

# A UNDP project to strengthen Kazakhstan's parliamentary democracy

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## INTRODUCTION

The only possible form of realization of a right on legislative initiative in Kyrgyz Republic is a draft. All subjects of the law on legislative initiative, whether it is the President, Jogorku Kenesh deputies, Government, Supreme Court, Supreme Arbitrage Court, or 30 thousand of citizens, possessing suffrage, should submit proposals on legal regulation of this or that sphere of public relations in form of a draft of Kyrgyz Republic. The introduced bill should meet a number of requirements. If the form of a bill introduced does not meet the requirements of legislation concerning the order of preparation of a bill and Regulations of Jogorku Kenesh chambers, or if necessary materials are not produced, Jogorku Kenesh committees may return the bill to its initiator for performing the requirements to the bill.

Requirements to the bill are divided into two categories. Firstly, it is requirements made to the content of a bill, and, secondly, requirements, made to the structure, order of articles, language, etc.

Analysis of Kyrgyz Republic legislation indicates that only the requirements made to the content of a bill are stipulated on a normative level (Article 31, Kyrgyz Republic Law "On normative legal acts of Kyrgyz Republic", article 113 of Kyrgyz Republic Jogorku Kenesh Legislative Assembly's Regulation and Article 96 of Kyrgyz Republic Jogorku Kenesh Peoples Representatives' Assembly Regulation).

In spite of the significance of the requirements to the content of a bill, they, do not, nevertheless, reveal the whole specter of criterions the draft should meet in a modern "rule of law" state. Requirements made to the structure of a bill and the necessity of observing the rules of legal technique are also important. As it is known, normative legal act has both outer and inner structures. The outer structure contains certain elements, which allow identifying the type of legal normative act, for instance, distinguish law from decree, and also identify when and who passed, approved or signed it, when it entered into force, etc. Inner structure of a normative legal act contains division of its text into such elements as sections, chapters, parts, points, sub-points and paragraphs.

It is a pity, but these questions have not yet become a subject to normative regulation by the state bodies. Kyrgyz Republic law "On normative legal acts of Kyrgyz republic", which came into force on June 5, 1996, did not eliminate the existing gaps. Normative stipulation of special rules on bill structuring, in essence unification of the bill structuring process, may, to a considerable extent, ease drafting work both for professional drafters, and for different structures of civil society, who champion interests of this or that social category of citizens. Rules of drafting may vary depending on the branch of power, legislative or executive, which participates in this process and approves such rules. But the rules of bill structuring should become a base for subsequent actions of all branches of power, and would produce a positive effect on the quality of drafting.

At present many drafts, placed for consideration to Jogorku Kenesh have a number of serious shortcomings, such as underestimation of legal technique's role, absence of

uniformity in use of terminology, excessive bulkiness and weak structural study of some articles, tendency to make pronouncements for effect, etc. Frequently no changes to current legislation are being made upon passing new laws. Absence of well-adjusted mechanism of draft legal expertise in Jogorku Kenesh committees leads to passing of the laws, which are not adequate to the object pursued by the legislator. The corollary is a phenomenon, characteristic to our state, when the passed laws "do not work", do not find an application in real life. Of course, quality of a draft is only one of the factors of this phenomenon. Common level of political and legal culture of citizens should be taken into account. It is evident that raise in drafting quality would facilitate overcoming the negative occurrences in implementation of legal norms.

At present the legislation of Kyrgyz Republic does not contain normatively stipulated list of requirements to the structure of a draft. This Manual was created under the assistance of ABA-CEELI on the base of Oregon State Manual on drafting, and it is the first attempt to work out common for Kyrgyz Republic requirements to the structure of a draft. The rules brought forward do not bear normative and obligatory, but recommendation character. At the same time it should be noticed that though the majority of these rules are the rules of legal technique, all the persons involved in drafting process should observe them.

## Section 1. Main provisions

### 1. Taking a drafting request and determination of its aim

In bill drafting process three stages are involved. On the first stage drafter, who received a request on drafting, should secure all the materials about a problem. On the second stage it is necessary to find the optimum ways of solving this problem. The essence of the third stage is creation of a draft.

