

## The Legislative Process - A Memorandum for Commonwealth Law Ministers

by Sir William Dale

### The Legislative Process

At their Conference in 1977 the Law Ministers had before them a Memorandum from the Commonwealth Secretariat (LMM(77)12 with Annex) summarising the results of an extensive comparative study of legislative methods. The study represented "a search for intelligibility and simplicity in legislation". This search has continued. The intention of the present memorandum is to enable Law Ministers to keep abreast of developments in this field in Commonwealth countries and elsewhere, particularly in regard to the legislative processes. It will be divided into:

1. the Governmental stage in the process;
2. the Parliamentary stage;
3. the saving of legislative time; and
4. the quality of the legislation.

The general demand today is for legislation to be expressed in terms which the ordinary person can understand - meaning terms which the non-lawyer, the "user", can understand. This is reasonable, considering the extent to which Legislatures seek not only to regulate the social and economic life and institutions of a country, and to tax us, but to govern our lives as individuals as well. The demand for intelligibility is made not only by "user" associations such as Consumer Councils, and by Plain English Societies, and the like. As long ago as 1969 the English and Scottish Law Commissions said that a statute should be drafted so that it "can be understood, as readily as its subject matter allows, by all affected by it" (Law Com. No. 21; Scot. Law Com. No. 11). Similar language was used in the New Zealand Law Commission Act of 1985. In 1975 the Renton Committee issued its Report on the Preparation of Legislation (Cmnd. 6053) which was directed to achieving "simplicity and clarity in statute law". The Statute Law Society had already been founded in the United Kingdom with the main object of making statutes "very readily intelligible". And now comes the Report by a Commission appointed by the Hansard Society for Parliamentary Government, to enquire into the legislative process, and "to examine how Government and Parliament produce legislation, and to assess whether the system is in need of overhaul and change" (November 1992, Hansard Society, Sheffield Street, London WC2A 2EX).

### *Part 1 - The Governmental Stage*

It seems fairly obvious that, for laws to be readily understood by laymen as well as lawyers, it is desirable for

laymen to have a say in the drafting of them. The prevailing practice in Commonwealth countries, largely common law countries, is for the Government's draftsmen, highly professionalised lawyers, to draft the Bills; and, in most countries, for the Government then to send them, with little or no intermediate processing, to Parliament for debate and enactment. In civil law countries, on the other hand, laymen usually have a hand in the drafting from the start, sometimes even they are the originating draftsmen. Amongst the factors which make a legislative product simpler and clearer in the civil law systems than in the common law systems, the lay input into the initial drafting is perhaps the most cogent of all.

This has been recognised in Canada, where there is a legislative editing unit in the Federal Department of Justice, consisting of specialists in English and French, not lawyers. (Canada is fortunate, from the point of view of obtaining plainer legislation, in having two working languages, rendering necessary a disciplined thinking which is bound to influence exactness of expression and clarity. In the Federal Department of Justice, for example, all Bills are drafted separately in English and French, and the texts then collated. They are not translated). (For a Canadian account, see *Statute Law Review*, Vol. 12, No. 1, p.3).

Where, as in our common law systems in general, the drafting is done by highly specialised lawyers, a lay influence might be brought to bear either before the draft Bill has left the draftsmen's office (as has been done in Canada), or, subsequently, by some body independent of the draftsmen (as in the civil law systems - see below). The Hansard Commission does not give express consideration to the place in the drafting process which might be taken by laymen. But it concluded (para.192) that "the somewhat Olympian position" of the professional draftsmen might "pose a problem", and that to deal with the "danger of complacency" it might be "a good thing for someone to look critically at drafting ... to keep an eye on Parliamentary Counsel". It turned down the "radical idea" (put forward in para.23 (a) of the Annex to LMM(77)12 written by the writer of the present Memorandum) that there should be a body, such as a Law Commission, to scrutinise draft Bills, and it merely recommended some closer attention by the Legislation Committee of the Cabinet. Otherwise it fell back on the recommendation that ministerial responsibility for the work of the drafting office, and "for oversight of drafting methods employed, and scrutiny of drafting of all Government Bills" should be assigned to the Attorney General.

