

LEGAL DRAFTSMAN'S DEPARTMENT

2018

Performance Report

VISION

To assist the Government of Sri Lanka to ensure good governance, by transforming government policies into legislation.

MISSION

In transforming government policies into legislation, the drafting of such legislation to be done in accordance with the Constitution, in Sinhala, Tamil and English languages.

Introduction

The Legal Draftsman's Department is an "A" grade Government Department. This Department, which was under the direct supervision of His Excellency the President came under the direct supervision of the Ministry of Justice and Labour Affairs as per Gazette Extraordinary No. 1897/15 of 18.01.2015, and functions under the direct supervision of the Ministry of Justice as per Gazette Extraordinary No. 1933/13 of 21.09.2015.

The main function of the Legal Draftsman's Department is the transformation of the government policies on diverse subjects into legislation, in accordance with the Constitution and with the decisions approved by the Cabinet of Ministers. In the process of transforming government policies into legislation, the Department drafts Bills to enact new legislation and to amend existing legislation, and it also revises the subordinate legislation submitted by various Ministries of the Government. 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 coordinate with Parliament when the Bills are taken up for debate. This Department provides services to all Government Ministries and Departments including State Corporations and Statutory Bodies. The Department also provides legal advice to Ministries and Departments of the Government with regard to the preparation of various Bills and subordinate legislation.

1. Functions of the Legal Draftsman's Department in relation to drafting of Bills are as follows:-

- (1) Drafting of Bills in all three languages to enact new legislation and to amend existing legislation.
- (2) Revision and (where necessary) drafting of subordinate legislation in all three languages.
- (3) Attending to parliamentary duties in connection with the preparation of laws.
- (4) Drafting of Provincial Council Statutes where necessary.
- (5) Revision of Private Members' Bills (Incorporation Bills) in all three languages.

This Department also provides legal advice in respect of drafting of Acts, subordinate legislation and Provincial Council Statutes.

The unique feature of this Department is that it 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 subordinate legislation submitted to it by the respective line Ministries throughout any particular year. Any form of legislation 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 Legal Draftsman's Department is shown below. The total approved cadre is 148, and as at 31.12.2018 the employed cadre was 98.

Employment Category	Approved Cadre	Cadre in employment
Senior Level	42	29
Tertiary Level	28	13
Secondary Level	54	40
Primary Level	24	16

Cadre of the Legal Draftsman's Department as at 31. 12. 2018											
Senior Level			Tertiary Level			Secondary Level			Primary Level		
	Approved	Actual		Approved	Actual		Approved	Actual		Approved	Actual
Legal Draftsman	01	01	Administrative Officer	01	01 (contract)	Development Assistant	02	-	Driver	10	08
Additional Legal Draftsman	01	01	Chief Translator	02	01	Librarian	01	01	KKS	14	08
Deputy Legal Draftsman	05	05	Translator	24	10	Public Management Assistant	20	19			
Senior Assistant Legal Draftsman	08	01	Information and Communication Technology Officer	01	01	Documentation Assistant	20	13			
Assistant Legal Draftsman	25	20				Editor	11	07			
Chief Accountant	01	01									
Assistant Director	01	-									
Aggregate	42	29		28	13		54	40		24	16
Total				Approved No. 148				Actual No. 98			

Cadre Information (as at 2018.12.31)

Category of employees	Post	Approved Cadre			Present Cadre		
		Permanent	Casual	Contract	Permanent	Casual	Contract
Senior Level	Legal Draftsman	01	-	-	01	-	-
-do-	Additional Legal Draftsman	01	-	-	01	-	-
-do-	Deputy Legal Draftsman	05	-	-	05	-	-
-do-	Senior Assistant Legal Draftsman	08	-	-	01	-	-
-do-	Assistant Legal Draftsman	25	-	-	20	-	-
-do-	Chief Accountant	01	-	-	01	-	-
-do-	Assistant Director	01	-	-	-	-	-
Tertiary Level	Administrative Officer	01	-	-	-	-	01
-do-	Chief Translator	02	-	-	01	-	-
-do-	Translator	24	-	-	10	-	-
-do-	Information and Communication Technology Officer	01	-	-	01	-	-
Secondary Level	Librarian	01	-	-	01	-	-
-do-	Development Assistant	02	-	-	-	-	-
-do-	Government Management Assistant	20	-	-	19	-	-
-do-	Documentation Assistant	20	-	-	13	-	-
-do-	Editor	11	-	-	07	-	-
Primary Level	Driver	10	-	-	08	-	-
-do-	Office Assistant	14	-	-	08	-	-

In addition to the above particulars, three (03) consultants work on contract basis

Measures taken to fill the existing vacancies in the Department.

