate, in provisions giving power to make statutory instruments. In other contexts, prefer *set* or *fix*.
- 4 As *prescribe* is not a well understood concept, in provisions giving power to make statutory instruments prefer an alternative phrase (eg declared by regulation) or recasting. If it is necessary to use *prescribed*, prefer *prescribed by regulation* (or another kind of legislative instrument) rather than just *prescribed*.
- 5 Avoid using *prescribe* in the sense of prescribed by the Act (or provision of the Act).
- 6 If an authorising provision states that something may be *prescribed* in a statutory instrument, in prescribing the thing, it is usually unnecessary to use the word *prescribe*. In prescribing things in a statutory instrument, avoid using *prescribe*, especially in provision headings.
- 7 *Prescribe* and *proscribe* are sometimes confused. To *prescribe* is to lay down rules to be followed. To *proscribe* is to condemn or prohibit something (see *proscribe*).

example of no change

- 1 A person may apply for a benefit in the way prescribed by regulation.

examples of change

- 1 The education board ~~prescribed~~ set the syllabus for subject.
- 2 Section X of an Act states: 'The fee for a licence is as prescribed by regulation.' The regulation made under that section states:
~~Prescribed fee~~ Fee for licences—Act, s X
'Z. The ~~prescribed~~ fee for a licence is \$100.'
- 3 This section applies to a provision ~~prescribing~~ setting a penalty for an offence.

further readingCambridge Guide pp 607–9 (*prescribe* or *proscribe*)

Garner's Legal Style p 133 (*prescribe; proscribe*)
Gowers' Plain Words p 255

prescribed form



usage—avoid using

try—*approved form* / recasting

extra information

1 Forms should not generally be *prescribed* in legislation, especially Acts.

example of no change

1 keeping a dog or cat without the prescribed form of identification

present

[as an adjective or adverb]

see—*at present*

present

[as a verb]



usage—consider alternatives

try—*give* / *offer*

extra information

1 formal word

2 See LA, s 64 (Presentation of subordinate laws and disallowable instruments).

example of no change

1 a subordinate law or disallowable instrument must be presented to the Legislative Assembly

further reading

Garner's Dictionary p 370 (formal words)

presently



usage—consider alternatives

try—*now* / *soon* / ► *at present* / ► *currently*

extra information

1 *Presently* has 3 meanings: *now*, *soon* and *currently*.

2 The use of *presently* to mean *now* has been criticised (see Gowers).

3 Because of its possible meanings, use of *presently* can be ambiguous.

example of change

1 The office is ~~presently~~ currently giving a number of seminars on its role.

further reading

Garner's Legal Style p 133

Gowers' Plain Words p 255

preserve



usage—consider alternatives

try—*keep*

extra information

- 1 formal word for keep
- 2 Prefer *keep* if appropriate.

further reading

Garner's Dictionary p 370 (formal words)

presume



usage—consider alternatives

try—*assume*

extra information

- 1 *Presume* and *assume* have similar meanings. When used to mean 'to suppose', the words are interchangeable. Otherwise, the choice of word depends on usage and the degree of tentativeness behind the presumption or assumption.
- 2 In Australian English, *assume* is more common than *presume*. *Presume* is, however, invariably used in certain legal contexts, eg the presumption of innocence and evidentiary presumptions.
- 3 Outside these legal contexts, a *presumption* expresses what the writer really believes. By contrast, an *assumption* can be made for the sake of argument and without implying belief in its truth.
- 4 Because of its depersonalised nature, *assume* slips readily into a discussion and draws less attention to itself and more to the particular point the writer wants to highlight. *Presume*, by contrast, seems to draw attention to itself and to the presumptive act by the writer. It has the faint suggestion of presumptuousness.

further reading

Cambridge Guide pp 62–3 (*assume* or *presume*)

Fowler's English Usage p 74 (*assume*, *presume*)

Garner's Dictionary pp 84 (*assume*; *presume*), 689 (*presumption*)

Working Words p 50

presumptive



usage—consider alternatives

try—*presumptuous*

extra information

- 1 formal word
- 2 *Presumptive* and *presumptuous* are sometimes confused. *Presumptive* means based on a presumption or inference. It also means giving reasonable grounds for presumption or belief. *Presumptive* is neutral in its connotations. *Presumptuous*, by contrast, has negative connotations. It means arrogant, presuming too much or taking unwarranted liberties.
- 3 *Presumptive* is used in some technical legal expressions, eg *heir presumptive*.

further reading

Cambridge Guide p 609

Garner's Dictionary pp 400 (*heir*), 689
 Garner's Legal Style p 133

previous to



usage—avoid using

try—*before*

extra information

1 compound preposition

further reading

Garner's Legal Style p 133

Gowers' Plain Words p 110

prima facie



usage—consider alternatives

try—*at first sight / on the face of it / a strong case / an arguable case / recasting (using, eg from what can be seen)*

extra information

1 foreign phrase

2 Prefer an alternative if appropriate (or include a note explaining what it means).

further reading

Butterworths Legal Dictionary pp 914 (*prima facie*), 914-5 (*prima facie case*), 915 (*prima facie evidence*)

Cambridge Guide p 611

Gowers' Plain Words p 207 (*a priori*)

Howard's Handbook p 31 (*a priori/prima facie*)

principal [also principally]



usage—consider alternatives

try—*main / chief / ►major / predominant / leading / first / recasting (using (most) ►important / big / large / great) / principle*

extra information

1 vague word

2 *Principal* and *principle* are frequently confused. *Principal*, as an adjective, means chief or most important. As a noun, it means capital, as opposed to interest or other income, or the head of a body (eg 'the *principal* of a school'). *Principle* means a rule, body of beliefs or the like.

examples of no change

- 1 principal and interest
- 2 the agent's principal
- 3 the school principal
- 4 the company's principal Australian register
- 5 principal executive officer

example of change

- 1 The ~~principal~~ main objects of this Act are

further reading

Butterworths Legal Dictionary p 916
Cambridge Guide p 611

principle

see—principal

prior

usage—avoid using

try—*earlier* / *before* / *previous* / omitting / recasting

extra information

- 1 formal word
- 2 Although *prior* can be used as an adjective (eg ‘prior engagement’), prefer *earlier* or *previous* if appropriate.
- 3 *Prior to* is a compound preposition that can readily be replaced by the simple preposition *before*. As Bryson (pp 29-30) puts it, there is no difference between *before* and *prior to* ‘except that *prior to* is longer, clumsier and awash with pretension. If, to paraphrase Bernstein, you would use ‘posterior to’ instead of ‘after’, then by all means use *prior to* instead of *before*’.

examples of change

- 1 The trustees ~~must not~~ may exercise a power under subsection (1) ~~without the prior agreement of the Minister~~ only with the Minister’s agreement.
- 2 An applicant must pay the fee ~~prior to~~ before the application is heard.

further reading

Garner’s Legal Style pp 134, 184
Garner’s Dictionary pp 370 (formal words), 692 (*prior*; *previous*), 692 (*prior to*)
Gowers’ Plain Words pp 55, 110

pro bono / pro bono publico

usage—avoid using.

try—recasting (using more precise words, eg *free* or *in the public interest*)

extra information

- 1 foreign phrase

further reading

Butterworths Legal Dictionary p 927
Garner’s Dictionary pp 695–7

proceed



usage—consider alternatives

try—*act / go / go ahead / continue / recasting*

extra information

formal word

examples of change

- 1 The commissioner must ~~proceed~~ act as quickly as possible.
- 2 before ~~proceeding to consider~~ considering

further reading

Garner's Dictionary pp 370 (formal words), 680 (*precede*. A. and *proceed*)

procure



usage—consider alternatives

try—▶ *obtain / get / cause / bring about*

extra information

- 1 formal word
- 2 also technical legal term

example of no change

- 1 A person is taken to have committed an offence if the person aids, abets, counsels or procures the commission of the offence by someone else.

further reading

Butterworths Legal Dictionary p 930

promptly



usage—consider alternatives

try—▶ *as soon as practicable / recasting (mentioning a period, eg *within 14 days after ...*) / quickly*

extra information

- 1 The expression 'prompt' should not be given a meaning different from its ordinary English meaning.: *Bowling v Weinert* [1978] 2 NSWLR 282 at 290 per Lee J.
- 2 US judicial authority is consistent with *prompt* or *promptly* meaning *without delay* or *with reasonable speed*. Terms such as *as soon as practicable*, *immediately*, *promptly*, *within a reasonable time*, in relation to the time when notice of an accident must be given to an insurer all mean essentially the same thing, ie not instantaneous notice, but rather notice within a reasonable length of time, taking into account all the facts and circumstances: *Certified Indem. Co. v Thun* 439 P 2D 28 at 30; 165 Colo. 354 This view is consistent with Lee J's view in *Bowling v Weinert*.

example of no change

- 1 The director-general must seize personal property that the director-general considers may be sold promptly and without unnecessary expense.

proof



usage—consider alternatives

try—*evidence*

extra information

- 1 *Proof* is evidence found to be conclusive (or sufficiently persuasive) to establish the existence of a fact. *Evidence* is any way in which a fact in issue might be proved or disproved.

further reading

Butterworths Legal Dictionary p 938

Garner's Legal Style p 134

proper



usage—consider alternatives

try—▶ *appropriate* / *suitable* / ▶ *adequate*

extra information

- 1 vague word
- 2 can be value-loaded word
- 3 For the use of *adequate*, see *sufficient*.
- 4 See also *fit and proper*.

proportion



usage—consider alternatives

try—*some* / *few* / *many* / *most* / recasting (using eg a formula including a figure or adding an adjective such as *high*, *low*, *large* or *small*)

extra information

- 1 Use formulas instead of provisions that express concepts as proportions of each other. However, avoid the unnecessary use of formulas. For example, there is no point in saying ' $\frac{x}{2}$ ', instead of 'half of x'.
- 2 *Proportion* should be used only to express the relationship between a number and another number, not to express an absolute number.
- 3 Do not use *proportion* when you mean *some*, *few*, *many* or *most*. *Proportion* should be used only if it is possible to express the size of a relationship either by a number, or by a useful description, eg 'a large proportion'.
- 4 See also *percentage*.

example of no change

- 1 The levy must cover a fair proportion of the estimated cost.

further reading

Gowers' Plain Words pp 252–3

Working Words p 427

pro rata

usage—avoid using

try—► *proportionately / in proportion*

extra information

1 foreign phrase

further reading

Butterworths Legal Dictionary p 927

Garner's Dictionary p 705

proscribe

usage—avoid using

try—*prohibit / forbid / condemn / recasting (using is not ► permitted / ► must not)*

extra information

1 formal word

2 *Proscribe* and *prescribe* are often confused. See *prescribe* for more information.

further reading

Cambridge Guide pp 607–9 (*prescribe* or *proscribe*)

Garner's Legal Style p 133 (*prescribe*; *proscribe*)

provide**[also provision]**

usage—consider alternatives

try—*give / supply / arrange for / make / is*

extra information

1 See also *as provided by*; *except as provided in/prescribed by*; *except as otherwise provided*.

examples of no change

- 1 An Act to provide for ...
- 2 an amount provided for in the budget
- 3 the estimated cost of providing public hospital services
- 4 provide funds for research and education
- 5 the provision of aged care services

examples of change

- 1 In ~~providing~~ giving information or advice to the Minister, ...
- 2 A board must ~~provide~~ give the Minister ~~with~~ a written report of its findings.
- 3 The advisory committee may ~~provide~~ give advice to [*or advise*] the Minister.
- 4 The committee must ~~provide~~ make regular reports to the Minister.

provided (that)



usage—consider alternatives

try—► *however* / ► *if* / *only if* / ► *unless* / *providing* / recasting

extra information

- 1 Do not use *provided that* to introduce a proviso.
- 2 *Provided (that)* can be a heavyweight way of prefacing a condition. Generally, prefer an alternative (eg *if*, *however* or *only if*) for this purpose.

examples of change

- 1 on a train, boat or other vehicle, ~~provided that~~ if the vehicle is being used to carry out its ordinary activities
- 2 The Minister may appoint a member mentioned, ~~provided that the Minister is~~ only if satisfied that the person has relevant qualifications.

further reading

Cambridge Guide p 619
 Garner's Dictionary p 710
 Garner's Legal Style pp 53–4, 135
 Gowers' Plain Words p 104
 Longman English Usage pp 574–5
 Working Words pp 428–9

provision

see—*make provision for*

provisions of



usage—consider alternatives

try—omitting / recasting

extra information

- 1 The phrase *the provisions of* is usually unnecessary unless it is used as a convenient label to describe a list of different provisions, so that it can be used again later in referring back to the same list of provisions. However, it can frequently be omitted even in these cases.

