

ATTORNEY GENERAL'S CHAMBERS

# 2019 ANNUAL REPORT

# CONTENTS

---

02	ACKNOWLEDGEMENTS	13	LEGISLATIVE DRAFTING UNIT
03	MESSAGE FROM THE ATTORNEY GENERAL	19	ADVICE AND LITIGATION UNIT
05	MISSION STATEMENT		<b><u>ARTICLES</u></b>
06	ORGANIZATIONAL CHART	34	THE RIGHT TO SILENCE
07	INTRODUCTION	35	THE ROAD TO ACHIEVING COURT EXCELLENCE
	<b><u>YEAR IN REVIEW</u></b>	36	THE LEGISLATIVE DRAFTING PROCESS
08	ADMINISTRATION UNIT		<b><u>APPENDIXES</u></b>
10	REGISTRY OF COMPANIES AND INTELLECTUAL PROPERTY UNIT	39	APPENDIX 1 - 2019 RELEASES
12	ACCOUNTS UNIT	39	APPENDIX 2 - STATUTORY INSTRUMENTS PUBLISHED IN 2019/20

## **Annual Report 2019**

Attorney General's Chambers  
attorneygeneral@gosl.gov.lc  
ps.agchambers@govt.lc  
www.attorneygeneralchambers.com

# ACKNOWLEDGEMENTS

---

Special thanks are extended to Permanent Secretary Juliana Alfred for the leadership provided to this process, and by extension to the support team of the Solicitor General Brenda Portland-Reynolds, Director of Drafting Gillian Vidal -Jules, Former Acting Registrar Kozel Creese,

Registrar Desma Charles and Accountant Pedro Clercin for the production of this comprehensive Annual Report. I wish to also extend commendation to the graphics team of the National Printery Corporation led by Mr Viannie Aimable for all the assistance provided.

S.C.J. Julien  
31.6.2020

# MESSAGE

## FROM THE ATTORNEY GENERAL

---



The staff of the Attorney General's Chambers has demonstrated their commitment and resolve to remaining accountable to the Government and people of Saint Lucia by continuing to work assiduously during the period 2019 – 2020. The year 2020 commenced with challenges globally and our island has not been spared the rippling ill effects of the Covid – 19 pandemic. We at the Attorney General's Chambers however remain committed to delivering exceptional services and look forward to the successes of the following year. It is therefore with the utmost pleasure that I present our Annual Report for this financial year 2019/20.

This report details the operations and accomplishments of the various units of the Attorney General's Chambers as we strive to maintain the confidence of the public in the services which we provide. It provides insight into the critical roles performed by the Attorney General's Chambers and the results of the combined effort and dedication of all staff.

I submit by way of example, that during the period April 2019 to March 2020, the systems and processes of the Legislative Drafting Unit was put to the ultimate test with the emergence of COVID – 19. The Unit was integral in the execution of the national response to the pandemic. Further it continues to support the Government as it expeditiously drafts the necessary legislation, giving effect to the policy decisions of the Government of Saint Lucia.

The Advice and Litigation Unit simultaneously continued to represent the interest of the Crown in claims filed in the Courts, while advising and providing support to the various Ministries of Government on a daily basis. Whereas the number of suits filed against the Crown in the year 2019 was lower compared to 2018, there was a marked increase in the requests for opinions and the drafting or vetting of contracts in particular loan agreements having regard to the effects and impact of COVID-19.

It must be highlighted that Chambers has invested tremendous resources in the past year towards the development of its human capital across the units. In an effort to empower our team to lead through periods of challenge, it was deemed prudent to strengthen the capacity of the Heads of Department. The six Department Heads participated in a leadership development programme and from all observations, they are better for participation in this initiative.

The legal team at the Advice Unit has also been exposed to some of the following: 1. Legislative Framework for Environmental Impact Assessments in the Caribbean through Impact Justice Project 2. The United Nations Regional Course in International Law for Latin America and the Caribbean 3 The Collective Management of Copyright and Related Rights 4. Workshop on International Maritime Sanctions Implementation and Enforcement 5. Caribbean Financial Task Force Assessors Training. The Legal Secretaries have also been included in the training plans and are scheduled to commence a Paralegal programme facilitated by Improved access to Justice (IMPACT) Project and the University of the West Indies. This programme is expected to be rolled out later in the year.

Throughout, Saint Lucia continues to honour its obligations in providing mutual legal assistance with other sovereign nations and processed twenty – seven (27) mutual legal assistance requests in 2019 involving offences such as murder, human trafficking, organized crime and drug trafficking. In addition, as part of the Advice and Litigation Unit, the National Anti – Money Laundering

Oversight Committee (NAMLOC) successfully facilitated many activities towards Saint Lucia's fourth round mutual evaluation process. NAMLOC undertook the review of the Anti – Terrorism Act and made recommendations, which resulted in the passing of the Anti – Terrorism (Amendment) Act, No. 28 of 2019. New legislation was also passed in the form of the United Nations Sanctions (Counter Proliferation Financing) Act, No. 29 of 2019, both pieces of legislation aimed at ensuring Saint Lucia's compliance with the United Nations Security Council Resolution 154 (2004) and its successor resolutions.

The Registry of Companies and Intellectual Property serves as the primary revenue earner of Chambers. There was a noted increase in the number of Business names registered in 2019 compared to 2018. The staff at the Registry also participated in some of the following capacity development training: 1. Patents workshop 2. Regional Seminar for the Latin American and Caribbean Group on Libraries, Archives, Museums and Educational and Research Institutions in the Field of Copyright 3. Intellectual Property Rights Enforcement workshop Copyright (Music Industry) 4. Enhancing the use of IP products by Small and Medium Enterprises

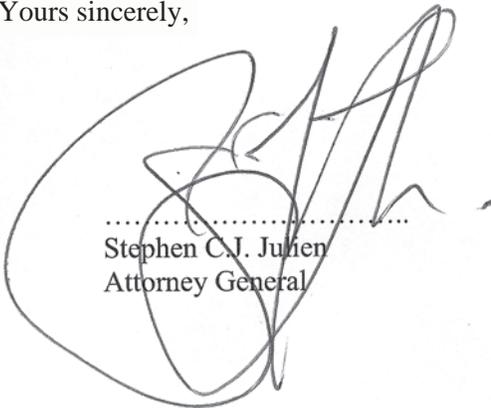
As can be noted, the work and services performed by Chambers is multifaceted. Whilst we remain focused on ensuring that the services we provide to the public and our representation of the Government of Saint Lucia is efficient and reliable, we acknowledge that in order for this level of excellence to be achieved, there is a need to re-evaluate and assess the machinery which keeps the wheels of the Department turning.

It is for this reason, significant focus was placed on the professional development of our staff and the development of a Strategic Plan for Chambers. It is my hope that this latter process will blossom in the next year.

We measure the success of our initiatives by the feedback received from the Government Ministries and the general public whom we serve and we continue to set operational priorities with the goal of functioning in the manner as envisioned in our mission statement.

You are invited to visit our website at <https://attorneygeneralchambers.com/> to learn about the various ways in which the Attorney General's Chambers serve our Island Saint Lucia and we look forward to receiving feedback from you.

Yours sincerely,



.....  
Stephen C.J. Julien  
Attorney General

# MISSION STATEMENT

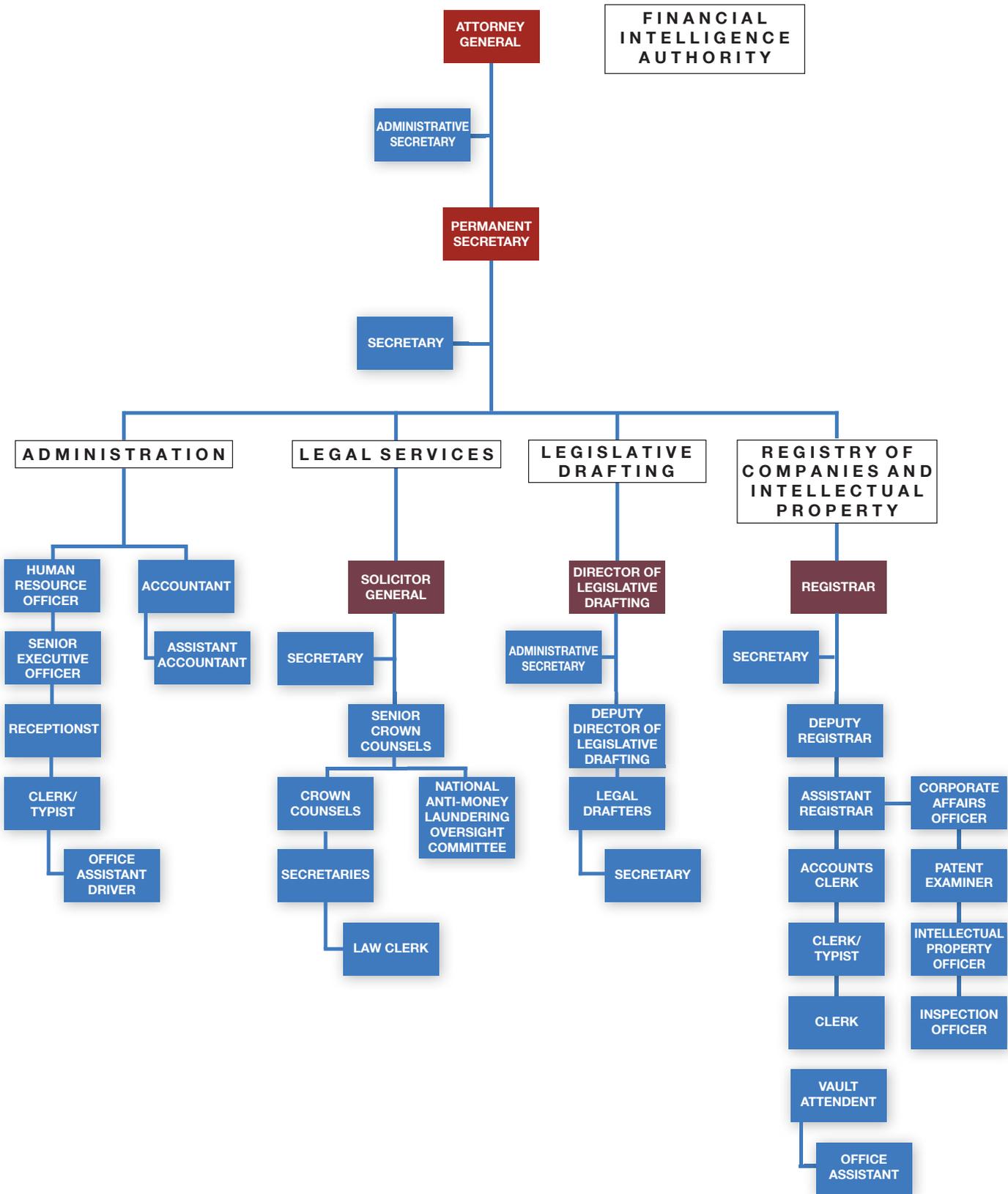
## ATTORNEY GENERAL'S CHAMBERS

---

Our mission is to deliver to the Government quality legal service with integrity and professionalism in a timely manner. Focusing primarily in facilitating an enabling environment, creating value and effective advice through the Registry of Companies and Intellectual Property, the Legislative Drafting Unit and the Advice and Litigation Department.

### STRATEGIC PRIORITIES OF CHAMBERS

1. Adhering to professional best practices in the public service.
2. Enhancing staff capacity by sourcing training opportunities nationally, regionally and internationally and offering internship.
3. Creating operational tools for all work undertaken and all types of services rendered.
4. Allowing for greater synergy with other Government Departments and Ministries.
5. Analyzing data qualitatively and quantitatively thereby providing valued information to Government with a view to effective allocation of resources.
6. Increasing the level of legal services provided to the general public.
7. Continuing to examine and develop legal services to address new and emerging areas of law.
8. Improving legal services through the use of technology.



# INTRODUCTION

---

The Attorney General's Chambers is a separate division and does not fall under any Ministry. It comprises four units; the Registry of Companies and Intellectual Properties, the Legislative Drafting Unit, Advice and Litigation Unit and Administration. These Units are overseen administratively by the Permanent Secretary and operate under the direction of the Attorney General.

The Registry of Companies and Intellectual Properties is committed to achieving its mandate which includes the registering of companies, business names and partnerships and the administration of trademarks, patents and copyright.

The Legislative Drafting Unit is responsible for drafting principal and subsidiary legislation and participates in the revision of the laws of Saint Lucia. The Unit is tasked with collaborating with the various Government Ministries and other bodies on issues concerning the drafting of new laws and amendments to existing legislation, as well as implementing policy directives into law.

