# Index

Α

AAFRD, See Alberta Agriculture, Food and Rural Development (AAFRD), Plain Language Project

# Aboriginal Law

- Aboriginals in Australia, need for plain-language documents for and about, 240-241
- generally, 231-233
- Indian Residential Schools Resolution Canada (IRSRC) documents rewritten, 235-239
- terminology, changes to, 233-235

## Adler, Mark

- Clarity for Lawyers Effective Legal Writing, 316-317
- · generally, 16, 20

Alberta Agriculture, Food and Rural Development (AAFRD), Plain Language Project, 259-261

Alberta Law Reform Institute's Plain Language Initiative (ALRI), 124-125

ALRI, See Alberta Law Reform Institute's Plain Language Initiative

## Asprey, Michele

 Plain Language for Lawyers, 10-11, 28-29, 52, 144, 274, 306-307

Auditors, See Securities Commissions

# Australia

- Aboriginals, need for plainlanguage documents for and about, 240-241
- Centre for Plain Legal Language, 60
- court summons form, 98
- government and MacQuarrie University, online LawTerm Finder, 200
- plain language and legislation, 156-159, 275-276

B

Berry, Dr. Duncan, Techniques for Evaluating Draft Legislation, (App. 5.2), 79-81

#### **Briefs and Factums**

- guidelines for writing persuasive briefs, 109-111
- importance of plain language in, studies showing, 105-109
- model plain-language brief, 112-120

British and Irish Legal Information Institute (BAILII) Lecture, 101-102

Buffet, Warren, 187

Bylaws, See Municipalities

C

Calgary, Plain Language Policy, See Municipalities

Canadian Association of Municipal Administrators (CAMA), *See* Municipalities

Canadian Bankers Association's Commitment to Plain Language, 267

Canadian Union of Public Employees (CUPE), See Municipalities

Center for Plain Language (U.S.), 280

Centre for Feminist Legal Studies, Faculty Of Law (U.B.C.), A Plain Language Guide for Women Who Have Experienced Abuse, 200

## Clarity

- checklist (App. 5.1), 76-78
- · generally, 277-278

Cloze Procedure, 73-74

Code Words, Medical, See Health Law

Collective Agreements

audience, 177

# Collective Agreements, cont'd

- case history of public sector clause, 180-182
- examples of before and after clauses, 183-185
- · nature of agreements, 175-176
- · poor writing
  - · reasons for, 178
  - results of, 179-180
- purpose of agreements, 176-177
- readability, 42, 177, 178-179

#### Communication Triad

- · audience, 28
- · example, 29-38
- message, 28-32, 33
- purpose, 32-33

Consumer Protection Act (South Africa), 20-22, 265

#### Contracts

- Canadian Bankers Association's commitment to plain language, 267
- · common contracts, 263
- Magna Carta, history and contents, 263-264
- purpose of plain language in contracts, 268-269
- South Africa's Consumer Protection *Act*, 2008, 265
- status of plain language efforts for contracts, 269-270
- Texas, consumer credit contracts rewritten, 266
- Writing Contracts in Plain English, 265

#### Courts

- appropriateness of plain language in, 85-87
- Australia, court summons form, 98
- British and Irish Legal Information Institute (BAILII) lecture, 101-102
- Canada
  - Alberta Court of Queen's Bench Rules of Court, 2010, 99
  - B.C. Small Claims Court, 97
  - Federal Court Rules, 96
  - judgment writing course, 98

- plain language jury instructions, 97-98
- class action settlement, notice, 100-101
- court claim forms, 96
- · court submissions, 95
- jury instructions, 94-95
- publications promoting plain language
  - Forget the Windup and Make the Pitch, 90-94
  - Literacy and Access to Administrative Justice in Canada, 89-90
  - Literacy in the Courtroom: A Guide for Judges, 87
  - Problem-Solving in Canada's Courtrooms, A Guide to Therapeutic Justice, 88-89
- · United Kingdom
  - · Civil Court Rules, 96
  - new language in civil courts, 97
- United States
  - Federal Rules of Civil Procedure, 2007, 98-99
  - Federal Rules of Evidence, 2011, 98-99

