

# 2006 ANNUAL REPORT

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OFFICE OF THE  
ATTORNEY - GENERAL

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PARLIAMENTARY PAPER NO.  
79 OF 2024



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# Introduction

This Report covers the activities of the Office of the Attorney-General for the year 2006.

The Office is responsible for—

- providing independent legal advice to the Fijian Government and to the holder of a public office, on request;
- preparing draft laws on the request of Cabinet;
- maintaining a publicly accessible register of all written law;
- representing the State in court in any legal proceedings to which the State is a party, other than criminal proceedings; and
- performing any other functions assigned by the Constitution, any written law, Cabinet or the Attorney-General.

The Solicitor-General is the Permanent Secretary for the Office of the Attorney-General. Pursuant to section 116 of the Constitution of the Republic of Fiji (**'Constitution'**), the Solicitor-General is appointed by the Judicial Service Commission following consultation by it with the Attorney-General.

This Annual Report was compiled from reports prepared by heads of sections within the Office.

# Statement: Solicitor-General

It is with great pleasure that I present this annual report. This annual report not only reflects the diligent work and dedication of our team but also captures the diverse activities of our Chamber. We have strived to ensure that every aspect of our operations is transparent and is in strict compliance with the appropriate legal framework.

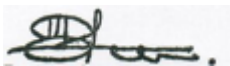
I am pleased to confirm that our financial statements have been thoroughly audited, reflecting our dedication to transparency and accountability. Through unwavering dedication and collaboration, we have achieved significant growth and impact.

I extend my sincere thanks to all the stakeholders, the committee and all staff members who have tirelessly worked and contributed to the preparation of this annual report. Your hard work and dedication have been invaluable.

As we move forward, we remain committed to upholding the principles of integrity and accountability that are the foundation of our Chamber's work.

Thank you for your continued trust and being part of our success, together we look forward to another year of innovation, transparency and shared accomplishments.

Thank you.



Ropate Green  
Solicitor-General



# Our Purpose

The Office of the Attorney-General (**'Office'**) is established as a separate Office in the Fijian Government. The Attorney-General is the Chief Legal Adviser to the Fijian Government. The Attorney-General is assisted by the Solicitor-General, who is the Permanent Secretary for the Office of the Attorney-General.

# Our Vision

The legal services provided by the Office enhance confidence for stability and growth for a peaceful and prosperous Fiji.

# Our Mission

To provide quality legal services to the Fijian Government and to facilitate access to law with an independent and professional legal service of high calibre.

# Our Values

The Values that we uphold are designed to achieve our Vision and Mission.

These values are derived from the Civil Service Act 1999 and the Legal Practitioners Act 2009, which include the following:

- Uphold Government's objective of peace, unity and prosperity;
- Serve the country's interests with diligence and honesty;
- Pursue public service that transcends self-interest and avoids conflict of interest;
- Work cordially with professional colleagues to uphold the honour and integrity of the legal profession;
- Uphold professional obligation as officers of the Court;
- Maintain confidentiality, discipline and dedication;
- Respect the rights and liberties of individuals;
- Foster teamwork, courtesy and respect at workplace-*esprit de corps*;
- Maintaining impartiality, transparency and accountability, and being apolitical;
- Uphold the rule of law;
- Maintain public confidence, earn and show respect and dignity to our clients, professional colleagues, the judiciary, legal system and the public at large; and
- Protect public interest and be responsive to their needs.



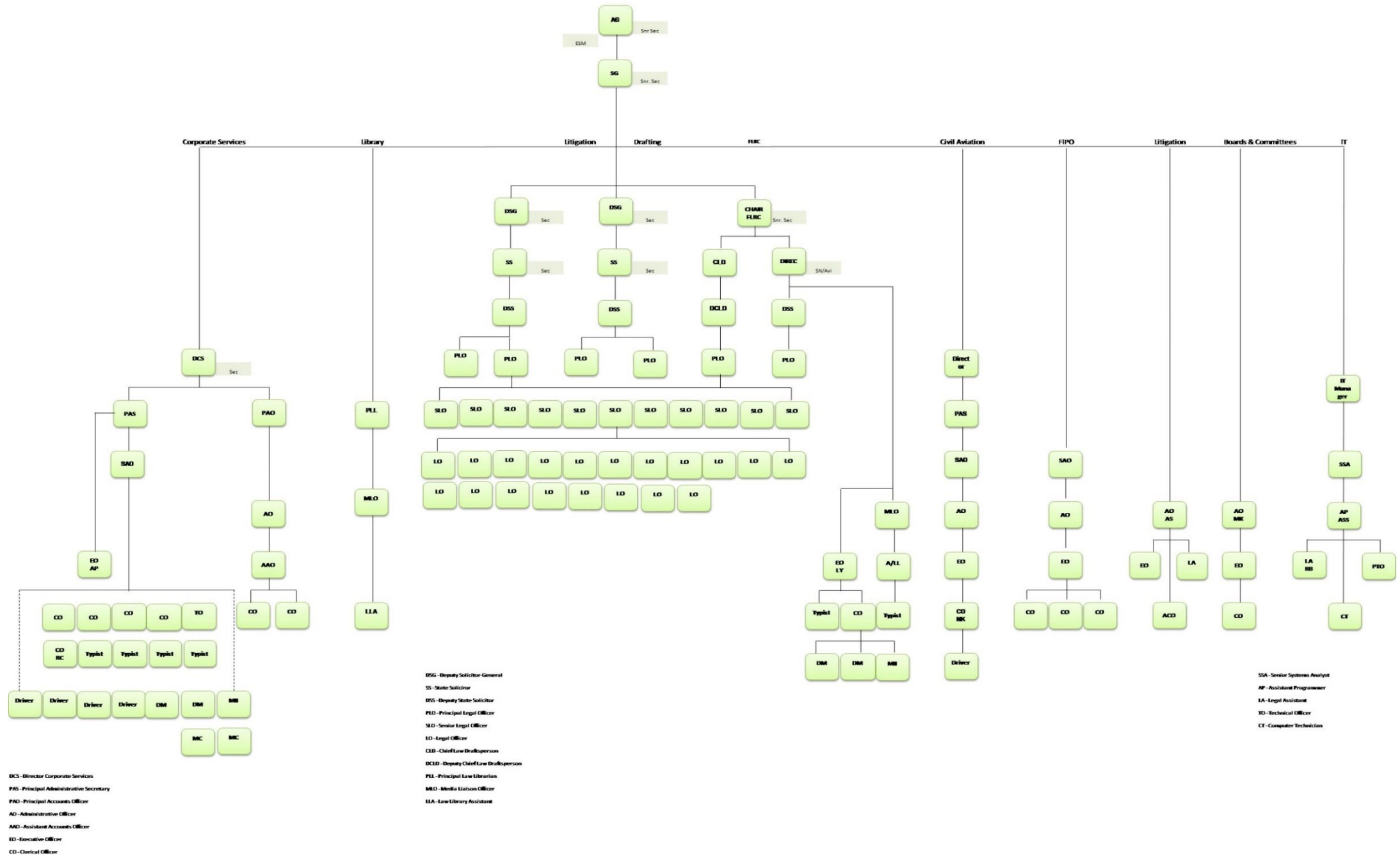
# Our Stakeholders

Our stakeholders include:

- the Parliament of the Republic of Fiji
- Cabinet
- Public Service Disciplinary Tribunal
- all Ministries and Departments
- the Private Sector
- Diplomatic Missions
- International Organisations
- Statutory Bodies
- the public at large



# Organisation Structure



## Part 1: Office Output Performance Report

The Office provides a range of legal services to Government Ministries and Departments. The work of the Office comprises the following:

- A. Litigation Services
- B. Legal Advice Services
- C. Legislative Drafting Section
- D. Boards, Committees & Commissions

This Part covers the performance reporting of all services provided by the Office as mentioned above.