But that would be no new thing for Commonwealth Governments in general, since the usual practice is for draftsmen to be under the control of the Attorney General or Minister of Justice. In any case it may be doubted, given the extent of the responsibilities normally carried by an Attorney General (which of course relate to *legal* questions), whether this recommendation will fall on fertile ground, or take the matter far enough. Unless there is a body, independent of the draftsmen, at least of sufficient authority to make an impact, experience shows that the draftsmen will have their way. In most civil law countries a draft Bill is referred for scrutiny to a body such as the Conseil d'Etat in France and many other civil law countries, or to a body such as the Law Council (or "Council on Legislation") in the Nordic countries. These bodies do more than seek to clarify the wording of a Bill; besides ensuring that the text is clear, precise and concise, they try to make sure that a Bill is based on sound legal principles and procedures. They function both as a kind of brake on the administrative excesses of a Government Department, and as a purifier of legal issues. It is important to bear in mind that these bodies, though quasi-independent (which is their merit as critics) form part of the Government machinery; and the Government may decline to accept their advice (see, for France, Bernard Ducamin in *Preparation and Accessibility of the Written Law in France*, a report of the proceedings of the Statute Law Society's Conference at Fontevraud in September 1991, obtainable from the Secretary to the Society, c/o Fox & Gibbons, 2 Old Burlington Street, London W1X 2QA.) The Hansard Society itself emphasised "the Government's prime responsibility to seek to get a Bill right while the Bill is being prepared and drafted, not leaving it to be done by some substantial amendments of its own [*a fortiori* amendments by others] when the Bill is before Parliament".

## Part 2 - The Parliamentary Stage

When a Bill arrives at the Parliamentary stage, the procedure may be, roughly speaking, either to refer it to a Parliamentary Committee for detailed consideration before it is debated in the House, or it may go direct to the House for debate. The former course is characteristic of the civil law countries, the latter of countries adopting United Kingdom Parliamentary procedures as a model. But recently Commonwealth countries have begun to recognise the merits of the Committee procedure, and to make some use of it. In Canada, a Bill is often referred by the Senate to a Standing Committee, which suggests amendments, before Second Reading, and provision has been made for a similar procedure in the House of Commons. These Committees may receive briefs and hear witnesses, including ministers, officials, interest groups and individuals. In the Australian Senate there is a Standing Committee for the scrutiny of Bills, and it examines all Bills. The House of Represent-

atives has made provision for the establishment of Select Committees for the purpose, but the procedure is not yet used. In New Zealand (there is only one Chamber, the House of Representatives) there has been for some years a growing tendency to refer Bills to Select Committees, and a Standing Order now provides for the referral of every Government Bill, which is not a Money Bill, or of urgency, to a Select Committee after First Reading. The Committee usually invites submissions from the public, and there are oral hearings (attended by the draftsmen) at which witnesses are questioned. (See, for an account of The New Zealand Experience, *Statute Law Review*, Vol. 12, No. 3, 1991, p.165). In India, Bills are frequently referred to Joint Committees of both Houses of Parliament for detailed examination. Further, there was introduced in March of this year a system of Standing Committees covering the functions of all Government Departments, and Bills will be referred to them as appropriate.

In the United Kingdom a House of Lords Committee (the "Jellicoe Committee") on The Committee Work of the House has reported (HL 35-1 of 1991-92) in favour of the consideration of "a limited amount of legislation off the floor [of the House] to improve the quality of legislation and save some time on the floor". The Hansard Commission has now gone much further than this. It came to the following "broad judgments" (para. 316):

- Parliament could play a greater part by pre-legislative inquiry in the preparation of legislation.
- Both Houses could make better use of inquiry techniques, as used in select committees, to establish direct links with outside experts and affected interests, to get information and to probe the details of legislation.
- In debates on Bills, particularly in committee, there has been too much emphasis on policy issues and inadequate attention to the practicality of what is proposed.

The principal recommendation is that "in most cases the more complex Bills - even if controversial - should be referred to a select committee immediately after their presentation to the House, i.e. to "first reading committees" (para. 339). "The conclusion that the time has come to make it possible to receive direct evidence on Bills in committee flows overwhelmingly from our own evidence". (para. 348).

