

**LEGAL DRAFTSMAN'S DEPARTMENT**

**2013**

**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 with 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 2013 was 79.

Employment Category	Approved Cadre	Cadre in employment
Senior Level	37	27
Tertiary Level	28	04
Secondary Level	62	28
Primary Level	24	20

**Cadre of the Legal Draftsman's Department as at 31. 12. 2013**

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	07
Additional Legal Draftsman	01	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	03	Information and Communication Technology Officer	01	-	Management Assistant	28*	24			
Assistant Legal Draftsman	20	16				Documentation Assistant	20	-			
Chief Accountant	01	01				Editor	11	01			
Deputy Director/ Assistant Director	01	-									
Aggregate	37	27		28	04		62	28		24	20
Total				Approved No. 151				Actual No. 79			

\* 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 in the year 2013 the Department had only 79 permanent employees to assist it in carrying out the aforementioned work. There exist 72 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. Steps have been taken to fill such vacancies.
- (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 Director/Assistant Director, Class II/III in the Sri Lanka Administrative Service. It has been informed that the said request will be carried out when a suitable officer becomes available.

### **Tertiary level**

There exist 23 vacancies in the Post of Translator. A written request has been made to the Public Service Commission for the purpose of obtaining approval to amend the age limit applicable at present in respect of the recruitment of translators 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. However, the recruitments can be completed once the approval of the Public Service Commission is obtained.

### **Primary Level**

One (1) vacancy exists in the Office Assistant Service. 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.

#### **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 2013**

	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	154	49	3	206	46	6	-	154
Private member's bills of Parliamentary members	63	43	8	114	19	-	-	95
Provincial Council statutes	18	2	-	20	-	-	-	20
Subsidiary Legislations (orders, rules, regulations and etc.)	73	13	93	179	77	1	-	101

### Bills passed in the year 2013

Index No.	Name of the Act		
01	01/2013	LDO 13/2013	Divineguma
02	02/2013	LDO 51/2011	Code of Criminal Procedure (Special Provisions)
03	03/2013	LDO 30/2012	Convention on the suppression of Terrorist Financing (Amendment)
04	04/2013	LDO Inc 1/2012	Society of the Ceylones Brothers of St. Joseph (Amendment)
05	05/2013	LDO 12/2013	Ports and Air Ports Development Levy (Amendment)
06	06/2013	LDO 01/2013	Economic Service Charge (Amendment)
07	07/2013	LDO 08/2013	Excise (Amendment)
08	08/2013	LDO 10/2013	Telecommunication Levy (Amendment)
09	09/2013	LDO 24/2013	Customs (Amendment)
10	10/2013	LDO 41/2012	Resettlement Authority (Amendment)
11	11/2013	LDO 07/2013	Nation Building Tax (Amendment)
12	12/2013	LDO 05/2013	Finance
13	13/2013	LDO 20/2013	Notaries (Amendment)
14	14/2013	LDO 19/2013	Powers of Attorney (Amendment)
15	15/2013	LDO 14/2013	Fiscal Management (Responsibility) (Amendment)
16	16/2013	LDO 11/2013	Strategic Development Projects (Amendment)
17	17/2013	LDO 02/2013	Value Added Tax
18	18/2013	LDO 13/2013	Inland Revenue (Amendment)
19	19/2013	LDO 03/2013	Betting and Gaming Levy (Amendment)
20	20/2013	LDO 09/2013	Tax Appeals Commission (Amendment)
21	21/2013	LDO 18/2013	Registration of Documents (Amendment)
22	22/2013	LDO 06/2013	Registration of Marriages (Amendment)
23	23/2013	LDO 15/2013	Kandyan Marriage and Divorce (Amendment)
24	24/2013	LDO 16/2013	Muslim Marriage and Divorce (Amendment)

25	25/2013	LDO 17/2013	Registration of Births and Deaths (Amendment)
26	26/2013	LDO Inc 20/2011	Hanguranketha Madanwala Rajamaha Vihara Development Fund (Incorporation)
27	27/2013	LDO 32/2013	Registration of Electors (Special Provisions)
28	28/2013	LDO 03/2012	Parliamentary Scholarship Board (Repeal)
29	29/2013	LDO 17/2012	Defence Service Command and Staff Service College (Amendment)
30	30/2013	LDO 31/2012	Filling of Vacancies in Local Authorities (Special Provisions)
31	31/2013	LDO 21/2009	Sri Lanka Electricity (Amendment)
32	32/2013	LDO 20/2012	Science and Technology Development (Amendment)
33	33/2013	LDO 17/2011	Accession to the International Convention Against Doping in Sport.
34	34/2013	LDO 27/2012	Buddhist Temporalities (Amendment)
35	35/2013	LDO 01/2012	Fisheries and Aquatic Resources (Amendment)
36	36/2013	LDO 44/2013	Appropriation

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.

## **Establishments and Administration Division**

This Division deals with recruitment, promotion and training of staff, conducting efficiency Bar Examinations, disciplinary matters and matters relating to transport and all other institutional and administrative matters in the Department.