## D

#### **Definitions**

- generally, 4-13
- plain English vs. plain language,
   3-4
- plain legal language, 17-20

#### Dick, Robert

 Legal Drafting in Plain Language, 9-10, 122

Divorce Agreements, Audience-Sensitive, *See* Family Law

Drug Labels, See Health Law

## Ε

#### Eagleson, Robert

 Australian legislation, changes in, 276

- · Case for Plain Language, The, 8-9
- Lawyers' Skills and the Success of Plain Language, 8-9
- *Mabo, Wik and Native Title,* 240
- Taking the Gobbledegook Out of Legal Writing, 297
- · Writing in Plain English, 98

English as a Global Language, 295-296

Essential Plain Language Collection for Legal Aid Agencies (U.S.), 201-201

## **Ethical Foundations**

- authority for plain language, 44-45
- · consumer needs, 40
- fraudulent writing, legal language as, 42-43
- · history, 39-40
- literacy of reader, 40, 41

## European Union

- legislation, guidelines for writing, 167
- · Unfair Contracts Directive, 282

Evaluating Draft Legislation, Techniques (App. 5.2), 79-81

Evaluation, *See* Testing and Evaluation

## F

Factums, See Briefs and Factums

#### Family Law

- audience-sensitive divorce agreements
  - child custody, support and property division agreement, 203-209
  - client information letter, 210-215
- divorce flowchart, 216-217
- glossary of legal terms, plainlanguage version, 218-219
- initiatives in plain language
  - Australian Government and MacQuarrie University, online LawTerm Finder, 200
  - British Columbia Family Law website, 201

- Centre for Feminist Legal Studies, Faculty of Law (U.B.C.), 200
- Essential Plain Language Collection for Legal Aid Agencies, (U.S.), 201-202
- Family Justice Working Group (Canada), 201
- Gains from Clarity: A Research Report on the Effects of Plain-Language Documents, The (Australia), 202
- Law Society of Upper Canada, Family Law website, 201
- National Action Committee on Access to Justice in Civil and Family Matters (Canada) Report, 200
- self-represented litigants, 200

Famous 5, See Gender, Persons Case

Felsenfeld, Carl and Alan Siegal

 Writing Contracts in Plain English, 265

Financial Writing, Problems and Solutions, *See* Securities Commissions

Fonts, Clarity and Size, 6, 10, 13, 37, 96, 101, 157, 162, 172-173, 204, 222, 252

Forget the Windup and Make the Pitch, *See* Courts

Forms, *See* Public Forms, Release Forms

Fraudulent Writing, Legal Language As, 42-43

#### G

#### Garner, Bryan A.

- Dictionary of Modern Legal Usage, A, 4, 12, 245, 246, 289
- generally, 54, 302, 306
- Legal Writing in Plain English, 149
- Winning Brief, The, 109

#### Gender

- Australia, Centre for Plain Legal Language summary, 60
- French, gender-neutral language in, 59-60
- guidelines for gender-neutral language usage, 54-56
- House of Lords, name not changed,
   58
- Martin, Clara Brett, 57
- perpetuation of masculine model, 51-52
- Persons Case (1929), 57
- political correctness, 47
- sexist language
  - · church, 50
  - · corporations, 50
  - investment industry, 49-50
  - · legislation, 49
  - national anthem, 50-51
  - · newspapers, 49
  - · papal law, 49
- South Africa, Constitution of, 58
- "they" as singular, 53-54
- Westminster, language in legislation passed by, 58

Good Law Initiative (U.K.), 274-275

## Н

#### Health Law

- dictionaries of medical terms, 225-227
- example of need for plain language, 227-228
- · fonts, 222
- initiatives in plain language
  - consent forms, 223-224
  - drug labelling, 222-223
  - insurance, health (U.S.), 225
  - legislation, guides to, 224-225
- reasons for plain-language documents, 221-222
- terms, "code words" and the need for vigilance, 229-230