### A. Litigation

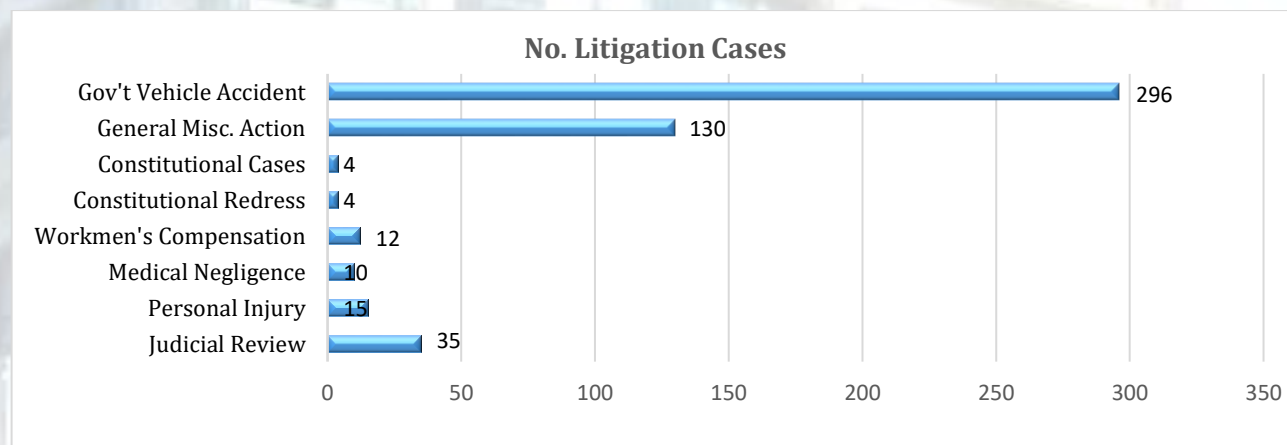
#### Our Vision

The Litigation and advocacy division of the Office represents the State in all proceedings in all tiers of the Court and other judicial and quasi-judicial bodies.

#### What We Do

We are responsible for providing effective legal representation in litigation; providing specialized training and development in litigation and advocacy skills, educate, update and create awareness of the developments in law and to establish a litigation support service to assist professional officers.

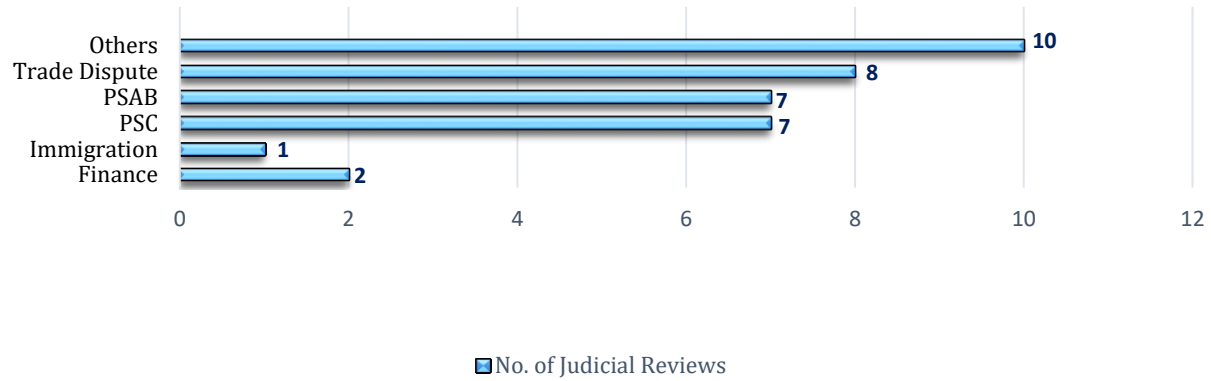
The graph below shows the number of litigation cases and judicial reviews registered between 1<sup>st</sup> January 2006 to 31<sup>st</sup> December 2006:



**Total No. of Cases: 506**  
**Graph of Litigation Cases for the year 2006**



### No. of Judicial Reviews



**Total Reviews: 35**  
**Details of Judicial Reviews for the year 2006**



## B. Legal Advice Services

### Our Vision

Responsible for the provision of timely and independent legal advice to institutions for the efficient discharge of administrative and statutory functions.

### What We Do

One of the primary responsibilities of the Office is the provision of legal advice to Government Ministries and Departments.

The scope of legal advice covered by the Office was extensive in 2006 and covers most areas of public law, public and private international law, Immigration, Intellectual Property, Company, Commercial Transactions, Industrial Relations, International Trade, Torts, Contracts, Marine, Equity and Trusts, Constitutional, Transport, Guarantees, Corporate Finance, Environmental and Constitutional Law.

## C. Legislative Drafting Section

### Our Vision

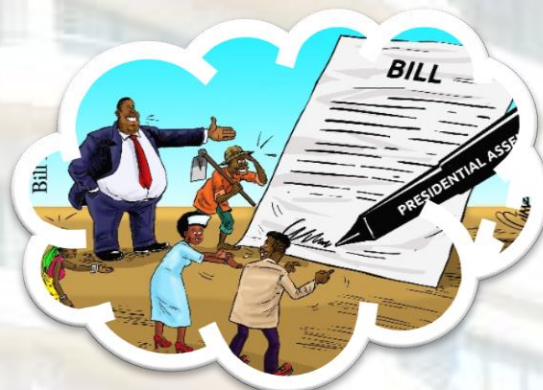
To provide the Fijian Government with a comprehensive, high quality legislative drafting service, guidance on the development of legislative proposals and advisory opinions on laws.

### What We Do

Our primary responsibility is to draft written laws including subsidiary laws to give effect to the Fijian Government's policy intention for legislative change. Subsidiary laws may include regulations, orders, by-laws, notices, declarations, rules, and delegations of power.

