

**SEMINAR PERUNDANGAN
JABATAN PERDANA MENTERI**



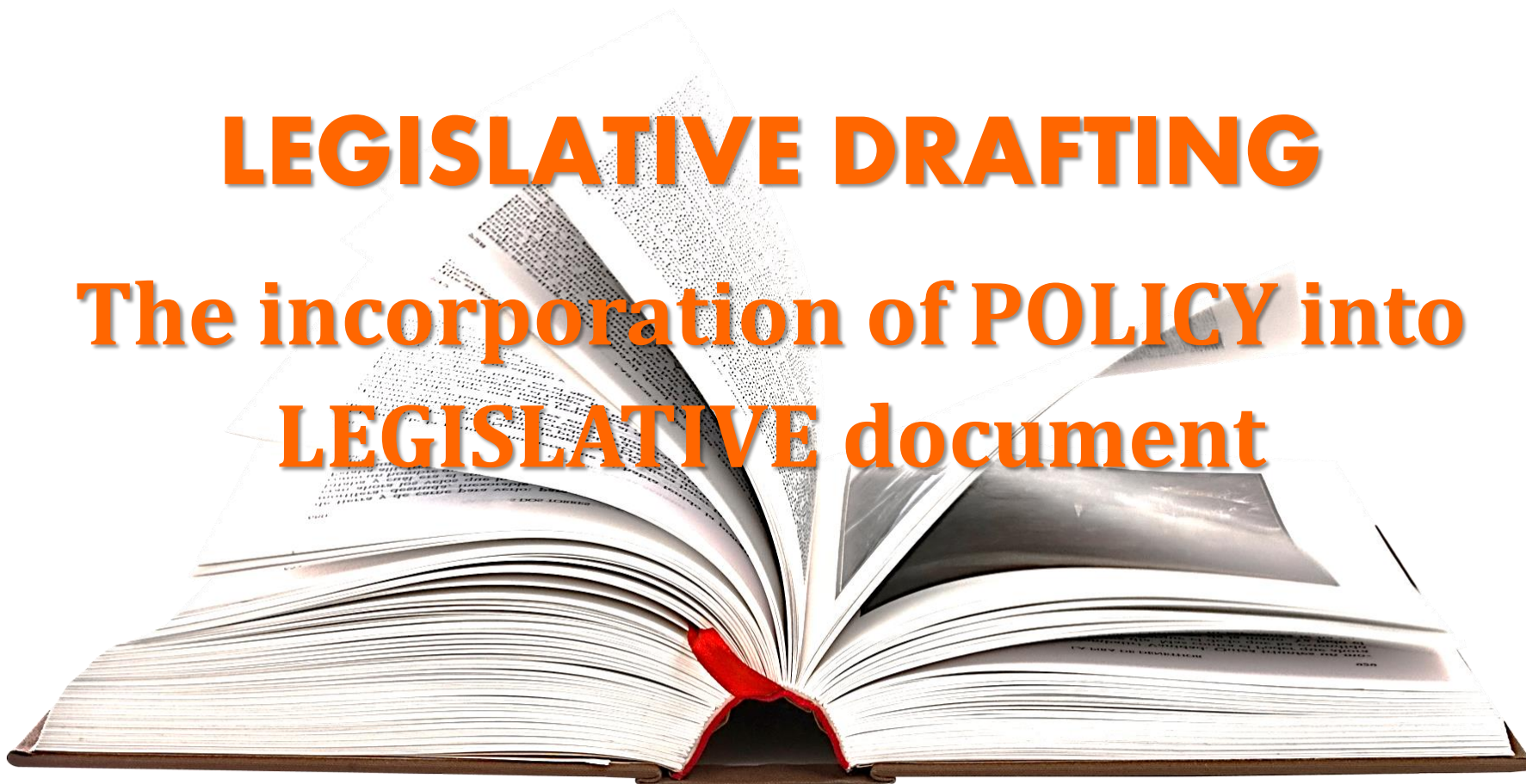
LAW MAKING PROCESS

**PRESENTED BY: DYG HJH NORAZAMIAH
BINTI HJ HAMBALI**



LEGISLATIVE DRAFTING

The incorporation of POLICY into LEGISLATIVE document





5 STAGES OF LAW-MAKING PROCESS

STAGE 1	FORMULATION OF POLICY
STAGE 2	INSTRUCTION TO DRAFT
STAGE 3	PREPARATION OF DRAFT LEGISLATION
STAGE 4	MAKING LAW
STAGE 5	PUBLICATION OF LAW IN GOVERNMENT GAZETTE



LAW MAKING PROCESS

POLICY-MAKING PROCESS

POLICY RECOMMENDATION
AND WORKING PAPER TO
PASS NEW LAW

Consultation with other
government agencies
and members of
Legislative Council

Formulate
government policy

POLICY

Acquire legal advice
from Attorney
General Chambers

Give effect to
government policy
through the
enforcement of law
and administratively