The approved cadre to perform the overall duties of the Department is 148. However, the actual number of staff in the Department in 2018 to perform the said duties was only 98. As stated below, 50 vacancies exist with regard to the employment in various employment categories.

Senior Level

- (a) 07 vacancies exist in the post of Senior Assistant Legal Draftsman. As there are no Assistant Legal Draftspersons who are eligible according to the approved scheme of recruitment, who have completed a service period of ten (10) years to apply for the said vacancies the Assistant Legal Draftspersons who are in the service have to complete the required period of service and become eligible in order to fill the said vacancies.
- (b) There are 5 vacancies in the post of Assistant Legal Draftsman. By letter dated 21.09.2017 the Management Services Department has approved the filling of those vacancies. However, prior to filling those vacancies, the scheme of recruitment need to be amended and steps have been taken to do the needful.
- (c) Post of Assistant Director is vacant. Combined Services Director General has been informed of the vacancy.

Tertiary Level

- a) The post of Administrative Officer is vacant. An officer recruited on 01.05.2017 on contract basis is serving at present. The Director General of Combined Services was informed of the said vacancy.
- b) A written examination was held on 04.09.2016 to fill the vacancies of the translators and 16 Sinhala / Tamil applicants had passed the examination. Of the qualified applicants, only 10 Sinhala medium and 3 Tamil medium applicants assumed duties on 01.12.2016. Accordingly, as at 31.12.2018, 14 vacancies exist.

06 English / Sinhala Translators and
08 English/Tamil Translators.

The discrepancies in the salary scheme have made it difficult to retain them in service. The scheme of recruitment for these posts needs to be amended. Therefore, revised salary scheme with recommendation has been sent to the relevant institutes for approval.

Secondary Level

- a) The Director General of Combined Services was informed to provide the Department with two Development Assistant Officers.
- b) As at 31.12.2018, 07 vacancies exist in the post of Documentation Assistant and 04 vacancies in the post of Editor. Based on the written examination conducted in 2014 and based on results 10 Documentation Assistants and 02 Editors were recruited on 01.12.2014 for the first time. As there were new vacancies by 2016 based on the above examination results an interview was held on 23. 08.2016 and on its results 8 Documentation Assistants and 8 Editors were recruited. At present 01 Documentation Assistant and 02 Editors out of them have left their posts. Retaining in service has become problematic due to the weak salary scheme.

Primary Level

- a) There are 02 vacancies for Drivers. The Director General of Combined Services has been informed in this regard.
- b) There are 06 vacancies in the post of KKS. The Director General of combined services has been informed of the vacancies.

3. Divisions of the Department

The functions of the Legal Draftsman's Department is performed by the following Divisions

Legislative Drafting Division.
Establishments and Administration Division.
Translation Division.
Publication Division.
Accounts Division.

Legislative Drafting Division

Main functions of this Division are:-

- ⤴ Transforming the Government policies into legislation.
- ⤴ Drafting of Bills to enact new legislation and to amend existing legislation in all three languages.
- ⤴ Providing legal advice to various Ministries and Departments of the Government in relation to Bills where necessary.
- ⤴ Performing Parliamentary duties in connection with drafting of Bills and passing of legislation.
- ⤴ Drafting of Statutes for Provincial Councils.