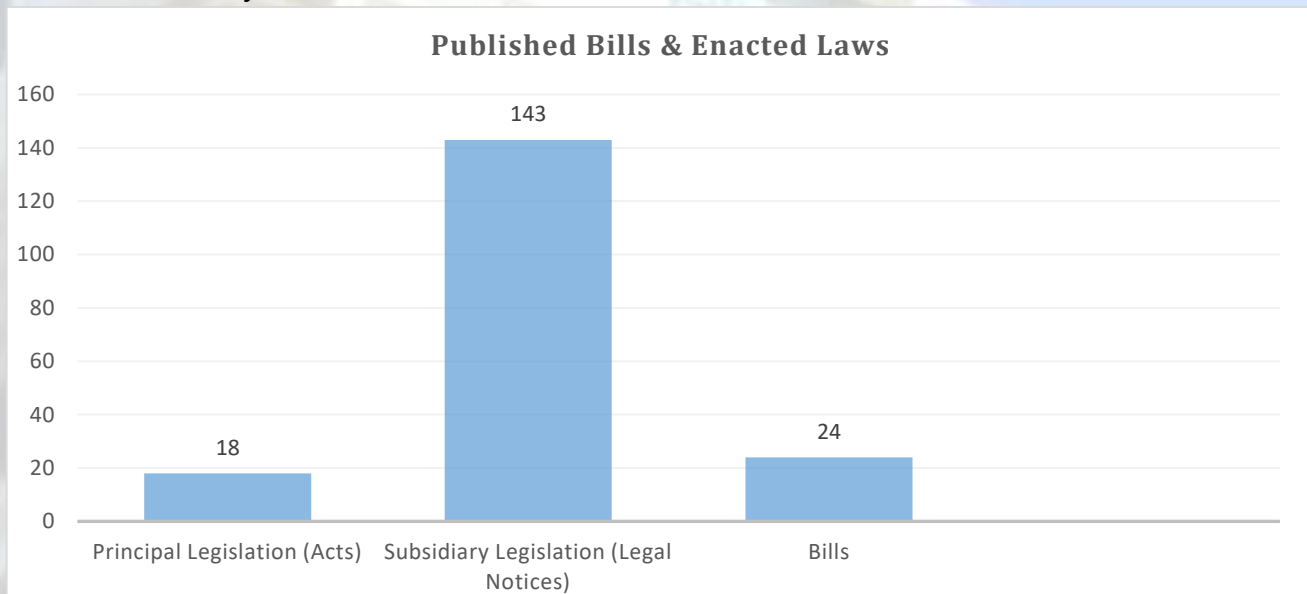
In discharging drafting responsibilities we do the following –

- i) advise and assist Ministries on the development, formulation, assessment and determination of legal policy proposals;
- ii) be part of committees or working groups in Ministries that are responsible for policy assessment and legal changes;
- iii) carry out legal research and consultation with Ministries on drafting and vetting of laws;
- iv) assist and advise Ministries to carry out consultation and finalization of draft laws;
- v) assist Ministries in progressing laws through Cabinet;
- vi) give advisory opinions to Ministries on the interpretation or application of laws;
- vii) assist the Solicitor-General in the general administration of the Office of the Attorney-General;
- viii) perform other functions assigned to it by the Solicitor-General;
- ix) undertake advisory opinion and vetting of Cabinet papers in respect of any legal policy proposals; and
- x) facilitate and assist with public consultation on proposed laws.





The following graph shows Bills, Acts (Legislation) and Legal Notices which were drafted and published in the Gazette for the year 2006:



**Published Bills & Enacted Laws**

## D. Boards, Committees & Commissions

### I. Mercy Commission

#### ▪ Grant of Mercy

Section 119 of the Constitution establishes the Commission on the Prerogative of Mercy.

No. of Applications Received	No. of Pardons
9	5

Applications received for Pardon in the year 2006.

The Commission on the Prerogative of Mercy is responsible for the timely processing of applications for the grant of mercy to convicted prisoners and to ensure just and timely advice to the President of the Republic of Fiji in the exercise of his prerogative of mercy.

Commission Members
Hon AGMJ – Mr Qoriniasi Bale
Mrs Mavis Basawaiya
Mr Hector Hatch

Mercy Commission Members for the year 2006.

## II. Fiji Intellectual Property Office (FIPO)

### ▪ Copyright and related Statutory Obligations

The Copyright Tribunal is established under the Copyright Act 1999 as a quasi-judicial body with the power to determine matters pursuant to that Act, including the determination of any dispute in relation to a licensing scheme under the Copyright Act 1999.

The Copyright office continues with its duty in assisting the public in providing legal advice with its queries in relation to copyright. The Tribunal had no sittings or meetings due to the lapse of appointments for its members. Below is the member status of the Tribunal:

<b>Tribunal</b>	<b>Designation</b>
Mr Ajmal Khan	Chairman
Ms Marie Chan	Member
Mrs Marieta Rigamoto	Member

**List of Copyright Tribunal Members Status for the year 2006**

### ▪ Trademarks

The Office is responsible for facilitating the registration of trade-marks under the Trade-Marks Act 1933.

	<b>New</b>	<b>Endorsements</b>
Total No.	1,041	927

**List of Registered Trade-Marks for the year 2006**

### ▪ Patent

The Office is responsible in facilitating registration of Patents under the Patents Act 1879.

	<b>New</b>	<b>Endorsements</b>	<b>Local</b>	<b>Overseas</b>
Total No.	9	3	1	11

**List of Registered Patents for the year 2006**

Tabulated above is the total registration for both Patents and Trade-Marks for the year 2006.

Furthermore, other than the registered Trade-Marks and Patents, other activities carried out are searches for clients and the public and endorsements (renewals of application, assignment and any changes to the existing records of application with FIPO).



### III. Hotels Licensing Board

#### ▪ Hotel Licensing

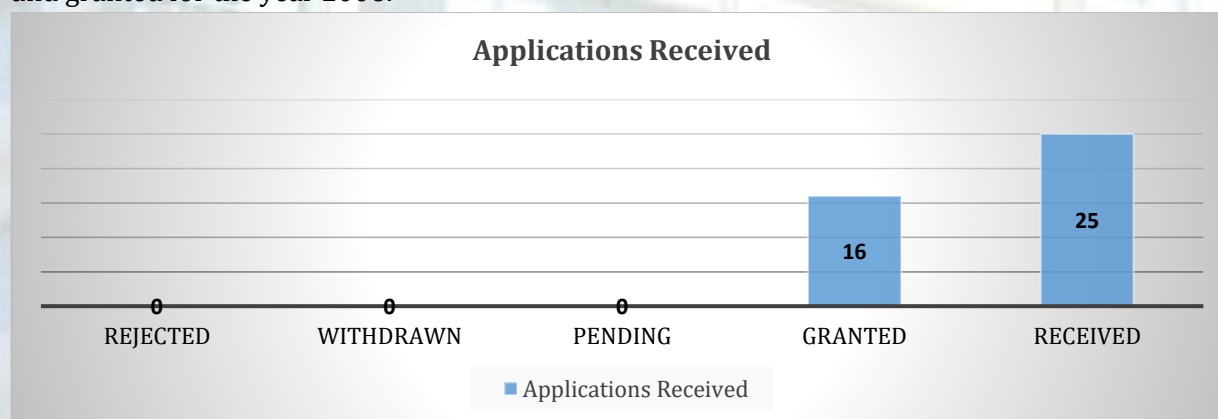
The Hotels Licensing Board is established under the Hotels and Guest Houses Act 1973 and is responsible for regulating and issuing licences to hotels. It is aimed at ensuring a just, fair and efficient mechanism for the timely processing of hotel license applications and providing effective policy advice to the Attorney-General.

The following figure shows the number of hotel licences renewed in the 2006 period.