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

- i. This Division took action to fill vacancies in the posts of Legal Draftsman, Additional Legal Draftsman, Deputy Legal Draftsmen 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)  
Management Assistants' Service - 01
- ii. Public Service Training Institute  
Management Assistants' Service - 02
- iii. Sri Lanka Institute of Development Administration  
Legal Officers - 06  
Management Assistants Service - 03  
K. K. S. - 01
- iv. Department of Public Accounts  
Management Assistants' Service - 04

- v. Official Languages Department
  - Legal Officers - 01
- vi. Skill Development Foundation
  - Legal Officers - 01
  - Staff Officers - 01
  - Management Assistant Service - 02
  - K. K. S. - 07

Other than the above mentioned training opportunities, Legal Officers and other Staff Officers participated in 07 local workshops and 07 local seminars.

Further, action was taken to conduct a 3 months special in-service training programme in Advance Business Writing for the Assistant Legal Draftsmen to impart special English knowledge enabling them to carry out their drafting work more efficiently.

In order to ensure that the work of the Department is performed more effectively, steps were taken to make provisions available for 4 legal officers to follow a course in Post Graduate Degree in Law (2013-2014) conducted by the Colombo University, Law Faculty.

The librarian participated in a seminar conducted by the Sri Lanka Library Association.

**Foreign Training.**

- i. The Legal Draftsman participated in the Common Wealth Law Conference and the Conference of Legal Draftsmen held simultaneously in South Africa.
- ii. The Additional legal Draftsman participated in a workshop relating to International Humanitarian Law, held in Bangladesh.
- iii. One of the Senior Legal Draftsmen participated in a course in Legislative Drafting held in India.  
Another Senior Legal Draftsman participated in a course in Legislative Drafting held in New Orleans, U.S.A.

**Foreign Conferences and Seminars in which the Staff Officers of the  
Legal Draftsman's Department participated – 2013**

	<b>Name of the conference and the hosting Country</b>	<b>Name of the participant</b>
1.	Commonwealth conference of Legislative Draftsmen, 2013 – South Africa  18 <sup>th</sup> Common Wealth Law Conference, 2013- South Africa	G. S. A. De Silva  The Legal Draftsman

**Foreign Training in which the Staff Officers of the  
Legal Draftsman's Department participated – 2013**

	<b>Name of the Training and the hosting Country</b>	<b>Name of the Participant Officer</b>
1.	23 <sup>rd</sup> South Asian Teaching Session in International Humanitarian Law – Bangladesh	Mrs. D.S. H. Kumarajeewa., Additional Legal Draftsman
2.	International Training Programme in Legislative Drafting – India  Training Programme in Legislative Drafting – U.S.A.	Mrs. S. S. M. D. E. Weerakon Senior Assistant Legal Draftsman  Mrs. D. D. Weerakkody, Senior Assistant Legal Draftsman

**(3) Other institutional and administrative activities.**

- i. The Department has a Grade 1 library providing the officers with knowledge in national and international laws. A total of 14 law books published locally and abroad, have been purchased in the year 2013.
- ii. There is a Welfare Society in the Department. In the year 2013, 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.

- iii. There is a Legal Officers Association established for the welfare of the Legal Officers. This Association caters for the development of the professional skills of the officers while attending to other welfare needs of the officers.
- iv. All computers within the Department are linked to a network and all staff officers and other eligible 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 to all officers to use new technology.

### **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 the translation of official documents sent by the Establishment, 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

#### Expenditure for the period

01.01.2013 – 31.12.2013

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

(a) Recurrent Expenditure, from 01. 01. 2013 to 31. 12. 2013

<b>Details of Recurrent Expenditure</b>	<b>Budgetary Provision (Rs.)</b>	<b>Net Provision (Rs.)</b>	<b>Total Expenditure (Rs.)</b>
Personal Emoluments	38,290,000	38,290,000	34,587,149
Other Expenditure	20,765,000	29,765,000	24,330,269
<b>Total Recurrent Expenditure</b>	<b>59,055,000</b>	<b>68,055,000</b>	<b>58,917,418</b>

Capital Expenditure, from 01. 01. 2013 to 31. 12. 2013

<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	50,000	50,000	41,714
<b><u>Acquisition of Capital Assets</u></b>			
2102 – Furniture and Office Equipment	500,000	500,000	209,600
<b><u>Human Resource Development</u></b>			
2401 - Training of Office Staff (a)	7,000,000	7,000,000	3,523,226

<b>Other Capital Expenditure</b>			
2502 – Investments – Purchasing of Law books	3,000,000	3,000,000	2,310,810
<b>Revision of Legislative Enactments of Sri Lanka</b>			
2502 - Investment	40,000,000	40,000,000	-
<b>Total Capital Expenditure</b>	<b>50,550,000</b>	<b>50,550,000</b>	<b>6,085,350</b>

(b) Revenue Account from 01. 01. 2013 to 31. 12. 2013

<b>Description</b>	<b>Estimated Revenue (Rs.)</b>	<b>Revenue (Rs.)</b>
Interest – Other	550,000	3,433,466.41

(c) Advance Account – 015011

(01. 01. 2013 – 31. 12. 2013)

	<b>Maximum Limit of Expenditure (Rs.)</b>	<b>Minimum Limit of Receipts (Rs.)</b>	<b>Maximum Limit of Debit Balance (Rs.)</b>
2013 Estimate	5,300,000	2,000,000	24,000,000
F.R.503(1) - before adjustments as at 31.12.2013	3,740,551	5,371,417	12,532,391

**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. The Department is also entrusted with certain other duties which include participating at Parliamentary Select Committee meetings convened to review draft Bills and to be present 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 2013 under the 'Legal Drafting Division'.

