

Terrence R. Carney

Associate Professor,
University of South Africa
ORCID: <https://orcid.org/0000-0001-8922-5668>

DOI: <https://doi.org/10.38140/jjs.v49i2.7493>

ISSN 2415-0517 (Online)

Journal for
Juridical Science
2024:49(2):18-39

Date Published:
31 December 2024

PRE-LEGISLATIVE SCRUTINY DURING THE DRAFTING PROCESS: A CASE FOR LINGUISTIC AUDITING¹

SUMMARY

Several pre-legislative quality-control measures exist to ensure the drafting process delivers necessary and well-written laws. Despite these measures, some bills and acts still contain mistakes that could hinder subsequent statutory interpretation and construction. A few of these mistakes are language based. A case in point is South Africa's Cannabis for Private Purposes Bill and the way it describes the offence of smoking/consuming cannabis in a vehicle on a public road (sec. 5(5)), in relation to the definitions of the words *place* and *vehicle* (sec. 1). The word *vehicle* can be interpreted as both a place and a transportation device, which obscures the offence in sec. 5(5). A means to try and prevent such semantic anomalies before a bill is published for comment is to apply a linguistic audit as part of the pre-legislative scrutiny stage in the drafting process. A linguistic audit entails the use of various linguistic tools and theories informed by the language challenges in the draft. As an illustration, this article employs the cognitive linguistic "container schema" to better understand the polysemous interpretation of the word *vehicle* as both a place and a transportation device. In addition, the article proposes four potential linguistic instruments as tools for a linguistic audit, namely componential analysis, functional hyponymy, prototype theory, and limited syntactic analysis. The article starts by reviewing the drafting process, followed by an explanation of the purpose of definitions in legislation. The focus then shifts to a discussion about the potential meaning of *vehicle* in the Bill, followed by a description of the lexicological approach to drafting. The article concludes that a language audit could assist courts in their continuation of the drafting process through interpretation and construction.

1. INTRODUCTION

Legislative drafting plays a fundamental part in the rule of law, because it helps set out the rules that regulate society. By itself, law must be "accessible, intelligible, clear and

¹ This article is based on a paper delivered at the 16th biennial conference of the International Association of Forensic and Legal Linguistics held in Manila, the Philippines, in 2023. Financial support was provided by the National Research Foundation; grant number RA190927479527.



Published by the UFS
<http://journals.ufs.ac.za/index.php/jjs>

© Creative Commons With Attribution
(CC-BY)



predictable".² As the authors of legislation, legal drafters are central to the lawmaking process and have been described as wordsmiths and legislative counsel,³ because they are proficient linguistically and provide advice on new legislation. They translate policy to law and, by doing so, they may actually help improve policy.⁴ Through their work, drafters directly contribute to the social development (or stagnation) of a country.⁵ Therefore, the quality of legislation depends on both the abilities of the drafter concerned⁶ and the drafting process as a whole.

According to guides on legislative drafting, the drafting process usually consists of five stages, namely understanding, analysis, design, composition and development, as well as scrutiny and testing.⁷ These five stages set out the various aspects that ultimately make good legislation.

First, drafters must fully comprehend the purpose and scope of the new law.⁸ Research and consultation with both sponsors and stakeholders are instrumental in understanding what the new law must achieve and what it must look like. The proposed law must then be analysed in terms of existing laws and policies, as well as its practicability.⁹ An act that looks good on paper, but either violates known rights and laws or is difficult to enforce is of no use to anyone.¹⁰ The design stage follows once the drafters are convinced that a new law is, in fact, necessary. Drafters consider what contents must go into the bill and proceed to give shape to it, by creating an outline or framework.¹¹ A sound framework provides the necessary information for initial evaluation and becomes the foundation for fleshing out the eventual legislative text.¹² From here on, the process becomes progressively more difficult. Once the outline is approved, drafters start composing the bill. Composition is tied to development in the sense that the bill develops during the writing process.¹³

2 Cormacain 2017:115-116.

3 Cormacain 2017:130-132.

4 Cormacain 2017:129-130.

5 Seidman & Seidman 2011.

6 Cormacain 2017:132.

7 Xanthaki 2012:146-199; Adem 2014:15-29; Crabbe 1993:13-17. Burger (2003) offers little in terms of the drafting process. The work fails to provide drafters with a workable blueprint for creating a bill.

8 Xanthaki 2012:146.

9 Xanthaki 2012:151-152.

10 Conflicting laws are a clear sign of poor drafting, because the drafting team failed to consider the impact that the proposed law could have on the working of existing legislation. In *Arena Holdings (Pty) Ltd t/a Financial Mail and Others v South African Revenue Service and Others* [2023] ZACC 13:par. 157, Kollapen J points out that sec. 35(1) of the *Promotion of Access to Information Act 2/2000* conflicts with sec. 69(2) of the *Tax Administration Act 28/2011*. The *Tax Administration Act* provides circumstances for disclosing taxpayer information to certain parties, whereas the *Promotion of Access to Information Act* prohibits the disclosure of information to anyone apart from the requestor. Ideally, the *Tax Act* should have amended (expressly) the *Access to Information Act*, but it did not.

11 Xanthaki 2012:157-158; Crabbe 1993:275-277; Adem 2014:22-25.

12 Xanthaki 2012:157.

13 Xanthaki 2012:163; Ntaba 2008:122-123.

The reason for this is that the writing process entails consultation with sponsors, stakeholders, and team members and leads to constant revisions.¹⁴ During this stage, drafters formulate and improve definitions and provisions. When the authors opine that they can no longer add to the draft, they must initiate the final stage. Scrutinising and testing the draft is an important step to take. It allows the drafting team to identify any pitfalls or shortcomings before the draft is submitted to the Cabinet and the other parliamentary bodies.¹⁵ Thornton recommends that drafters apply a number of hypothetical tests to determine its strengths and weaknesses and that one or more people approach the draft as potential users.¹⁶ In this way, new perspectives can be gained in terms of the new law's comprehensibility and practicability.¹⁷

Overall, the five stages described earlier provide at least two opportunities for drafters to gauge the semantics in the text, namely throughout the composition and development phase and once the entire draft is ready for comment. Thornton mentions that, during the testing stage, drafters must check whether the language of the draft is clear and comprehensible, whether the language is used consistently throughout the draft and whether definitions are necessary and formulated correctly.¹⁸ However, drafters reach a stage when they can hardly see the wood for the trees. This might explain why some bills contain a number of mistakes, especially in the form of semantic flaws, when they are published for public input. To ensure that pre-legislative scrutiny is conducted successfully, the necessary protocols must be in place. These protocols may take the shape of best practice techniques, standards or checklists that help drafters test the final draft.¹⁹ Protocols must guide drafters in terms of the who, the when and the how of draft assessment.²⁰

Even though the revision and testing stages do provide an opportunity to test the language of a draft, the rigour with which the semantics of the text is scrutinised seems somewhat deficient. Assessing language comprehensibility, on the one hand, and evaluating definitions for their necessity, on the other, is not the same as appraising the semantic value of definitions for their potential strength or weakness. Crabbe mentions that the criticism stage will help Counsel "recognise where there is ambiguity, where the wording has deviated from the substance, where clarity has been sacrificed to simplicity, where verbosity has detracted from the beauty of the expression".²¹ The composition

14 Xanthaki 2012:164; Crabbe 1993:12.

15 Burger 2003:7.

16 Xanthaki 2012:200.

17 In some countries, a different government body performs the pre-legislative scrutiny (Dale 1977:87, 102, 111-112). In France, the Conseil d'Etat scrutinises final drafts (www.conseil-etat.fr). In Sweden, the Lagrådet adopts a similar approach to such drafts (www.lagradet.se). Similar to South Africa, German-speaking authorities do not have a separate council responsible for scrutiny; instead, they compose and evaluate drafts according to standards published in sanctioned handbooks such as the *Handbuch zur Vorbereitung von Rechts- und Verwaltungsvorschriften* (www.legistik.de).