Table Of Hotel Licences Granted: 2006		
Group	Location	No. of Renewal Licences
One	Levuka & Islands off Levuka	10
Two	Taveuni & Islands off Taveuni	28
Three	Savusavu & Islands off Savusavu	25
Four	Labasa & Islands off Labasa	8
Five	Sigatoka / Nadroga & Islands off Sigatoka / Nadroga	35
Six	Nadi & Islands off Nadi	55
Seven	Mamanuca Is/ Lautoka / Yasawa & Islands off Lautoka	69
Eight	Ba / Tavua / Rakiraki & Islands off Rakiraki	16
Nine	Deuba/ Pacific Harbour /Beqa/ Lau/Suva/Nausori/Tailevu	61
Ten	Kadavu Islands	12
<b>Total</b>		<b>319</b>

List of Hotel Licences Granted for the year 2006

The following figure shows the number of new hotel licences applications which were considered and granted for the year 2006.



List of New Hotel Licences Applications for the period 2006

The following persons served in the Hotels Licensing Board in 2006:

2006	
Name	Designation
Mr Joel Sahai	Chairperson
Mr Fatiaki Misau	Member
Ms Leilani Kotobalavu	Member
Ms Viti Whippy	Member
Mr Sharvada Sharma	Member

**Hotels Licensing Board Members Names for the year 2006**

#### IV. Central Liquor Board

##### ▪ Liquor Licensing

The Central Liquor Board is established under the Liquor Act 2006 with the principal function of advising the Minister responsible for the Liquor Act 2006 on policy matters related to liquor licensing. The Board aims to put in place a fair, just and efficient mechanism for the timely processing of liquor license applications and for hearing and determining appeals from Divisional Liquor Licensing Authorities.

There were no appeals made in the year 2006 and no meetings were held.

The following persons served on the Board in 2006:

2006		
No.	Name	Designation
1.	Mr Gayendra Singh	Chairperson
2.	Mr Masimeke Latianara	Member
3.	Ms Mereseini Vuniwaqa	Member

**Central Liquor Board Members for the year 2006**

#### V. Film Control Board

The following persons served on the Film Control Board in 2006:

##### **FILM CONTROL BOARD 2006**

Wing Kngwai	Chairperson
Isikeli Nasoga	Board Member
Elina Rokotuibau	Board Member
Nasrendra Prasad Bhagwan	Board Member
Birwati Chand	Board Member

**Film Control Board Members for the year 2006**

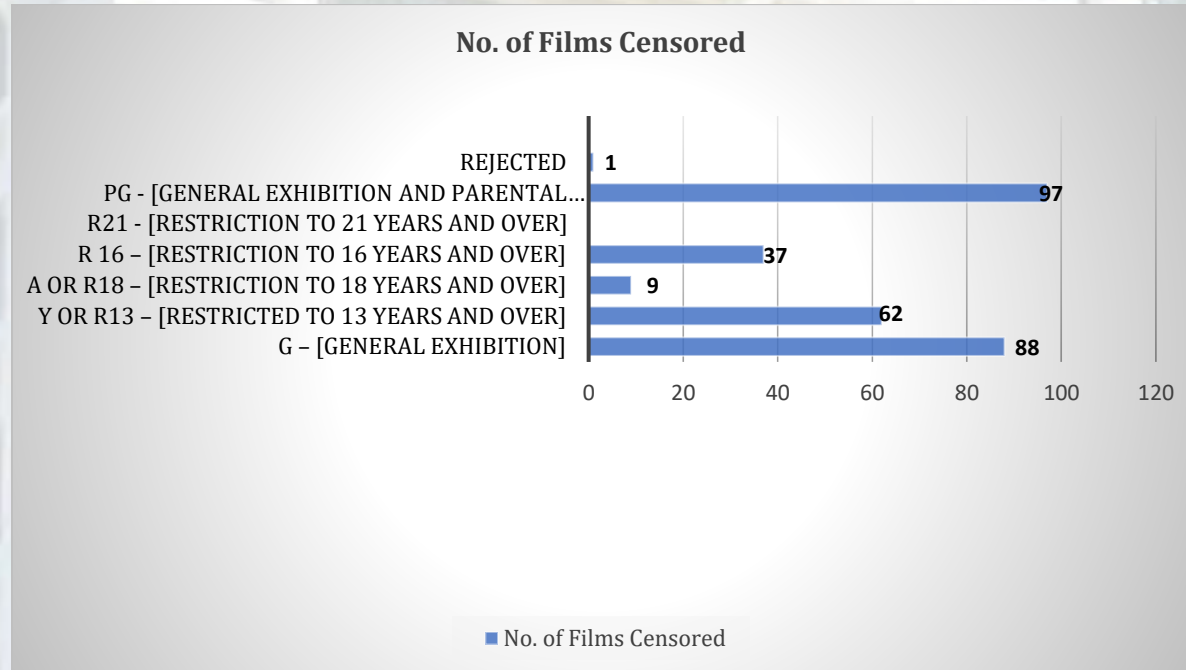


## ■ Film Censorship and Appeals

The Film Control Board is established under the Cinematographic Films Act 1971. The Board is primarily responsible for the appointment of a censor and assistant censor and for hearing and determining appeals made against the decisions of the censors or assistant censors.

The role of a censor is to provide appropriate ratings or classifications to cinematographic films.

The figures below show the number of films examined in each class or category:



**Total No. of films censored by ratings for the year 2006**

The following persons served on the Film Control Board in 2006:

No.	FILM CENSORS 2006	
1	Kamal Singh	Chief Censor
2	Ravindra Lal	Assistant Censor
3	Satendra P. Singh	Assistant Censor
4	Aisha Asgar	Assistant Censor
5	Dhan Gauri Patel	Assistant Censor
6	Zohra Bibi Raza	Assistant Censor
7	Tevita Vugakoto	Assistant Censor
8	Isimeli Cerelala	Assistant Censor
9	Miriama Cama	Assistant Censor
10	Mary Obrien	Assistant Censor
11	Eileen Van Loan	Assistant Censor
12	Desmond Whiteside	Assistant Censor
13	Abraham McGoon	Assistant Censor

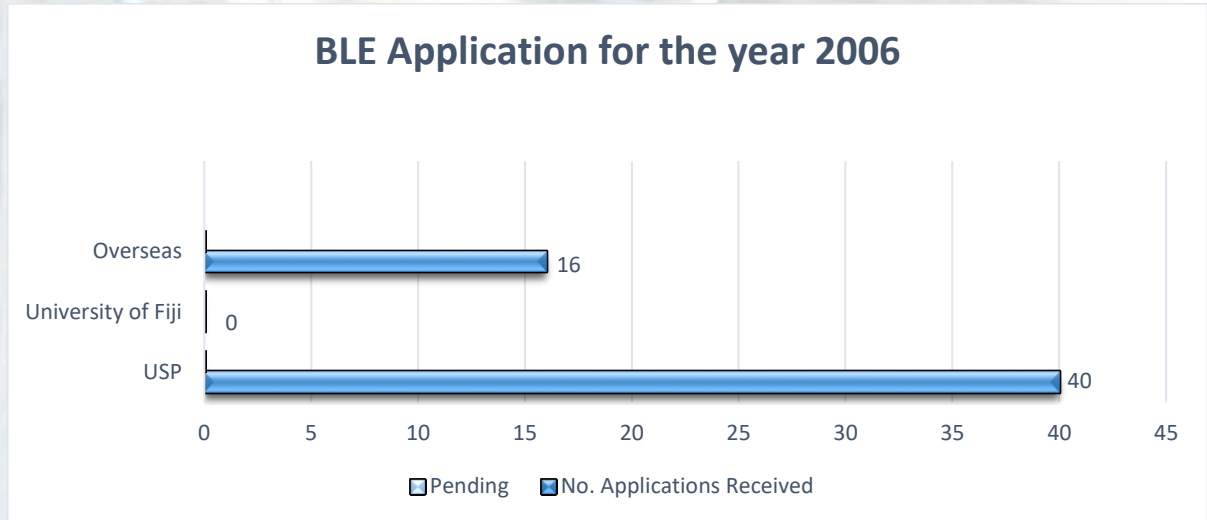
**Film Control Board member's names for the year 2006**

