

(391–394) Proposals to clarify “inclusion of the type” and “exclusion of a type” (Articles 48.2., 52.2, 22.2 and 26.2)

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Article 52.1 of the *Shenzhen Code* (Turland & al. in Regnum Veg. 159. 2018) provides that certain names are nomenclaturally superfluous when published if the author “definitely included the type” of another name that would have priority. In general terms, Art. 48.1 states that an author who adopts an existing name but “definitely excludes its type” has published a homonym, and that an author who adopts a name with an apparent basionym but “explicitly excludes its type” has published the name of a new taxon.

The definition of “exclusion of a type” in Art. 48.2 is almost identical to the definition of “inclusion of the type” in Art. 52.2 (excluding parts (d) and (e)). (The full definition of each is set forth in the first two proposals below.) This first proposal would refine these definitions in three respects.

Article 48.2(a) provides in part that the exclusion of a type is effected by the exclusion of “all syntypes under Art. 9.6 or all elements eligible as types under Art. 10.2”. (Article 52.2 has a similar rule.) The last sentence of Art. 10.2 provides that if no type of a previously or simultaneously published species name is included in the protologue of a generic name, then a type must be otherwise chosen; there is no limitation on what may be chosen. For that reason, “all elements eligible as types under Art. 10.2” should be limited to those described in its first sentence, excluding Art. 10.2(a).

Articles 48.2(b) and 52.2(b) refer to the previous “designation” of the type under Art. 9.11–9.13 or 10.2. However, Art. 9.13 provides for the selection of the type for a species name, and Art. 10.2 uses the terms “indicated”, “chosen” and “designated” for a generic name.

A third refinement is needed if there is a previously conserved type. In that case, the inclusion of any of the other types but not the previously conserved type is not an inclusion of the actual type and should not result in a nomenclaturally superfluous name.

(391) Amend Art. 48.2 as follows (new text in bold, deleted text in strikethrough):

“48.2. For the purpose of Art. 48.1, exclusion of a type means exclusion of (a) **if there is no type previously conserved**, (I) the holotype under Art. 9.1 or the original type under Art. 10; or all syntypes under Art. 9.6 or all elements eligible as types under **the first sentence of Art. 10.2 (excluding Art. 10.2(a))**; or (2b) the type previously designated **or selected** under Art. 9.11–9.13 or **previously indicated, designated, or chosen under Art. 10.2**; or (be) the type previously conserved under Art. 14.9.”

(392) Amend Art. 52.2 as follows (new text in bold, deleted text in strikethrough):

“52.2. For the purpose of Art. 52.1, definite inclusion of the type of a name is effected by citation of (a) **if there is no type previously conserved**, (I) the holotype under Art. 9.1 or the original type under

Art. 10 or all syntypes under Art. 9.6 or all elements eligible as types under **the first sentence of Art. 10.2 (excluding Art. 10.2(a))**; or (2b) the type previously designated **or selected** under Art. 9.11–9.13 or **previously indicated, designated, or chosen under Art. 10.2**; or (be) the type previously conserved under Art. 14.9; or (cd) the illustrations of these. It is also effected (de) by citation of the name itself or any name homotypic at that time, unless the type is at the same time excluded either explicitly or by implication.”

Article 52.2 lists “(d) the illustrations of these” as a way to include the type. This meaning of “these” is not entirely clear in light of the many ways to include the type in Art. 52.2(a)–(c). This phrase might also cause some to wonder if a name is nomenclaturally superfluous if the author cites an illustration that was cited in the protologue of the name that would have priority.

Article 63.2 of the *Berlin Code* (Greuter & al. in Regnum Veg. 118. 1988), a predecessor to Art. 52.2, stated that inclusion of a type was effected by “citation of the type specimen, the citation of an illustration of the type specimen [...]”. This language makes it clear that Art. 52.2(d) simply means that the citation of an illustration of a specimen is equivalent to the citation of the specimen itself.

It is worth noting that Art. 48.2 correctly does not include the phrase “illustrations of these”. While Art. 52.2 states “inclusion of the type of a name is effected by citation of”, Art. 48.2 instead states “exclusion of a type means exclusion of”. This language appears sufficient to cover the exclusion of an illustration of the type.

(393) Amend Art. 52.2 as follows (new text in bold, deleted text in strikethrough):

“52.2. For the purpose of Art. 52.1, definite inclusion of the type of a name is effected by citation of (a) [...] or (c) the type previously conserved under Art. 14.9; ~~or (d) the illustrations of these~~. **For this purpose, citation of an illustration of a specimen is treated as citation of the specimen.** It is also effected (ed) [...]”