example of no change

- 1 The Minister must review the operation of the following provisions of this Act 3 years after its commencement:

examples of change

- 1 ~~The provisions of section 5 apply~~ Section 5 applies to
- 2 On the commencement of this section, ~~the provisions of the management agreement apply~~ applies as if
- 3 ~~The provisions of This chapter apply~~ applies to young offenders.
- 4 ~~The other provisions of this~~ This section ~~do~~ does not apply to

proximity

see—*in close proximity*

punctually



usage—never use

try—recasting (requiring the obligation to be carried out by a particular date)

extra information

- 1 *Punctually* means by the required date specified in the instrument concerned: *Sperry Rand Australia Ltd v Arrandale Properties Pty Ltd* [1979] VR 409 at 411, 415 per Lush J.
- 2 Use of *punctually* is usually unnecessary. If a written notice must be given, a payment made or an obligation carried out by a particular date, the provision should state this.

purchase



usage—consider alternatives

try—*buy* / ► *acquire* / ► *get* / ► *obtain*

extra information

- 1 formal word

further reading

Fowler's English Usage pp 309 (formal words), 639
Garner's Dictionary pp 370 (formal words), 719

purchaser



usage—consider alternatives

try—*buyer*

extra information

- 1 formal word
- 2 Prefer *buyer*.
- 3 See also *purchase*.

further reading

Garner's Dictionary p 719

purport [as a noun]



usage—avoid using

try—*substance* / ► *purpose* / ► *object*

extra information

- 1 formal word

examples of change

- 1 the ~~purport~~ substance of the claim for an extension of time was
- 2 a report of the substance, meaning or ~~purport~~ purpose of the conversation or activity

further reading

Gowers' Plain Words p 256

purpose

see—for the purpose / purposes of

purposely



usage—consider alternatives

try—*intentionally / purposefully / purposively*

extra information

- 1 *Purposely* means done on purpose or intentionally. It is used to emphasise that something happened intentionally, and not just by accident. Its opposite is *accidentally*.
- 2 *Purposefully* means done for a particular purpose. It looks beyond the immediate situation, and sees the action as a step toward a preconceived goal. Its opposite is *aimlessly*.
- 3 *Purposively* means done to serve useful function, although not because of planning. It represents the idea that behaviour is always directed towards an end, and is not random. Unlike *purposely* and *purposefully*, it can be used of non-human and inanimate subjects.

further reading

Cambridge Guide p 623

Garner's Legal Style p 135

pursuant to



usage—never use

try—*under / ► in accordance with / ► according to / for*

extra information

- 1 compound preposition
- 2 legalese
- 3 See LA, dict, pt 1 def *under*.

example of change

- 1 an approval given ~~pursuant to~~ under section 10

further reading

Garner's Dictionary pp 721, 896

Garner's Legal Style pp 135, 184

Gowers' Plain Words p 256

Q

question [as a noun]



usage—consider alternatives

try—*subject / topic / ►issue / problem / ►matter / dispute / challenge / proposal / omitting*

extra information

1 vague word

2 See also *call in question; question as to whether / who / what / how etc.*

example of no change

1 The Legislative Assembly may refer to the Court of Disputed Elections a question relating to eligibility.

further reading

Gowers' Plain Words p 256

question as to whether / who / what / how etc



usage—never use

try—*question about whether / question of whether / question whether*

extra information

1 verbosity

2 non-standard English

3 See also *as to whether / as to who / as to how / as to what etc.*

further reading

Garner's Legal Style p 135

R

rate

see—flat rate

read

see—is to be read

real [also really]



usage—consider alternatives

try—*true / genuine* / ► *actual* / omitting / recasting

extra information

- 1 *Real* is often used unnecessarily.
- 2 See also *actually/actual; definitely/definitive; realistic*.

example of no change

- 1 real estate

example of change

- 1 the employer gives the worker a ~~real~~ genuine opportunity to influence the conduct

further reading

Cambridge Guide pp 641–2
Fowler's English Usage p 19 (*actually*)
Gowers' Plain Words pp 51–2
Partridge p 280 (*real; really, actually and definitely*)
Working Words p 463 (*real/realistic/really*)

realistic



usage—consider alternatives

try—► *feasible / likely / practical / probable* / omitting

extra information

- 1 vogue, question-begging vague word

example of no change

- 1 whether restoration of the child or young person to his or her parents is a realistic possibility

example of change

- 1 a ~~realistic~~ likeness

further reading

Garner's Legal Style p 34
Gowers' Plain Words pp 17, 257
Working Words p 463 (*real/realistic/really*)

reappoint**usage**—consider alternatives**try**—omitting / recasting**extra information**

- 1 can be a redundancy
- 2 It is usually unnecessary to deal with reappointment to an office (see LA, s 208 (1) (c) and dict, pt 1, def *appoint*).

reason*see*—by reason of; by reason only; for the reason that**receipt***see*—in receipt of**recognisance****usage**—avoid using**try**—► *undertaking* / *agreement* / *promise* / *bail undertaking***extra information**

- 1 *Recognisance* is often used in criminal law, mainly in setting bail and sentencing.
- 2 *Recognisance* is not usually a technical term and can often be given a plain language alternative (if necessary after defining the alternative).

further reading

Butterworths Legal Dictionary p 989

recognition to*see*—give recognition to**referred to****usage**—consider alternatives**try**—► *mention* / ► *set out* / ► *state* / recasting**extra information**

- 1 Be careful not to draw artificial distinctions in provisions to mean essentially the same thing, eg do not say in one provision ‘a person *mentioned* in section X’, and then in another provision say ‘a thing *referred to* in section Y’, if the person or thing is only being identified by the reference.
- 2 See *state* for a discussion of the use of *mention*, *set out* and *state*.

example of no change

- 1 It must be referred to the authority for certification.

examples of change

- 1 a representation ~~referred to~~ mentioned in paragraph (x)
- 2 for a licensee ~~to whom~~ mentioned in paragraph (a) ~~refers~~
- 3 an exemption ~~to which~~ mentioned in paragraph (a) ~~refers~~
- 4 the number of units ~~referred to~~ stated in the schedule
- 5 the map ~~referred to~~ set out in the schedule

reference

usage—consider alternatives

try—recasting

extra information

- 1 For use in the context of definitions, see Drafting Practice Guide ch 9.
- 2 See also *make reference to*; *with reference / regard / respect to*.

examples of no change

- 1 A guideline may incorporate a standard by reference.
- 2 A marine incident may be the subject of a reference by the Minister.

examples of change

- 1 ~~A reference to X is to be read as not including a reference to Y. X does not include Y.~~
- 2 a report about the operation of this Act, ~~with particular reference~~ mentioning particularly

refrain (from)

usage—avoid using

try—recasting (using, eg *do not*)

extra information

- 1 formal word

example of change

- 1 a direction requiring a person to ~~refrain from~~ stop smoking

further reading

Gowers' Plain Words p 259

refurbish

usage—consider alternatives

try—*refurnish*

extra information

- 1 formal word
- 2 Both *refurbish* and *refurnish* deal with renovating.
- 3 *Refurnish* means renovating by buying furnishings.
- 4 *Refurbish* means renovating by fixing up or otherwise making do with what you already have.

further reading

Cambridge Guide p 648

refurnish*see—refurbish***refuse****[as a verb]****usage**—consider alternatives**try**—*fail* / omitting / recasting (using, eg *does not* or *contravene*)**extra information**

- 1 It is usually unnecessary to deal with a person *refusing* to do something.
- 2 See LA, dict, pt 1, defs ***breach***, ***contravene*** and ***fail***.
- 3 See also *decide to grant* / *refuse*.
- 4 See Drafting Practice Guide, ch 14, ‘refuse and fail’.

examples of change

- 1 if the Minister ~~refuses or fails to~~ does not grant a licence
- 2 if the person ~~refuses or fails to~~ comply [and include the following note: ***Fail*** includes refuse (see Legislation Act, dict, pt 1).]

refute**usage**—consider alternatives**try**—*contradict* / *deny* / *rebut* / *repudiate***extra information**

- 1 formal word
- 2 *Refute* has traditionally meant the use of proof to deny a charge or claim. Its use to mean simply *deny* has been criticised.

example of change

- 1 ~~refute~~ deny a claim

further reading

Cambridge Guide p 648

Fowler’s English Usage pp 662–3

Garner’s Legal Style p 136

Gowers’ Plain Words p 259

regard*see—as concerns* / *as regards* / *as respects*; *in regard to*; *regarded as*; *regarded as being*; *regarding*; *with reference* / *regard* / *respect to*.

regarded as



usage—consider alternatives

try—*taken to be*

example of no change

- 1 A forensic procedure in accordance with this Act is not in itself regarded as degrading to the relevant person.

example of change

- 1 The nominal defendant is ~~to be regarded as~~ taken to be a licensed insurer.

regarded as being



usage—avoid using

try—► *regarded as*

extra information

- 1 verbosity

example of no change

- 1 A procedure performed as a cultural custom is not of itself to be regarded as being performed for a genuine therapeutic purpose.

example of change

- 1 The nominal defendant is ~~to be regarded as being~~ taken to be a licensed insurer.

further reading

Garner's Legal Style p 136

regarding

[as a preposition]



usage—avoid using

try—*about* / ► *in relation to* / *for* / recasting

extra information

- 1 formal word

examples of change

- 1 wages are paid or payable by an employer ~~regarding~~ for services performed by an employee
- 2 powers of veterinary surgeons ~~regarding~~ in relation to seized animals

further reading

Fowler's English Usage p 663 (*regard*)

Garner's Legal Style p 48 (as acceptable dangler)

Gowers' Plain Words p 18

regardless whether



usage—never use

try—*regardless of whether*

extra information

- 1 non-standard English

further reading

Garner's Dictionary p 747

regards*see—as concerns / as regards / as respects***reimburse****usage**—consider alternatives**try**—*repay / pay back / refund / pay***extra information**

1 formal word

example of no change

1 The employer must reimburse the employee for the employee's expenses.

examples of change

- 1 The beneficiary must ~~reimburse~~ repay the amount of the overpayment.
- 2 The authority must ~~reimburse~~ refund any overpayments.
- 3 A care provider must ~~reimburse~~ pay a care recipient the full amount of any unrefunded accommodation bond balance.

further reading

Gowers' Plain Words p 259

relating to**usage**—consider alternatives**try**—*about / for / in / of / over / to / with / ► in relation to / recasting***extra information**

- 1 compound preposition
- 2 If it is necessary to use a connecting phrase, prefer *in relation to* if appropriate (see *in relation to*).
- 3 See Drafting Practice Guide, ch 14, 'in respect of / in relation to / with respect to etc'.

examples of no change

- 1 threatening processes relating to wildlife
- 2 anything else relating to local government declared by regulation

examples of change

- 1 an Act ~~relating to~~ about the functions of the Attorney-General
- 2 a payment ~~relating to~~ in relation to compensation
- 3 An Act to consolidate and amend the law ~~relating to~~ for the management and development of Capital Metro
- 4 the person holds a current licence ~~relating to~~ for the vehicle

relation*see—in relation to; to and/or in relation to*

relevant



usage—consider alternatives

try—*concerned* / ► *appropriate* / omitting / recasting

extra information

- 1 *Relevant* is sometimes used as a tagged term, eg the **relevant employee**. However, more meaningful tagged terms should be preferred, eg the **dismissed employee**.

example of no change

- 1 the date and, if relevant, time of the sale

example of change

- 1 the period for which the ~~relevant~~ rate notice is issued

remainder



usage—consider alternatives

try—*rest*

extra information

- 1 formal word

further reading

Garner's Dictionary p 370 (formal words)

remit



usage—avoid using

try—*pay* / *refer* / *refund* / *send back* / *transfer* / *waive*

extra information

- 1 formal word
- 2 *Remit* has a number of meanings and is often used in legislation in the following ways (see the Macquarie Dictionary, 5th ed):
 - (a) to transmit, send or pay money etc;
 - (b) to refrain from inflicting or enforcing;
 - (c) to transfer or refer (a matter for decision) from 1 decision-maker to another;
 - (d) to send back (a case) to a lower court or tribunal.
- 3 The usages in paragraph (c) and (d) above are common in ACT legislation when referring to courts and the term has a commonly understood meaning in court procedure and practice. Rather than an avoidance of usage in these circumstances, alternatives could be considered if the context is appropriate.

examples of no change

- 1 the Supreme Court may remit the proceeding to the Magistrates Court
- 2 Except as provided for in this part, a court does not have jurisdiction to set aside or remit a decision on the ground of error of fact or law on the face of the decision.

examples of change

- 1 the Minister may ~~remit~~ waive the fee or part of the fee

- 2 A licensed provider must, if asked by the player in whose name a player's account is established, ~~remit~~ transfer funds held in the account as directed by the player.
- 3 The commissioner must ~~remit~~ pay the amount determined under subsection (3).
- 4 The tribunal must, by order—
 - (a) confirm the decision; or
 - (b) vary the decision; or
 - (c) set aside the decision and—
 - (i) make a substitute decision; or
 - (ii) ~~remit~~ send back the matter that is the subject of the decision for reconsideration by the decision-maker in accordance with any direction or recommendation of the tribunal.