## VI. Board of Legal Education

### ▪ Legal Professional Education and Qualification

Established under the Legal Practitioners Act 2009, the Board of Legal Education is responsible for ensuring that the educational qualifications, both academic and practical, of persons wishing to be admitted to practice as legal practitioners in Fiji are of a high quality and sufficient to meet the needs of consumers of legal services in Fiji.

The table shows applications considered by the Board from the University of the South Pacific, University of Fiji and Overseas graduates in the year 2006.



**Total BLE applications considered for the year 2006**

The following persons served on the Board in 2006:

	<b>BOARD OF LEGAL EDUCATION 2006 - 2007</b>	
1.	Sir Timoci Tuivaga	Chairperson
2.	Professor Robert Hughes	Board Member
3.	Professor Paul Rishworth	Board Member
4.	Justice Mere Pulea	Board Member
5.	Mr Devanesh Sharma	Board Member
6.	Mr Nainedra Nand	Board Member

**Board of Legal Education members**



## Part 2: Office of the Attorney-General Services Delivery Report

### A. Law Revision

The task of the Law Revision Commissioner is to consolidate, revise and update all these laws in accordance with the powers given under the Revised Edition of the Laws Act 1971. The last consolidation and revision of the laws of Fiji was conducted in 1985.

There are 5 main objectives of Law Revision as follows:

- The provision of an authoritative statement of the law;
- Consolidation of the law;
- Rectification and improvement of the laws by the exercise of statutory powers;
- Identification of problems in the law; and
- Used as a tool for overall review of the law.



### B. Law Reform



Law Reform is undertaken by the Fiji Law Reform Commission established under the Fiji Law Reform Commission Act 1979 which conducts research on laws, providing advice to government on its policies, preparing draft laws for the ministries and departments for submission to cabinet, and keep under review all the law applicable of Fiji with a view to its systematic development and reform. The law reform work; in terms of review and reform of the laws, are currently being performed by the legal drafting section at the Office of the Attorney-General.

Currently, there is no Chairperson of Fiji Law Reform Commission but the function is performed by the Solicitor-General, in consultation with the Attorney-General.



### C. Attorney-General's Conference

The Attorney-General's Conference is a two-day event which has become a prominent feature in lawyers' calendars each year.

The Conference comprised sessions on topical issues for the legal fraternity in Fiji.

Speakers come from cross-sections of the community including judiciary, international organizations, educational institution, commercial sector and government lawyers and stakeholders attend the Conference.





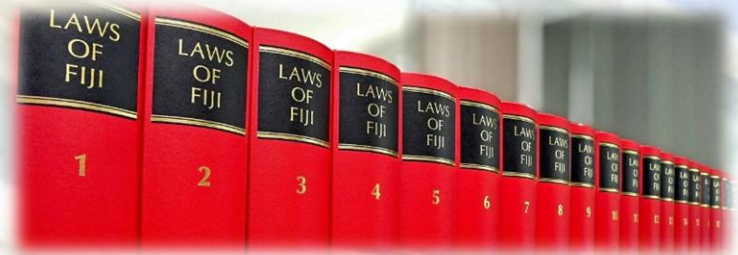
## D. Law Library

### Introduction

The Attorney-General's law library supports the vision, mission and goals of the Office by providing and enhancing access to a timely, dynamic and extensive range of library services and resources.

### Library Committee

The Attorney-General's library committee continued its responsibilities of overall supervision and development of the library. The Solicitor-General remained as the chair of the committee. They also played a huge role in selecting and purchasing of the text books for the library.



### Major Projects

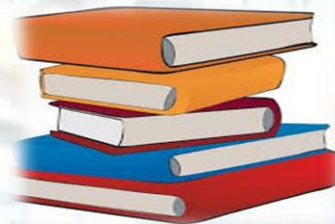
The improvement in the physical layout of the law library and a move to offer more innovative library services to some extent. This was achieved quite successfully with rearranged shelves and also improved reader services through the existence of a study room and periodicals booth.

The innovations included conversion of all 2006 Fiji Court of Appeal and Supreme Court judgments to electronic form. In addition to this, the library collection was further diversified with the purchase of law reports and journals from the Indian, American and United Kingdom jurisdictions.

### Subscriptions

Subscription to prominent law reports, journals and newspapers. These included:

- (a) *New Zealand Law Reports*
- (b) *All England Law Reports*
- (c) *Commonwealth Law Reports*
- (d) *Weekly Law Reports*
- (e) *Australian Law Journal Reports*
- (f) *Dominion Law Reports*
- (g) *Law Reports Index*
- (h) *New Law Journal (UK)*
- (i) *New Zealand Law Journal*
- (j) *Fiji Times*
- (k) *Fiji Sun*
- (l) *Fiji Daily Post*
- (m) *Halsbury's Laws of England*
- (n) *Atkins Court Forms*
- (o) *Law Reports of the Commonwealth*
- (p) *Encyclopedia of Forms & Precedents*
- (q) *Indian Supreme Court Cases*
- (r) *International Legal Materials*
- (s) *Judicial Review Journal*