Hong Kong, Drafting Legislation in, 276-277

П

Iacobucci, Justice Frank, Opinion of Legal Profession, 43

IC Clear Consortium, 14, 278-279

Income Tax Act, 2007 (New Zealand), 165

Income Tax Assessment Act 1997 (Australia), 165

Indian Residential Schools Resolution Canada (IRSRC), See Aboriginal Law

Interdisciplinary Nature of Plain Language, 13-16

International Initiatives For Plain-Language Legislation

- Australia, 157-159, 165
- European Union, 167-168
- New Zealand, 163-165
- Sweden, 168
- United Kingdom, 159-163, 165-167
- United States, 156

International Plain-Language Organizations

- · Clarity, 277-278
- International Plain Language Working Group (IPLWG), 278
- Plain Language Association InterNational (PLAIN), 278

International Plain Language Working Group (IPLWG), 278

#### J

Judges, Plain Language for, *See* Courts Jury Instructions, *See* Courts

## K

Kimble, Joseph

- · generally, 98, 99
- Lifting the Fog of Legalese: Essays on Plain Language, 86
- Plain English: A Charter for Clear Writing, 4

Writing for Dollars, Writing to Please,
5-8, 19, 63, 75-76, 85-86, 105, 154,
279, 282, 308-310

#### L

Laskin, Justice John I.

• Forget the Windup and Make the Pitch, 90-94

Lawterm Finder, Australia, 200

Legal Writing and Research Instructors

- challenges according to Julie Clement (App. 19.2) 301-303
- thoughts on plain language generally (App. 19.1), 297-300

## Legislation

- Canadian initiatives for plainlanguage legislation, 168-169, 282-285
- checklist of features for plainlanguage legislation, 172-173
- costs of unintelligible writing, 173-174
- definitions, placement and style of, 170-172
- drafting generally, 151-153
- glossary of terms for plainlanguage legislation, 286-289
- international initiatives for plainlanguage legislation
  - Australia, 157-159, 165
  - European Union, 167-168
  - New Zealand, 163-165
  - Sweden, 168
  - United Kingdom, 159-163, 1 65-167
  - · United States, 156
- reasons for plain-language revision, 153-156
- "required by statute", 169-170
- "shall", removal of term, 289-290

Literacy in the Courtroom: A Guide for Judges, *See* Courts

Literacy and Access to Administrative Justice in Canada, *See* Courts

#### M

Magna Carta, History and Contents, 263-264

Martin, Clara Brett, 57

Medical Consent Forms, See Health Law

Medical Terms, Plain-Language Dictionaries, See Health Law

## Mellinkoff, David

- · generally, 122, 306
- Language of the Law, The, 4-5, 9
- Mellinkoff's Dictionary of American Legal Usage, 4-5, 14, 125, 131

Minneapolis, Plain Language Charter, *See* Municipalities

## Municipalities

- bylaw reform, 146-147
- · example of plain-language bylaw
  - · appearance, 139
  - · clauses avoided, 143-144
  - definitions, 140-141
  - examples and explanatory notes, 145
  - headings and subheadings, 145-146
  - preambles and enacting words, 139-140
  - question, answering the, 142-143
  - readings of bylaw clause, 144
  - text improvements, 141-142
  - titles, 139
  - tone, 143
  - · visual aids, 144
- plain-language initiatives
  - Calgary, plain language policy, 150
  - Canadian Association of Municipal Administrators (CAMA) and Canadian Union of Public Employees (CUPE), 147
  - Minneapolis, Plain Language Charter, 149
  - · Toronto, 148
- public notice rewritten, 272-273

Ν

National Action Committee on Access to Justice in Civil and Family Matters (Canada) Report, 200

## New Zealand

- *Income Tax Act*, 2007, 165
- Tax Drafting Conference Proceedings, plain-language drafting, 163-164
- visual techniques, 165

P

Per Stirpes Clauses, 126-130

Plain Language Association International (PLAIN), 45, 270, 278, 279

Plain Language Project (B.C.), See Wills

Plain Writing Act of 2010 (U.S.), 156, 280-281

Plain Writing Publications, 279

Problem-Solving in Canada's Courtooms, A Guide to Therapeutic Justice, *See* Courts