APPROVAL IN
PRINCIPAL OF
MINISTRY OR
AUTHORITY
WHO HOLDS
JURISDICTION/
RESPONSIBILITY
FOR
LEGISLATION

FORMULATION OF
LEGISLATIVE SCHEME

Acquire legal
advice from the
Attorney General
Chambers

AGC

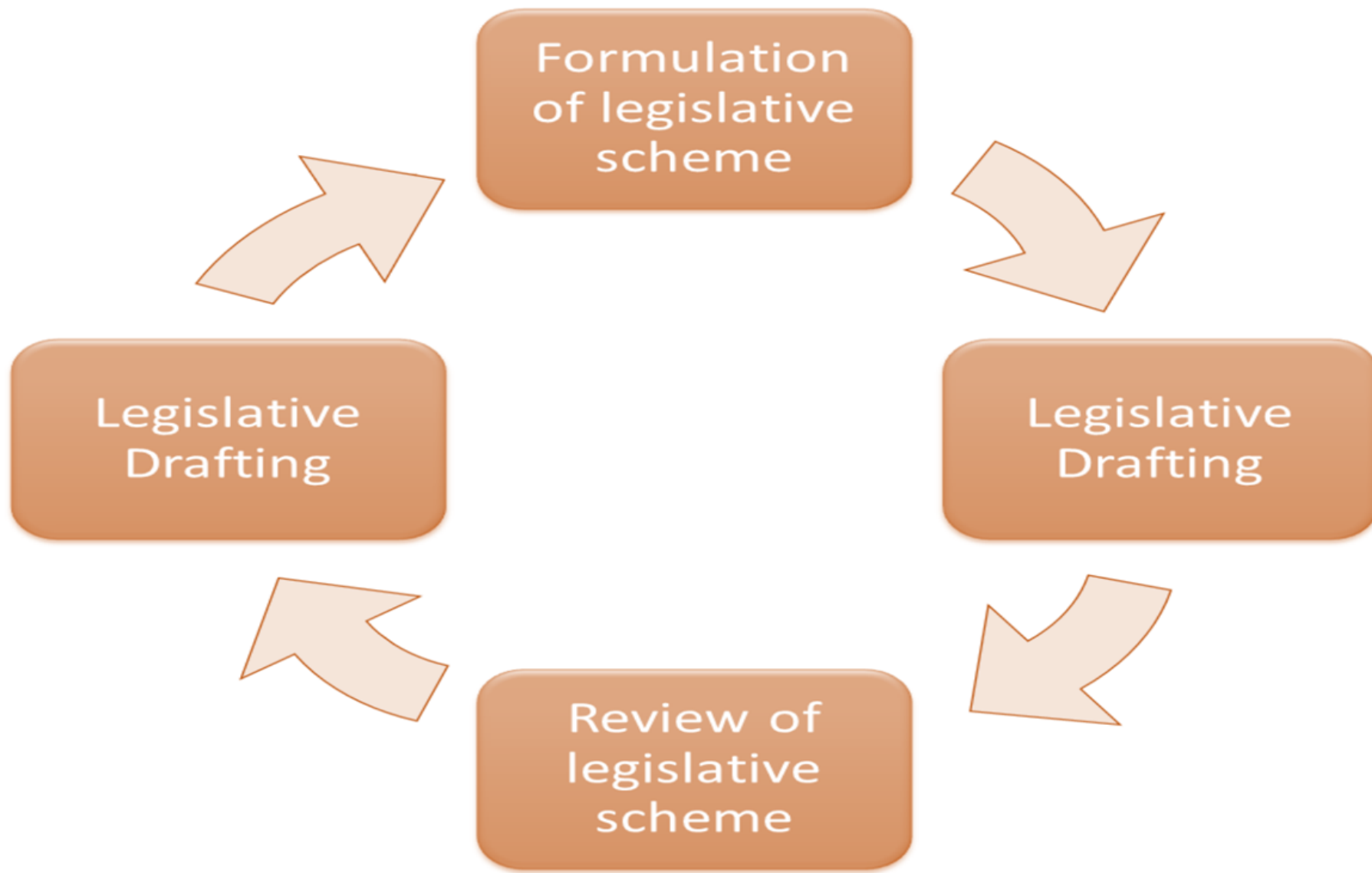
Formulate
legislative
drafting
instructions