remittance



usage—avoid using

try—*payment / amount / money*

extra information

1 formal word

further reading

Gowers' Plain Words p 259

remove



usage—consider alternatives

try—*take away / take off / move*

extra information

1 formal word

further reading

Garner's Dictionary pp 370 (formal words), 755 (*remove; removal*)

remuneration



usage—consider alternatives

try—*pay / wages / salary / salary and allowances / income*

extra information

1 formal word

render



usage—avoid using

try—*make / give / do / send / ►carry out / ►perform / show / omitting*

extra information

1 formal word

example of change

1 ~~refuse or neglect to render~~ fail to give assistance if asked

further reading

Gowers' Plain Words p 259

repetitious

usage—avoid using

try—*repetitive*

extra information

- 1 Both *repetitious* and *repetitive* deal with repetition.
- 2 *Repetitious* implies that the effects of the repetition are negative.
- 3 *Repetitive* is a more neutral word that only acknowledges the physical fact of repetition.

example of change

1 evidence by the party that is ~~repetitious~~ unnecessarily repetitive

further reading

Cambridge Guide p 654

repetitive

see—*repetitious*

replace

see—*substitute*

represent

usage—consider alternatives

try—*show / be / act for / is*

extra information

1 formal word

example of no change

1 information identifying who will represent the licensee

example of change

1 arranging for a lawyer to act for ~~represent~~ the person

further reading

Gowers' Plain Words p 260

represents [in a formula]



usage—never use

try—*means*

extra information

- 1 Define terms used in a formula in the same way as other terms are defined.

example of change

- 1 *A* ~~represents~~ means the allocated amount.

request



usage—consider alternatives

try—*ask* / ► *require*

extra information

- 1 formal word
- 2 However, *request* can be treated as the noun form of *ask*.

examples of no change

- 1 The corporation must comply with the request.
- 2 on the written request of the clerk

example of change

- 1 The Minister may ~~request~~ ask the corporation to reconsider the plan.

further reading

Garner's Dictionary p 370 (formal words)

require



usage—consider alternatives

try—*ask* / ► *impose* / *need* / *want*

extra information

- 1 *Require* is useful to indicate a formal, obligatory demand.
- 2 *Require* should not be used in the sense of need or want.
- 3 See also *as the case may be* / *as the case requires* / *as the case may require*; *is* / *are* [not] *required to*.

example of no change

- 1 A regulation may require additional information to be provided to the authority.

examples of change

- 1 The approval ~~is not required to~~ need not be applied for.
- 2 The authority may, by written notice, ~~require~~ ask the applicant for additional information necessary to consider the application properly.

further reading

Gowers' Plain Words p 260

requirements of



usage—consider alternatives

try—omitting

extra information

- 1 can be a redundancy
- 2 See also *meets the requirements of*

example of no change

- 1 The committee must compare the provision of the care with the requirements of the standards.

example of change

- 1 maintained in accordance with ~~the requirements of~~ chapter 10

rescind

[also rescission]



usage—consider alternatives

try—► *revoke* / *repeal* / ► *cancel*

extra information

- 1 formal word
- 2 Prefer *repeal* for legislative instruments and *revoke* for non-legislative instruments.
- 3 *Rescission* has a technical meaning in contract law.
- 4 See LA, dict, pt 1, def *repeal*.

further reading

Butterworths Legal Dictionary p 1016

Garner's Dictionary p 761 (*rescission*; *recision*; *recission*; *rescision*)

residence

[also residential]



usage—consider alternatives

try—*home* / *address* / *home address* / recasting (using, eg *place where the person lives* / *usually lives* / ► *resides*)

extra information

- 1 formal word for *home* or *house*
- 2 Also, term with legal connotations in some contexts.
- 3 Avoid *place of residence*.
- 4 See LA, dict, pt 1, def *home address*.
- 5 See Drafting Practice Guide, ch 14, 'home and business address'.

example of no change

- 1 *building documents*, for a residence, means the prescribed documents.

examples of change

- 1 The taxpayer's home address ~~place of residence~~ is relevant in deciding liability to taxation.

- 2 An employee is entitled to the reasonable cost of travelling from and to the employee's ~~place of residence~~ home.

further reading

Butterworths Legal Dictionary p 1018

Partridge p 286 (*reside and live; residence and house*)

reside



usage—avoid using

try—*live* / recasting

extra information

1 formal word

2 To *reside* is to live permanently or for some time at a particular place.

examples of change

1 An officer is entitled to an allowance for a child who ordinarily ~~resides~~ lives with the officer.

2 ~~The power to issue a licence resides with the Minister. The Minister may issue a licence.~~

further reading

Partridge p 286 (*reside and live; residence and house*)

Working Words p 472

respect

see—*in a particular respect; in respect of / to; respecting; with reference / regard / respect to*

respecting

[as a preposition]



usage—avoid using

try—*about* / ► *in relation to* / recasting

extra information

1 formal word

further reading

Fowler's English Usage p 671 (*respect*)

Garner's Legal Style p 49 (as acceptable dangler)

Gowers' Plain Words p 18

respective(ly)



usage—avoid using

try—omitting / recasting

extra information

1 *Respective* has the role of alerting the reader to the need to match up items in 2 separate series, eg 2 or more subjects with 2 or more verbs. However, *respective* is often used unnecessarily, because it is usually clear from the context that the provision is to be read distributively between multiple items and

the items appropriately matched (see example 1, example of change).
If necessary, clarify the relationship between the items by recasting.

- 2 *Respective* is also used in a general distributive sense. It can always be omitted in these contexts. If necessary, improve the provisions by recasting.

example of no change

- 1 If there were 2 or more mortgagees the court may make the orders about their respective entitlements

example of change

- 1 The rates of salary, general allowance and jurisprudential expenses payable to the Chief Judge, Senior Judge and other judges of the District Courts are ~~those~~ respectively the rates fixed by the tribunal.

further reading

Cambridge Guide p 657 (*respectfully* or *respectively*)
Fowler's English Usage pp 671–2
Garner's Legal Style pp 137–8
Gowers' Plain Words pp 52–3

responsibility



usage—consider alternatives

try—*function* / ► *duty* / recasting (using ► *must*)

extra information

- 1 It is unnecessary to use *responsibility and duty*.
- 2 See LA, dict, pt 1, def *function*.
- 3 See also *has / have a responsibility to*

example of no change

- 1 ensuring that young offenders share responsibility for rehabilitation and reintegration

examples of change

- 1 advise on the exercise of the commissioner's statutory ~~responsibilities~~ functions
- 2 ~~have a responsibility to~~ must

further reading

Gowers' Plain Words p 260

result



usage—consider alternatives

try—*outcome* / ► *consequence* / ► *effect* / recasting (using *because*)

extra information

- 1 See also *as a / the result of; with the result that*

example of no change

- 1 to encourage settlement of claims resulting from motor vehicle accidents

examples of change

- 1 ~~resulting from~~ because of the decision
- 2 The inspector must report the ~~results~~ outcome of the investigation to the director-general.

retain

usage—avoid using

try—*keep* / *engage* / *employ* / recasting (using *continue to*)

extra information

- 1 formal word

examples of change

- 1 the director-general may ~~retain~~ engage a consultant
- 2 the council may ~~retain possession of~~ keep the document

further reading

Garner's Dictionary p 370 (formal words)

revoke

usage—consider alternatives

try—*repeal* / ► *cancel*

extra information

- 1 Prefer *repeal* for Acts and subordinate laws and *revoke* for non-legislative instruments.
- 2 *Revoke* and *cancel* can both mean to put an end to something. *Cancel* originally pointed specifically to the crossing out of something, eg cancelling an entry by drawing a line through it. It is also particularly apt to deal with the physical marking or alteration of something to render it invalid for further use, eg cancelling a postage stamp by overmarking it, cancelling a cheque by writing cancelled across it or cancelling a bus ticket by perforating it. It is, therefore, the appropriate word to use for bringing instruments to an end in a way that involves (or usually involves) physical marking or alteration, eg cancelling a licence. For bringing instruments to an end in other ways or for bringing rights not necessarily embodied in an instrument to an end, prefer *revoke* if appropriate, eg revoke an appointment, approval, decision, decree, exemption, permission, promise or right of access.
- 3 See LA, dict, pt 1, def *repeal*.

example of no change

- 1 The appointer may amend a delegation or revoke it completely or partly.

example of change

- 1 The power to make an appointment includes the power to ~~revoke~~ end the appointment.

further reading

Garner's Dictionary p 771 (*revoke*; *retract*)

S

sanction [as a verb]



usage—avoid using

try—*approve* / ► *permit* / *allow* / ► *authorise* / recasting (using ► *may*) / *impose a penalty* / *penalise* / *confirm*

extra information

1 formal word that can be ambiguous

example of change

1 The Minister must ~~sanction~~ approve the transfer.

further reading

Fowler's English Usage p 688

Garner's Dictionary p 780

Garner's Legal Style p 139

Working Words p 482

satisfy



usage—consider alternatives

try—*comply with* / ► *complete* / *fill in* / ► *carry on* / *out* / ► *perform* / ► *fulfil* / *answer* / *meet* / *make certain*

extra information

1 vague word

2 See Drafting Practice Guide, ch 14, 'satisfied and believes'.

example of no change

1 if the Minister is satisfied

examples of change

1 The notice may state how it must be ~~satisfied~~ complied with.

2 An applicant must ~~satisfy~~ meet the requirements of the section. [*or comply with the section*]

further reading

Longman English Usage p 632 (*satisfied, happy*)

servant



usage—consider alternatives

try—*employee*

extra information

1 Dated word with negative overtones in some contexts.

example of no change

1 public servant

example of change

- 1 ~~servant~~ employee or agent

further reading

Garner's Dictionary pp 312 (*employer and employee; master and servant*), 550 (*master*)
 Longman English Usage pp 674–5 (*staff*)

set out

usage—consider alternatives

try—► *state* / *include* / ► *mention* / *required by* / ► *specify* / *explain* / *arrange* /
 omitting / recasting

extra information

- 1 For the use of *state*, *mention* and *set out*, see *state*.

examples of no change

- 1 The approved standard must be set out in the regulation.
- 2 the notice must set out the grounds

examples of change

- 1 The application must ~~set out~~ state the grounds on which the warrant is sought.
- 2 The document must ~~set out~~ include a statement of reasons for the decision.
- 3 the documents ~~set out in~~ required by chapter 6
- 4 the people ~~set out~~ mentioned in chapter 4

several

usage—avoid using

try—*2 or more* / omitting

extra information

- 1 vague or imprecise
- 2 See also *jointly and severally*.

example of change

- 1 if there are ~~several~~ 2 or more applicants

further reading

Cambridge Guide pp 275–6 (*few or a few*)
 Fowler's English Usage p 705
 Garner's Dictionary p 799
 Right Words p 367

sex

see—*gender*

shall



usage—never use (in legislation)

try—► *must* / ► *will* / ► *is* / *are to* / recasting

extra information

- 1 Traditionally, *shall* is used for the first person, simple future tense (eg ‘I/We shall go to town tomorrow’), and *will* is used for the second or third person simple future tense (eg ‘You/he/they will go to town tomorrow’). Avoid the use of *shall* or *will* in the first person simple future tense in legislation by recasting. Elsewhere, avoid the use of *shall* by using *must* or *will* or recasting.
- 2 See Drafting Practice Guide, ch 14, ‘must’.

example of change

- 1 a prosecution ~~shall~~ is to be started

further reading

Cambridge Guide pp 687–8 (*shall* or *will*)
 Fowler’s English Usage pp 706–7 (*shall* and *will*)
 Garner’s Dictionary pp 830–1 (statute drafting), 939–42 (words of authority)
 Garner’s Legal Style p 139 (*shall*; *will*)
 Gowers’ Plain Words pp 141–2 (*shall* and *will*)
 Longman English Usage p 646 (*shall*, *will*)
 Partridge pp 300–2 (*shall* and *will*)

she



usage—avoid using

try—recasting (avoiding gender-specific personal pronouns)

extra information

- 1 Consistent with the recognition of sex and gender diverse people, the use of personal pronouns in the masculine or feminine form should be avoided.
- 2 Words indicating a gender include every other gender—see LA, s 145 (a).
- 3 If a provision applies only to the neuter form (eg to a corporation), a personal pronoun in the neuter form only (eg *it*) may be used wherever appropriate.
- 4 See also *they*.

