

SENTENCES ARE PHRASED POSITIVELY

See 6.3 of the Checklist

Use positive sentences instead of negative sentences wherever possible.

USE POSITIVE SENTENCES

Positive sentences are more direct and easier to understand than negative sentences. This is because negation requires an additional level of processing (a ‘mental switch’ from ‘no’ to ‘yes’) when compared with positive sentences.

Positive sentences are also often shorter than the negative equivalent (see item 6 of the Standard: Sentences are short, simple, and precise).

EXAMPLE 1

-  A person who is **not** under the age of 17
-  A person aged 17 or over

EXAMPLE 2

-  A person must do X **not** less than 24 hours before Y
-  A person must do X at least 24 hours before Y

EXAMPLE 3¹

-  A person is **not** entitled to Y unless the person does X
-  A person who does X is entitled to Y

EXAMPLE 4

-  If you fail to arrive by 5 pm, I **cannot** pick you up.
-  You have to arrive by 5 pm if you want me to pick you up.

¹ See Ian McLeod, *Principles of Legislative and Regulatory Drafting*, Oxford 2009, pp 74–75

CONSIDER EFFECT OF CONTEXT AND INTENT ON MEANING

A positive version of a negative sentence does not always have the same meaning. The sentences in examples 5 and 6 present the same information but with different implications. Context and intent are important factors to consider when deciding whether to write a sentence positively or negatively.

EXAMPLE 5

In New Zealand, cars do **not** drive on the right-hand side of the road.

In New Zealand, cars drive on the left-hand side of the road.

EXAMPLE 6

I'm leaving the house.

I'm **not** staying at the house.

DOUBLE NEGATIVES

When you write a sentence containing 2 negatives, they cancel each other out (see **8.9** of the Checklist). Your sentence sounds negative but is actually positive and still requires a mental switch from negative to positive. This can hinder readability and should be avoided where possible.

However, double negatives can also be used to create subtlety in meaning and implication.

EXAMPLE 7

✘ It is **not unimportant** to clean your teeth.

✔ It is important to clean your teeth.

EXAMPLE 8

✘ **No** approval of any noise compatibility program, or any portion of a program, may be implied **in the absence of** the agency's express approval.

✔ You must get the agency's express approval for any noise compatibility program or any portion of a program.

EXAMPLE 9

✘ The court consists of **no fewer than** 4 nor more than 6 other Judges.

✔ The court consists of **at least** 4, but not more than 6, other Judges.

EXAMPLE 10

✘ The Minister may grant New Zealand citizenship to any person who **has not yet attained** the age of 16 years.

✔ The Minister may grant New Zealand citizenship to any person who **is under** 16 years.

EXAMPLE 11

✘ An application **may not** be made **until** 15 working days after the money has been paid.

✔ An application **may only** be made 15 working days after the money has been paid.

EXAMPLE 12

✘ A disclaimer of land **is not** valid **unless** it is made by deed or by order of a court.

✔ A disclaimer of land **is** valid **only if** it is made by deed or by order of a court.

WORDS WITH NEGATIVE MEANINGS

Many words and expressions have a negative meaning, such as unless, fail to, notwithstanding, except, other than, unlawful, disallowed, terminate, void, and insufficient, etc. Watch out for them when they appear after 'not'. Find a positive word to express your meaning.

EXAMPLE 13

✘ An application for a grant does **not become void unless** the applicant's failure to provide requested information is unreasonable under the circumstances.

✔ An application for a grant **remains active if** the applicant provides the information we request within a reasonable time.

AVOID EXCEPTIONS TO EXCEPTIONS

An exception to an exception is another form of double negative that the user must puzzle out. Rewrite the sentence to emphasise the positive.

EXAMPLE 14

-  Applicants may be granted a permit to prospect for geothermal resources on any Crown land except lands in a reserve, unless the applicant holds valid existing rights to the geothermal resources in the reserve listed in the application.

-  You may be granted a permit to prospect for geothermal resources on any Crown land. This includes lands in a reserve only if you hold valid existing rights to the geothermal resources in the reserve listed in your application.

Tip: Be conscious of the (legal and interpretive) implications of using double negatives and whether those implications help or hinder the function of the text you are writing.

EXCEPTION: PROHIBITIONS

Prohibitions may be phrased negatively:

EXAMPLE 15

-  Dogs are **not** allowed on the playground

EXAMPLE 16

-  The rate of interest must **not** exceed the prescribed rate

LEGISLATION: EXCEPTIONS TO A GENERAL RULE

Exceptions to a general rule may be expressed in a negative phrase. This avoids repeating words because the negative phrase states what the general rule does **not** apply to:

EXAMPLE 17 – EXCEPTION EXPRESSED AS A NEGATIVE

-  (1) A person must not operate a sleigh without a licence.
- (2) **Despite subsection (1), a person who does not have a licence may operate a sleigh** if the person is under the immediate supervision of Saint Nicholas.

-  (1) A person must not operate a sleigh without a licence.
- (2) **Subsection (1) does not apply** to a person who is under the immediate supervision of Saint Nicholas.