

**UNIFORM LAW CONFERENCE OF CANADA**

**CIVIL LAW SECTION**

**UNIFORM INTERPRETATION ACT**

**INTERIM REPORT OF THE WORKING GROUP**

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**Toronto, Ontario  
August 2014**

## **INTERIM REPORT OF THE WORKING GROUP**

### **Working Group**

The Current Working Group is comprised of Peter Pagano (Alberta)(chair), Dawn Leroy (BC)(English Version Drafter), Jean-Paul Chapdelaine (Federal Government)(French Version Drafter), Sandra Petersson (Alberta Law Reform Institute), Ian Brown and Jane Chapco (Saskatchewan), Tamara Kuzyk and John Gregory (Ontario), Elizabeth Strange and Michael Hall (New Brunswick). Assisting with the Minutes and the preparation of the report were 2 summer law students from Alberta: Lori MacKay and Christine Wilson.

### **Background**

The ULCC was approached a number of years ago by the Federal Government to consider undertaking a review and renewal of the Uniform Interpretation Act and other related acts given the recent developments in the law in Canada and in other Commonwealth countries. The current Uniform Interpretation Act dates back to 1984. The first Uniform Interpretation Act was adopted in 1938. There were subsequent revisions in 1941, 1953 and 1973. The 1984 Uniform Act was in both English and French.

The scope of the Project is broader than just reviewing the Uniform Interpretation Act. It was decided to follow Ontario's approach which was to enact a comprehensive "Legislation Act". Ontario's legislation is the most recent legislation in Canada dealing with an "Interpretation Act" (2006).

The Report of the Working Group presented at last year's ULCC meeting set out the Methodology for the Review, including the steps to be taken. Following is a summary:

#### **Comparison chart**

A table was prepared comparing the Uniform Interpretation Act, Uniform Regulations Act, the Interpretation Act, Regulations Act and Statute Revision Act of each Canadian jurisdiction (Federal, Provincial, Territorial) and of certain Commonwealth Jurisdictions (UK, Australia and New Zealand) against Ontario's Legislation Act.

#### **Interpretation Act provisions**

For the purpose of Phase one of the Project, provisions relating to the interpretation of legislation contained in Ontario's legislation were identified and also, provisions from the Uniform Interpretation Act and the other jurisdiction's Interpretation Acts that weren't included in the Ontario Act were identified.

#### **Analyses and recommendations**

An analysis of each provision identified was undertaken.

The analysis consisted of comparing the identified provision with the similar provisions of other jurisdictions in order to identify any differences in intent and approach

A recommendation was then made with respect to each provision analyzed. For example, should the Ontario provision be adopted or that of another jurisdiction's, should the wording and sentence structure be followed or could it be improved, are there any gaps or other issues, etc.

#### **Review the analyses and recommendations**

In September 2012, the Group began reviewing the analyses and recommendations with respect to each identified provision. We met for 90 minutes twice a month. The review was completed in April 2013. The results of the review formed the basis for the first draft, which was completed in August of 2013.

## ***Progress in 2013-14***

After last year's ULCC meeting, the Working Group started reviewing the first draft. The Working Group met (by teleconference) for 90 minutes twice a month from September to the end of February to discuss the first draft, following which a second draft was prepared.

On April 3 and 4, Peter Pagano, Jane Chapco, Tamara Kuzyk, Dawn Leroy, Jean-Paul Chapdelaine and Michael Hall met in Edmonton to discuss the second draft. Following the meeting in Edmonton, a third draft was prepared. It was hoped that a draft could be prepared for this year's ULCC Conference. While the draft was substantially completed, there are still a few outstanding matters to sort out. Largely due to everyone's other responsibilities, there wasn't sufficient time to complete a proper draft for this year's Conference.

Instead of a draft, a Table (attached) has been prepared which sets out

- recommendations as to whether the existing provisions of Uniform Interpretation Act should be retained (with or without changes) or should not be retained at all [**Note** that provisions of the Uniform Interpretation Act that are recommended to be retained will be re-drafted to better express their intent]
- specific questions for the delegates of the Civil Section
- other provisions from the Ontario Act that are recommended for the new Uniform Interpretation Act.
- *(Note: In preparing the Table, we discovered that there were a few provisions currently contained in the Uniform Interpretation Act that the Group hadn't reviewed. Recommendations with respect to those were made by the Chair.)*

This Table will provide an opportunity for the Civil Section to comment on the Working Group's recommendations. Following the recommendations of the Civil Section and consultation with the other Legislative Counsel's Office, a draft for final approval of the ULCC will be submitted.

## TABLE

Row	Uniform Interpretation Act (UIA)	Recommendations/Questions
1	<p><b>Interpretation</b></p> <p>1(1) In this Act “Act” means an Act of the Legislature;</p> <p>“enact” includes issue, make, establish or prescribe;</p> <p>“enactment” means an Act or a regulation or any portion of an Act or regulation;</p> <p>“public officer” includes any person in the public service of the Province who is authorized by or under an enactment to do or enforce the doing of an act or thing or to exercise a power or upon whom a duty is imposed by or under an enactment;</p> <p>“regulation” means a regulation, order, rule, form, tariff of costs or fees, proclamation, or by-law enacted in the execution of a power conferred by or under the authority of an Act or enacted by or under the authority of the Lieutenant Governor in Council, but does not include an order of a court made in the course of an action or an order made by a public officer or administrative tribunal in a dispute between two or more persons;</p> <p>“repeal” includes revoke, cancel or rescind.</p>	<p><b>“Act”</b> Ontario’s definition of “Act” goes on to say that “statute” has the same meaning.</p> <p>In some jurisdictions the term “statute” is used but isn’t defined and as a result could be interpreted in certain contexts as including an Act of Canada. In fact in Yukon, “statute” is defined to mean an Act of Canada or a province, including an Ordinance of the NWT and Nunavut.</p> <p>Each jurisdiction will need to decide if “statute” needs to be defined.</p> <p>Those Provinces that were carved out of the Territories currently refer to ordinances in their definition of “Act”, in the event that some ordinances still apply.</p> <p>Yukon, defines an Act as being an Ordinance of Yukon.</p> <p><b>“enact”</b> No change to the definition of “enact”.</p> <p><b>“enactment”</b> <b>The Working Group recommends the reference to “regulation” in the definition of “enactment” be changed to “statutory instrument”.</b></p> <p><b>“regulation”</b> <b>The Working Group recommends that the term “regulation” only be used when it is meant to be an instrument that is required to be filed under the Regulations Act or similar law.</b></p> <p>“Statutory instrument” would be</p>