Consultation
with other
government
agencies

LEGISLATIVE
DRAFTING
PROCESS

LEGISLATIVE
DRAFTING
PROCESS
INITIATED

FORMAL
INSTRUCTION
TO AGC TO
PREPARE DRAFT
LEGISLATION





STAGE 1

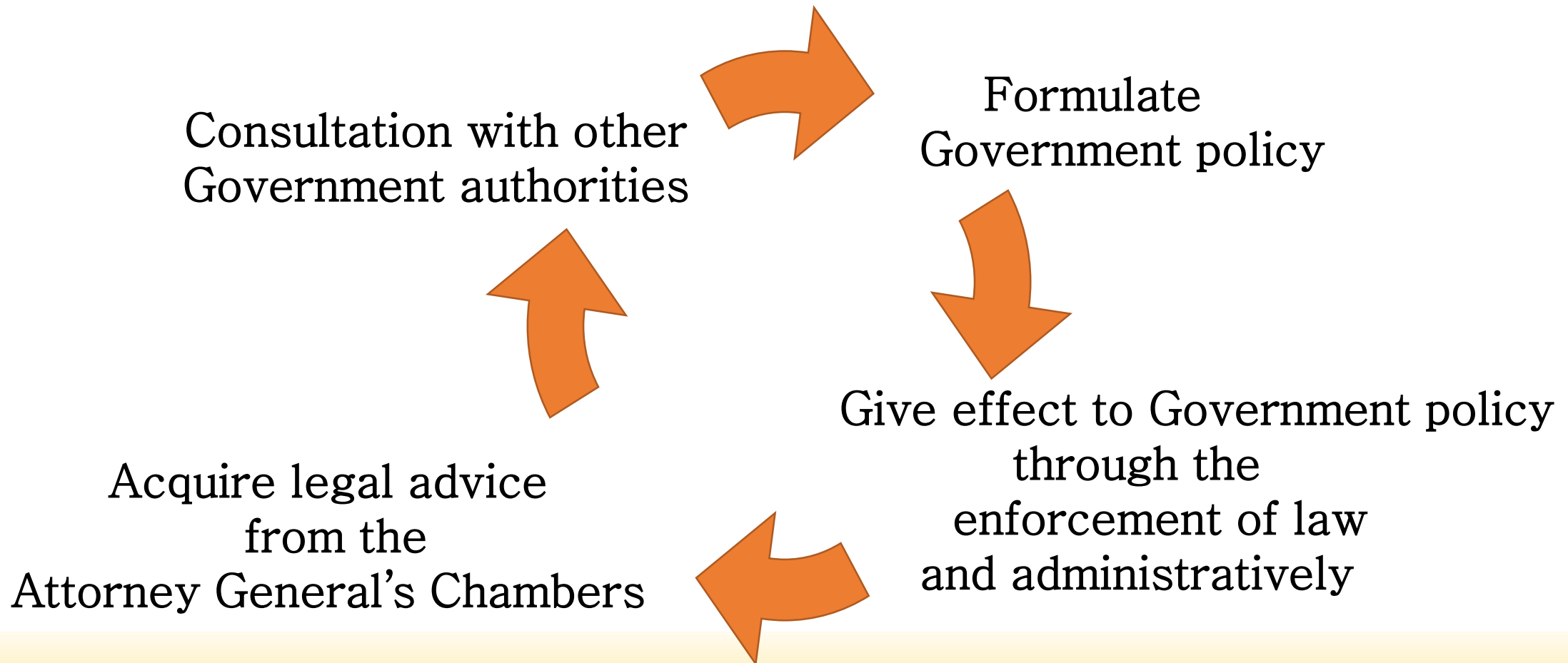
FORMULATION OF POLICY



- ❖ The Ministries, Departments and statutory bodies are responsible for the formulation of the legislative policy and also in initiating the drafting of the required legislation.
- ❖ Policy recommendation and working papers to pass new laws must have approval in principle from His Majesty the Sultan and Yang Di-Pertuan of Brunei Darussalam or the Ministry or authority holding responsibility for administering the proposed legislation.



POLICY





DETAILED PLANNING

- ❖ To study the need to introduce legislation
- ❖ To study and refer to equivalent laws of countries such as Singapore, Malaysia and the United Kingdom
- ❖ To consult with other Government agencies

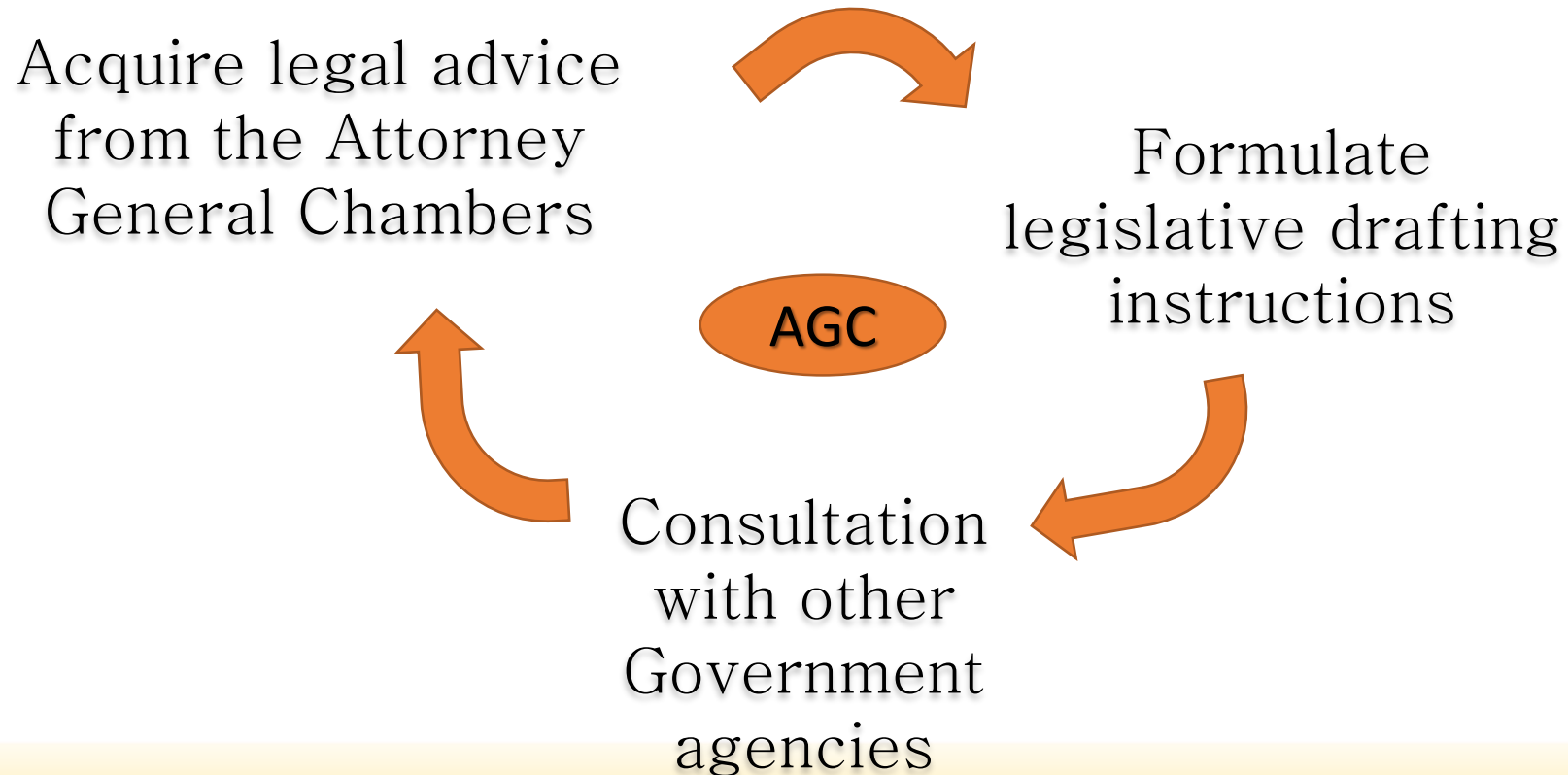


STAGE 2

INSTRUCTION TO DRAFT



LEGISLATIVE SCHEME





[Home](#)