#### Public Forms

- Alberta Agriculture, Food and Rural Development (AAFRD) forms project, 259-261
- · audience, 250, 252
- common problems, 250-252
- · definition, 249
- design principles, 252-256
- example bank form, before and after plain language, 257-258
- fonts and readable text, 252, 256
- testing, 256-257

Q

Quebec, Plain Language in (App. 1), 22-25

R

Readability Formula Testing, See Also Testing and Evaluation

- · advantages, 72-73
- · disadvantages, 71-72
- examples, 69-70
- generally, 68

#### Release Forms

- example of original and rewritten form
  - original form and discussion, 244-245
  - rewritten form and discussion, 245-248

"Required By Statute", See Legislation

S

Securities Commissions

- best practices, examples, 197-198
- financial writing, problems
  - · annual reports, 187
  - financial literacy, 188
  - financial reports, 187
- financial writing solutions
  - Canadian examples, 189-198
  - plain language, 188
  - U.K. initiative of Financial Reporting Council, 188
  - U.S. Securities and Exchange Commission plain-language suggestions for joint-proxy statements and prospectuses, 188-189

Self-Represented Litigants, *See* Family Law

Sexist Language, See Gender

South Africa

- Constitution, 58
- Consumer Protection Act, 20-22, 265

Standards, Uniformity of, 292-293

Sullivan, Ruth

• generally, 158

• Promise of Plain Language Drafting, The, 12-13, 154, 155

Sweden, Plain Language in Government, 168

## T

Tax Law Rewrite Project (U.K.), 274

Teaching Plain Language

- · generally, 291-292
- · resistance, 293-295

Testing and Evaluation

- CLARITY checklist (App. 5.1), 76-78
- · Cloze procedure, 73-74
- comprehension test results, comparison, 73-75
- designing the test, 64-65
- evaluating draft legislation, techniques (App. 5.2), 79-81
- · international test results, 75-76
- pretesting, 68
- public forms, 256-257
- · questionnaires, 67
- readability formula testing, 68-73
- types of testing, 64, 65
- why it matters, 63-64, 75

Timeshare Act (U.K.), 51-52, 159-164

## U

Unions, See Collective Agreements

United Kingdom

- · Civil Court Rules, 96
- Good Law Initiative, 274-275
- Financial Reporting Council proposal for clearer financial reports, 188
- plain language in statutes, 159-163, 274-275
- Tax Law Rewrite Project, 274
- Unfair Terms in Consumer Contracts Regulation, 1999, 282

United Nations, 282

#### **United States**

- · Center for Plain Language, 280
- Essential Plain Language Collection for Legal Aid Agencies, 201-202
- Federal Rules of Civil Procedure, 2007, 98-99, 279
- Federal Rules of Criminal Procedure, 279
- Federal Rules of Evidence, 2011, 98-99, 279
- health insurance, plain language summaries, 225
- plain-language initiatives, 281-282
- Plain Writing Act of 2010, 156, 280-281
- Securities and Exchange Commission plain-language suggestions for joint-proxy statements and prospectuses, 188-189
- Texas, consumer credit contracts rewritten, 266

## W

#### Wills

- · audience, 122-123
- · ending of will, 131
- example of plain-language will, 132-134
- glossary of terms, inclusion of, 134
- nature of wills, 121-122
- per stirpes clauses, 126-130
- plain-language wills projects
  - Alberta Law Reform Institute's Plain Language Initiative (ALRI), 124-125
  - Continuing Legal Education (CLE) Society of B.C.'s Plain Language Project, 123-130
  - per stirpes clauses, 126-130
- purpose, 122-123