The drafter should possess appropriate skills and experience with the legislative process to express adequately the requester's of a bill (hereinafter referred as – requester) goal. Sound drafting work depends on how adequately the requester's goal will be expressed. Drafting work is setting of thoughts to written form. But regardless of the facility of language a drafter may possess, there can be no substitute for cultivating the ability to determine and see the drafting problem and the wisdom to device answers.

In view of the difficulty of some requests for bill it frequently happens so that the requester can not give detailed instructions and the drafter in not in a position to preview all the questions to rise during the drafting process. When the given instructions are not deep enough, it is necessary to analyze the aim of a requester and the ways of to achieve this object. After that a drafter can get in touch with a requester in order to let him consider and answer the questions of a drafter. While drafting a bill a drafter can encounter additional problems, what will require subsequent contacts with a requester. But the number of such contacts **should be reduced** to the minimum, due to a lot of work with a requester, who in their turn relies on the drafter's experience. Sometimes it is more expedient for a drafter to fill up the gaps and propose a requester the variants, utilized in a draft, then to specify additional details during the initial drafting.

While performing its obligations a drafter has to:

1. Determine the aim which is pursued by the requester and to find the ways of achieving the object;
2. Explore the alternative ways of achieving the goal, pointing out the political questions touched upon;
3. Determine the constitutional provisions and current laws which relate to the subject of a draft and what amendments, if there are any, should be included to the current legislation;
4. Check the doubtful questions on the draft with specialists (if the requester did not predetermined other) or with aid of independent research;
5. Discuss the questions of further policy concerning the draft bill with a requester.

### 2. Confidentiality of a request for a draft

Request for a draft is as a rule confidential. This means that:

1. A drafter may acknowledge receipt of a request for drafting and may reveal the nature of the request and the name of a requester.

2. A drafter may inform subsequent requesters who request an identical or almost identical draft that the earlier request has been made, and may inform the second requester of the name of the first requester without the authorization from the first requester.

But the request can be confidential according to the requester's will. In this case the name of a drafter and the nature of the request will not be revealed to any person if it will be possible upon preservation of the following terms:

1. Without revealing the identity of the requester, a drafter may consult with others to gain necessary background information for drafting.
2. A drafter may inform subsequent requesters who request an identical or almost identical draft that the earlier request has been made and may not inform the second requester of the name of the first requester without the authorization of the first requester.
3. A drafter may discuss the draft with any person the requester authorizes the drafter to consult in preparing the draft.

Each drafter who takes requests will make an effort to determine the names of the persons who may be contracted with respect to the draft. The draft **request form** will be marked to reflect the names of those persons. A drafter may presume that legislative aides and other persons on the member's staff have authority to discuss a draft requested by the member.

#### **4. Analyzing provisions to be in bill**

After completing the necessary background research, the drafter must begin to visualize the elements of the bill to be drafted. While the bill may embrace only one general subject, it will do so by one or more of the following:

- 1 Create new law;**
- 2 Amend existing law;**
- 3 Repeal existing law.**

If an existing statute is not found that can be amended to accomplish what is desired, the bill must **create new law**.

Research may indicate that there are existing statutes dealing with the subject covered by the request and that a change in or an addition of language to one or more of these existing statutes will accomplish the requester's purpose. If so, the bill will need to **amend existing sections**. Language may be taken from other statutes to express the changes in or additions to the section amended. It is important to harmonize the language added with that already used in the section amended, and to avoid creating inconsistencies and conflicts with unamended portions of the law. Because it is more important to maintain consistency of language between the new material and the

unamended existing law than to create a "pearl", the drafter may need to exercise particular self-restraint.

Often a bill must **repeal existing law** (removing sections). It is important to check a statute carefully prior to its repeal, to be certain that nothing in the statute should be in force after the bill being drafted becomes law. It should be noted that internal references to the repealed law may exist in sections not being amended. These references must be reconciled.