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		<p>used when the reference is to all forms of statutory instruments, including a “regulation”. The current definition of “regulation” is confusing in that the defined term is used in the body of the definition.</p> <p>As a result, “statutory instrument” would be used to include all types of “statutory instruments”, including law-making regulations. The term “regulation” would then be defined to be a regulation required to be filed under the Regulations Act or similar law.</p> <p><i><b>Note:</b> If a jurisdiction decides to use the term “statutory instrument” instead of “regulation”, existing legislation may need to be amended to reflect the change in terminology.</i></p> <p><b>“public officer”</b>  <b>The Working Group recommends the term “public officer” not be retained.</b></p> <p>It really wasn’t clear who it is intended to include. Ontario doesn’t use the term but refers to “office” and “public office”.</p> <p><b>“repeal”</b>  No change to the definition of “repeal”.</p> <p><i><b>Note:</b> Under the UIA these terms are definitions applicable only to the UIA; however the Working Group recommends that only “enact” and “repeal” be made applicable to the Uniform Interpretation Act. The other terms, other than “public officer” will be included with the “general definitions”.</i></p>
2	Lapsed enactments	The Working Group

Row	Uniform Interpretation Act (UIA)	Recommendations/Questions
	<p><b>1(2)</b> For the purpose of this Act, an enactment that has expired or lapsed or otherwise ceased to have effect shall be deemed to have been repealed.</p>	<p><b>recommends that section 1(2) be retained.</b></p> <p>Jurisdictions may want to consider adding a provision that would allow for an express repeal of lapsed statutory instruments.</p>
3	<p><b>Crown bound</b>  <b>2</b> Her Majesty is bound by this Act.</p>	<p>If the recommendation made with respect to section 8 is approved, section 2 will not be necessary.</p>
4	<p><b>Application</b>  <b>3(1)</b> Every provision of this Act extends and applies to every enactment, whether enacted before or after the commencement of this Act, unless a contrary intention appears in this Act or in the enactment.</p> <p><b>Application to this Act</b>  <b>3(2)</b> The provisions of this Act apply to the interpretation of this Act.</p> <p><b>Other rules of construction</b>  <b>(3)</b> Nothing in this Act excludes the application to an enactment of a rule of construction applicable thereto and not inconsistent with this Act.</p>	<p><b>The Working Group recommends that section 3(1) and (2) be retained; however in the Ontario provision (s47), in addition to “contrary intention” it also refers to “its application would give to a term or provision a meaning that is inconsistent with the context”. The Working Group recommends following the Ontario approach”.</b></p> <p><b>While section 3(3) was not specifically addressed by the Working Group it is recommended that it not be retained as it is no longer necessary.</b></p> <p>It does not appear in the Ontario legislation. It can be traced back to at least 1859. This provision preserves the applicability of those common law rules of construction that are not inconsistent with the Interpretation Act.</p>
5	<p><b>Date of commencement</b>  <b>4(1)</b> The date of the commencement of an Act or of any portion thereof for which no other date of commencement is provided in the Act is the date of assent to the Act.</p> <p><b>(2)</b> A provision to bring an Act or any portion of an Act into force on a day later than the date of assent to the Act comes into force on the date of assent to the Act.</p>	<p><b>The Working Group recommends that section 4 be retained, with the exception of 4(3).</b></p> <p>It is recommended that 4(3) not be retained in the Uniform Interpretation Act but should be dealt with in an encompassing</p>

Row	Uniform Interpretation Act (UIA)	Recommendations/Questions
	<p><b>“Date of assent” of reserved Acts</b></p> <p><b>4(3)</b> In this section, “the date of assent” with reference to an Act that has been reserved for the signification of the Governor General’s pleasure, means the date of the signification by the Lieutenant Governor that the Governor General in Council assented to the Act.</p> <p><b>Regulations</b></p> <p><b>4(4)</b> Every regulation of a class that is exempted from the application of the <i>Regulations Act</i> or to which that Act does not apply and which is not expressed to come into force on a particular day comes into force the day the regulation is enacted.</p>	<p>Legislation Act.</p>
6	<p><b>Effective time of enactment</b></p> <p><b>5</b> An enactment takes effect on the first moment of the day on which it comes into force.</p>	<p><b>The Working Group recommends following:</b></p> <ul style="list-style-type: none"> <li>• <b>The time of commencement is the beginning of the day.</b></li> <li>• <b>The time of repeal is the end of the day.</b></li> <li>• <b>The time of a repeal and replace is the beginning of the day.</b></li> </ul> <p>The UIA does not deal with the time when a repeal takes effect.</p> <p>The main difference from Ontario and some other jurisdictions is that in those jurisdictions the repeal takes effect at the beginning of the day. The advantage of that rule is that the rules for commencement and repeal are the same. Also, there is no need for a third rule to deal with when an enactment is repealed and replaced. However, it seems unusual that something would “end” at the beginning of the day.</p>
7	<p><b>Exercise of delegated power before commencement</b></p> <p><b>6</b> A power in an enactment to make a regulation or to do any other thing may be exercised at any time before the enactment comes into force, but a regulation so made or a thing so done has no effect until the enactment comes into force except in so far as may be necessary to make the enactment effective upon its coming into force.</p>	<p><b>The Working Group recommends that section 6 be retained.</b></p>
8	<p><b>Proclamations: effective date</b></p>	<p><b>The Working Group</b></p>