#### Wydick, Richard

• Plain English for Lawyers, 9

# Index

## A

Aboriginal Law Documents, Before and After, 303-309

Adler, Mark

 Better Drafting of a Will article, 172-174

Ancient Language, 53-54

Arbitration Clause, Model, 233

Audit Reports, Model Documents

- · model glossary, 276
- model segments, 263-275
- plain-language features, 277

Awkward, Unnatural Language, 121

## B

BCSC Plain-Language Style Guide, Examples, 4-7

Boxed Text Design Problems, 217

Briefs and Factums, Guidelines on Organizing, 153-158

Bylaws, Municipal

- · contents page, 203
- openings, 202
- plain-language sample, 189-200

#### C

Capitalization Rules, 55-58

#### **CLARITY Guidelines**

- examples and exercises
  - · Conciseness, 8-13
  - Lean and Lively Language, 13-23
  - Active Voice, 24-27
  - Regular and Reasonable Language, 28-31
  - Image-evoking and Specific Language and Design, 32-41
  - Tight Organization, 42-48
  - You and Your Audience, 48-49
- guidelines, 1-3

• integrating guidelines, 50-51

Class Action Notice

- original as published, 316-318
- suggestions and commentary, 319-321

Colon Rules, 59-61

Comma Rules, 62-64

Commonly Confused Words, 65-68

Confidentiality Agreement, Before and After, 355-358

Confusing Vocabulary, 121

Consent Form, 293-295

**Construction Contracts** 

- model international contract, 336
- plain-language example, 337-345

#### Contracts

- · confidentiality agreement, 355-358
- · construction contract, 337-345
- credit card agreement, 353
- farmout agreement segment, 359
- farmout proposal letter, 360-363
- feeder agreement, 365-366
- force majeure clause in a lease, 351
- international construction contract clause, 336
- Nunavut Land Claims Agreement, A Plain Language Guide to the, 325-335
- publishing contract
  - · after, 349-350
  - before, 346
  - changes suggested, 347-348
- release and waiver, 352

# Courts, Model Documents, Before and After

 commentary from rewritten US Federal Rules of Civil Procedure, 144-147 Courts, Model Documents, Before and After, cont'd

- court order to produce clinical records, 140-143
- decision, model in plain-language, 135-139
- decision, plain-language characteristics, 148
- jury instructions, 149

Credit Card Agreement, Before and After, 353

## D

Dangling Participles, How to Eliminate, 69-71

Dashes and Parentheses Rules, 72-74

## F

Family Law, Model Documents

- separation agreement, 281-282
- Transcend documents
  - court order for divorcing spouses, before and after, 286-289, 290
  - Don't Put Your Kids in the Middle, 284
  - How to Change a Parenting Plan, 285

Farmout Agreement Segment, 359

Farmout Proposal Letter, 360-363

Feeder Agreement, 365-366

Flow Chart for Legislation, Example, 232

Force Majeure Clause, 351

Formal Language, 121

# G

Gender-Neutral Language, 75-76

Grammar, Rules of

- capitalization, 55-58
- dangling participles, 69-71
- misplace modifiers, 81-82
- numbers
  - legislation, in, 85

- words or figures, 83-84, 86-87
- parallelism, 90-93
- possessives, 94-97
- pronouns, 98-101
- sentence fragments, 108-111
- standard English test, 114-116
- subjects and verbs agreement test, 117-118
- subjects and verbs placement test, 119-120

Grievance Mediation Forms, Model Documents

- · agreement to mediate form, 256
- mediator appointment agreement, 257-259
- memorandum of understanding, 254-255

## Н

Health Law, Model Documents

- · consent form
  - · original, 293
  - rewrite suggestions, 294-295
- · hospital patient form Canada
  - original, 299
  - rewrite suggestions, 299
  - rewritten, 300
- hospital patient form U.S.A.
  - · original, 296
  - rewrite suggestions, 297
  - · rewritten, 298

Hyphen Rules, 77-79

П

In Respect of, Use of Phrase, 103-104 International Construction Contract Clause, 336

J

Jargon, Verbifying Nouns, 122 Jury Instructions, Model Documents, 149

## K

## Kimble, Joseph

- commentary from rewritten U.S. Federal Rules of Civil Procedure, 144-147
- How to Write an Impeachment Order, 14-16