A bill should correspond to the Constitution of Kyrgyz Republic. If a drafter does not observe this requirement, the whole text or a part of a bill may be in future recognized as unconstitutional.

If a bill will be approved it would take its place in a system of existing legislation. A drafter must be sure that a bill will not contradict the existing legislation. It may seem that you save time neglecting to search contradictions between the bill and current legislation. But in future it will take much more time and money for elimination of the existing contradictions.

Often a drafter will have to point out important features of a bill, or problems not dealt with therein, in a letter of transmittal or a note, accompanying the draft. A drafter should preserve for the record any constitutional or other legal objections that might be raised against the bill, even though the requester has not been informed of them orally.

After finishing an analysis of provisions to be included in a bill, it is necessary to prepare an outline of a bill. The outline should express the results of the analysis of provisions to be included in the bill. For a simple bill, an outline may be unnecessary. Probably there will be less need for a detailed written outline for an experienced drafter, but some advance planning for drafting a bill will always be required. A structured outline, based on a sound analysis of the required provisions, is a good basis for dividing a lengthy and complex bill dealing with many aspects of the subject into smaller, manageable units.

## Chapter 3. Style and grammar

### 1. GENERAL PART.

Often drafters resort to forms of stilted and foggy drafting because common words lack dignity. Polysyllables lend distinction. This drafting may have negative results because it produces a flood of inquiries, endless interpretations, poor compliance and adverse court decisions.

**It is not acceptable to use** obsolete words, polysyllable words and expressions, epithets, metaphors, and contracted words.

**Unnecessary repetitions.** Repetition is one of means of achieving coherence in a written work. But if repetition does not contribute to the design, establish a pattern, emphasize important material or link parts, it is not functional - it should be eliminated.

**Weak intensifiers and qualifiers.** Since legal propositions may have to include a number of modifying phrases or clauses, fitting them into the sentence simply and clearly is sometimes difficult. Words like "very", "quite", "rather", "completely", "definitely" and "so" can usually be struck from a sentence without loss.

**Negative constructions.** When an idea can be accurately expressed either positively or negatively, it should be expressed positively.

**Extra sentences.** Sentences are sometimes wordy because ideas are given more elaborate grammatical constructions than they need. These constructions can be grammatically subordinated or reduced. Several rules help the drafter tighten the draft:

If two consecutive sentences can be combined if:

they have the same subject;

if the idea at the end of one sentence is picked up as the subject of the next sentence.

**Long-winded introduction.** Vague, empty words and phrases clog the beginnings of sentences. When the deadwood is cleared, the subjects appear early, and then the main verbs appear close to them.

The following is a list of elements that will lead to good drafting practices:

- short statements;
- positive rather than negative statements;
- active rather than passive voice;
- the indicative mood as much as possible;
- simple, finite verbs rather than their infinitives, participles or gerunds;
- present time as much as possible;

- singular rather than plural nouns;
- the same words consistently for the same meaning- avoidance of synonyms;
- avoidance of unnecessary modifiers, unnecessary definitions, unnecessary references, unfamiliar words.

## 2. CONSISTENCY.

A drafter must be consistent in the **use of words**. If a word or phrase is used more than once in a bill, there is a presumption that the word or phrase has the same meaning throughout the text. This presumption governs unless a contrary intent is clear. In view of this rule, two mandates can be framed:

- (1) The same word should **not** be used to convey different meanings;
- (2) Different words should **not** be used to convey the same meaning;

## 3. BREVITY.

Many statutes are ambiguous or obscure because of long and poorly constructed sentences. **The drafter must make a conscious effort to keep sentences short.** If each sentence expresses a single thought, it generally is easier for the reader to grasp that thought. It does not matter if the result sounds “choppy” so long as it is clear.

As a general rule, when both a short word and a long word have the same meaning, the short word should be used because it may be more easily understood.