examples of change

- 1 a coroner may exercise any of ~~his or her~~ the coroner’s powers under this Act
- 2 if a child or young person is charged with an offence, ~~he or she~~ the child or young person may apply to
- 3 ~~if~~ a child or young person who is charged with an offence, ~~he or she~~ may apply to

further reading

Asprey pp 152–61
 Cambridge Guide pp 351–3 (*he* and/or *she*)
 Fowler’s English Usage p 358 (*he* or *she*)
 Garner’s Dictionary pp 799–803 (sexism)
 Garner’s Legal Style pp 45, 200–3
 Gowers’ Plain Words pp 118–9 (*they* for *he* or *she*)
 Howard’s Handbook pp 190–1 (*he* or *she*; *he/they*), 360 (unisex grammar)
 Working Words pp 184 (discriminatory language), 254 (*he/she*)

should



usage—consider alternatives

try—► *must* / *would*

extra information

- 1 Use *must* if a duty is to be imposed (see LA, s 146 (Meaning of *may* and *must*)).
- 2 *Should* can be used to express an assumption about what is likely. *Should* is also used in subordinate clauses to express a judgment, plan, reaction or wish.

example of no change

- 1 if the board president believes on reasonable grounds that someone should no longer be a board member

further reading

Cambridge Guide pp 691–3 (*should or would*)
 Fowler's English Usage p 711 (*should and would*)
 Garner's Dictionary pp 805, 942 (words of authority)
 Gowers' Plain Words p 143
 Longman English Usage p 649 (*should, would*)
 Partridge pp 397–8 (*would and should*)
 Working Words p 491 (*should/would*)

show cause



usage—consider alternatives

try—*explain* / recasting (using, eg *give reasons* / *make representations*)

extra information

- 1 legalese
- 2 *Show cause* means to give a legally satisfactory reason why action should (or should not) be taken.

example of no change

- 1 the applicant or licensee may give a written submission to the conservator showing cause why the proposed financial assurance condition should not be imposed

example of change

- 1 The registrar may take disciplinary action against a person only if the person has been given a reasonable opportunity to ~~show cause~~ explain why the disciplinary action should not be taken.

further reading

Butterworths Legal Dictionary p 1082 (*show cause*) and (*show cause notice*)
 Garner's Dictionary pp 805–6

significant



usage—consider alternatives

try—► *important* / ► *considerable* / ► *substantial* / recasting (using more precise words)

extra information

- 1 Can be a vague word.

example of no change

- 1 The club's management committee or board does not, for any reason, have complete control over the club's business or operations, or a significant aspect of the club's business or operations.

further reading

Garner's Dictionary p 572 (weasel words)

Garner's Legal Style p 32

Gowers' Plain Words pp 261–2

situation

usage—consider alternatives

try—*location / circumstances / ► position / condition / state of affairs / omitting / recasting (using more precise words)*

extra information

- 1 vague, vogue word

example of no change

- 1 This section applies if the conservator considers that the situation is an emergency.

example of change

- 1 This section applies to a power to make an appointment in the following ~~situations~~ circumstances:

further reading

Fowler's English Usage p 716

Garner's Dictionary p 811

Gowers' Plain Words pp 4, 190, 253–4

Longman English Usage pp 655–6

Partridge pp 4 (abstract nouns—*situation*), 369 (vogue words)

Working Words pp 494–5

so

usage—consider alternatives

try—► *as / ► very / much / therefore / recasting*

extra information

- 1 *So* can be useful to refer back to lengthy or complex concepts. However, it should be used sparingly for this purpose and care should be taken to avoid possible ambiguity or momentary uncertainty.
- 2 Because *so* has a number of meanings, care needs to be taken to avoid ambiguity in other contexts.
- 3 See also *as / so far as ... is / are concerned; as long as / so long as*.

example of no change

- 1 if a traffic sign is installed at or near a place so that a person parking at the place is likely to see the sign

examples of change

- 1 unless the person has a reasonable excuse ~~for doing so~~
- 2 The Minister may make a declaration if it is in the public interest ~~to do so~~.
- 3 it is ~~to be read so that it authorises~~ taken to authorise

4 while the vehicle is being driven *sø* as far as is necessary to obtain a permit

further reading

Cambridge Guide pp 701–2
 Fowler's English Usage pp 720–2
 Garner's Dictionary pp 813–14
 Longman English Usage pp 659–60
 Partridge p 312

soon

see—*as soon as is possible / practicable; as soon as possible / practicable; as soon as reasonably possible / practicable*

southerly (direction) / southwardly / southward(s)

see—*easterly (direction) / eastwardly / eastwards*

specific



usage—consider alternatives

try—► *particular* / omitting

extra information

1 *Specific* is occasionally used unnecessarily in writing, particularly for emphasis.

example of no change

1 An authorised person may direct a person to leave a facility because the facility is required for a specific purpose.

example of change

1 this ~~specific~~ section deals with

2 if there is a contract for the sale of ~~specific~~ particular goods

further reading

Gowers' Plain Words p 54

specify



usage—avoid using

try—► *mention* / ► *state* / *name* / *nominate* / ► *set out* / omitting / recasting

extra information

1 Be careful not to draw artificial distinctions in legislation by using different words to say essentially the same thing, eg do not say in one provision 'a person mentioned in section X', and then in another provision say 'a (thing) specified in section Y', if the person or thing is only being identified by the reference.

2 Take particular care in legislation not to draw unnecessary distinctions in provisions between *state* and *specify* as this can create an artificially complex structure.

examples of change

1 an offence provision ~~specified~~ mentioned in schedule 2, column 2

2 a test ~~specified in~~ required by chapter 4

- 3 someone else ~~specified~~ nominated by the authority
- 4 Do not exceed the maximum permitted filling ratio ~~specified in~~ under chapter 10.
- 5 if chapter 10 ~~specifies the way in which the goods are to be transferred~~ applies to the transfer of the goods
- 6 the day ~~specified~~ stated by the applicant
- 7 A map of the area is ~~specified~~ set out in the schedule.

start



usage—consider alternatives

try—*begin* / ► *commence*

extra information

- 1 For the use of *begin* and *start*, see *commence*.

state

[as a verb]



usage—consider alternatives

try—► *mention* / *declare* / *say* / ► *set out* / *fix* / *tell* / ► *inform*

extra information

- 1 *State* is much stronger than *say* and similar words, and should be reserved for formal or impressive contexts. *State* should be used for the initial declaration of something. To avoid the problem of elegant variation, prefer *state* for this purpose to alternatives such as *specify* or *stipulate* if appropriate. In less formal contexts, however, prefer a simpler alternative, eg *tell*.
- 2 *Mention* should be used for cross-references, eg ‘a person mentioned in section X’. The use of *mention* for cross-referencing purposes is supported by the comments of Dixon CJ in *Tooheys Limited v Commissioner for Stamp Duties* (1960) 105 CLR 602 at 612.
- 3 Use *set out* if a document, map, diagram or other item is being incorporated into, and reproduced in, an instrument, eg ‘the map set out in the schedule’, or simply say ‘the map in the schedule’. *Set out* can also be used for identifying text in a schedule or provision eg criteria.
- 4 See also *described*; *referred to*; *listed*.

examples of no change

- 1 The application must state the grounds on which the warrant is sought.
- 2 the day stated by the applicant

example of change

- 1 an offence provision ~~stated~~ mentioned in schedule 2, column 2

further reading

Gowers’ Plain Words p 18

Longman English Usage p 677

Partridge p 331 (*state* and *say*)

statement

see—make a statement

State of

usage—avoid using

try—omitting

example of change

1 ~~the State of~~ New South Wales

steps

see—take steps to

stipulate

usage—avoid using

try—*set / ►state / ►impose / ►require / insist on / ask / ►provide (for)*

extra information

1 formal word

examples of change

1 A determination must ~~stipulate~~ set standards to be followed.

2 The application must ~~stipulate~~ state the following details:

further reading

Garner's Dictionary pp 833–4

stop

see—cease

structure

[as a verb]



usage—consider alternatives

try—*organise / set up / prepare / form*

extra information

1 formal word

subject of

usage—consider alternatives

try—recasting

extra information

1 legalese

example of no change

- 1 the act of violence that is the subject of the application

examples of change

- 1 a block ~~that is the subject of a declaration~~ declared to be reserved under
- 2 The approval need not be ~~the subject of an application~~ applied for.

further reading

Garner's Dictionary p 839

subject to

usage—avoid using

try—*with / under / on / omitting / recasting (using, eg ► *However*)*

extra information

- 1 legalese
- 2 General expressions like *subject to this Act/this regulation* are very unhelpful to readers, lead to loose drafting and may give rise to legal uncertainty. The provisions to which the relevant provision is subject should be identified (as precisely as possible) or the provisions recast to make it clear what provisions are the dominant ones.
- 3 It is not necessary to provide expressly that a provision is subject to another provision if this appears unambiguously from the provisions themselves. The relationship between provisions can often be clarified by rearrangement.
- 4 Alternatively, use *However* (if necessary after rearranging the order of provisions).

example of no change

- 1 Subsection (2) has effect subject to any relevant industrial award or agreement.

examples of change

- 1 to be read ~~subject to the modifications~~ with the changes necessary to
- 2 ~~subject to~~ under the conditions of the licence
- 3 The licence is renewed ~~subject to~~ on the following conditions:
- 4 whether ~~the person is or has been subject to~~ a domestic violence order has been made against the person

further reading

Garner's Dictionary p 840 (*subject to the provisions of this Act*)

submit

usage—consider alternatives

try—*refer / send / give / ► state / say / put / make*

extra information

- 1 formal word

example of no change

- 1 if the owner had been required to submit plans for approval

example of change

- 1 The committee must ~~submit~~ give a report to the Minister.

further reading

Longman English Usage p 685

subscribe

usage—consider alternatives

try—*sign* / recasting (using *agree (with)*)

extra information

1 formal word

example of no change

1 a relevant territory authority must not subscribe for shares in a corporation

example of change

1 The summons must be ~~subscribed~~ signed by the magistrate who issues it.

further reading

Garner's Dictionary p 846

subsequently

usage—consider alternatives

try—*after* / ► *afterwards* / *later* / *then* / ► *following*

extra information

1 formal word

example of no change

1 subsection (2) does not prevent the thing done by the person being ended or changed by any person subsequently occupying the position

example of change

1 if the corporation ~~subsequently~~ later establishes a superannuation scheme

further reading

Garner's Dictionary p 846

Gowers' Plain Words p 262

Longman English Usage p 686

Working words p 131 (*consequent/consequential/subsequent*)

substantial**[also substantially]**

usage—consider alternatives

try—► *considerable* / *big* / *large* / omitting / recasting

extra information

1 vague word

examples of no change

1 substantial performance

2 substantial compliance with an approved form is sufficient

further reading

Garner's Dictionary p 926 (*substantially* in weasel words)

Gowers' Plain Words p 52

Longman English Usage p 686 (*substantial, substantive*)

Partridge p 338 (substantial and substantive)

substitute



usage—consider alternatives

try—*replace*

extra information

- 1 *Substitute* and *replace* are complementary words. *Substitute* means to put a person or thing in the place of another. *Replace* means, among other things, to take the place of another person or thing.

example of no change

- 1 set aside the decision and substitute a new decision

example of change

- 1 revoke the existing order and ~~substitute~~ replace it with a new order

further reading

Cambridge Guide pp 654–5 (*replace or substitute*)

Fowler's English Usage p 748

Garner's Dictionary p 848

Gowers' Plain Words p 263

Longman English Usage pp 686–7

Partridge p 284 (*replace; substitute*)

succeeding

[as a preposition]



usage—never use

try—*after* / ► *next* / ► *following* / recasting

extra information

- 1 formal word

example of change

- 1 the next ~~succeeding~~ financial year

further reading

Garner's Dictionary p 848

Partridge p 338 (*succeed* and *follow*)

successor

see—*heirs, executors, administrators, successors and assigns*

such



usage—avoid using

try—*the* / ► *that* / *this* / *these* / ► *those* / ► *as* / *a* / *an* / ► *any* / omitting / recasting / ► *like* / *similar*

extra information

- 1 Do not use *such* if an article (*the, that, this, these* or *those*) can be used (see example 1, examples of change).
- 2 Do not use *the such ... as* form if it is not necessary (see examples 2–4, examples of change).