Advice and Litigation Unit is the primary source of legal advice to the Government of Saint Lucia as enshrined under

Section 72 of the Constitution of Saint Lucia, the Attorney General is the principal legal advisor to the Government. The Unit represents the State in civil litigation and its involvement and scope is wide as it relates to legal advice. The Unit is also called upon to issue legal opinions to the various Ministries.

The legal staff of Attorney General's Chambers also serves on various boards and commissions as representatives of the Attorney General in an advisory capacity.

The Financial Intelligence Authority is a Statutory Corporation; that the Attorney General according to the Money Laundering (Prevention) Act Cap.12.20 is the Minister responsible for. The Authority is headed by a Director and is responsible for the management of its own affairs as it is an autonomous body.

Although the Attorney General's Chambers does not offer legal advice to or represent private individuals, Chambers through the functions of its various units continues to serve the citizens of Saint Lucia with humility and integrity ever mindful of its role in the preservation of the rule of law.

# ADMINISTRATIVE UNIT

## CAPACITY BUILDING EVENTS

### 2019 RETREAT

A retreat was held for all staff of the Attorney General's Chambers in October 2019; the event was twofold and entailed a capacity building session for staff and thereafter an Awards Ceremony. The event was hosted in the south of the island and provided a conducive change of setting for staff interactions.

The capacity building session was facilitated by Ms Betty Combie who presented on the Strategic Planning Framework. The session involved an overview of the following:

- Strategic planning:
- Context (Where is the organization now?)
- Strategic direction (Where does the organization want to go?)
- Strategy formulation (How will the organization get there?)
- Strategy implementation (How will staff know when they get there?)

- Implementing the strategic plan via the operations and/or projects

It was noted that effective strategic planning involved some of the following:

- PDCA - Plan-Do-Check-Act/Continuous improvement cycle
- Risk-based thinking
- Process approach

Further to this activity, the Heads of Department have undertaken the tasks with their various teams to develop the framework for a plan of action for each unit.

The second session of the Retreat focused on staff recognition, the presentation of awards included:

1. Employee of the Year Award – 2019 (Per Unit)
2. Customer Service Award – 2019 (Per Unit)
3. Special Awards
4. Long Service Award

The table below provides an overview of the awardees.

Department	Name	Award Title
Legislative Drafting	Tricia Cypal	Employee of the Year
	Etha Francis	Customer Service
Registry of Companies and Intellectual Property	Barry Polius	Employee of the Year
	Kasheem Bruce	Customer Service
Advice and Litigation	Gisele Joseph	Employee of the Year
	Kenton Alexander	Customer Service
Administration	Dave Bradley	Employee of the Year
	Cornetha Daniel	Customer Service
Financial Intelligence Authority	Paul Thompson	Long Service Award
Advice and Litigation	Hermina Lewis Ornaville	Long Service Award
Attorney General's Award	Juliana Alfred	Special Award
	Natalie Jervis	Special Award
Advice and Litigation(Retired)	Rosemarie Jules	Honorary Award
Administration	SPC Eden Clauzel	Special Award

### Staff Meeting

A general staff meeting was held in June 2019, the forum provided an opportunity for management and staff to have an open dialogue. It also facilitated the following:

- The launch of the 2018 Annual Report for AG's Chambers
- Formal launch of AG's Chambers website
- Review of work programme
- Endorsement of a Disaster Management Plan for Chambers.

### Management Development Programme

All of the Heads of Departments successfully graduated from the Executive Coaching Leadership & Management Programme in April 2019. They were inducted into this six month Programme conducted by the Public Service Training Institute from November 2018. This Executive Coaching Leadership and Management Module targeted the following themes including:

1. Performance Management
2. Employee Engagement and Coaching
3. Product & Quality Management
4. Supervision & People Management.

### Testimonial from Accountant Mr. Pedro Claircin on participation in Executive Coaching Programme

*"On June 7th 2019, I completed a fifteen-hour training program in executive coaching hosted by the Department of the Public Service. Originally I had my fears about my participation, knowing my reservations in opening up myself to close scrutiny. However, the facilitator Mrs. Cynthia Alexander made the experience extremely pleasant. My important lessons from this program included:*

1. *The seven habits of highly effective people,*
2. *Time management skills,*
3. *Emotional and spiritual intelligence,*
4. *Leadership behavior.*

At the end I was able to identify personal strengths and limitations and build leadership capacity. All in all, it was a well-executed program and I thoroughly enjoyed it."

### Commonwealth Secretariat Capacity Building Workshop

In June 2019, the Commonwealth Secretariat funded a national capacity building programme for Justice Officials on the handling of Vulnerable Witnesses in the Criminal Process, Money Laundering and Assets Recovery, with special reference to Civil Forfeiture and International Cooperation in Criminal Matters in Saint Lucia. This workshop was facilitated in collaboration with the Office of the Attorney

General. The Commonwealth presenters originated from the United Kingdom, the United States, Canada and included, Mrs. Elizabeth Bakibinga-Gaswaga, Mr. Alexander Mills, Mr. Andrew Mitchell, Mr. David Siebler.

The workshop included, social workers, prosecutors, justice officials, and law enforcement personnel who are primarily engaged in combating domestic and transnational crimes. The forum provided an understanding of the issues involved with asset forfeiture as well as in the management of vulnerable witnesses in the prosecution of crime. The thematic areas covered at the workshop included (a) management of vulnerable witnesses in the criminal justice process, (b) money laundering and investigation processes, (c) application of asset forfeiture investigative techniques and (d) international cooperation.

It was observed that delegates were particularly intrigued with the management of vulnerable witnesses, specifically, the mechanisms which can be utilised by them in obtaining the best admissible evidence to secure an eventual conviction in which a vulnerable individual is involved. The sessions were informative and interactive applying a practical approach to such issues as the national coordination required for the investigation of money laundering, recovery of proceeds of crime and effective cross border cooperation through mutual legal assistance and extradition.

The Honourable Attorney General, Mr. Stephen Julien expressed his profound appreciation to the Commonwealth Secretariat, Secretary General, Baroness the Rt. Honourable Patricia Scotland, for the financial support in facilitating this beneficial workshop.

### COVID 19

The latter part of the 2019/20 financial year was dealt a severe blow from an unexpected global pandemic. On 30th January, 2020 the World Health Organization (WHO) declared COVID-19 a Public Health Emergency. Saint Lucia confirmed the first case of this virus in March 2020. As part of the Government's national response, the Attorney General's Chambers was represented on the National Health Security (COVID 19) Committee. The purpose of this Committee was to make recommendations reference the health measures to address the impact of Covid 19 on the island. While most of the government services were forced into partial service delivery as a means of curtailing the spread of the virus, the Attorney General's Chambers continued full operation with staff working remotely and or with enhanced safety protocols at the main offices. Chambers was tasked with legislating the various policy directives emanating from the management of this pandemic.

# REGISTRY OF COMPANIES AND INTELLECTUAL PROPERTY

The Registry of Companies & Intellectual Property (ROCIP) was created by an Act of Parliament, No. 12 of 2000, now (Companies and Intellectual Property (Registry) Act Cap. 13:02).

ROCIP is mandated to provide the establishment and administration of an efficient Companies and Intellectual Property Registry.

## International Treaties

In adherence to Intellectual Property (IP) matters, Saint Lucia is a party to the following treaties:

Treaty	Status	Date
Berne Convention	In Force	August 24, 1993
Nice Agreement	In Force	March 18, 2001
Paris Convention	In Force	June 9, 1995
Patent Cooperation Treaty	In Force	August 30, 1996
Phonograms Convention	In Force	April 2, 2001
Rome Convention	In Force	August 17, 1996
Vienna Agreement	In Force	December 25, 2001
Washington Treaty	Accession	
WIPO Convention	In Force	August 21, 1993
WIPO Copyright Treaty	In Force	March 6, 2002
WIPO Performances and Phonograms Treaty	In Force	May 20, 2002

In 2019, the Cabinet approved a change in the structure of the Registry of Companies and Intellectual Property to improve its efficient and effective operations. The Registry of Companies and Intellectual Property now comprises four sub divisions including:

- Companies Unit
- Intellectual Property Unit
- Monitoring Unit
- Administration

As part of the aforementioned, the new structure now includes: (i) a Corporate Officer, (ii) an Intellectual Property Officer and (iii) a Patent Examiner I.

## Companies

Under the Companies Act, Cap. 13:01 of the Revised Laws of Saint Lucia, the Registry of Companies and Intellectual Property continues to fulfill its mandate of incorporation, registration and acceptance of post filing documents<sup>1</sup> from Domestic, External, Member State and Non-Profit Companies. It is noted that domestic companies including a non-profit company are incorporated whilst External and Member State Companies are registered.

The tables below provide a comparative analysis of Companies which have been incorporated/registered.

### Comparative analysis of Companies 2017-2019

Year	Type of Company	Number Incorporated/registered
2017	Domestic	313
	Non-Profit	9
	External	9
	Member State	4

Year	Type of Company	Number Incorporated/registered
2018	Domestic	346
	Non-Profit	4
	External	5
	Member State	3

Year	Type of Company	Number Incorporated/registered
2019	Domestic	310
	Non-Profit	6
	External	13
	Member State	1

<sup>1</sup>Post Filing Documents include: Notice of secretary, Return of Allotment, Change of Address, Change of Directors, Bye-laws, Annual Returns/Financial Statements, Resolutions, Share Transfer.

## Business Names

Business names are registered pursuant to the Registration of Business Names Act, Cap 13:03 of the Revised Laws of Saint Lucia.

### *Comparative analysis of businesses registered over a 3-year period*

Year	Number registered
2017	999
2018	1187
2019	1279

The Registry has seen a steady increase in the registration of business names over the period as persons are more inclined to protect their business names and legitimize their activities.

### Intellectual Property (IP)

Saint Lucia recognizes that although there are laws in place to protect intellectual property rights, there is need for capacity building and additional resources to successfully protect and administer these rights. Intellectual property has become a strategic resource in the national development and core element in international competitiveness as greater importance is attached to this area.

The Registry will pursue the following strategic goals in the upcoming period:

- (1) Strengthen the legal environment for intellectual property to enable adequate protection of intellectual property rights.
- (2) Increase Public Awareness as it relates to intellectual property and how the legislation assists in the protection of innovations.
- (3) Encourage and promote the registration of inventions and business goodwill by domestic applicants.
- (4) Pursue avenues for the protection of trade secrets, geographical indications, traditional knowledge as well as folklore.
- (5) Seek to educate the public on the implications and effects of infringement of intellectual property rights and heighten awareness of the economic value of intellectual property rights.

### *Comparative analysis of Trademarks Registered 2017-2019*

Year	Number Registered
2017	325
2018	286
2019	229

### The Registry participated in the following Workshops in 2019:

- **May 20-21** - Trinidad and Tobago Intellectual Property Office in conjunction with the World Intellectual Property Organization (WIPO) hosted the Nice and Vienna classification systems training. This training was geared towards the staff of the Registry in obtaining a better understanding of the classification of goods and services.

- **June 12-14** - World Intellectual Property in cooperation with the Organization of the Eastern Caribbean States (OECS) hosted a Sub Regional Meeting on the Development of Intellectual Property System of the Eastern Caribbean Countries. The focus of this workshop was on the Patent system in the OECS territories.
- **July 4-5** - World Intellectual Property Organization in cooperation with the Government of the Dominican Republic held a Regional Seminar for the Latin American and Caribbean Group on Libraries, Archives, Museums, and Educational and Research Institutions in the field of Copyright. The main objective of this seminar was to analyze the Libraries, Archives, Museums and Educational and Research Institutions with respect to the expectations and limitations regimes that exist.
- **July 23-26** - The United States Department Homeland Security facilitated the National Intellectual Property Rights Coordination Center-Intellectual Property Rights Enforcement Workshop. The main objective of this workshop was the organized crime aspects of IP with a focus on counterfeit pharmaceuticals, cellphones, and other health and safety products.
- **September 30 - October 9** - The World Intellectual Property Organization hosted the Fifty-Ninth Series of Meetings of the Assemblies of the Member States of WIPO. This annual assembly aims to reach consensus on several areas including WIPO operations and decisions to be taken regarding IP matters.
- **October 24** - The International Federation of Phonographic Industry (IFPI) representing the recording industry worldwide, the Jamaica Music Society (JAMMS) in conjunction with the Eastern Caribbean Collective Organization (ECCO) facilitated a Workshop on Collective Management of Related Rights. One of the objectives of this meeting was to educate persons on the role of ECCO in the music industry and to share regional and international best practices for collective societies.
- **November 5-6** - Export Saint Lucia and the World Intellectual Property Organization in cooperation with the Registry of Companies and Intellectual Property- Enhancing the Competitiveness of SMEs by Effective Management of IP. The workshop aimed to strengthen the institutional infrastructure for export promotion specifically towards improving the culture of IP in Saint Lucia.

