

**LEGAL DRAFTSMAN'S DEPARTMENT**

**2017**

**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 is 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 31.12.2017 the employed cadre was 105.

<b>Employment Category</b>	<b>Approved Cadre</b>	<b>Cadre in employment</b>
Senior Level	42	29
Tertiary Level	28	14
Secondary Level	54	40
Primary Level	24	22

**Cadre of the Legal Draftsman's Department as at 31. 12. 2017**

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	09
Additional Legal Draftsman	01	01	Chief Translator	02	01	Librarian	01	01	KKS	14	13
Deputy Legal Draftsman	05	05	Translator	24	11	Public Management Assistant	20	17			
Senior Assistant Legal Draftsman	08	01	Information and Communication Technology Officer	01	01	Documentation Assistant	20	15			
Assistant Legal Draftsman	25	20				Editor	11	07			
Chief Accountant	01	01									
Assistant Director	01	-									
Aggregate	42	29		28	14		54	40		24	22
Total				Approved No. 148				Actual No. 105			

### **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 2017 to perform the said duties was only 105. As stated below, there are 43 vacancies existing with regard to the employment in various employment levels.

#### **Senior Level**

- a) There are no vacancies in the post of Deputy Legal Draftsman. There are 05 Permanent Officers.
- b) 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 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.
- c) There are 5 vacancies in the post of Assistant Legal Draftsman. Prior to filling those vacancies, the scheme of recruitment need to be amended and the steps have been taken to do the needful and sent to the relevant institutions.

#### **Tertiary Level**

The post of Administrative Officer is vacant. At Present there is an officer working on contract basis. The Director General of Combined Services was informed of the said vacancy and a reply has not been received yet.

- a) 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 qualified applicants. Only 10 Sinhala medium and 3 Tamil medium applicants accepted the job.

- b) Accordingly, as at 31.12.2017, 13 vacancies exist.  
05 English / Sinhala Translators and  
08 English/Tamil Translators.

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

### **Secondary Level**

- a) The Director General of Combined Services was informed by the letter dated 11.10.2016 to provide the Department with two Development Assistant Officers.
- b) As at 31.12.2017, 05 vacancies exist in the post of Documentation Assistant and 04 vacancies in the post of Editor. Based on the written examination conducted in 2016 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 is one (01) vacancy for a Driver. The Director General of Combined Services has been informed in this regard.
- b) There is one (01) vacancy in the post of KKS. The Director General of combined services has been informed of the vacancy.

### **3. Divisions of the Department**

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

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 – 01.01.2017 – 31.12.2017

1	2	3	4	5	6	7	8	9	10
Nature of the duty	The number of requests that were submitted as basic or completed Bills, but are awaiting observations and instructions of the Attorney- General or other Ministries and Departments at 01.01.2017  (Balance brought forward)	The number of requests of which the drafting has not been completed as at 01.01.2017  (Balance brought forward)	The number of new requests that were received from parties within this year.	The number of requests where drafting is finished in three languages in previous years and this year but are awaiting amendments	Total	The number of requests that has been completed in three languages and returned to the relevant parties (Each instance of final drafts which were made in three languages for several times and were submitted to relevant parties)	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 basic or completed drafts as at 31.12.2017, 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 31.12.2017
Drafting of Bills (Principal Legislation and Amending Legislation)	138	21	73	27	259	63	30	156	10
Private Members' Bills (Incorporation)	108		32		140	9	1	130	
Revision of Subordinate Legislation	119	17	156	49	341	184	-	126	31
Provincial Council Statutes	23	2	2	-	27	2	16	8	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 due 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, request 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:-

<b>Name of the Bill</b>	<b>Number of times the draft has been sent out(as at 31.12.2017)</b>
National Audit Bill	22
Motor Traffic Bill	23(has been passed)
State Land (Special Provisions) Bill	14
The Bill to establish Land Banks	14
Land Development (Amendment) Bill	14
General Sir John Kothalawela Defence Academy (Amendment) Bill	11
Sri Lanka Sustainable Development Bill	15 (has been with Committee Stage Amendments)
Voluntary Social Service (Registration and Supervision) (Amendment) Bill	12
National Eye Bank Bill	09
Local Government Elections (Amendment) Bill	15(has been passed with Committee Stage Amendments)

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 (of 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 31.12.2017 are 130.

### **Bills (Principal Legislation and Amending Legislation)**

Bills (Principal Legislation and Amending Legislation) where work has not been completed are those are which 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 perform 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	Post	Number of officers Participated	Course
University of Colombo	Assistant Legal Draftsman	01	Mphil/ PHD Programme 2017(2nd Year)
	Assistant Legal Draftsman	01	Mphil/ PhD Programme 2017.
	Assistant Legal Draftsman	01	Master in Human Rights (MHD) 2017/18.
SAARC	Assistant Legal Draftsman	02	14 <sup>th</sup> SAARC LAW Conference 2017.
Sri Lanka Library Association	Librarian	01	National Conference on Library & Info. Science.
Miloda Institute	Public Management Assistant	02	Training Programme on Payroll
National Institute of Labour Studies	Public Management Assistant	01	Basic Stores Managemet
		01	Super 5S as Productivity Tool-
		01	Management of Fixed Asset
		01	Role of Accounting & Practices.
PRAG Institute	Public Management Assistant.	01	Use of Excel for Office Work.
		01	Recruitment Procedure.