18 Xanthaki 2012:200.

19 Ntaba 2008:123, 125.

20 Ntaba 2008:125.

21 Crabbe 1993:17.

and testing stages can benefit from what I refer to as a linguistic audit. This entails evaluating defined and undefined words for their potential ambiguity and vagueness. By contrast, a linguistic audit could help identify semantic anomalies that may create challenges for statutory interpretation, once the act is promulgated. For instance, the *Finance Sector Regulation Act* defines *business document* as “a document held by a person in connection with carrying on a business”.²² In order to understand this definition, users must know what the term *document* means. This, in turn, implies that its ordinary meaning will (it is hoped) suffice. The *Tax Administration Act* describes the word *premises* as “a building, aircraft, vehicle, vessel or place”.²³ Defining words by means of a list of items is common practice in legislative drafting. It becomes somewhat problematic when the items in the list are themselves undefined and vague. What exactly does *place* include? A loading dock? Or would that be part of a building? What about an informal *kraal*? Is that a place? The same *Act* defines *thing* as “a corporeal or incorporeal thing”.²⁴ The definition provides two key semantic criteria but still fails to explain what the term actually means.²⁵

A linguistic audit is aimed at evaluating the meaning of important words that initially remain undefined in a bill. The purpose of doing so is simply to ensure that lexical words’ ordinary meaning will be in service of the eventual act.²⁶ This is an important aspect of the pre-legislative scrutiny phase that is mostly left unattended. This is peculiar, since an evaluation of the ordinary words in a draft could spot words that may be problematic and may need defining.²⁷ Another example is taken from the *Tax Administration Act* and concerns the phrase *voluntary disclosure*. It is undefined in the *Act*, yet it forms part of a significant provision regulating the Voluntary Disclosure Programme (VDP) and is an important instrument to the South African Revenue Service

22 *Finance Sector Regulation Act* 9/2017:sec. 1.

23 *Tax Administration Act* 28/2011:sec. 1.

24 This is better known as a circular definition; it violates the primary rule not to include the term being defined in the definition itself.

25 Linguistic canons of construction often help clarify complex or vague definitions such as the *noscitur a sociis* and *eiusdem generis* rules. The *noscitur a sociis* rule prevents interpreters from isolating words unnecessarily and focuses the attention on a contested word’s immediate context. By considering the contested word’s company, the interpreter should be able to infer relevant meaning. The *eiusdem generis* rule is a subcategory of the *noscitur a sociis* canon and restricts the interpretation of general terms to the genus of the specified words. An important feature of the latter is the identification of a genus to which the general terms must be compared. These canons may be applied to the word *place* in relation to *premises*, but it will not suffice for *thing* in relation to *corporeal thing*. The phrase *corporeal thing* is simply too vague and its definition offers no additional items that could be analysed for their genus. See Barnes *et al.* 2023:270-271.

26 See also Price 2013:1004.

27 Price (2013:1005) refers to an American approach during which common ordinary words are defined in the United States Code to ensure that those affected by the Code understand which sense of the word is applicable. Because common ordinary words are often polysemous and, therefore, have different interpretation possibilities, the legislature prefers to define a word for clarity and consistency

(SARS).²⁸ The fact that *voluntary disclosure* is semantically complex is visible in the *Purveyors* cases as well as Van Zyl and Carney's analysis.²⁹ The meaning of both *voluntary* and *disclosure* are heavily contested and debated. What exactly does it mean to disclose information voluntarily to SARS? SARS itself favours the argument that information had to be wholly new in order for it to be disclosed.³⁰ This means that it is impossible to disclose existing information. Another argument was that information should be shared with SARS completely out of free will and could not be a result of fear for being penalised.³¹ Adding such criteria increases the semantic load of *voluntary disclosure*, which means that it is no longer a phrase with an ordinary meaning. Instead, the term requires definition. Including a linguistic audit in the pre-legislative scrutiny stage could not only assist drafters to gauge words and phrases like *voluntary disclosure*, *business document*, and *thing*, but it could also aid in assessing the vagueness or polysemy of a word like *place*. It is important to realise that a word's vagueness or ambiguity will often only manifest itself once it is tested outside of the drafters' laboratory.³²

I will use the Cannabis for Private Purposes Bill (hereinafter, the Cannabis Bill), specifically the definitions of *private place*, *public place*, and *vehicle*, to illustrate the potential value of a linguistic audit.³³ I will start by providing a short overview of the nature of definitions in relation to legislative drafting. Next, I will provide the relevant details of the Bill, pointing out its vagueness and ambiguity. The subsequent section will highlight the lexicological approach adopted as a means to conduct a linguistic audit. Lastly, the article is concluded.

2. THE PURPOSE OF DEFINITIONS IN LEGISLATIVE DRAFTING

Due to the highly technical character of written laws, there is a misconception that statutes are meant solely for lawyers or for those who are trained to understand and interpret the law. However, written laws are published for everyone's sake.³⁴ Numerous people in various fields read, interpret, and depend on what the law says.³⁵ This is an important notion, because it implies that laws must be accessible to a heteronomous target audience. A key

28 *Tax Administration Act* 28/2011:ch. 16, part B.

29 *Purveyors South Africa Mine Service (Pty) Ltd v Commissioner for the South African Revenue Service* (611689/2019) [202] ZAGPPHC 409 (25 August 2020); *Purveyors South Africa Mine Services (Pty) Ltd v Commissioner for the South African Revenue Services* (135/2021) [2021] ZASCA 170 (7 December 2021); Van Zyl & Carney 2021:101-105; see also Carney 2023a:189-191.

30 *Purveyors South Africa Mine Service (Pty) Ltd v Commissioner for the South African Revenue Service*:par. 13.

31 *Purveyors South Africa Mine Service (Pty) Ltd v Commissioner for the South African Revenue Service*:par. 12.

32 It is only after an act is promulgated that its strength and weakness can truly be gauged. A post-legislative drafting process continues through legal interpretation and construction, during which the judiciary gives effect to the wording of the text.

33 Cannabis for Private Purposes Bill B19/2020. The Bill was signed into law on 28 May 2024 and is now the *Cannabis for Private Purposes Act 7/2024*.

