

Performance Report 2017

Department of the Law Commission

01.01.2017 – 31.12.2017

Department of the Law commission

No:80, 4th Floor, Adhikarana Mawatha, Colombo 12

www.lawcom.gov.lk

1. INTRODUCTION

The Law Commission of Sri Lanka was established under the Law Commission Act No. 03 of 1969, and it is the main government institution which recommends legal reforms. The Department of Law Commission is constituted to extend administrative and research support.

2. VISION

To promote reform of the Law for good governance.

3. MISSION

Implementation of the functions prescribed in the Law Commission Act No 03 of 1969 for the promotion of the reform of the Law.

4. OBJECTS AND FUNCTIONS

The main object of the Law Commission is to promote the reform of the law. Following functions are executed by the Law Commission for the purposes of such promotion.

- (I) The codification of Law.
- (II) The elimination of anomalies.
- (III) To take and keep under review the law both substantive and procedural with a view to its systematic development and reform.
- (IV) The repeal of obsolete and unnecessary enactments.
- (V) The simplification and modernization of the law.
- (VI) To receive and consider any proposals for the reform of the law.
- (VII) To prepare and submit to the Minister, from time to time, programmes for the examination of different branches of the law with a view to reform.
- (VIII) To obtain such information as to the legal systems of other countries.
- (IX) To keep under constant review the exercise by bodies, other than parliament, of the power to legislate by subsidiary legislation with a view to ensure that they conform to well established principles and to the rule of law.
- (X) To formulate programmes for rationalizing and simplifying legal procedures including procedures of an administrative character connected with litigation.
- (XI) To formulate programmes for the codification of the law in Sinhala, Tamil and English.

The following Law Commission members were appointed as the New Law Commission members.

1. Mr.Romesh de Silva, P.C.(Chairman)
2. Prof. Lakshman Marasinghe
3. Mr. Palitha Fernando, P.C
4. Mr. J.M. Swaminathan
5. Mr. N. Selvakkumaran
6. Mr. M. Ikram Mohamed, P.C.
7. Mr. S. Anil Silva, P.C.
8. Dr. Harsha Cabral, P.C
9. Mr. Manohara De Silva, P.C
10. Mr. Sanjeewa Jayawardena, P.C.
11. Mrs. Dharani S. Wijayatilake
12. Prof. Camena Gunarathne
13. Mr. G.G. Arulpragasam
14. Mr. Thisath Wijayagunawardane
15. Mr. Navin Marapana

Ex-Officio Members:

- I. Mrs.Deepani Kumarajeewa, Legal Drafts person/ Legal Draftsman's Department
- II. Mrs.Piyumanthi Peiris, Additional Secretary(Legal) / Ministry of Justice
- III. Mr.Sanjaya Rajaratnam,P.C., Additional Solicitor General/Attorney General's Department

Department Staff:

- Ms. Sewwandi Abeysekera, Secretary(Acting) /Law Commission
- Ms. Lilanthi Pathinagoda, Assistant Secretary / Law Commission
- Ms. A.G.P.Y.Chathurangika, Assistant Secretary / Law Commission
- Ms. M.Y.C.De Silva, Assistant Secretary /Law Commission

5. Progress of Performance of the Law Commission

Progress of the Recommendations up to 31.12.2017

1) Amendment to Law relating to Elders

Name of the Recommendation	Amendment to Law relating to Elders
Background	To strengthen the existing Legal Protection for Elders
Current Status	Under Discussion

2) Amendments to the Arrest Law

Name of the Recommendation	Amendments to the Arrest Law
Background	Revised code of Practice for the Statutory Power of Arrest by Police Officers
Current Status	Under Discussion

3) To Review of the Geneva Conventions Act No.4 of 2006 in Light of the Sri Lanka's Obligations Undertaken as a State Party to the Geneva Conventions

Name of the Recommendation	To Review of the Geneva Conventions Act No.4 of 2006 in Light of the Sri Lanka's Obligations Undertaken as a State Party to the Geneva Conventions
Background	To review of the Geneva Conventions Act No.4 of 2006
Current Status	Under Discussion