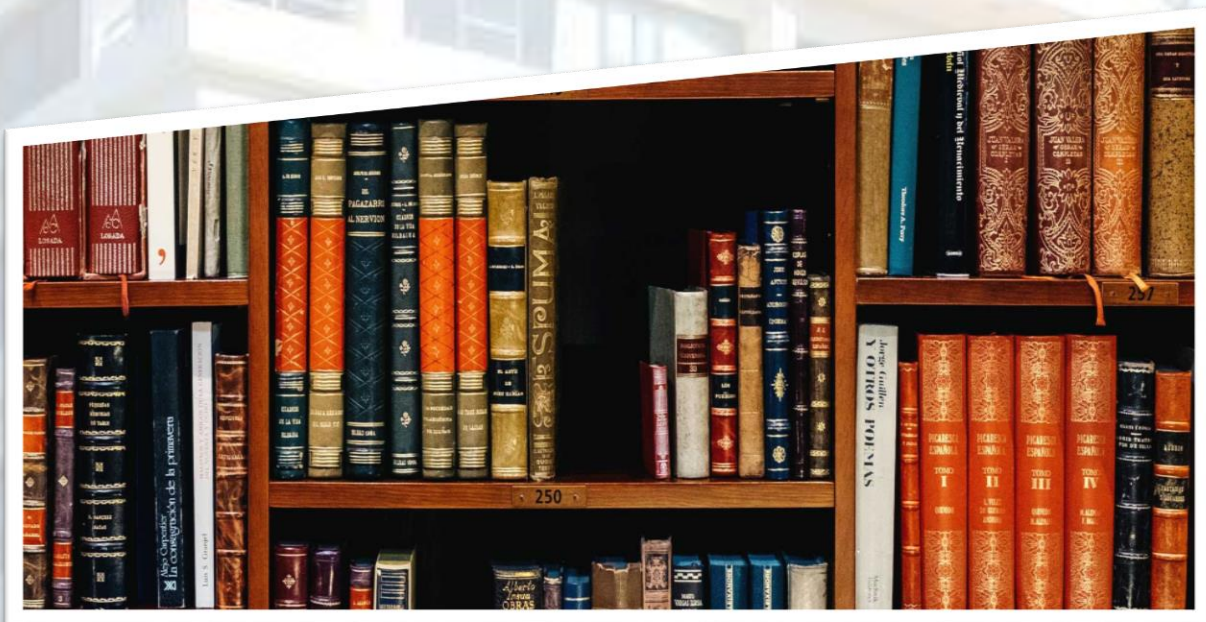


## Labasa and Lautoka Office Libraries

The Labasa and Lautoka Office libraries were each supplied with bound copies of the latest High Court, Fiji Court of Appeal and Supreme Court judgments. Also, libraries in those districts were supplied with updates to the law reports held in their collection.



In addition, supply of new editions of legal textbooks to the Lautoka and Labasa offices continued this year. The growing Lautoka library resource collection saw the acquisition of new aluminum lightweight book shelves.





## Part 3: Corporate Services Performance Report

### A. Policy and Administration Unit

#### Introduction

The Policy and Administration Unit assists management in policy making, administration and the optimum utilization of resources. It promotes efficiency and higher productivity through effective resource management and facilitates the formulation and implementation of the Corporate Plan and Performance Management System. The Unit identifies training and development needs and arranges relevant training courses and attachments for staff locally and overseas.

The core functions of the Unit are:

- To act as secretariat to the Office's various committees, boards, and meetings as assigned by the Solicitor-General;
- To co-ordinate staff movement;
- To maintain records of all personnel both established and Government Wage employees pertaining to matters such as leave, sick leave, training and disciplinary action and the operation of the Public Service Commission insurance scheme;
- To be responsible for the good maintenance and procurement of office furniture, office equipment and stationery;
- To arrange accommodation for the office and staff, where applicable;
- To co-ordinate staff board meetings and implement decisions made by the Solicitor-General;
- To be responsible for the control and maintenance of Office vehicles, including running sheets and vehicle log books;
- To secure Office records and premises; and
- To prepare returns and statistics for appointments, resignations, retirements, vacancies, approved establishment.

### B. Staffing

Staff Establishment or the number of posts allocated to the Office of the Attorney-General, Fiji Law Reform Commission and Civil Aviation Department in the 2006 period is as follows:

#### Office of the Attorney-General

	2006
	SALARY STAFF
Attorney-General & Minister for Justice	1
Solicitor-General	1
Deputy Solicitor-General	1
Director Corporate Services	1

Executive Support Manager	
Principal Accounts Officer	1
Chief Law Draftsperson	1
State Solicitor	2
Deputy State Solicitor	
Deputy Chief Law Draftsperson	1
Principal Legal Officer	5
Senior Legal Officer	4
Legal Officer	9
Senior Librarian/PLL	1
Librarian	-
Law Library Assistant	1
Media Liaison Officer	
IT Manager	
Snr. Systems Analyst	
Assistant Programmer	
Computer Technician	
Principal Administrative Officer	1
Senior Administrative Officer	
Accounts Officer	1
Administrative Officer	4
Assistant Accounts Officer	1
Executive Officer	3
Technical Officer	
Senior Secretary	2
Secretary/Legal Assistant	7
Clerical Officer	7
Steno Typist/Typist	6
Technical Assistant	1
Telephone Operator	1
<b>TOTAL</b>	<b>63</b>
<b>LAW REFORM COMMISSION</b>	
Chairman	1
Director	1
Senior Legal Officer	1
Legal Officer	4
Librarian	1
Assistant Librarian	1
Senior Secretary	1
Secretary	1
Steno Typist/Typist	2
Executive Officer	1
Clerical Officer	1
<b>TOTAL</b>	<b>15</b>
<b>DEPARTMENT OF CIVIL AVIATION</b>	
Chief Admin. Officer	
Principal Admin. Officer	
Senior Admin. Officer	
Administrative Officer	
Executive Officer	
Clerical Officer	
<b>TOTAL</b>	
<b>SALARIED STAFF TOTAL</b>	<b>78</b>

## Office of the Attorney-General Staff Establishment for the year 2006

- Staff Profile

The table below provides details of the staff profile and movements within the Office of the Attorney-General in the year 2006.



**Table Of Staff Profile : 2006**

<b>Post Processing Statistics</b>	<b>Staff Movement 2006</b>
Appointments	8
Promotion	5
Resignation	6
Secondment	1
Termination	-
Transfer	-
Retirement	-

**Table of Staff Movement for the year 2006**

### C. Training and Development

The Public Service Commission ('PSC') is vested with the responsibility and authority for the training and development of all civil servants in the civil service for both local and overseas training. The training unit of the Office liaises with the Centre for Training and Development of PSC and carries out training programs to:

- ❖ Improve the job performance of individuals through building and developing their skills, knowledge and behavior;
- ❖ Assist individuals in reaching their personal and professional goals; and
- ❖ Support civil servants and build the capabilities of the civil service to meet its needs now and in the future.

Training needs for professional officers were mainly met through attendance at seminars, workshops, symposiums and conferences, locally and overseas. These were mainly funded by organizations such as the World Intellectual Property Organization (WIPO), Commonwealth Secretariat, AUSAID, etc.



The table presented below details training and developments that the staff were engaged in for the year 2006.

