

ULCC | CHLC

UNIFORM LAW CONFERENCE OF CANADA

POLICY ON THE DISTRIBUTION OF MATERIALS TO THE CIVIL SECTION FOR ITS ANNUAL MEETING

Policy on the Distribution of Materials to the Civil Section for its Annual Meeting

Authority

Bylaws

34(1) Subject to subsection (2), the Steering Committee of a Section may adopt rules of procedure and policies concerning that Section from time to time and may amend existing rules of procedure and policies.

34(2) A rule of procedure or policy or an amendment to a rule of procedure or policy shall cease to have effect if it is not approved in accordance with the Section's rules of procedure or policy governing approvals, at the next annual meeting held after its adoption or amendment.

Proposed Policy

Purpose

Much work of the Civil Section is reflected, at its annual meeting, in its review and debate of proposed policies, uniform acts and commentaries. In order to effectively carry out this work, jurisdictional representatives and other delegates must have adequate time to consider, analyze and consult on materials to be presented at the annual meeting. This policy sets out a framework to achieve this purpose.

Application

1. In this policy
“materials” are:
documents submitted in English and French concurrently to the Civil Section in which working groups seek policy direction or approval including for uniform acts, uniform rules, and model acts.

Distribution of materials

2. Materials to be presented to the Civil Section at its annual meeting must be distributed to jurisdictional representatives no later than two months before the first day of the annual meeting.

Approval required for late distribution of materials

3. Despite section 2, and subject to section 5, materials may be distributed less than two months before the first day of the annual meeting if distribution is approved by two-thirds of Civil Section jurisdictional representatives.

Process to approve late distribution of materials

4. Where approval is sought under section 3, the following applies:
- (a) not earlier than three months before the first day of the annual meeting the chair of each working group must notify the Chair of the Civil Section without delay that :
 - (i) materials will not be distributed by the deadline under section 2; and
 - (ii) the working group wishes to seek approval for the late distribution of materials under section 3; (b) the Chair of the Civil Section must ensure that jurisdictional representatives have at least one week to consider whether to allow the distribution of materials under section 3;
 - (c) in considering a request made under section 3, jurisdictional representatives shall, where applicable, consider the following factors :
 - (i) based on the length and complexity of the materials, whether delegates have sufficient time to review, consult and formulate a position on the materials in time for the annual meeting;
 - (ii) whether jurisdictional representatives have familiarity with the subject-matter of the materials (e.g. if the Civil Section has considered related materials at a prior annual meeting);
 - (iii) what the nature of the decisions being sought at the annual meeting are (e.g. a simple policy direction, multiple complex policy directions, adoption of a uniform act);
 - (iv) whether the materials are part of a high priority project (e.g. a project specifically requested by government); and
 - (v) any other relevant factor identified by the working group, Chair of the Civil Section or a jurisdictional representative;
 - (d) having considered the factors in 4(c), jurisdictional representatives must, in the manner approved by the Chair of the Section, the advise the Chair whether they approve the late distribution of materials.

Materials not approved for late distribution

5. Materials not distributed at least one month before the first day of the annual meeting may be distributed and presented at the annual meeting for information and discussion purposes only.

Background

- The ULCC website states on its “What We Do” page
 - “[a]t its annual conference, the main work of the Civil Section is reflected in its review and debate of proposed "uniform statutes", which if adopted are recommended for enactment by all relevant governments in Canada”.
- The Statement of Purpose in the Constitution provides
 - “[t]he Uniform Law Conference of Canada has been constituted by the federal, provincial and territorial governments of Canada to provide independent and informed analysis and recommendations for the harmonisation and reform of laws in Canada”.
- Timely distribution of materials for policy direction and adoption of uniform acts allow delegates to analyse the materials, and consult where necessary. This enables the Civil Section to have meaningful deliberations at the annual meeting which leads to informed recommendations for the harmonisation and reform of laws in Canada.
- As the chairs of working groups report to the Steering Committee - Civil Section throughout the year, this policy is complementary to that process.
- This policy is intended to assist the Chair in setting the agenda for the annual meeting, and ensure that the annual meeting creates opportunity for a thorough and productive discussion and debate.
- This policy is also intended to provide working groups with clarity on deadlines.

Discussion of Subcommittee on Rules of Procedures and Policies for the Civil Section

- The Subcommittee recognized that in order for delegates to effectively deliberate on materials at the annual meeting, they need to have sufficient time ahead of the annual meeting to consider the materials and to consult if necessary. • The Subcommittee considered the various types of documents that are presented to the Civil Section and decided that the policy would only apply when policy direction or approval was sought from the Section. It would not apply to reports that are simply received by the Section such as the Private International Law Report.
- The Subcommittee recognized that working group members are volunteers with competing priorities and that it may be challenging for working groups to have materials ready by a strict deadline, especially when drafting may only become available in June.
- The Subcommittee considered various deadlines ranging from four months to a few weeks before the annual meeting. The Subcommittee was of the view that a two month deadline accompanied by a mechanism for its waiver, would achieve the best balance.
- Subcommittee members thought that approvals under section 3 may be given during a meeting of the Steering Committee or by email.
- The Subcommittee thought it was important to set out objective criteria in the policy (paragraph 4(c)) to help guide Steering Committee members should they need to make a decision under section 3.

- The Subcommittee decided that the number of votes in favour of a waiver of the deadline under section 3 should be two thirds of jurisdictional representatives and not unanimity. A supermajority of votes would take into account minority views and avoid granting any individual JR a veto.
- The Subcommittee discussed the resolution known by the Civil Section as the “November 30th rule” and, with the addition of section 5, rejected it for materials that are not distributed at least one month before the first day of the annual meeting.
- The Subcommittee discussed next steps for materials that are presented to the Civil Section for information and discussion purposes only. The Subcommittee thought that following the presentation of the materials to the Civil Section, a working group may decide to amend them on the basis of the discussion at the annual meeting, of comments received outside of the annual meeting, to correct issues with the translation or other edits or to reflect recent developments with respect to the subject-matter of a draft uniform act.
- The Subcommittee thought that following the annual meeting, the chair of the working group would indicate to the Chair of the Civil Section whether the working group intended to present the materials as is to the Civil Section at its next annual meeting or if it would be amending them. The Chair would then advise the Steering Committee of the status of the materials. If the materials are not amended following the annual meeting, jurisdictional representatives would have a full year to consider them and consult on them prior to the next annual meeting. If the materials are amended, their distribution would be subject to the *Policy on the Distribution of Materials to the Civil Section for its Annual Meeting*.
- The Subcommittee is hopeful that with clear policy on deadlines for the circulation of materials will assist working groups in their project planning.