



SARAWAK STATE ATTORNEY-GENERAL'S CHAMBERS

SARAWAK LEGISLATIVE DRAFTING MANUAL



2026

Prepared by
STATE ATTORNEY-GENERAL'S CHAMBERS
2026

SARAWAK LEGISLATIVE DRAFTING MANUAL

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FOREWORD

THE SARAWAK STATE SECRETARY

*Yang Berhormat Datuk Amar Haji
Mohamad Abu Bakar bin Marzuki*

The preparation of legislation requires a sound understanding of legislative principles and careful attention to ensure that the policy intent is accurately reflected in the law. Consistency in the form and presentation of legislation is also important in maintaining the clarity and certainty in law.

Thus, this Legislative Drafting Manual sets out the principles and practices to be observed in the process of drafting legislations in Sarawak. It is intended to provide practical guidance to officers and agencies and to promote greater consistency in the preparation of legislation.

Therefore, I would like to congratulate the State Attorney-General's Chambers for the initiative in the publishing of this Drafting Manual.

I hope this Drafting Manual will serve as a useful reference to officers and agencies involved in the preparation of legislation and will assist in developing a common understanding of legislative drafting practices and standards within the Sarawak Civil Service.

PREFACE

THE SARAWAK STATE ATTORNEY-GENERAL

Yang Arif Dato Sri Saferi bin Ali

Legislative drafting is one of the core functions in the State Attorney-General's Chambers. The quality of legislation depends not only on the policy and objectives sought to be achieved, but also on the clarity, precision and consistency with which those objectives are expressed in law.

The preparation of legislation requires careful consideration of legal principles, constitutional requirements, existing laws and the practical effect of the proposed provisions.

It also requires close cooperation between the draftsman, the relevant Ministries, Departments and other stakeholders involved in the legislative process.

Thus, the initiative to prepare this Legislative Drafting Manual is to provide guidance to officers involved in the drafting of legislation for the State of Sarawak. It sets out the general principles and practices to be observed in the preparation of Bills, subsidiary legislations, and other legislative instruments.

It is intended to assist draftsmen, particularly those who are new to legislative drafting, and to promote a consistent approach to the drafting of Sarawak legislation. It is hoped that this Drafting Manual will serve as a useful reference to officers of the State Attorney-General's Chambers and contribute towards the preparation of legislation, which is clear, effective and capable of achieving its intended purpose.

This Drafting Manual should be regarded as a working document and may be reviewed and updated from time to time to reflect developments in law, legislative practice and the needs of the State.



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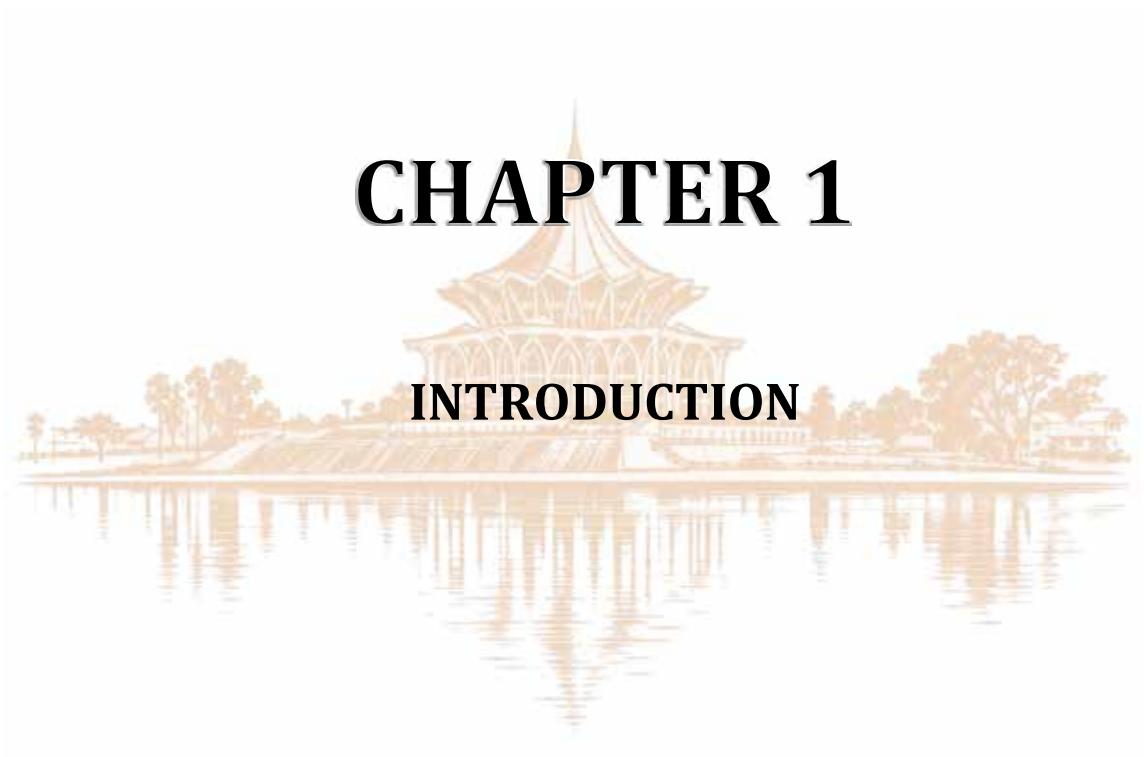
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LIST OF ABBREVIATIONS

ABBREVIATIONS	DESCRIPTION
Dewan Undangan Negeri	DUN
Drafting Committee	DC
Drafting Instruction	DI
Head of Drafting	HOD
Majlis Mesyuarat Kerajaan Negeri	MMKN
Percetakan Nasional Malaysia Berhad	PNMB
State Attorney-General	SAG
State Attorney-General's Chambers	SAGC
Yang di-Pertua Negeri	YDPN



CHAPTER 1

INTRODUCTION

1.1 INTRODUCTION

1.1.1 The purpose of this Sarawak Legislative Drafting Manual (“Drafting Manual”) is to provide detailed guidelines on the processes and procedures for legislative drafting in Sarawak.

- 1.1.2 This Drafting Manual seeks to assist all public service agencies¹ in Sarawak to participate more effectively in the drafting process. This drafting process involves not only the Sarawak Attorney-General's Chambers (SAGC), but also public service agencies in Sarawak as the main stakeholders. Each stakeholder plays an important role in ensuring that legislation is clear, precise and readable.
- 1.1.3 Thus, this Drafting Manual may be used by public service agencies as a guide for preparing proper and clear drafting instructions to SAGC, pursuant to General Order 195(1)(d) of the State Public Service General Orders, 1996 [**Swk. L.N. 1/96**], prior to the tabling of any Bill before the State Legislature, as well as for the preparation of drafts of subsidiary legislation for the approval of the relevant authorities.

1.2 CONSTITUTIONAL SUPREMACY

- 1.2.1 In Malaysia, the Federal Constitution is the supreme law of the Federation. As such, any law passed by the

¹ public service agencies include Ministries, Departments, Statutory Bodies, Local Authorities and Public Authorities exercising powers vested in it by a state law.

Parliament or by the State Legislature must conform to the Federal Constitution.

Article 4(1) of the Federal Constitution provides that:

SUPREME LAW OF THE FEDERATION

"...the supreme law of the Federation and any law passed after Merdeka Day which is inconsistent with this Constitution shall, to the extent of the inconsistency, be void."

1.2.2 It has to be taken into account that any legislation in Sarawak must be consistent with the Federal Constitution and the Constitution of the State of Sarawak. In addition, any subsidiary legislation must also be consistent with its principal legislation.

1.3 DISTRIBUTION OF LEGISLATIVE POWERS

1.3.1 The legislative powers of Parliament and the State Legislatures, are provided in the Federal Constitution.

Article 73 of the Federal Constitution states:

"73. Extent of federal and State laws

In exercising the legislative powers conferred on it by this Constitution –

(a) Parliament may make laws for the whole or any part of the Federation and laws having effect outside as well as within the Federation;

(b) the Legislature of a State may make laws for the whole or any part of that State."

1.3.2 In Sarawak, the State Legislature is known as the Dewan Undangan Negeri (DUN). This is provided for under Article 13 of the Constitution of the State of Sarawak which states:

Constitution of Legislature

“13. The Legislature of the State shall consist of the Yang di-Pertua Negeri and one House, to be known as the Dewan Undangan Negeri.”

1.4 SUBJECT MATTER OF FEDERAL AND STATE LAWS

- 1.4.1 Before any law is enacted or amended, it should first be established whether Parliament or the State Legislature has the power to legislate on the subject matter.
- 1.4.2 The distribution of legislative powers between the Federation and the States are expressly set out in the Ninth Schedule of the Federal Constitution.
- 1.4.3 Article 74(1) of the Federal Constitution provides that the Parliament may make laws with respect to any of the matters enumerated in the Federal list or the Concurrent List in the Ninth Schedule.
- 1.4.4 Article 74(2) of the Federal Constitution gives power to the State Legislature to make laws with respect to any of the matters enumerated in the State List or the Concurrent List in the Ninth Schedule.

- 1.4.5 In the case of Sabah and Sarawak, all subject matters in List IIA² in the Ninth Schedule shall be deemed to form part of the State List and all subject matters listed in List IIIA³ in the Ninth Schedule shall be deemed to be part of the Concurrent List.
- 1.4.6 Article 95B(3) of the Federal Constitution also empowers Sabah and Sarawak to make laws for imposing sales taxes which shall be deemed to be among the matters enumerated in the State List and not in the Federal List.
- 1.4.7 Although the Legislative Lists in the Ninth Schedule set out the matters in respect of which Parliament and the State Legislatures may legislate, the Federal Constitution also provides for residual legislative powers. These are legislative powers in respect of matters not enumerated in any of the Legislative Lists, which the legislature of the State shall have power to make laws. **This is provided for under Article 77 of the Federal Constitution which states:**

² Supplement to the State List for States of Sabah and Sarawak

³ Supplement to the Concurrent List for States of Sabah and Sarawak

“77. Residual power of legislation

The Legislature of a State shall have power to make laws with respect to any matter not enumerated in any of the Lists set out in the Ninth Schedule, not being a matter in respect of which Parliament has power to make laws.”

