

**LEGAL DRAFTSMAN'S DEPARTMENT**

**2012**

**Performance Report**

## **VISION**

To ensure good governance by assisting the Government to transform the policies of the Government into legislation

## **MISSION**

Drafting of legislation in accordance with the Constitution in Sinhala, Tamil and English in order to assist in transforming the Government policies into legislation.

## **Introduction**

The Legal Draftsman's Department is an “A” Grade Government Department functioning directly under the supervision of His Excellency the President as per *Gazette* Extraordinary No. 1651/20 of April 30, 2010.

The main function of the Legal Draftsman's Department is the transformation of the Government policies on diverse subjects into legislation in line with the Constitution and the decisions made by the Cabinet of Ministers. In this process, the Department drafts Bills to enact new legislation and to amend existing legislation, and also revises the subordinate legislation submitted by various Government Ministries. The other duties entrusted to this Department include participating at Parliamentary Select Committee Meetings convened to review draft Bills and being present in Parliament and co-ordinating with the Parliament when the Bills are taken up for debate. This Department provides services to all Government Ministries and Departments including the State Corporations and Statutory Bodies coming under the Ministries. The Department also provides legal advice to Government Ministries and Departments in regard to the preparation of various Bills and subordinate legislation.

### **1. Functions of the Legal Draftsman’s Department in relation to legislative drafting:**

- (1) Drafting of Bills to enact new legislation and to amend existing legislation in all three languages.
- (2) Revision and, where necessary, drafting of subordinate legislation in all three languages.
- (3) Provision of legal advice in relation to Bills.
- (4) Attending to Parliamentary duties in connection with passing of legislation.
- (5) Drafting of Provincial Council Statutes.
- (6) Revision of Private Members' Bills (draft Bills of Incorporations) in all three languages.
- (7) Re construct as appropriate Government policies relating to legislative drafting, with the co-operation and approval of the relevant line Ministries, enabling practical and successful implementation of such policies.

The unique feature of this Department is that the Department does not have a structured work programme of its own. This is because the work programme of the Department is of necessity structured on the legislative needs of the Ministries of the Government and the various Departments under such Ministries, at a given time, upon the required policy being approved by the Cabinet of Ministers. The performance record of the Legal Draftsman's Department is therefore structured on the basis of the successful completion of the requests made for primary and amending legislation and subsidiary legislation submitted to it by the respective line Ministries throughout any particular year and the successful completion of the same. Any form of legislation (either primary, amending or subordinate) which comes under the scope of legislative drafting which is the primary function of the Department, has to be completed in all three languages before it can be released to the requesting Ministry or Department.

## 2. The Staff

The composition of the staff of the Department is shown below. The total approved cadre is 151, whereas the employed cadre in 2012 was 81.

Employment Category	Approved Cadre	Cadre in employment
Senior Level	37	27
Tertiary Level	28	4
Secondary Level	62	32
Primary Level	24	18

**Cadre of the Legal Draftsman's Department as at 31. 12. 2012**

Senior Level			Tertiary Level			Secondary Level			Primary Level		
	Approved	Actual		Approved	Actual		Approved	Actual		Approved	Actual
Legal Draftsman	01	01	Administrative Officer	01	01	Budget Assistant	01	01	Driver	10	05
Additional Legal Draftsman	01	-	Chief Translator	02	02	Accounts Assistant	01	01	KKS	14	13
Deputy Legal Draftsman	05	05	Translator	24	01	Librarian	01	01			
Senior Assistant Legal Draftsman	08	04	Information and Communication Technology Officer	01	-	Management Assistant	28*	27			
Assistant Legal Draftsman	20	16				Documentation Assistant	20	-			
Chief Accountant	01	01				Editor	11	02			
Deputy Director/ Assistant Director	01	-									
Aggregate	37	27		28	04		62	32		24	18
Total				Approved No. 151				Actual No. 81			

\* A cadre of 28 Management Assistants is approved. Approval has been received to recruit 20 Documentation Assistants and, once they are recruited the cadre of Management Assistants is to be reduced to 20.