### Summer Employment Programme

During the period June 1 - August 30, 2019, the Registry of Companies and Intellectual Property had two (2) summer students employed, one from the Entrepot Secondary School and the other from the Sir Arthur Lewis Community College. These students were exposed to the roles and functions of the Registry and its activities. They developed basic expertise in the field of IP and expanded their customer service experiences while working within the team.

# ACCOUNTS UNIT

The Accounts Unit is focused on revenue collection, monitoring and preparation of relevant Reports to the Department of Finance. The revenue portfolio for the Attorney General's Chambers consists of:

## Registry of Companies and Intellectual Property

1. Company Registration
2. Business Names
3. Partnerships
4. Trademark applications
5. Patents
6. Gazette Fees
7. Photocopy Services
8. Searches
9. Certifying Copies

## Advice and Litigation

10. Marriage Licences
11. Adoptions
12. Apostilles

## Legislative Drafting

13. Sale of the Revised Edition of the Laws

## Actual revenue vs. Budgeted revenue (April 2019 to March 2020)

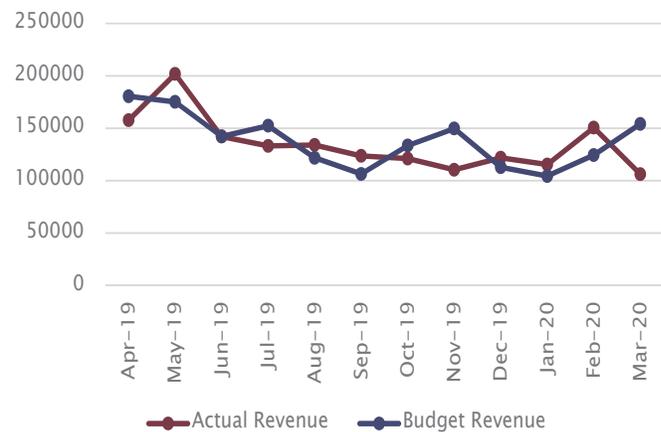
Table 1.1

	Actual Revenue	Budgeted Revenue	Variance
April 2019	157,689	180,544	(22,855)
May 2019	201,802	175,165	26,637
June 2019	142,153	142,180	(27)
July 2019	133,190	152,401	(19,211)
August 2019	134,085	121,799	12,286
September 2019	123,644	106,381	17,263
October 2019	121,123	133,512	(12,389)
November 2019	110,428	149,774	(39,346)
December 2019	121,893	112,812	9,081
January 2020	115,441	104,447	10,994
February 2020	150,610	124,444	26,166
March 2020	106,254	154,156	(47,902)
<b>Total</b>	<b>1,618,312</b>	<b>1,657,615</b>	<b>(39,303)</b>

Table 1.1 illustrates that generally there were a large surplus or deficit variances of actual revenue over budgeted revenue. It is important to note that the revenue streams that

contributed to the noted variances are marriage licenses, company registrations, business names and to lesser extent trademark applications. All of the aforementioned are impacted by forces external to the Attorney General's Chambers and as such little can be done to dictate surplus outcomes. The period of March 2020 was also affected by the Covid 19 pandemic.

## Line graph Actual revenue vs. Budgeted revenue (April 2019 to March 2020)



The chart illustrates in graphic, the actual revenue versus budget revenue for April 2019 to March 2020.

## Court Judgment Payments

The Attorney General's Chambers provides legal representation to all Government Departments in civil matters. Sometimes compensation has to be paid as a result of court judgements. Listed below are compensation payments for the period June 2019 to March 2020:

June 2019	\$857,507.47
July 2019	\$20,307.83
August 2019	\$14,496.80
September 2019	\$200,829.35
November 2019	\$50,392.92
December 2019	\$18,015.97
January 2020	\$43,016.05
February 2020	\$580,687.63
March 2020	\$200.00
<b>Total</b>	<b>\$1,785,454.02</b>





# LEGISLATIVE DRAFTING UNIT

National Honours and Awards  
(Amendment) Act, No. 1 of 2019

International Business  
Companies (Amendment) Act,  
No. 2 of 2019

International Partnership  
(Amendment) Act, No. 3 of 2019

International Trust  
(Amendment) Act, No. 4 of 2019

Income Tax (Amendment) Act,  
No. 5 of 2019

Finance (Administration)  
(Amendment) Act, No. 6 of 2019

Customs (Control and  
Management) (Amendment) Act,  
No. 7

Trade Export Promotion Agency  
(Amendment) Act, No. 8 of 2019

Tourism Stimulus and  
Investment (Amendment) Act,  
No. 9 of 2019

Caribbean Electric Utility  
Services Corporation  
Headquarters Agreement Act,  
No. 10 of 2019

Castries Constituency Council Act,  
No. 11 of 2019

Citizenship by Investment  
(Amendment) Act,  
No. 12 of 2019

Money Laundering (Prevention)  
(Amendment) Act,  
No. 13 of 2019

Motor Vehicles and Road Traffic  
(Amendment) Act,  
No. 14 of 2019

Appropriation Act,  
No. 15 of 2019

Income Tax (Amendment)  
(No. 2) Act, No. 16 of 2019

In 2019-2020 the Legislative Drafting Unit has been pleased to offer to the Government of Saint Lucia service in the areas of the drafting of legislation, statutory interpretation, attendance at Parliamentary sittings and the revision of the laws of Saint Lucia.

The Attorney General's Chambers has retained two additional legal drafters to facilitate optimum service within the Legislative Drafting Unit. The increase in staff has led to the Legislative Drafting Unit providing a more effective service to the Government of Saint Lucia.

## Performance highlights by legislation

In 2019-2020 the Legislative Drafting Unit has drafted thirty-three (33) Acts and one hundred and seventy-four (174) Statutory Instruments. Legislation was prepared to cover various matters. Amendments of laws were undertaken and new legislation was also introduced during the period.

## Changes to Acts

The National Honours and Awards Act, Cap. 17.08 was amended to increase the frequency at which persons may be awarded the Saint Lucia Cross Award. In order to comply with the requirements of Criterion II-Fair Taxation specified by the Organisation for Economic Cooperation and Development, it was necessary to amend the International Partnership Act, Cap. 12.21, the International Business Companies Act, Cap. 12.14 and the International Trust Act, Cap. 12.18 to satisfy the requirements for tax transparency.

The Income Tax Act, Cap. 15.02, the Finance (Administration) Act, Cap. 15.01 and the Customs (Control and Management) Act, Cap. 15.05 were enacted to empower the Permanent Secretary in the Ministry of Finance to set-off debts owed to the Government against sums due by the Government to a tax debtor in relation to income tax and customs dues or taxes. In addition, the amendments provided the Permanent Secretary in the Ministry of Finance to write-off losses of property belonging to the Government if the amount exceeds five thousand dollars.

The Trade Export Promotion Agency Act, Cap. 13.32 was amended to change the name of the Trade Export Promotion Agency to Export Saint Lucia.

Amendments were also made to the Tourism Stimulus and Investment Act, Cap. 15.03 in relation to value added tax and the grant of other tax reliefs and exemptions by Cabinet.

Legal effect was given to the Caribbean Electric Utility Services Corporation Headquarters Agreement through the enactment of legislation.

Provision was made for the municipality of the Castries Constituency Council and the establishment of the Castries City Police in the Castries Constituency Council Act.

International Business Companies (Amendment) (No. 2) Act, No. 17 of 2019
Saint Lucia National Economic Fund Act, No. 18 of 2019
Public Health (Amendment) Act, No. 19 of 2019
Child (Care, Protection and Adoption) (Amendment) Act, No. 20 of 2019
Caribbean Treaty on Mutual Legal Assistance in Serious Criminal Matters Act, No. 21 of 2019
Styrofoam and Plastic Food Service Containers (Prohibition) Act, No. 22 of 2019
Saint Lucia Social Development Fund (Amendment) Act, No. 23 of 2019
Gaming, Racing and Betting (Amendment) Act, No. 24 of 2019
CARICOM Arrest Warrant Treaty Act, No. 25 of 2019
Eastern Caribbean Supreme Court (Judicial Officers Pensions) Act, No. 26 of 2019
Customs (Control and Management) (Amendment) (No. 2) Act, No. 27 of 2019
Anti-Terrorism (Amendment) Act, No. 28 of 2019
United Nations Sanctions (Counter-Proliferation Financing) Act, No. 29 of 2019
Fiscal Incentives (Amendment) Act, No. 30 of 2019
Millennium Heights Medical Complex (Amendment) Act, No. 31 of 2019

The Citizenship by Investment Act, Cap 1.20 was amended in relation to the authorized agent and a person who obtained citizenship by investment is now able to apply for citizenship of a dependent of that person.

The supervisory role of the Eastern Caribbean Central Bank as it relates to money laundering, terrorist financing and other offences was incorporated into the Money Laundering (Prevention) Act, Cap. 12.20.

The Motor Vehicles and Road Traffic Act, Cap. 8.01 was amended to make provision for regulated parking areas and the use of parking meters in the City of Castries.

A number of changes were made to the Public Health Act, Cap. 11.01 to ensure that the Act was compliant with the International Health Regulations.

In the Child (Care, Protection and Adoption) Act, No. 8 of 2018 provisions were added to the Act to provide for the adoption of children by the High Court.

The Caribbean Treaty on Mutual Legal Assistance In Serious Criminal Matters was given the force of law by the enactment of legislation for that purpose.

Prohibitions were placed on Styrofoam and plastic food service containers by virtue of new legislation.

The Saint Lucia Social Development Fund Act, Cap. 16.05 was amended to recognize as revenue, the monies realized from the sale of property, for example, thrift shop items and non-monetary items, donated to the Saint Lucia Social Development Fund.

The Gaming, Racing and Betting (formerly the Gaming Control Act Cap. 13.15) was amended to provide for the regulation of horseracing.

Pensions and gratuities of Judicial Officers of the Eastern Caribbean Supreme Court were clarified by the enactment of new legislation to provide for the payment of pension and gratuity to such officers.

The Customs (Control and Management) Act, Cap. 15.05 was further amended to provide for the supply of advance passenger and cargo information by a master or commander of a vessel or aircraft and a cargo reporter.

The United Nations Security Resolutions aimed at combating threats of the international financial system were enacted by amending the Anti-Terrorism Act, Cap. 3.16 and through the passing of new legislation that deals with counter-proliferation financing.

In the Millennium Heights Medical Complex Act, Cap. No. 1 of 2015, reference to the transfer of a public officer to the Millennium Heights Medical Complex was changed to only make reference to the secondment of a public officer to be consistent with the Pensions Act, Cap. 15.26.

The Land and House Tax Act, Cap. 15.13 was amended to extend the existing house and land tax exemptions to the year 2020, with respect to residential property.

### Statutory Instruments

One hundred and twenty-four statutory instruments (124) were published during the period 2019-2020. The main types of statutory instruments drafted were Notices, Orders, Regulations, Resolutions and Rules. Some of the statutory instruments passed for the year are identified according to the type of statutory instrument below, an additional list can be found in Appendix 11.

