

Performance Report 2016

Department of the Law Commission

01.01.2016 – 31.12.2016

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 FUNTIONS

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

Department Staff:

- Ms. Sewwandi Abeysekera, Secretary (Acting) / Law Commission
- Ms. Lilanthi Pathinagoda, Assistant Secretary / Law Commission

5. Progress of Performance of the Law Commission

Progress of the Recommendations 2016

1) Protection of National Security from Terrorism Act.

Name of the Recommendation	Protection of National Security from Terrorism Act.
Background	Identify the Acts of Terrorism, types of liability, powers of arrest, entry, search and seizure, order of custody, trial procedure, confessions, priority for trials and appeals, corporate liability, protection of officers etc.
Current Status	Forwarded the final draft to the Hon. Minister of Justice on 17.02.2016. A meeting was held at the Ministry with the relevant stakeholders and decided to prepare a separate draft with Ministry of Defence. The Secretary of Ministry of Justice is a member of the Committee.

2) Amendment to the existing Divorce , Custody and Alimony Law.

Name of the Recommendation	Amendment to the existing Divorce , Custody and Alimony Law.
Background	The existing Laws and Statutes presently dealing with Divorce, Alimony and Custody on ir retrievable 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. • A consensual situation. • A situation where there is no Mutual consent because one party does not want a Divorce. 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.
Current Status	The Law Commission finalized the above draft on 18.11.2016.

3) Amendments to the Convention on the Civil Aspects of International Child Abduction Act No. 10 of 2001 and in particular section 11 thereof .

Name of the Recommendation	Amendments to the Convention on the Civil Aspects of International Child Abduction Act No. 10 of 2001 and in particular section 11 thereof .
Background	To advance the protective measures on the Law relating to the International Child Abduction.
Current Status	The Law Commission suggested to reform Section 11(1) of Civil Aspects of International Child Abduction Act No.10 of 2001 as follows at the Law Commission Meeting held on 08.09.2016. 1. Repeal of the provision “(b) there is grave risk that the child's return would expose the child to physical or psychological harm of otherwise place the child in an intolerable situation” and replace it with the provision “(b) the child’s return would not be in the best interest of the child”; or 2. Retain (a) and (b) and insert “(c) the child’s return would not be in the best interest of the child”; or 3. Amend (b) to read: “(b) the child’s return would not be in the best interest of the child or there is grave risk that the child's return would expose the child to physical or psychological harm of otherwise place the child in an intolerable situation”. The Law Commission finalized the above draft on 18.11.2016.

4) The Present Law Relating to Arrest and to Consider Necessary Amendments.

Name of the Recommendation	The Present Law Relating to Arrest and to Consider Necessary Amendments.
Background	To amend the existing Arrest Procedures.
Current Status	The draft research paper on Arrest Procedures in other Jurisdictions prepared by Mr. Sanjeewa Jayawardena, P.C was tabled and discussed at the meeting. It was discussed in view of the Criminal Justice Code of India and the Indian Case Law at the Law Commission meeting held on 27.10.2016. The above draft was finalized by the Law Commission at the Law Commission meeting held on 18.11.2016.

6. Financial Progress from 01.01.2016 to 31.12.2016.

Particular	Provisions for the year 2016	Transfers under F.R. 66	Total Net Allocation for 2016	Expenditure as at 31.12.2016	Financial Progress 31.12.2016
Recurrent Expenditure	14,860,000	(230,000.00)	14,630,000.00	12,141,540.66	83%
Capital Expenditure	1,800,000	230,000.00	2,030,000.00	1,432,108.78	71%
Total	16,660,000		16,660,000.00	13,573,649.44	81%

7. Financial Performance (Recurrent Expenditure) 01/01/2016 - 31/12/2016.

Vote No.	Vote Particulars	Budget Estimate For Year 2016 Rs.	Transfers in terms of F.R.66	Total Net Provision 2016	Total Expenditure from 01/01/2016 to 31/12/2016 Rs.
	<u>Personal Emoluments</u>				
1001	Salaries and Wages	3,200,000.00	600,000.00	3,800,000.00	3,382,182.74
1002	Overtime and Holiday Payments	200,000.00	-	200,000.00	125,518.39
1003	Other Allowances	5,400,000.00	-	5,400,000.00	4,315,593.17
	<u>Travelling Expenses</u>				
1101	Traveling Domestic	50,000.00	-	50,000.00	15,278.00
1102	Traveling Foreign	1,500,000.00	-	1,500,000.00	1,151,209.98
	<u>Supplies</u>				
1201	Stationery and Office Requisites	350,000.00	10,000.00	360,000.00	358,522.25
1202	Fuel	320,000.00	-	320,000.00	268,570.00
1203	Diets and Uniforms	120,000.00	48,000.00	168,000.00	163,619.00
	<u>Maintenance Expenditure</u>				
1301	Vehicles	500,000.00	-	500,000.00	499,934.05
1302	Plant, Machinery and Equipment	350,000.00	(180,000.00)	170,000.00	112,406.50
1303	Building and Structures	100,000.00	(88,000.00)	12,000.00	9,548.00
	<u>Services</u>				
1402	Postal and Communication	500,000.00	-	500,000.00	273,142.07
1403	Electricity and Water	1,100,000.00	-	1,100,000.00	960,413.29
1405	Other	1,000,000.00	(600,000.00)	400,000.00	395,126.52
	<u>Transfers</u>				
1502	Retirement Benefits	50,000.00	(20,000.00)	30,000.00	0
1506	Property Loan Interest	120,000.00	-	120,000.00	110,476.70
	Total	14,860,000.00	(230,000.00)	14,630,000.00	12,141,540.66

8. **Financial Performance (Capital Expenditure) 01/01/2016 – 31/12/2016.**

Vote No.	Vote Particulars	Total Budget Estimate For Year 2016 Rs.	Transfers in terms of F.R.66	Total Net Provision 2016	Total Expenditure from 01/01/2016 to 31/12/2016 Rs.
	<u>Rehabilitation & Improvement of Capital Assets</u>				
2002	Plant Machinery and Equipment	100,000.00	-	100,000.00	-
2003	Vehicles	200,000.00	-	200,000.00	198,775.84
	<u>Acquisition of Capital Assets</u>				
2102	Furniture and Office Equipment	300,000.00	230,000.00	530,000.00	521,887.82
	<u>Capacity Building</u>				
2401	Training and Capacity Building	1,200,000.00	-	1,200,000.00	711,445.12
	Total	1,800,000.00	230,000.00	2,030,000.00	1,432,108.78

9. Public Officers Advance "B" Account – As at 31st December 2016.

	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	200,000.00	2,500,000.00
Revisionary Limit within the year : *	-	-	-
Actual Balance at the year end :	1,130,190.00	849,630.74	2,202,794.94

**Summary of Control Accounts with regard to Advance Account -
2016**

	According to Department Books	According to Treasury Computer Print Outs
Brought forward Balance in the beginning of the year As at 01.01.2016	1,922,235.68	1,922,235.68
<u>Added</u> : Total Debits during the year	1,130,190.00	1,276,956.00
<u>Deducted</u> : Total Credits during the year	849,630.74	996,396.74
Balance at the year end of the year (As at 31.12.2016)	<u>2,202,794.94</u>	<u>2,202,794.94</u>

10. Cadre Information of the Department as at 31.12.2016.

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	2	2
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	2	6
Stenographer	III	-	3	1	-	1
Driver	III,II,I	PL 3/2006	4	4	4	-
KKS	III,II,I	PL 1/2006	4	3	3	-
Total				29	15	14