## 4. THE LEGISLATIVE SENTENCE

The simplest legislative sentence consists of a legal subject and a legal action. These two parts together constitute the rule. In more complicated forms, the legislative sentence also may contain **exceptions, conditions and cases.**

**The legal subject.** The legal subject identifies the person who is required or permitted to do something. The legal subject determines the person to whom the law will apply. The legal subject must be used precisely to be sure that the rule confers the right or imposes duties on all of the persons whom the requester intends to obligate or benefit? And no others.

Legal duties and liabilities can reside **only in persons**; a **thing** can not possess a right or be subject to a liability. However, there are times when stating the persons who constitute the legal subject would require extensive repetition or would result in awkward arrangement. In these instances, if the persons are definite, even though by implication, a thing as a subject of the sentence may be used.

When using descriptive language to limit the legal subject, the drafter should use the present or past tense of the verb and avoid the future tense. For example, “an employee

who leaves” or “an employee who has left”, not “an employee who shall leave” or “an employee who shall have left.”

**The legal action.** The legal action describes the particular act that a person is required or permitted to do or prohibited from doing. The legal action should stay close to its subject.

If the rule (legal subject plus action) is permissive, that is confers a right, privilege or power that is so to be exercised at the will of the legal subject, the word “may” is used in the legal action. If the rule is imperative, that is, imposes a duty or liability on the legal subject, the words “shall” or “may not” are used. “Shall” should never be used to express future action in stating the legal action. “May” or “shall” must never be used in any part of the rule except in the legal action.

**The condition.** Sometimes the legal rule applies only upon the fulfillment of stipulated conditions. Ordinarily, “if”, “until”, or “unless” introduces the condition. Great caution should be exercised in attaching a condition to a negative legal action (“unless... may not”), for then the performance of the condition is made a matter of absolute necessity. In the use of the affirmative approach (“if...may”), the statement of condition may be construed as directory only. As in the case of other parts of the legislative sentence, the future tense of a verb must not be used to state a condition.

**The exception.** An exception is used to exempt from the application of the law some matter that otherwise would be within the scope of the rule. An exception is introduced by “except”, but care must be exercised that all of those items following the word “except” are intended to be governed by it.

An exception may be used to incorporate by reference exemptions that have been stated in other provisions to avoid an overly complex sentence. For example, “Except as provided in sections 2 and 3 of this Act, a person who...” Ordinarily this type of exception should precede the case and condition, if any, and the rule.

No single element probably contributes more to confused legislation than the inept use of exceptions, especially in the form of provisos, when a direct statement should cover the matter. An exception, limitation or condition should be introduced by “except that,” “but” or “however”, or by a new sentence or paragraph. To avoid pitfalls, a drafter may consider the following techniques:

1. If certain persons are to be excluded from the operation of the rule, the language of the legal subject must be adjusted.
2. If limitations on time, place manner or circumstance in the operation of the rule are to be made, the language of the legal action must be adjusted.

**Tense.** Text, used in drafting procedure, is construed as referring to the time when the statute is applied. There is a natural temptation to regard the time when a statute is being drafted as the present and to cast legislative sentences in the future tense.

## 5. Voice.

Drafters should not use the passive voice if the active voice can be used. If a drafter habitually writes in a passive voice, ambiguities may be created by neglecting to identify the person who is given a right, power or privilege or is subjected to the duty or liability. The duty appears to be imposed upon or the right granted to an inanimate object. For example, "Notice of the meeting shall be given at least 10 days after making a decision to hold it." The same mandate written in the active voice requires that the responsible person be designated.

The passive voice should never be used with a double negative; for example, "the powers set out in section 4 of this Act shall not be exercised by the director without the prior approval of a majority of the members of the board." Rather, the sentence should be written: "The director may exercise the powers set out in section 4 of this Act only with the prior approval of a majority of the members of the board."

#### **6. Number of noons.**

When possible, the singular number should be used instead of the plural. The singular usually makes the meaning clearer.