34 Crabbe 1993:17.

35 Price 2013:1004.

instrument to understanding what the law says is the section or chapter that provides definitions. This section/chapter functions like a glossary – it indicates a list of words generated from the text that are clarified to understand the most important concepts used in that text.³⁶ It is important for both lay and law folk that definitions are clear and easy to understand. When definitions are vague or circular, they fail as tools of interpretation. It is like opening the front door to a house and finding a wall built behind it. Furthermore, poor definitions and a weak tradition of deferring definitions to other legislative texts (without the necessary hyperlinked cross-references) make for wasteful and difficult reading.

Legislative definitions are important for different reasons. Notably, they are authoritative;³⁷ they allow a statute's provisions to have effect, and as such they have a direct influence on people's lives. Through definitions, a legislative text tells us how a word or phrase must be understood in certain conditions. It can deviate from our conventional understanding of what these words or phrases ordinarily mean. With respect to ambiguous words, definitions not only assist in "creating legal certainty and uniformity" but also help maintain consistency and minimise variation in meaning.³⁸ A legislative definition's purpose ranges from controlling the future to promoting readability, increasing predictability, and ensuring the efficiency of a draft.³⁹ Ultimately, a definition must serve the goal of clear communication.⁴⁰ The main goal of a definition is to mitigate comprehensibility by clarifying what a word or phrase means.⁴¹

Understandably, drafters must use definitions sparingly. It is not the intention of a drafter to define every single word (nor is it possible). Burger states that drafters should only define terms in cases where there is a deviation from the ordinary meaning of the word or expression defined; to avoid unnecessary repetition, and to indicate the use of an unusual or novel word or expression.⁴²

Crabbe's list contains a few additional warnings, like the fact that a defined term may only be used in a single sense throughout that particular law; a single concept may not be defined by two different words and a definition may not contain substantive law.⁴³ If it fails to address any of the principles listed above, the definition probably has no real function in the law concerned and risks adding to the difficulties of construction.⁴⁴

36 Carney 2023a:187.

37 Price 2013:1002-1003; Roznai 2014:147, 148.

38 Roznai 2014:151, 152; Sgarbi 2013:28-36 at 31.

39 Price 2013:1017.

40 Thornton 1996:145; Price 2013:1003-1004.

41 Burger 2003:56; Thornton 1996:145; Price 2013:1031. The same approach also rings true for lexicography; see Atkins & Rundell 2008:451.

42 Burger 2003:53; Crabbe 1993:105, 116; Thornton 1996:147; Adem 2010:58-59. Similar rules apply to definition and interpretation clauses in contracts; see Hawthorne & Kuschke 2017:385.

43 Crabbe 1993:117.

44 Thornton 1996:147. This points to the judiciary's role in the post-legislative drafting process. Even though the pre-legislative drafting process can never be perfect, poor drafting can, in fact, hamper the judiciary's efforts in providing the necessary legislative guidance.

Generally, a legislative definition is meant to either describe, delimit, extend or narrow the meaning of a term.⁴⁵ The type of definition that serves the legislator well is the prescriptive stipulative definition. Prescriptive stipulative definitions allow drafters to set the limits of a particular word's meaning, which means that the legislature can extend or restrict a word's semantic weight and reach, depending on the definition's purpose.⁴⁶ In this way, the legislature gives authority to a definition and determines how everyone must understand and use that word in the future. Put differently, the legislature fixes meaning through drafting; it sets semantic limits for the purpose of clarity.⁴⁷

To illustrate how the pre-legislative scrutiny of a bill's definitions could be conducted, South Africa's Cannabis Bill is considered in the next section.⁴⁸

3. WHETHER VEHICLE IS A TRANSPORTATION DEVICE OR A PLACE

The Cannabis Bill is the result of drawn out litigation involving a number of individuals, most notably Mr Gareth Prince, who sought permission to use cannabis legally since at least 1998 onwards.⁴⁹ In 2017, writing for a full bench, Davis J agreed that it is unconstitutional to prohibit individuals from using and cultivating cannabis privately and subsequently ordered the relevant state departments to amend the affected laws within two years to allow private use.⁵⁰ Soon afterwards, the judgment was confirmed by the Constitutional Court.⁵¹ The subsequent Bill was published in the *Government Gazette* in 2020.⁵² This contribution focuses mainly on sec. 1 (on certain legislative definitions) and sec. 5 (a description of smoking and consumption offences).

The definitions that are seemingly central to the (il)legality of cannabis use include *private place*, *public place*, *vehicle*, and *public road*:⁵³

45 Crabbe 1993:108; Adem 2010:59; Xanthaki 2012:165; Sgarbi 2013:29. See also Price's (2013:1010-1013, 1017) discussion on *descriptive* and *prescriptive* definitions.

46 Harris & Hutton 2007:9; Carney 2023a:187-188.

47 Price 2013:1019, 1023.

48 Cannabis for Private Purposes Bill B19/2020.

49 *Prince v President of the Law Society, Cape of Good Hope* 1998 (8) BCLR 976 (C); *Prince v President of the Law Society, Cape of Good Hope* 2000 (3) SA 845 (SCA); *Prince v President of the Law Society, Cape of Good Hope* 2002 (2) SA 794; South Africa: Mr Gareth Anver Prince (counsel Prof. Frans Viljoen) [2007] UNHRC 52 CCPR/C/91/D/1474/2006 (14 November 2007).

50 *Prince v Minister of Justice and Constitutional Development; Rubin v National Director of Public Prosecutions; Acton v National Director of Public Prosecutions* (4153/2012) [2017] ZAWCHC 30.

51 *Minister of Justice and Constitutional Development v Prince; National Director of Public Prosecutions v Rubin; National Director of Public Prosecutions v Acton* (CCT108/17) [2018] ZACC 30.

52 *Government Gazette* 2020:662(43595).

53 Cannabis for Private Purposes Bill:sec. 1. The wording remains the same in the *Cannabis for Private Purposes Act 7/2024*:sec. 1.

- Private place means any place, including a building, house, room, shed, hut, tent, mobile home, caravan, boat or land or any portion thereof, to which the public does not have access as of right.
- Public place means any place to which the public has access as of right.

The Bill takes definitions for *vehicle* and *public road* from the *National Road Traffic Act (NRTA)*, worded as follows:⁵⁴

- Public road means any road, street or thoroughfare or any other place (whether a thoroughfare or not) which is commonly used by the public or any section thereof or to which the public or any section thereof has a right of access, and includes –
 - a. the verge of any such road, street or thoroughfare;
 - b. any bridge, ferry or drift traversed by any such road, street or thoroughfare, and
 - c. any other work or object forming part of, or connected with or belonging to such road, street or thoroughfare.
- Vehicle means a device designed or adapted mainly to travel on wheels or crawler tracks and includes such a device which is connected with a draw-bar to a breakdown vehicle and is used as part of the towing equipment of a breakdown vehicle to support any axle or all axles of a motor vehicle which is being salvaged other than such a device which moves solely on rails.