Regarding France, and other countries both inside and outside the Commonwealth, a list of the considerable material supplied to the Commission by the Legislatures is contained in Appendix 3 of its Report (page 364). In France, the draft is considered in detail by one of the permanent committees of the Assembly, or of the Senate, as the case may be. There are six of these committees in either House, and every member of the House finds a place on one of them, according to interest and

political grouping. There are committees for finance, foreign affairs, laws, defence, cultural affairs and social affairs. The committee appoints a rapporteur, who consults the Ministry and outside bodies concerned with the subject, and suggests amendments. The committee then discusses the rapporteur's report and the proposed amendments, and, acting through its rapporteur, issues a report covering the amended draft. The report is printed and published. It is not until then that the House debates the Bill, in the form recommended by its committee, and on the basis of the latter's report.

In Germany the processes in the Federal Parliament, and the procedure in the committees, are similar to that in France. The members of the committees sit round a table, and discuss with Ministers and civil servants. Members of Parliament tend to concentrate their efforts in regard to Bills on the committee work. In Sweden, too, Bills must be referred to specialising committees of the Riksdag, of which there are 16, corresponding more or less with the Ministries. Similar procedures to that of France exist in Italy, Belgium and the Netherlands.

### *Part 3 - Saving of Legislative Time*

The sittings of a legislative body take up a large proportion of the working time of its members, many or most of whom have other demanding occupations to follow, or interests to pursue. Many members will have long distances to travel in order to attend its sittings. Pressure on the time of the members will vary from one country to another, but it is evident that the need is acute in some countries. If a large body has much, perhaps too much, work to get through, an obvious remedy is to devolve some of it on committees, which will examine the problems in detail, sift the material, and propose solutions to the main body. Such a procedure is mere commonsense, an example of elementary organisation of business, generally adopted by bodies outside Parliament, and by the Parliaments of the civil law countries. It will result in better legislation, and save the time of members of a legislature as a whole. *The Economist* of 5 March 1977 reported that, while the House of Commons sat for 1,528 hours during the year, the German Bundestag sat on an average for 313 hours, and the French Assembly for 510. These figures must relate to the total time of the sittings, and therefore to much besides legislative business. (The Hansard Commission reported that nearly one third of the time of the House of Commons was occupied by legislative business, including the consideration of secondary legislation - para. 309). It would have been useful to be able to obtain figures comparing the time spent on legislation by the full House with that spent by (adopting the Hansard Commission's phrase) "First reading committees", in the legislatures which have them. This has not been possible, however, and a few statistics only can be given.

(a) *The Inter-Parliamentary Union* (place du Petit-Saconnex, B.P. 438, 1211 Geneva 19) compiled in 1986 a

table showing separately the number of Bills introduced into, and passed by, the Parliaments of 83 countries during the 5 years 1978-1982 (including private members' Bills, but these are omitted for present purposes). The statistics are not easy to understand. In a number of countries more legislation was passed than was introduced; and in a few countries no legislation was introduced at all, but nevertheless, it was passed. Neither is it clear whether the figures give the number of Bills passed each year, or the total number passed in the five years; nor does the table refer to committee work.

(b) *France* - During the years 1978-1992 the French National Assembly sat for an average period of 522 hours in a year, which is very near to the *Economist's* figure. For the year 1992 alone the figure given for the time taken on legislative debates is higher than the average - 593 hours - and this is to be compared with the total time taken in the six Standing Committees of 479 hours, making a total of 1072 hours. The French Legislature enacts much less legislation than does the United Kingdom Parliament (e.g. for the year 1984 about 213,000 words as against the 978,520 words contributed to the United Kingdom statute book). It is clear therefore that the French give very careful consideration to the terms of their legislation. (Consolidation Acts are included in the United Kingdom figure).

(c) *Germany* - In the year 1974 the German Bundestag (sitting for 15 hours a week) passed 99 Acts, and in 1975 it passed 79 Acts, as against 58 and 83 by the United Kingdom Parliament. (Later figures for Germany are 73 Acts in 1991, and 116 in 1992). The work done by the Committees in Germany has already been mentioned. The time taken as between the full House and the committees varies in accordance with the nature of the Bill. The deliberations of a committee may last only a few minutes, particularly in the case of uncontroversial Bills; but several hours, or several meetings, may be needed for some Bills. In the full House, a first reading and then a second reading can each last between 30 minutes and several hours, depending on the agreement reached by the steering body. In the case of politically uncontroversial Bills, the first and second readings may take place without debate. As a rule a third reading directly follows the second one, and comprises only the final vote and no debate. During the years 1987-1990 the total calendar time between the tabling and the passage of a Bill in the Bundestag was 150 days on average.