#### **7. Punctuation.**

Good drafting requires the barest minimum of punctuation. A short sentence limited to the clear expression of a single idea will go a long way toward meeting this requirement. Punctuation considered essential in other forms of writing is usually excessive in a bill. No more punctuation should be used than it is necessary for clarity. Sentences must be constructed so that their meaning does not depend on punctuation. This requires skillful phrasing. The following rules are designed to promote uniformity in punctuation:

The **period** should be used as frequently as possible. The long, rambling, sentence, held together by "ifs", "ands" and "buts", requiring innumerable commas and other little marks to give it meaning should never be employed by a bill drafter. (This sentence is an obvious case of a long sentence, which can be split into short ones to ease its perception and understanding).

It is advised to refrain from using **colon** and **semicolon**. A colon is used in the text of a section only to introduce a series of subelements.

**9. NUMBERS AND FIGURES.** Using numbers in the text of a draft it is advised to follow the rules:

**Numbers** should be expressed in figures and not in words.

**Ordinal numbers** are expressed in words.

**Cardinal numbers** are expressed in figures.

**Numbers beginning a sentence** are expressed in words.

**Fractions** are expressed in words, using a hyphen between the words.

**Percent** is expressed by the word "percent". The symbol "%" may be used in tables.

#### **10. DATES, TIME, AGE AND TIME PERIODS.**

Dates should be expressed as follows:

**Month-** by the word (January);

**Year-** in figures (1999);

**Years-** with figures, using a hyphen between two figures (1998-1999);

**Century-** with Arabic numerals (21 century);

**Day, month, year-** with figures + word + figures (29 June 1999)

**Time periods are to be measured:**

**in years-** for example “license is issued for 3 year term”

**in months-** for example, “the period of registration of a juridical person should not exceed one month”. The same period may be measured in days: “the period of registration of a juridical person should not exceed 30 days”;

**in days-** for example, “the appeal must be filed not later than the 30<sup>th</sup> day after the judgement was entered”. The same period may be expressed in a month: “the appeal must be filed within a month”.

The time periods mentioned above can be used in different variants. For example, “the appeal is given consideration within one month since it was received” or “the appeal is given consideration within 30 days since it was received”.

If an action must be completed by the end of designation period that begins in the future, the drafter should indicate the action:

1. **May** be done **before** the designated period **begins**, as in “not later than the 90<sup>th</sup> day after the end of the tax year”; or
2. **Must** be done **within** the designated period, as in “within the 90-day period immediately following the end of the tax year.”

Sometimes a drafter uses the words “heretofore” and “hereafter”, particularly to refer to events taking place before as well as after its effective date. Drafter should use the formulas:

- “before the effective day” is used instead of “heretofore”
- “after the effective day” is used instead “hereafter.”

**Age** should be expressed as “eighteen years of age” or “in the age of 18 years.”

## **11. OFFICIAL TITLES OF PUBLIC OFFICERS AND AGENCIES.**

The official and correct title for a public officer or agency is used when referring to that officer or agency within the text of a bill. If the name of a public agency is too long and uncomfortable, its contracted variant should be used. If so the full official title should be set out once at the beginning and further substituted for its contracted variant. For example:

**“Section 23. Commission on Citizenship under the Kyrgyz Republic President.**

For preliminary consideration of issues on citizenship, the President of Kyrgyz republic establishes a Commission on Citizenship under the Kyrgyz republic President.

The Commission on Citizenship under the Kyrgyz Republic President (hereinafter referred to as Commission on Citizenship) gives many-sided estimation to the requester's arguments during the consideration of requests and presentations on citizenship issues. Commission on Citizenship submits proposals on each request or presentation to the Kyrgyz Republic President."

## 12. DEFINITIONS.

Juridical, technical, and other special terms are used in drafting. A drafter should include a section, which gives definitions to the terms, into a bill. A word should not be defined if it is not used in the bill.

If the drafter desires a particular word to have a particular meaning, a definition is essential. The length of bills can be reduced and the bill made more clear through the use of definitions. Definitions are useful when:

- 1) it is necessary to limit or extent the meaning of a word;
- 2) if a word is used in its uncommon meaning;
- 3) if a word has several meanings.