1.5 TYPES OF LEGISLATION

1.5.1 Legislation is divided into principal legislation and subsidiary legislation.

(a) Principal Legislation

Principal legislation is law enacted by the Legislature. Laws enacted by Parliament are called Acts. However, laws enacted by the Federal Legislature between 1 April 1946 and 10 September 1959 are called Ordinances. Laws enacted by the State Legislative Assemblies in Malaysia are referred to

as Enactments, except in Sarawak, where they are known as Ordinances. Article 26 of the Constitution of the State Sarawak provides:

"EXERCISE OF LEGISLATIVE POWER

26. (1) The power of the Legislature to make laws shall be exercised by Bills passed by the Dewan Undangan Negeri and assented to by the Yang di-Pertua Negeri.

(2) All laws enacted by the Legislature shall be styled Ordinances and the words of enactment shall be "Enacted by the Legislature of Sarawak".

(3) A Bill shall become law on being assented to by the Yang di-Pertua Negeri, but no law shall come into force until it has been published in the Gazette, without prejudice, however, to the power of the Legislature to postpone the operation of any law or to make laws with retrospective effect."

(b) Subsidiary Legislation

- (i) Section 3 of the Interpretation Acts 1948 and 1967 [Act 388] defines “subsidiary legislation” as any proclamation, rule, regulation, order, notification, by-law or other instrument made under any Act, Enactment, Ordinance or other lawful authority and having legislative effect.
- (ii) Section 3 of the Interpretation Ordinance, 2005 [Cap. 61] defines “subsidiary legislation” as regulation, order, Proclamation, or other instrument made under any written law and having legislative effect.
- (iii) Generally, subsidiary legislation can be made by the relevant authorities such as the Majlis Mesyuarat Kerajaan Negeri (MMKN) or a Minister without going through the Parliament or State Legislature, or in the case of Sarawak, the DUN.

CHAPTER 2

FORMAT OF DRAFTING

2.1 FORMAT OF DRAFTING

2.1.1 In drafting readable legislation, it is essential to use clear and simple language and to adopt a standard format. This will assist the readers in identifying and understanding the substance of the law.

2.1.2 A standard format and style of legislative drafting may serve as an identity of a particular jurisdiction as it often differs from one jurisdiction to another. Thus, this Chapter focuses on the format and style of legislative drafting commonly used in Sarawak.

2.2 ORDER OF ARRANGEMENT OF PROVISIONS IN NEW LEGISLATION

2.2.1 A drafter must note that the provisions contained in legislation will vary according to its purpose and requirements. Table 1 sets out the order of arrangement of provisions in legislation, where applicable.

TABLE 1

Introductory Provisions		
1.	Title	The title of the legislation
2.	Long Title	Descriptive of the general scope of the legislation
3.	Enacting clause	Statement that expresses the exercise of legislative authority
4.	Short Title	A short title with the calendar year of enactment as a section of its own.
Preliminary Provisions		
5.	Interpretation	Section that provides definitions of certain words or expressions used in the legislation.
Main Provisions		
6.	Substantive provisions	Sections that establish the substantive rules which may include among others the general and specific provisions on the scope of the legislation, administrative provisions, enforcement, offences, rule making provision, <i>etc.</i>
Final Provisions [<i>Only applicable for repeal legislation</i>]		
7.	Transitional provisions	The provisions that preserve the validity of any action taken under the existing law, such as the issuance of any licence, instrument, agreement or the exercise of any authority under the existing law during the transitional period from the existing law to the new law.
8.	Repeal and Saving	The provision to repeal the old law while preserving the validity of any action taken under that law, such as the issuance of any licence, instrument, agreement or the exercise of authority under the old law.

2.3 TERMINOLOGY OR NOMENCLATURE

2.3.1 TITLE

Every Ordinance has both a long title and a short title. These titles are voted on by the DUN and constitute part of the Ordinance. As such, they may be used in construing the Ordinance and should be carefully drafted. **Standing Order 44 of Standing Orders of Dewan Undangan Negeri Sarawak reads:**

"INTRODUCTION AND FIRST READING OF BILLS

44. A Minister or an Deputy Minister may after at least one day's notice present a Bill without an order of the Dewan for its introduction, and when a Bill is so presented, the title of the Bill shall then be read by the Secretary at the Table and the Bill shall then be deemed to have been read the first time and shall stand for second reading at the same or subsequent sitting of the Dewan."

2.3.2 LONG TITLE

(a) General

The long title of a legislation appears at the top of the first page of a legislation. The long title should set out, in general terms, the purpose of the legislation and must therefore be broad enough to cover everything contained in the legislation.

In moving a Bill in the DUN, if the contents of the legislation are not referred to in the long title, or if the long title of the legislation introduced is different from that specified in the notice, the legislation may be ruled as out of order for being irregularly introduced. The long title of the Bill must therefore cover the contents of the Bill and be identical to the long title specified in the notice. This rule applies only to the long title of the Bill.

EXAMPLE:

“An Ordinance to amend and consolidate and to make further provisions concerning the laws relating to building in the State, and for purposes connected therewith.”

(Buildings Ordinance 1994 [Cap. 8])

(b) References to Legislation in long title

Where a particular legislation intends to amend multiple pieces of legislation, the long title of the amending legislation may list all the legislation being amended. The long title should not contain anything foreign to what it imports⁴.

Example:

"An Ordinance to amend the Forests Ordinance [**Cap. 126 (1958 Ed.)**], and to make minor consequential amendment to the Sarawak Forestry Corporation Ordinance, 1995[**Cap. 17**]."

**(Forests (Amendment) Ordinance 2003
[Cap. A104])**

⁴ See Standing Order 47(1)(c)

2.3.3 PREAMBLE

The primary function of a preamble is to recite the circumstances giving rise to the legislation. It may also attempt to explain the purpose and objective of the legislation.

A preamble appears at the beginning of legislation between the long title and the enacting clause and should be included, only if it serves a demonstrably justified purpose. It consists of one or more recitals, each beginning with the word "Whereas", and concludes with the enacting formula.

Example:

“WHEREAS certain customs of the several native races of Sarawak have always constituted a part of the laws of Sarawak:

AND WHEREAS some of such customs have from time to time been compiled and published and such codes of native customs have been recognized by the courts as the customary law of the native races concerned:

AND WHEREAS it is expedient that express statutory provisions should be made for regulating the codification of such native customs and for the publication of authorized version of any native customary laws that have been so codified:

NOW, THEREFORE, BE IT ENACTED by the Legislature of Sarawak as follows:”

(Native Customs (Declaration) Ordinance 1996 [Cap. 22])

WHEREAS Environment is not in any of the legislative lists in the Ninth Schedule of the Federal Constitution and therefore is a residual matter by virtue of Article 77 thereof.

WHEREAS land, forests and water are subject matters under List II (State List) in the Ninth Schedule of the Federal Constitution;

WHEREAS the emission of greenhouse gases from activities on land, forests and water or any human activities which affects the Environment shall be regulated by the law passed by the Legislature of Sarawak;

WHEREAS Sarawak has set the target to achieve net zero carbon emission by 2050; and

WHEREAS in pursuant thereto, strategies, action, plans and incentives towards reduction or abatement of greenhouse gases emission to achieve net zero carbon emission in the State should be provided for by way of legislation.

NOW IT IS ENACTED by the Legislature of Sarawak as follows
—

***ENVIRONMENT (REDUCTION OF GREENHOUSE GASES
EMISSION) ORDINANCE, 2023***

2.3.4 ENACTING CLAUSE

All laws enacted by the Legislature shall be referred to as legislation and the words of enactment shall be **“Enacted by the Legislature of Sarawak”**⁵. This clause gives the legislation its jurisdictional identity and constitutional authenticity.

2.3.5 SHORT TITLE

A legislation usually has a short title with calendar year of enactment as a section of its own. The first section of a legislation, other than an amending legislation, sets out the short title. An amending legislation does not normally have a short title because the legislation is incorporated into the amended legislation and there is hardly any occasion to refer independently to the amending legislation.

2.3.6 DIVIDER OR SEPARATOR

- (a) It is common practice to divide an Ordinance into groups of sections identified as distinct

⁵ See Article 26(2) of the Constitution of the State of Sarawak

components of the Ordinance. A variety of tools are used as separators to divide the Ordinance, such as:

- (i) “**Chapters**” are frequently found in the Constitution, but this tool is rare within an Ordinance as it is often used to refer to individual extensive Ordinance.
 - (ii) “**Parts**” are the standard tools used to separate formal groups of sections.
 - (iii) “**Divisions**” are sometimes used within a Part, as subdivisions of the Part; are rarely used but sometimes found in very long statutes, such as Buildings Ordinance, 1994 [Cap. 8] or Local Authorities Ordinance, 1996 [Cap. 20].
 - (iv) “**Subdivisions**” without headings, are often used to separate Parts of some length and to group the sections that deal with related matters within the general matter dealt with by the Part.
- (b) Similarly, it is a standard practice to divide the text of an Ordinance into separate propositions,

with each sentence comprising a distinct proposition of law. These sentences may be contained in:

- (i) “**Sections**” which comprise single-sentence statements of distinct legal propositions or where there is a series of inter-related sentences, may contain subsections.
 - (ii) “**subsections**”, each of which is a single sentence having a unity of purpose with the others in that section.
- (c) It is often convenient to break the text of sections and subsections into components that are easier to read and use. These are:
- (i) “**Paragraphs**”, which constitute elements of the proposition that can be set out distinctively as a series.
 - (ii) “**Subparagraphs**”, which break up the text of paragraphs by similar means.
- (d) It is usual for these tools to be accompanied by distinctive formats and descriptions:

- (i) “**Headings**” are usually used for Parts and Divisions. They normally appear in the center of the line, appropriately numbered, with a descriptive title directly below in capital letters.
 - (ii) “**Subheadings**” are usually used for subdivisions. They too appear in the center of the line, commonly unnumbered and in lower case, except for the initial letter of the first word, and often in Roman.
- (e) Sections, subsections, paragraphs and subparagraphs are serially numbered. The conventions in this respect are nearly standard where only sections accompanied by “**shoulder notes**”, which set out such words immediately above the first words of the section, often in emboldened lower-case printing.
- (f) In the case of Sarawak, the references to the standard components of the Ordinance (i.e. section, subsection, paragraph and, if necessary, subparagraph) is well established. The following Table 2 provides a comparative view of current practice and the terminology used.

