



“PROFILING OF MALAYSIA’S ACTS”

Abstract

This paper gives an overview of a Malaysian Acts profiling study. The study covers counting number of pages, number of words and number of word “shall” in 759 Acts gazetted from 1968 to 2013. Comparisons between similar studies carried out in developed countries are made within view to see the trending.

1. Introduction

1.1 Laws of Malaysia

The law of Malaysia is mainly based on the common law legal system. The Federal Constitution is the supreme law of the land which provides the legal framework for the laws, legislation, courts, and other administrative aspects of the law. There are three levels of government, hence three types of legislations in Malaysia; federal laws, state laws, and local government laws.

Federal laws are known as Acts and apply throughout the country. However, some federal Acts apply differently to Sabah and Sarawak on matters such as immigration, land and natural resources. State laws, often referred to as Enactments or Ordinances only applied in the particular state. In cases where there are inconsistencies in a state law, a federal law shall prevail. Laws and rules created by local governments (or local authorities) are known as By-laws. By-laws of each local government only applies to areas within its jurisdiction.

To date, there are 761 Acts being enforced in Malaysia. The first being the Revision of Laws Act 1968 (Act 1) which was gazetted on 31st December 1968. The latest is the Finance Act 2014 (Act 761), which was gazetted on 1st January 2014.

1.2 Literature review

A number of studies on stock regulations have been conducted in developed countries, namely the USA, Australia, and Canada.

In the USA, the Federal Register provides documentation of the government’s regulatory and other actions. Study was conducted by counting the total number of pages in the Federal Register each year from 1937 to 2011. The number of pages in the Federal Register has increased steadily by 60,000 to 70,000 pages per annum since 1975. [1]

The Queensland Competition Authority, Australia, conducted a study to determine the number of pages of legislation and associated regulations. Its study also include the number of requirement as presented by words such as “must” and “shall” as part of the investigation and report on a framework for measuring and reducing the burden of regulation. [2]



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The proxy measures (page count and number of requirements) are used due to they are easily understood and applied to any suggested change in regulation. However, the page count methodology have severe limitations such as being influenced by non-regulatory factors. Examples of these factors are format and layout of the text. [3]

The British Columbia in Canada, studied on the number of requirements (the words “must” and “shall”) in legislation and regulations.

Australia which is a developed country had 1279 Commonwealth Acts with a total of 98,486 pages as at 30th June 2007. [3].

The total stock of regulation is a potential indirect indicator of regulatory burden. Benchmarking the total stock of regulation affecting business would be a useful starting point in assessing regulatory burden on business and would provide useful contextual information.

2. Problem statement

There is no readily available data on Malaysian Acts with regard to the total stock of existing regulation.

3. Scope of study

The study focused on federal laws, specifically the 759 primary Acts that were in existence and gazetted by 31st December 2013. Regulations, guidelines, circulars and others associated with the Acts were not included in the study.

4. Methodology of study

Acts, starting from Act 1 until Act 759, were gathered and analysed. The source of reference for the Acts was www.lawnet.com.my [4]

Analysis was made by counting the number of pages, the number of words, and the number of the word “shall” in each Act. The total counts of pages, words, and the word “shall” for all 759 Acts were then determined.

Literature reviews of similar studies in USA, Canada, Australia and the United Kingdom were conducted. Trending and practices in those studies were recorded.

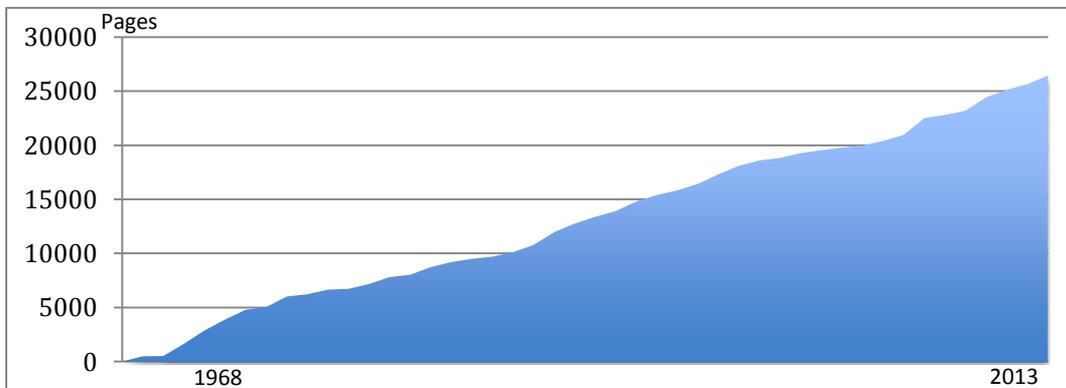
5. Findings

The study was conducted on 759 primary Acts. The results of the analysis are as follows:

- Total number of pages is 26,500;
- Total number of words is 6.5 million; and
- Total number of the word “shall” is 115,000.

Each Act has an average of 39 pages, 9500 words and 170 of the word “shall”.

Figure 1: Graph shows number of cumulative pages for 759 Act.



6. Discussions

Graph 1 shows an upward trend of the cumulative number of pages of existing primary Acts between 1968 and 2013, when Act 1 and Act 759 were gazetted respectively. As at 2013, the number of pages stands at 26,500.

Box 1: Simple estimation effort required to read all 759 acts.

Assuming that it takes approximately 4 minutes to read one page of the Acts, a person who reads them for 8 hours during each working day will require 220 working days to finish reading all the 759 Acts, which is equivalent to 1 year of working days.

The number of pages and the number of the word “shall” are proxy measures for regulatory obligations and regulatory burden. Regulatory burden puts a constraint on innovation and reduces productivity.

Businesses and public are bound by the Acts. It is reasonable to assume that the higher the number of Acts, the more burdensome it becomes as there are more regulatory obligations that must be complied with. Consequently, the cost associated with regulatory burden also increases.



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Malaysia's total Acts in 2013 is about 60% of Australia's total Commonwealth Acts in 2007. Australia had 1279 Commonwealth Acts with a total of 98,486 pages as at 30th June 2007. [4]. Thus, the number of Acts in Malaysia is deemed insufficient as compared to Australia. Australia population is 23.1 million while Malaysia population is 29.6 million (2013).

7. Recommendations

It is recommended that the study on stock of regulation be extended to include all regulations associated with each primary Act. This is followed by including state laws, which are Enactments and Ordinances of each state in Malaysia.

The next phase of the study could be on the Categorisation of Acts and regulations such as economic regulations, social regulations, etc.

8. Conclusion

Malaysia needs more acts based on trending derived from developed countries. There is a need for new Acts to be enacted or for the existing ones to be updated to suit the current business environment.

However, there should be a balance between the objective of an Act and the regulatory barriers and burdens imposed by the Act. Care must be taken when designing and introducing new Acts to avoid creating unnecessary burdens. There is also a need to continuously review existing Acts in order to determine their relevance to the current business environment.

9. References

- [1] Dudley S. E. and Brito J., (2012), Regulation: A Primer, Mercatus Center, George Mason University, Washington DC.
- [2] Queensland Competition Authority (2013), Final Report: Measuring and Reducing the Burden of Regulation, Brisbane, Queensland.
- [3] Australia Government Productivity Commission (2010), Performance Benchmarking of Australia Business Regulation: Occupational Health & Safety, Melbourne, Victoria.
- [4] www.lawnet.com.my - online source of publication of Malaysia Laws.