

LEGAL DRAFTSMAN'S DEPARTMENT

2015

Performance Report

VISION

To ensure good governance by assisting the Government to transform the policies of the Government into legislation

MISSION

In transforming Government policies into legislation, the drafting of such legislation to be done in accordance with the Constitution in Sinhala, Tamil and English languages.

Introduction

The Legal Draftsman's Department is an “A” Grade Government Department. The Department which functioned under the direct supervision of the Hon. President fell under the direct supervision of the Minister of Justice and Labour Relations as per the *Gazette* Extraordinary No.1897/15, dated 01.08.2015 and in accordance with the *Gazette* Extraordinary No.1933/3 of 29.09.2015, the Department now functions under the direct supervision of the Ministry of Justice.

The main function of the Legal Draftsman's Department is the transformation of the Government policies on diverse subjects into legislation in line with the Constitution and in accordance with the decisions approved by the Cabinet of Ministers. In this process, the Department drafts Bills to enact new legislation and to amend existing legislation, and it also revises the subordinate legislation submitted by various Government Ministries. The other duties entrusted to this Department include participating at Parliamentary Select Committee Meetings convened to review draft Bills and being present in Parliament and co-ordinating with the Parliament when the Bills are taken up for debate. This Department provides services to all Government Ministries and Departments including the State Corporations and Statutory Bodies. The Department also provides legal advice to Government Ministries and Departments with regard to the preparation of various Bills and subordinate legislation.

1. Functions of the Legal Draftsman’s Department in relation to legislative drafting:

- (1) Drafting of Bills to enact new legislation and to amend existing legislation in all three languages.
- (2) Revision and, (where necessary), drafting of subordinate legislation in all three languages.
- (3) Attending to Parliamentary duties in connection with drafting of legislation.
- (4) Drafting of Provincial Council Statutes.
- (5) Revision of Private Members' Bills (draft Bills of Incorporation) in all three languages.

This department also provides legal advice in respect of drafting of Acts, subordinate legislations and Provincial Council Statutes.

The unique feature of this Department is that it does not have a structured work programme of its own. This is because the work programme of the Department is of necessity, structured on the legislative needs of the Ministries of the Government and the various Departments under such Ministries, at a given time, upon the required policy being approved by the Cabinet of Ministers. The performance record of the Legal Draftsman's Department is therefore structured on the basis of the successful completion of the requests made for primary and amending legislation and subordinate legislation submitted to it by the respective line Ministries throughout any particular year. Any form of legislation which comes under the scope of legislative drafting, which is the primary function of the Department, has to be completed in all three languages before it can be released to the requesting Ministry or Department.

2. The Staff

The composition of the staff of the Legal Draftsman's Department is shown below. The total approved cadre is 151, whereas the employed cadre in 2015 was 80.

Employment Category	Approved Cadre	Cadre in employment
Senior Level	37	25
Tertiary Level	28	03
Secondary Level	62	29
Primary Level	24	23

Cadre of the Legal Draftsman's Department as at 31. 12. 2015

Senior Level			Tertiary Level			Secondary Level			Primary Level		
	Approved	Actual		Approved	Actual		Approved	Actual		Approved	Actual
Legal Draftsman	01	01	Administrative Officer	01	-	Budget Assistant	01	01	Driver	10	09
Additional Legal Draftsman	01	01 (Acting)	Chief Translator	02	02	Accounts Assistant	01	-	KKS	14	14
Deputy Legal Draftsman	05	03 01 (Acting)	Translator	24	01	Librarian	01	01			
Senior Assistant Legal Draftsman	08	02	Information and Communication Technology Officer	01	-	Management Assistant	28*	17			
Assistant Legal Draftsman	20	15				Documentation Assistant	20	07			
Chief Accountant	01	01				Editor	11	03			
Deputy Director/ Assistant Director	01	01									
Aggregate	37	25		28	03		62	29		24	23
Total				Approved No. 151				Actual No. 80			

* A cadre of 28 Management Assistants is approved. Approval has been received to recruit 20 Documentation Assistants. However only 10 Documentation Assistants have been recruited.

* 03 Publication Assistant officers out of 10 officers have obtained Public Management appointments and have obtained transfers.