TABLE 2

Ordinances	*Schedules	Regulations/ Rules/By- Laws	Orders/ Declarations	*Notices/ Notification s, etc.
section	clause	regulation/ Rule/By-law	order/article	paragraph
subsection	paragraph	subregulation/ subparagraph	clause/ paragraph	subparagraph
paragraph	subparagraph	subparagraph	paragraph	item/sub- subparagraph
subparagraph	item	sub- subparagraph	subparagraph	

*The usage will vary according to the format.

2.4 HEADINGS

- 2.4.1 There are certain headings in common use. These should be employed in the appropriate cases:

PRELIMINARY

GENERAL

MISCELLANEOUS (AND GENERAL)

EVIDENCE (AND PENALTY PROVISIONS)

SUPPLEMENTARY PROVISIONS

SUBSIDIARY LEGISLATION

REPEALS

- 2.4.2 Headings should always be concise and brief (never more than a few words) and should accurately reflect the content that follows. Do not omit definite or indefinite articles that are normally attached to words:

Example:

GENERAL PROVISIONS REGARDING THE
STATE.

- 2.4.3 Headings may be provided at an early stage of drafting. They must then be reviewed during the final stages of drafting to ensure that they still accurately describe the contents of the division. This is particularly important for subheadings used within a Part.

2.5 SHOULDER NOTE

- 2.5.1 The shoulder note is placed immediately above the section (in bold type), to indicate or label the contents of the section. It is common practice in longer statutes to collate them in order, and to print them at the front of the statute as an **"Arrangement of sections"**, serving as a skeleton index.
- 2.5.2 However, legislative drafters regard their composition as a tool to help users navigate the statute law.
- 2.5.3 The following guidelines should be observed:
- (a) the notes should always be brief, never more than a handful of words; a single word will often suffice.
 - (b) the aim is to point up, as clearly as possible, the principal theme or function of the section.

- (c) the note must be an accurate label and should not use expressions which may be in conflict with those used in the text.
- (d) a note should not comprise a full sentence; it is usually a grammatical contraction, often omitting any verbs and articles.
- (e) the notes should be checked at a later stage to ensure that they still reflect the contents of the section, and the whole legislation.

2.6 LEGISLATIVE REFERENCES

2.6.1 It is a widespread practice to use legislative references to assist the reader, usually immediately following the text to which it relates. These are entirely editorial in nature, but they may be useful in assisting users to follow up on the matter referred to in the text. For example, where a reference is made to a Schedule to the Ordinance mentioned in the text:

Example:

“First Schedule”; “Schedule 1”

- 2.6.2 Where a legislative reference is made to the short title or citation of an Ordinance or subsidiary legislation (but not to the section number) referred to in the text, it should be in bold and italic type:

Example:

"[Cap. 1]"; "[Cap. A1]"; "[Swk. L.N. 1/2010]";

"[Swk. L.G. 1/2010]"; "[G.N. 1/2011]".

2.7 FORMAT FOR STRUCTURE AND NUMBERING

2.7.1 Structure of a section: one sentence

If a section contains only one sentence, it has no subsections.

2.7.2 Structure of a section: more than one sentence

If a section contains more than one sentence, each sentence is a separate subsection.

2.7.3 Structure of sentences: purpose of subdivisions

(1) A sentence may be subdivided for one or more of the following purposes:

- (a) improving readability;
- (b) listing different matters;
- (c) clarifying parallel application of an expression that;
 - (i) precedes, or
 - (ii) follows the subdivided expression;
- (d) subject to consideration of readability, avoiding repetition of an expression that precedes or follows the subdivided expression;
- (e) allowing specific reference in another provision; or
- (f) clarifying whether the subdivided expressions are to be read conjunctively or disjunctively.

(2) If a list is given, in the format of:

- (a) "one or more of the following";
- (b) "any or all of the following";

- (c) “as follows”; or
 - (d) similar language ending in a colon, the listed provisions should end in semicolons, as in subsection (1).
- (3) If a list is simply items with “and” or “or” ending the penultimate item, the listed provisions end in commas, as in paragraph (2).

2.7.4 **Structure of sentences: form of subdivisions**

The structure of sentences in a section is illustrated as follows:

- (a) Section, given consecutive numbers.

Example:

1, 2, 3 ...

- (b) Subsection, given consecutive numbers within parentheses in bracket.

Example:

(1), (2), (3) ...

- (c) Paragraphs, given consecutive lower case letters.

Example:

(a), (b), (c) ...

- (d) Subparagraphs, given consecutive lower case Roman numerals.

Example:

(i), (ii), (iii) ...

- (e) Clauses, given consecutive upper case letters.

Example:

(A), (B), (C) ...

- (f) Subclauses, given consecutive upper case Roman numerals.

Example:

(I), (II), (III) ...

2.7.5 **Reference to other provisions**

If a provision refers to another provision of an Ordinance, the reference is made by indicating the highest level of the other provision, as in the following examples:

- (a) a reference to a provision in another section of the same Ordinance or in another Ordinance uses the section reference regardless of the level of provision referenced, as in "section 12(2)" or section 3(4)(a)(iii)";
- (b) a reference to a provision in another subsection of the same section uses the subsection reference, as in "subsection (2)" or "subsection (4)(a)(iii)";
- (c) a reference to a provision in another paragraph of the same subsection uses the paragraph reference, as in "paragraph (a)(iii)".

2.7.6 **Renumbering is very limited**

As a general rule, the existing numbering is not changed when a provision is amended:

If a subsection is added between subsections (1) and (2), the new subsection will not become subsection (2)

with all the following subsections renumbered. Instead, the new subsection will be numbered as (1A).

Example:

"Account for working capital

14.(1) Subject to such ..."

"Port development cess

14A.(1) There shall be ..."

"Application of revenue

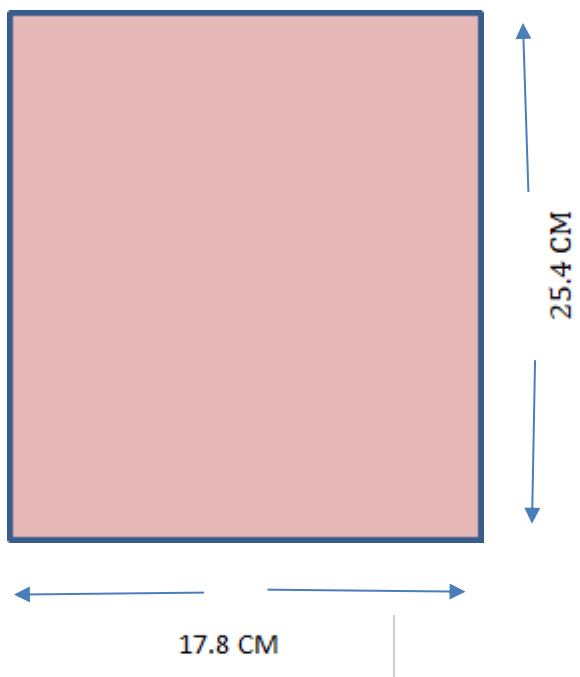
15.(1) Subject to this section ..."

(Port Authority Ordinance, 1961 [Ord. No. 1/61])

2.8 FORMAT FOR GAZETTEMENT

Before any legislation comes into force, it has to be published in the *Gazette*. Format of the *Gazette* is as follows:

***BOOKLET SIZE FOR GAZETTE:
17.8 CM X 25.4 CM***



Margin:

Top:	4.95cm
Bottom:	4.95cm
Left:	3.43cm
Right:	3.68cm
Gutter:	Left

Indent:

Left:	1.27cm / 2.06cm / 3.18cm / 4.2cm
Right:	0.64cm/0.63cm

Spacing:

Before:	12cm / 6cm
After:	12cm / 6cm

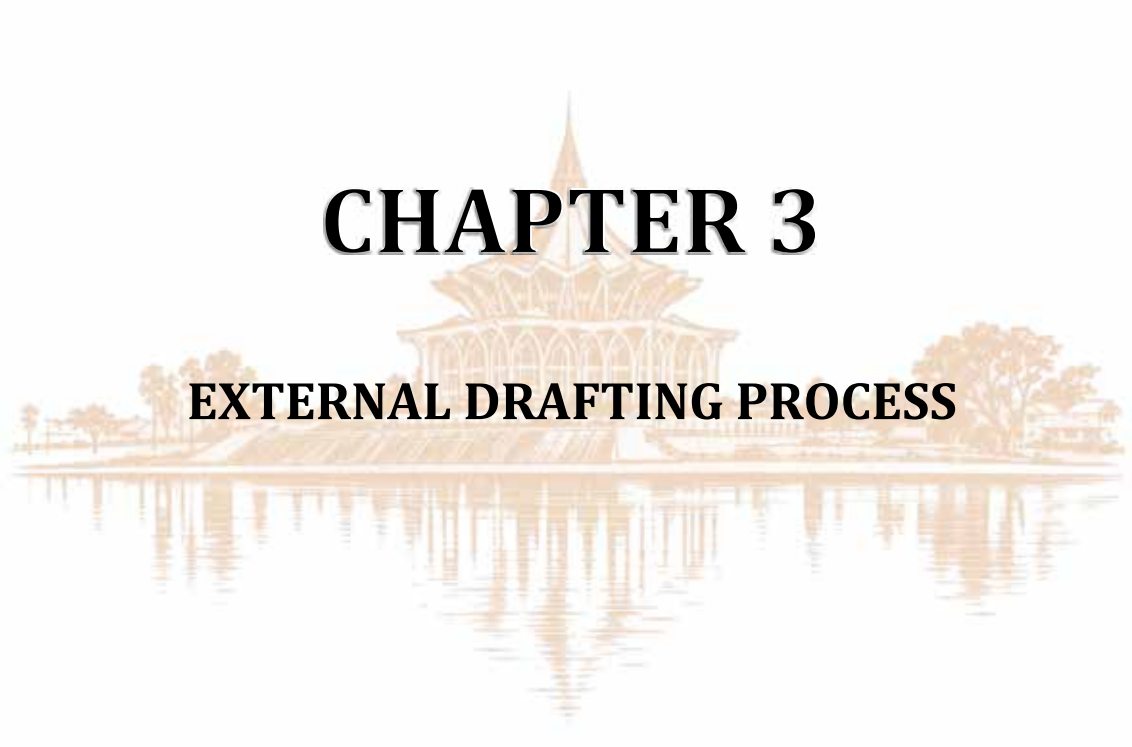
Font:

Part I / III : Times New Roman 12

Schedule: Times New Roman 10

Part II / IV : Times New Roman 10

Schedule: Times New Roman 8



CHAPTER 3

EXTERNAL DRAFTING PROCESS

3.1 INTRODUCTION

3.1.1 THE ROLE OF THE MINISTRY

The Ministry plays an important role in every stage of legislative drafting process. As the agencies responsible for the formulation of policies, the initiative to drive legislative drafting process are at times the result of good initiative from the Ministry.

3.1.2 POLICYMAKERS

As the key agency responsible for policy formulation, the Ministry plays critical roles in the legislative process from its outset. It is settled that an effective legislation derives from clear and sound policy. Hence, it is important for the Ministry to settle policies formulation before embarking on the drafting of relevant legislation.

3.1.3 PROVIDER OF DRAFTING INSTRUCTIONS

3.1.3.1 The critical role of the Ministry is to provide clear and concise instruction to the SAGC in line with General Orders 195(1)(d) of the State Public Service General Orders, 1996 [*Swk. L.N. 1/96*] which provides that:

“.....where new legislation or subsidiary legislation or amendment to existing legislation or subsidiary legislation is required and a policy decision has been made by the Government relating thereto, a request for the drafting of the new legislation or subsidiary legislation shall be made by official memorandum setting out the objects of and the reasons for the legislation or subsidiary legislation and, in the case of amending legislation, the respect in which the existing legislation or subsidiary legislation is considered defective and the object to be attained by the amendment;”.

3.1.3.2 Therefore, the guide in this Drafting Manual should be followed by the Ministry before issuing the drafting instruction to the SAGC.

3.2 PRELIMINARY PROCESS

3.2.1 FORMULATION OF POLICY

3.2.1.1 In formulating policies for the purposes of legislative drafting, the Ministry shall take into consideration the following:

- (a) policies should be formulated with a clear and specific objective;
- (b) based on comprehensive research including regulatory impact and cost-benefit analysis, benchmarking and potential impacts on various stakeholders and sectors; and
- (c) consultation with stakeholders and experts.

3.2.1.2 Upon the formulation of a new policy, it is advisable for the Ministry to seek the approval of the MMKN on the proposed policy before submission of the drafting instruction to the SAGC.

3.2.2 MATTERS TO BE COVERED IN DRAFTING INSTRUCTION

The following matters should be incorporated in the Drafting Instruction:

(a) **Background Information**

Instruction should contain sufficient background information to enable SAGC to understand the objects and the reasons for the legislation, subsidiary legislation or any amendment thereof.

(b) **A policy statement**

A statement that discusses the policy involved in the proposed new ordinance or amendment.

(c) **A statement of the history or circumstances giving rise to the proposals and the nature of the issues**

Proposed legislation often has a history which contributes to the solution proposed by the Ministry. It should list out the chronological and historical events as well as studies which give rise to the proposal.

(d) **Aims of the legislation or its principal objectives**

The Ministry should state clearly the aims and the objectives of the proposed legislation which they intend to achieve.

(e) **Justification for the proposal**

Justification as to why the proposed new ordinance or amendment is made.

(f) **Format of drafting instruction**

The format as attached in Appendices II or III, whichever applicable.

(g) **A table of comparative legislation for benchmark or precedent (if any)**

If any law is made or wishes to be followed, as a benchmark or precedent for the draft, a table of comparative legislation showing the source of each provision in the draft must be prepared. Justification must be given if changes to the precedent are desired.

(h) **Any possible consequential amendment arising from the proposal**

Any other laws to be amended, or repealed, and the nature of the amendments. The impact of the legislation on existing legislation and other laws should be included in the instruction.

(i) **Proposed Commencement date**

The Ministry to state the proposed commencement date of the legislation.

3.2.3 DRAFTING INSTRUCTION

3.2.3.1 The drafting instruction guides the SAGC and provides information which is required in the drafting of any legislation. Hence, the Ministry must provide clear and concise drafting instructions to SAGC which may include the following:

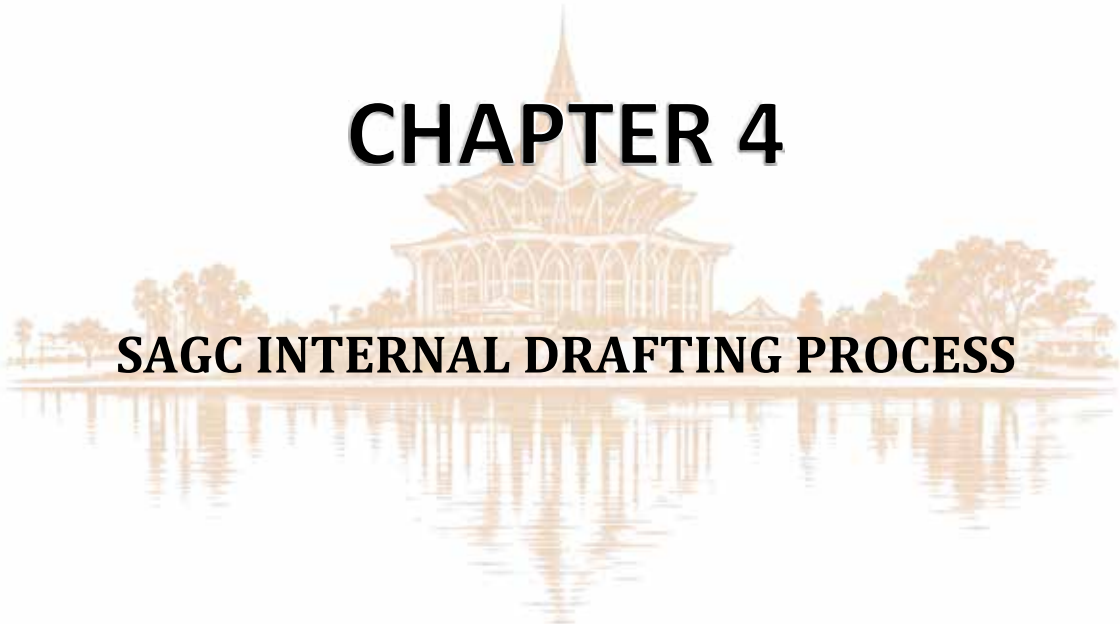
- (a) a background information;
- (b) a policy statement;
- (c) a statement of the history or circumstances giving rise to the proposals and the nature of the issues;
- (d) the aims of the legislation or its principal objectives;
- (e) the justification for the proposal;
- (f) drafting instruction as per Appendices II or III;

- (g) a table of comparative legislation for benchmark or precedent, if any;
- (h) any possible consequential amendment arising from the proposal; and
- (i) proposed commencement date.

3.2.3.2 In short, this drafting instruction should be able to show the objects and the reasons for the legislation, subsidiary legislation or any amendment thereof.

3.2.3.3 It is pertinent that the Ministry, in providing the drafting instruction, include the draft legislation to SAGC so that the drafting of such legislation can be done effectively and efficiently.

The checklist and format for preparation of the drafting instruction can be found in Appendices I, II and III.



CHAPTER 4

SAGC INTERNAL DRAFTING PROCESS

4.1 INTRODUCTION

- 4.1.1 This Chapter deals with the internal drafting process in the SAGC which starts upon receipt of the drafting instruction from the Ministry.
- 4.1.2 Once the drafting instruction is received by the SAGC, the Law Revision and Drafting Division will check whether the drafting instruction submitted is complete. The Head of Law Revision and Drafting Division will assign the task to the relevant legal officers to peruse, analyse, vet and conduct research on the draft legislation. If any issue arises from the

draft legislation, the SAGC will revert to the Ministry for further clarification. The draft legislation will be brought up to the Drafting Committee (DC) for further deliberation and approval.