In scrutinising the four definitions given above, we already notice certain key issues. First, even though examples of vehicles are included as private places (*mobile home* and *caravan*), any reference to a motor vehicle such as a car is absent. This creates the idea that a motor vehicle (like a car) must be a public place (the latter definition is much more inclusive), or alternatively not a place at all.⁵⁵ Secondly, vehicles such as a mobile home or caravan are included as private places, probably because drafters view these vehicles solely as dwellings (being a structure that is primarily used as a residence – according to sec. 1 of the Bill). The distinction between vehicles as dwellings and vehicles as transportation is not clear, especially since the concept *vehicle* is defined while that of *motor vehicle* is not.⁵⁶ A third problem is the broad definition of *public road*. Almost every road is potentially a public road,

54 *National Road Traffic Act* 93/1996:sec. 1.

55 A vehicle such as a car cannot be a public place, because, if it were, it would imply that the public has the right to access the vehicle freely.

56 The phrase *motor vehicle* probably requires a much broader definition than the current version of the definition published in the *NRTA*, in order to satisfy the purpose of the Cannabis Bill. Even though it is not listed as a term in the Bill, the compound noun *motor vehicle* is sometimes used there, which has a different definition to *vehicle* in the *NRTA*. Accordingly, two different terms are used, although it is not entirely clear whether two different concepts are implied. Another point worth mentioning is that *boat* is included in the Bill as an example of a private place, but it is not covered by the definition of *vehicle*. This is an obvious concern, because an operator of a boat intoxicated by alcohol or drugs can cause much harm. The *NRTA* covers *boat* in the definition of *motor vehicle*. An apparent discrepancy results between the Cannabis Bill and the *NRTA*.

even streets that form part of access-controlled estates and private property like holiday resorts and campsites. In *Mount Edgecome Country Club Estate Management Association II RF NPC v Singh*, the Supreme Court of Appeal (SCA) held that roads in an enclosed estate become public the moment people (including residents and visitors) start using them.⁵⁷

As specified in its definition, *vehicle* is clearly described as a transportation device and not as a place. However, the way in which the drafters use the term in the Bill recalls those two senses, namely transportation and place.⁵⁸ By its very nature, it violates Crabbe's rule to refrain from using one word in more than one sense. That said, how could we tell if a vehicle is a place or not? We can view relevant words from a cognitive semantic perspective.⁵⁹ Cognitive semantics considers meaning beyond the word and grammar level; it does so by contemplating the impact of context, encyclopaedic information, sociocultural and psychological considerations, as well as perspectivisation.⁶⁰ Among other issues, semanticists working in cognitive linguistics tend to study the different ways in which speakers express visual perception through language; ultimately, language reflects constructions of mental imagery. Bodily experiences play a vital role in the creation and interpretation of mental imagery.⁶¹ When we say *the church is up the hill*, we are, in fact, visualising the church at a distance away that is higher than we are; when we say *the church is down the hill*, we are imagining the church at a distance away that is lower than we are. We use our bodies to orientate the position, distance, and location

57 *Mount Edgecome Country Club Estate Management Association II RF NPC v Singh* 2019 (4) SA 471 (SCA).

58 Therefore, the word can be viewed as polysemous in terms of the Bill. A monosemous word has one meaning. If the context is unclear, this leads to vagueness. If we say *John wears his hat to work*, the word *hat* has one meaning. Its vagueness lies in the fact that we do not know what kind of hat he is wearing. For all we know, it could be a paper bag. A polysemous word has more than one related meaning. If the context is unclear, this leads to ambiguity. The word *school* in the next sentence is ambiguous: *There's a school around the corner; just past the beluga tank. Does school refer to a class on a field trip or to a tank with sardines?*

59 Cognitive semantics forms part of cognitive linguistics, which comprises various theories and methodologies to study language as an integral part of human cognition; Taylor 2002:3-4. An important aspect of cognitive linguistics is the belief that meaning is derived through language use and that units of meaning are schematic abstractions. This means that generalised patterns emerge through frequent language use and that these patterns form general units (schemas). Schemas are entrenched, which means that they become normative through use. Evans & Green 2006:115, 118-119.

60 Taylor 2002:9-10; Geeraerts 2010:182-183.

61 Evans & Green 2006:178-179; Radden & Dirven 2007:16; Taylor 2002:11, 520; Lakoff 1990:272. This is usually explored through the "image schema". Since birth, human beings have various bodily (sensory) and spatial experiences that become meaningful. The way in which speakers interact with objects and their surroundings, and the way in which the world affects the human body influence the way in which speakers construct and express meaning.

of the church in relation to ourselves. Another way in which mental imagery is realised is through the container schema. The container schema views the human body both as containers and as things in containers.⁶² This means that we could consider both *vehicle* and *place* as containers. Containers can be described geometrically as having an inside, an outside, and a boundary. As containers, we can easily imagine something (contents) inside (contained): an office inside a building, a sleeping bag inside a tent, a passenger travelling in a motor vehicle.⁶³ Both *place* and *vehicle* are containers that can simultaneously contain and be contained. The following scenario helps illustrate the notion that *vehicle* is not restricted to a transportation device but signifies a private place too because it is a container.

John is 22 years old and lives with his parents in a large housing estate in eastern Pretoria. His two friends, Isaac and Lerato, visit him one Thursday evening. To reach John's house, Isaac and Lerato have to sign in at the access-controlled security gate before they may enter the estate. Once past the gate, they have to drive three blocks, turning left at two separate traffic circles. Once they reach their destination, Lerato parks her car in the street in front of John's house. Because John's parents host a Bible study group on Thursdays, John joins Isaac and Lerato in her car, sitting in the back. Isaac passes John cannabis fudge containing THC;⁶⁴ they eat one block each. Lerato is Isaac's designated driver and does not partake this time. The driver is not intoxicated; only the two passengers become affected by the drug about 45 minutes later. Because no one is actually smoking any cannabis, neither John nor Isaac is causing any hindrance to members of the public in terms of sec. 5(4). As a result, they do not have to adhere to prescribed distances from windows or doors.⁶⁵ Nevertheless, they are consuming cannabis in a vehicle that is parked on a public road. If we consider the SCA's decision in the *Mount Edgecome* case, John and his friends are not protected by the fact that the street on which they find themselves is part of a private housing estate. According to sec. 5(5), consuming cannabis in a vehicle on a public road is an offence.⁶⁶

62 Lakoff 1990:272.

63 Containment is not limited to physical objects; it also extends to abstract notions. For instance, we refer to an argument inside someone's head or declare that someone's argument is full of holes. Ungerer & Schmid 2006:124. In both examples, the container is an abstract mental space.

64 THC stands for *tetrahydrocannabinol*, which is the principal psychoactive substance in cannabis. There are numerous edible cannabis products, either containing THC or not. The Bill creates the impression that the smoking of cannabis is worse than the consumption thereof.

65 Cannabis for Private Purposes Bill:sec. 5(4)(a) and (b); *Cannabis for Private Purposes Act 7/2024*:sec.4(11)(a).

66 Cannabis for Private Purposes Bill:sec. 5(5); *Cannabis for Private Purposes Act 7/2024*:sec. 4(8)(c).

From the scenario, we can tell that Lerato's car is used both as a meeting point and as a social space. As such, the car functions as a private place – especially when the vehicle is stationary.⁶⁷ We can substitute Lerato's car with items included in the definition of *private place*. John could be meeting Isaac and Lerato in a tent pitched in the front yard, or John and Isaac could be eating their fudge in a tool shed at the back of the house. Perhaps John's parents have a caravan next to the garage for them to use. Anyone of these spaces can be used for the same purpose, effectively rendering the same results.