Definitions should not be used for a word when that word has a clear and definite dictionary meaning and that meaning is the one intended.

After a word is defined, the defined word should be used rather than the definition.

The defined words must be placed in quotation marks and arranged in alphabetical order.

"Means" is used in the definition if the definition restricts or limits the meaning of a word. "**Includes**" is used if the definition extends the meaning. The combination "means and includes" should **never** be used. A doubt is raised as to whether the definition is intended to be restrictive or extensive.

The singular form of "means" and "includes" is used even if the term defined is plural because the subject of "means" or "includes" is the "word"; e.g. /word/ "toys" includes teddy bears.

In some cases a drafter may not want to define a word or phrase completely and exactly. If so, the drafter may find the following example useful: "Unless the Act requires otherwise, "conveyance" includes, but is not limited to, an assignment, lease, mortgage or encumbrance."

A drafter may want to **exclude** a meaning from an extensive definition. If the exclusion is a part of the definition, the definition should be phrased as follows: "unless the Act required otherwise, "fish" includes both game fish, but does not include thaleichthys pacificus, commonly known as smelt."

If a drafter wants to keep the definition identical to the definition given in some other law, and also to avoid repetition of what is already exists, a drafter may use a reference on existing definition made in any other law. In this case the following form can be used: "Energy sources" has a meaning as defined in Kyrgyz Republic law "On power engineering."

Definitions generally should be placed at the beginning of the bill so that the reader can be aware of special meanings given to words and phrases before encountering them in the bill.

## CHAPTER IV. AMENDMENTS TO THE CURRENT LEGISLATION.

1. Drafting is not creating of new legal norms. This is also activity aimed on repeal of previously stipulated legal norms, and making them amended. It is worth remembering that legal acts can be changed or repealed only on the basis of legal acts, which have the same or bigger juridical power then their own.

Amendments to the law require the same or, under the time restrictions, even more care then drafting of a new bill. Many of our problems are connected with inability to do amendments to the current legislation properly. When making amendments, all the amendments and additions should be checked on their compliance to the whole law, including its name. The drafter should be certain about the amendments made to the control variant of the law.\*

When making amendments to the law, the following rules should be observed:

- 1) punctuation, if they are subject to amendments, should be put in inverted commas;
- 2) excessive punctuation marks should not be used;
- 3) each line should be ended with a full stop;
- 4) the way of expressing the amendments should be clear with a minimum of words used;

Making the amendments, the drafter should be sure that their aim is to satisfy the request, and he should not derive from his own opinion that this part may be improved. The latter is not sufficient reason and even may become dangerous for the requester's goals in case, when the amendments are too extensive and change more than the requester wishes to. It is important to do draft so that its effect in the amended variant of a draft will not be noticeable. Changed or repealed parts of a draft should be reread to make sure that their sense, grammar and sequence are kept.

2. When making amendments the form of a draft has a number of peculiarities.

If the draft is aimed on a repeal of a concrete law, its official name should be reflected in the name of a draft. For example, "*Kyrgyz Republic draft law "On recognition of Kyrgyz Republic Law "On value added tax "to become invalid"*". If the draft is not aimed on repeal of several laws, it is not necessary to mention in the text of a bill the official names of laws, which are subject to repeal. In this case only the main thematic of the laws, which are subject to repeal (e.g. "*Kyrgyz Republic law "on recognition of legislative acts on value added tax to become invalid"*"), or their common name (e.g. "*Kyrgyz Republic law "On recognition of some Kyrgyz Republic legislative acts to become invalid"*") is reflected in the text of a bill.

Articles are not necessarily required in the drafts. As a rule, drafts are divided into points and paragraphs.

The text of a draft should necessarily contain a concrete definition of a law subjected to repeal, its name, date of adoption, and where it was published. For example:

*"To recognize as invalid:*

*-Kyrgyz Republic law "On conclusion, ratification, fulfillment and denouncement of Kyrgyz Republic international treaties" (Kyrgyz Republic Jogorku Kenesh bulletin, 1994, № 7, p.230);*

\* Control variant of the law is the wording of this law, including all the amendments.