4) Obtaining of Damages on the Death of Minors

Name of the Recommendation	Obtaining of Damages on the Death of Minors This amendment forwarded by the Ministry of Justice on 08.05.2017 to the Law Commission for observation.
Background	<p>Under the Roman Dutch Law, the position is that if a minor child dies from negligence or accident the parents cannot, in an action, recover damages, for the mental pain and suffering caused as a result.</p> <p>This position is clearly not in compliance with the tenets of justice at present. A parent should be able to recover damages for mental pain and suffering where a child dies as a result of negligence or recklessness of a third party.</p> <p>Amendment to introduce an Act to ensure that where the cause of death of a child occurs due to the negligence or carelessness of a third party damages should be recoverable for the mental pain caused to the parents and loss of future prospective earnings.</p>
Current Status	The Commission forwarded the above recommendation to Legal Draft person to finalize the above draft Bill.

5) Amendments to the Companies Act No.07 of 2007

Name of the Recommendation	Amendments to the Companies Act No.07 of 2007. This amendment forwarded by Prime Minister's Office dated 22.06.2017 to the Law Commission for observation.
Background	<p>Present provisions relating to administrators and winding up contained in the Companies Act is found to be inadequate for this purpose. In particular, it is found once liquidation proceedings are commenced in respect of a company there is no scope for revival as the proceedings will come to its natural conclusion which is the dissolution of the company.</p> <p>The present provisions contained in the Act in relation to administrators is limited to an application by the company itself.</p>
Current Status	The draft was finalized and send to the Prime Minister's Office.

6) Law on Divorce , Custody and Alimony

Name of the Recommendation	Amendment to the existing Divorce , Custody and Alimony Law
Background	<p>The existing Laws and Statutes presently dealing with Divorce, Alimony and Custody on irretrievable breakdown of marriage to be codified in one single integrated Statute, in order to introduce a systemized and conveniently ascertainable, single law on the above subjects.</p> <ul style="list-style-type: none"> • A consensual situation • A situation where there is no Mutual consent because one party does not want a Divorce <p>Custody: Best Interest of the Child Alimony: Just and equitable Jurisdiction Maintenance: Jurisdiction to be vested in the District Court and not the Magistrate Court and as a complimentary adjunct there to, adequate enforcement and punitive powers to be vested with the District Court.</p>
Current Status	The matter was discussed and recommendations were handed over to Mrs. Deepani Kumarajeewa, the Legal draft person in order to draft the legislation.

7) Law Regarding Disposal of Court Productions

Name of the Recommendation	Law Regarding Disposal of Court Productions
Background	Material productions such as weapons, garments, and bottles of illicit liquor and narcotic drugs are kept in the custody of the Store Keeper of the Court house as they have to be produced in court during the course of the trial expert evidence should be elicited in respect of such productions. They could only be disposed of only after the trial and on a court order.
Current Status	Under Discussion, Former Attorney General Mr.Palitha Fernando,P.C. forwarded a draft note on the above.

8) Law on Contempt of Court

Name of the Recommendation	Law on Contempt of Court
Background	The main Purpose of the Proposed Act is to codify the law on contempt and to clarify its scope.
Current Status	<p>Under Discussion, A draft on Contempt of Court prepared by Mr.Thisath Wijayagunawardane was tabled and the Chairman requested Dr.J.M.Swaminathan to give his observations on the following concerns of the said law;</p> <ol style="list-style-type: none"> What is meant by contempt? When is it punishable? Procedure of the court The position when an interim court order is disobeyed The position when a final court order is disobeyed

6. Financial Progress from 01.01.2017 to 31.12.2017

Particular	Provisions for the year 2017 (Rs.)	Expenditure as at 31.12.2017 (Rs.)	Financial Progress 31.12.2017
Recurrent Expenditure	15,335,000.00	14,782,622.56	96%
Capital Expenditure	1,950,000.00	1,727,612.47	89%
Total	17,285,000.00	16,510,235.03	96%