Row	Uniform Interpretation Act (UIA)	Recommendations/Questions
	<p><b>7(1)</b> A proclamation issued on the order of the Lieutenant Governor in Council may purport to have been issued on the date of the order and, if so, takes effect on that date.</p> <p><b>Reference to order in council</b></p> <p><b>(2)</b> It is not necessary to refer in a proclamation to the order of the Lieutenant Governor in Council recommending its issue.</p> <p><b>Judicial notice of proclamations</b></p> <p><b>(3)</b> Judicial notice shall be taken of any proclamation bringing an Act or any portion of an Act into force without being specially pleaded.</p>	<p><b>recommends that an Act or portion of it be brought into force by an order in council and not by proclamation.</b></p> <p>Proclamations are issued pursuant to an order in council. Having to issue a proclamation is redundant because the same information is contained in the order in council.</p> <p>If this recommendation is approved then sections 7(1)-(3) of the UIA are not necessary.</p> <p><i>Note: BC brings their legislation into force by a Regulation made by order in council.</i></p>
9	<p><b>Proclamation of part of Act</b></p> <p><b>7(4)</b> The authority to make a proclamation fixing a day upon which an Act comes into force may be exercised in respect of any provision of the Act, and proclamations may be made at different times as to different provisions.</p>	<p><b>The Working Group recommends that section 7(4) be retained.</b></p> <p>Most jurisdictions have a provision similar to section 7(4).</p> <p>The Federal Interpretation Act however doesn't have a similar provision. If an Act is to come into force on a "selective basis", then a provision like section 7(4) is included in the particular Act. If proclamation is not to be on a "selective basis", then the Act refers simply to it coming into force on proclamation.</p> <p>While, the approach in the Federal Interpretation Act is more "transparent", on a practical basis, there is more flexibility with a provision like section 7(4).</p> <p><b>The Working Group recommends that the Uniform Interpretation Act provide a comment on "repeal on Proclamation" but not have a drafted provision.</b></p>

Row	Uniform Interpretation Act (UIA)	Recommendations/Questions
		<p>While some jurisdictions provide for “repeal on Proclamation” neither the UIA nor Ontario provide for repeal on Proclamation. There are circumstances where this might be desirable; for example, an Act that might have a short life span but the actual repeal date is unknown at the time of drafting the Bill. Also, provisions can be repealed on a selective basis to deal with the phasing in of a new Act.</p>
10	<p><b>Crown not bound except as stated</b>  <b>8</b> No enactment is binding on Her Majesty or affects Her Majesty or Her Majesty’s rights of prerogatives in any manner, except only as therein mentioned or referred to.</p>	<p><b>The Working Group recommends that the presumption that the Crown is not bound unless the enactment states that it is be reversed as is done in BC and PEI. If the decision is to reverse the presumption, then UIA section 2 is not necessary.</b></p> <p>Under the UIA and in many of the jurisdictions, the Crown is not bound unless the enactment states that it is.</p>
11	<p><b>Enactments always speaking</b>  <b>9(1)</b> Every enactment shall be construed as always speaking.  <b>(2)</b> A provision in an enactment expressed in the present tense shall be applied to the circumstances as they arise.</p>	<p><b>The Working Group recommends that section 9 be retained however the Working Group is of the view that all that is necessary to reflect section 9 is to state that an enactment is to be construed as applying to circumstances as they arise.</b></p>
12	<p><b>Enactments remedial</b>  <b>10</b> Every enactment shall be construed as being remedial and shall be given such fair, large and liberal construction and interpretation as best ensures the attainment of its objects.</p>	<p><b>The Working Group recommends that a provision be included that reflects Driedger’s modern principle.</b></p> <p>It was noted that when the courts quote the modern principal, they generally also refer to “giving a large and liberal interpretation”, bundling them together.</p>

Row	Uniform Interpretation Act (UIA)	Recommendations/Questions
		<p><b>Question:</b> If Driedger’s modern principle is included should Driedger’s modern principle be the only provision, or should the “fair, large and liberal interpretation” provision also be included?</p> <p>Should the “fair, large and liberal interpretation” provision apply to both Acts and regulations?</p>
13	<p><b>Preambles part of enactments</b>  <b>11</b> The preamble of an enactment shall be construed as part thereof intended to assist in explaining its purport and object.</p> <p><b>Reference aids not part of enactments</b>  <b>12</b> In an enactment, marginal notes, headings and references after the end of a section or other division to former enactments form no part of the enactment but shall be construed as being inserted for convenience of reference only.</p>	<p><b>The Working Group recommends that sections 11 and 12 be included, except that headings (not “marginal notes”) would be considered part of an enactment.</b></p> <p>Marginal notes, tables of contents and text as an alternative for non-text (for official electronic versions) would not be included.</p> <p><b>Question:</b> Is it necessary to include or exclude anything else, for example: flow charts, examples, explanatory material included with a bill?</p>
14	<p><b>Effect of private Acts</b>  <b>13</b> No provision in a private Act affects the rights of any person, except only as there in mentioned or referred to.</p>	<p><b>The Working Group recommends that section 13 not be retained.</b></p> <p>The Working Group felt it undermines a Private Act and is restrictive. Also, whatever is said about it is likely to be misleading. Not all jurisdictions have a similar provision.</p>