## L

## Language Use, Rules of

- · ancient language, 53-54
- commonly confused words, 65-68
- · gender-neutral language, 75-76
- opening sentences/segments, 88-89
- sentence fragments, 108-111
- shall, use of, 112-113
- twinning of synonyms, 80, 121
- typical problems in legal writing, 121-122
- verbose verbs, 123-125
- with respect to, in respect of, respecting, 103-104

## Lease Clauses, Municipal, 201

# Legislation, Model Documents

- Finance Act 1992 (U.K.), 222-231
- Financial Consumers Act (Alberta), model arbitration clause, 233
- flow chart example, 232
- Income Tax Assessment Act 1997 (Australia), selected sections, 234-249

#### M

Mediation Forms, see Grievance Mediation Forms

Misplaced Modifiers, 81-82

Model Arbitration Clause, 233

Municipal Law, Model Documents

- boxed text design problems, 217
- bylaw
  - contents page, 203
  - openings, 202
  - plain-language sample, 189-200
  - procedures bylaw, 213-215

- · lease clauses, 201
- public notices, 204-212
- streets guidelines, 216-217

## Ν

Nouns Verbified, 122

Numbers Rules, 83-87

Nunavut Land Claims Agreement, a Plain Language Guide to the, 325-335

# 0

Opening Sentences/Segments, 88-89

#### P

Parallelism Rules, 90-93

Parentheses Rules, 72-74

Possessives Rules, 94-97

Pronouns and their References, Rules for, 98-100

## Public Forms, Model Documents

- class action notice, 316-321
- form for travelling seniors, exercise, 315
- Notice of Annual Meeting, 313-314

## **Publishing Contract**

- after, 349-350
- before, 346
- changes suggested, 347-348

#### Punctuation

- colons, 59-61
- · commas, 62-64
- dashes, 72-74
- hyphens, 77-79
- parentheses, 72-74
- possessives, 94-97
- semicolons, 105-107
- standard English test, 114-116
- test, 101-102

# R

Release and Waiver, Model Form, 352

Respect – With Respect to, in Respect of, Respecting, Use of Phrases, 103-104

Rules of Civil Procedure, Model Documents

 Joseph Kimble's commentary on rewritten U.S. Federal Rules, 144-147

## S

Segments/Opening Sentences, 88-89

Semicolons Rules, 105-107

Sentence Fragments Rules, 108-111

Separation Agreement, Model Document, 281-282

Shall, Use of, 112-113

Skimming and Scanning, How to Make Them Work, 370

Standard English Test, 114-116

Subjects and Verbs

- · agreement, 117-118
- placement, 119-120

Substitutes for Non-Plain-Language Words and Phrases, 21-22

Synonyms, Twinning of, 80, 121

## T

#### Tests

- · capitalization test, 57
- · colons test, 60
- · commas test, 63
- dangling participles test, 70
- · dashes and parentheses test, 73
- gender-neutral language test, 75
- hyphens test, 78
- misplace modifiers test, 81
- · numbers test, 86
- opening sentences/segments test, 88
- parallelism test, 91
- possessives test, 96
- pronouns and their references test, 99
- punctuation test, 101
- semicolons test, 106
- sentence fragments test, 110

- · shall test, 112
- standard English test, 114
- subjects and verbs agreement test,
   117
- subjects and verbs placement test, 119
- verbose verbs test, 123
- with respect to, in respect of and respecting test, 103

Transcend Documents, see Family Law, Model Documents

Twinning of Synonyms, 80, 121

#### U

U.S. Federal Rules of Civil Procedure, Commentary on, 144-147

## V

#### Verbs

- · agreement with subject, 117-118
- placement, 119-120
- verbose, 123-124

Visual Layout, 125-128

## W

Web and Print Writing and Design

- differences between print and web, 369-370
- skimming and scanning online, how to make them work, 370

Wills, Model Documents

- Better Drafting of a Will article, 172-174
- Henry Tudor's will, sample, 162-171
- original precedent, 176-180
- plain language will, 181-186

With Respect to, Use of Phrase, 103-104

Word Usage, see also Language Use, Rules of

- awkward, overly formal, confusing and incorrect, 121
- substitutes for non-plain-language words and phrases, 21-22
- synonyms, twinning of, 80, 121