**Notices**

Name	Statutory Instrument
Burial and Cremation (Designation of Public Burial Ground) Notice	No. 150 of 2019
Standards (Appointment of Director of the Saint Lucia Bureau of Standards) (Validation) Notice	No. 151 of 2019

**Orders*****Fiscal Incentives Orders***

Name	Statutory Instrument
Nationwide Construction Limited	No. 55 of 2019
Concrete Designs Ltd.	No. 64 of 2019
Natrapure Water Company Limited	No. 111 of 2019
LumberPro Mills Ltd.	No. 120 of 2019
Sunfresh Limited (Amendment)	No. 161 of 2019
W.J. Engineering Services Incorporated	No. 166 of 2019
Saint Lu Woodworking Ltd.	No. 167 of 2019
Fresh Start Construction Company Limited (Amendment)	No. 170 of 2019

***Appointment Orders***

Name	Statutory Instrument
Appointment of the National Export Council	No. 68 of 2019
Anse La Raye Constituency Council	No. 78 of 2019
Babonneau Constituency Council	No. 79 of 2019
Canaries Constituency Council	No. 80 of 2019
Castries South-East Constituency Council	No. 81 of 2019
Castries Constituency Council	No. 82 of 2019
Choiseul-Saltibus Constituency Council	No. 83 of 2019
Dennery North Constituency Council	No. 84 of 2019
Dennery South Constituency Council	No. 85 of 2019
Gros Islet Constituency Council	No. 86 of 2019
Laborie-Augier Constituency Council	No. 87 of 2019
Micoud North Constituency Council	No. 88 of 2019
Micoud South Constituency Council	No. 89 of 2019
Soufriere Constituency Council	No. 90 of 2019

***Aliens (Licensing) (Exemption) Orders***

Name	Statutory Instrument
Royal Crescentia (St. Lucia) Limited	No. 34 of 2019
BDSL Limited	No. 47A of 2019
Cabot (St. Lucia) Inc.	No. 66 of 2019

***Legal Profession (Eligibility) Order***

During the period under review, the following persons were declared eligible to be admitted by the High Court to practice law in Saint Lucia:

Name	Statutory Instrument
Patrick Adrian Thaddeus Thompson Jr.	No. 30 of 2019
Kara-Je Jovita Kellman	No. 57 of 2019
Kendrickson Hugh Kentish	No. 63 of 2019
Stephen Wayne Corrington	No. 110 of 2019
Jeville Augustine John	No. 139 of 2019
Andrew Ramjohn	No. 146 of 2019

***Vesting Orders***

Name	Statutory Instrument
Saint Lucia National Housing Corporation (Forrestiere, Castries) Vesting Order	No. 33 of 2019
Invest Saint Lucia (Micoud) Vesting Order	No. 35 of 2019
Invest Saint Lucia (Piaye-Balembouche) Vesting Order	No. 105 of 2019
Invest Saint Lucia (Bongolo, Laborie) Vesting Order	No. 109 of 2019
Banking (First Caribbean International Finance Corporation (Leeward and Windward Ltd. and First Caribbean International Bank (Barbados) Limited) Banking Business Vesting Order	No. 115 of 2019
Saint Lucia National Housing Corporation (The Union Industrial Estate at Postlewaithe, Gros Islet) Vesting Order	No. 137 of 2019
Banking (Republic Bank (EC) Limited and The Bank of Nova Scotia) Banking Business Vesting Order	No. 143 of 2019

**Regulations**

Name	Statutory Instrument
International Business Companies (Amendment) Regulations	No. 32 of 2019
Citizenship by Investment (Amendment) Regulations	No. 48 of 2019
International Trust (Forms) (Amendment) Regulations	No. 61 of 2019
Shipping (Load Line) Regulations	No. 97 of 2019
Metrology (Amendment) Regulations	No. 98 of 2019
Metrology (Fees) (Amendment) Regulations	No. 99 of 2019
Insurance (Appeals Tribunals) Regulations	No. 113 of 2019
Free Zone Regulations	No. 133 of 2019
International Business Companies (Amendment) (No. 2) Regulations	No. 140 of 2019

**Regulations**

Act	Purpose	Statutory Instrument
National Savings and Development Bonds Act	Resolution of Parliament to Raise Funds by the issue of Savings Bonds	No. 45 of 2019
Finance (Administration) Act	Resolution of Parliament Authorizing the Minister for finance to borrow by Means of Advances	No. 93 of 2019
	Resolution of Parliament to Authorize the Minister for Finance to guarantee borrowing by the Saint Lucia Air and Sea Ports Authority to finance the Hewanorra International Airport Redevelopment Project	No. 94 of 2019
	Resolution of Parliament Authorizing the Minister for Finance to Purchase Shares with Monies from the Consolidated Fund	No. 123 of 2019

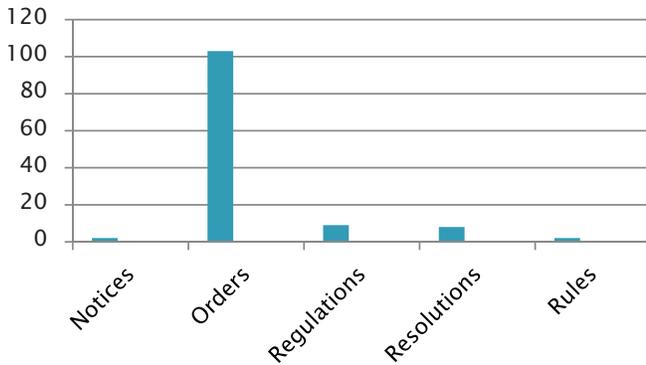
**Regulations**

Act	Purpose	Statutory Instrument
	Resolution to authorize the Minister for Finance to guarantee borrowing by the Saint Lucia Air and Sea Ports Authority from a Syndicate of Banks led by the Bank of Saint Lucia Limited to finance the Hewanorra International Airport Redevelopment Project	No. 124 of 2019
	Resolution of Parliament Authorizing the Minister for finance to borrow by Means of Advances	No. 162 of 2019
	Resolution of Parliament to borrow for capital expenditure – OECS Regional Health Project	No. 163 of 2019
Value Added Tax Act	Resolution of Parliament to approve draft Value Added Tax (Amendment of Schedule 3) Order	No. 95 of 2019
	Resolution of Parliament to approve draft Value Added Tax (Amendment of Schedules 1 and 3) Order	No. 149 of 2019
	Resolution of Parliament to approve draft Value Added Tax (Amendment of Schedules 1 and 3) (No. 2) Order	No. 164 of 2019
Revised Edition of the Laws Act	Resolution of Parliament to authorize the making of an Order for the 2015 Supplement to the Revised Edition of the Laws	No. 122 of 2019

**Rules**

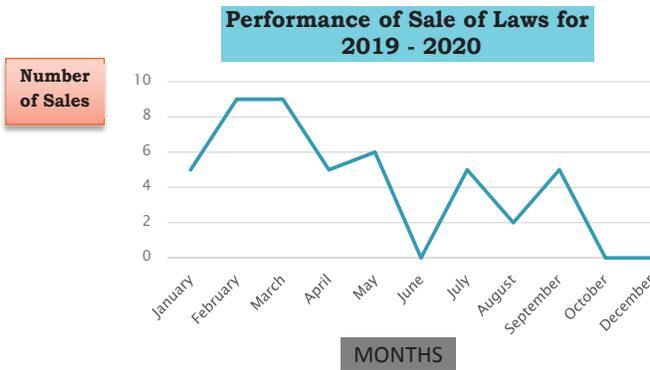
Name	Statutory Instrument
Eastern Caribbean Supreme Court (Electronic Litigation Filing and Service Procedure) (Amendment) Rules	No. 43 of 2019
Eastern Caribbean Supreme Court (Sentencing Guidelines) Rules	No. 129 of 2019

As shown in the chart below, in 2019/20 the Drafting Unit prepared more Orders in comparison to Notices, Regulations, Resolutions and Rules.



**Performance highlights: Revised Edition of the Laws**

The Legislative Drafting Unit continued the sale of the Revised Edition of the Laws 2014 during the period. In addition, the Revised Edition of the Laws 2015 were created and are now part of the laws that are available for sale. The chart below illustrates the performance in relation to the sale of the laws:



There were noted increases in the sale of the laws particularly in the months of February, March, May, July and September.

**Performance highlights: Training**

The Legislative Drafting Unit participated in a number of training initiatives that were provided both nationally and regionally. These included:

1. Caribbean Financial Action Task Force Standards Training Meeting.
2. Technical Assistance Training by the Commonwealth Secretariat.
3. Training for the National Convention on the Elimination of Discrimination against Women Report.

4. Regulatory Impact Assessment Training Programme.

In collaboration with IMPACT Justice, the Legislative Drafting Unit also conducted a Workshop on Sound Policy for Better Law in July, 2019. The Workshop trained about (60) sixty Permanent Secretaries and Senior Public Officials. The topics covered in the workshop included:

1. The Nature of Legislation
2. Drafting Instructions
3. The Relationship between the Policy Maker and the Legislative Drafter
4. Role of the Drafter and the Drafting Office: Drafting of Bills and Drafting of Subsidiary Legislation
5. The Drafting of Codes of Practice, Procedural Rules, Guidelines etc.
6. Cabinet Submissions
7. Gender Analysis and Environmentally Friendly Policy Guidelines and Checklists.

**Performance highlights: participation in consultations**

Chambers through the Legislative Drafting Unit was represented at various meetings both nationally and regionally, some are as follows:

1. 11th Meeting of Chief Parliamentary Counsel for approval of Free Circulation of Goods Legislation (Animal Health, Plant Health and Food Safety Bills)
2. National Anti-Money Laundering Oversight Committee
3. 12th Meeting of the OECS Chief Parliamentary Counsel
4. IMPACT Justice Meeting on Barbados' Bankruptcy and Insolvency Legislation
5. Second CARIFORUM Meeting on the Development of a Mutual Recognition Agreement for Architectural Services.
6. CARICOM IMPACT (Implementation Agency for Crime and Security) Cybercrime Workshop.
7. Enhancing Democracy Through Public & Civil Society Engagement in the Legislative Process.
8. IMPACT Justice Reflective Session with Saint Lucia Stakeholders.
9. Institutional Reform of Tourism Government, Development and Management in Saint Lucia.
10. Inter-Ministerial Consultative Committee Meeting.
11. Regional Workshop for Senior Maritime Administrators.

January 2020 – March 2020 The Unit completed the legislation identified below during the months January 2020 - March 2020:

Acts	Statutory Instruments
2	46

#### Sale of the Revised Edition of the Law

January	February	March
2	4	5

#### COVID 19 Related Legislation

In order to facilitate the adherence to measures relating to COVID 19, the Constitution of Saint Lucia – Proclamation for Declaration of State of Emergency, Statutory Instrument, No. 39 of 2020 was passed on 23rd March, 2020. In the proclamation the Governor General declared a state of emergency because a public emergency had arisen as a result of the occurrence of 2019-nCoV, an infectious disease commonly known as COVID 19 under section 17 of the Constitution of Saint Lucia, Cap. 1.01 (the Constitution).

The proclamation would have expired in seven days. Therefore, Parliament by virtue of the Constitution of Saint Lucia – Resolution of Parliament Approving Declaration of State of Emergency, Statutory Instrument, No. 40 of 2020 and in keeping with Section 17 of the Constitution extended the state of emergency for a further period of 26 days from the 31st day of March, 2020 to the 26th day of April, 2020.

Nonetheless, it was recognized that due to COVID 19, measures had to be put in place with regards to gatherings and to minimize interactions between people as the disease was contagious. As a result, Section 3 of the Emergency Powers (Disasters) Act, Cap. 14.07 (the Act) was used to permit the making of Orders when a declaration is made under section 17 of the Constitution to secure the essentials of life to the community and

preserve the health, welfare and safety of the public during the state of emergency. Consequently, the Emergency Powers (Disasters) – Resolution of Parliament Approving Emergency Powers (Disasters) (COVID 19) Order was passed as Statutory Instrument, No. 41 of 2020.

In addition, the Emergency Powers (Disasters) (COVID 19) Order, Statutory Instrument, No. 42 of 2020 was passed and allowed the Prime Minister as the competent authority to make the Orders under the Act. In this Order passed as Statutory Instrument, No. 42 of 2020 provision was made for quarantine facilities and the imposition of restrictions and requirements to prevent the spread of COVID-19. There were also provisions for the Chief Medical Officer to isolate persons suspected to be infected with COVID-19 and for screening of persons entering Saint Lucia. The competent authority was also empowered to implement social distancing and curfews under the Order in Statutory Instrument, No. 42 of 2020.

This led to the passing of Curfew Orders. In Emergency Powers (Disasters) (COVID 19) Order, Statutory Instrument, No. 43 of 2020 and in Emergency Powers (COVID 19) (Curfew) (No. 2) Order, Statutory Instrument, No. 44 amended by Emergency Powers (COVID 19) (Curfew) (No. 2) (Amendment) Order, Statutory Instrument, No. 45 of 2020 a curfew was imposed from the 24th March, 2020 from 11p.m. to 5a.m. During the curfew, the Order suspended non-essential commercial activity and indicated the level of operation as full operation or minimal operation from that date. The Order also provided for physical distancing protocols and confined persons to their homes. All educational institutions were closed but were allowed to use electronic or virtual means for teaching. Restrictions were placed on social activities (including parties at home, on the beach or river, funerals and weddings), international travel, road traffic and visitation to a person in isolation. The Emergency Powers (Disasters) (COVID 19) (Curfew) (No. 3) Order, Statutory Instrument, No. 46 of 2020 was passed on the 31st March, 2020 and the curfew changed to 8p.m. to 5a.m. and liquor licenses were suspended.





# ADVICE AND LITIGATION

The Advice and Litigation Unit is charged with the responsibility of (a) advising the Government, (b) representing the State in all civil matters, (c) vetting and drafting contracts, memoranda of understanding, loan and grant agreements, (d) processing and facilitating mutual legal assistance request, (e) appearing as Tutor ad Hoc in adoption proceedings, amongst other matters.

In addition, the Unit is also responsible for the processing of marriage licence applications and has been able to facilitate weekend weddings, especially for cruise ship passengers, who are desirous of getting married on the same of arrival on the island.