Row	Uniform Interpretation Act (UIA)	Recommendations/Questions
15	<p><b>Definitions and interpretation provisions</b></p> <p><b>14</b> Definitions or interpretation provisions in an enactment shall be construed as being applicable to the whole enactment including the section containing the definitions or interpretation provision.</p>	<p><b>The Working Group recommends that section 14 not be retained. However see Ontario section 50 set out in Row 41.</b></p> <p>Northwest Territories and Nunavut both follow the ULCC provision. Manitoba does not have a similar provision, and the remainder of the country follows Ontario's section 50.</p>
16	<p><b>Application of expressions in enactments to regulations</b></p> <p><b>15</b> Expressions used in a regulation have the same meaning as in the enactment conferring the power to make the regulation.</p>	<p><b>The Working Group recommends that section 15 be retained.</b></p> <p><i>Note: this applies to the meaning of terms or expressions used in the enactment conferring the power, whether or not it is a defined term or expression.</i></p>
17	<p><b>Corporate rights and powers</b></p> <p><b>16</b> Words in an enactment establishing a corporation shall be construed</p> <ul style="list-style-type: none"> <li>(a) to vest in the corporation power <ul style="list-style-type: none"> <li>(i) to sue in its corporate name,</li> <li>(ii) to contract and be contracted with by its corporate name,</li> <li>(iii) to have a common seal and to alter or change it at pleasure,</li> <li>(iv) to have perpetual succession,</li> <li>(v) to acquire and hold personal property or movables for the purposes for which the corporation is established and to alienate the same at pleasure, and</li> <li>(vi) to regulate its own procedure and business;</li> </ul> </li> <li>(b) to make the corporation liable to be sued in its corporate name;</li> <li>(c) to vest in a majority of the members of the corporation the power to bind the others by their acts;</li> <li>(d) to exempt from personal liability for its debts, obligations or acts such individual members of the corporation as do not contravene the provisions of the enactment establishing the corporation;</li> <li>(e) in the case of a corporation having a name consisting of an English and a French form or a combined English and French form, to vest in the corporation power to use either the English or French form of its name or both forms and to show on its seal both the English and French forms of its name or to have two seals, one showing the English and the other</li> </ul>	<p><b>The Working Group recommends that section 16, except paragraph (e) not be retained.</b></p> <p>While it is written as an interpretive provision, it is substantive in nature. Statutory corporations that are being established are more complex than they used to be. This provision has been carried forward since at least 1859. Jurisdictions shouldn't continue relying on this provision. It is recommended that the Ontario Act (section 92) be followed where their equivalent section 16 only applies to corporations established before the new provision comes into force.</p>

Row	Uniform Interpretation Act (UIA)	Recommendations/Questions
	showing the French form of its name.	
18	<p><b>Majority</b>  <b>17(1)</b> Where in an enactment an act or thing is required or authorized to be done by more than two persons, a majority of them may do it.</p> <p><b>Quorums</b>  <b>(2)</b> Where an enactment establishes a board, commission or body consisting of three or more members (in this section called the “association”),</p> <p>(a) if the number of members of the association provided for by the enactment is a fixed number, then one-half of that number of members constitutes a quorum at a meeting of the association;</p> <p>(b) if the number of members of the association provided for by the enactment is not a fixed number, then one-half of the number of members in office constitutes a quorum at a meeting of the association;</p> <p>(c) an act or thing done by a majority of the members of the association present at a meeting, if the members present constitute a quorum, shall be deemed to have been done by the association; and</p> <p>(d) a vacancy in the membership of the association does not invalidate the constitution of the association or impair the right of the members in office to act, if the number on members in office is not less than a quorum.</p>	<p><b>The Working Group recommends that section 17 not be retained.</b></p>
19	<p><b>Powers to judges and court officers</b>  <b>18(1)</b> Where by an enactment judicial or quasi-judicial powers are given to a judge or officer of a court, the judge or officer shall be deemed to exercise those powers in his official capacity and as representing that court, and he may for the purpose of performing the duties imposed upon him by the enactment, subject to the provisions thereof, exercise the powers he possesses as a judge or officer of that court.</p> <p><b>Appeals</b>  <b>(2)</b> Without restricting the generality of subsection (1), where under any enactment an appeal is given from any person, board, commission or other body to a court or judge, an appeal lies from the decision of the court or judge as in the case of any other action, matter or proceeding in that court or in the court of which the judge is a member</p>	<p><b>The Working Group recommends that section 18 not be retained.</b></p> <p>It is likely covered in the applicable legislation.</p>
20	<p><b>Appointments of officers</b>  <b>19(1)</b> The authority under an enactment to appoint a public officer is authority to appoint during pleasure.</p> <p><b>Commencement</b>  <b>(2)</b> The appointment of a person to an office on a specified day takes effect on the commencement of that day.</p> <p><b>Termination</b>  <b>(3)</b> The termination of the appointment of a person to an office on a specified day takes effect on the expiration of that day.</p>	<p><b>The Working Group recommends that sections 19 and 20 be retained.</b></p> <p>Not all jurisdictions have specific provisions like 19(2) and (3), which deal with when appointments and expiry of appointments take effect. These other jurisdictions may rely on</p>