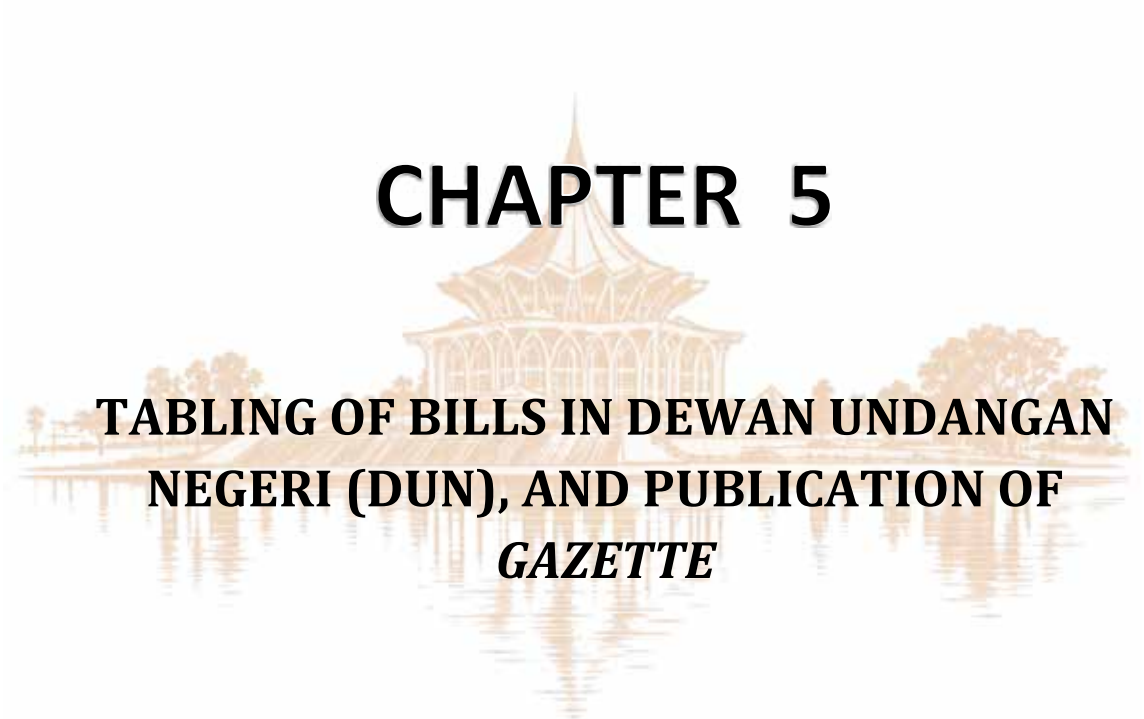
- 4.1.3 If the drafting instruction is not complete, the SAGC will request for a complete drafting instruction from the Ministry. Any communication with the Ministry shall be in writing.
- 4.1.4 Once a vetted draft legislation is deliberated by the DC, the SAGC will return the draft legislation to the Ministry for engagement or further clarification on any issue arising from the Drafting Committee. The SAGC will forward the finalized draft legislation to the Ministry once approved by the DC.
- 4.1.5 Next, the Ministry will prepare the MMKN paper to seek approval of the draft legislation and its tabling as a Bill in the DUN. After obtaining the MMKN approval of the draft Bill, the Ministry will inform SAGC in writing on the MMKN approval and instruct the SAGC to prepare for the tabling of the Bill in the DUN, including to the printing of the blue Bill.
- 4.1.6 Once the SAGC receives instruction to prepare the blue Bill, the Head of Law Revision and Drafting Division will instruct the Government Printer⁶ in writing to print sufficient copies

⁶ Pencetakan Nasional Malaysia Berhad (PNMB) - Gazette Notification No 825 dated 8th April, 1993.

of the blue Bill. Upon receipt of the printed blue Bill, the SAGC will forward sufficient copies of the same to the Secretary of the DUN for circulation.

- 4.1.7 For the purpose of subsidiary legislation, the process will end once the Ministry obtains the approval of the relevant authorities. After obtaining the relevant authorities' approval of the draft subsidiary legislation, the Ministry will inform the SAGC in writing on such approval and instruct SAGC to publish the subsidiary legislation in the *Gazette*.

The flow-chart of the work process can be found in Appendices IV, V dan VI.



CHAPTER 5

TABLING OF BILLS IN DEWAN UNDANGAN NEGERI (DUN), AND PUBLICATION OF *GAZETTE*

5.1 INTRODUCTION

5.1.1 This Chapter deals with the process of tabling of a Bill in the DUN, the gazettelement of a new law and its publication. This process starts when the Secretary of DUN receives the sufficient copies of blue Bill from the SAGC for the purpose of circulation to the Members of the DUN in accordance with the Standing Orders (SO)⁷.

⁷ See Standing Order 47(3)

- 5.1.2 The Ministry responsible for the Bill shall give notification to the Secretary of DUN on the intention of the Minister to introduce and table the Bill⁸.

5.2 TABLING OF THE BILL IN DUN

Any new law that the Legislature is desirous to legislate shall be exercised by Bill passed by the DUN and assented to by the Yang di-Pertua Negeri⁹. For tabling of any legislation in the DUN, a Minister or Deputy Minister shall give notice to the Dewan at least one day prior to the presentation of the Bill in the Dewan¹⁰. Process of tabling of a legislation in the Dewan consist of a few stages as follows:

5.2.1 First Reading

The title of the Bill shall be read and introduced to the Dewan by the Secretary and the Bill shall be deemed to have been read the first time.

⁸ See Standing Order 44

⁹ See Article 26 of the State Constitution of Sarawak

¹⁰ See Standing Order 44

5.2.2 **Second Reading**

This can be immediately after the first reading or subsequent meeting. If it is intended to be at the subsequent meeting, a notice of a second reading must be given immediately after the First Reading¹¹. At this stage, the Minister or Deputy Minister will give an introductory speech in detail about the Bill and thereafter the Speaker may call upon the Honourable Members of the Dewan to debate the general merits and principles of the Bill. After the debate, the Speaker shall call upon the same Minister or Deputy Minister to wind up.

5.2.3 **Committee of the whole Dewan**

5.2.3.1 Once the Bill has been read a second time, the Bill shall stand committed to a Committee of the whole Dewan¹². At this stage, the Secretary shall call the number of each clauses of the Bill. Amendment to the Bill may be proposed at this stage.

5.2.3.2 However, the amendment must be consistent with any clause already agreed upon or any decision already made by the Committee. If there is no amendment to the Bill, the Chairman shall then put the question

¹¹ See Standing Order 50

¹² See Standing Order 51

to the Committee for its decision¹³. At the conclusion of the Committee proceeding, the Minister or Deputy Minister in charge shall report to the Committee and the Chairman shall leave the Chair of the Committee and the Dewan shall resume.

5.2.4 Third Reading

5.2.4.1 At this stage, amendments for the correction of errors or oversights may be made with the permission of the Speaker before the question for the Third Reading to be put from the Chair. If there is no further amendment, the Minister or the Deputy Minister may pray for the Bill to be read the third time and thereafter the Chair shall put the question to all the Members of the Dewan for voting. If the Yes have it, the Bill will be read a third time and shall pass¹⁴.

5.3 ASSENT OF THE BILL

On the day of the passing of a Bill, the Secretary shall provide the Bill to the Speaker for the assent of the Yang di-Pertua Negeri¹⁵.

¹³ See Standing Order 54(12)

¹⁴ See Standing Order 58

¹⁵ See Standing Order 58(3)

Administratively, once the Bill has been passed, SAGC will prepare sufficient copies of the approved Bill to the Secretary of DUN for him to sign the Bill as proof of inspection and then forward it to the Speaker for him to present it to Yang di-Pertua Negeri for his assent. Once the assent of the Yang di-Pertua Negeri has been signified and the said Ordinance will be returned to SAGC for publication in the Sarawak Government Gazette (Part I).

5.4 PUBLICATION

5.4.1 The Sarawak Government Gazette shall be published in accordance with the provisions of the Written Law (Simplified Publication) Ordinance, 2000 [Cap. 35].

5.4.2 The separate Parts of the Gazette referred to hereunder shall¹⁶:

- (a) in the case of Part I, which contains the Ordinances, be published as and when necessary in two series containing the following categories of Ordinances:
 - (i) the “Main Series” shall contain all the Ordinances enacted by the DUN that are considered to be laws of a primary and permanent nature and all the pre-1993

¹⁶ See Section 2, Schedule to the Written Law (Simplified Publication) Ordinance, 2000 [Cap. 35].

Ordinances revised under the authority of the Revision of Laws Ordinance, 1992; and

- (ii) the "A" Series shall contain all the amending Ordinances, repealing Ordinances, Supply Ordinances and any other Ordinances which are intended to have effect for a short duration only;
- (b) in the case of Part II, which contains all Treaties, Conventions, Proclamations and all subsidiary legislation other than those required to be published in Part IV, be published as and when necessary;
- (c) in the case of Part III, which contains the Bills to be introduced in the DUN, be published as and when necessary;
- (d) in the case of Part IV, which contains all subsidiary legislation made under any written law by the Commissioner of the City of Kuching North, the Council of the City of Kuching South, the local authorities constituted under the Local Authority Ordinance and the Bintulu Development Authority in the exercise of the powers conferred on it as a local authority under sections 4 and 5 of the Lembaga Kemajuan Bintulu (Bintulu Development Authority) Ordinance, 1978 [**Ord. No. 1/78**], be published as and when necessary;

- (e) in the case of Part V, which contains all matters required to be published in the Gazette or which the Government deems it necessary to publish for public information, be published every Thursday of each week:

Provided that-

- (i) when that day is a public holiday, publication may take place on the preceding Wednesday or Friday following as may be appropriate;
- (ii) in the event of that Wednesday or Friday also being a public holiday, then publication may take place on such day as may be appointed by the State Attorney-General; or
- (iii) the SAG may in exceptional circumstances authorize the publication of a special issue to be known as the Gazette Extraordinary on any day other than a Thursday.

5.4.3 In cases where a notification requires the approval of the YDPN, MMKN or some other person or authority, or where it is likely to prove controversial, it shall be submitted in sufficient time to permit circulation to members of the MMKN or such other person or authority

or other consideration by the Government prior to publication.