- *Kyrgyz Republic Law "On amendments to Kyrgyz Republic Law "On conclusion, ratification, fulfillment and denouncement of Kyrgyz Republic international treaties"* (Kyrgyz Republic 'Jogorku Kenesh bulletin, 1999, article 54, of September 7, 1996)".

If the law was not published in Kyrgyz Republic Jogorku Kenesh bulletin, the reference should be made to a newspaper, which is an official publisher of the laws.\* For example, *"Kyrgyz Republic Law "On mortgage" ("Erkin-Too" newspaper, 1998, №3)..."*

Upon recognition of structural parts (parts, sections, sub-sections, chapters, paragraphs, articles, points, sub-points) of the current law to have lost its power, these parts of the law should be excluded, but their numbers should be kept. Reference to the normative legal act on recognition of a part of a law to be invalid should be added to the remained number. Numeration of the remained structural parts should not be changed.

3. Amendments to the current laws also do not determine obligatory mentioning of the official names of the laws subjected to amendment. In this case rules concerning the structure of a draft, repealing the current legislative acts, are used.

Directions on amendments to legal acts may be divided into articles, though this rule is not mandatory in this case. Individual provisions on amendments are divided to numbered points. Directions on amendments state:

"change", for example,

*"in chapter 41 in the name and in the first paragraph words "for use" should be changed for "when using";*

"add", for example,

*"Article 23 should be added with point 4 in the following edition:*

*"4. Land spots may be alienated or change hands in a measure determined by land legislation of Kyrgyz Republic".*

"exclude", for example,

*"In paragraph 2, point 1, article 25 words "right for a life-long inheriting ownership" and "right for constant use" are subject to exclusion.*

"to read as follows", for example:

*"Kyrgyz Republic mineral resources may be in state, municipal, private and other form of ownership. Only small deposits of generally used minerals revealing on the open land surface of private owners can be in municipal, private and other forms of ownership."*

Provisions on amendments to the appropriate law should be limited by the extracts, which are subject to a change, and should not repeat the extracts, which are not subject to a change. For example:

"paragraph twenty nine should be added with words ", and landowners";

"In point 4, article 2, words "Jogorku Kenesh" should be changed with words "Jogorku Kenesh legislative Assembly".

If change of some law causes the necessity of changing other laws, all the amendments

\* Sometimes the period between coming of the law into force and making amendment to this law is not considerable, and this law can not yet be published in Kyrgyz Republic Jogorku Kenesh Bulletin.

should be made at once in order to avoid contradictions in a current law.

Structural parts should be included to a current law under additional numbers, duplicating the numbers of the structural parts of a law they follow: section 2-1, chapter 8-1, article 29-1, point 24-1 and so on. A reference to the act on inclusion, put in brackets, goes after the text of included structural part. Numeration of other structural parts remains the same. For example,

*"Add article 82-3 in the following edition:*

*"Article 82-3. Property of the farm belongs to its members as a common property, if the law or the contract determines the other."*

**4. I variant.** New wording of a current law should be accepted only in case when more than 50 percent of the text is supposed to be changed.

**II variant.** Sometimes there are so many amendments that it is easier to state the material in a new wording.

In this case a drafter should in essence draft a bill which in a full measure meets the requirements mentioned before. The very structure of a draft on making amendments will not undergo considerable amendments. For example:

- Kyrgyz Republic law "On amendments to Kyrgyz republic law "On \_\_\_\_\_"*
- 1. Make amendments to a Kyrgyz Republic law "On \_\_\_\_\_" (Kyrgyz Republic Jogorku Kenesh Information Bulletin, 19 \_\_, № \_\_, article \_\_), approving a new wording of this Law: (further goes the text of a draft bill in a new wording).*
  - 2. Current law comes into force from the time of its signing."*

After finishing drafting the bill on amendments, correspondence of cross-references should be checked.