Row	Uniform Interpretation Act (UIA)	Recommendations/Questions
	<p><b>Included powers</b></p> <p><b>20</b> Words in an enactment authorizing the appointment of a public officer include the power of</p> <ul style="list-style-type: none"> <li>(a) fixing his term of office;</li> <li>(b) terminating his appointment or removing or suspending him;</li> <li>(c) reappointing or reinstating him;</li> <li>(d) fixing his remuneration and varying or terminating it;</li> <li>(e) appointing another in his stead or to act in his stead whether or not the office is vacant; and</li> <li>(f) appointing a person as his deputy.</li> </ul>	<p>the computation of time provisions.</p>
21	<p><b>Power to act for ministers and public officers</b></p> <p><b>21(1)</b> A power or duty given by an enactment to a Minister of the Crown by his name of office may be exercised or performed by</p> <ul style="list-style-type: none"> <li>(a) any member of the Executive Council acting as or for the incumbent of the named office; and</li> <li>(b) the person holding the office of deputy of the Minister named by office, except in respect of the power to make regulations as defined in the Regulations Act.</li> </ul> <p><b>(2)</b> Words in an enactment directing or empowering any public officer other than a Minister to do any act or thing, or otherwise applying to him by his name of office, include</p> <ul style="list-style-type: none"> <li>(a) the holder of the office of deputy to that public officer; and</li> <li>(b) a person appointed to act in the stead of the holder of the office, whether or not the office is vacant.</li> </ul>	<p><b>The Working Group recommends following the Saskatchewan model which further clarify and expand the Carltona Doctrine.</b></p> <p><b>The Carltona Doctrine – implied <u>devolution</u> of the power:</b> In the absence of a contrary legislative intent the devolution of some statutory powers to departmental (or otherwise subordinate) staff may be authorized under the Carltona Doctrine.</p> <p>Under this common law exception, the statutory power is not exercised by the subordinate in his or her own right. Rather, the subordinate is deemed to exercise the power for and on behalf of the person or body in whom the power was originally vested. The original power holder remains responsible and accountable. For these reasons the Carltona Doctrine may also be referred to as the “alter ego” principle.</p> <p>Section 21 of the UIA is a partial codification of the Carltona Doctrine.</p> <p>The Federal Interpretation Act section 24(2), (3) and (4) and the Saskatchewan Interpretation Act sections 23, 23.1 and 23.2 have further clarified and expanded the Carltona Doctrine.</p>

Row	Uniform Interpretation Act (UIA)	Recommendations/Questions
22	<p><b>Computation of time</b></p> <p><b>22(1)</b> Where in an enactment the time limited for the doing of a thing expires or falls upon a holiday, the thing may be done on the day next following that is not a holiday.</p> <p><b>(2)</b> Where in an enactment the time limited for registration or filing of any instrument, or for the doing of any thing, expires or falls on a day on which the office or place in which the instrument or thing is required to be registered, filed or done is not open during its regular hours of business on that day, the instrument or thing may be registered, filed or done on the day next following on which the office or place is open.</p> <p><b>(3)</b> Where an enactment contains a reference to a number of clear days or to “at least” or “not less than” a number of days between two events, in calculating the number of days there shall be excluded the days on which the events happen.</p> <p><b>(4)</b> Where an enactment contains a reference to a number of days, not expressed to be clear days or “at least” or “not less than” a number of days between two events, in calculating the number of days there shall be excluded the day on which the first event happens and there shall be included the day on which the second event happens.</p> <p><b>(5)</b> Where in an enactment a time is expressed to begin or end at, on or with a specified day, or to continue to or until a specified day, the time includes that day.</p> <p><b>(6)</b> Where in an enactment a time is expressed to begin after or to be from a specified day, the time does not include that day.</p> <p><b>(7)</b> Where an enactment provides that any thing is to be done within a time after, from, of or before a specified day, the time does not include that day.</p> <p><b>(8)</b> Where an enactment contains a reference to a period of time consisting of a number of months after or before a specified day, the number of months shall be counted from, but not so as to include, the month in which the specified day falls, and the period shall be reckoned as being limited by and including</p> <ul style="list-style-type: none"> <li>(a) the day immediately after or before the specified day, according as the period follows or precedes the specified day; and</li> <li>(b) the day in the last month so counted having the same calendar number as the specified day, but if such last month has no day with the same calendar number, then the last day of that month.</li> </ul> <p><b>(9)</b> A person attains an age that is specified in an enactment as a number of years upon the commencement of the day that is the</p>	<p><b>The Working Group recommends that section 22 be retained.</b></p> <p>However, it is recommended that the distinction in calculating time when “clear days” or “at least” is used [see UIA s22(3)] will not be included. It will be made clear that references to “clear days” and “at least” are to be calculated under rules set out in UIA section 22(4). In current legislation the term “clear days” is rarely used and the distinction in using or not using “at least” is likely lost on most readers.</p> <p>Also, a provision dealing with “leap year” will be added.</p>

Row	Uniform Interpretation Act (UIA)	Recommendations/Questions
	anniversary, of the same number, of the day of his birth.	
23	<p><b>Territorial jurisdiction</b>  <b>23(1)</b> Anything required or authorized by an enactment to be done by or before a judge, magistrate, justice of the peace, or public officer shall be done by or before one whose jurisdiction or powers extend to the place where such thing is to be done.</p>	<p><b>The Working Group did not discuss section 23(1); however it is recommended that the section not be retained.</b></p> <p>It's likely that other legislation deals with this matter. It is not in the Ontario Act although it occurs in 6 other jurisdictions.</p>
24	<p><b>Ancillary powers</b>  <b>23(2)</b> The power given in an enactment to a person to do or enforce the doing of any act or thing, includes such powers as are necessary for the purpose.</p>	<p><b>The Working Group recommends that section 23(2) be retained.</b></p>
25	<p><b>Exercise of power from time to time</b>  <b>23(3)</b> A power conferred or a duty imposed by an enactment may be exercised or performed from time to time as occasion requires.</p>	<p><b>The Working Group recommends that section 23(3) not be retained.</b></p>
26	<p><b>Amendment and repeal of regulations</b>  <b>23(4)</b> A power conferred by an enactment to make regulations includes the power exercisable in the like manner, and subject to the like consent and conditions, if any, to repeal or amend the regulations and make others.</p>	<p><b>The Working Group recommends that section 23(4) be retained.</b></p>
27	<p><b>Implied authority</b>  <b>23(5)</b> Where in an enactment the doing of an act that is expressly authorized is dependent upon the doing of any other act by the Lieutenant Governor in Council or by a public officer, the Lieutenant Governor in Council or public officer, as the case may be, has the power to do that other act.</p>	<p><b>The Working Group recommends that section 23(5) be retained.</b></p>
28	<p><b>Use of forms and words</b>  <b>24(1)</b> Where a form is prescribed by or under an enactment, deviations therefrom not affecting the substance or calculated to mislead, do not invalidate the form used.</p>	<p><b>The Working Group recommends that section 24(1) be retained.</b></p> <p>The new provision will have to ensure that it works with forms that are required to be submitted in electronic form.</p>
29	<p><b>Gender</b>  <b>24 (2)</b> In an enactment, words importing male persons include female persons and corporations.</p>	<p><b>The Working Group recommends that section 24(2) be retained.</b></p>
30	<p><b>Singular and plural</b>  <b>24 (3)</b> In an enactment, words in the singular include the plural and words in the plural include the singular.</p>	<p><b>The Working Group recommends that section 24(3) be retained.</b></p>
31	<p><b>Words defined</b>  <b>24 (4)</b> In an enactment, the definition of a word or expression applies</p>	<p><b>The Working Group recommends that section 24(4)</b></p>