The objectives of the Advice and Litigation Unit include:

- (1) To provide quality service to the government and members of the public whom we serve.
- (2) To be thorough in the approach to litigation, always adhering to the rule of law.
- (3) To present viable options, approaches to the Government with a view to mitigating damages, where possible.

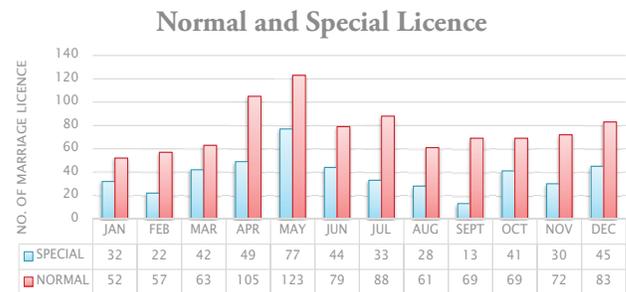
The year 2019 was not without its challenges but was altogether, a productive year.

The year saw an increase in the number of matters being undertaken at Chambers in most areas, compared to the previous year.

The Advice and Litigation Unit also realized the augmenting of its human resource, making a total complement of ten (10) legal officers which includes the Solicitor General, three (3) Senior Crown Counsel, one (1) Counsel IV, two (2) Counsel III, one (1) Counsel II and two (2) Counsel whose support, commitment and service to country is without reservation and continues to be delivered with the highest level of integrity, for which they must be commended.

## MARRIAGE LICENCES

Table 1.1 illustrates the number of marriage licences obtained on a monthly basis for the period 2019/2020. Two types of licenses are issued, normal and special. Normal licences are lodged more than one day before it is required, these licences cost \$335. A special licence is lodged one day or less before it is required, special licenses cost \$540.



**Table 1.1**

In table above, during months of March, April and May normal licences rose to a peak of 63, 105 and 123 respectively, the same trend is observed for special licences which rose to a peak of 42, 49 and 77. Over the remaining months, both normal and special licences fluctuated.

## FINANCIAL IMPACT

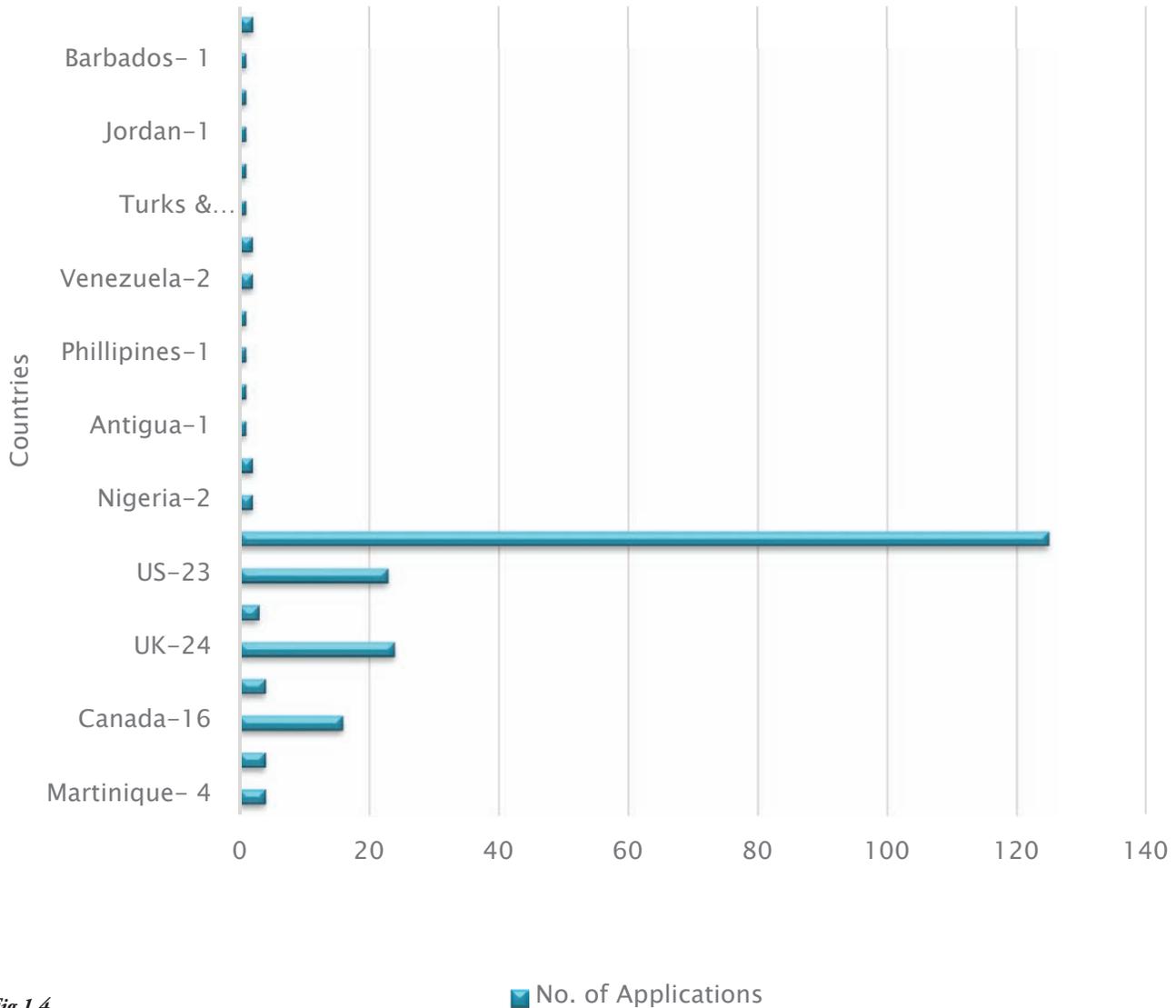
The table below illustrates the estimated revenue collected from marriage licenses issued in the year of 2019.

Description	Unit Price	Quantity	Earnings
Normal Marriage Licence	\$335.00	(921)	\$308,535.00
Special Marriage Licence	\$540.00	(456)	\$246,240.00
<b>Total</b>		<b>1,377</b>	<b>\$554,775.00</b>

**Table 1.2**

**ORIGINS OF COUPLES**

**Marriage Licences issued to Couples with Saint Lucian Partner**

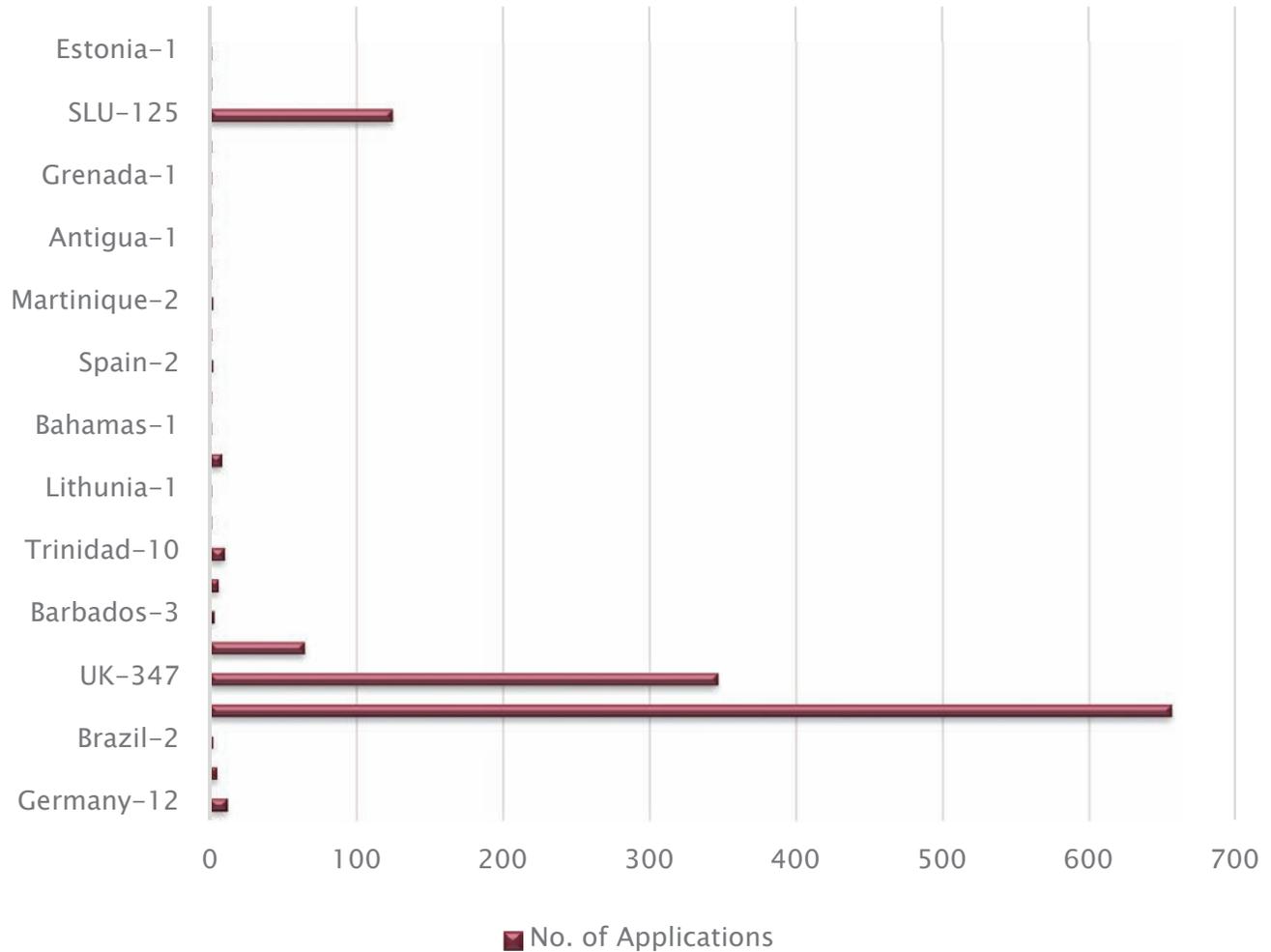


*Fig 1.4*

A total of two hundred and twenty-two (222) applications were issued to couples in which one of the applicants originated from Saint Lucia. It is observed that Saint Lucians married to each other accounted for the majority

in this category, while the United Kingdom, the United States and Canada also accounted for a significant number of licenses being issued to Saint Lucians and nonnationals.

## Marriage Licences issued to Couples from the same Jurisdiction



*Fig 1.5*

Noticeably the graph above provides a snapshot of visitors coming to Saint Lucia for the specific purpose of getting married. All the applicants in this category originate from the same jurisdiction. The United States

of America, the United Kingdom and Canada range the highest in this category of foreign nationals. Saint Lucia however ranked before Canada with one hundred and twenty five (125) applications having been issued.