Measures taken to fill existing vacancies in the Department

The cadre approved, to carry out the entire workload of the Department is 151. However in the year 2015 the Department had only 80 permanent employees to assist it in performing the aforementioned task. There exist 71 vacancies to be filled in various levels of employment as shown below:-

Senior Level

- (a) The most senior deputy Legal Draftsman has been appointed to act in the office of Additional Legal Draftsman and she will be duly appointed on due course for that post.
- (b) There exist 02 vacancies in the post of Deputy Legal Draftsman. One Senior Assistant Legal Draftsman has been appointed to act in one post and he will be duly appointed in due course for that post. To fill the other vacancy, a Senior Assistant Legal Draftsman has to be selected upon completion of such officer's period of office in the present post.
- (c) There exist, six vacancies (06) in the post of Senior Assistant Legal Draftsman. As there are no Assistant Legal Draftsmen who have completed 10 years of service to become eligible to the said post in conformity with the approved recruitment procedure, the said vacancies cannot be filled at present.
- (d) There exist 5 vacancies in the post of Assistant Legal Draftsman. Approval was obtained to fill 04 vacancies as at 31.12.2015, and the Notification relating to their recruitment has been published in the *Gazette*.

Tertiary level

- (a) The post of Administrative officer has fallen vacant. Director-General of Combined Services has been informed of the vacancy and no response was received so far in this regard.

- (b) There are 23 vacancies in the post of Translators. Steps are being taken to fill such vacancies.
- (c) There is one vacancy in post of Information and Communication Technical Officer.

Secondary Level

- (a) There is a vacancy in the post of Accounts Assistant. The Director-General of Combined Services has been notified of the vacancy in year 2015 and it has been informed that a suitable officer, when becomes available, will be sent on transfer.
- (b) There exist 13 vacancies in the post of Documentation Assistant and 08 vacancies in the post of Editor. Approval of the Management Service Department has been requested to fill such vacancies based on the results of the examination held last to recruit officers for the above posts and the Department has been informed to take steps upon consulting the appointing authorities.

Primary Level

One vacancy exists in the post of driver. Combined service Director General has been informed of this vacancy.

3. Divisions of the Department

The Department has the following Divisions to perform the functions assigned to it.

Legislative Drafting Division.

Establishments and Administration Division.

Translation Division.

Publication Division.

Accounts Division.

Legislative Drafting Division.

Main functions of this Division are:-

- ⤴ Transforming the Government policies into legislation.
- ⤴ Drafting of Bills to enact new legislation and to amend existing legislation in all three languages.
- ⤴ Providing legal advice to Government Ministries and Departments in relation to Bills.
- ⤴ Attending to Parliamentary duties in connection with drafting of Bills and passing of legislation.
- ⤴ Drafting Statutes for Provincial Councils.

Details of the Draft Bills relating to the year 2015

	Drafting (Beginning of year)	Applications received from parties during the year	New applications for the existing acts	Total	Number of Bills prepared and handed over to the relevant Parties	Closed down files	Connected Files	Requests in respect of which work has not been finalized
Drafting of bills new and amending Legislation	162	59	5	226	32	-	-	194
Private member's bills of Parliamentary members	82	10	2	94	5	-	-	89
Provincial Council Statutes	19	4	-	23	-	-	-	23
Subordinate Legislation (orders, rules, regulations etc.)	124	16	113	253	129	-	-	124

Bills adopted by Parliament in the year 2015

Serial No.	Department File No.	Act No.	Name of the Act
01	LDO 50/2015	01/2015	Appropriation (Amendment)
02	LDO 46/2015	02/2015	Fisheries and Aquatic Resources (Amendment)
03	LDO 8/2015	03/2015	National Authority on Tobacco and Alcohol (Amendment)
04	LDO 46/2007	04/2015	Assistance to and Portection of Victims of Crime and Witnesses
05	LDO 21/2012	05/2015	National Mesiciness Regulatory Authority
06	LDO Inc 23/2011	06/2015	Madahapola Sri Ratnapalaramaya Religious and Buddhist Educational Development Foundation (Amendment)
07	LDO 20/2015	-	Nineteenth Amendment to the Constitution
08	LDO 25/2013	07/2015	Immigrants & Emigrants (Amendment)
09	LDO 39/2009	08/2015	National Authority on Teacher Education (Repeal) Act
10	LDO 11/2015	09/2015	Inland Revenue (Amendment) Act
11	LDO 10/2015	10/2015	Finance Act
12	LDO 16/2015	11/2015	Value Added tax (Amendment) Act
13	LDO 14/2015	12/2015	Nation Building Tax (Amendment) Act
14	LDO 13/2015	13/2015	Economic Service Charge (Amendment) Act
15	LDO 12/2015	14/2015	Betting and Gaming Levy (Amendment) Act
16	LDO 42/2015	15/2015	Appropriation (Amendment)
17	LDO 38/2015	16/2015	Appropriation