But one scarcely needs statistics to show that the time of the full House of Parliament will be saved if there is preliminary work by an appropriate committee. The Hansard Commission says "Prior examination by a first reading committee could reduce the need for long second reading debates in many cases. We also believe that Second Reading Committees could more frequently be used for Bills on which a division is not expected"

(para.343). This is, of course, not the same thing as saying that the *total* time spent by a legislature on a Bill will be reduced. It may well be longer (as in France), and one hopes that it often will be longer, and result in better legislation.

New Zealand experience shows that "the [total] time taken to pass the Bill is usually increased" and there may be some minor disadvantages in the process, but "Select Committees are a crucial bastion of democracy in our legislative process" (Statute Law review, cited in para. 6 above). In New Zealand the whole house consists of 97 members, while the size of the committees apparently varies between 33 members for the largest, and 6 for the smallest.

It hardly needs to be said that there are other ways of saving the time of a legislature besides the Committee system. One possible way is to limit, by the Constitution, the subjects on which it may legislate. This is, of course, one of the results flowing from a federal system of government. But it may also happen in a unitary state, as in France. Article 34 of the French Constitution lists two categories of subjects: the first consisting of subjects such as (for example) civil rights and fundamental guarantees, nationality, criminal law and procedure, electoral law, and nationalisation, on which the legislature must legislate in detail; the second consisting of subjects such as (for example) education, civil and commercial obligations, and social security, regarding which Parliament is to determine the fundamental principles only. Matters thus outside the domain of Parliament are (a) subjects not mentioned at all in Article 34 (for example, economic matters, customs, prices and the social field in general), and (b) matters of detail on subjects within the second category above. These are (by Article 37) to be legislated for by decree or regulation made by the Executive. Any demarcation difficulties which may arise out of this separation of powers may be referred to the Constitutional Council, which can rule on the validity of a proposed Bill before enactment by Parliament.

This is not of course an example of delegated legislation, but of a division of power made by the Constitution. In the field of delegated, or secondary, legislation proper the Hansard Commission has much to say (paras. 364 to 387); but the subject lies outside the scope of this Memorandum.

#### *Part 4 - The quality of the Legislation*

A highly placed judge recently told the Statute Law Society that the difficulty he often had in construing a provision of an Act of Parliament was to know what it was "getting at": even to a judge, the meaning was obscure. Lord Donaldson, when Master of the Rolls, said in *Merkur Island Shipping Corporation v Laughton* ([1983] 2 W.L.R.45, 778 (H.L.)): "When formulating policy, ministers, of whatever political persuasion,

should at all times be asking themselves and asking parliamentary counsel: is this concept too refined to be capable of expression in basic English? If so, is there some way in which we can modify the policy so that it can be so expressed?" His view was endorsed by the House of Lords. The Renton Committee recommended that "encouragement should be given to the use of statements of principle, that is to say, the formulation of broad general rules". The Hansard Commission says "Ministers, civil servants and in particular Parliamentary Counsel should do all they can to eliminate unnecessary and complicated detail in the Bills for which they are responsible" (para. 233). It is a question here of the legislative style. A draft Bill has its origin in a state of facts which may have been long in evolving, perhaps of considerable intricacy, and it is the fruit of a long process of development and consideration: a social or economic mischief becoming acute, cognisance of it by a Government Department, a flow of papers, minutes, meetings within the Department, the injection of a political view, comprehensive instructions to the draftsman, more meetings at which the Department will be nervously anxious that every little point it can think of is covered. And at the end of it all the draftsman must produce a legislative instrument, adequate in law to convince the lawyers, to be acceptable to the legislature, and enforceable by the courts. But although his draft may be quite intelligible to himself, and perhaps to some of those involved in the proceedings up to then, and even to a few members of Parliament interested in the subject, the draftsman should remember that the members of the public have not been a party to these proceedings, or even listening to them. They do not find the Act at all "readily intelligible". Here a lay view would surely help the draftsman towards achieving a broader legislative style, nearer to that of the civil law countries, but without loss of precision (remembering that precision is not the same thing as particularity). A simplification of the "common law" legislative style is needed.