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	correspondingly to other parts of speech and grammatical forms of the word or expression.	<b>be retained.</b>
32	<p><b>General definitions</b></p> <p><b>25</b> In an enactment,</p> <p>“Assembly” means the Legislative Assembly of the Province;</p> <p>“bank” or “chartered bank” means a bank to which the Bank Act (Canada) applies;</p> <p>“commencement” when used with reference to an enactment, means the time at which the enactment comes into force;</p> <p>“Executive Council” means the Executive Council of. .... ;</p> <p>“Government” or “Government of . ....” means Her Majesty in right of the Province;</p> <p>“Government of Canada” means Her Majesty in right of Canada;</p> <p>“Governor”, “Governor of Canada” or “Governor General” means the Governor General of Canada and includes the Administrator of Canada;</p> <p>“Governor in Council” or “Governor General in Council” means the Governor General acting by and with the advice of, or by and with the advice and consent of, or in conjunction with, the Queen’s Privy Council for Canada;</p> <p>“hereafter” shall be construed as referring to the time after the commencement of the enactment containing that word;</p> <p>“herein” used in a section or part of an enactment shall be construed as referring to the whole enactment and not to that section or part only;</p> <p>“Her Majesty”, “His Majesty”, “the Queen”, “the King”, “the Crown” or “the Sovereign” means the Sovereign of the United Kingdom, Canada and Her other Realms and Territories, Head of the Commonwealth and Defender of the Faith;</p> <p>“holiday” includes (NOTE.— Each jurisdiction should fill in the days appropriate to its own jurisdiction.)</p> <p>“Legislature” means the Lieutenant Governor acting by and with the advice and consent of the Assembly;</p> <p>“Lieutenant Governor” means the Lieutenant Governor of the</p>	<p><b>The Working Group recommends that the Uniform Interpretation Act set out only essential terms.</b></p> <p>This wouldn’t preclude a jurisdiction from adding others that are particular to its jurisdiction. There are a number though that the Working Group recommends not be included.</p> <p><b>The following are recommended as being essential:</b></p> <ul style="list-style-type: none"> <li>• “Government” or “Government of . ....”</li> <li>• “Governor”, “Governor of Canada” or “Governor General”</li> <li>• “Governor in Council” or “Governor General in Council”</li> <li>• “Her Majesty”, “His Majesty”, “the Queen”, “the King”, “the Crown” or “the Sovereign</li> <li>• “holiday” (NOTE.— Each jurisdiction should fill in the days appropriate to its own jurisdiction.)</li> <li>• “Lieutenant Governor” – [Commissioner in the Territories]</li> <li>• “Lieutenant Governor in Council” [Commissioner in Executive Council in the Territories ]</li> <li>• “person”</li> <li>• “proclamation”</li> <li>• “Province”</li> <li>• “province” when used as meaning a part of Canada;</li> <li>• “Territory”</li> </ul> <p><b>The following are recommended to not being included:</b></p> <ul style="list-style-type: none"> <li>• “commencement”</li> </ul>

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	<p>Province and includes the Administrator of the Province;</p> <p>“Lieutenant Governor in Council” means the Lieutenant Governor acting by and with the advice of, or by and with the advice and consent of, or in conjunction with, the Executive Council;</p> <p>“may” is to be construed as permissive and empowering;</p> <p>“month” means a calendar month;</p> <p>“now” and “next” shall be construed as referring to the time of commencement of the enactment containing the word;</p> <p>“oath” includes a solemn affirmation or declaration, whenever the context applies to any person by whom and in which case a solemn affirmation or declaration may be made instead of an oath; and in like cases the expression “sworn” includes the expression “affirmed” or “declared”;</p> <p>“person” includes a corporation;</p> <p>“prescribed” means prescribed by or under the enactment in which the word occurs;</p> <p>“proclamation” means a proclamation of the Lieutenant Governor under the Great Seal issued pursuant to an order of the Lieutenant Governor in Council;</p> <p>“Province” means the Province of ..... ;</p> <p>“province” when used as meaning a part of Canada other than ..... , includes the Northwest Territories and the Yukon Territory;</p> <p>“shall” is to be construed as imperative;</p> <p>“statutory declaration” or “solemn affirmation” means a declaration or affirmation authorized by law to be made in lieu of an oath being taken.</p> <p>“will” includes codicil;</p> <p>“writing”, “written” or any term of like import includes words printed, typewritten, painted, engraved, lithographed, photographed or represented or reproduced by any mode of representing or reproducing words in visible form;</p> <p>“year” means any period of twelve consecutive months.</p>	<ul style="list-style-type: none"> <li>• “Great Seal”</li> <li>• “hereafter”</li> <li>• “herein”</li> <li>• “Legislature”</li> <li>• “may”</li> <li>• “month” means a calendar month;</li> <li>• “now” and “next”</li> <li>• “month”</li> <li>• “oath”</li> <li>• “prescribed”</li> <li>• “shall”</li> <li>• “year”.</li> </ul> <p><b>Note:</b> A number of jurisdictions, including Ontario, do not define “may” and “shall”. There are enough court decisions on these terms. Defining them only confuses matters. With respect to some of the archaic terms e.g. “herein”, “hereafter”, these terms are rarely used in modern drafting. By leaving them in only reinforces their use, although they may be necessary with respect to older legislation.</p>