**Table Of Trainings & Developments : 2006**

<b>Trainings</b>	<b>No. of Trainings Attended 2006</b>
Local	25
Overseas	47

**Table of Trainings & Development for the year 2006**

## Part 4: Accounts Performance Report

### A. Introduction

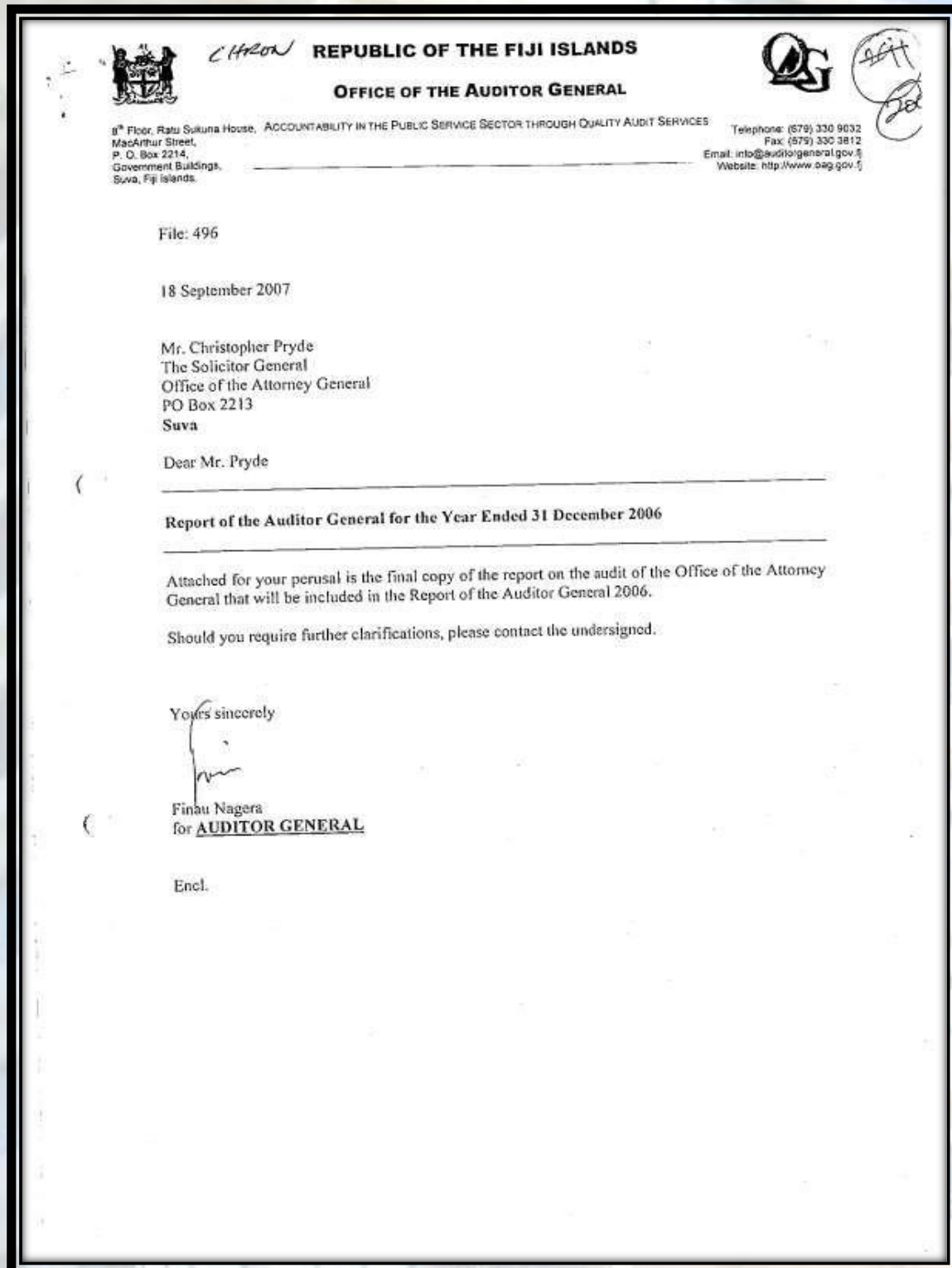
The core functions of the Accounts Section for the year 2006 were:

- ✚ Facilitate the purchase of goods and services for the Office by way of issuing of Purchase Orders making sure that the proper expenditure allocations are used;
- ✚ Facilitate the payment of salaries and wages of all staff members making sure that each staff is paid at the correct level and from the right expenditure allocation;
- ✚ Facilitate changes to officers' salary and wages as approved by the Head of Department and other authorities;
- ✚ Facilitate the inter-departmental transactions through the Inter Departmental Clearance Account;
- ✚ Facilitate the payment of liabilities of the Office through the Payment module of the FMIS system;
- ✚ Collection of revenue due for all licences and court settlements;
- ✚ Ensure that proper procedures and processes are followed and facilitate the requirements of the FMIS system;
- ✚ Ensure the prompt release of funds that are under Requisitions;
- ✚ Ensure that virement of funds are properly administered when the need arises; and
- ✚ Preparation of the annual budget of the Office.





## B. Disclosures and Financial Compliance



240  
199**Section 04****Office of the Attorney General****Programme Statement**

The Office of the Solicitor General is responsible for providing quality legal advice to all ministries and departments; drafting Government Bills and Subsidiary Legislations; undertaking systematic review, reform and development of laws in Fiji Islands; undertaking Statutory Law Revision; providing legal assistance to impoverished persons in family and criminal laws through legal representation and advice.

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**4.1 ACCOUNTS AND FINANCE****4.1.1 Budget Allocation for 2006**

The Office of the Attorney General was appropriated a budget of \$4,128,400 in 2006. The budget comprised of operating expenditure 90%, and VAT 10%.

**4.1.2 Revenue and Expenditure Statement<sup>1</sup>**

	Revised Estimate 2005 \$'000	Actual 2005 \$'000	Variance (%)	Revised Estimate 2006 \$'000	Actual 2006 \$'000	Variance \$'000	Variance (%)
Expenditure							
Operational	3,542.0	3,316.5	6.4	3,714.7	3,384.1	330.6	8.9
Capital	60.0	27.0	55	-	-	-	-
VAT	399.6	336.8	15.7	413.7	307.6	106.1	25.6
Total Expenditure	4,001.6	3,680.3	8.0	4,128.4	3,691.7	436.7	10.6

<sup>1</sup> Extracted from Appendix 5 & 6 of the Accounts and Finances Report  
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	Revised Estimate 2005 \$'000	Actual 2005 \$'000	Variance (%)	Revised Estimate 2006 \$'000	Actual 2006 \$'000	Variance \$'000	Variance (%)
Revenue							
State Revenue	264.9	153.7	42.0	-	162.0	162.0	-
Total Revenue	264.9	153.7	42.0	-	162.0	162.0	-
Net Cost of Services	3,736.7	3,526.6	5.6	4,128.4	3,529.7	598.7	14.5

The Office incurred a total expenditure of \$3,691,730 against a budget of \$4,128,400 resulting in a saving of \$436,670 or 12% of the budget.

A detail report on the Revenue and Expenditure Statement is provided in Appendix 4.1.

#### 4.1.3 Other Funds

The Department also maintains an Operating Trust Fund and a Revolving Fund Account (RFA) – Miscellaneous, as follows:

	Operating Trust Fund \$	RFA Miscellaneous \$
Opening Balance (2006)	284,366	(1,234)
Receipts	521,024	(29,184)
Payments	(503,991)	36,790
Closing Balance (2006)	301,399	6,372

A detail report on these funds is in Appendix 4.2.

## 4.2 VALUE ADDED TAX ALLOCATION – LEGAL AID COMMISSION

Where goods or services acquired by a registered person in the course or furtherance of making taxable supplies by that person are appropriated to use other than for the purposes of making those taxable supplies, the appropriation of those goods and services shall be deemed to be a supply made in the course or furtherance of that person's taxable activity.<sup>2</sup>

The tax shall be charged in accordance with the provisions of this Decree at the rate of 12.5% on the supply of goods and services in Fiji.<sup>3</sup>

In 2006, \$400,000 was allocated to support the functions of the Legal Aid Commission. Although the budget was provided under SEG 6 - Operating Grant, the grant was not paid to the Commission but managed by the Office of the Attorney General.