In the Annex are set out, by way of illustration, extracts from legislation, examples 1 and 2 from the United Kingdom, example 3 from Austria. The "Free Redrafts" in 1 and 2 represent attempts by the writer to arrive at a style acceptable as legislatively sound, but less complex than the current style. The Courses in Legislative Drafting directed by him at the Institute of Advanced Legal Studies take the participants through a course of training in the elements of drafting in the common law style, but the students have before them the aim of clearer legislation in the 'Free Redraft' style.

Plain English versions of the Timeshare Act have been drafted by Mr. Martin Cutts, of 'Words at Work' (69 Bings Road, Whaley Bridge, Stockport, Cheshire SK12 7ND). They will be considered, with observations by the Parliamentary Draftsman, in a forthcoming issue of

## **ANNEX**

### *Example 1*

#### **Guard Dogs Act 1975, s. 1(1):**

1(1) A person shall not use or permit the use of a guard dog at any premises unless a person ("the handler") who is capable of controlling the dog is present on the premises and the dog is under the control of the handler at all times when it is being so used except while it is secured so that it is not at liberty to go freely about the premises.

There is an obvious ambiguity. If it had been spotted before the Act has been passed the Parliamentary draftsman would have redrafted as follows, depending on the intention.

#### **REDRAFT A**

- 1(1) A person shall not use or permit the use of a guard dog at any premises unless -
- (a) a person ("the handler") who is capable of controlling the dog is present on the premises; and
  - (b) except while it is secured so that it is not at liberty to go freely about the premises, the dog is under the control of the handler at all times when it is being so used.

#### **REDRAFT B**

- 1(1) A person shall not use or permit the use of a guard dog at any premises unless at any time when it is being so used -
- (a) a person ("the handler") who is capable of controlling the dog is present on the premises and has it under his control; or
  - (b) the dog is secured so that it is not at liberty to go freely about the premises.

Assuming redraft B expresses the intention, the following free redraft is suggested:

A person shall not use or permit the use of a guard dog at any premises unless it is tied up or under the control of a handler.

*(See Timeshare Act 1992 insert)*

## **FREE REDRAFT**

### **TIMESHARE ACT**

#### **Timeshare Agreements**

1. A person entering into an agreement to take a timeshare right (a "timeshare agreement") may cancel the agreement in the circumstances stated in this Act.

A "timeshare right" is a right to use living accommodation, wholly or partly for leisure purposes, for intermittent periods of not more than a month over a period of at least three years, under arrangements which provide for other persons participating in them to have similar rights. The accommodation may be in the United Kingdom or elsewhere.

A person taking or offering to take the accommodation is a "timesharer", and a person providing or offering to provide it the "supplier".

#### *Notice of right to cancel timeshare agreement*

2. (1) A person must not as supplier, acting in the course of a business, enter into a timeshare agreement with a timesharer not acting in the course of a business, unless the timesharer has received a document setting out the terms or substance of the agreement, and a notice of his right to cancel it. The notice must conform with the requirements in Schedule 1.

(2) A person contravening subsection (1) is guilty

### *Example 3*

The following is an example of an Act of a civil law country, Austria, first six sections only, reprinted from *Commercial Laws of Europe*, by kind permission of the European Law Centre in London (South Quay Plaza, 183 Marsh Wall, London E14 9FT).

#### **Federal Act of 21 January 1998 on liability for a defective production (Product Liability Act)**

The Nationalrat has passed the following Act:

#### **Liability**

##### **Section 1**

(1) If as a result of a defect in a product a person is killed or suffers personal injury or his health is damaged or if an item of corporeal property other than that product is damaged, then

1. the enterprise which produced it and put it into circulation

2. the domestic enterprise which imported it into Austria for the purpose of marketing it and put it into circulation here shall be liable to make good the damage.

(2) If the producer or, in the case of imported products, the importer (subsection (1)2) cannot be identified then every enterprise which has put the product into circulation shall be liable in accordance with subsection (1)

unless it informs the injured person within a reasonable time of the identity of the producer or, in the case of imports, of the importer or of the person who supplied it with the product.

## **Section 2**

In the case of damage to an item of property the obligation to indemnify applies only to such part thereof as exceeds 5,000 schillings.

### **Producer**

## **Section 3**

The producer (section 1(1)1) is anyone who has produced the finished product, any raw material or a component part, and any person who, by putting his name, trade mark or other distinguishing feature on the product, holds himself out as its producer.