Note:

^ “L.D.O.” means files relating to draft Bills for new legislation and amendments to existing legislation;

^ “L. D. O. Inc” means files relating to draft Bills for Incorporation.

Establishments and Administration Division

This Division deals with recruitment, promotion and training of staff, conducting efficiency Bar Examinations, disciplinary matters and matters relating to transport and all other institutional and administrative matters in the Department.

(1) Recruitment, promotion and disciplinary control:

Due to the retirement of the Legal Draftsman, the legal officer who was holding the post of the Additional Legal Draftsman at the time was promoted to the post of Legal Draftsman.

(2) Training:

Local training.

Local training provided to officers is as follows:

- i. Sri Lanka Institute of Development Administration

Legal Officers	- 01
Assistant Director	- 01
Translator	- 01
Management Assistants Service	- 01

- ii. Skills Development Foundation

Legal Officers	- 05
Librarian	- 01
Management Assistants Service	- 10
Documentation Assistant	- 01
K. K. S.	- 02

- iii. National Labour Education Institute

Documentation Assistant	- 02
K.K.S.	- 01

- iv. Prag Service Private Limited

Management Assistants Service	- 01
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- v. University of Colombo

Documentation Assistant	- 01
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- vi. National Librarian and publication service Board

Librarian	- 01
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Other than the trainings stated above, the librarian of this Department has participated in two workshops and one seminar conducted by Sri Lanka Librarian Association. Arrangements are made to grant provisions to her to study a diploma in the University of Kelaniya.

Foreign Training.

- i. The Additional Legal Draftsman, A Deputy Legal Draftsman and an Assistant Legal Draftsman participated in the 5th International Conference on Enforcing contracts held in Korea.
- ii. An Senior Assistant Legal Draftsman participated in the Witness and Victim Protection Forum held in Australia.
- iii. A Deputy Legal Draftsman participated in the Legislative Drafting course – 2015, held in the United Kingdom.
- iv. A Deputy Legal Draftsman participated in a training programme conducted by the International Legislative Drafting Institute in USA.

Foreign Conferences in which the Executive Officers of the Legal Draftsman’s Department participated – 2015

	Name of the conference and Country	Name of the participated Officer
1.	5 th International Conference on Enforcing Contracts – Korea	Mrs. D.S. H. Kumarajeewa, Additional Legal Draftsman Mr.V.Vimaleswaran, Deputy Legal Draftsman Ms.A.K.D.G.I.K.Abeywickrama Assistant Legal Draftsman
2.	Witness and Victim Protection Forum - Australia	Mrs.D.D.Weerakkody, Senior Assistant Legal Draftsman

Foreign Training Courses in which the Executive Officers of the Legal Draftsman's Department participated – 2015

	Name of the Training Course and Country	Name of the Participated Officer
1.	Course in Legislative Drafting 2015 -UK	Mrs. K.Y.R.Hapuarachchi, Deputy Legal Draftsman
2.	International Legislative Drafting Institute 2015 - USA	Ms. D.D.Kulasena, Deputy Legal Draftsman

(3) Other institutional and administrative activities.

- i. The Department has established a Grade 1 library with a view to keep the officers abreast with the current developments in the field of law locally as well as internationally, and develop their skills towards same. A total of 66 books, local and foreign, have been purchased in the year 2015.
- ii. There is a Welfare Society in the Department for the benefit of the employees of the Department. In the year 2015, the Society provided loan facilities to its members and held cultural festivals to enhance solidarity among the staff members and religious programmes aiming at their spiritual development, and held social service activities (providing food for children in cancer Hospital at Maharagama).
- iii. There is a Legal Officers Association established for the welfare of the Legal Officers. This Association caters for the development of the professional skills of the officers while attending to other welfare needs of the officers.
- iv. All computers within the Department are linked to a network and all staff officers and other eligible officers have been provided with computers and the internet facility. Other officers have also been provided access to computers and internet facility. The Department has implemented the e-Governance policy by providing opportunities to all officers to use new technology.

