

What's in a Section?

Author : admin

As with most legislation, the section is the primary unit of the ITA. Each section provides particular rules. Dealing with a question often becomes the task of identifying, assembling (in the right order), and interpreting the relevant sections of the ITA.

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Federal legislation, including the ITA, follows a standard nomenclature and numbering structure when referring to the level within a section. In order, the levels are:

Name	Numbering
Section	1, 2, 3,
Subsection	(1), (2), (3)
Paragraph	(a), (b), (c)
Subparagraph	(i), (ii), (iii)
Clause	(A), (B), (C)
Subclause	(I), (II), (III)
Sub-subclause	1., 2., 3.

Oftentimes the ITA contains definitions within a section. When this occurs, a definition will have its own level, but this doesn't change the sequencing of the other levels. There are two accepted ways of including definitions in your memoranda (and other writings): (1) Definition 248(1) "mineral resource" or (2) Definition of "mineral resource" in subsection 248(1).

A definition itself may have several parts, which again don't change the sequencing of the levels. For example, the definition of "cost amount" in subsection 248(1) contains a number of paragraphs and subparagraphs. When referring to these paragraphs or subparagraphs in a definition, one can again use one of two different ways:

- (1) Paragraph 248(1) "cost amount" (a) OR (2) paragraph (a) of the definition "cost amount" in subsection 248(1);
- (1) Subparagraph 248(1) "cost amount" (a)(i) OR (2) subparagraph (a)(i) of the definition "cost amount" in subsection 248(1)

The ITA also contains formulas embedded at various levels. Just as with definitions, the inclusion of a formula and the descriptions of the terms of those formulas doesn't alter the sequencing of the levels. For example, paragraph 248(1) "cost amount" (d) contains a formula with descriptions of terms. It's generally accepted to use the following manner when referring to

descriptions of formula terms: "description of A in paragraph 248(1)(d)". Note that the department of finance uses a condensed form in some of its technical notes when referring to descriptions: "248(1)(d)A". A description, like a definition, may contain several parts. When writing, it's the generally accepted form is: "paragraph (x) of the description of A in subsection ...".

The ITA is constantly being amended. When new sections, subsections, paragraphs, etc. are added, the ITA uses the point system (ie. 220.1, etc). Sometimes, when one provision is repealed, it leaves a gap that is may be filled with another provision that may or may not deal with the same matter. When doing research, you have to remember that the section you are looking at may have had a different section number if the past or the provision that occupied this section number in the past may have dealt with a different subject matter. When using cases, etc., that refer to a provision number, look at a version of the ITA in force at the time the document you are looking at was drafted so as to be sure that the provision is indeed the one you are interested in.

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