7. Financial Performance (Recurrent Expenditure) 01/01/2017 - 31/12/2017

Vote No.	Vote Particulars	Budget Estimate For Year 2017 Rs.	Transfers in terms of F.R.66	Total Net Provision 2017	Total Expenditure from 01/01/2017 to 31/12/2017 Rs.
	<u>Personal Emoluments</u>				
1001	Salaries and Wages	5,000,000.00	-	5,000,000.00	4955,154.58
1002	Overtime and Holiday Payments	200,000.00	-	200,000.00	160,055.95
1003	Other Allowances	5,000,000.00	(400,000.00)	4,600,000.00	4,296,439.13
	<u>Travelling Expenses</u>				
1101	Traveling Domestic	50,000.00	(37,000.00)	13,000.00	12,765.00
1102	Traveling Foreign	1,025,000.00	360,000.00	1,385,000.00	1,366,490.07
	<u>Supplies</u>				
1201	Stationery and Office Requisites	350,000.00	19,000.00	369,000.00	365,715.25
1202	Fuel	350,000.00	42,000.00	392,000.00	369,994.12
1203	Diets and Uniforms	200,000.00	(60,000.00)	140,000.00	139,586.50
	<u>Maintenance Expenditure</u>				
1301	Vehicles	550,000.00	(52,000.00)	498,000.00	497,702.00
1302	Plant, Machinery and Equipment	350,000.00	(222,000.00)	128,000.00	121,160.71
1303	Building and Structures	100,000.00	80,000.00	180,000.00	179,200.50
	<u>Services</u>				
1402	Postal and Communication	500,000.00	(110,000.00)	390,000.00	368,766.74
1403	Electricity and Water	1,100,000.00	400,000.00	1,500,000.00	1,424,959.85
1409	Other	400,000.00	10,000	410,000.00	398,344.07
	<u>Transfers</u>				
1502	Retirement Benefits	30,000.00	(30,000.00)	-	-
1506	Property Loan Interest	130,000.00	-	130,000.00	126,288.09
	Total	15,335,000.00	-	15,335,000.00	14,782,622.56

8. Financial Performance (Capital Expenditure) 01/01/2017 – 31/12/2017

Vote No.	Vote Particulars	Total Budget Estimate For Year 2017 Rs.	Transfers in terms of F.R.66	Total Net Provision 2017	Total Expenditure from 01/01/2017 to 31/12/2017 Rs.
	<u>Rehabilitation & Improvement of Capital Assets</u>				
2002	Plant Machinery and Equipment	100,000.00	-	100,000.00	-
2003	Vehicles	250,000.00	-	250,000.00	156,029.58
	<u>Acquisition of Capital Assets</u>				
2102	Furniture and Office Equipment	350,000.00	-	350,000.00	346,982.26
	<u>Capacity Building</u>				
2401	Training and Capacity Building	1,250,000.00	-	1,250,000.00	1,224,600.63
	Total	1,950,000.00	-	1,950,000.00	1,727,612.47

9. Public Officers Advance "B" Account – As at 31st December 2017

	Maximum Limit of Expenditure	Minimum Limit of Receipts	Maximum Limit of debit Balance
Limits of Advance Account powered by the Appropriation Act :	1,200,000.00	500,000.00	2,500,000.00
Revisionary Limit within the year : *	-	-	-
Actual Balance at the year end :	1,151,514.00	876,050.32	2,478,258.62

Summary of Control Accounts with regard to Advance Account - 2017

	According to Department Books	According to Treasury Computer Print Outs
Brought forward Balance in the beginning of the year As at 01.01.2017	2,202,794.94	2,202,794.94
<u>Added</u> : Total Debits during the year	1,151,514.00	1,209,379.00
<u>Deducted</u> : Total Credits during the year	876,050.32	933,915.32
Balance at the year end of the year (As at 31.12.2017)	<u>2,478,258.62</u>	<u>2,478,258.62</u>

10. Cadre Information of the Department as at 31.12.2017

Designation	Grade	Salary Code	Service Level	Approved Cadre (Permanent)	Existing Cadre	Vacancies
Secretary	I	SL 1/2006	1	1	-	1
Deputy Secretary	II	SL 1/2006	1	1	-	1
Assistant Secretary	III	SL 1/2006	1	4	4	-
Translator	I	MN 6/2006	2	1	1	-
Account Assistant	III	MN 4/2006	3	1	-	1
Development Officer	III	MN 4/2006	3	4	2	2
Librarian	III	MN 3/2006	3	1	1	-
Management Assistant	III	MN 2/2006	3	8	3	5
Stenographer	III	-	3	1	-	1
Driver	III,II	PL 3/2006	4	4	4	-
KKS	III,II	PL 1/2006	4	3	3	-
Total				29	18	11