## Measures taken to fill existing vacancies in the Department

The approved cadre of the Department is 151. However the Department is at present working, with only 81 employees to assist it in carrying out the aforementioned heavy work load. There exist 70 vacancies to be filled in various levels of employment as shown below :-

### **Senior Level**

- (a) In the senior level, five vacancies exist in the post of Senior Assistant Legal Draftsman. As there are no Assistant Legal Draftsmen who are qualified for the said post in conformity with the approved recruitment procedure, such vacancies cannot be filled at present.
- (b) Four (04) vacancies exist in the post of Assistant Legal Draftsman. The approved recruitment procedure has been prepared as per the P.A. Circular 6/2006 and referred to the Public Service Commission.
- (c) A written request has been made to the Ministry of Public Administration requesting for an officer, to fill the existing vacancy in the post of Deputy Assistant Director.

### **Tertiary level**

There exist 23 vacancies in the Post of Translator. A Cabinet Memorandum has been prepared to obtain the approval to amend the age limit applicable at present in respect of the recruitment of translators and has been forwarded to the office of the Cabinet of Ministers, in terms of P.A. Circular 2/2006, in order to get the recruitment procedure amended as mentioned above and on receiving approval therefor, recruitments can be commenced.

### **Secondary Level**

Thirty (30) vacancies exist in the post of Editor/Documentation Assistant. Recruitments cannot be proceeded with, in the absence of the approval of the Public Service Commission for the relevant recruitment procedure. The recruitments can be completed once the approval of the Public Service Commission is obtained.

### **Primary Level**

One (1) vacancy exists in the service of Office Assistant. The Director General of Combined Services has been informed of the said vacancy.

### 3. Divisions of the Department

The Department has the following Divisions to perform the functions assigned to it.

Legal Drafting Division.

Establishments and Administration Division.

Translation Division.

Publication Division.

Accounts Division.

#### **Establishments and Administration Division**

This Division deals with recruitment, promotion and training of staff, conducting efficiency Bar Examinations, disciplinary administration, transportation and all other establishments and administration matters in the Department.

#### **(1) Recruitment, promotion and disciplinary administration:**

- i. This Division took action to fill vacancies in the posts of Legal Draftsman, Additional Legal Draftsman, Deputy Legal Draftsman and to grant promotions to officers to the respective grades.
- ii. Applications were called to make recruitment to 04 vacancies in the post of driver.
- iii. A charge sheet has been served on a legal officer and disciplinary inquiry against him is pending now.
- iv. A Translators' Pool was set up by recruiting translators on the results of a written test, until recruitment to vacancies in the post of Translator in the permanent cadre is made.

#### **(2) Training:**

##### **Local training.**

Local training provided to officers is as follows:

- i. Department of Public Finance (Milodha)

Staff Officers	- 01
Management Assistants' Service	- 06
- ii. Public Service Training Institute

Management Assistants' Service	- 20
Drivers' Service	- 03
K.K.S.	- 03

iii.	<u>Sri Lanka Institute of Development Administration</u>	
	Legal Officers	- 06
iv.	<u>National Institute of Labour Studies</u>	
	Legal Officers	- 15
	Management Assistants' Service	- 07
v.	<u>National Archives Department</u>	
	Legal Officers	- 07
	Management Assistants' Service	- 01
vi.	<u>Institute for Construction Training and Development</u>	
	Management Assistants' Service	- 01
	Drivers' Service	- 01
vii.	<u>Ceylon- German Technical Institute</u>	
	Drivers' Service	- 04

Other than the above mentioned training opportunities, Legal Officers and other Staff Officers participated in 15 local workshops and 05 local seminars.

Further, action was taken to conduct a 20 day special in-service training programme with the assistance of internal and external resource personnel to the newly recruited Assistant Legal Draftspersons to provide them with knowledge and improve their skills in drafting of legislation.

### **Foreign Training.**

- i. The Legal Draftsman participated in an international conference in Australia.
- ii. Two Legal officers participated in training programmes in England and U.S.A.
- iii. The Librarian participated in a training programme in India.

**Foreign Training in which the Staff Officers of the Legal Draftsman's Department participated – 2012**

	Name of the training and the Country	Name of the participant	Dates
1.	Legislative Drafting Course – 2012, Sir William Dale Centre for Legislative Studies, Institute of Advanced Legal Studies, England	Mrs. S. A. Dilrukshi, Senior Assistant Legal Draftsman	2012.04.30 – 2012.05.25
2.	International Legislative Drafting Institute – 2012, U. S. A.	Mrs.T.A.Y.M.Ranawana, Senior Assistant Legal Draftsman	2012.06.11 – 2012.06.22
3.	ABCD-A Computer Software Training Programme for the Librarians' Service, India	Mrs.H.R.C.K.Mudalige, Librarian	2012.12.04 – 2012.12.08

