



“Legislative Language : Overcoming Gaps & Barriers”

Legislative Drafting Workshop
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18th November 2017

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Basic Concept of Legislative Drafting

- Policy Formulation
 - 1st to be ascertained
 - Details of 'clear policy intent' to be made apparent
 - Draft clearly and concisely
 - Hurdles

- Accessibility of Legislation

- “Ignorance of the law is no excuse”

- In **Bowmaker v Tabor [1941] 1, CA**; Goddard L.J stated:

“It is entirely fallacious to say that everyone is presumed to know the law. That fallacy was exposed once and for all by Lord Mansfield in Jones v Randall [1774] 1 Cowp. 37,40 when he said:

‘it would be very hard upon the profession, if the law was certain, that everybody knew it; the misfortune is that it is so uncertain, that it costs money to know what it is, even in the last resort’.

The rule is, that ignorance of the law shall not excuse a man, or relieve him from consequences of a crime, or from liability upon contract.”

- Methodology : Traditional vs Modern
 - ‘*Legalese*’ vs Plain Language
 - Examples:

Traditional	Modern
Give consideration to	Consider
Make application	Apply
Pursuant to	Under
Make an appointment of	Appoint
To the effect that	That
Have knowledge of	Know
In lieu of	Instead of

Writing Legislation

- Why do we draft the way we draft?
 - Judges are not supposed to make laws
 - Foreseeable Contingencies
 - Courts Interpretation

- AGC's Initiatives:
 - Law Revision Act, Chapter 1
 - AG's Function and Power to revise written Laws of Brunei
 - To identify and remove repealed Acts
 - To consolidate and alter [NB: ***Substance of laws being revised remained unchanged***]
 - On-going projects – incorporating subsidiary legislation into Laws of Brunei
 - Time Consuming Process – “Authoritative”

- Brunei Initiatives: *(Cont.)*

- BLUV Project – BruLaw Legislation Updated Version

- On-line platform accessible through AGC's website : www.agc.gov.bn
 - Specifically to cater for Orders made under Article 83(3) Brunei Constitution
 - Incorporating amendments to such Orders
 - Virtual text – Not Published nor Printed
 - “Non-Authoritative” – Quick Guide & Reference ONLY
 - Challenges – Limited to scope of allocated resources

Conclusion

- Formulation of Laws require clear policy-intent
- Written Laws to be made accessible for everyone
- Traditional or Modern style of drafting? Mix of both?
- On-Going Initiatives – ‘Mini Surveys’

~END-

Thank you for your attention

Questions?