Audit noted that VAT was not properly accounted for by the Office of the Attorney General. The Office failed to allocate the VAT portion from the grant and claim VAT on purchases of taxable goods and services. Refer to the Table below for examples:

<sup>2</sup> Value Added Tax Decree 1999 Section 3(2)

<sup>3</sup> Value Added Tax Decree 1999 Section 15(1)



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Date	Reference	TIN No. of Payee	VAT Inc. Price (\$)	Unaccounted VAT (\$)
27/03/06	SOB 12/06 Item 7	501110105	240.00	26.67
27/03/06	SOB 12/06 Item 8	50124600	272.00	30.22
27/03/06	SOB 12/06 Item 10	50142820	1416.00	157.33
24/04/06	SOB 18/06 Item 1	031283500	45.00	5.00
24/04/06	SOB 18/06 Item 5	501306801	264.00	29.33
24/04/06	SOB 18/06 Item 6	500269004	494.50	54.94
20/04/06	Cheque 8039	501042404	1473.75	163.75
20/04/06	Cheque 2028	501380201	104.10	11.57
19/04/06	Cheque 8017	501165301	31.20	3.46
26/06/06	Cheque 8458	501164702	16.85	1.87

It is the responsibility of the Office of the Attorney General to properly and correctly account for VAT for purchases of taxable goods and services paid from the budgetary allocation of the Commission.

#### Recommendation

The Office should ensure that VAT is correctly accounted for expenses charged to the allocation of the Legal Aid Commission.

#### Management Comments

The purchase made on SOB 12/06 items 7, 8 & 10 and SOB 18/06 items 1, 5 & 6 are in respect of Legal Aid Commission. Funds provided for Legal Aid Commission is from Operating Grants and Transfer under Sec 6 of the budget.

It is noted from Finance Circular 9/95 of 13/3/95 on the preparation of VAT Returns that expenses for Secs 6 & 10 are subtracted as they will be taxable in the hands of the recipients. However, we have noted your comments and will seek further clarification on this issue.

### 4.5 MOTOR VEHICLE ACCIDENT - GN222

The Principal Assistant Secretary must ensure that vehicles are properly secured when parked or garaged.<sup>4</sup>

The Deputy Solicitor General shall authorise an officer to drive government vehicles under the care of the agency by issuing them a letter of authority. The Deputy Solicitor General shall notify the Principal Assistant Secretary of the names and designations of all such drivers. The Principal Assistant Secretary shall keep these authorisations in a file.<sup>5</sup>

Vehicles must only be used for official purposes unless approved in writing by the Deputy Solicitor General or permitted under an officer's term of employment.<sup>6</sup>

Drivers shall park vehicles at the agency's official garage or car park at the end of each business day and at weekends.<sup>7</sup>

<sup>4</sup> Finance Manual 2005, Section 12.1.2

<sup>5</sup> Finance Manual 2005, Section 12.2.1

<sup>6</sup> Finance Manual 2005, Section 12.3.1

<sup>7</sup> Finance Manual 2005, Section 12.4.1

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A driver involved in an accident must be surcharged if the surcharging authority believes the driver was at fault.<sup>8</sup>

Government vehicle GN 222 was damaged in an accident on 03/09/06. The Divisional Engineer Central Eastern recommended that the vehicle be written off as repairing it would be uneconomical. The vehicle was purchased in 2004 for \$49,850 and the repair cost was estimated at \$34,530. The following anomalies were noted.

- The vehicle was driven by a temporary relieving driver who was recruited on 14/08/06 without following proper appointment procedures. The driver was relieving his father who was a full time driver for the Department.
- The driver took the vehicle to his home on 01/09/06 without proper authorisation.
- The Police Report revealed that the driver was on his way to buy beer when the accident occurred at 12.30 am on 03/09/06. The driver was reported to be under the influence of alcohol and was driving at a very high speed. Four members of the public were also travelling in the vehicle at the time of accident.

The driver was terminated from the job with effect from 04/09/06.

#### Recommendation

The Department should explore legal options in recovering the cost of damage to the vehicle.

#### Management Comments

*At the date of recruitment the Driver identified to relieve the substantive post holder had a clean and valid driving license.*

*On 01/09/06 the driver, after having dropped off the Chairman Fiji Law Revision Commission at a meeting, he was authorised to park GN222 at the Nausori Police Station, however at his own accord he took the vehicle home.*

*The accident on 03/09/06 is a result of gross negligence on the part of the Relieving Driver. It was an unauthorised run made after official working hours which resulted in the accident. The Police are handling the case.*

*The damaged vehicle, as recommended by the PIVD had to be written off and the driver's appointment terminated with immediate effect from 04/09/06 as soon as management was informed of the accident.*

*Management has followed the proper procedure in terms of conducting an investigation and our Litigation Section is working on considering pressing charges through the Courts to recover the cost of damages.*

<sup>8</sup> Finance Manual 2005, Section 12.6.7  
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198**APPENDIX 4.1: EXPENDITURE AND REVENUE DETAILS****4.1.1 Expenditure**

SEG	Description	Revised Estimate 2005 \$'000	Actual 2005 \$'000	Variance (%)	Revised Estimate 2006 \$'000	Actual 2006 \$'000	Variance \$'000	Variance (%)
1	Established Staff **	1,687.3	1,675.8	0.7	1,802.7	1,794.6	8.1	0.4
2	Unestablished Staff **	89.4	88.7	0.8	70.7	70.7	-	-
3	Travel & Communications	100.0	99.2	0.8	108.4	99.5	8.9	8.2
4	Maintenance & Operations	209.2	192.3	8.1	184.3	156.9	27.4	14.9
5	Purch. of Goods & Services	291.7	299.2	(2.6)	295.2	273.7	21.5	7.3
6	Operating Grants & Transfers	405.4	389.5	3.9	405.4	385.0	20.4	5.0
7	Special Expenditure	759.0	571.8	24.7	848.0	603.7	244.3	28.8
9	Capital Purchases	60.0	27.0	55.0	-	-	-	-
13	Value Added Tax	399.8	336.8	15.7	413.7	307.6	106.1	25.6
	<b>Total</b>	<b>4,001.6</b>	<b>3,680.3</b>	<b>8.0</b>	<b>4,128.4</b>	<b>3,691.7</b>	<b>436.7</b>	<b>10.6</b>

**\*\* Staff Establishment**

Establishment	2005				2006			
	Est.	Filled	Vacant	% Filled	Est.	Filled	Vacant	% Filled
Established Staff	75	63	12	84	80	72	8	90
Unestablished Staff	9	9	0	100	9	10	(1)	111
<b>Total</b>	<b>84</b>	<b>72</b>	<b>12</b>	<b>86</b>	<b>89</b>	<b>82</b>	<b>7</b>	<b>92</b>

The provision for outstanding annual leave as at 31/12/06 totalled \$103,457.

**4.1.2 Revenue**

Audit noted that the revenue recorded by the Department as at 31/12/06 did not reconcile with the balance shown on Appendix 6 of the Accounts and Finances.

Details	Amount-\$
Appendix 6 - Ministry of Finance	162,007
Department	1,343,927
Variance	1,181,920

The Department did not provide any explanations for the variance.

**Recommendation**

Accurate and timely monthly reconciliation of revenue should be carried out and verified with the Ministry of Finance ledgers.

**Management Comments**