- 5.4.4 Every notification submitted shall be typewritten and the name of the officer and his designation, if this is to be included in the notification, shall either be typewritten or printed. Except where a notification follows a well-established precedent and there is no doubt regarding the format and composition, notifications shall be submitted in draft to the SAG for vetting before they are published¹⁷.

5.5 ENFORCEMENT DATE

- 5.5.1 The enforcement date is a specific date when the law comes into force. It should be gazetted after the Ordinance is published and made available to the public. The Gazette for the enforcement date should be direct and unambiguous. Upon gazettelement, the enforcement date shall be inserted in the Ordinance.
- 5.5.2 The provision for the enforcement date is generally in one separate section or subsection in the Ordinance. The provision on the enforcement date may be styled in one of the following manners:

¹⁷ See General Order 197

- (a) the Ordinance specifies or fixed an enforcement date of that Ordinance; or
- (b) the Ordinance specifies the relevant Minister empowered to appoint the enforcement date; or
- (c) the Ordinance specifies that the enforcement date may occur concurrent to a specific event.

5.5.3 The Ordinance specifies or fixed an enforcement date

- (a) Where the Ordinance provides for the specific enforcement date, the following form is suitable:

Example:

"This Ordinance may be cited as the Housing Development Corporation Ordinance, 2002, and shall come into force on the 1st day of January, 2003."

- (b) Where retrospective operation is necessary, the following form is suitable:

Example:

"This Ordinance is deemed to have come into force on 1st day of June, 2012."

- 5.5.4 The Ordinance specifies the relevant Minister empowered to appoint the enforcement date

Examples:

- (a) This Ordinance comes into force on such day as the Minister appoints by notification in the Gazette.
- (b) This Ordinance shall come into force on such date as the Minister may, by notification in the Gazette, appoint.

The flowchart on enforcement/commencement date of the Ordinance can be found in Appendices VII, VIII, and IX

5.5.5 The Ordinance specifies that the enforcement date may occur concurrent to a specific event

(a) This style is suitable only when the enforcement date is tied to a specific event.

(b) Example as in Article 44(5) and Article 45 of the State Constitution [G.N.S. 163/63]:

(i) Interpretation

"*44. (5) The Interpretation Ordinance [**Cap. 1 (1958 Ed.)**], as in force at the commencement of this Constitution, shall apply for the purpose of interpreting this Constitution and otherwise in relation thereto as it applies for the purpose of interpreting and otherwise in relation to a written law within the meaning of that Ordinance."

(ii) Commencement

"*45. Subject to the provisions of Part VI, this Constitution shall come into operation immediately before Malaysia Day."

5.5.6 **Multiple enforcement dates**

Where it is intended that different parts or provisions of the Ordinance are enforced at different times, the following example may be adopted:

"Short title and commencement

- 1.—(1) This Ordinance may be cited as the State Fisheries Ordinance, 2003.
- (2) This Ordinance shall come into force on such date as the Minister may, by notification in the *Gazette, appoint and the Minister may appoint different dates for coming into force of different provisions of this Ordinance.
- (3) The Minister may, by Order published in the Gazette,—
 - (a) suspend the operation of the whole or any provision of this Ordinance in any part of the State; and
 - (b) at any time thereafter, remove the suspension, with effect from such date as the Minister may appoint."

State Fisheries Ordinance 2003 [Cap. 54]

5.5.7 **No specific provision on enforcement date in the Ordinance**

Where the Ordinance does not have a specific provision for enforcement date, **section 4(2) of the Interpretation Ordinance, 2005 [Cap. 61] provides as follows:**

“(2) The absence of any provision for the date of commencement in an Ordinance shall imply a provision that that Ordinance shall come into operation upon the date of publication in the Gazette.”

The State Anthem and Emblem Ordinance, 2002
[Cap.53]

LIST OF APPENDICES

APPENDIX I	CHECKLIST FOR DRAFTING INSTRUCTION
APPENDIX II	FORMAT OF DRAFTING INSTRUCTION (FORMAT FOR PROPOSED NEW ORDINANCE / SUBSIDIARY LEGISLATION)
APPENDIX III	FORMAT OF DRAFTING INSTRUCTION (FORMAT FOR PROPOSED AMENDMENT OF EXISTING ORDINANCE / SUBSIDIARY LEGISLATION)
APPENDIX IV	WORK PROCESS FOR INTERNAL DRAFTING
APPENDIX V	WORK PROCESS FOR ORDINANCE GAZETTEMET
APPENDIX VI	WORK PROCESS FOR GAZETTE IN THE SARAWAK GAZETTE
APPENDIX VII	FLOWCHART ON PRINTING BLUE BILL
APPENDIX VIII	FLOWCHART OF LEGISLATIVE PROCESS IN DUN
APPENDIX IX	FLOWCHART ON THE ENFORCEMENT / COMMENCEMENT DATE OF THE ORDINANCE

APPENDIX I

CHECKLIST FOR DRAFTING INSTRUCTION

No.	Item	Tick if completed (✓)	Remarks
1.	Background Information		
2.	Policy statement		
3.	A statement of the history or circumstances giving rise to the proposals and the nature of the issues		
4.	Aims of the legislation or its principal objectives		
5.	Justification for the proposal		
6.	Format of drafting instruction (as per appendices II or III)		
7.	A table of comparative legislation for benchmark or precedent (if any)		
8.	Any possible consequential amendment arising from the proposal		
9.	Proposed commencement date		
10.	Contact information of relevant officer		

APPENDIX II

FORMAT OF DRAFTING INSTRUCTION

**FORMAT FOR PROPOSED NEW ORDINANCE/SUBSIDIARY
LEGISLATION**

EXISTING ORDINANCE / SUBSIDIARY LEGISLATION	PROPOSED ORDINANCE/SUBSIDIARY LEGISLATION	JUSTIFICATION	REMARKS
PART I			
PRELIMINARY			
Citation			
Interpretation			

Note: This format is only applicable for proposed New Ordinance or Subsidiary Legislation

FORMAT OF DRAFTING INSTRUCTION

FORMAT FOR PROPOSED AMENDMENT OF EXISTING ORDINANCE/SUBSIDIARY LEGISLATION

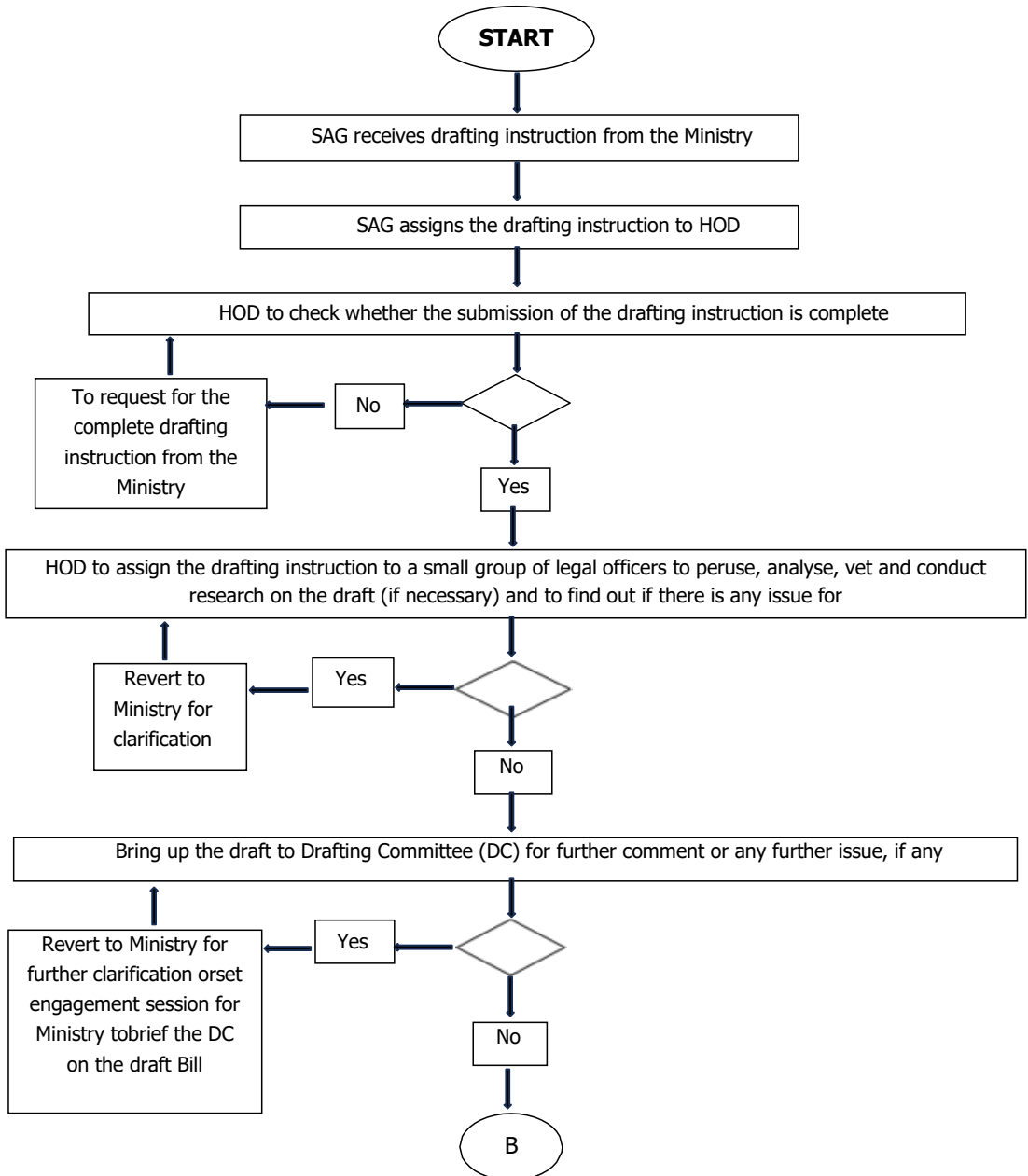
EXISTING ORDINANCE/ SUBSIDIARY LEGISLATION	PROPOSED AMENDMENT OF ORDINANCE/ SUBSIDIARY LEGISLATION	JUSTIFICATION	REMARKS
PART I PRELIMINARY			
Citation			
Interpretation			