[News](#)

[About Us](#)

[Our Divisions and Unit](#)

[Services](#)

[Contact Us](#)

[EDIT LINKS](#)

Publication

1. Attorney General's Chambers Report 2015 - 2017
2. Attorney General's Chambers Annual Report 2017
3. Guide to Being a Witness in Court
 - i) Manual
 - ii) Introductory Video
4. Brunei Darussalam Treaty Series:
 - i) Counter Terrorism
 - ii) Intellectual Property
 - iii) Law of the Sea and Maritime
5. Government Contracts Manual
6. Musings From Chambers: *Chambers Decoded*
7. Attorney General's Chambers Report 2013 - 2015
8. Guidelines on Criminal Case Negotiations
9. Drafting Instructions Handbook (*Panduan Arahan Penggubalan*)
10. Practical Approach on the Preparation of Initial Draft
(*Pendekatan Praktikal untuk Menyediakan Rang Permulaan*)

[Legislation Online](#)

[E-Library](#)

[Publication](#)

[Intellectual Property](#)

[Power of Attorney and Marriages Registration Counter](#)



HANDBOOK



DRAFTING

INSTRUCTIONS

English - Malay

Compiled and prepared by:
Attorney General's Chambers
Negara Brunei Darussalam



Drafting instructions provide a more detailed view of how the policy will be reflected in the legislation and allow other Ministries, departments or statutory bodies an opportunity to consider how the proposal may affect their responsibilities and interests.

The drafting instructions guide the legislative drafter and provide information relating to what, why and when it has to be done.

The drafting instructions need to cover, among others, a background information; the nature of the problem; a statement of the history or circumstances giving rise to the proposals and the nature of the issues; the aims of the legislation or its principal objectives; the rationale for the proposal; any consequential amendment; commencement date.



PRACTICAL APPROACH ON THE PREPARATION OF INITIAL DRAFT

1. List out the current issues and implication

- ❖ List out the issues concerning the subject matter.
- ❖ Please highlight the reasons for the concerns, their implications and the proposed solutions (if any).
- ❖ List out potential stakeholders.

2. Benchmark

- ❖ Study how other jurisdictions, preferably Singapore, Malaysia or other Commonwealth countries, deal with the issues or the subject matter, that is either administratively or through the introduction of legislation.
- ❖ If legislation is proposed, compile the laws (softcopy and hardcopy) of those jurisdictions (countries) that have been identified to be used as reference.



3. Study the benchmark

- ❖ Read, study and understand each provision and relate to the issues to be tackled and consider whether it is suitable to Brunei Darussalam.

4. Preparation of initial draft

- ❖ Initial draft does not need to be perfect as long as all relevant provisions are there.
- ❖ Relevant provision means the provisions that have basis or reasons to be incorporated in the draft.
- ❖ If uncertainty arises with respect to the relevancy of the provision, this can be highlighted in the draft itself in the form of a footnote.



5. Table of Comparative Legislation

- ❖ Table of Comparative Legislation can be prepared at the same time when the initial draft is being prepared.
- ❖ This table will be very helpful to assist the Ministry and also the Attorney General's Chambers to understand the source of the provisions proposed.

6. Internal Discussions

- ❖ Discussions among stakeholders within your organisation is encouraged to check and test the acceptance of the initial draft as a document to reflect the Government policy.



7. Approval-in-principle of Director and Ministry

- ❖ Approval-in-principle from the Director and the Ministry concerned to be acquired to endorse the initial draft.

8. Collaboration

- ❖ Discussions among stakeholders, if any, outside your organisation, is also encouraged. This ensures their cooperation in the enforcement of legislation in the future and their interest is not affected.



9. Approval-in-principle of Ministry of Finance and Economy

- ❖ Approval-in-principle from the Ministry of Finance and Economy is to be acquired if the initial draft contains any financial provision that involves financial commitment on the part of the Government.

10. Submission of initial draft to Attorney General's Chambers

- ❖ The initial draft can now be submitted to the Attorney General's Chambers for consideration and perusal.