### **Product**

## **Section 4**

A product is any movable corporeal object, even though incorporated into another movable object or into immovable property, and includes energy. It does not include any natural produce of agriculture or forestry (that is, of the soil, stock-farming or fisheries) or game,

so long as they have not undergone any initial processing.

### **Defects**

## **Section 5**

(1) A product is defective when it does not provide the safety which a person is entitled to expect, taking all circumstances into account, including:

1. the presentation of the product;
2. the use to which it could reasonably be expected that the product would be put;
3. the time when the product was put into circulation

(2) A product shall not be considered defective merely for the reason that a better product is subsequently put into circulation.

### **Putting into circulation**

## **Section 6**

A product is put into circulation as soon as an enterprise, no matter in what capacity, has transferred it to another person so as to put it at his disposal or give him the use thereof. Despatch to a purchaser is sufficient.

# Timeshare Act 1992

## 1992 CHAPTER 35

An Act to provide for rights to cancel certain agreements about  
timeshare accommodation. [16th March 1992]

**B**E IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1.—(1) In this Act—

Application of  
Act.

- (a) “timeshare accommodation” means any living accommodation, in the United Kingdom or elsewhere, used or intended to be used, wholly or partly, for leisure purposes by a class of persons (referred to below in this section as “timeshare users”) all of whom have rights to use, or participate in arrangements under which they may use, that accommodation, or accommodation within a pool of accommodation to which that accommodation belongs, for intermittent periods of short duration, and
- (b) “timeshare rights” means rights by virtue of which a person becomes or will become a timeshare user, being rights exercisable during a period of not less than three years.

(2) For the purposes of subsection (1)(a) above—

- (a) “accommodation” means accommodation in a building or in a caravan (as defined in section 29(1) of the Caravan Sites and Control of Development Act 1960), and 1960 c. 62.
- (b) a period of not more than one month, or such other period as may be prescribed, is a period of short duration.

(3) Subsection (1)(b) above does not apply to a person's rights—

- (a) as the owner of any shares or securities,
- (b) under a contract of employment (as defined in section 153 of the Employment Protection (Consolidation) Act 1978) or a policy of insurance, or 1978 c. 44.
- (c) by virtue of his taking part in a collective investment scheme (as defined in section 75 of the Financial Services Act 1986), 1986 c. 60.

or to such rights as may be prescribed.

(4) In this Act “timeshare agreement” means, subject to subsection (6) below, an agreement under which timeshare rights are conferred or purport to be conferred on any person and in this Act, in relation to a timeshare agreement—

- (a) references to the offeree are to the person on whom timeshare rights are conferred, or purport to be conferred, and
- (b) references to the offeror are to the other party to the agreement, and, in relation to any time before the agreement is entered into, references in this Act to the offeree or the offeror are to the persons who become the offeree and offeror when it is entered into.

Obligation to give notice of right to cancel timeshare agreement.

2.—(1) A person must not in the course of a business enter into a timeshare agreement to which this Act applies as offeror unless the offeree has received, together with a document setting out the terms of the agreement or the substance of those terms, notice of his right to cancel the agreement.

(2) A notice under this section must state—

- (a) that the offeree is entitled to give notice of cancellation of the agreement to the offeror at any time on or before the date specified in the notice, being a day falling not less than fourteen days after the day on which the agreement is entered into, and
- (b) that if the offeree gives such a notice to the offeror on or before that date he will have no further rights or obligations under the agreement, but will have the right to recover any sums paid under or in contemplation of the agreement.

(3) A person who contravenes this section is guilty of an offence and liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum, and
- (b) on conviction on indictment, to a fine.

does

4.—(1) Section 2 of this Act ~~not~~ apply where, in entering into the agreement, the offeree is acting in the course of a business.

Provisions supplementary to sections 2 and 3.

(2) A notice under section 2 must be accompanied by a blank notice of cancellation and any notice under section 2 of this Act or blank notice of cancellation must—

- (a) be in such form as may be prescribed, and
- (b) comply with such requirements (whether as to type, size, colour or disposition of lettering, quality or colour of paper, or otherwise) as may be prescribed for securing that the notice is prominent and easily legible.

(3) An agreement is not invalidated by reason of a contravention of section 2.