Progress Review Report 01.01.2018 – 31.12.2018

	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
	Nature of the duty	The number of requests that were submitted as Preliminary or completed Bills, but are awaiting observations and instructions of the Attorney-General or other Ministries and Departments as at 01.01.2018 (Balance brought forward)	The number of requests of which the drafting has not been completed as at 01.01.2018 (Balance brought forward)	The number of new requests that were received from parties within this year	The number of requests that have been completed in three languages in this year and previous years but were resent for further amendments	Total	The number of requests that have been completed in three languages and returned to the relevant parties as at 31.12.2018 (Each instance of Final Drafts that were completed in three languages for several times and were submitted to the relevant parties are included in this.)	The number of files that were closed due to absence of instructions for a long period of time	The number of requests that were submitted as Preliminary or Completed drafts as at 31.12.2018, but are awaiting observations and instructions of the Attorney-General or other Ministries and Departments	The number of requests in respect of which the drafting has not been completed as at 31.12.2018
1.	Drafting of Bills (Principal Legislation and Amending Legislation)	156	10	70	12	248	60	10	167	11
2.	Private Members' Bills (Incorporation)	130		7		137	1	-	136	
3.	Revision of Subordinate Legislation	126	31	185	19	361	167	-	163	31
4.	Provincial Council Statutes	8	1	-	-	9	1	-	7	1

Note:-

It must be noted that a request that has been attended to and completed by this Department and sent out as a Final Draft may be resent with fresh instructions for further amendments mainly because to the instructing agencies keep changing the policy. However, when such a request is received, irrespective of it being earlier finalized, this Department has to attend to it dedicating the same time and attention given to a fresh request. Moreover, requests for such amendments to completed drafts are sent even after the Final Draft is sent out in all three languages and sometimes the procedure is repeated a number of times. The following gives a few examples:-

Name of the Bill	Number of times the draft has been sent out(as at 31.12.2018)
State Land (Special Provisions) Bill	22
The Bill to establish Land Banks	26
Land Development (Amendment) Bill	16
General Sir John Kothalawela Defence Academy (Amendment) Bill	14
Voluntary Social Service (Registration and Supervision) (Amendment) Bill	13
National Eye Bank Bill	14

Therefore, even if a request has been attended to and completed by this Department, it could still be reflected in the category of “requests that has not been completed”.

Private Members' Bills (Incorporation)

In accordance with the instructions given by the Cabinet Sub Committee, until the Audit Bill, Right to Information Bill and the Bill in relation to Non-Governmental Organizations are passed, work in relation to Private Members' Bills except for professional institutions (Incorporation) are temporarily discontinued, until further notice. As a result the number of Private Members' Bills (of Incorporation) that are pending completion as at 31.12.2018 are 136.

Bills (Principal Legislation and Amending Legislation)

Bills (Principal Legislation and Amending Legislation) which have not been completed are 11. Those are in respect of which no instructions or observations have been received from the relevant Ministries, Departments and Institutions or in respect of which Cabinet approval has not been received or are still under discussion.

Revision of Subordinate Legislation

There are 31 requests in relation to subordinate legislation which revision has not been completed. Those are in respect of which instructions or the observation of the relevant Ministries, Departments and Institutions have not been received or those which are still under discussion.

Establishments and Administration Division

This division performs the work relating to recruitment, promotion and training of staff, conducting of Efficiency Bar Examinations, disciplinary matters and matters relating to transport and all other institutional and administrative matters in the Department.

1. Training:

Local training.

Local training was provided to the officers as follows:

Institute	Designation	No. of Officers	Course
Institute of Advanced Legal Studies	Assistant Legal Draftsman	01	Post Attorney Diploma in Company Law
Sri Lanka Foundation	Deputy Legal Draftsman	01	Workshop on Procurement Procedures in Public Sector Financial Regulations
Bandaranaike Centre for International Studies	Librarian	01	Workshop on Right to Information Act. The Role and Contribution of a Librarian
Sri Lanka Library Association	Librarian	01	National Conference on Library and Contribution Science (NACLIS)
National Library and Documentation Services Board	Librarian	01	e- Government, Cyber Security and Social Media for Informational Professionals and Management Heads in Universities and Departments of Sri Lanka
Miloda- Academy of Financial Studies	Management Assistant	01	Computerized Government Payroll System
	Management Assistant	01	Public Financial Regulations
National Institute of Labour Studies	Management Assistant	01	Skills Development for Office Management

Prag Institute	Management Assistant	02	New Tax Law PAYE- Withholding- Capital Gain
Skill Development Fund LTD	Management Assistant	01	Losses, Loss Recoveries and Write off
	Management Assistant	01	Rules and Regulations of Establishment Code