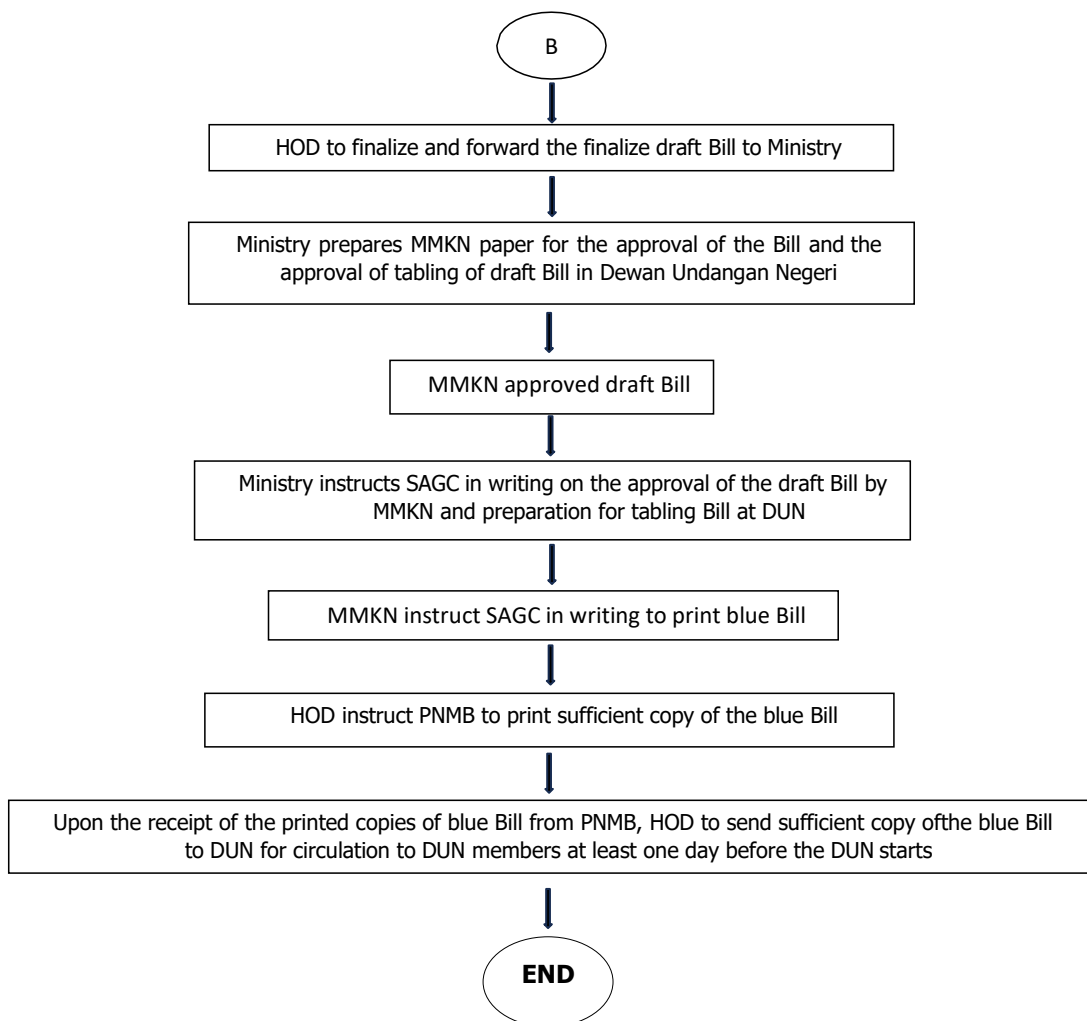
****to also include each Part of the Draft Ordinance/Subsidiary Legislation**

Note: This Format is only applicable for amendment of existing Ordinance or Subsidiary Legislation

APPENDIX IV

WORK PROCESS FOR INTERNAL DRAFTING

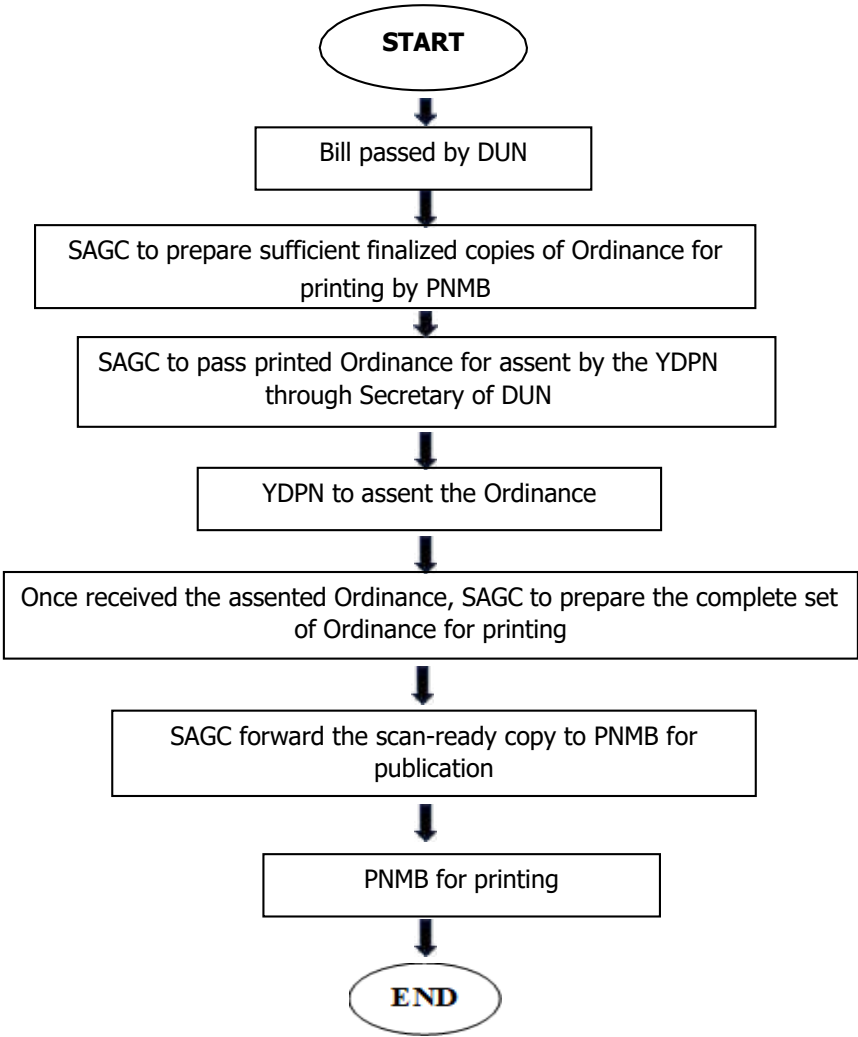




Note:

- a) The above work process is for the drafting process of enacting a Bill and will be printed in Part III;
- b) The next process after a Bill has been passed by Dewan Undangan Negeri is to obtain assent from the YDPN before the Bill becomes an Ordinance. An Ordinance will be printed in Part I; and
- c) For ease of reference, the following chart is the process after a Bill has been passed by DUN and SAGC to forward to PNMB for printing.