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33	<p><b>Common names</b>  <b>26</b> In an enactment, the name commonly applied to any country, place, body, corporation, society, officer, functionary, person, party or thing, means the country, place, body, corporation, society, officer, functionary, person, party or thing to which the name is commonly applied, although the name is not the formal or extended designation thereof.</p>	<p><b>The Working Group did not discuss section 26; however it is recommended to be retained.</b></p> <p>Every jurisdiction except Ontario has the same provision in their Act.</p>
34	<p><b>Citation includes amendments</b>  <b>27</b> In an enactment, a citation of or reference to another enactment is a citation of or reference to the other enactment as amended from time to time whether before or after the commencement of the enactment in which the citation or reference occurs.</p>	<p><b>The Working Group recommends that section 27 be retained.</b></p> <p>Section 27 deals with references to other legislation of the jurisdiction. Additional provisions will be added (based on Ontario's Act, s59 and 60) to deal with references to other Canadian jurisdictions, which will be on a "rolling" incorporation basis and any references to jurisdictions outside Canada will be on a "static" incorporation basis.</p>
35	<p><b>References in enactments</b>  <b>28(1)</b> A reference in an enactment to a series of numbers or letters by the first and last numbers or letters of the series includes the number or letter first mentioned and the number or letter last mentioned.  <b>(2)</b> A reference in an enactment to a part, division, section, schedule, appendix or form is a reference to a part, division, section, schedule, appendix or form of the enactment in which the reference occurs.  <b>(3)</b> A reference in an enactment to a subsection, clause, subclause, paragraph or subparagraph is a reference to a subsection, clause, subclause, paragraph or subparagraph of the section, subsection, clause, subclause or paragraph, as the case may be, in which the reference occurs.  <b>(4)</b> A reference in an enactment to regulations is a reference to regulations made under the enactment in which the reference occurs.  <b>(5)</b> A reference in an enactment to another enactment identified by number, letter or line is a reference to the number, letter or line as it appears in the other enactment as printed by authority of the ..... Act.</p>	<p><b>The Working Group recommends that only section 28(4) be retained.</b></p>
36	<p><b>Amending enactments part of enactment amended</b>  <b>29</b> An amending enactment shall be construed as part of the enactment that it amends.</p>	<p><b>The Working Group recommends that section 29 be retained.</b></p>

Row	Uniform Interpretation Act (UIA)	Recommendations/Questions
37	<p><b>Repeal</b></p> <p><b>30</b> The repeal in whole or in part of an enactment does not</p> <ul style="list-style-type: none"> <li>(a) revive an enactment or thing not in force or existing immediately before the time when the repeal takes effect;</li> <li>(b) affect the previous operation of the enactment so repealed or anything done or suffered thereunder;</li> <li>(c) affect any right, privilege, obligation or liability acquired, accrued, accruing or incurred under the enactment so repealed;</li> <li>(d) affect any offence committed against or a contravention of the provisions of the enactment so repealed, or any penalty, forfeiture or punishment incurred in respect of or under the enactment so repealed; or</li> <li>(e) affect any investigation, proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment, and the repealed enactment continues to apply for the purposes of such investigation, proceeding or remedy as if it had not been repealed.</li> </ul>	<p><b>The Working Group recommends that section 30 be retained.</b></p> <p><i>Note: In the English version of section 30(a) of the UIA there is a reference to “or thing”. It likely includes the Common Law. The reworded text will state “law or thing”.</i></p>
38	<p><b>Repeal and replacement</b></p> <p><b>31(1)</b> Where an enactment (in this section called the “former enactment”) is repealed and another enactment (in this section called the “new enactment”) is substituted therefor,</p> <ul style="list-style-type: none"> <li>(a) every person acting under the former enactment shall continue to act as if appointed or elected under the new enactment until another is appointed or elected in his stead;</li> <li>(b) every proceeding commenced under the former enactment shall be continued under and in conformity with the new enactment so far as it may be done consistently with the new enactment;</li> <li>(c) the procedure established by the new enactment shall be followed as far as it can be adapted thereto <ul style="list-style-type: none"> <li>(i) in the recovery or enforcement of penalties and forfeitures incurred under the former enactment,</li> <li>(ii) in the enforcement of rights existing or accruing under the former enactment, and</li> <li>(iii) in a proceeding in relation to matters that have happened before the repeal;</li> </ul> </li> <li>(d) when any penalty, forfeiture or punishment is reduced or mitigated by the new enactment, the penalty, forfeiture or punishment if imposed or adjudged after the repeal shall be reduced or mitigated accordingly;</li> <li>(e) all regulations made under the former enactment remain in force and shall be deemed to have been made under the new enactment in so far as they are not inconsistent with the new enactment, until they are repealed or others made in their stead; and</li> <li>(f) any reference in an unrepealed enactment to the former enactment shall, as regards a subsequent transaction, matter or thing, be construed as a reference to the provisions of the new enactment relating to the same subject matter as the former enactment, but where there are no provisions in the</li> </ul>	<p><b>The Working Group recommends that section 31(1) be retained.</b></p> <p>With respect to section 31(2), see the discussion under section 27.</p>