**Foreign Conferences and Seminars in which the Staff Officers of the Legal Draftsman's Department participated – 2012**

	Name of the Conference and the Country	Name of the Participant	Dates
1.	15 <sup>th</sup> Annual General Meeting and the Technical Assistance Forum of the Asia-Pacific Group on Money Laundering – Brisbane, Australia.	Mrs.P.I.S.Samarasinghe, Legal Draftsman	2012.06.16. – 2012.06.20

**(3) Other establishments and administration activities.**

- i. The Department has a Grade 1 library providing the officers with knowledge in national and international laws. A total of 25 law books published locally and abroad have been purchased in the year 2012.

- ii. There is a Welfare Society in the Department. In 2012, the Society organized trips to enhance solidarity among the staff members and religious programmes aiming at their spiritual development. Loan facilities also were provided by the Society to its members to assist in their financial needs. In addition, there is a Legal Officers' Association too.
- iii. All computers within the Department are linked into a network and all staff officers and other suitable officers have been provided with computers and the internet facility. Other officers have also been provided access to computers and internet facility. The Department has implemented the e-Governance policy by providing opportunities all officers to use new technology.

### **Legal Drafting Division.**

Main functions of this Division are:-

- ✦ Transforming the Government's policies into legislation.
- ✦ Drafting Bills to enact new legislation and to amend existing legislation in all three languages.
- ✦ Providing legal advice to Government Ministries and Departments in relation to Bills.
- ✦ Attending to Parliamentary duties in connection with passing of legislation.
- ✦ Drafting Statutes for Provincial Councils.

**Details of the Draft Bills relating to year 2012**

	Drafting (Beginning of year)	Applications received from parties during the year	New applications for the existing acts	Total	Number of Bills prepared and handed over to the relevant Parties	Closed down files	Files associated	Applications which are not completed the drafting
Drafting of bills new and amending Legislations	203	42	2	247	21	69	3	154
Private member's bills of Parliamentary members	67	41	7	115	23	28	1	63
Provincial Council statutes	15	4	-	19	1	-	-	18
Subsidiary Legislations (orders, rules, regulations and etc.)	68	4	75	147	73	1	-	73

### Bills passed in the year 2012

Act No.	Name of the Act	Date of certification	File No.
Act No. 1 of 2012	Ramakrishna Sarada Mission (Lanka Branch) (Incorporation)	17 .01.2012	L.D.O(Inc) 18/2010
Act No. 2 of 2012	Employees' Provident Fund (Amendment)	09.02 .2012	L.D.O. 43/2008
Act No. 3 of 2012	Board of Investment of Sri Lanka (Amendment)	15.02.2012	L.D.O. 44/2011
Act No. 4 of 2012	Tax Appeals Commission (Amendment)	15.02.2012	L.D.O. 37/2011
Act No. 5 of 2012	Central Colleges Past Pupils' Association of Sri Lanka (Incorporation)	21.02.2012	L.D.O. Inc. 32/2010
Act No. 6 of 2012	Rahula College Matara Past Pupils Association (Colombo Branch) (Incorporation)	08.03.2012	L.D.O. Inc. 24/2010
Act No. 7 of 2012	Value Added Tax (Amendment)	30.03.2012	L.D.O. 09/2012
Act No. 8 of 2012	Inland Revenue (Amendment)	30.03.2012	L.D.O. 10/2012
Act No. 9 of 2012	Nation Building Tax (Amendment)	30.03.2012	L.D.O. 05/2012
Act No. 10 of 2012	Ports and Airports Development Levy (Amendment)	30.03.2012	L.D.O. 07/2012
Act No. 11 of 2012	Economic Service Charge (Amendment)	30.03.2012	L.D.O. 06/2012
Act No. 12 of 2012	Finance Act	30.03.2012	L.D.O. 08/2012
Act No. 13 of 2012	Defence Service Command and Staff College (Amendment)	04.05.2012	L.D.O. 41/2010
Act No. 14 of 2012	T.B. Ekanayake Foundation (Incorporation)	06.06.2012	L.D.O. Inc. 26/2010
Act No. 15 of 2012	Buddhasravaka Bhikku University (Amendment)	11.07.2012	L.D.O. 52/2006
Act No. 16 of 2012	Organization for the Erection of Balana Buddha Statute (Incorporation)	06.08.2012	L.D.O. Inc. 33/2010
Act No. 17 of 2012	D.M. Dassanayake Social Services and Charity Foundation (Incorporation)	06.08.2012	L.D.O. Inc. 17/2011
Act No. 18 of 2012	Dr. Malani Fonseka Foundation (Incorporation)	06.08.2012	L.D.O. Inc. 22/2011
Act No. 19 of 2012	Piya Dasuna Foundation (Incorporation)	06.08.2012	L.D.O. Inc. 21/2011
Act No. 20 of 2012	Ranaviru Seva Authority (Amendment)	17.01.2012	L.D.O. 18/2010
Act No. 21 of 2012	Local Authorities (Special Provisions)	15.11.2012	L.D.O.19/2008
Act No. 22 of 2012	Local Authorities Elections (Amendment)	15.11.2012	L.D.O.54/2007