In fact, the scenario highlights two more areas of vagueness in the Bill. First, does sec. 5(5) refer only to a car that is in motion, or does the offence also apply to stationary vehicles? Perhaps both? Secondly, is the offence supposed to apply to each individual in the vehicle (the definition says *any person*), or is it supposed to refer to the driver only? Sec. 10 (Schedule 5) refers to the driver of a motor vehicle of which the engine is running.⁶⁸ Addressing the behaviour of the driver makes sense, because the legislature intends to prevent people from driving under the influence of any type of substance that could impede their driving ability and pose a danger to themselves and others. However, the phrase *any person* includes more than the driver.⁶⁹ It is unclear why John and Isaac cannot consume cannabis edibles containing THC in a vehicle that is parked on a public road when there is no hindering smoke or smell, when Lerato (the driver) remains sober, the vehicle's engine is switched off, and the vehicle is not in motion.

The obvious semantic weakness of the current Bill is concisely that it is not sufficient to define the meaning of words for the purpose of the Bill without considering how the defined words interact with one another. This also rings true for known legal phrases like *any person*. Items listed as examples of a private place such as mobile homes, caravans (and to an extent a boat on a trailer) are covered by the definitions of both *dwelling* and *vehicle*. This means that a number of definitions in the Bill will likely cause interpretation-related challenges, due to their vagueness and ambiguity.⁷⁰ It is equally

67 The same scenario plays out at a campsite. *Private place* includes a tent, a mobile home, and a caravan. The roads leading to/past each individual camping spot are private, due to the access control that is imposed at a main entrance. However, the roads concerned could also be viewed as public roads, due to members of the public using such roads. If a passenger wants to use cannabis in a motorhome parked on a public road, what then? A motorhome is a private place, after all. What about people who camp in their cars? What about people who live in their cars? In each instance, the *vehicle* involved is very clearly a private place.

68 Cannabis for Private Purposes Bill:sec. 10 (*Cannabis for Private Purposes Act 7/2024:sec. 7*), referring to the proposed amendments to the *National Road Traffic Act 93/1996*.

69 Crabbe (1993:38) opines that *any*, which refers to a universal class, can be substituted for the indefinite article *a*: a person. However, such a substitution does not solve the problem, as it begs the question, which person?

70 The Cannabis Bill's memorandum of its objects does not provide any further clarity; it only repeats the definitions and offence descriptions; see the Cannabis for Private Purposes Bill:clauses 1(1)(h) and 5(e).

unhelpful to refer to *any* person when the language of the Bill's schedules very clearly targets a *specific* person. Furthermore, the meaning of both *vehicle* and *motor vehicle* remains problematic when they are viewed as a private place, regardless of the road classification involved. Evidently, auditing the semantics of a bill as part of the scrutiny stage of drafting exceeds common copy-editing practices.

In order to conduct a linguistic audit, we must find a way to determine whether both *vehicle* and *place* include the feature of containment, and whether the meaning of containment is further unlocked by the way in which drafters use such terms in conjunction with words such as *dwelling* and *public road*. This can be done through the lexicological approach.

4. THE LEXICOLOGICAL APPROACH

Ultimately, it remains the drafters' decision how they would prefer to apply a linguistic audit (if at all). In doing so, a drafter can follow different methods. One method is to heed Thornton's advice and give the draft to someone else to check for any obscurities that might be present. Another method is to create a number of hypothetical scenarios against which to test the Bill (although doing so could be very time consuming). A linguistic audit can also take the form of what I previously referred to as the lexicological approach to drafting.⁷¹ In short, a drafter needs to view the Bill from various linguistic angles. It is called the lexicological approach, because a drafter studies selected words holistically: their origin, formation, spelling, usage, and meaning. To do this, a drafter uses the linguistic toolbox that represents a skill set comprising phonetics, phonology, morphology, syntax, semantics, and pragmatics. Such a toolbox includes the various devices within each of these categories as well as the dominant theories and techniques that underlie them.⁷² The type of tool is determined by a drafter's query. A central question regarding the Bill so far is whether *vehicle* also qualifies as a private place and what this means for the definitions of *private* and *public place* as well as *vehicle* in relation to cannabis use on a public road. A lexicological approach could use any of the following devices to test such words for clarity: componential analysis, hyponymy, prototype theory, and lexical meaning expressed through syntax.⁷³ I will briefly review these below.

The first device, componential analysis, deals with the semantic properties that are included in the meaning of a word.⁷⁴ We know that *red* and *blue* do not have the same meaning; nevertheless, they share the property of colour. Similarly, the qualities of *medium* and *large* are different, but they share the feature of size; *hot* and *warm* are alike, because they share temperature

71 Carney 2023b:572.

72 Shuy 2020:446.

73 The devices concerned are presented in a simplified manner. The purpose is not to launch a linguistic discussion, but instead to introduce devices that could prove to be potentially helpful.

74 Fromkin *et al.* 2019:151; Carney 2023a:43.

as characteristic. By contrast, *dog* and *cement* share no semantic features: a dog is animate, whereas cement is inanimate. The two nouns also differ grammatically. *Dog* is a count noun, whereas *cement* is uncountable. We can view the word *vehicle* in the same way. Initially, it might seem that *vehicle* has hardly anything to nothing in common with *dwelling*; however, both share containment as a semantic feature. Take *cargo ship* as an example.⁷⁵ A cargo ship is a container of both cargo and people. Not only does it hold and transport cargo in its hull, it also houses/contains people in working spaces and living quarters. It simultaneously functions as a transportation device and as a dwelling. The same applies to trains, airplanes, cargo trucks, and cars. In context, the containment feature includes *place* as a related feature.

Naturally, not all kinds of vehicles share the feature of containment to include *dwelling*. Neither a motorcycle nor a tractor suffices as a place to stay; it is thus much harder to classify them as a *place*. Although, not impossible. Imagine a road construction site outside a rural village. A bulldozer is parked overnight inside a temporarily fenced plot until the five-month project is finished. During this time, three workers frequently meet on foot at the bulldozer to smoke cannabis joints after hours. As workers, they have right of access to the fenced off plot and the vehicles. They often sit inside the cabin of the bulldozer. Even though the bulldozer is not their temporary dwelling, it does function as a shelter and it does contain them. It is also a private place where they meet socially. Although the bulldozer does not fulfil the semantic feature of *dwelling*, it does qualify as a place.

The second device, hyponymy, casts a different perspective on the situation.⁷⁶ Hyponymy is a lexical relation of inclusion and hierarchy. It is often described as “a type of” relation: cake is a type of baker’s confectionary; a novel is a type of book, and a vehicle is a type of transportation device.⁷⁷ While *transportation device* is the broader term, *vehicle* is its more specific subordinate inclusion. The relationship usually works in one direction only, namely from general class to specific item – a car is a type of vehicle, but a vehicle is not a type of car; although a novel is a type of book, not all books are novels. The hyponymic relation includes entailment.⁷⁸ If we say *John consumed cannabis*, we entail that he, at the very least, ate cannabis in some shape or form. *Consume* is the superordinate of *eat*. The same applies to *killing* and *strangling*: if John strangled someone, he also killed that person. Strangling is a type of killing, but it does not entail every type of killing (strangling does not entail drowning, for instance). For the purpose of the Bill, we can use the notion of “functional hyponymy”.⁷⁹ Instead of saying A is a type of B, we say A is used as B. A knife is used as a murder weapon; a computer is used as a data

75 Water transportation is not covered by the definition of *vehicle*, but it is potentially included in that of *motor vehicle*. The Bill probably requires a redefinition of *vehicle* to better serve its purpose.