- 3 *Such ... that/which/who* should not be used for *such ... as*.
- 4 See also *as such; during such time as*.

examples of change

- 1 A member is entitled to be paid ~~such~~ the remuneration and allowances ~~as~~ the Minister decides.
- 2 within 6 months or ~~such a~~ [*or any*] longer period ~~as~~ allowed by the director-general ~~allows~~
- 3 take ~~such steps as are appropriate~~ steps [*or take appropriate steps*]
- 4 subject to ~~such~~ conditions ~~as are~~ decided by the Minister [*or subject to the conditions / the conditions (if any) decided by the Minister*]
- 5 if ~~no such~~ an audit has not been carried out
- 6 before making or revoking a declaration under subsection (1) ~~or revoking such a declaration~~

further reading

Cambridge Guide pp 725–6 (*such and such as*)
 Fowler's English Usage pp 749–50
 Garner's Dictionary p 849
 Garner's Legal Style pp 140, 187
 Gowers' Plain Words p 114
 Longman English Usage pp 687–8
 Partridge pp 338–9

suffer



usage—consider alternatives

try—▶ *permit / allow / have / recasting* (using, eg ▶ *may*)

extra information

- 1 formal word

example of no change

- 1 an animal seized is likely to die or suffer pain

examples of change

- 1 the owner of premises must not ~~suffer~~ allow the premises to be used for
- 2 The organisation must agree to make good any loss ~~suffered by~~ of a care recipient.

further reading

Garner's Dictionary p 850
 Longman English Usage p 688

sufficient

[also sufficiently]



usage—consider alternatives

try—*enough / ▶adequate / omitting*

extra information

- 1 formal word
- 2 However, whenever considerations of quality or kind are essential, *sufficient* or *adequate* is the better word (see example 1, examples of no change).

- 3 *Adequate* means suitable to the occasion or circumstances. It can apply to quality as well as quantity, eg ‘an adequate performance’.
- 4 *Sufficient* means enough for a particular need or purpose. It implies a quantity adequate for a particular need or to fulfil a particular purpose. It does not imply measuring up to a standard. It emphasises instead the end being sought; the degree to which something contributes to the achievement of the end is what makes the thing sufficient or insufficient.

example of no change

- 1 if the child is in need of care and family members cannot provide sufficient care

examples of change

- 1 this Act does not make provision or ~~sufficient~~ adequate provision
- 2 it is ~~sufficient~~ enough to show that a representative had the state of mind
- 3 ~~a sufficient number~~ enough

further reading

- Fowler’s English Usage pp 251–2 (*enough, sufficiently*)
 Garner’s Dictionary pp 23 (*adequate; sufficient*), 850 (*sufficient number of*)
 Garner’s Legal Style p 184 (*sufficient number of*)
 Howard’s Handbook p 153 (*enough/sufficient/adequate*)
 Longman English Usage p 245 (*enough, sufficient*)
 Partridge pp 330–1 (*sufficient and enough*)

sum



usage—consider alternatives

try—*quantity / amount / ► total*

example of no change

- 1 pay an agreed amount as a lump sum

example of change

- 1 the ~~sum~~ total of the amounts

supersede



usage—avoid using

try—*replace / set aside*

extra information

- 1 formal word

example of change

- 1 until it is ~~superseded~~ replaced

further reading

- Garner’s Dictionary p 855

supplementary



usage—consider alternatives

try—▶ *additional / extra / more*

extra information

1 formal word

example of change

1 ~~supplementary~~ additional benefit

further reading

Gowers' Plain Words p 263

support

see—*in support of*

sure

see—*make sure*

sustain



usage—consider alternatives

try—▶ *suffer / support / confirm / uphold / receive / ▶ get / have / recasting*

extra information

1 formal word

2 *Sustain* implies endurance without giving way or yielding, not only the fact of something adverse.

example of no change

1 sustain an injury in the course of employment

example of change

1 If the trust ~~sustains~~ makes a loss on an investment, the trustees must set aside funds to cover the loss.

further reading

Fowler's English Usage pp 756–7

Garner's Dictionary p 862

Longman English Usage p 693

Partridge p 339

T

taken

see— is to be taken

take steps to



usage—consider alternatives

try—omitting / recasting (using more direct words)

extra information

1 verbosity

example of no change

1 A return-to-work coordinator must take steps to prevent aggravation of an injured worker's injury.

example of change

1 a solicitor must ~~take steps to~~ tell the opponent as soon as possible

further reading

Gowers' Plain Words p 63

target



usage—consider alternatives

try—*goal / ambition / purpose / aim / object*

extra information

1 vogue word

example of no change

1 the Minister must determine targets for the per person use of electricity

further reading

Fowler's English Usage p 763

Gowers' Plain Words pp 40, 75, 88, 263–4

Partridge p 369 (vogue words)

tenancy



usage—consider alternatives

try—*lease / term*

extra information

1 formal word with a number of legal meanings in land law.

examples of no change

1 The lessor must not end the tenant's tenancy agreement.

2 joint tenancy

further reading

Butterworths Legal Dictionary p 1155

Garner's Dictionary p 869

tenement



usage— avoid using

try—*interest* (in land) / ► *estate* (in land) / ► *house* / *building*

extra information

1 formal word without a fixed legal meaning

further reading

Butterworths Legal Dictionary p 1157

Garner's Dictionary p 870

term

see—the term; the term includes / also includes

terminate



usage— avoid using

try—*end* / *finish* / *stop* / ► *cancel* / *dismiss*

extra information

1 formal word

2 For the use of *end* and *stop*, see *cease*.

examples of change

1 ~~terminate~~ end an agreement

2 ~~terminate~~ end the chair's appointment

further reading

Fowler's English Usage p 768

Garner's Dictionary p 370 (formal words)

Gowers' Plain Words p 264

terms and conditions



usage—never use

try—*terms* / *conditions*

extra information

1 doublet

2 See also *in terms of*; *the terms of*.

examples of change

1 on terms ~~and conditions~~ agreed between the parties

2 The ~~terms and~~ conditions on which the members hold office are to be decided by the Minister.

further reading

Garner's Dictionary p 872

Territory



usage—consider alternatives

try—recasting / omitting

extra information

- 1 can be a redundancy
- 2 Connection with the ACT is often implied and need not be stated (see LA, dict, pt 1, def the Territory).
- 3 A reference to an office or body of the Territory need not include ‘the Australian Capital Territory’, ‘ACT’ or ‘the Territory’ only because it is included in its name or title.
- 4 Avoid the unnecessary use of ‘Territory of the’ (see example 2, examples of change).
- 5 See Drafting Practice Guide, ch 14, ‘ACT or Territory’.

examples of change

- 1 the Parliamentary Counsel ~~of the Territory~~
- 2 ~~the Territory of~~ Christmas Island

than



usage—consider alternatives

try—▶ *as* / *other than* / recasting

extra information

- 1 Do not use *than* as a substitute for *as* or *other than*.
- 2 See also *different than*; *greater than*; *not later than* / *no later than*; *otherwise than*.

further reading

Fowler’s English Usage p 770

Gowers’ Plain Words p 105

Partridge p 347

Working Words p 517

that



usage—consider alternatives

try—*the* / omitting / ▶ *so* / recasting / ▶ *who* / ▶ *which*

extra information

- 1 Use *that* instead of *the* only if it is necessary to avoid ambiguity or for emphasis (see example 6, examples of change).
- 2 Avoid the false subjects *there is* and *there are* etc. This will also avoid use of the unnecessary *that* (see example 7, examples of change).
- 3 *That* can frequently be omitted in defining clauses without loss of clarity or inelegance (see example 4, examples of change).

- 4 *That* is frequently overused in drafting. This can make writing seem formal and even stilted. Used more sparingly, *that* helps to make writing more lively and more in line with everyday speech. Generally, use *that* only if it is grammatically or stylistically necessary, or necessary to avoid ambiguity (including momentary ambiguity).
- 5 It is difficult to lay down precise rules for when *that* is stylistically necessary. However, *that* is more likely to be necessary as a conjunction after the following verbs: *answer, agree, announce, argue, assert, assume, assure, calculate, ensure, inform, learn, maintain, reckon, request, state, suggest*.
On the other hand, *that* is unusual with the following verbs: *ask, believe, presume, suppose, think*.
The use of *that* is optional with the following verbs: *be told, confess, consider, declare, grant, hear, know, perceive, propose, say, see, understand*.
Generally, do not use *that* if its use is stylistically optional (or unusual). If a less formal writing style is used, *that* is less likely to be stylistically necessary even with verbs usually accompanied by *that* in more formal writing. If in doubt, leave *that* out.
- 6 The use of *that* as a conjunction can lead to unduly long or complex sentences and structural mistakes.
- 7 Do not use *that* if *since, if* or *so* would be appropriate.
- 8 For the use of *who* and *that*, see *who*.
- 9 For the use of *which* and *that*, see *which*.
- 10 See also *the fact that*.

examples of no change

- 1 The authorised officer must warn the person that it is an offence to fail to state the person's name.
- 2 in a way that preserves its confidentiality
- 3 The court must assume that the exercise of power
- 4 The application [to set aside a bankruptcy notice] must be accompanied by a copy of any application to set aside the judgment for which the bankruptcy notice was issued and any material in support of that application.

examples of change

- 1 ~~in detail that is sufficient~~ in sufficient detail
- 2 at the times and places ~~that the chairperson determines~~ decided by the chairperson
- 3 the date and time ~~that~~ when the magistrate signed
- 4 is satisfied ~~that~~ it is necessary
- 5 a State ~~that corresponds~~ corresponding
- 6 proposed performance targets for ~~that~~ the year
- 7 If ~~there are~~ any conditions ~~that~~ do not comply with this section,
- 8 any salary ~~that is~~ paid
- 9 a voyage ~~that begins or ends~~ beginning or ending in Australian waters
- 10 on a day ~~that is not~~ other than a Saturday or Sunday

further reading

Cambridge Guide pp 746–7

Fowler's English Usage (2nd ed) pp 622–30 (tentative list of verbs that prefer *that* expressed/omitted/used or not according to context on p 624)

Fowlers' English Usage pp 771–5
 Garner's Dictionary pp 564 (miscues), 876–7 (discussion of usage: wrongly suppressed and unnecessarily repeated)
 Gowers' Plain Words pp 121–4, 189–90
 Longman English Grammar p 14 (useful discussion on the use of *that*)
 Partridge p 348
 Working Words pp 517–8

the course of

see—during the course of; in the course of

the effect that

see—to the effect that

the equivalent to

see—equivalent

the expression [in definitional sense]



usage—never use

try—omitting

extra information

- 1 redundancy
- 2 formal phrase

example of change

- 1 ~~A reference to the expression *relevant law* is a reference to the law of the State where the person lives.~~
relevant law means the law of the State where the person lives.

the fact that



usage—consider alternatives

try—omitting / recasting (using eg *because* / *although* / ►*that*)

extra information

- 1 The expression *the fact that* can be useful and appropriate, but it is sometimes a clumsy way of saying what might be said more simply. If it is preceded by *because of*, *despite*, *in spite of*, *in view of*, *notwithstanding* or *owing to*, it may be only an intricate way of saying *because* or *although*.

example of no change

- 1 the fact that a public or other authority exercises or decides to exercise a function does not of itself indicate

example of change

- 1 ~~owing to the fact that~~ because the public holiday is on a Saturday

further reading

Fowler's English Usage p 233 (*due to the fact that*)
 Garner's Dictionary pp 347 (*fact that, the*), 876 (*that (D)*)
 Garner's Legal Style p 57
 Gowers' Plain Words pp 59–60
 Longman English Usage pp 227 (*due to the fact that*), 264 (*fact*)
 Partridge p 388
 Working Words p 66 (*because of/owing to/due to*)

the generality of

see—without limiting the generality of

the greatest number of

usage—never use

try—*most* / recasting

extra information

1 verbosity

example of change

1 the candidate with the ~~greatest number of~~ most votes is elected

themselves

usage—avoid using

try—recasting

extra information

1 May be used to avoid using *himself* or *herself*.

2 See also *they*.

example of change

1 an authorised officer must identify ~~himself or herself~~ themselves to the person

the nature of

usage—never use

try—▶ *like* / *similar*

extra information

1 compound preposition

example of change

1 made under a provision ~~in the nature of~~ like those mentioned in section 6

further reading

Garner's Legal Style p 128 (*nature, of a—*)
 Gowers' Plain Words pp 55, 247

the option of

see—has / have the option of

the reason

see—for the reason that

the term

[in definitional sense]



usage—never use

try—omitting

extra information

- 1 redundancy
- 2 formal phrase

the term includes / also includes



usage—never use

try—*and includes*

extra information

- 1 redundancy
- 2 formal phrase

the terms of



usage—consider alternatives

try—omitting

extra information

- 1 This phrase is the agreement equivalent to *provisions of*.
- 2 The phrase *the terms of* is usually unnecessary unless it is used as a convenient label to describe a list of different terms, so that it can be used again later in referring back to the same list of terms. However, it can frequently be omitted even in these cases.

example of no change

- 1 The court must not make an order that would be inconsistent with the terms of the agreement.

example of change

- 1 The person is required by ~~the terms of~~ the person's appointment to live on the land.

the time when

see—time

they



usage—consider alternatives

try—recasting

extra information

- 1 *They* can be used to avoid personal pronouns in the masculine and feminine forms. It works well if the sentence is written in the plural. However, the use of the singular is generally preferred for plain English drafting.
- 2 The use of the pronoun *they* (or *their*) to refer to a singular subject is increasingly accepted in written English eg ‘If a person wants to apply for a licence, they must complete a driving test’.