STAGE 3

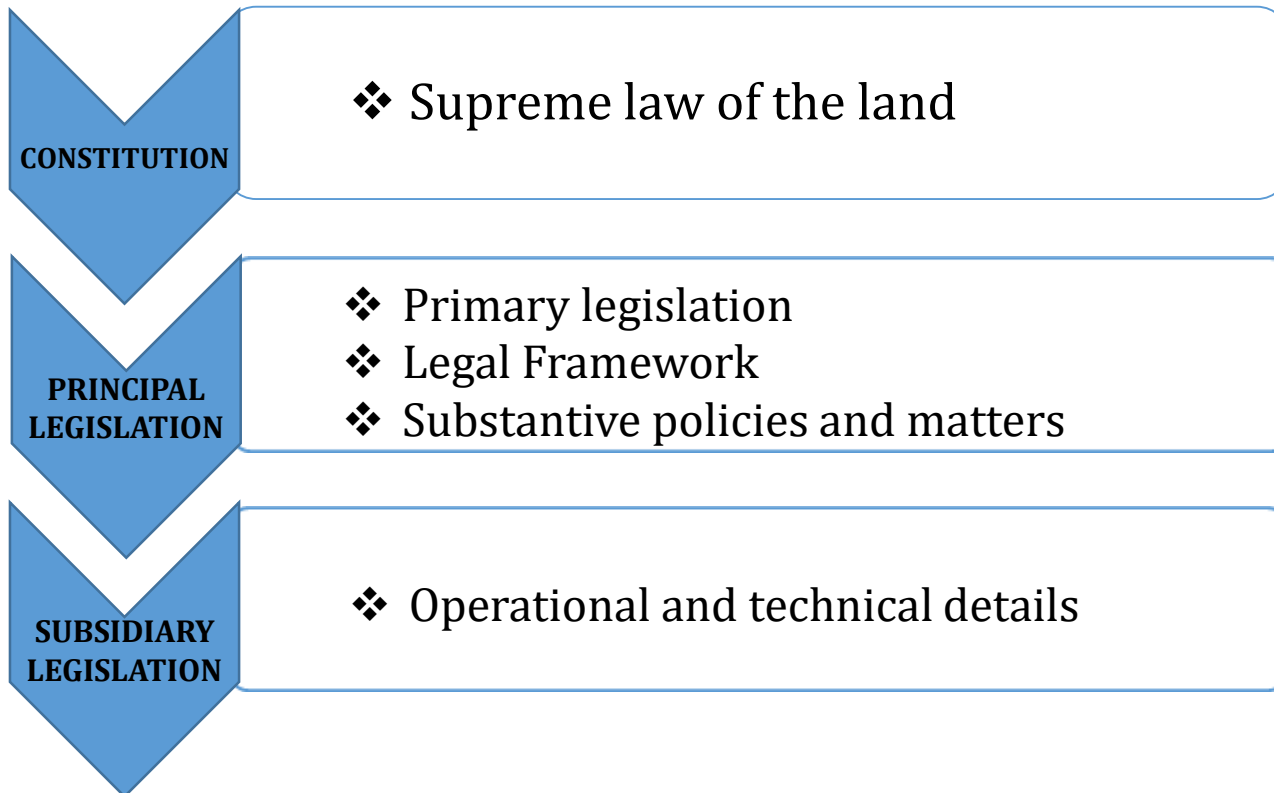
PREPARATION OF DRAFT LEGISLATION



- ❖ On receipt of drafting instructions, the legislative drafter must make sure that he has a thorough understanding of the legislative proposal.
- ❖ A legislative drafter has the responsibility to prepare the requisite draft legislation; to confirm the suitability of the legislative proposal or the need for legislation; to identify and resolve constitutional and legal issues; to raise questions of principle and spot any financial or other practical implication; to refer any relevant matter to their divisions of the Attorney General's Chambers; and to maintain an orderly statute book.



TYPES OF LEGISLATION





- ❖ Principal Legislation – Act (referred as Chapter in the Laws of Brunei) and Order (referred as S/ [year of gazette]) via Articles 83(3) of the Constitution of Brunei Darussalam.
- ❖ Subsidiary Legislation (SL) – Rules, Regulations, By-Laws, Notifications, Order (with small O) and Proclamations. SL is drafted using its enabling provision in the principal legislation.



TYPES OF LEGISLATIVE DRAFTING INSTRUCTIONS RECEIVED FROM CLIENT

- ❖ To make new laws
- ❖ To amend (to add or to remove) provisions within the legislation
- ❖ To repeal legislation



STAGE 4

MAKING LAW



AUTHORITIES TO MAKE LAW

❑ HIS MAJESTY THE SULTAN AND YANG DI-PERTUAN

- Order made under Article 83(3) of the Constitution of Brunei Darussalam

❑ Minister or Statutory Bodies responsible for the enforcement of the particular legislation

- Subsidiary Legislation



HIS MAJESTY THE SULTAN AND YANG DI-PERTUAN

- ❖ Article 83(3) of the Constitution of Brunei Darussalam
- ❖ Makes 'Order' which he considers desirable in the public interest
- ❖ Order commences from the date of making 'Order'
- ❖ 'Order' to be laid in the next meeting of the Legislative Council for resolution whether the Order will cease to have effect or be passed



CONSTITUTION OF BRUNEI DARUSSALAM

(Order under Article 83(3))

COMPULSORY EDUCATION ORDER, 2007

In exercise of the power conferred by Article 83(3) of the Constitution of Brunei Darussalam, His Majesty the Sultan and Yang Di-Pertuan hereby makes the following Order —

Citation and long title.

1. (1) This Order may be cited as the Compulsory Education Order, 2007.

(2) The long title of this Order is "An Order to provide for compulsory education and for matters connected therewith or incidental thereto".

Regulations.

14. (1) The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, make regulations which are necessary or expedient for giving effect to and carrying out the provisions of this Order, including the prescription of fees and any other thing required to be or which may be prescribed under this Order, and for the due administration thereof.

(2) Such regulations may include such incidental, consequential and supplementary provisions as the Minister considers necessary or expedient.

Made this 14th. day of Zulkaedah, 1428 Hijriah corresponding to the 24th. day of November, 2007 at Our Istana Nurul Iman, Bandar Seri Begawan, Brunei Darussalam.

HIS MAJESTY
THE SULTAN AND YANG DI-PERTUAN
BRUNEI DARUSSALAM



COMPULSORY EDUCATION ACT

An Act to provide for compulsory education and for matters connected therewith or incidental thereto

Commencement: 24th November 2007

Citation.

1. This Act may be cited as the Compulsory Education Act.

Interpretation.

2. In this Act, unless the context otherwise requires —

“Board” means the Compulsory Education Board established by section 5;

“child of compulsory school age” means a child above the age of 6 years who has not yet attained the age of 15 years and who satisfies such conditions for receiving primary and lower secondary education as the Permanent Secretary may determine;

“Government school” means any institution for the provision of full-time primary or lower secondary education, being —

(a) a school established and maintained exclusively by the Government; or

(b) such other school as may be prescribed;

“Minister” means the Minister of Education;

“parent”, in relation to a child to whom section 3(1) applies, has the same meaning as in section 2 of the Education Act (Chapter 210);

“Permanent Secretary” means the Permanent Secretary of the Ministry of Education or any other officer appointed under section 4 of the Education Act (Chapter 210).