Translation Division

The Translation Division is responsible for translating all draft Bills (of new legislation and amending legislation) and subordinate legislation done in the English language by the Legislative Drafting Division into the relevant languages. This Division is also responsible for the translation of official documents sent by the Establishment, Administration and Accounts Divisions into the required languages.

Publication Division

The Publication Division is responsible for proof-reading and checking of the English, Sinhala and Tamil texts of the draft Bills and subordinate legislation and reading through the manuscripts of drafts with the relevant proof copies and master copies forwarded by the Government Printer and the Parliament. This Division is also responsible for coordinating with the Government Printer and the Parliament where such proof copies are edited under the supervision of the Legal Officers and attending to matters relating to the publication of Bills in the Government *Gazette*.

Accounts Division

230, Legal Draftsman's Department

Expenditure for the period

01.01.2015 – 31.12.2015

Head : 230 – Legal Draftsman

Programme : 01 Operational Activities

Project : 01 General Administration and Drafting of Legislation

(a) Recurrent Expenditure, from 01. 01. 2015 to 31. 12. 2015

Details of Recurrent Expenditure	Budgetary Provisions (Rs.)	Supplementary provisions	Transfers as per Financial Regulations 66 and 69	Net Provisions (Rs.)	Total Expenditure (Rs.)
Personal Emoluments	42,800,000	14,600,000	-	57,400,000	55,147,736
Other Expenditure	31,250,000	-	(810,000)	30,440,000	21,059,102
Total Recurrent Expenditure	74,050,000	14,600,000	(810,000)	87,840,000	76,206,838

Capital Expenditure, from 01. 01. 2015 to 31. 12. 2015

Details of Capital Expenditure	Budgetary Provisions (Rs.)	Transfers as per Financial Regulations 66 and 69	Net Provisions (Rs.)	Total Expenditure (Rs.)
<u>Rehabilitation and Improvement of Capital Assets</u>				
2001-Building and Constructions	500,000		500,000	367,628

<u>Acquisition of Capital Assets</u>				
2102 – Furniture and Office Equipment	1,000,000	810,000	1,810,000	1,805,442
<u>Human Resource Development</u>				
2401 - Training of Office Staff (a)	7,500,000		7,500,000	6,778,529
<u>Other Capital Expenditure</u>				
2502 – Investments – Purchasing of Law books	1,000,000		1,000,000	866,748
Revision of Legislative Enactments of Sri Lanka				
2502 - Investment	60,000,000		60,000,000	2,102,258
Total Capital Expenditure	70,000,000	810,000	70,810,000	11,920,605

(b) Revenue details from 01. 01. 2015 to 31. 12. 2015

Description	Estimated Revenue (Rs.)	Revenue (Rs.)
Interest – Other	380,000	421,430

(c) Advance Account – 230011
(01. 01. 2015 – 31. 12. 2015)

	Maximum Limit of Expenditure (Rs.)	Minimum Limit of Receipts (Rs.)	Maximum Limit of Debit Balance (Rs.)
2015 Estimate	4,000,000	1,500,000	19,000,000
F.R.503(1) - before adjustments as at 31.12.2015	1,622,836	2,347,862	9,909,427

Summary of the Performance of the Institution

The primary function of the Legal Draftsman's Department is the transformation of the policies of the Government on diverse subjects into legislation that is consistent with the Constitution. The process consists of, drafting of new legislation, amendment of existing legislation, consolidation of legislation and revision of subsidiary legislation referred to by the relevant Ministries. The Department is also entrusted with certain other duties which include participating at Parliamentary Select Committee meetings convened to review draft Bills to be presented in Parliament and coordinate with Parliament when Bills are taken up for debate. Furthermore, the Department does provide legal advice to Ministries and Government Departments with regard to the preparation of subordinate legislation.