Act No.	Name of the Act	Date of certification	File No.
Act No. 23 of 2012	Appropriation	08.12.2012	L.D.O. 29/2012

Note:

- ▲ “L.D.O.” refers to files relating to draft Bills for new legislation and amendments to existing legislation;
- ▲ “L. D. O. Inc” refers to files relating to draft Bills for Incorporations.

### **Translation Division**

The Translation Division is responsible for translating all draft Bills (of new legislation and amending legislation) and subordinate legislation revised in English by the Legal Drafting Division into the relevant languages. This Division is also responsible for translation of official documents sent by the Establishments, Administration and Accounts Divisions into the required languages.

### **Publication Division**

The Publication Division is responsible for proof-reading and checking of the English, Sinhala and Tamil texts of the draft Bills and subordinate legislation and reading through the manuscripts of drafts with the relevant proof copies forwarded by the Government Printer and the Parliament. This Division is also responsible for co-ordinating with the Government Printer and the Parliament where such proof copies are edited under the supervision of the Legal Officers and attending to matters relating to the publication of Bills in the *Government Gazette*.

**Accounts Divisions**  
**015 Legal Draftsman's Department**

**01.01.2012 – 31.12.2012**

**Expenditure**

Head : 015 – Legal Draftsman  
Programme : 01 Operational Activities  
Project : 01 General Administration and Drafting of Legislation

(a) Recurrent Expenditure from 01. 01. 2012 to 31. 12. 2012

<b>Details of Recurrent Expenditure</b>	<b>Budgetary Provision (Rs.)</b>	<b>Net Provision (Rs.)</b>	<b>Total Expenditure (Rs.)</b>
Personal Emoluments	36,250,000	36,250,000	34,785,208
Other Recurrent Expenditure	14,750,000	15,227,000	13,747,478
<b>Total Recurrent Expenditure</b>	<b>51,000,000</b>	<b>51,477,000</b>	<b>48,532,686</b>

Capital Expenditure from 01. 01. 2012 to 31. 12. 2012

<b>Details of Capital Expenditure</b>	<b>Budgetary Provision (Rs.)</b>	<b>Net Provision (Rs.)</b>	<b>Total Expenditure (Rs.)</b>
<b><u>Rehabilitation and Improvement of Capital Assets</u></b>			
2001 Building and Constructions	100,000	100,000	89,286
<b><u>Acquisition of Capital Assets</u></b>			
2102 – Furniture and Office Equipment	500,000	3,000,000	2,913,922
<b><u>Human Resource Development</u></b>			
2401 - Knowledge Improvement and Institutional Development	7,000,000	7,000,000	4,566,422
<b><u>Revision of Legislative Enactments of Sri Lanka</u></b>			
2502 - Investment	75,000,000	72,500,000	-
<b>Total Capital Expenditure</b>	<b>82,600,000</b>	<b>82,600,000</b>	<b>7,569,630</b>

Revenue Account from 01. 01. 2012 to 31. 12. 2012

<b>Description</b>	<b>Estimated Revenue (Rs.)</b>	<b>Revenue (Rs.)</b>
Interest – Other	500,000	886,769.07

(a) Advance Account - 015011

(01. 01. 2012 – 31. 12. 2012)

	<b>Maximum Limit of Expenditure (Rs.)</b>	<b>Maximum Limit of Receipts (Rs.)</b>	<b>Maximum Limit of Debit Balance (Rs.)</b>
2012 Estimate	5,300,000	2,000,000	24,000,000
F.R.503(1), before adjustments as at 31.12.2012	3,579,144	4,560,842	14,163,257