Article 26.2 states “A name of an infraspecific taxon that includes the type (i.e. the holotype or all syntypes or the previously designated type) of the adopted, legitimate name of the species to which it is assigned is not validly published unless its final epithet repeats the specific epithet unaltered.” Article 22.2 has a similar rule for genera and subdivisions thereof. However, Art. 22.2 and 26.2 do not reference a previously conserved type or illustrations of these.

(394) Amend Art. 22.2 and 26.2 as follows (new text in bold, deleted text in strikethrough):

“22.2. A name of a subdivision of a genus that includes the type **(as specified in Art. 52.2(a)–(d) i.e. the original type or all elements**

eligible as type or the previously designated type) of the adopted, legitimate name of the genus is not validly published unless its epithet repeats the generic name unaltered. [...].”

“26.2. A name of an infraspecific taxon that includes the type (as specified in Art. 52.2(a)–(d) i.e. the holotype or all syntypes or the previously designated type) of the adopted, legitimate name of

the species to which it is assigned is not validly published unless its final epithet repeats the specific epithet unaltered. [...].”

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(395–402) Proposals to clarify homonyms, new combinations, names at new ranks, replacement names, misapplications and ineffective typifications (Articles 48, 6, 7, 40 and the Glossary)

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While Art. 48.1 of the *Shenzhen Code* (Turland & al. in Regnum Veg. 159. 2018) is included in Chapter VI Section 1 titled “Author Citations”, these rules do much more than provide an author citation for a subset of names. In fact, they clarify the meaning of homonym, new combination, name at new rank and replacement name; once the name’s status is determined, the author citation is quite clear. In my view, the significance and purpose of these rules is not apparent, which may lead to incorrect interpretations of Art. 48.1. These proposals make its purpose clear and address various issues raised by the language of Art. 48.1.

Article 48.1 states “When an author adopts an existing name but definitely excludes its type, a later homonym that must be attributed solely to that author is considered to have been published. [...]” For a reader who is not familiar with Art. 48 and its underlying purpose, this statement raises two immediate issues. First, every homonym under Art. 48 appears to be a homonym under Art. 53, which states that a homonym is a name “spelled exactly like a name based on a different type that was previously and validly published for a taxon at the same rank” (Art. 53.1). The definition of homonym in the Glossary appears to confirm this conclusion – it does not even mention Art. 48. Second, why is it necessary to address the attribution of this subset of homonyms? Because all other homonyms are also attributed to their authors under Art. 46, it seems more appropriate to state that all homonyms are attributed to their authors.

Nicolson (in Taxon 26: 569–570. 1977) provided an answer to these mysteries. At that time, Art. 48 of the *Seattle Code* (Stafleu & al. in Regnum Veg. 82. 1972) stated “When an author circumscribes a taxon in such a way as to exclude the original type of the name he uses for it, he is considered to have published a later homonym that must be ascribed solely to him.” Nicolson (l.c.) proposed the current language because he correctly observed that “This suggests that what are normally considered as misapplications could be regarded as validly published later homonyms [...]” Armed with this explanation, Art. 48.1 now makes sense. While Art. 48 Note 1 mentions misapplications of new combinations, names at new ranks and

replacement names, Art. 48.1 does not mention other misapplied names or new circumscriptions, and the potential implications of Note 1 as to the first sentence of Art. 48.1 are not at all clear, at least to this author.

Nicolson’s (l.c.) proposal adding the current language was designed to ensure that misapplied names are not treated as homonyms “if the type of the earlier name is not demonstrably excluded”. In contrast, Art. 48.1 tells us the treatment if the type is excluded; this statement does not address (even implicitly) the treatment if the type is not excluded.

The proposal below clarifies the first sentence of Art. 48.1 to address these concerns. While Rec. 50D provides a recommended citation method for misapplications, that term is not defined. The brief definition below is derived from Art. 7.3, which addresses misapplied new combinations.

(395) Amend Art. 48.1 as follows (new text in bold, deleted text in strikethrough):

“48.1. The application of an existing name to a different taxon without exclusion of the type is considered a misapplication that has no nomenclatural status (see also Rec. 50D). ~~When~~ **However, if** an author ~~applies~~ **adopts** an existing name but definitely excludes its type, a later homonym that must be attributed solely to that author is considered to have been published. [...]”

(396) Add a new Note in Art. 48 as follows:

“Note n. A later homonym published as described in Art. 48.1 only has nomenclatural status if it satisfies all the relevant requirements for valid publication of the name of a new taxon.”

(397) Add the following sentence at the end of the definition of “homonym” in the Glossary (new text in bold):

“homonym. [...]. **A homonym also results from the application of an existing name to a different taxon if the author definitely excludes its type (see Art. 48).**”