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	<p>new enactment relating to the same subject matter, the former enactment shall be construed as being unrepealed in so far as is necessary to maintain or give effect to the unrepealed enactment.</p>	
39	<p><b>31(2)</b> Where an enactment of any other province of Canada or of Canada is repealed in whole or in part and other provisions are substituted by way of amendment, revision or consolidation, a reference in an enactment of (Province) to the repealed enactment shall, as regards a subsequent transaction, matter or thing be construed to be a reference to the provisions of the substituted enactment relating to the same subject-matter as the repealed enactment.</p>	<p><b>The Working Group recommends that section 31(2) not be retained.</b></p> <p>See the discussion under section 27.</p>
40	<p><b>No implications from repeal, amendment, etc.</b></p> <p><b>32(1)</b> The repeal of an enactment in whole or in part, the substitution therefor of another enactment or the amendment of an enactment does not imply a declaration as to the previous state of the law or that the enactment was in force.</p> <p><b>Amendment not a declaration of an intention to change the law</b></p> <p><b>(2)</b> The amendment of an enactment does not imply a declaration that the prior law was different.</p> <p><b>Re-enactment not an adoption of judicial construction</b></p> <p><b>(3)</b> The re-enactment, revision, consolidation or amendment of an enactment does not imply that the construction that has, by judicial decision or otherwise, been placed upon the language used in the enactment or upon similar language is adopted.</p>	<p><b>The Working Group recommends that section 32 be retained, as while there was a lack of further discussion, the initial decision was to include the section.</b></p> <p>Every jurisdiction has a similar provision in their Act.</p>
<p><b>Matters Not Currently Dealt With in the UIA</b> (The section references are to The Ontario Act)</p>		
41	<p><b>Interpretation and definition provisions</b></p> <p><b>50.</b> The interpretation and definition provisions in every Act and regulation are subject to the exceptions contained in section 47.</p> <p><b>Application to Acts and regulations</b></p> <p><b>46.</b> Every provision of this Part applies to every Act and regulation.</p> <p><b>Contrary intention or context requiring otherwise</b></p> <p><b>47.</b> Section 46 applies unless,</p> <p>(a) a contrary intention appears; or</p> <p>(b) its application would give to a term or provision a meaning that is inconsistent with the context.</p>	<p><b>The Working Group recommends provisions similar to section 50 of the Ontario Act.</b></p> <p>It states that definition and interpretation provisions in an enactment are also subject to a contrary intention expressed in that enactment (s47). Similar provisions are included in many other jurisdictions.</p>
42	<p><b>Survival of power to revoke</b></p> <p><b>54. (2)</b> Power to revoke a regulation remains even if the provision conferring power to make it has been repealed.</p> <p><b>New regulation-maker</b></p> <p><b>(3)</b> If a provision conferring power on a person or entity to make a regulation is amended, or repealed and replaced, so as to confer the power or substantially the same power on a different person or entity, the second person or entity has power to revoke, amend or replace the regulation made by the first one.</p>	<p><b>The Working Group recommends that section 54(2) and (3) be included.</b></p> <p>However it if is intended to apply only to regulations under a Regulations Act it could be added there instead. If it is to apply to all statutory instruments then it should be included in the Uniform Interpretative Act.</p>

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43	<p><b>Bilingual texts</b>  <b>65.</b> The English and French versions of an enactment that is enacted in both languages are equally authoritative.</p>	<p><b>The Working Group recommends that section 65 be included.</b></p> <p>However if the jurisdiction has an Act that deals with “official languages”, this section could be included in that Act.</p>
44	<p><b>Succession – Demise of the Crown</b>  <b>72.</b> A change of reigning sovereign does not affect anything done or begun under the previous reigning sovereign and all matters continue as if no succession had occurred.</p>	<p><b>Question:</b> Should section 72 be included in the Uniform Interpretation Act?</p> <p>This provision does not appear in the UIA but does appear in various forms in a few other jurisdictions. In some jurisdictions the provision is placed in another Act e.g. Demise of the Crown Act; Judicature Act.</p>
45	<p><b>Amendment and revocation – restriction</b>  <b>75. (1)</b> A proclamation that brings an Act into force may be amended or revoked by a further proclamation before the commencement date specified in the original proclamation, but not on or after that date.  <b>Same</b>  <b>(2)</b> A proclamation that specifies different commencement dates for different provisions may be amended or revoked with respect to a particular provision before the commencement date specified for that provision, but not on or after that date.</p>	<p><b>The Working Group recommends that section 75 be retained.</b></p> <p>This is a clarification that an instrument that brings an Act into force can be amended or rescinded if done before the coming into force date of the Act.</p>
46	<p><b>Powers and duties remain despite delegation</b>  <b>80.</b> A person on whom an Act confers a power or imposes a duty may exercise it even if it has been delegated to another person.</p> <p><b>Delegation of regulation-making power</b>  <b>80.1. (1)</b> A person on whom an Act confers power to make a regulation may delegate the power only if an Act specifically authorizes the delegation of that regulation-making power.  Exception</p> <p><b>(2)</b> Subsection (1) does not apply in respect of orders made under section 17 of the <i>Ontario Planning and Development Act, 1994</i>, section 47 of the <i>Planning Act</i>, or a predecessor of either of those sections.</p> <p><b>Survival of delegation</b>  <b>81</b> The delegation of a power or duty remains valid until it is revoked or amended, even if the author of the delegation is no longer in</p>	<p><b>The Working Group recommends provisions similar to sections 80, 80.1 and 81.</b></p>

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	office.	
47	<p><b>General or particular</b></p> <p><b>82.</b> (1) A regulation may be general or particular in its application.</p> <p><b>Classes</b></p> <p>(2) The power to make a regulation includes the power to prescribe a class.</p> <p><b>Same</b></p> <p>(3) For the purposes of subsection (2), a class may be defined,</p> <p>(a) in terms of any attribute or combination of attributes; or</p> <p>(b) as consisting of, including or excluding a specified member.</p>	<p><b>The Working Group recommends provisions similar to section 82.</b></p> <p>Many jurisdictions currently add a provision like this in each particular Act.</p> <p><b>Question:</b> Should this apply only to “regulations” and not all statutory instruments?</p>