CONSTITUTION OF BRUNEI DARUSSALAM
[Order made under Article 83(3)]

COMPULSORY RELIGIOUS EDUCATION ORDER, 2012

In exercise of the power conferred by Article 83(3) of the Constitution of Brunei Darussalam, His Majesty the Sultan and Yang Di-Pertuan hereby makes the following Order —

Citation, commencement and long title.

1. (1) This Order may be cited as the Compulsory Religious Education Order, 2012 and shall commence on the 1st. day of January, 2013.

(2) The long title of this Order is "An Order to provide for compulsory religious education and for matters connected therewith or incidental thereto".

Regulations.

16. (1) The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, make regulations which are necessary or expedient for giving effect to and carrying out the provisions of this Order, including the prescription of fees and any other thing required to be or which may be prescribed under this Order, and for the due administration thereof.

(2) Such regulations may include such incidental, consequential and supplementary provisions as the Minister considers necessary or expedient.

Made this 24th. day of Syaaban, 1433 Hijriah corresponding to the 14th. day of July, 2012 at Our Istana Nurul Iman, Bandar Seri Begawan, Brunei Darussalam.

HIS MAJESTY
THE SULTAN AND YANG DI-PERTUAN
BRUNEI DARUSSALAM



CONSTITUTION OF BRUNEI DARUSSALAM
(Order under Article 83(3))

CENTRE FOR STRATEGIC AND POLICY STUDIES ORDER, 2006

In exercise of the power conferred by Clause (3) of Article 83 of the Constitution of Brunei Darussalam, His Majesty the Sultan and Yang Di-Pertuan hereby makes the following Order —

Citation, commencement and long title.

1. (1) This Order may be cited as the Centre for Strategic and Policy Studies Order, 2006 and shall commence on a date to be appointed by the Minister, with the approval of His Majesty the Sultan and Yang Di-Pertuan, by notification in the *Gazette*.

(2) The long title of this Order is "An Order to provide for the establishment of the Centre for Strategic and Policy Studies and for matters connected therewith".

Rules.

25. The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, make such rules as may be necessary or expedient for giving effect to and carrying out the provisions of this Order, including the prescription of fees and of any other thing required to be or which may be prescribed under this Order, and for the due administration thereof.

Made this 20th. day of Rabiulakhir, 1427 Hijriah corresponding to the 18th. day of May, 2006 at Our Istana Nurul Iman, Bandar Seri Begawan, Brunei Darussalam.

HIS MAJESTY
THE SULTAN AND YANG DI-PERTUAN
BRUNEI DARUSSALAM



14th. JUNE, 2006

No. S 68

CENTRE FOR STRATEGIC AND POLICY STUDIES ORDER, 2006
(S 64/06)

NOTIFICATION OF COMMENCEMENT UNDER SECTION 1(1)

In exercise of the power conferred by subsection (1) of section 1, the Prime Minister, with the approval of His Majesty the Sultan and Yang Di-Pertuan, has appointed the 1st. July, 2006 as the date on which the Centre for Strategic and Policy Studies Order, 2006 shall commence.

Dated 16th. day of Jamadilawal, 1427 Hijriah corresponding to the 13th. day of June, 2006.

PENGIRAN DATO PADUKA HAJI ISMAIL
BIN PENGIRAN HAJI MOHAMED
Permanent Secretary,
Office of the Prime Minister.



PROTECTED AREAS AND PROTECTED PLACES ACT
(CHAPTER 147)

PROTECTED PLACES [NO. 3] ORDER, 2010

In exercise of the power conferred by section 5(1) of the Protected Areas and Protected Places Act, the Minister of Home Affairs hereby makes the following Order —

Citation.

1. This Order may be cited as the Protected Places [No. 3] Order, 2010.

29th. JUNE, 2010

Dated this 8th. day of Rejab, 1431 Hijriah corresponding to the 21st. day of June, 2010.

PEHIN UDANA KHATIB DATO PADUKA SERI SETIA
USTAZ HAJI AWANG BADARUDDIN BIN
PENGARAH DATO PADUKA HAJI OTHMAN,
Minister of Home Affairs,
Brunei Darussalam.



8th. AUGUST, 2007

TOBACCO ORDER, 2005

(S 49/05)

TOBACCO (COMPOSITION OF OFFENCES) REGULATIONS, 2007

In exercise of the power conferred by section 31(3) of the Tobacco Order, 2005, the Minister of Health, with the approval of His Majesty the Sultan and Yang Di-Pertuan, hereby makes the following Regulations —

Citation and commencement.

1. These Regulations may be cited as the Tobacco (Composition of Offences) Regulations, 2007 and shall commence on the same date as the Tobacco Order, 2005.

Made this 13th. day of Rejab, 1428 Hijriah corresponding to the 28th. day of July, 2007.

PEHIN ORANG KAYA INDERA PAHLAWAN
DATO SERI SETIA HAJI AWANG SUYOI BIN HAJI OSMAN
Minister of Health,
Brunei Darussalam.



- ❖ In the case of a Bill, it is to be introduced in the Legislative Council as provided under Parts VI and VII of the Constitution of Brunei Darussalam. Currently, only the Supply Bill is introduced and debated in the Legislative Council. After the Bill is passed, His Majesty the Sultan and Yang Di-Pertuan assents to, signs and seals the Bill with the State Seal.