examples of change

- 1 the person believes ~~his or her~~ their sex to be the sex nominated in the application
- 2 tell each person that ~~he or she~~ they may make a written submission to the director-general

thing



usage—consider alternatives

try—recasting / *something*

extra information

- 1 *Thing* can be very useful in contexts where a more specific term is not needed or available. However, it can be overused.

example of change

- 1 a ~~thing~~ something necessary for their own health or safety

further reading

Garner’s Dictionary p 880

think



usage—consider alternatives

try—*consider* / recasting

extra information

- 1 *Think* has been criticised as colloquial. However, it can be useful in achieving a less formal writing style.
- 2 Use *consider* if use of *think* could be taken to be inappropriate. For example, to say that a corporation thinks something could be regarded as inappropriate. *Consider* does not solve the problem, but makes it less obvious. The preferable solution would be to recast the provision.
- 3 Do not use *thinks fit*.

example of change

- 1 any other condition the executive officer ~~thinks~~ considers appropriate

further reading

Fowler’s English Usage p 780

Partridge p 350

those



usage—consider alternatives

try—*the*

extra information

- 1 Use *those* instead of *the* only if it is necessary for stylistic reasons to avoid ambiguity, or for particular emphasis.
- 2 As a demonstrative adjective, *those* should modify a plural noun (eg *kinds*), not a singular one (eg *kind*).
- 3 See also *kind*.

further reading

Garner's Dictionary pp 259–60 (deictic terms), 880 (*these kind of; these type of*)

throughout

see—*during*

time



usage—consider alternatives

try—recasting (using eg ► *when / now*)

extra information

- 1 The word *time* is often superfluous. Phrases mentioning *time* should generally be simplified unless it is necessary to refer back to an identified time.
- 2 Mention of *time* can imply the date as well as the actual time or date.
- 3 It can be unnecessary to say *at the time* and *when* (see example 2, examples of change).
- 4 See also *at all times; at any time; at the time of; at the time that / at the time when; at this time / at this point of time / at this moment in time; from time to time*.

examples of no change

- 1 the vehicle was stolen at the time of the offence
- 2 the time and date of the offence stated in the notice
- 3 any further time the authority allows
- 4 The chair may call a meeting at any time.
- 5 the time when the offender must report

examples of change

- 1 ~~at this point in time~~ now
- 2 open for business ~~at the time when~~ the person
- 3 the policy comes into force ~~as from the time when~~
- 4 ~~3 days time in~~ 3 days

further reading

Working Words p 521

timely

see—in a timely manner / way

times

see—at all times

times more than / greater than

usage—never use

try—recasting (using, eg *times*)

extra information

1 redundancy

example of change

1 The monthly output was 3 000 widgets—more than 3 times ~~greater than in the previous month~~ last month's output.

further reading

Gowers' Plain Words pp 264–5

to

see—as to / as for; compare to / with

to and including

usage—avoid using

try—▶ *not later than* / recasting (using *before* / ▶ *not less than* / *at least* / *x months ending on or ending at the end of*)

extra information

1 Pearce and Geddes suggest that *from and including* a particular day *to and including* another day should be used to precisely fix the start and end of a period. However, this formulation is ungrammatical and is not often used in normal speech.

2 Never use when referring to periods of time.

3 See LA, s 151 (Working out periods of time generally).

4 See also *from and including*.

example of no change

1 supply from a primary water source up to and including outlet valves

to and / or in relation to

usage—consider alternatives

try—*to* / *about* / *for* / *of* / ▶ *in relation to*

extra information

1 may be a doublet

example of no change

- 1 anything else done to or in relation to the tree

example of change

- 1 this Act applies to ~~and in relation to~~

together

usage—consider alternatives

try—omitting

extra information

- 1 *Together* is redundant with words like *assemble*, *connect*, *consolidate*, *cooperate*, *gather*, *join*, *link* and *merge*.

further reading

Garner's Dictionary p 844

Working Words p 525

too

usage—consider alternatives

try—*also* / ► *very* / *either*

extra information

- 1 Do not use *too* if *also*, *very* or *either* would be appropriate.

example of change

- 1 A notice may also be revoked ~~too~~.

further reading

Fowler's English Usage p 787

Garner's Dictionary pp 884–5

Garner's Legal Style p 143

Partridge p 353

total**[also totally]**

usage—consider alternatives

try—omitting

extra information

- 1 *Total* is often used for emphasis, but can be redundant.

examples of no change

- 1 The Minister must consider the total number of privacy complaints dealt with by the directorate.
- 2 a certificate of a doctor certifying that the employee is totally incapacitated

examples of change

- 1 ~~total~~ absence

- 2 ~~totally~~ void

further reading

Garner's Dictionary p 919 (*void*; *voidable*)

Working Words p 526

to the effect that

usage—consider alternatives

try—*so that*

extra information

1 verbosity

example of no change

1 a statement to the effect that the person may be represented

further reading

Garner's Dictionary p 886

to the extent that

usage—consider alternatives

try—► *if* / ► *when / as far as / so far as / so that*

extra information

1 verbosity

example of no change

1 except to the extent that the provision relates to a right of indemnity or a right of subrogation

example of change

1 if the vehicle has been modified ~~to the extent that~~ so that the manufacturer's specification is no longer appropriate

further reading

Gowers' Plain Words p 228

toward / towards
[as a preposition]

usage—consider alternatives

try—► *if* / ► *when / so far as*

extra information

1 *Towards* generally implies movement and is sometimes misused for *to*. Use *to* unless movement is implied (or stated) or the use of *towards* is otherwise appropriate.

2 In other contexts, prefer *towards*. However, for the increasing trend not to use an 's' in words ending in wards(s), see *forward / forwards*.

example of no change

1 ensure regular reporting on progress towards ecologically sustainable development

example of change

1 a course of teaching and learning directed ~~toward~~ to acquiring a particular area of knowledge

further reading

Cambridge Guide p 763

Fowler's English Usage p 788

Garner's Dictionary pp 886, 924 (-ward(s))
 Longman English Usage p 724
 Working Words p 527

to which this [provision] applies



usage—avoid using

try—omitting / recasting (eg using a tagged term)

extra information

- 1 redundancy
- 2 If a provision states that it applies to something, it is unnecessary in later references to the thing to state that it is a thing to which the provision applies.

transmit



usage—consider alternatives

try—*send / give*

extra information

- 1 formal word

example of change

- 1 The registrar must ~~transmit~~ send a copy of the notice to each party.

further reading

Garner's Dictionary p 888
 Partridge p 354

transpire



usage—avoid using

try—*become known / happen / take place / pass / elapse* / recasting

extra information

- 1 Apart from its technical botanical or biological meanings, *transpire* originally meant 'to become known'. Its extension to *happen* or *take place* is contentious.
- 2 formal word

examples of change

- 1 ~~if it transpires that [X]~~ if [X] happens,
- 2 Six months ~~transpired~~ passed before the plaintiff filed her claim.

further reading

Fowler's English Usage pp 790–1
 Garner's Dictionary p 888
 Garner's Legal Style p 143
 Gowers' Plain Words p 265
 Working Words p 528

transportation



usage—consider alternatives

try—*transport*

extra information

- 1 *Transportation* has a penal meaning. It also means a system, or the act, of transporting or the state of being transported.
- 2 In other contexts, prefer *transport*.

example of no change

- 1 ***ground water*** does not include water occurring in or obtained or flowing from any other system for the distribution, reticulation, transportation, storage or treatment of water or waste.

further reading

Gowers' Plain Words p 184

try

see—*attempt*

type



usage—consider alternatives

try—omitting / ► *kind* / recasting

extra information

- 1 Most legal drafting is expressed in the singular, and it is usually unnecessary to distinguish between a class (using, eg *type*) and its members (see LA, s 48 and s 145 (b)). Avoid mentioning *type* unless it is necessary. See *class* for extra information.
- 2 If it is necessary to mention class, prefer *kind* if appropriate.
- 3 Avoid using *type* as an omnibus word. See *kind* for extra information.

further reading

Garner's Dictionary p 894 (*type of*)

Garner's Legal Style p 205

Partridge p 357

type / typeface (in relation to text)



usage—never use

try—*font*

extra information

- 1 In typography, *typeface* means the visual style or appearance of printed text. A *typeface* can have multiple *fonts* (character sets) like bold and italic.
- 2 However, *font* is now more common than *typeface* in everyday speech because of the influence of desktop publishing software.
- 3 When referring to the size of fonts, state the size in points rather than millimetres.

examples of change

- 1 Arial bold ~~typeface~~ font not less than 50 point
- 2 Times New Roman ~~type~~ font
- 3 in a similar ~~typeface and typestyle~~ font

U

ultimate



usage—consider alternatives

try—*final / decisive / best / most advanced / successful / last / eventual*

extra information

1 vogue word

further reading

Garner's Dictionary p 895 (*ultimate destination*)

Partridge p 72 (comparatives, false)

Working Words p 535

ultra vires



usage—consider alternatives

try—*beyond power / unauthorised / invalid*

extra information

1 foreign phrase

further reading

Cambridge Guide p 776

Garner's Dictionary p 895

un

see—*not un-/in-*

unable to

see—*is / are unable to*

under

see—*below; by and / or under*

underneath

see—*below*

undertake [also undertaking]



usage—consider alternatives

try—▶ *carry out* / ▶ *perform* / *do* / *take on* / ▶ *agree on* / *to* / *promise* / ▶ *attempt* / *try* / *say you will* / *task* / recasting

extra information

1 An *undertaking* can be a formal promise to give, to do or not to do something.

examples of no change

- 1 the board may accept an undertaking
- 2 the commission may undertake, or coordinate the undertaking of, education and training programs

examples of change

- 1 a person ~~undertaking~~ carrying out building work
- 2 the lessor may ~~undertake~~ agree to repair

further reading

Butterworths Legal Dictionary p 1209 (*undertaking*)
Garner's Dictionary p 898
Gowers' Plain Words p 265

unduly [also undue]



usage—consider alternatives

try—omitting / ▶ *too*

extra information

1 *Unduly* can only properly be used if something has been mentioned or implied giving a standard of comparison. If there is no standard of comparison, the use of *unduly* is meaningless.

example of no change

1 participating in research will not unduly interfere with the principal's privacy

example of change

1 results in the parts being ~~unduly~~ too small for accurate analysis

further reading

Garner's Dictionary p 926 (weasel words)
Gowers' Plain Words pp 50–2

uninterested

see—*disinterested*

unique



usage—consider alternatives

try—*unusual / uncommon / special / outstanding / remarkable / interesting / novel / rare*

extra information

- 1 The traditional meaning of *unique* is something that is one of a kind and has no like or equal. Although it is now often used more loosely, *unique* should be reserved for things that are one of a kind. However, because the meaning of *unique* is now disputed, it is preferable to use other words (eg *sole*) to express the absoluteness implicit in the traditional meaning of *unique*.
- 2 According to its traditional meaning, *unique* is an absolute and cannot be qualified by words like *comparatively*, *more*, *less*, *most*, *somewhat* or *very*. By implication, there are no degrees of uniqueness. However, modifiers like *almost*, *nearly* or *absolutely* are acceptable because they comment on whether uniqueness has been achieved rather than its quality.

example of no change

- 1 a unique identifying number

further reading

Cambridge Guide pp 779–80
 Fowler's English Usage pp 808–9
 Garner's Dictionary pp 24–5 (adjectives (B)), 900
 Garner's Legal Style p 143
 Gowers' Plain Words pp 150–1
 Partridge pp 72 (comparatives, false), 361
 Working Words p 538

unlawfully [also unlawful]



usage—consider alternatives

try—omitting / recasting

extra information

- 1 Avoid the use of *unlawfully* in contexts where the word begs the question of precisely when the relevant act is unlawful.

further reading

Garner's Dictionary p 902

unless [in must not ... unless]



usage—consider alternatives

try—*may ... only if*

extra information

- 1 Except in simple offences, avoid the use of double negatives wherever possible.

example of change

- 1 The registrar ~~must not~~ may renew a licence ~~unless~~ only if the determined fee has been paid.

unless the contrary intention appears



usage—avoid using

try—omitting / recasting

extra information

- 1 legalese
- 2 General expressions like *unless the contrary intention appears* are often unhelpful to readers, lead to loose drafting, and may give rise to legal uncertainty. The provisions that are in conflict (or possible conflict) should be identified as precisely as possible and the conflict dealt with in a way that makes it clear what provision is the dominant one.
- 3 See LA, s 155 (Definitions apply subject to contrary intention).

example of no change

- 1 This Act must be construed and administered in a way that is consistent with an environment law unless the contrary intention appears from this Act or that law.

further reading

Garner's Dictionary p 601 (*notwithstanding anything to the contrary contained herein*)

unrealistic

see—*realistic*

usage



usage—avoid using

try—*use*

extra information

- 1 formal word
- 2 *Usage* can be used when referring to treatment or rules, especially rules formed by customary practice. In other contexts, prefer *use*.

example of no change

- 1 This part does not prevent a change of name by repute or usage.

example of change

- 1 ~~public transport usage~~ use of public transport

further reading

Cambridge Guide p 782

Garner's Dictionary p 905

Gowers' Plain Words p 266

Working Words p 540

utilise

usage—avoid using

try—*use / make use of*

extra information

1 formal word

2 *Utilise* is generally a pompous synonym for *use*.