### Foreign Training.

<b>Foreign Conferences and Trainings which Executive Officers of the Legal Draftsman's Department participated - 2017.</b>		
	<b>Name of the Training and Country</b>	<b>Name of the Officer Participated</b>
1.	LAW ASIA Conference 2018 –Japan 18 <sup>th</sup> -21 <sup>st</sup> September -2017.	Mrs. D.S.H. Kumarajeewa – Legal Draftsman.
2.	Advanced Legislative Drafting Course – 2017-USA 09 <sup>th</sup> -20 <sup>th</sup> October 2017.	Mrs. K.R.Y. Hapuarachchi Additional Legal Draftsman  Mrs. T. A. Y. M. Ranawana Deputy Legal Draftsman
3.	2017 International Legislative Drafting Institute Public Law Centre, New Orleans, Louisiana, USA 05 <sup>th</sup> -16 <sup>th</sup> June 2017.	Ms. M.A.K.A. Medagoda Asst Legal Draftsman  Mrs. V. S. Thushari Asst Legal Draftsman  A.K.D.G.I.K. Abeyawickrama Asst Legal Draftsman
4.	Course in Legislative Drafting 2017 –UK 26 <sup>th</sup> June 2016 – 21 <sup>th</sup> July 2017.	Mrs. M. P. Kularathana Asst Legal Draftsman  Mrs. D.M.D.K. Dissanayake Asst Legal Draftsman  Ms. R.P. Kodithuwakku Asst Legal Draftsman
5.	30 <sup>th</sup> SATS on International Humanitarian Law –Pakistan 13 <sup>th</sup> – 17 <sup>th</sup> November 2017.	Mr. S. Selvakunapalan Deputy Legal Draftsman.
6.	TCY 18 <sup>th</sup> Plenary Meeting –France 27 <sup>th</sup> – 30 <sup>th</sup> November 2017.	Mrs. L.G. Punchihewa Asst. Legal Draftsman

## **(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. 173 books, local and foreign, have been purchased in the year 2017.
- ii. There is a Welfare Society in the Department for the benefit of the employees of the Department. In the year 2017, 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 the 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

01-01-2017 - 31-12-2017

#### Cost Description

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

(a) Recurrent Expenditure from 01.01.2017 to 31.12.2017.

Description of Recurrent Expenditure	Budgetary Provisions (Rs.)	Additional Provisions (Rs.)	Net Provisions (Rs.)	Total Expenditure (Rs.)	Financial Progress
Salary and wages.	83,182,000.00		83,182,000.00	70,495,313.18	84.75%
Other expenditure	24,080,000.00	1,942,000.00	26,022,000.00	25,117,915.80	96.53%
Total Recurrent expenditure	107,262,000.00	1,942,000.00	109,204,000.00	95,613,228.98	87.55%

### Capital Expenditure from 01.01.2017 to 31.12.2017

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>Acquisition of Capital Assets</u>  2102 – Furniture And Office Equipment	500,000.00		53,000.00	553,000.00	551,964.83	99.81%
<u>Skills Development</u>  2401- Staff Training	6,200,000.00	15,000,000.00		21,200,000.00	20,998,462.03	99.05%
<u>Other Capital Expenditure</u>  2501- Restructuring	6,000,000.00		-738,000.00	5,262,000.00	4,008,901.76	76.19%
2506- Development of Infra-structure- purchase of Law books	2,500,000.00		685,000.00	3,185,000.00	3,181,334.00	99.88%
<b>Total of capital expenditure</b>	<b>15,200,000.00</b>	<b>15,000,000.00</b>	<b>0.00</b>	<b>30,200,000.00</b>	<b>28,740,662.62</b>	<b>95.17%</b>



### **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.

The Department is also engaged in a 4 year project which aims at official consolidation and revision of Legislative Enactments of Sri Lanka and publication in Sinhala, Tamil and English languages, in accordance with the Constitution. The project ends on the 31<sup>st</sup> of December this year. A request has been made to the Cabinet of ministers to extend the project period for another 6 years.

### **Reason for the extension by 6 years**

Even though the work of the project was expected to be completed in 2017, due to the reason that, the work of the project was required to be done by persons specialized in legislative drafting, in an intricate manner with technical evaluation and intellect, and there being only a few of such officers to be engaged in the project and even the majority of such officers being legislative drafters of this department carrying out day today duties of the office and the work of the project requires more labour and time, it was not possible to complete the work of the project within the year 2017.

As specified under the 'Legislative Drafting Division', steps have been taken in respect of drafting of Bills relevant to year 2017.

## **The measures taken to uplift the performance of the Department**

### **Mainly:-**

#### **1. DEVELOPMENT OF AN OFFICIAL WEBSITE**

Absence of 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](http://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 in an imperative.

Therefore, the Department sought to make available to its officers 'Westlaw', an online legal research service for legal professional. The necessary approvals have been received from the Treasury and the Ministry of Justice and the Department is in the process of finalizing the subscription.

#### 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. Four 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.