76 Carney 2023a:61.

77 Murphy 2012:109.

78 Cruse 1986:88-92.

79 Murphy 2012:114.

processor, and a car is used as a vehicle. If we say *meet me at the car*, the car becomes the meeting place; as a result, we can say this particular car is used as a place. When people camp or stay in their cars semi-permanently, they use the car as a dwelling. Using functional hyponymy allows us to consider a word's semantic features in a different way than is usual. Even though a car's main feature is transportation, containment remains an important feature; in other words, a car both contains and transports.

The third method available for use, the prototype theory, views a word's characteristics in terms of the frequency of its use and its status as an exemplar. Prototype theory deals in part with the way in which speakers categorise information.⁸⁰ The item(s) that feature frequently form the core of a category and as such assume the position as the most salient or the most common exemplar of that category. For example, gratitude can be expressed in many different ways in the English language. We can say *I appreciate it*, *I owe you one*, *I'm so grateful* or *much obliged*. However, the expression that speakers tend to use most often is *thank you*. As *thank you* is the best example of an expression of gratitude in English, it therefore forms the core of the category concerned. The other expressions remain relevant, but depending on their frequency of use, they appear at various distances from the core. Prototypicality plays an important role in understanding polysemous words.⁸¹ If a word has more than one sense, one meaning will be the more salient in the given context. This implies that, based on the available context, the listener/reader will select the relevant sense and reject the other.⁸² If Jane says to Billy *you're such a silly old goat*, a listener who has little else on which to base their understanding of the words used might assume that Billy is a person. If the listener knows that Jane leads an isolated life on a farm, Billy could also be an actual goat (but the listener will never know, unless they ask for the exact meaning of what the speaker has said). A tent is prototypically used as a dwelling, but it is very often used to host parties and to house churches. Because all three instances (dwelling, church, and party place) share containment as criterion, all of them are close to the core of the category and can be considered prototypical. If we consider the different uses of a car, the term prototypically denotes a vehicle (*You're welcome to take my car*, *I'll use the car*, *She drives the car to the shop and back*, *We will travel by car this December*). However, not only does a car fulfil its purpose as transportation device and a place simultaneously, its function as a place is also rather common:

80 Carney & Bergh 2016.

81 There is a clear link between the prototypical sense of a polysemous word and the prototypicality that is present in functional hyponyms. Although a knife might be employed as a murder weapon, it is not necessarily its typical use. Knives are often used for more mundane purposes such as buttering bread and cutting up food into pieces.

82 Taylor 2009:104.

- Wait for me in the car.
- Meet me at the car.
- He's still asleep in the car.
- She does her make-up in the car.
- He changed the baby's nappy in the car.
- She ate her lunch in the car.
- No smoking inside my car!

When a vehicle is viewed as a container, it becomes much more difficult to distinguish a vehicle's prototypical sense in the context of sec. 5(5). If a drafter or scrutiniser cannot determine from the context which of the senses is prototypical in the Bill, the meaning of the word remains ambiguous.

The last method discussed engages lexicogrammar. Proponents of the theory of lexicogrammar believe that semantics is fully realised when words and grammar are studied together. Put differently, words and syntax are interdependent; sometimes to a greater or lesser extent and should rather be viewed as functioning on the same level but at different degrees.⁸³ Paying attention to words' syntactic behaviour allows investigators to notice existing relations and patterns between words. Drafters who scrutinise a bill for clarity will evaluate the way defined (and salient undefined) words appear in sentences throughout the text. A good example appears as sec. 5(5) of the Cannabis Bill:⁸⁴

Any person who smokes or consumes cannabis in a vehicle on a public road, is guilty of a Class C offence.

The offence involved is tied to the verbs in the provision: smoking and consuming. In order to understand how the verbs express the offence, we must view the sentence as a whole. Sec. 5(5) is formulated as a complex sentence consisting of a main and two relative clauses; the relative clauses are embedded. Broken down, they look like this:

- any person is guilty of a Class C offence (main clause);
 - who smokes cannabis in a vehicle on a public road (relative clause 1);
 - who consumes cannabis in a vehicle on a public road (relative clause 2).

83 Butler 2006:701-702; Sardinha 2019:1.

84 The wording in sec. 4(8)(c) of the Act reads "Any person who uses cannabis in a vehicle on a public road, is guilty of an offence and is liable on conviction to a fine not exceeding R2 000."

The relative clauses modify the noun phrase *any person* in the main clause; they provide sufficient detail for us to be able to identify any lawbreaker involved.⁸⁵ To achieve this syntactically, the drafter uses the relative pronoun *who* to refer back to *any person*. It has another function – restriction. The offence does not apply to every person in general, but it is restricted to individuals who smoke or consume cannabis inside a car on a public road.

Because the relative clauses contain important information (the condition of the offence), their sentence structure is of particular interest.⁸⁶ The verb *smokes/consumes* is transitive and requires a direct object, in this case *cannabis*. Fortunately, the condition of the offence does not stop there; the noun *cannabis* takes the prepositional phrase *in a vehicle on a public road*. To be more precise, this is a locative prepositional phrase with an adverbial function.⁸⁷ The main purpose of the phrase is to describe the verb *smokes/consumes* and, in doing so, to designate both features of location and containment. The prepositional phrase tells us exactly where the smoking and consumption must take place for it to be an offence: *in a vehicle* and *on a public road*. Such prepositions express location/space, often in terms of orientation. This means that speakers observe the space/item in relation to their own body and position. A speaker observes something as being in front of, below, behind or next to their body and point of view.⁸⁸ So, if we consider the syntax of sec. 5(5), it becomes clear that *vehicle* is used as a place; more specifically as a modifier of *on a public road*. No mention is made of the vehicle's engine running or it being in motion, which renders it stationary and affects its sense as a transportation device. Furthermore, we can substitute the noun phrase complement with examples taken from *private place's* definition to reach the same result:

- every person is guilty of a Class C offence if
 - they consume cannabis in a tent in a campsite;
 - they consume cannabis in a caravan next to a resort road;
 - they consume cannabis in a shed close to another house;
 - they consume cannabis in a room in a commune.

85 Modifiers are words, phrases, and clauses that identify or describe either the subject or the verb in a sentence. If they are placed incorrectly within a sentence, modifiers can cause ambiguity. One way to prevent uncertainty is to embed the relative clause directly after the subject or verb to be modified, as the drafters have done in sec. 5(5) of the Cannabis Bill. See Crabbe 1993:80-81.

86 The relative clause in this sentence is also known as a complementiser phrase, because we can replace *who* with *if*. John is guilty of a Class C offence *if* he smokes cannabis in a vehicle. Using the conjunction *if* stresses the conditional aspect of the subordinate clause. Fromkin *et al.* 2019:92.