## Marriage Licences issued to Applicants from different Jurisdiction

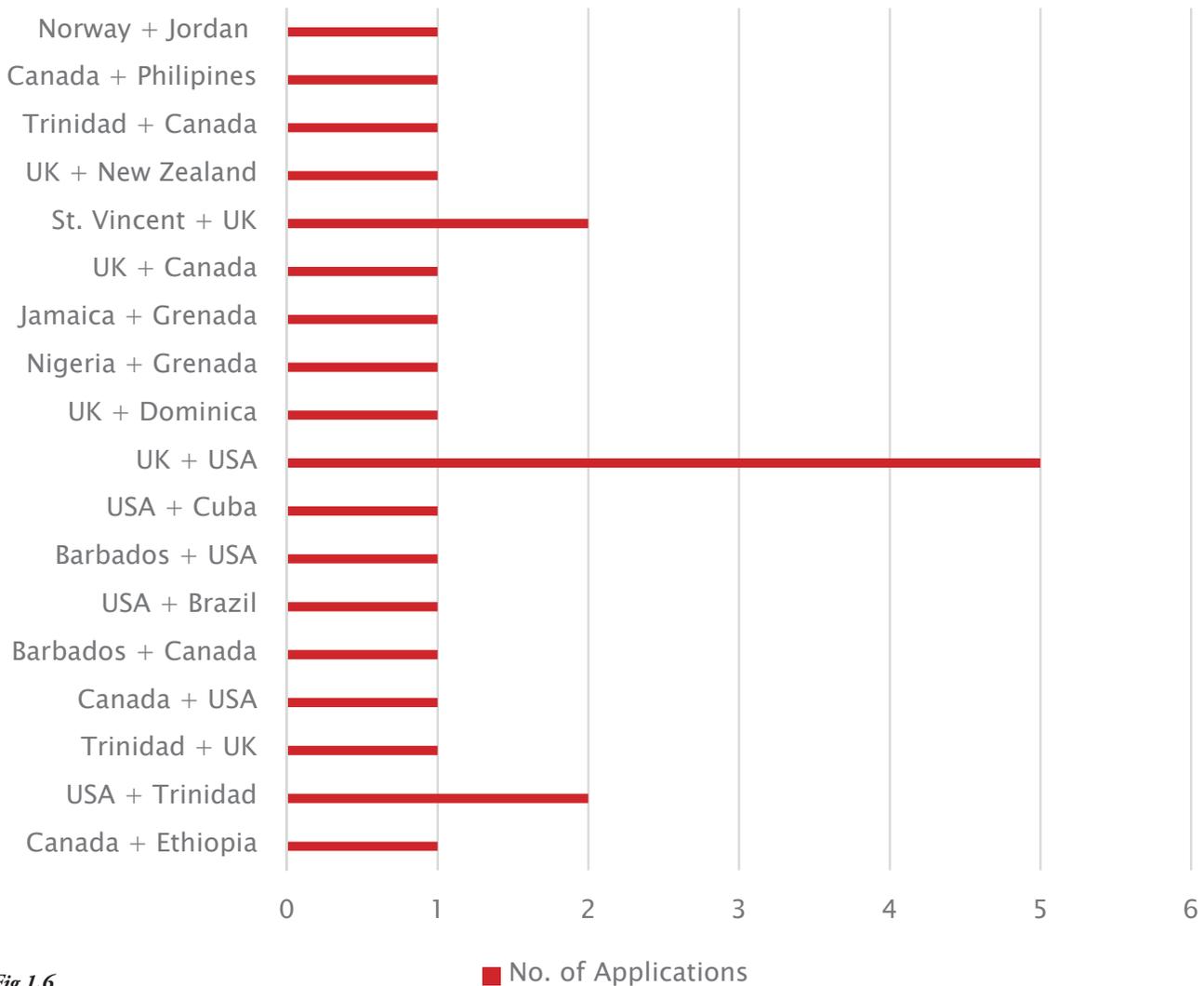


Fig 1.6

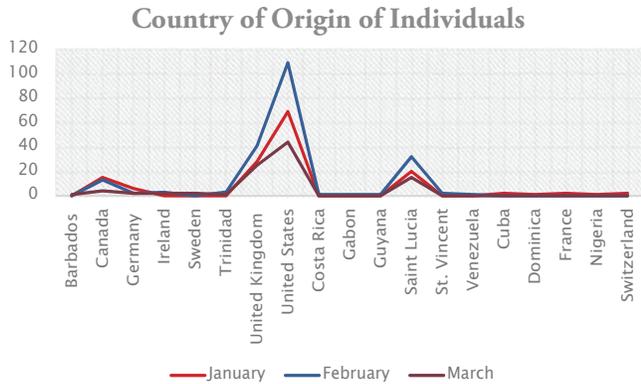
The graph above illustrates that Saint Lucia continues to attract visitors from across the globe as a wedding destination. Applicants originated from within the Caribbean, Africa,

South America, Western Asia, Europe, Pacific Ocean as well as the other customary jurisdictions such as the United Kingdom, the United States and Canada.

## MARRIAGE LICENSE ANALYSIS - January - March 2020

### Country of Origin

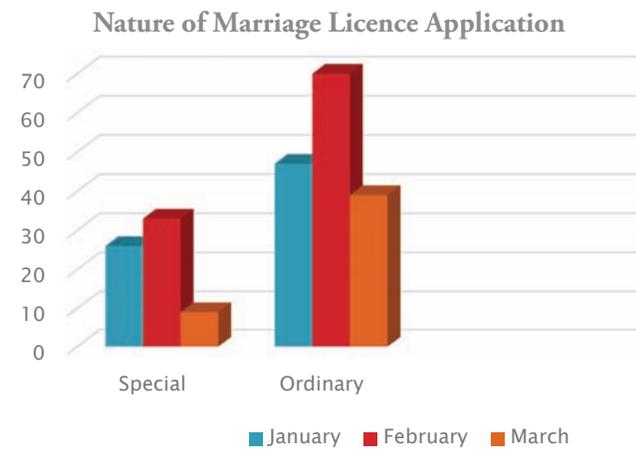
The line graph below illustrates that for the first quarter of 2020 (January, February, March) the majority of the individual applicants originated from the United States, United Kingdom, Saint Lucia with Canada ranking fourth.



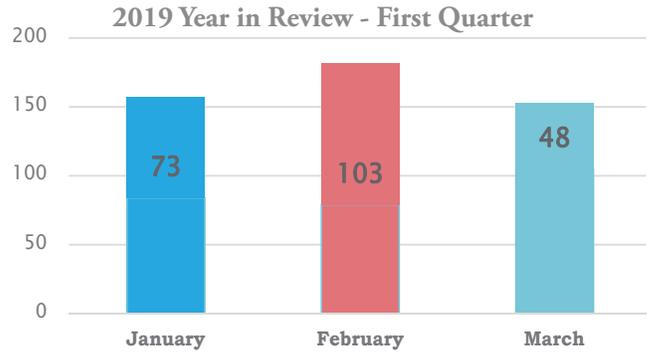
### Nature of Applications

The bar graph and the table below illustrates the breakdown of special and ordinary licenses and the revenue generated.

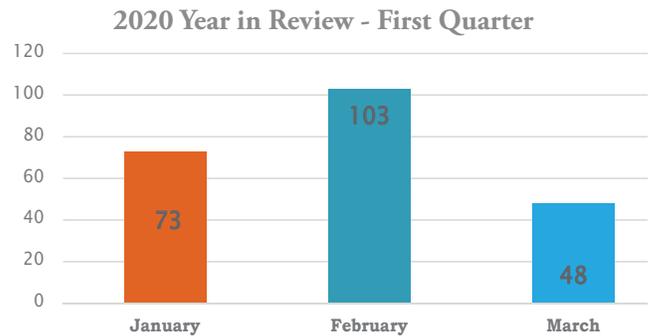
Application Type	Jan	Feb	March	Total Number	Revenue Generated
Special	26	33	9	68	\$36,720.00
Ordinary	47	70	39	156	\$52,260.00
<b>Combined Total</b>	<b>73</b>	<b>103</b>	<b>48</b>	<b>224</b>	<b>\$88,980.00</b>



## COMPARISON: 2019 and 2020



The year commenced positively in 2020 as the number of applications received were relatively high. There was a significant increase in the number of applications processed for the month of February 2020 compared to the same period in 2019. The momentum however was affected in the month of March 2020 due to the global impact and effects of COVID-19. This comparison is illustrated below.



### Impact of Marriage License Revenue over 6-year period

The diagram below highlights the estimated revenue collected for marriage licences issued by the Attorney General Chambers. The year 2015 and 2018 showed the largest numbers of of marriage licences issued. In comparison, the marriage licences issued for the year 2019 dropped significantly compared to previous years.

Months	2014	2015	2016	2017	2018	2019
January	118	124	115	86	94	84
February	126	108	108	83	107	79
March	158	137	159	122	106	105
April	204	215	180	139	181	154
May	230	237	185	207	204	200
June	138	159	122	152	149	123

Months	2014	2015	2016	2017	2018	2019
July	91	164	115	134	160	121
August	120	108	116	112	131	89
September	108	95	107	88	87	82
October	157	124	117	135	106	110
November	91	126	115	140	153	102
December	193	154	154	139	145	128
<b>Total</b>	<b>1506</b>	<b>1750</b>	<b>1593</b>	<b>1457</b>	<b>1623</b>	<b>1377</b>

### Marriage Licences

Total number of licences for the years 2014 – 2019

## THE NATIONAL ANTI-MONEY LAUNDERING OVERSIGHT COMMITTEE

The National Anti-Money Laundering Oversight Committee (NAMLOC) has the primary responsibility of coordinating the national anti-money laundering/counter terrorism financing activities of Saint Lucia. NAMLOC is supported by a two person team who takes directives from the Hon. Attorney General, the Solicitor General and the National Anti-money Laundering Oversight Committee.

### Workshops/Conferences

In fulfilling its mandate to educate stakeholders within the public and private sectors on the 4th Round Mutual Evaluation Process, NAMLOC convened thirty-one caucus meetings throughout the course of the year. NAMLOC in collaboration with the Caribbean Financial Action Task Force (CFATF) convened two main workshops in 2019. These included:

Table 1: NAMLOC Workshops

Dates	Event	Target Audience
January 28-30	CFATF Pre-Assessment Training	Public and Private Sector Stakeholders
April 8-10	CFATF Standards Training	Public Sector Stakeholders

Crown Counsel from the Attorney General's Chambers attended a United Nations Security Council Resolutions (UNSCR) Conference, from July 10th-12th, 2019, in Barbados. The conference was entitled "Implementing United Nations Security Council Resolutions – Maritime Security Caribbean Regional Event", and sought to provide a clear understanding of:

1. The implications of UNSCR 1718,
2. The impact of UNSCR 1718 on the maritime industry, and

### 3. Implementing UNSCR 1718 on the maritime industry.

The World Bank held a workshop on "Counter Financing of Terrorism" from November 20th-23rd, 2019 in Antigua and Barbuda. Another workshop entitled "Multi-Sector Collaboration to Improve Compliance with Financial Action Task Force (FATF) Standards on Non-profit Organizations" which focused on Non-Profit Organizations (Recommendation 8 of the FATF Forty Recommendations) was held in Trinidad and Tobago from December 11th-13th, 2019.

NAMLOC members also participated in various workshops including some of the following:

### Assessors Training

The CFATF conducted an "Assessors Training" from August 12th- 16th, 2019. This training which was held in Barbados and sought to train new financial, legal and law enforcement assessors with respect to money laundering and terrorism financing. As a result of the training Saint Lucia now has an additional three qualified assessors.

- (a) Ms. Kozel Creese: Legal (Attorney General's Chambers and NAMLOC Member)
- (b) Mr. Hemish Lesmond: Financial (Financial Services Regulatory Authority and NAMLOC Member)
- (c) Mr. Randy Alexander: Law Enforcement (Financial Intelligence Unit)

### CFATF Plenary

The Memorandum of Understanding Among Member Governments of the Caribbean Financial Action Task Force indicates that the Plenary will meet at least twice per year and each Member State 'will be represented by at least one senior official'.

Saint Lucia continues to make representations at Plenaries, where issues are ventilated and voted upon and mutual evaluation reports are discussed. Plenaries are attended not only by Member States of the CFATF but by Co-operating and Supporting Nations (COSUNs) such as the United States, Canada, United Kingdom and France. There are also observers such as the World Bank and the IMF. The NAMLOC is able to gain knowledge on new and emerging trends in anti-money laundering, counter financing of terrorism and counter proliferation financing through the meetings and presentations at the Plenary.

The CFATF held two Plenaries during 2019. From May 27th-31st, 2019 the XLIX Plenary was held in Trinidad

and Tobago. At this Plenary the Mutual Evaluation Report for Haiti was discussed additionally, there was a re-rating for Trinidad and Tobago, increasing from twelve to twenty-six the number of recommendations that the country was assessed to be compliant in. The pre-assessment training for Saint Lucia, the follow-up process for the Cayman Islands, and the presentation of Antigua and Barbuda's first follow-up report was also discussed.

The CFATF Plenary was held in Antigua and Barbuda from November 24th-29th, 2019. At this Plenary the mutual evaluation report of Bermuda was discussed and approved, the country was placed in regular follow-up to report back to the Plenary in 2022. Follow-up reports for the Cayman Islands, Antigua and Barbuda and the Bahamas were also presented.

### National Risk Assessment

In keeping with Recommendation 1- Assessing Risk and Applying a Risk Based Approach of the Financial Action Task Force (FATF) Forty Recommendations, Saint Lucia completed a comprehensive and detailed national risk assessment. This National Risk Assessment (NRA) which was completed in 2019, was led by the NAMLOC. This NRA examined the money laundering and terrorist financing risks to the various sectors within the country. This assists policy makers in prioritizing resources based on the level of risk. Proliferation financing was not within the scope of this assessment.

The NAMLOC submitted to the Cabinet of Ministers the Interim NRA Report on March 7th, 2019, and on August 15th, 2019 the updated NRA and the accompanying National Action Plan.

The NAMLOC shared the results with both the public and private sectors. Entities included but were not limited to: Department of Finance, Royal Saint Lucia Police Force, Customs and Excise Department, commercial banks, insurance companies, money services businesses, accountants, attorneys and relators.

The NRA findings focused on some of the following areas:

1. National money laundering/terrorist financing threats and vulnerabilities.
2. The banking sector
3. Other Financial Institutions (Credit Unions, Remittances, Class A and B banks etc.)
4. Insurance and Securities.
5. Designated Non-Financial Businesses and Professions (Attorneys, Car Dealers, CIP, Realtors and Casinos etc.)