STAGE 5

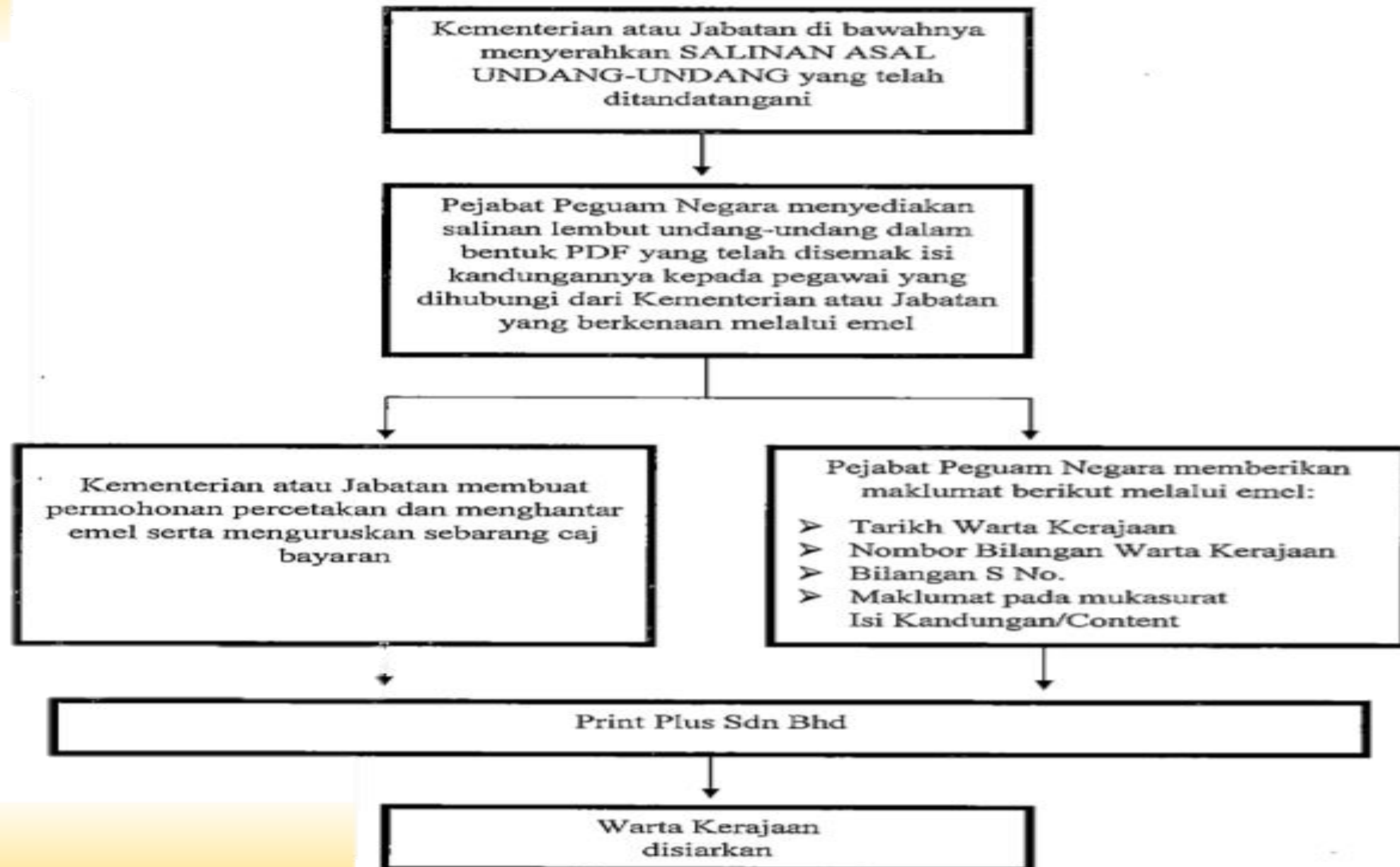
PUBLICATION LAW



- ❖ Signed copies of legislation are returned to the Attorney General's Chambers for Gazetting process – depends on the types of legislation.
- ❖ Print Plus Sdn Bhd.



WARTA KERAJAAN BAGI UNDANG-UNDANG YANG DITANDATANGANI





BRULAW

INDEX TO THE LAWS OF BRUNEI DARUSSALAM

INFO	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W- X	Y-Z
------	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---------	-----

The 1st column list out the ACTS and ORDERS which are printed in BOLD CAPITAL LETTERS. These are arranged in alphabetical order. All amendments to the Acts and Orders are compiled chronologically under its own citation.

The 2nd column list out the reference number of the Act, Order, Rules, Regulations and other notifications and appointments made under the respective Act or Order.

The explanation of the references in the 2nd column is as follows -

1. " CAP. 1 " is a reference to the Chapter of the Act in the Laws of Brunei.
2. " S 26/05 " refers to the reference number and the year published in the Government Gazette Part II.
3. " GN 219/00 " refers to the reference number and the year published in the Government Gazette Part IV.

The 3rd column to indicate the revised edition of the legislation - BLRO with chronology of the past versions of the primary legislation to the updated version that may include BLUV.

The 4th column list out the subsidiary legislations printed in bold and other notifications and appointments made under the respective Act and Order.

The 5th column refers to the date of commencement.

Abbreviations -

B.L.R.O. = Brunei Law Revision Order

B.L.U.V = Brunei Law Updated Version; This BLUV is an online updated version that includes all the amendments to the primary legislation. They are not an official text.