WORK PROCESS FOR ORDINANCE GAZETTEMET

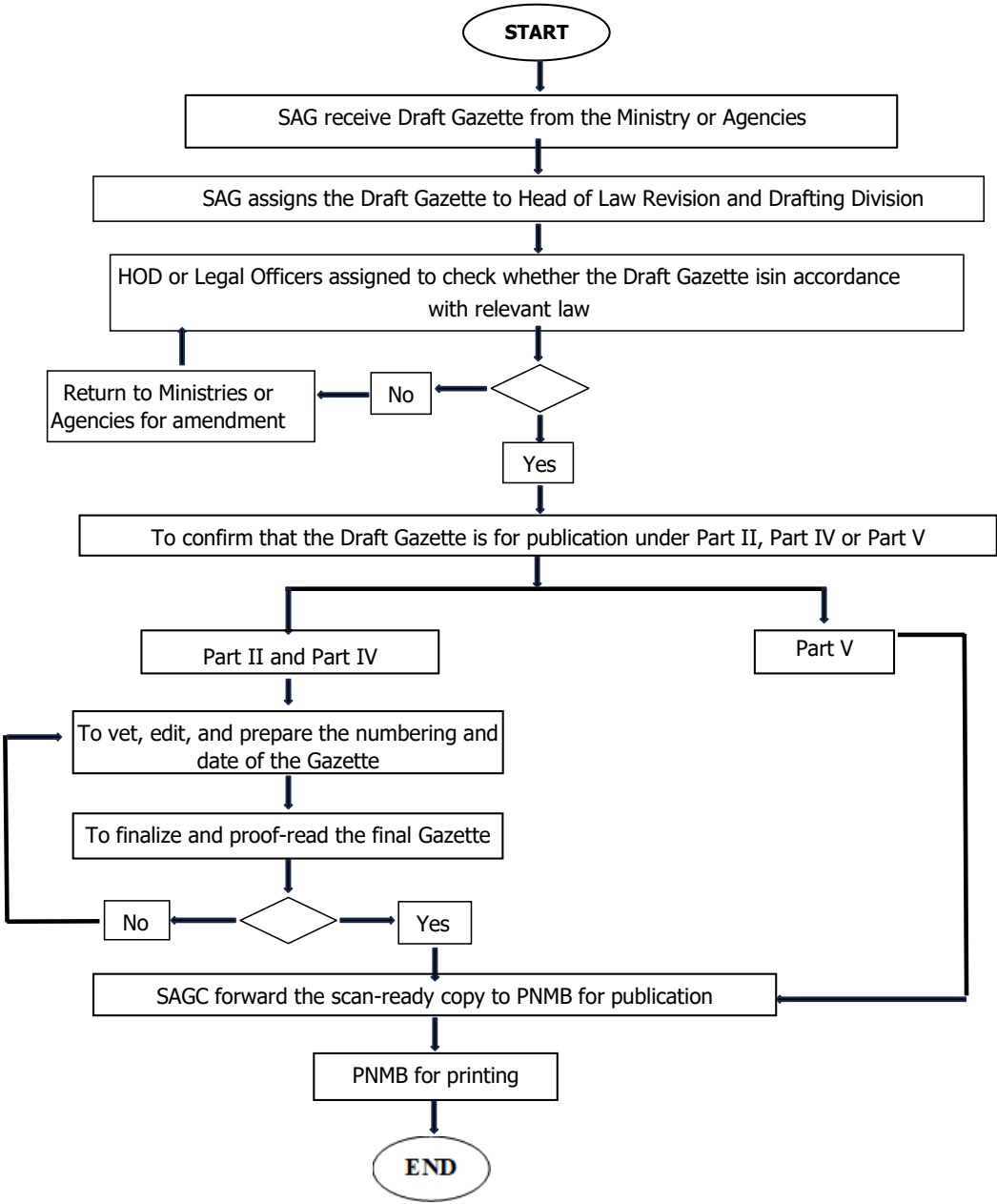


Additional note:

1. Part I and III of the Sarawak *Gazette* is in relation to the enacted Ordinances in Sarawak whereas Part II, IV and V deals with any rule, regulation, by-laws, notification, appointment etc that required to be gazetted under the law.
2. Below is the work process for gazetting the above in the Sarawak Gazette under part II, IV and V

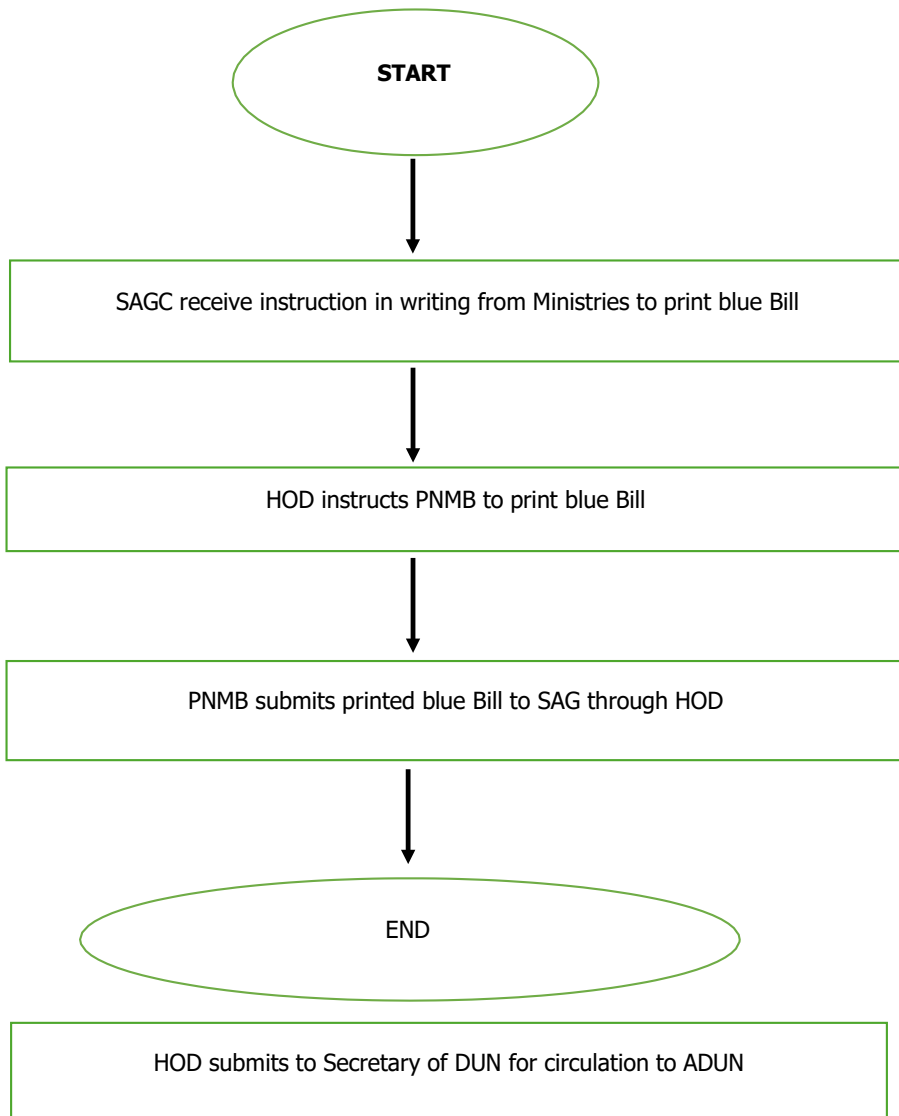
APPENDIX VI

WORK PROCESS FOR GAZETTE IN THE SARAWAK GAZETTE



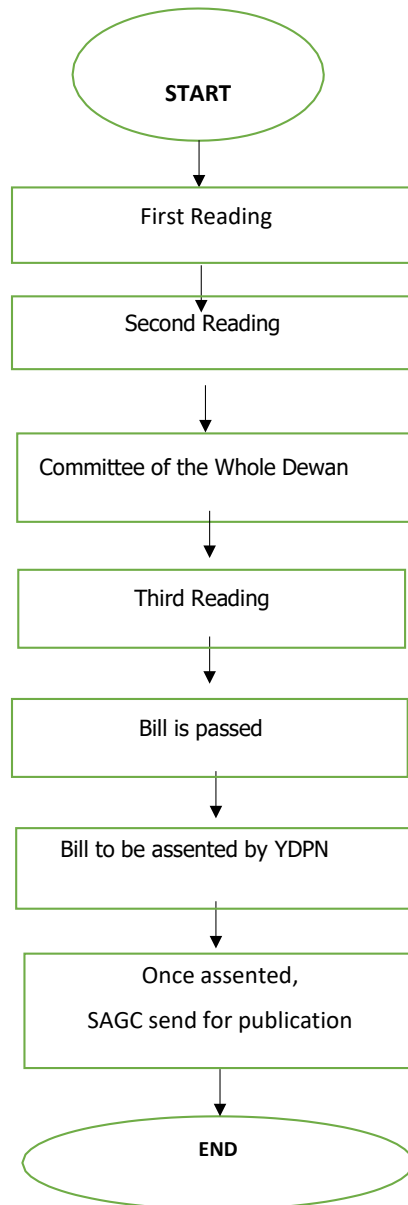
APPENDIX VII

FLOWCHART ON PRINTING BLUE BILL

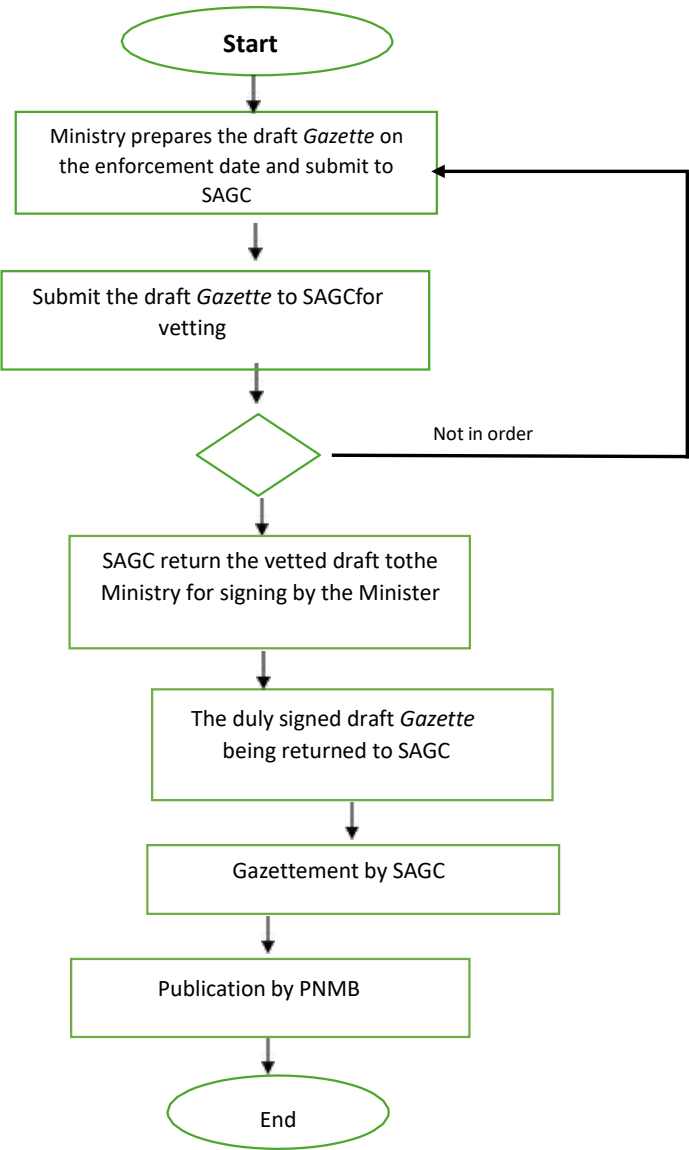


APPENDIX VIII

FLOWCHART OF LEGISLATIVE PROCESS IN DUN



**FLOWCHART ON THE ENFORCEMENT/COMMENCEMENT DATE OF
THE ORDINANCE**



*This flowchart is only applicable where there is no specified enforcement date in the Ordinance



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