The Auditor General  
The Department of the Auditor General  
Battaramulla.

**Appropriation Accounts – 2013**  
**Head No. 15-Legal Draftsman's Department**

With reference to the audit queries dated 23.05.2014 which accompanied the aforementioned certified appropriation account, the following explanation can be made.

01. The reason as to why the entire amount of Rs.40,010,000/- which had been assigned under 2 expenditure heads was remained unspent is explained below:

Expenditure head	provisions	expenses	balance	Reason as to why part of the provisions remained unspent
15-1-1-1401	10,000	-	10,000	A transportation cost was expected during the work involved in repairing buildings. However, the need for such repair work did not arise due to the delay in signing relevant agreements.
15-1-1-2502	40,000,000	-	40,000,000	These provisions were allocated for the project relating to Consolidation and Revision of Legal Enactments. Since the said project got delayed due to the non-completion of the draft cabinet memorandum, the necessity did not arise to use such provisions.
total	40,010,000	-	40,010,000	

02. the following explanation can be given for the balance of Rs. 8,010,735/- remained, from and out of Rs.13,175,000/- allocated for 4 Expenditure Heads.

Expenditure head	provisions	balance	Reasons for partial consumption of provisions.
15-1-1-1405	5,300,000	4,050,559	The competitive examination for the filling of vacancies in the posts of Editor, Documentation Assistant and Translator was not held as expected due to the delay in getting the approval for the respective recruitment procedures and as a result the expected expenditure did not occur.
15-1-1-1505	375,000	193,000	In spite of quotations being called for the purchase of books and magazines needed for the Department, no quotations were provided and therefore no purchases were made.
15-1-1-2102	500,000	290,400	Work relating to the arrangement of rooms for the Assistant Legal Draftsmen got delayed and thus there was no necessity to purchase furniture and office equipment.
15-1-1-240	7,000,000	3,476,774	The officers intended to be sent to participate in workshops in foreign countries could not be sent due to lack of funds.
Total	13,175,000	8,010,733	

03. Even though in terms of the Financial Regulations 94, the liabilities and expenditure shall not exceed, the provisions allocated for the financial year under any circumstances, there exists a liability amounting to Rs.325,279 in spite the balance left under two Expenditure Heads. The explanation for the aforesaid is given below.

Expenditure Head	Balance as at 31.12.2013	Liabilities as at 31.12.2013	Liabilities over balance	Explanation
15-1-1-1402	58,099	166,287	108,188	As a result of the receipt of the Telephone Bill for the month of December 2013 in the month of January 2014, early determination of the amount of

				the bills were not possible and this resulted in the liabilities exceeding the balance.
15-1-1-403	43,567	260,658	217,091	As a result of the receipt of the Telephone Bill for the month of December 2013 in the month of January 2014, early determination of the amount of the bills were not possible and this resulted in the liabilities exceeding the balance.
Total	101,666	426,945	325,279	

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

**The measures proposed to be taken to uplift the work performance of the Department**

- (i) Instructions have been given continuously to all legal officers of the Department to follow up the work entrusted to them (which work is comprised of drafting of Bills pertaining to preparation of Acts of Parliament, amendments proposed to such Acts and, the revision of private member Bills and other affiliated work) on a regular basis and to complete such work in all 3 languages.
- (ii) Steps are being taken to engage the services of Consultants, as an answer to the dearth of experienced Senior Legal Draftsmen.
- (iii) There exist a dearth of translators qualified to handle the translation work relating to drafting of Bills and Amendment Acts. Due to the lack of Tamil translators it has become necessary to engage the services of the officers who are in the employment of the Officer Languages Department (who are conversant with the translation work relating to legislative drafting).
- (iv) Steps are being taken to recruit sufficient number of officers to fill at least some of the vacancies in the posts relating to documentation and editing which assist the process of legislative drafting.
- (v) Opportunities are being provided to all officers in the Department to participate in various local training programmes and programmes conducted by foreign countries, which are aimed at improving the knowledge, outlook and skills of such officers.
- (vi) All legal officers will be supplied with computers with internet facilities enabling them to make use of the facilities offered by the new sophisticated technologies.
- (vii) The A grade library established in the Department provides the Legal Officers necessary facilities to use local and foreign books written on the subject of Law.
- (viii) All Legal Officers and other members of the staff of the Department have been given clear instructions to the effect that they should attend to their official duties during office hours thereby preserving the dignity of the Government Service and it is to be mentioned that all the members of the staff including legal officers, carry out their duties in an exemplary manner.