The Department is also engaged in a 4 year project which aims at official consolidation and revision of legislative enactments of Sri Lanka and for them to be published in Sinhala, Tamil and English languages, in compliance with the Constitution.

As specified under the 'Legislative Drafting Division', steps have been taken in respect of drafting Bills relevant to year 2015.



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சட்டவரைஞர் திணைக்களம்
இல.80, அதிகரண மாவத்தை
கொழும்பு 12

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මගේ අංකය }
எனது இல } LDD/Ac/06/06
My No. }

ඔබේ අංකය }
உமது இல. } JPA/B/LDD/02/2015/01
Your No. }

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திகதி } 02.06.2016
Date. }

Assistant Auditor,
Auditor General's Department,
Battaramulla.

Audit of Appropriation accounts-2015
Headings 230-Legal Draftsman's Department

This refers to your letter dated 23.05.2016 under the aforesaid number addressed to me.
The observations and the action to be taken regarding the matters mentioned in the said letter are submitted as follows:

2) Preparation of Appropriation Account

- (i) Since paragraph 6.1.1 of National Budget Circular No. BD/CBP/4/1/22-2015 dated 09.12.2015 mentions about the ministries, attention was not drawn to the said circular.

Further, even if attempts were made on number of days it had not been possible to obtain the copies of treasury printouts.

The officers of the Department of Public Accounts have stated that there would be delay in providing certified treasury printouts and the accountant was informed over the telephone to prepare the final accounts based on the data on the internet. Accordingly, DGSA 2 and DGSA 3 forms of appropriation Account of year 2015 were prepared based on the data on the internet. It was possible to obtain the certified treasury printouts after preparing the 2015 accounts and it was observed that data was entered differently in the printout than to the data available on the internet. However, as the appropriation account 2015 was prepared by this time, and as there was no difference in the net results of the data in the account, the appropriation account was not amended.

(ii) The 2015 Appropriation Account Note (i) Non Current Assets Movement Report according to Public Accounts Circular No. 245/2015 dated 10.12.2015, had been prepared as per the form that was set out at the time we retrieved the relevant circular from the internet. It was not possible to prepare the said report in terms of Public Accounts Circular SA/MA/MA/C' CULAR dated 19.01.2016, eventhough the Department of Public Accounts altered the formats and reposted them, as it was not seen.

3) Loss and Damages

Eventhough the automatic key of Motor Car bearing No. KM-0905 was lost on November 2015, the said damage was duly reported only after the preparation of the Appropriation Account of 2015. As such, it was not possible to include the same into the DGSA 7 Form.

3) (i) Budget Control

Expenditure Heading	Percentage of savings	Reasons for Saving of Provisions
1-1-1002	66	Limitation over-time
1-1-1101	37	Provisions were saved due to the limitation of domestic travel.
1-1-1102	52	As the former Legal Draftsman was not granted Visa to attend the 2015 CALC Conference and CLC held in Scotland. Provisions were saved.

1-1-1302	57	Non increase of maintenance cost as expected.
1-1-1402	05	Lower usage of telephone by certain officers of the Department than the maximum limit.
1-1-1403	30	Controlling of expenses.
1-1-1404	80	As the Department being assigned to the Ministry of Justice, it was not necessary to pay rentals.
1-1-1405	20	Expenses not incurred as anticipated.
1-1-1506	32	No loan applicants.
1-1-2001	26	It was not necessary to carryout building repairs repairs as anticipated.
1-1-2401	10	Eventhough Assistant Legal Draftsmen applied for the relevant training, they not being selected as they have not completed the required minimum service period.
1-1-2502	13	Non provisions of books for the orders placed.
1-1-1-2502	96	It was difficult to achieve the relevant target due to this department being included in the 100 days programme of the government and the resignation of the Project coordinating officer.