3 However, *utilise* can connote something more than *use*. It can imply that a resource has been used to its best advantage. If you need to emphasise an opportunistic element, *make use of* is a less pompous alternative.

further reading

Cambridge Guide p 783

Fowler's English Usage p 816

Garner's Dictionary pp 370 (formal words), 905 (*use; utilization*), 906

Garner's Legal Style p 143

Gowers' Plain Words pp 59, 266

Partridge p 362

Working Words p 543

V

vary



usage—consider alternatives

try—*change / amend / differ*

extra information

- 1 Avoid elegant variation.
- 2 For the use of *amend*, see *alter*.

examples of change

- 1 ~~the agreement as varied from time to time~~ the amended agreement [*or* the agreement as amended]
- 2 The premiums may ~~vary~~ differ according to the class of the vehicle.
- 3 The Minister may ~~vary~~ amend the order.
- 4 The authority may ~~vary~~ amend an exemption.

further reading

Garner's Dictionary pp 907–8 (*variance; at variance; variation; variant*)

vendor



usage—consider alternatives

try—*seller*

extra information

- 1 formal word

further reading

Garner's Dictionary p 909

verbal

[*also verbally*]



usage—consider alternatives

try—► *oral*

extra information

- 1 For the use of *oral* and *verbal*, see *oral*.

verify



usage—consider alternatives

try—*recasting / confirm / check / swear (or ►affirm) / prove / find out / state (to be true)*

extra information

- 1 formal word

example of no change

- 1 an insurer must verify an account

further reading

Garner's Dictionary p 913

very

usage—consider alternatives

try—omitting / recasting (using more precise words) / *much*

extra information

- 1 Do not use *very* unless it adds something. Used too frequently it ceases to have any meaning.
- 2 Worse still, *very* can operate as a weasel word and have the effect of weakening rather than strengthening a statement, eg 'My toothache was very excruciating'.
- 3 Do not use *very* to intensify weak or commonplace words, eg *very* good, *very* bad, *very* nice. Recast using more precise words.
- 4 *Very* should be used to modify adjectives (eg happy, sad, sorry) and not, properly, past participles (eg enhanced or uninterested). However, the distinction can sometimes be difficult to apply in practice, particularly if the participle is operating as an adjective rather than as a verb (eg tired, drunk or depressed).

example of no change

- 1 if the offence results in a very serious injury

example of change

- 1 ~~very~~ numerous

further reading

Fowler's English Usage pp 823–4

Garner's Dictionary p 914

Garner's Legal Style p 144

Gowers' Plain Words pp 53–4, 267

Partridge p 365

Working Words p 548

very approximate

see—approximately

via

usage—avoid using

try—► *by way of* / ► *by* / *through* / *in* / *using* / ► *from* / recasting

extra information

- 1 *Via* is useful in explaining the precise route taken on a journey, eg 'London *via* Athens'.
- 2 In other contexts, prefer an alternative.

example of no change

- 1 using a stated bookable vehicle *via* the booking service

example of change

1 The document may be given ~~via~~ by email.

further reading

Cambridge Guide p 791
 Fowler's English Usage p 824
 Garner's Dictionary p 915
 Partridge p 365
 Working Words p 548

viable

usage—consider alternatives

try—*durable* / *effective* / ► *feasible* / *lasting* / ► *practicable* / *profitable* / *successful* / *useable* / *workable* / recasting (using more precise words)

extra information

1 *Viable* originally meant capable of independent existence or survival. It is best reserved for cases where its original meaning is appropriate.

further reading

Fowler's English Usage p 824
 Garner's Dictionary pp 813 (slipshod extension), 915, 919 (vogue words)
 Garner's Legal Style pp 34, 144, 199
 Gowers' Plain Words pp 40, 217, 267
 Working Words p 548

vicinity

see—*in the vicinity of*

view

see—*in view of*; *with a view to*

virtue

see—*by virtue of*

visit with

usage—never use

try—*visit*

extra information

- 1 phrasal verb
- 2 Use the simple verb.
- 3 See also *consult with*.

example of change

1 the official visitor must visit ~~with~~ the detainee

further reading

Cambridge Guide p 583 (phrasal verbs)

Fowler's English Usage pp 594–5 (phrasal verbs), 828
 Gowers' Plain Words p 184
 Longman English Usage p 758

vitiate



usage—consider alternatives

try—*invalidate / weaken / impair / lessen / reduce / contaminate / corrupt / cure / correct*

extra information

1 formal word

further reading

Garner's Dictionary pp 813 (slipshod extension), 918

void



usage—consider alternatives

try—*voidable*

extra information

- 1 *Void* means of no legal effect at all. A *void* contract, therefore, gives no rights at all.
- 2 *Voidable*, on the other hand, means capable of being voided or confirmed. A *voidable* contract, therefore, is capable of being enforced until it is ended by one of the parties or declared to be void.
- 3 See also *ab initio*.

further reading

Garner's Dictionary p 919 (*void*; *voidable*)

void ab initio

see—*ab initio*

voidable

see—*void*

voluntary [a/so voluntarily]



usage—consider alternatives

try—*by choice / unpaid / intentional / willing*

extra information

1 vague word

further reading

Gowers' Plain Words p 268

W

warrant [as a verb]



usage—consider alternatives

try—► *authorise* / ► *permit* / *allow* / ► *justify* / *guarantee* / *assure*

extra information

1 formal word

example of no change

1 The seller warrants that, at the completion of the contract, there are no circumstances likely to prejudice the buyer.

example of change

1 exceptional circumstances ~~warrant~~ justify action without a written complaint

further reading

Garner's Dictionary pp 924–5

Partridge pp 372–3

wastage



usage—avoid using

try—*waste* / recasting

extra information

1 Do not use *wastage* as a long variant of *waste*.

further reading

Cambridge Guide p 801 (*waste* or *wastage*)

Fowler's English Usage p 833 (*wastage*)

Garner's Dictionary p 925 (*wastage*)

Gowers' Plain Words p 268 (*wastage*)

Howard's Handbook p 367 (*wastage/waste*)

Longman English Usage p 763 (*wastage, waste*)

Working Words p 553 (*wastage/waste of*)

way

see—*by way of*; *in a ... manner/way*; *in a timely manner/way*

westerly (direction) / westwardly / westward(s)

see—*easterly (direction) / eastwardly / eastwards*

whatever



usage—consider alternatives

try—► *however* / omitting

extra information

- 1 *Whatever* should be used sparingly as an intensifier, and generally only when it is necessary to emphasise the universal application of a provision.
- 2 See also *however*; *whenever*; *whichever*.

example of no change

- 1 the responsible utility may take whatever action is necessary

example of change

- 1 ... ~~(by whatever description)~~ (however described) ...

further reading

Cambridge Guide pp 258–9 (*-ever or ever*)
 Fowler's English Usage p 841
 Garner's Dictionary p 928

when



usage—consider alternatives

try—► *where* / ► *if* / *and then* / ► *as*

extra information

- 1 For the use of *where*, *if* and *when*, see *where*.
- 2 *When* is sometimes mistakenly used for *and then*, *as* or *in*.
- 3 See also *at the time that* / *at the time when*; *if and when*; *on each occasion when*.

example of no change

- 1 A retractable axle is taken to be an axle only when it is lowered.

example of change

- 1 ~~When~~ In deciding whether to give an approval...

further reading

Garner's Dictionary p 928 (*when* (A))
 Garner's Legal Style pp 65, 81
 Gowers' Plain Words p 105
 Partridge p 375
 Working Words p 558

whenever



usage—consider alternatives

try—► *when* / ► *if* / omitting / recasting

extra information

- 1 *Whenever* should be used sparingly as an intensifier, and generally only if it is necessary to emphasise a provision's recurring application.
- 2 For the use of *when* and *if*, see *where*.
- 3 See also *however*; *whatever*; *wherever*; *whichever*.

example of no change

- 1 The presumptions set out in this section apply whenever the pregnancy occurred.

example of change

- 1 ~~Whenever~~ If the Chief Justice is absent

further reading

Cambridge Guide pp 258–9 (*–ever or ever*)

Fowler's English Usage p 842

Garner's Dictionary p 928

Working Words p 260 (*how ever/however*)

where

usage—consider alternatives

try—► *if* / ► *when* / ► *in which* / ► *that* / recasting

extra information

- 1 Use *where* for place, but *if* to introduce a set of facts, conditions or cases. However, avoid the use of double 'if clauses' (especially 'if clauses' within 'if clauses')—preferably by recasting rather than using *where* for the second if clause.
- 2 Use *if* when it is possible that something will happen, but not certain. If an event is so certain that *if* is inappropriate, use *when*.
- 3 Use *in which* as a relative pronoun rather than *where*, except to refer to a place. However, in less formal writing, *where* may be appropriate.
- 4 See also *and* (*and where*); *except as otherwise provided*.

examples of no change

- 1 The officer must leave the notice where the seizure or damage happened.
- 2 the place where the car was found

example of change

- 1 ~~Where~~ If a person is granted a licence

further reading

Garner's Dictionary pp 928–9

Partridge p 287 (*see where*)

whereabouts

usage—avoid using

try—*location* / *place* / recasting

extra information

- 1 archaism

example of change

- 1 ~~if a person's whereabouts are unknown~~ it is not known where a person is

further reading

Fowler's English Usage p 843 (*where-* compounds)

Garner's Dictionary p 929

whereas**usage**—never use**try**—*considering / because / ►while / although / since / on the contrary / but (by contrast) / by which / because of which / recasting***extra information**

- 1 archaism
- 2 Avoid the use of *whereas* in preambles, eg by using an introduction like ‘The Legislative Assembly’s reasons for enacting this Act are—’, followed by short, numbered sentences. (The enacting words should remain the same whether or not there is a preamble.)

further reading

Cambridge Guide pp 805–6 (*where*–)
 Fowler’s English Usage p 843 (*where*– compounds)
 Garner’s Dictionary pp 929, 931 (*while*)
 Garner’s Legal Style p 144
 Partridge p 35 (archaisms)

wherever**usage**—consider alternatives**try**—omitting**extra information**

- 1 *Wherever* should be used sparingly as an intensifier, and generally only if it is necessary to emphasise the exhaustive application of a provision.
- 2 See also *however*; *whatever*; *whenever*; *whichever*.

further reading

Cambridge Guide pp 258–9 (*–ever or ever*), 805–6 (*where*–)
 Fowler’s English Usage p 843 (*where*– compounds)

where / if the context permits / allows**usage**—never use**try**—omitting / recasting (using eg ►*unless the contrary intention appears*)**extra information**

- 1 legalese

whether / whether or not**usage**—consider alternatives**try**—►*if***extra information**

- 1 Prefer *if* if appropriate. However, *whether* is generally preferable to express an alternative or possibility rather than a conditional idea. *Whether* leaves the possibility of something happening evenly balanced, while *if* suggests greater uncertainty about whether the possibility will happen. In using *if*, take care to avoid ambiguity (see example 1, examples of no change).

- 2 In the phrase *whether or not* the words *or not* are usually superfluous, since *whether* implies *or not*. *Whether or not* should be reserved for cases where it means regardless of *whether* (see example 3, examples of no change).
- 3 See also *as to whether/who/what/how/etc*; *issue as to whether*; *regardless whether*.

examples of no change

- 1 A person must tell the commissioner whether there is any change in the person's circumstances. [if the person is required to say now whether there is any change, rather than telling of a future change]
- 2 X's appointment depends on whether there are sufficient funds.
- 3 The committee must find whether the provision of the care complies with the standards.
- 4 The presumption applies whether or not the pregnancy resulted from a procedure carried out in the ACT.

example of change

- 1 if the court is considering whether ~~or not~~ to make an order about a child

further reading

Cambridge Guide p 806 (*whether*)
 Garner's Dictionary pp 414 (*if (A)*), 930 (*whether*)
 Garner's Legal Style p 144 (*whether (or not)*)
 Gowers' Plain Words p 103
 Howard's Handbook p 200 (*if/whether*)
 Longman English Usage pp 355 (*if 1*), 770 (*whether*)
 Partridge pp 148 (*if*), 376 (*whether or no; whether or not*)
 Working Words pp 268 (*if*), 558 (*whether or not*)

which



usage—consider alternatives

try—► *that* / ► *who* / ► *whose* / ► *and* / omitting / recasting (using ► *where*, *how* or ► *when*)

extra information

- 1 *That* cannot be used in a commenting clause—the relative pronoun must be *which*. With a defining clause, either *which* or *that* is grammatically permissible.
- 2 Gowers' Plain Words (p 158) explains defining and commenting clauses in this way:
 If you say, 'The man who was here this morning told me that', the relative clause is a defining one, it completes the subject 'the man', which conveys no definite meaning without it. But if you say, 'Jones, who was here this morning, told me that', the relative clause is commenting; the subject 'Jones' is already complete and the relative clause only adds a bit of information about him which may or may not be important but is not essential to the definition of the subject.
- 3 A useful test for distinguishing between commenting and defining clauses is given by Garner (Legal Style p 141). If putting the clause in brackets leaves the basic meaning of the sentence intact, the clause is a commenting clause (properly introduced by *which*). If the sentence is rendered nonsensical or its meaning is changed, the clause is a defining clause (properly introduced by *that*).