## CHAPTER 5. COMING INTO EFFECT; LIMITED IN TIME ACTIVITY.

Effective date of a draft may be:

- 1) determined by the draft;
- 2) not determined by the draft.

In case when a drafter wants to determine the draft's effective date, he can choose one of the following dates:

- 1) from the day of its signing- "This law comes into effect from the date of its signing";
- 2) from the day of its official promulgation- "this law comes into effect from the date of its official promulgation";
- 3) in a certain number of days after its signing- "this law comes into effect in \_\_ days after its signing";
- 4) in a certain number of days after its promulgation- "this law comes into effect in \_\_ days after its promulgation";
- 5) from the date, indicated in the article- "This law comes into effect from January 1, 2000".

A drafter may not indicate the effective date, i.e. not include an article on the law's coming into effect to the draft. In this case the law, according to the Kyrgyz Republic Constitution, should come into effect within ten day from the day of its promulgation (67).

The following formulating is frequently used in existing laws: "This law comes into effect from the moment of its signing" or "This law comes into effect from the moment of its official promulgation" or "This law comes into effect from the day of its signing" or "This law comes into effect from the day of its official promulgation". These formulations are not recommended to be used, as it is very hard to determine the moment of signing and the moment of its official promulgation. There is a question concerning the formulation "from the day": "In what meaning the day should be considered: literally, as a part of a 24-hours from morning to evening, or abstractly- as 24 hours? If literally, as a part of a 24- hours, what should be done if it was signed at 20 p.m. Should it be considered as signed on this day or not?" As soon as the question of a draft's coming into effect frequently has a big importance, the drafter should be precise in determining the effective date of the law. In this connection we recommend the drafter to use the phrase "from the date", as the counting out of the date has a precise time.

The date of the law's coming into effect may be determined both for the whole draft, and for its separate parts.

The law may determine a postponed date of the law's coming into effect. For example, "This law comes into effect from January 1, 2000". A drafter may preview some provisions to come into effect earlier or later then the whole draft. For example, "this law, except for chapter 2, comes into effect from January 1, 2000". Coming into effect of section 2 in this case may depend on a certain date (for example, "Section 2 of this law comes into effect from March 1, 2000") or some conditions (for example, "Section 2 of this law comes into effect after creation of a Commission on security market").

Usually the law is in effect without a time-limit, i.e. it is rated at indeterminate term. In this case an article on the law's effective term is missed in a draft. But there are some

cases, when the law comes into effect for a determined term. In this case it is necessary to include an article on the effective term of the law to the draft. For example, " this law is effective for three years after its coming into effect ". Or the effective term of the law may be conditioned, "This law is effective until the creation of a security market".

## CONCLUSION

When the draft is ready, a drafter should attentively check, whether the draft meets the requirements mentioned above. Whatever experienced the drafter is, he never stops wondering how often the mistakes which escaped his notice while drafting, reveal upon making final check of a draft.

We advice to do several separate readings to check the word-order, style, grammar, use of special terms, definitions, conformity of cross references and so on.

If time allows, postpone the draft for two-three days to give a fresh look at it. Rewrite the draft as many times as necessary to:

- Achieve clearness, giving special consideration to style and grammar, and also use of special terms and words;
- To place the provisions of a draft in the most convenient order, keeping the logical sequence;
- Achieve consistency, coherency and clearness.

One of the requirements of submitting of the draft to Kyrgyz Republic Jogorku Kenesh, as it was mentioned above, is a substantiation to the draft. It must reflect the following moments:

- a) necessity of passing the law, detailed characteristics of its aims, main provisions, and its place in a system of current legislation, feasibility study (in case of introduction of a bill, which will require additional financial, material and other expenditures), and also prognosis of social, economic and political consequences of its passing;
- b) list of Kyrgyz Republic legislative acts, which should be repealed or amended if the law is passed, and also suggestions on drafting of normative legal acts, which are necessary for realization of this law.

If a drafter is certain that the draft meets all the requirements stated in this Manual, he consider the drafting to be completed and send it to a requester with a substantiation enclosed.