3) (ii) Revision and Consolidation of Legislative Enactments– Legal Draftsman’s Department

Financial Progress, observations and conclusions from year 2010 upto now

1. Around the year 2009 the then Minister of Justice and law reforms having shown the need for the revision of Legislative Enactments, Legal Draftsman’s Department initiated the said programme.
2. Thereafter the relevant project report was prepared in year 2010 and the approval of the Ministry of Finance had been received in year 2011.
3. After the project report was approved, the Department of National Budget, with the expectation that the approval of the Cabinet of Ministers would be obtained without delay, and considering the necessary of this project had allocated provisions.
4. However, the preparation of the relevant Cabinet Memorandum was done thereafter and when preparing the Cabinet Memorandum the provisions being allocated by the estimate gave rise to a problematic situation.
5. However, after settling such issues the approval was obtained for the relevant Cabinet Memorandum in March 2014.
6. I wish to inform you that subsequently, Mrs. P.I.S. Samarasinghe, PC was appointed to coordinated the project and from 21.07.2014, project work was commenced and is continued.
7. **Accordingly, wish to inform you further that no financial cost was incurred in respect of the revision and consolidation of Legislation Enactments from 2010 to 21.07.2014.**
8. Project’s work distribution was started on 01.09.2014 and work continued as usual till 08.01.2015. However, the Assistant Legal Draftsman and the Senior Assistant Legal Draftsman who were doing the consolidating and revision becoming occupied with the heavy workload of preparation of a large number of legislation including the 19th and 20th Amendments to the Constitution, that this department was entrusted to fulfill in keeping with the hundred days’ programme of the of the new government elected an 08.1.2015, the expected targets of the project could not be matched. Further the government had instructed to speedily finish the relevant legislation even

after the expiry of the 100 days, and therefore till end of June 2015 the legal officers were busy with such work.

9. I wish to inform that the activities of the project were commenced from July 2015 and maintained as usual. Accordingly, arrangements were made to commence the work of Sinhala and Tamil Acts together with the delayed activities parallelly with the action plan as the next step but as Mrs. P.I.S. Samarasinghe, President's Counsel who was coordinating the affairs of the Project was appointed as the Principal of Law College of Sri Lanka by the Incorporation Council of Legal Education. The said officer resigned from the Legislative Enactment Revision Project.
10. Given the aforesaid reasons, it was not possible to achieve the expected targets as well as making payments. As such I wish to inform you that the payments were made only for the volume of work completed so far.

Observations and Conclusions

It was observed that, the inability to obtain the approval of the Cabinet of Ministers from 2011 to 2013 has caused the saving of financial provisions and, then thereafter the difficulty in giving priority to something contrary to transforming government policy into legislation, the primary objective of this department, and the non-availability of an officer to coordinate the activities of the project has caused the saving of relevant financial provision.

I wish to inform you that the project activities are being continued as usual and a Cabinet Memorandum for the appointment of an officer for coordination was prepared and forwarded to the Ministry of Justice on 16.2.2016 and it is expected to expedite the activities of the project according to a new action plan once the approval is obtained.

.....
D.S.H.Kumarajeewa
Legal Draftsman

The measures proposed to be taken in the near future to uplift the performance of the Department

- (i) Instructions have been given continuously to all legal officers of the Department to follow up the work entrusted to them (which work is comprised of drafting of Bills pertaining to preparation of Acts of Parliament, amendments proposed to such Acts and, the revision of private member Bills and other affiliated work) on a regular basis and to complete such work in all three languages.
- (ii) Four Consultants have been recruited to get assistance in drafting of legislation as an answer to the dearth of experienced Senior Legal Draftsmen.
- (iii) steps are being taken to recruit legal officers in order to get the work relating to drafting of legislation expedited
- (iv) There exists a dearth of translators qualified to handle the translation work relating to drafting of Bills and amending legislation. Due to the lack of Tamil translators the services of the officers who are currently employed in the Official Languages Department (who are conversant with the translation work relating to legislative drafting) have been obtained.
- (v) steps are being taken to fill vacancies relating to the posts of Documentation Assistant and Editor who assist in the work relating to drafting of Bills.
- (vi) Ample opportunities have been provided to all Legal Officers and other staff members to participate in various training programmes which are aimed at improving the knowledge, outlook and skills of all such officers.
- (vii) The A grade library established in the Department provides the Officers of the Department, necessary facilities to use local and foreign books written on the subject of Law.
- (viii) All Legal Officers and other members of the staff of the Department have been given clear instructions to the effect that they should attend to their official duties during office hours thereby preserving the dignity of the Government Service and it is to be mentioned that all the members of the staff including legal officers, carry out their duties in an exemplary manner.