Foreign Training and Conference

Officer's Name & Designation	Training/ Conference	Country
Mrs. D.S.H. Kumarajeewa Legal Draftsman	Study tour on Introducing amendments to the commission to investigation of Bribery.	Hong Kong
Mrs.D.S.H. Kumarajeewa Legal Draftsman	The Financial Action Task Force-APJG	Thailand
Mrs. S.S.M.D.E. Weerakoon Deputy Legal Draftsman	Bali Process Working Group on Trafficking in Persons Events	Thailand
Mrs. B.K.N. De Silva Asst Legal Draftsman	International Legislative Drafting Course-2018	USA
Mr. G.K.Hevavithana Asst Legal Draftsman	International Legislative Drafting Course-2018	USA
Ms.V.L.Dayaratne Asst. Legal Draftsman	International Legislative Drafting Course – 2018	USA
Mrs. C.B. Kapurubandara Asst. Legal Draftsman	IALS Legislative Drafting Course – 2018	UK
Mrs.G.A.S. Krishanthi Asst Legal Draftsman	IALS Legislative Drafting Course – 2018	UK
Ms.U.M. Sapukotana Asst Legal Draftsman	IALS Legislative Drafting Course – 2018	UK
Mrs.L.G. Punchihewa Asst Legal Draftsman	IALS Legislative Drafting Course – 2018	UK
Mrs. D.D. Weerakkody Snr. Asst. Legal Draftsman	Exposure visit to Vietnam	Vietnam
Ms. D.D. Kulasena Deputy Legal Draftsman	4 th Training session of China and Asian African Legal consultative Organization (AALCO)	China

Mrs. D.S.H. Kumarajeewa Legal Draftsman	Asia Pacific Joint Group Review - 3 rd Face to Face Meeting	Indonesia
Mr.S. Selvakunapalan Deputy Legal Draftsman	2018 Advanced Legislative Drafting	USA
Mrs. S.S.M.D.E.Weerakoon Deputy Legal Draftsman	2018 Advanced Legislative Drafting	USA
Mrs. K.R.Y. Hapuarachchi Additional Legal Draftsman	WTO Panel Report on Australia's Tobacco Plain Packaging Laws	Australia
Ms. U.Guniyangoda Assit. Legal Draftsman	Legal aspects of international Financial Institutions	Singapore
Mrs. T.A.Y.M.Ranawana Deputy Legal Draftsman	Cyber Security Studies (PCSS) Resident Course	Germany
Mrs.T.T.N. Fernando Chief Accountant	International Program on Management University of Gadjah. Mada ,	Indonesia

(2) Other institutional and administrative activities.

- i. The Department has established a Grade 1 library with a view to keep the officers abreast with the current developments in the field of law locally as well as internationally, and develop their skills towards same. 71 books, local and foreign, have been purchased in the year 2018.
- ii. There is a Welfare Society in the Department for the benefit of the employees of the Department. In the year 2018, the Society provided loan facilities to its members, held cultural festivals in order to enhance solidarity among the staff members, conducted religious programmes in furtherance of spiritual development of the members, and also established a small library for the benefit of all members of the staff of the Department.
- 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.

Translation Division

The Translation Division is responsible for translating all draft Bills (of new legislation and amending legislation) and subordinate legislation done in English language by the Legislative Drafting Division into the relevant national 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 and master 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*. Distributing files relating to drafting legislation to the legal officers is also done by this division.

Accounts Division

230 Legal Draftsman's Department

01-01-2018 - 31-12-2018

Cost Description

Headline : 230- Legal Draftsman
Programme : 01 operations
Project : 01 General Administration and Drafting of Laws

Recurrent Expenditure from 01.01.2018 to 31.12.2018

Description of Recurrent Expenditure	Budgetary Provisions (Rs.)	Additional Provisions (Rs.)	Exchanges according to F. Reg.66	Net Provisions (Rs.)	Total Expenditure (Rs.)	Financial Progress
Salary and wages.	75,750,000.00	19,000,000.00	34,000.00	94,784,000.00	91,677,183.00	96.72%
Other expenditure	27,042,000.00	700,000.00	-34,000.00	27,708,000.00	27,205,389.29	98.19%
Total Recurrent expenditure	102,792,000.00	19,700,000.00	0.00	122,492,000.00	118,882,572.00	97.05%