### Legislation

One of the mandates of the NAMLOC is to review Saint Lucia's legislative framework by making proposals for necessary amendments. To this end, NAMLOC sought to strengthen the country's capacity to combat terrorism and terrorist financing, with proposed amendments to the existing legislation and enact new legislation covering counter proliferation financing.

Legislative amendments were made to the Anti-Terrorism Act. These amendments (No. 28 of 2019) were passed in the House of Assembly on September 17th, 2019 and the Senate on September 19th, 2019. The Act was assented to on October 8th, 2019.

New legislation covering proliferation financing was developed. This Act, the United Nations Sanctions (Counter Proliferation Financing) Act, No. 29 of 2019 was passed in the House of Assembly on September 17th, 2019 and the Senate on September 19th, 2019. It was assented on October 14th, 2019.

The Anti-Terrorism (Amendment) Act (No. 28 of 2019) covers new which provides for:

- (a) The Attorney General declaring an entity a specified entity if he receives information from the Financial Intelligence Authority that the entity knowingly committed, attempted to commit, participated in committing or facilitated the commission of a terrorist act.
- (b) A financial institution or a person engaged in other business activities that has been served a freezing order in respect to a specified entity, should immediately end a business relationship with that specified entity, unless otherwise directed by the Financial Intelligence Authority or the Commissioner of Police.

Recommendation 7 of the FATF Forty Recommendations deals with Targeted Financial Sanctions Related to Proliferation, and is covered by the passing of the United Nations Sanctions (Counter Proliferation Financing) Act, No. 29 of 2019. This Act was enacted to "facilitate the implementation of sanctions imposed by the United Nations Security Council Resolutions relating to combating threats to the integrity of the international financial system and for related matters".

Some of the key areas in this Act are:

- (c) Proposals to the United Nations Security Council Committee: If the Attorney General receives information that an entity satisfies the criteria as set out in the United Nations Security Resolutions for inclusion on a

list by the United Nations Security Council Committee, then the Attorney General may make a proposal to that Committee for the name to be listed.

- (d) Freezing orders: The Attorney General can make an application to the court for freezing orders to freeze a property, where the property is wholly or jointly controlled by a listed entity, among other things.
- (e) Prohibited activities with proscribed countries: A person shall not knowingly engage in trade, whether directly or indirectly, with a country that has been proscribed.

### Public Education Campaign

Throughout the year, the NAMLOC continued its public education campaign.

- (a) Thirty-eight articles on the Financial Action Task Force (FATF) Forty Recommendations were published during the year. These articles were published on a weekly basis in the local Newspaper.
- (b) The infomercial which was developed on money laundering and terrorist financing, continued playing on the National Television Network and the screens at the Finance Administrative Centre. Further, this infomercial is also posted on websites of several government entities including the Attorney General's Chambers, the Financial Intelligence Authority, the Government of Saint Lucia YouTube page and the Facebook page of the Attorney General's Chambers.
- (c) During the year brochures were developed by the NAMLOC on money laundering and terrorist financing and were distributed to nine public sector entities and sixty-four private sector entities.
- (d) The work of the NAMLOC and Saint Lucia's 4th Round Mutual Evaluation was the focus in the 'Our Saint Lucia Magazine' Issue 30, published on August 17th, 2019.
- (e) NAMLOC started a Facebook page for the Attorney General's Chambers in June 2019. Articles on the FATF Forty Recommendations are being posted on this page.
- (f) NAMLOC convened thirty-one caucus meetings throughout 2019. Topics covered during these meetings included:
  - i. What is money laundering and terrorist financing?
  - ii. Legislation covering anti-money laundering and counter terrorist financing.

- iii. The role and work of the Caribbean Financial Action Task Force (CFATF).

### On-site Visit by the CFATF Assessors

The assessment team from the Caribbean Financial Action Task Force (CFATF) visited the country from September 16th-27th, 2019. The team comprised of:

1. Mr. Jefferson Clarke (Mission Leader)
2. Ms. Joanne Hamid (Co-Mission Leader)
3. Ms. Sunita Ramsumir (Co-Mission Leader)
4. Mr. J.P. Rozemeijer (Law Enforcement Assessor)
5. Ms. Avelon Petra Perry (Financial Assessor)
6. Ms. Bhumii Bhatt (Financial Assessor)
7. Ms. Alethia Whyte (Legal Assessor)

During the on-site visit interviews were conducted with stakeholders across the public and private sectors. These interviews included but were not limited to:

1. The NAMLOC
2. The Royal Saint Lucia Police Force
3. The Customs and Excise Department
4. Department of External Affairs
5. Department of Equity
6. Attorney General's Chambers
7. Financial Services Regulatory Authority
8. Financial Intelligence Authority
9. Eastern Caribbean Supreme Court
10. Eastern Caribbean Central Bank
11. Commercial Banks
12. Credit Unions
13. Money Remitters
14. Registered Agents
15. Authorized Agents

A total of fifty-six entities were interviewed over the two weeks. At the completion of the on-site visit on September 27th, 2019 the assessors met with and presented to the NAMLOC the 'Summary of Key Findings'.

### UNODC Project on Trade Based Anti-Money Laundering Sensitization Meetings

The NAMLOC is charged with collaborating with agencies in implementing and adhering to the FATF Recommendations. The United Nations Office on Drugs and Crime (UNODC) is one such agency. The UNODC Global Programme against Money Laundering (UNODC

GPML) is launching a Trade Based Money-Laundering (TBML) project, which will run for a three-year period in Saint Lucia. This project seeks to improve capacities to prevent, detect, investigate and prosecute customs/revenue fraud and trade based money laundering.

The project is being coordinated and implemented by the Global Programme against Money Laundering, Proceeds of Crime and the Financing of Terrorism (GPML). The NAMLOC is part of this project as money laundering through trade poses emerging risks. In order to effectively combat this new threat, trade based money laundering has to be properly understood.

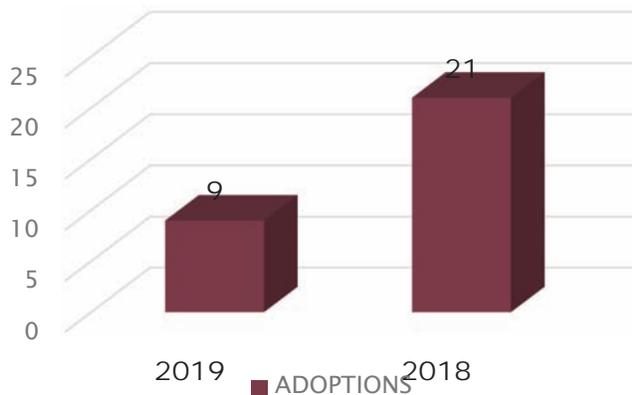
**ADOPTIONS**

2019 saw the repealing of the Adoption Act, Cap. 4:07 (referred to as the Adoption Act) and the commencement of the Child (Care, Protection and Adoption) Act. No 8 of 2018 (referred to as the Child Care Act).

The Child Care Act provided for a new mechanism under which infants can be adopted. There however continues to be a delay in the full implementation of this Act as it calls for the establishment of an adoption committee pursuant to section 73 of the said Act. The Adoption Committee has not yet been established. As a consequence, it was necessary for the provisions of the repealed Adoption Act to be introduced into the Child Care Act to allow for the continuation of pending adoption application before the Court and to also allow for the establishment of the Adoption Committee.

This uncertainty in the application process may have given rise to the reduction in adoption applications received in the year 2019. Chambers only received nine (9) adoption applications compared to a total of twenty-one (21) received in the year 2018 as illustrated in Bar Chart 1.

*Chart 1*

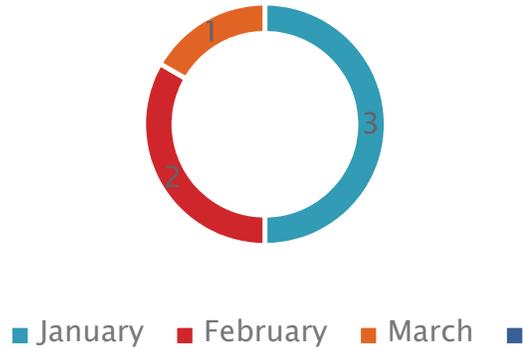


**Adoption Applications – January - March 2020**

Chambers received a total of six (6) applications for processing during the period.

Month	Number of Application
January	Three (3)
February	Two (2)
March	One (1)

**No. of Applications Received**



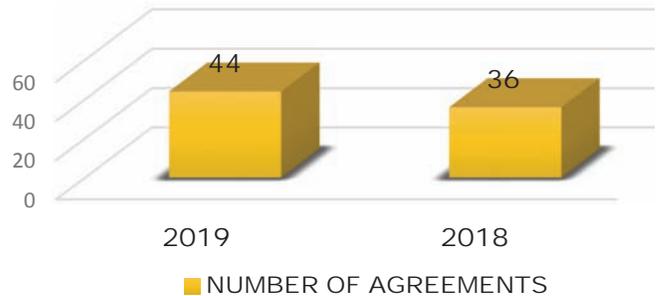
**AGREEMENTS/CONTRACTS**

Pursuant to the Finance (Administration) Act, Cap. 15:01 all contracts involving the Government must be vetted and approved by the Office of the Attorney General, prior to execution.

Consequent on that premise, Chambers received a total of seventy (70) such documents for vetting in the year 2019 compared to fifty (50) in the year 2018. Reference is made to Bar Charts 2 and 3.

*Bar Chart 2*

**AGREEMENTS**



*Bar Chart 3*

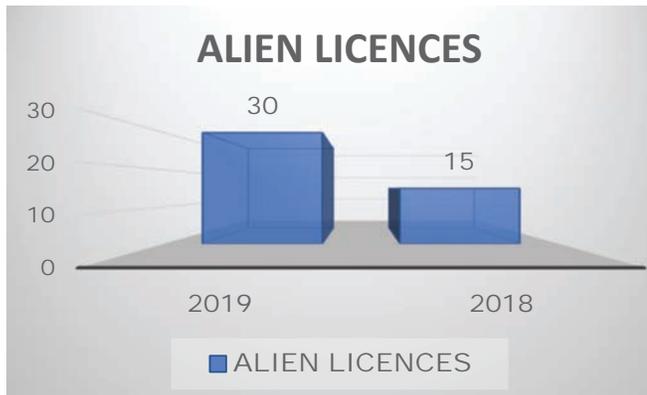


## ALIEN LICENCES

Thirty (30) alien licences were presented to Chambers for vetting. This number doubled in 2019 in comparison to fifteen (15) alien licences which were presented in the year 2018. (Refer Bar Chart 4.)

Licenses can be finalized between an average of one (1) to four (4) weeks, depending on the accuracy and or the concerns which may be raised by Chambers during the vetting process.

Bar Chart 4



### Alien Licenses - January - March 2020

Chambers received a total of five (5) applications for processing.

Month	Number of Application
January	Two (2)
February	Two (2)
March	One (1)



## APOSTILLES

There was an overall increase in the number of apostilles signed by the Solicitor General in the year 2019. The number increased from seventy-four (74) in 2018 to one hundred and thirty-two (132) apostilles being executed

in the year 2019, pursuant to section 4 of the Apostille (Hague Convention) Act, Cap. 2:18. It is important to note that apostilles are in relation to the authentication of the original signature affixed to a document and not the verification of the contents of the documents. Consequently, apostilles can be issued for certified copies of documents as it pertains to the individual certifying same. These are in relation to State issued documents and notarized documents.

A significant number of the apostilles executed was in relation to Birth and Baptism Certificates with the request for Marriage Certificate apostilles being the next most common. It is also observed that requests for apostilles are also in relation to death certificates, statutory declarations, official school transcripts, certificates of character and unmarried. The issuance of a miscellaneous category comprise request for apostilles for last will and testament, certificate of law, power of attorney, appointment of tutrix etc.

Table 5 and Graph 6 provides an overview of apostilles for 2019.