CAP. = Chapter

E = Enactment

[E] = English version



DRAFT LEGISLATION DATABASE



DRAFT LEGISLATION DATABASE

Enter



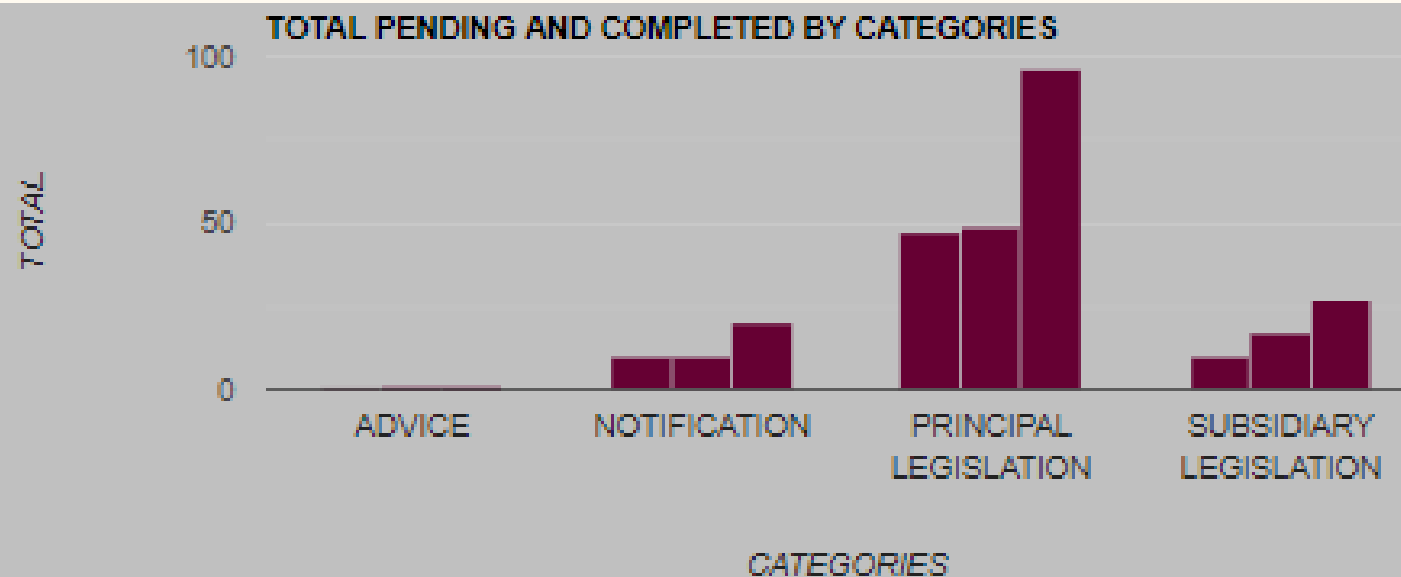
DRAFT LEGISLATION DATABASE

HOME Chart Print

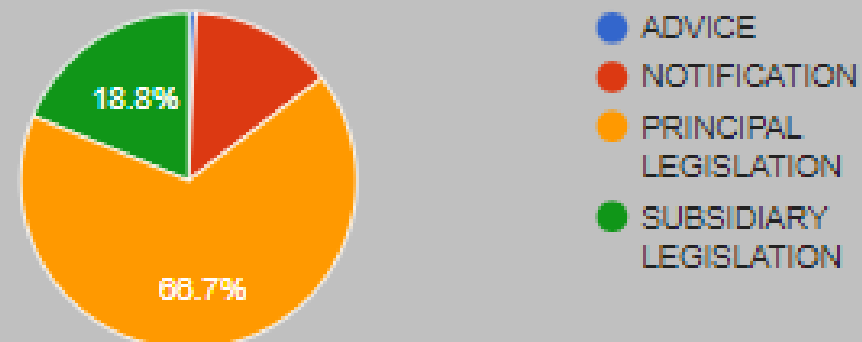
Ministry of Finance and Economy

MINISTRIES ▲	PENDING	COMPLETED	TOTAL
MOFE	68	76	144

✓ Edit	DRAFT TITLE	MINISTRIES	AGENCIES	CLIENT INSTRUCTION	AGC ACTION	CURRENT STATUS	CATEGORY	MINISTRY COMMENTS
Count= 144								
	Accounting Standards Order, 2010 under section 3(1) Re: Notification of appointment of Authority Permanent Secretary to The Ministry of Finance [with effect 01/08/2011]	MOFE		<ul style="list-style-type: none"> Further instruction received from client via email dated 28/01/2021. Client has no objection dated 12/02/2020. Signature copies to be printed. Further instruction dated 31/12/2019 (to change year at Signature copy). Initial instruction dated 18/06/2019. 	<ul style="list-style-type: none"> Signature copy (E&M) sent to SUT MOFE dated 25/03/2021; 16/03/2020; 17/09/2019. Discussion draft sent for consideration to SUT MOFE dated 01/02/2020. 	COMPLETED	GN	<p>On regard: "Further instruction received from client via email dated 28/01/2021."</p> <p>Please amend to "Further instruction received from client via email dated 30/02/2021"</p>
	Asian Infrastructure Investment Bank (Amendment) Order, 2020	MOFE			Discussion draft sent for consideration to SUT MOFE dated 29/07/2020.	COMPLETED	PL	
	Bretton Woods Agreement Act (Amendment) Order Re: Changes to Minister of Finance and Economy	MOFE		Initial instruction from ALD dated 17/03/2020.	Discussion draft sent for consideration to SUT MOFE dated 29/07/2020.	COMPLETED	PL	
	Bretton Woods Agreement Act (Amendment) Order Re: Notification of appointment of Minister responsible of the Act	MOFE		Initial instruction from ALD dated 17/03/2020.	Discussion draft sent for consideration to SUT MOFE dated 29/07/2020.	COMPLETED	GN	



TOTAL PENDING AND COMPLETED BY CATEGORIES



CATEGORIES ▲	PENDING	COMPLETED	TOTAL
ADVICE	0	1	1
NOTIFICATION	10	10	20
PRINCIPAL LEGISLATION	47	49	96
SUBSIDIARY LEGISLATION	10	17	27



THANK YOU