87 Cruse 2015:321.

88 Cruse 2015:326, 331-332.

When we use *vehicle* in the same sense as it is used in the above examples, there is no reason why the term cannot be included as a space in the definition of *private place*. Doing so has direct implications for its use in sec. 5(5), especially in connection with the phrase *on a public road*.⁸⁹

Considering the four tools briefly reviewed above, it is obvious that *place* and *vehicle* share containment as a semantic feature, which causes uncertainty. The uncertainty poses a problem for statutory interpretation, especially when an offence such as sec. 5(5) is contested. Employing the lexicological approach as a linguistic audit allows us to find weaknesses in the way in which drafters define and use words like *private place* and *vehicle*. Such exploration also shows drafters why the existing definitions should be reformulated to better serve the purpose of a bill.

5. CONCLUSION

Drafting legislation is difficult and challenging work. Drafters usually work in teams and may consist of people who contribute various kinds of expertise. They often work under pressure. Their knowledge of the law (existing legislation and common law) and policy is paramount and their use and knowledge of language must be good. Those involved in drafting must also be highly skilled. To add to drafters' woes, they have to comply with the requirements set by the legislation's sponsor, which might not always result in good drafting. The drafting process' long and winding road is well documented by Bekink and Botha who show just how difficult and drawn-out the task of drafting legislation is.⁹⁰ Drafters have to keep track of various pieces of legislation that may resemble, and more importantly, that will be affected by the proposed law.⁹¹ Due to diverse constraints, drafters employ various techniques to help them cope, which sometimes lead to shortcomings. Seidman and Seidman emphasise a number of challenges that affect drafting negatively. Two key problems stand out, namely time constraints and a lack in proper training.⁹² According to them, this often results in copying from existing laws and bills (as opposed to drafting new texts with the necessary skill).⁹³ Such a shortcoming also implies that certain weaknesses may intrude because the copied text could have semantic implications for the proposed legislation and the laws potentially affected by it. If a drafter lacks sufficient skill to spot possible pitfalls, the draft will be poor.

89 What should also be clear by now is that the embedded relative clause contains a verb (*smokes/consumes*) that takes a complement (*cannabis in a vehicle on a public road*). The complement conveys meaning as a unit: it is an offence to smoke [cannabis in a vehicle on a public road] (as opposed to [tobacco in a vehicle on a public road]).

90 Bekink & Botha 2007.

91 Bekink & Botha 2007.

92 Seidman & Seidman 2011:127. A lack of proper training is also mentioned by Bekink & Botha (2007:62), who state that there are few official training opportunities in South Africa. In addition, some of the training opportunities that they mention no longer exist.

93 Seidman & Seidman 2011:127.

The partial failure of the scrutiny stage of the Cannabis Bill is visible in the definition and use of words like *private place* and *vehicle*. The Bill's shortcomings are also apparent in the glaring discrepancy between its use of *any person* and the references to a vehicle's driver in the proposed amendments to the *NRTA*. The same applies to the discrepancy of the Bill and the *NRTA*'s reference to a vehicle on a public road. The sections of the *NRTA* identified for amendment explicitly state that no person who is under the influence of THC may drive a vehicle or occupy a driver's seat. The *NRTA*'s formulation creates a clearly visible image of place (a driver's seat) and it designates a very specific person (the driver). This clashes with *any person* in the Bill.⁹⁴ The *NRTA* neither prohibits the consumption of cannabis by passengers nor when the vehicle is stationary. Why does the Cannabis Bill?⁹⁵ The *NRTA* distinctly states that the car's engine must be running and the driver must be operating the vehicle while under the influence for the action concerned to qualify as an offence. It does not dictate the use of a vehicle as a place on a road, whether private or public.⁹⁶ The current wording of the Bill implies that *vehicle* is also a private place.

The partial failure of the pre-legislative scrutiny might have resulted from the fact that the drafters did not entirely understand the ramifications of the law to be drafted, or else, the drafting instructions might have been rather vague. According to Mellinkoff, "[o]nce the draftsman starts with a clear understanding of what it is he wants to say, making himself understood is more a matter of how than of what".⁹⁷ Bekink and Botha affirm that adopting a plain language approach would greatly benefit the communicability of legal documents such as legislation.⁹⁸ As for plain language, the Bill's definition of *private* and *public place* is not clear. The term *vehicle* is ambiguous, considering that some vehicles are signified by the Bill as places, while others might not be. Furthermore, the idea of the use of a vehicle on a public road is vague. Viewed on the surface, although neither the definitions nor the sentence expressing the smoking/consumption offence in sec. 5(5) is formulated in difficult legalese, the semantics of the draft problematise its reading. Evidently, the drafting of law in plain language is more than simply about formulation; it is also about semantic transfer. Thornton explains that the drafting of law "is an essay in communication, an essay that is wholly

94 Bear in mind that the Cannabis Bill and the *NRTA* in part share the same goal as to preventing people from operating a vehicle when they are intoxicated. It would make sense for the two pieces to use the same wording when addressing the same challenge.

95 The question pertains to the purpose of the Bill, which directly concerns the drafting instructions. Is the Bill meant to prevent the use of cannabis, or is it intended to prevent people from using cannabis while driving? The Bill creates the impression that its drafters were either instructed to limit the use of cannabis as far as possible, or else, they were not properly trained in drafting. The current discrepancy implies that stages 1, 2, and 5 of the drafting process were partly unsuccessful.

96 See, for instance, the proposed amendments to sec. 65 of the *NRTA* (sec. 10 in the Cannabis Bill).

97 Mellinkoff 1963:417.

98 Bekink & Botha 2007:37-38.

successful only if the law is communicated in clear English in a form that is readily comprehensible".⁹⁹ It is not so much an issue of precision, but rather a principle of intelligibility.¹⁰⁰ Hence, the final stage in legislative drafting is essential, and evaluating linguistic clarity for immediate comprehension could benefit from the use of one or more linguistic tools.

That said, it would be contentious to create the impression that legislative drafting is meant to produce faultless legislation and that the drafting process ceases once an act is promulgated. Davis J's judgment on the future use of cannabis is a good example of the judiciary's role in continuing post-legislative drafting in an effort to improve laws.¹⁰¹ Not only do courts continue a drafter's work by reformulating problematic pieces in existing legislation, but they also provide necessary clarity. The drafting process is never complete. As a potential tool within pre-legislative drafting, a linguistic audit cannot ensure perfection and it cannot replace the judiciary's post-drafting role as legal interpreter. However, it can help drafters produce a legal instrument that requires less intervention from courts or enables judicial interpretation and construction when needed. Conversely, poor drafting retards legal interpretation and construction. Furthermore, as South African courts must consider language and context together when interpreting and constructing statutes, a linguistic audit forms part of the greater context of statutes, which includes the material used in its production.¹⁰² Ultimately, a linguistic audit offers a means to support the judiciary with their post-legislative drafting efforts.