- 4 Commenting clauses should be used infrequently in legislative drafting.
- 5 Although *that* as a relative pronoun may not be preceded by a preposition, it is permissible for *which* to be preceded by a preposition.
- 6 Do not use *which* to refer to people, other than people in a body (see *that*).
- 7 Do not use *which* without a proper antecedent. *Which* should only be used to refer to a specific antecedent, and not to a general idea or whole statement.
- 8 For the use of *whose* instead of *of which* for inanimate objects, see *whose*.
- 9 If *which* is needed as the subject of a subclause, try restructuring as a new provision.
- 10 See also *and (and which/or which)*; *during which*; *for which (there is)*; *in which*; *on which*; *to which this [provision] applies*.

examples of no change

- 1 the salary or wage to which the officer is entitled
- 2 the claim relates to abuse to which the person was subjected
- 3 a program by which stated objectives are to be achieved
- 4 The consequences of entering into the agreement are stated in section Y, which has effect despite anything in the agreement. [However, it would be preferable to recast this as 2 sentences (using separate provisions).]
- 5 a scheme under which participants
- 6 as long as the premises are used for the purposes for which they are presently used

examples of change

- 1 premises ~~at which~~ where
- 2 the times ~~at which~~ when the road may be used
- 3 land ~~on which~~ where
- 4 state the place ~~at which~~ where
- 5 the day ~~on which~~ notice is given
- 6 a corporation ~~the assets of which~~ whose assets [*or having assets or with assets*]
- 7 the court ~~by which~~ that convicts an insurer is ~~convicted~~
- 8 the parts of the land ~~in which~~ where a pensioner has rights to exclusive occupancy
- 9 state ~~the way in which~~ how the penalty may be paid
- 10 the month ~~in which~~ when the system is installed
- 11 property ~~of which the defendant is the sole owner~~ owned solely by the defendant
- 12 The application must state the grounds ~~on which the warrant is sought~~ for seeking the warrant.

further reading

- Cambridge Guide pp 806–7
 Fowler’s English Usage pp 774–5 (*which/that*), 844–5
 Garner’s Dictionary pp 765–7 (restrictive and non–restrictive clauses), 930–1
 Garner’s Legal Style pp 140–1
 Gowers’ Plain Words pp 120–1, 189–90
 Partridge pp 376–7
 Working Words pp 558–9

whichever



usage—consider alternatives

try—omitting / recasting

extra information

- 1 *Whichever* should be used sparingly as an intensifier, and generally only when it is necessary to emphasise the universal application of a provision.
- 2 See also *however*; *whatever*; *whenever*; *wherever*.

further reading

Cambridge Guide pp 258–9 (*-ever or ever*)

whichever first occurs / occurs first



usage—never use

try—omitting / recasting (using *earlier*) / ► *whichever happens first*

extra information

- 1 formal phrase
- 2 legalese

whichever happens first



usage—consider alternatives

try—omitting / recasting (using *earlier*)

extra information

- 1 legalese
- 2 Often it is clear from the context that one event in a list of events will happen first and cause a particular result.

example of no change

- 1 Children must participate in education until they are 17 years old or complete year 12 (whichever happens first).

examples of change

- 1 The licence remains in force until—
 - (a) the licence is renewed; or
 - (b) a provisional renewal of the licence lapses; or
 - (c) an application for renewal is withdrawn or refused;~~whichever happens first.~~
- 2 The notice must be filed and served within 1 week after the earlier of—
 - (a) the day when the bill was served; and
 - (b) the day when the notice of rights was served;~~whichever happens first.~~

while



usage—consider alternatives

try—*although* / ► *and* / *but* / ► *when*

extra information

- 1 *While* should be used only in its temporal sense, eg ‘Your letter came while I was on holidays’.
- 2 Its use as a conjunction equivalent to *although* can be ambiguous and inappropriate in formal writing.
- 3 *While* should not be used as a synonym for *and*.

example of no change

- 1 a person may nominate another person to be present while the search is conducted

example of change

- 1 The council may refer a complaint to the relevant head of jurisdiction if the council is satisfied on reasonable grounds that ~~while~~ although the complaint appears to be wholly or partly substantiated it does not justify the attention of the council.

further reading

Cambridge Guide pp 807–8
 Fowler’s English Usage p 845
 Garner’s Dictionary p 931
 Garner’s Legal Style pp 144–5
 Gowers’ Plain Words pp 105–6
 Partridge p 378
 Working Words p 559

who / whom



usage—consider alternatives

try—► *that* / recasting

extra information

- 1 Normally, *who* is used as the relative pronoun to refer to human beings, and *that* (or *which*) is used to refer to inanimate things. However, *that* can also be used to refer to people or words that might be thought of as people-substitutes, eg anyone, everyone and someone (although *who* comes more naturally in most cases).
- 2 Either *who* or *that* may be used to refer to groups of people described using a collective noun (eg a committee), but *that* should be preferred.
- 3 Use *that* to refer to both humans and animals or humans and things.
- 4 The traditional distinction between *who* and *whom* is that *who* acts as the subject of a verb (eg ‘the person *who* is talking’) and *whom* as the object of a verb or preposition (eg ‘the person of *whom* we spoke’). However, *whom* is increasingly rarely used (except after prepositions) and often sounds unnatural and even excessively pedantic. If possible, avoid both infringing the traditional distinction and the use of *whom* by using *that*, omitting *whom*, or otherwise recasting.
- 5 See also *and (and who)*; *as to whether/who/what/ how/etc.*

examples of change

- 1 The corporation ~~who~~ that made the decision no longer exists.
- 2 a person ~~who this section applies to~~ to whom this section applies

further reading

Cambridge Guide pp 809–10 (*whom*)
 Fowler's English Usage pp 773 (*who or that*), 847–9 (*who and whom*)
 Garner's Dictionary pp 932–4
 Garner's Legal Style pp 145 (*who; whom*), 202 (to avoid sexist language)
 Gowers' Plain English pp 122, 189–90 (*who or that*) 124–5 (*who or whom*)
 Partridge pp 378–9
 Working Words pp 559 (*who/that*), 559–60 (*who/whom*)

whose

usage—consider alternatives

try—recasting / *of which*

extra information

- 1 Although *whose* is increasingly being used to refer to animals and things as well as people, it should not generally be used in this way in formal writing.
- 2 Prefer recasting if practicable. If not, prefer *whose* to *of which*.

example of no change

- 1 a person whose residence contract is in the form of a sublease

further reading

Cambridge Guide pp 808–9 (*who and whose*)
 Fowler's English Usage pp 849–50
 Garner's Dictionary p 934
 Garner's Legal Style p 145
 Gowers' Plain Words pp 125–6
 Partridge p 379

wife

usage—never use

try—*spouse* / *partner* / *domestic partner* / *civil partner* / *civil union partner*

extra information

- 1 Discrimination on the ground of marital status is unlawful under the *Discrimination Act 1991*.
- 2 See LA, s 169 (References to *domestic partner* and *domestic partnership*).
- 3 See LA, dictionary, part 1 for definitions of *civil partner* and *civil union partner*.

will**[as a verb]**

usage—consider alternatives

try—► *may* / ► *must* / recasting

extra information

- 1 Use *will* for all forms of the simple future tense.

2 See also *last will and testament*.

example of no change

1 if a new worker starts work with an employer that already conducts surveillance or will start conducting surveillance

example of change

1 Payment of the amount ~~will be enforceable~~ may be enforced under this part.

further reading

Cambridge Guide pp 687–8 (*shall or will*)

Fowler's English Usage pp 706–7 (*shall and will*)

Garner's Dictionary pp 941–2 (words of authority)

Garner's Legal Style p 139 (*shall; will*)

Gowers' Plain English pp 141–2 (*shall and will*)

will and testament

see—last will and testament

with

see—compare to / with; differ with

with a view to



usage—avoid using

try—*to / for / recasting*

extra information

1 compound preposition

2 officialese

example of no change

1 a system used to enable people to bet money on events or contingencies with a view to successfully predicting stated outcomes

example of change

1 ~~cause an investigation to be made with a view to ascertaining~~ conduct an investigation to find out

further reading

Gowers' Plain Words pp 55, 267, 63 (cause an investigation to be made with a view to ascertaining)

Partridge p 380

without limiting the generality of



usage—never use

try—*without limiting / including, for example / in particular / including / for example*

extra information

1 formal phrase

2 legalese

examples of change

- 1 Without limiting ~~the generality of~~ subsection (3),
- 2 board a ship and operate it, including, ~~without limiting the generality of the foregoing,~~ for example, by moving it

with reference / regard / respect to

usage—avoid using

try—*for / for which / to / in / about /* ► *concerning /* ► *in relation to /* recasting

extra information

- 1 compound preposition
- 2 connecting phrase
- 3 If the broadest power is wanted, prefer *in relation to* (see LA, dict, pt 1, def *in relation to*).
- 4 See Drafting Practice Guide, ch 14, ‘in respect of / in relation to / with respect to etc’.

examples of change

- 1 a standard ~~with reference to~~ about industry-funded support arrangements
- 2 Similar considerations apply ~~with regard~~ to the review of decisions.

further reading

Gowers’ Plain Words pp 4, 56
 Fowler’s English Usage p 663 (*regard*)
 Garner’s Dictionary p 747 (*regard (A)*); 764 (*respect*)
 Garner’s Legal Style p 137 (*respect*)

with the exception of

usage—never use

try—*other than /* ► *except /* ► *excluding*

extra information

- 1 verbosity

further reading

Gowers’ Plain Words p 55

with the object of

usage—avoid using

try—*to*

extra information

- 1 verbosity

example of change

- 1 ~~with the object of preventing~~ to prevent accidents in the workplace

further reading

Garner’s Dictionary p 938

with the result that

usage—avoid using

try—*so that / resulting in*

extra information

1 verbosity

example of no change

1 an entity that has ceased to carry on business, with the result that creditors were not fully paid

further reading

Gowers' Plain Words p 260

workmanlike

usage—never use

try—*skilful / well made / professional / recasting*

extra information

1 gender-specific word

2 See also *man / men*.

would

see—should

writing

*see—in writing; instrument in writing; notice in writing; LA, dict, def of **writing***

written instrument

usage—never use

try—▶ *in writing* / ▶ *written notice / notice / document* / ▶ *instrument* / recasting

extra information

1 redundancy

2 see LA, s 14 (Meaning of *instrument*).

further reading

Garner's Dictionary p 456 (*instrument*)

written notice

usage—consider alternatives

try—*notice*

extra information

1 can be a redundancy

example of no change

1 The director-general may, by written notice to the chair of the committee, give the committee a reference.

example of change

1 A member may resign by signed ~~written~~ notice of resignation given to the Minister.

Figures

0

see—nought

1

see—more than 1; one

12 am / pm



usage—consider alternatives

try—*12 noon / midday / midnight*

extra information

- 1 The correct designation for the time at noon is *12 noon* or *midday*, not *12 am* (which strictly speaking means before noon).
- 2 See also *afternoon*, *morning* and *night*.

further reading

Cambridge Guide p 38

Fowler's English Usage p 46

[X] days



usage—consider alternatives

try—*[Y] weeks/months*

extra information

- 1 Prefer periods expressed in weeks or months rather than days if appropriate. This is consistent with normal usage.
- 2 See LA, dict, pt 1, defs calendar month, calendar year, financial year and month.

example of change

- 1 ~~14 days~~ 2 weeks

[X] months



usage—consider alternatives

try—*[Y] year(s)*

extra information

- 1 Prefer periods expressed in years rather than days, weeks or months if appropriate. This is consistent with normal usage.
- 2 See LA, dict, pt 1, defs calendar month, calendar year, financial year and month.

example of change

- 1 ~~24 months~~ 2 years