Capital Expenditure from 01.01.2018 to 31.12.2018

Description of capital Expenditure	Budgetary Provisions (Rs.)	Additional Provisions (Rs.)	Exchanges according to F. Reg.66	Net Provisions (Rs.)	Total Expenditure (Rs.)	Financial Progress
<u>Rehabilitation and Improvement of Capital Assets</u>						
2001- Building and construction	1,500,000.00		563,000.00	2,063,000.00	2,062,709.00	99.99%
<u>Acquisition of capital Assets</u>						
2102 – Furniture And Office Equipment	700,000.00		90,000.00	790,000.00	789,533.75	99.94%
<u>Skills Development</u>						
2401- Staff Training	30,300,000.00			30,000,000.00	26,976,633.28	89.92%
<u>Other Capital Expenditure</u>						
2501- Restructuring	4,000,000.00		-653,000.00	3,347,000.00	1,006,031.25	30.06%
2506- Development of Infra-structure- purchase of Law books.	2,000,000.00			2,000,000.00	436,679.00	21.83%
Total of capital expenditure	38,200,000.00		0.00	38,200,000.00	31,271,586.28	81.86%

Financial Progress from 01.01.2018 to 31.12.2018

Description	Allocation for 2018 (Rs.Mn)	Expenditure as at 31.12.2018 (Rs.Mn)	Financial Progress % as at 31.12.2018 (Rs.Mn)
Recurrent Expenditure	122.492	118.883	97.05%
Capital Expenditure	38.2	31.272	81.86%
Total	160.692	150.155	93.44%

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 new legislation, amendment of existing legislation, and revision and redrafting where necessary of subsidiary legislation referred to by the relevant Ministries. The Department is also entrusted with certain other duties which include participating at Parliamentary Sectoral Oversight 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 provides legal advice to Government Ministries and Departments with regard to the preparation of subordinate legislation.

As specified under the 'Legislative Drafting Division', steps have been taken in respect of drafting of Bills relevant to year 2018.

The measures taken to uplift the performance of the Department

Mainly:-

1. DEVELOPMENT OF AN OFFICIAL WEBSITE

An official website for the Legal Draftsman's Department was a long felt need. Therefore, in keeping with the E-governance policies of the Government and for better public awareness, the Department intended to design and develop a website.

With the assistance of the Information and Communication Technology Agency of Sri Lanka, the department designed and developed a website and the new website is now online and can be accessed via the URL: ld.gov.lk.

2. DIGITIZATION OF THE LEGISLATIVE ENACTMENTS (1956) AND RECORD ROOM OF THE LEGAL DRAFTSMAN'S DEPARTMENT

The legislative Enactments of Ceylon (1956 Edition) and its subsidiary legislation are an important set of laws that are referred frequently. They are available in bound volumes but the volumes are very old and the pages are very fragile and tend to tear easily. Therefore, it was essential to preserve them to be readily accessed. The Government gazettes though can be accessed online today, the older ones are not available online and not easily accessible.

In this backdrop Legal Draftsman's Department with the assistance of the ICTA initiated a project to scan and digitize the gazettes available in the record room (all gazettes are not available in the record room), Legislative Enactments (1956 Edition) and other required Acts available in the library for archiving and long-term preservation.

The Department has successfully completed the project by engaging the services of a service provider and the web application to search and retrieve digitized documents efficiently and effectively is now in use by the officers of the Department.

3. SUBSCRIPTION OF WESTLAW

In performing their duties it is essential for the legislative drafters to be updated and be abreast with the latest developments in the legal field, availability and easy access to resources is an imperative.

Therefore, the Department sought to make available to its officers 'Westlaw', an online legal research service for legal professional. The necessary approvals were received from the Treasury and the Ministry of Justice and the Department has subscribed to Westlaw.

4. LANKA GOVERNMENT NETWORK (LGN)

The Department is connected to the LGN. Official email accounts have been created for the officers under LGN.

Further, this Department was selected for the LGN 2.0 project and was given wifi facilities as part of this initiative.

5. Instructions have been given continuously to all legal officers of the Department to follow up the work entrusted to them on a regular basis and to complete such work in all three languages.
6. Three Consultants have been recruited to obtain assistance in the drafting of legislation to overcome the lack of experienced Senior Legal Draftspersons.
7. Ample opportunities have been provided to all Legal Officers and other staff members to participate in various training programmes which are aimed at improving the knowledge, outlook and skills of all such officers.
8. The “A” grade library established in the Department provides the Officers of the Department, necessary facilities to use local and foreign law books.
9. 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.