99 Xanthaki 2012:146.

100 Mellinkoff 1963:416.

101 *Minister of Justice and Constitutional Development and Others v Prince* 2018 (6) SA 393 (CC). The Cannabis Bill's memorandum of its objects uses Zondo ACJ's judgment as a point of departure and shows how the judiciary involves itself in the drafting of the Bill; see Cannabis for Private Purposes Bill:18. Similar good examples include *ZIMNAT Insurance Co Ltd v Chawanda* 1991 (2) SA 825 (ZS); *Matiso v Commanding Officer, Port Elizabeth Prison* 1994 (3) SA 899 (SE); *Van Wyk and Others v Minister of Employment and Labour* (2022-017842) [2023] ZAGPJHC 1213 (25 October 2023).

102 *Natal Joint Municipal Pension Fund v Endumeni Municipality* (920/2010) [2012] ZASCA 13 (15 March 2012):paras. 18-19. Context ranges between the relevant sentence(s) of contested language and the applicable provisions, as well as the various materials used to write a bill (which includes its memorandum of objectives) and any other documents involved in a bill's origin.

BIBLIOGRAPHY

ADEM DT

2010. *Legislative drafting in plain English*. Johannesburg: LexisNexis.

2014. *Understanding bills*. Johannesburg: LexisNexis.

ATKINS BTS & RUNDELL M

2008. *The Oxford guide to practical lexicography*. Oxford: Oxford University Press.
<https://doi.org/10.1093/oso/9780199277704.001.0001>

BARNES J, DHARMANANDA J & MORAN E

2023. *Modern statutory interpretation: Framework, principles and practice*.
Cambridge: Cambridge University Press. <https://doi.org/10.1017/9781108895637>

BEKINK B & BOTHA C

2007. Aspects of legislative drafting: Some South African realities (or plain language is not always plain sailing). *Statute Law Review* 28(1):34-67. <https://doi.org/10.1093/slr/hml012>

BROWN K

2006. *Encyclopaedia of language and linguistics*. 2nd edition. Oxford: Elsevier.

BURGER AJ

2003. *A guide to legislative drafting in South Africa*. Cape Town: Juta.

BUTLER CS

2006. Functionalist theories of language. In K Brown (ed.) 2006:696-704. <https://doi.org/10.1016/B0-08-044854-2/04771-4>

CARNEY TR

2023a. *Linguistics for legal interpretation*. Johannesburg: UJ Press. <https://doi.org/10.36615/9781776438891>

2023b. Drafting definitions with polysemy and semantic change in mind. *Obiter* 44(3):561-574. <https://doi.org/10.17159/obiter.v44i3.14921>

CARNEY TR & BERGH L

2016. Using prototype theory to determine ordinary meaning of words. *Tydskrif vir Hedendaagse Romeins-Hollandse Reg* 79(3):486-494.

CHAPELLE CA

2019. *The encyclopedia of applied linguistics*. Hoboken, NY: Wiley.

CORMACAIN R

2017. Legislation, legislative drafting and the rule of law. *The Theory and Practice of Legislation* 5(2):115-135. <https://doi.org/10.1080/20508840.2017.1394045>

COULTHARD M, MAY A & SOUSA-SILVA

2020. *The Routledge handbook of forensic linguistics*. 2nd edition. London: Routledge. <https://doi.org/10.4324/9780429030581>

CRABBE VCRAC

1993. *Legislative drafting*. London: Cavendish.

CRUSE A

1986. *Lexical semantics*. Cambridge: Cambridge University Press.

2015. *Meaning in language. An introduction to semantics and pragmatics*. Oxford: Oxford University Press.

DALE W

1977. *Legislative drafting: A new approach*. London: Butterworths.

EVANS V & GREEN M

2006. *Cognitive linguistics. An introduction*. London: Lawrence Erlbaum.

FROMKIN V, RODMAN R & HYAMS N

2019. *An introduction to language*. 11th edition. Boston: Cengage.

GEERAERTS D

2010. *Theories of lexical semantics*. Oxford: Oxford University Press. <https://doi.org/10.1093/acprof:oso/9780198700302.001.0001>

HARRIS R & HUTTON C

2007. *Definition in theory and practice*. London: Bloomsbury.

HAWTHORNE L & KUSCHKE B

2017. Drafting of contracts. In D Hutchison and C Pretorius (eds.) 2017:385.

HUTCHISON D & PRETORIUS C

2017. *The law of contract in South Africa*. 3rd edition. Cape Town: Oxford University Press.

LAKOFF G

1990. *Women, fire, and dangerous things. What categories reveal about the mind*. Chicago, IL: University of Chicago Press.

MELLINKOFF D

1963. *The language of the law*. Boston, NY: Little, Brown.

MURPHY ML

2012. *Lexical meaning*. Cambridge: Cambridge University Press.

NTABA Z

2008. Pre-legislative scrutiny. In C Stefanou and H Xanthaki (eds.) 2008:122-125.

PRICE JF

2013. Wagging, not barking: Statutory definitions. *Cleveland State Law Review* 60(4):999-1056.

RADDEN G & DIRVEN R

2007. *Cognitive English grammar*. Amsterdam: John Benjamins Publishing. <https://doi.org/10.1075/clip.2>

ROZNAI Y

2014. "A bird is known by its feathers" – On the importance and complexities of definitions in legislation. *The Theory and Practice of Legislation* 2(2):145-167.

SARDINHA TB

2019. Lexicogrammar. In CA Chapelle (ed.) 2019:1-5. <https://doi.org/10.1002/9781405198431.wbeal0698.pub2>

SEIDMAN A & SEIDMAN RB

2011. Instrumentalism 2.0: Legislative drafting for democratic social change. *Legisprudence* 5(1):95-142. <https://doi.org/10.5235/175214611796404831>

SGARBI A

2013. What is a good legislative definition? *Beijing Law Review* 28(4):28-36. <https://doi.org/10.4236/blr.2013.41004>

SHUY RW

2020. Terrorism and forensic linguistics. Linguistics in terrorism cases. In M Coulthard, A May and R Sousa-Silva (eds.) 2020:445-462. <https://doi.org/10.4324/9780429030581-35>

STEFANOUC & XANTHAKI H

2008. *Drafting legislation: A modern approach*. Abingdon: Taylor & Francis.

TAYLOR JR

2002. *Cognitive grammar*. Oxford: Oxford University Press. <https://doi.org/10.1093/oso/9780198700333.001.0001>

2009. *Linguistic categorisation*. 3rd edition. Oxford: Oxford University Press.

THORNTON GC

1996. *Legislative drafting*. 4th edition. London: Butterworths.

UNGERER F & SCHMID H

2006. *An introduction to cognitive linguistics*. 2nd edition. Edinburgh: Pearson.

VAN ZYL SP & CARNEY TR

2021. Just how voluntary is "voluntary" for purpose of a voluntary disclosure application in terms of section 226 of the *Tax Administration Act 28 of 2011*? *Purveyors South Africa Mine Service (Pty) Ltd v Commissioner: South African Revenue Service* (61689/2019) [2020] ZAGPPHC 404 (25 August 2020). *Tydskrif vir Hedendaagse Romeins-Hollandse Reg* 84(1):95-110.

XANTHAKI H

2012. *Thornton's legislative drafting*. Haywards Heath: Bloomsbury Professional.