### **Summary of the Performance of the Institution**

The primary function of the Legal Draftsman's Department is the transformation of the policies of the Government on diverse subjects into legislation that is consistent with the Constitution. The process consists of, drafting of new legislation, amendment of existing legislation, consolidation of legislation and revision of subsidiary legislation referred to by the relevant Ministries. The Department is also entrusted with certain other duties which include participating at Parliamentary Select Committee meetings convened to review draft Bills to be presented in Parliament and coordinate with Parliament when Bills are taken up for debate. Furthermore, the Department does provide legal advice to Ministries and Government Departments with regard to the preparation of subordinate legislation.

Actions have been taken in respect of drafting of Bills relevant to year 2012 under the 'Legal Drafting Division'.

The Auditor General  
The Department of the Auditor General  
No.306/72, Polduwa Road  
Battaramulla.

**Appropriation Account – 2012**  
**Head No. 15-Legal Draftsman's Department**

With reference to the audit queries dated 21.06.2013 which accompanied the aforementioned certified appropriation account. The explanation relating to the said observations are given below.

01. The reason as to why the entire amount of Rs.65,076,000/- which had been assigned under two Expenditure Heads was remained unspent is explained below:

Expenditure head	provisions	Reasons as to why part of the provisions remained unspent
15-1-1-1401	10,000	No transportation cost was accrued in the construction and repair of buildings as expected because such work did not take place as envisaged due to the delay in signing the agreements in relation to such construction and repair work.
15-1-1-2502	65,066,000	These provisions were allocated for the Project of Consolidation of Legal enactments. However, due to the delay in obtaining approval for the project because of non availability of the draft cabinet memorandum which was required to commence the said project, the entire amount remained unspent.

02. The reason as to why a sum of Rs.2,793,648, out of the total provisions amounting to Rs.5,306,352 which was allocated for 2 Expenditure Heads was remained unspent, is given below:

Expenditure head	balance	Reasons as to why a balance exists
15-1-1-1302	360,070	The provisions allocated to the Ministry of Justice in respect of the maintenance of the building in which the Department is established and the maintenance of the lift, fire extinguishing equipment's and the air conditions equipments fixed therein were not spent for such work and this resulted in the creation of a balance.
15-1-1-1401	2,433,578	The reason for there to be a balance was the inability to get the officers to participate in the training programmes as expected.

03. Although as per the Financial Regulations 94, the amount of the liabilities and expenses shall not under any circumstances exceed the provisions allocated for that Financial year, as to why there is a liability of Rs.201,088 has resulted exceeding the balance left under two expenditure Heads is explained below:-

Expenditure Head	Liabilities over balance	Explanation
15-1-1-1402	45,365	Since the telephone bill for the month of December 2012 was received in the month of January 2013, the amount of the Bill could not be determined in advance and resulted in liabilities over the balance.
15-1-1-1403	155,723	Since the telephone bill for the month of December 2012 was received in the month of January 2013, the amount of the Bill could not be determined in advance and resulted in liabilities over the balance.

The Legal Draftsman  
 Legal Draftsman's Department  
 80, Adikarana Mawatha  
 Colombo 12.

**A summary of the proposed intermediary measures to be taken to uplift the performance of the Institution**

- (i) The Officers are regularly made aware that draft Acts and amendments to Acts received from the respective Ministries, Departments and Private members of Parliament should be prepared in trilingual and expeditiously dispatched.
- (ii) Consultants to be recruited for the purpose of drafting legislation, to overcome to an extent the impact of losing experienced Senior Officers.
- (iii) There exists a dearth of suitable translators to undertake translations of draft Acts and amendments made to Acts. In this connection, especially with regard to the shortage of Tamil translations, the assistance of the Tamil translators presently working in the Department of Official Languages (who have experience in translating draft legislation) is been obtained.
- (iv) Necessary steps are being taken to obtain approval for a recruitment procedure to fill the vacancies of the role of Editor and Documentation assistant for draft legislation, by recruiting the number of required Officers from among those of existing posts.
- (v) To provide an opportunity to expose Officers to local training programmes and foreign seminars/programmes to improve their knowledge and skills.
- (vi) All Legal Officers have been provided with computers with internet facilities to enable them to make use of new technology.
- (vii) Establishing an 'A' Grade library to improve skills and knowledge of the Officers and thereby provide the facilities for the study of foreign law books.