

USE NARRATIVE STYLE AND AVOID EXCESSIVE CROSS-REFERENCING

See 6.4 of the Checklist

NARRATIVE STYLE

If a person or thing is mentioned in a paragraph, readers will assume that a later reference to the same person or thing is a reference to the one mentioned before. This rule is sometimes known as narrative style.

Narrative style makes sentences shorter and simpler. It removes excessive cross-references that may irritate readers. A document using this style will have a more engaging tone because it will be less legalistic and formal.

This style can be applied to everything that you write, including legislation (unless it would cause ambiguity). This means that you do not have to use a cross-reference when referring to someone or something identified earlier in a provision, unless using a cross-reference would avoid ambiguity.

EXAMPLE 1 – NARRATIVE STYLE

-  (1) A person may apply to the Registrar for a licence to ...
- (2) An application *under subsection (1)* must be in triplicate.
- (3) A person *who applies for a licence under subclause (1)* and who is under 16 years must lodge a fourth copy of the application ...

-  (1) A person may apply to the Registrar for a licence to ...
- (2) The application must be in triplicate.
- (3) An applicant who is under 16 years must lodge a fourth copy of the application ...

Narrative style is not limited to a single section: the same approach may be used in successive sections. However, this requires more caution because there is a greater risk of ambiguity.

EXAMPLE 2 – NARRATIVE STYLE IN SUCCESSIVE SECTIONS

10 Applications for licences

Any person may apply to the PCO for a licence to draft legislation.

 **11 PCO may issue licence**

The PCO may issue the licence *to draft legislation* if it is satisfied that the person *who applies under section 10* ...

 **11 PCO may issue licence**

The PCO may issue the licence if it is satisfied that the applicant ...

Ambiguity might arise if, for example, the Bill provides for other licences or applications. Organising the material carefully and logically during the writing process can help. Overview, application, and purpose clauses and headings all reduce the risk of ambiguity when using narrative style.

The following examples use narrative style to refer to licences throughout the subpart:

EXAMPLES 3 AND 4 – NARRATIVE STYLE IN A SUBPART

 **9 What this subpart applies to**

This subpart applies to every application for a licence to draft legislation.

 **9 Overview of subpart**

This subpart sets out the process for obtaining a licence to draft legislation.

AVOIDING EXCESSIVE CROSS-REFERENCES

Some cross-references are essential. A cross-reference may be needed to link sections together and to remove ambiguity.

Other cross-references may be useful (although not essential). For example,—

- a ‘sign-post’ to another section may help a reader to understand the complete picture
- a cross-reference may remove the need to repeat lengthy material.

Generally, include a cross-reference if it is essential or helpful. Cross-references may add precision. However, it is worth remembering that “Precision is admirable but over precision is painful.”¹

¹ Thornton’s *Legislative Drafting*, 5th ed, p 71

Excessive cross-references are problematic because—

- text that contains a large number of cross-references can be hard to read and understand. A reader needs to jump backwards and forwards to understand the text. It adds complexity and interrupts the flow of the text
- a reader needs to retain a lot of external information if they are ‘bounced’ between sections. This may lead to misinterpretation
- cross-references add to our work. Cross-references need to be checked and updated as the document is amended.

Caution: Cross-references add a risk of error. For example, when amending a section in a principal Act, a drafter may over-look a cross-reference to that section.

The following are techniques for avoiding excessive cross-references:

- use the narrative style
- repeat material, rather than include a cross-reference to it
- include a short parenthetical description of the section referred to. This will aid comprehension and help the reader to decide whether to read the other section. However, be careful that a description doesn’t make the section too long or complex.

If the text is simple, it is often best to just repeat it rather than cross-refer to it.

EXAMPLE 5 – REPEATING WORDING RATHER THAN CROSS-REFERENCING

If the Credit Contracts and Consumer Finance Act 2003 (CCCFA) needs to define “consumer goods” in the same way as in an existing Act, how should it do so?

It may be desirable for the CCCFA to cross-refer to the other Act if it is essential for the definitions in the 2 Acts to remain the same. However, in other cases, it would be plainer to repeat the definition in the CCCFA:



consumer goods has the same meaning as in section 16 of the Personal Property Securities Act 1999



consumer goods means goods that are used or acquired for use primarily for personal, domestic, or household purposes

It may come down to a trade-off between the ease (and reduced risk) of only having to amend a definition in one place and providing the most help and clarity for the user.

USING NOMINALISATION TO AVOID A CROSS-REFERENCE

By using a nominalisation, you can refer to an earlier statement without a cross-reference:

EXAMPLE 6 – REFERENCE TO AN EARLIER STATEMENT

✔ **These arguments** all depend on a single unproven claim.

STRINGS OF CROSS-REFERENCES

A cross-reference to text that itself contains cross-references can be disorienting for readers. Strings of cross-references bounce readers between provisions.

EXAMPLE 7 – AVOIDING A STRING

Section 6 of the Financial Markets Conduct Act 2013 contains this definition: “**financial product** has the meaning set out in section 7”.

If another Act needs to use this definition, it would generally be better to cross-refer directly to section 7 (rather than refer the reader to section 6, which in turn refers them to section 7).