

EXECUTIVE SUMMARY

Ensuring Singapore's law remains clear, simple and practical

This article provides insight into the important work that our law drafters do quietly behind the scenes. Readers would be able to better understand the legislative process that takes place before a Bill is submitted to Parliament for deliberations by different Ministries.

As the guardian of the Singapore Statutes, the Legislation Division (LEGIS) works closely with the policy instructors to provide an effective analysis of the legislative proposals. In addition to drafting structured and organised, and clearly expressed Bills, LEGIS also ensures that no unnecessary legislation is allowed. Where applicable, the law drafters will propose other more appropriate or feasible solutions, especially those that do not require legal means for policy owners to consider.

Legislation Division meticulously drafts Bills to ensure clear laws

Since the opening of the current Parliament in 2016, many high profile and important Bills have been passed. These include the Administration of Justice (Protection) Bill, the Constitutional Amendment Bill to the Elected Presidency, the Active Mobility Bill, various Bills involving criminal justice reform and the recent Protection from Online Falsehoods and Manipulation Bill.

Although these Bills were submitted to Parliament for deliberations by different Ministries, they would have passed through the hands of law drafters, namely the Legislation Division (LEGIS) of the Attorney-General's Chambers (AGC). As it stands, LEGIS is involved in the legislative matters of all 16 Ministries, 10 Organs of State, 66 Statutory Boards and 16 Town Councils.

This issue of "Know the Law" focuses on the legislative process before a Bill is submitted to Parliament and to better understand how LEGIS carries out its mandate quietly behind the scenes.

Our next issue will further explain the process on how a Bill becomes law and what happens after it has been passed, and how LEGIS ensures the integrity of our Statutes and that legal provisions are clear and easy to understand.

Between 2014 and 2018, AGC's data showed that at least 40 Bills were submitted to Parliament yearly for deliberations. The only exception was 2015 when there were relatively fewer Bills due to the dissolution of Parliament.

The total number of Bills in 2018 reached a record high of 53, three more than in 2017. These included 13 new Bills, the rest being Amendment Bills. There was also a significantly higher number of pages in the Bills, from 2,069 pages in 2017 to 3,220 pages in 2018, highlighting the complexity of some of the Bills and the amount of information within. The Subsidiary Legislation, or Regulations, announced last year also reached a record high of 909 sets, with a page count of 6,839.

Law drafting has become more demanding. Mrs. Owi Beng Ki, who joined AGC 36 years ago and is now its Chief Legislative Counsel, witnessed how LEGIS grew from a team of no more than seven members to more than 70 today, including 45 staff and 31 legal service officers.

The responsibility of drafting the Bills resides mainly with the legal service officers. Some senior editors who may not have legal backgrounds can assist with simple Subsidiary Legislation, such as provisions governing the setting up of roadblocks during events.

Each Bill goes through an average of eight drafts

Mrs. Owi shared that the law drafting process is highly iterative; even an experienced law drafter would need to go through an average of eight drafts per Bill. There are currently 10 senior drafters, including Mrs Owi. Due to resource limitations, it is usually the case that only one drafter is assigned to handle each Bill.

Law drafters work on several Bills at any one point in time, alongside the Subsidiary Legislation to implement the Bills. Mrs. Owi currently has nine Bills on hand while other senior drafters generally manage five to six Bills each concurrently.

Mrs. Owi lamented the difficulty in finding talent for such work as law schools do not teach students how to draft laws.

There are misunderstandings about LEGIS's work, not only by public service agencies, but also by lawyers and other legal service officers. They have the impression that law drafters only receive instructions from policy owners and translate relevant proposals into legal text. This is not true and inaccurate.

Mrs. Owi emphasised that legislative drafting is a team effort which requires close collaboration between Ministry policy instructors and law drafters. This is the case even for simpler Subsidiary Legislation. In today's more complex governing environment, inter-ministerial teams of policy instructors are no longer uncommon, presenting more challenges to legislative work.

In this context, a single drafter usually faces teams of five to seven policy instructors from the Ministries. After analysing the policy instructors' proposals, the drafter must be able to make recommendations to transform policies and legislative proposals into legal provisions.

Apart from giving legal effect to the instructing authority's requirements, the Bill must be structured and organised, and clearly expressed. Only then can it be understood by its target audience. Doing so also ensures that new legal provisions can stand up against the scrutiny of an increasingly mature and outspoken public.

Therefore, LEGIS requires the drafters to be of relatively high standards. A competent drafter must be able to deal with problems independently.

Mrs. Owi added, "I originally expected that it would take about three years to train a competent drafter, but in the current complex environment, I think it will take at least five years."

How is a Bill written into law?

Bills constitute a part of the legislation presented either by Ministries or individual Members of Parliament for consideration and debate in Parliament. After the new Bills pass the Third Reading in Parliament, and before they are reported to the President, most of them are submitted to the Presidential Council for Minority Rights (PCMR) for review to ensure that provisions of each Bill do not damage or affect the rights of minority communities.

The Bill becomes law only after the President assents and it is recorded in red binders for the Singapore Statute Book.

Subsidiary Legislation does not require parliamentary review. It constitutes another part of the legislation enacted by Ministers and other administrative bodies authorised under relevant principal Acts.

The PCMR will complete a review of a Subsidiary Legislation within 14 days after it is published in the Government Gazette. The Subsidiary Legislation is assembled in a black binder; it is not recorded in the Statute Book.

A hastily drafted Bill is akin to improper computer programming

LEGIS is also the guardian of the Singapore Statutes; it keeps Singapore's laws simple and practical and does not allow unnecessary legislation.

Mrs. Owi repeatedly emphasised the importance of cooperation in the law drafting process. This includes policy instructors setting realistic goals for the entire legislative process instead of expecting it to be done quickly. This is because drafters often do not have precedents to follow and cannot simply copy the laws of other jurisdictions.

Mrs. Owi added that even if a Bill is proposed by one Ministry, it may still have a far reaching impact on other existing Acts, and therefore there is a need to consult other Ministries to see if amendments to the other Acts should be made as well.

A hastily drafted and disorganised legislation is akin to improper computer programming, but with the former having more far-reaching consequences.

The quality of the policy instructors' guidance and the complexity of policies have a direct impact on the length of time spent drafting Bills. After a drafter has been assigned, a simple Bill can come into force within two to three months, while a relatively complex Bill requires approximately 12 to 15 months. Some Bills may take an even longer time to draft.

For example, the major amendments in Criminal Procedure Code 2010 took about 15 years, which spanned several terms of government, to come into force.

LEGIS is presently working on a Bill that started in 2011. It has undergone several changes in its design and policy specifications, and continues to evolve due to changing external environments.

Mrs. Owi said that drafters will not question the purpose of the elected government's legislation. However, as the government's legal advisers, they will propose other more appropriate or feasible solutions when applicable, especially those that do not require legal means, for policy owners to consider.

"We are at the heart of the Government, having the ability to take the macro view and provide an effective analysis of legislative proposals. This is where we add value."

Legislative data for the past five years

Year	Bills		Published Subsidiary Legislations	
	Total	No. of Pages	Total	No. of Pages
2014	43	1941	893	3900
2015*	28	985	855	5149
2016	40	2001	738	4448
2017	50	2069	808	4508
2018	53	3220	909	6839

Source: AGC *Election year