Table 5

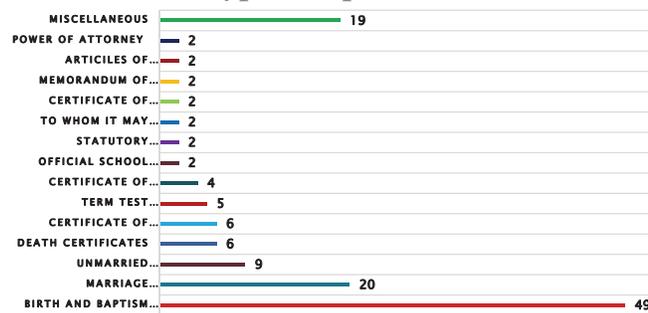
Apostilles 2019	
Birth Certificates/Baptism Certificates	49
Marriage Certificate	20
Unmarried certificate	9
Death Certificate	6
Term Test Achievement	5
Certificate of Good Standing	4
Certificate of Character	6
Official School Transcripts	2
Statutory Declaration	2
To Whom it May Concern	2
Certificate of Inco-operation	2
Memorandum of Association	2
Articles of Association	2
Power of Attorney	2
National Assessment student Results Slip	1
Warrants ordering surrender to requesting country	1
Home warrants correctional facility for return	1
Certificate of Incumbency	1
Certified Copy - UK Passport	1
Affidavit of Defendant Action	1
Certified Copy- UK Driver's License	1
Registered Agents/ certificates of incumbency	1

Table 5 - continued

Apostilles 2019	
Last will and testament	1
Registered Agents	1
Certificate of Law	1
Deed Poll	1
Sale of Property	1
Adopted Child	1
Renunciation of Citizenship	1
Articles of Incorporation	1
Power of Attorney	1
General Power Of Attorney	1
Appointment of Tutrix	1
<b>Total</b>	<b>132</b>

Graph 6

## Types of Apostilles



## CALLS TO THE BAR

It is a requirement pursuant to section 16 (3) of the Legal Professions Act, Cap. 2.04 that a non-citizen who is desirous of being called to the Bar and to appear before the High Court of Saint Lucia should obtain the requisite authority to do so.

The number of application received for calls to the Bar were about the same as in the previous years. The following Bar Chart provides an illustration of the number of applications received.



## ELIGIBILITY

The Legal Profession Act, Cap 2.04 (hereinafter referred to as “the Act”) governs the procedure and lists the prerequisites for making an application for non-citizens to be admitted to practice law in Saint Lucia. This is governed by Section 16 of the Act.

An applicant who is not a citizen of Saint Lucia but is a citizen or a national of a country the laws of which gives reciprocal treatment to a citizen of Saint Lucia in relation to admission to practice law in that country and is desirous of practising law in Saint Lucia may apply to be called to the bar in Saint Lucia provided that the applicant falls within the following categories as provided for under section 15 of the Act:

1. any English or Irish barrister-at-law, or any Scottish advocate;
2. any barrister or advocate of any of the Superior Courts of any British Possession where similar privileges are accorded to barristers of the Supreme Court;
3. any solicitor of the United Kingdom or Law Agent admitted to practise in Scotland;
4. any person who has passed the intermediate and final examinations of the Law Society of England. However, this person must –
  - (a) have served for 5 years continuously in the Chambers of a practising barrister and has throughout that time been of a good character; and
  - (b) passed one of the following examinations:
    - (i) the Matriculation Examination of the University of London,
    - (ii) the School Certificate Examination of the University of Cambridge, or
    - (ii) any examination prescribed as qualifying for admission to the Inns of Court.

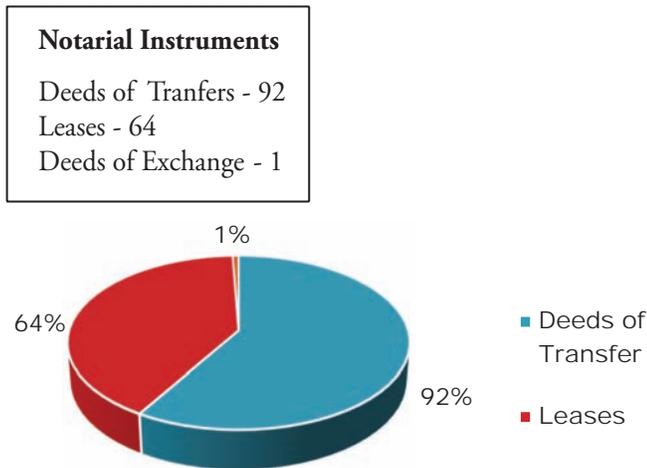
## NOTARIAL INSTRUMENTS

These comprise of legally binding documents involving the State as it pertains to immovable property.

These legally binding documents relate to leases, transfers and exchanges.

In the year 2019, there was an increase in the number of such requests made as compared to the year 2018. In 2018, Chambers received fifty-two (52) deeds and Forty-three (43) leases. A total of ninety-five (95) requests for vetting and or

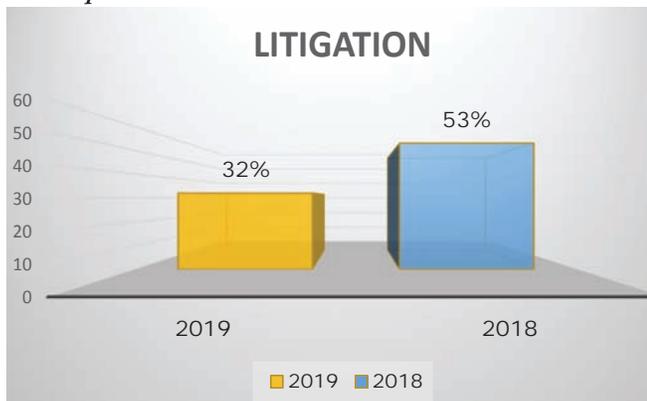
processing whereas in 2019, the total number submitted to Chambers amounted to one hundred and fifty-seven (157). This resulted in an approximate 50% increase. Of the 157, ninety-two (92) were for transfer (sales and actual transfers without consideration), sixty-four (64) related to leases, a recognized increase from the year 2018 and there was one (1) deed of exchange. Refer to Pie Chart below.



**LITIGATION**

Chambers continues to represent the State in a number of matters. There was a reduction in the number of matters served on Chambers from a high of 53 in 2018 to thirty-two (32) matters being served in 2019. Refer to Bar Graph 9

Bar Graph 9



The matters served related to judicial review applications, constitutional motions, police and medical negligence matters as well as breach of contract matters.

It should be noted that notwithstanding the reduction in the number of matters served on Chambers in 2019, Chambers continues to represent the State in several other pending matters some of which have existed as far back as 1986.

**NON PROFIT ORIGANIZATION**

In the year under review, Saint Lucia received seventeen (17) applications for recommendation for registration pursuant to Section 328 of the Companies Act, Cap. 13.01. Table 10 and Bar Graph 11 provides greater details.

Section 328 of the Companies Act states as follows:-

**328. Incorporation**

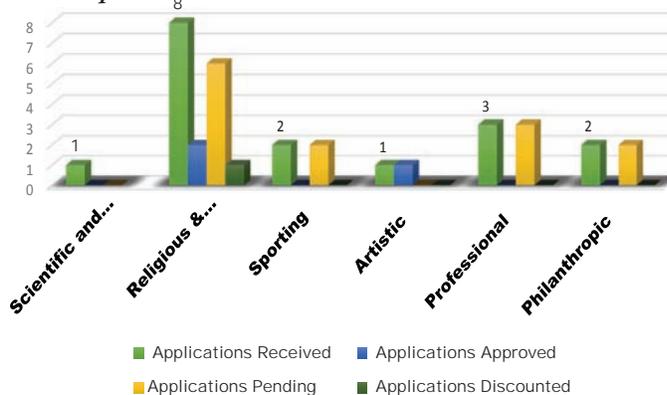
- (1) Without the prior approval of the Attorney General, articles shall not be accepted for filing in respect of any non-profit company.
- (2) In order to qualify for approval, a non-profit company shall restrict its business to one that is of a patriotic, religious, philanthropic, charitable, educational, scientific, literary, historical, artistic, social, professional, fraternal, sporting or athletic nature, or the like, or to the promotion of some other useful object.

The applications received were restricted to some of these areas: scientific, religious, sporting, artistic, and philanthropic.

Table 10

Type of Business	No. of Applications Received	No. of Applications Approved	No. of Applications Pending	No. of Applications Discounted
Scientific & Educational	1	0	0	1
Religious & Charitable	8	2	6	0
Sporting	2	0	2	0
Artistic	1	1	0	0
Professional	3	0	3	0
Philanthropic	2	0	2	0
<b>Total</b>	<b>17</b>	<b>3</b>	<b>13</b>	<b>1</b>

Bar Graph 11



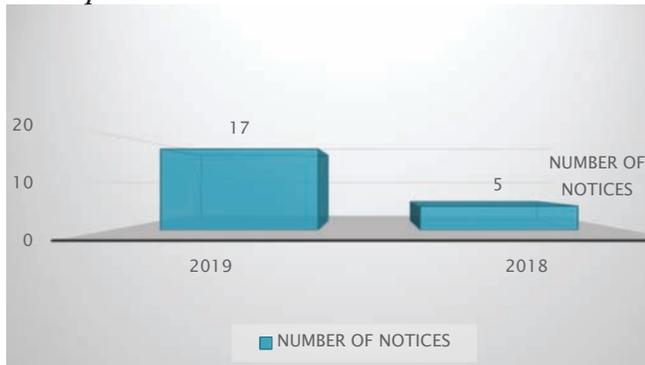
## NOTICES OF SUIT

There was a significant increase in the number of Notices of Suit served on the Office of the Attorney General in the year 2019 which equated to seventeen (17) compared to five (5) in the year 2018. (Refer to Bar Graph 12.)

Notices of Suit are pre-action protocols which pursuant to article 28 of the Code of Civil Procedure notifies the State/Officer of an impending action against him or her. Of the seventeen (17) notices of suit served on Chambers in the year 2019, seven (7) resulted in proceedings being filed in the Courts.

Of the seventeen (17) notices of suit served on Chambers in the year 2019, seven (7) resulted in proceedings being filed in the Courts.

Bar Graph 12

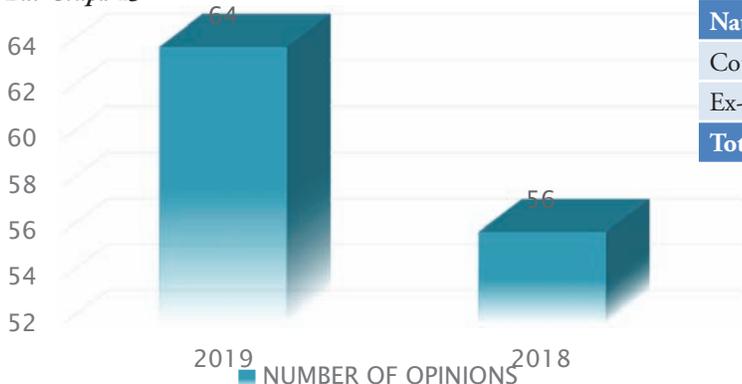


## OPINIONS

2019 saw an increase from fifty-six (56) in 2018 to sixty-four (64) in respect of opinions. (Refer Bar Graph 13.)

Opinions are advice given to the various Departments of Government upon requests. These opinions ranged from providing advice on stamp duty, trademarks, dismissals, compensation matters, acquisition of property, citizenship, access to information, rectification matters, among others.

Bar Graph 13



## RELEASES

In the year under review a total of sixty-five (65) releases were executed. The total release executed was significantly higher than the previous year, 2018 which recorded a total of twenty-four (24) releases being executed. The sixty-five (65) executed releases represented an aggregate of \$6,782,968.53 being paid in satisfaction of court judgments, ex-gratia payments or out-of-court settlements. This is illustrated in Table 14 and Bar Graph 16.

Fifty-four (54) of the total executed releases were for ex-gratia payments relating to salary review with respect to former and present parliamentarians. (Charts 17 and 18.) Four (4) of the executed releases were police related, three (3) were customs related, two (2) were health related and one (1) was related to education.

**Note** – The amounts as reflected in the various illustrations relates and pertains to when the Government vouchers would have been collected by the various recipients and would not correlate with the date of the issued Government vouchers when printed or forwarded to Chambers by the Treasury Department.

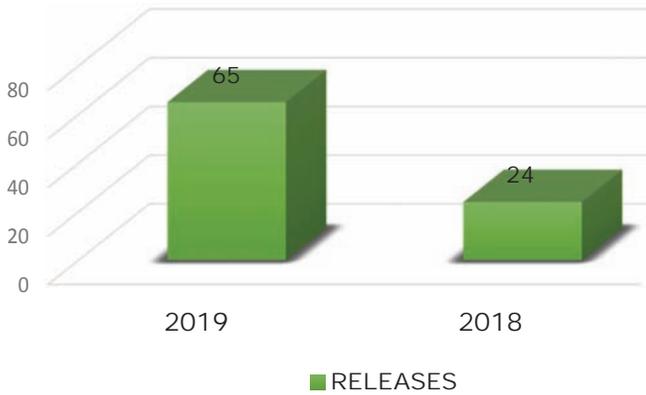
Table 14

Department/Ministry/Sector	Number of Releases	Amount
Ministry of Finance	54	\$5,469,750.44
The Royal Saint Lucia Police Force	4	\$189,546.07
Customs and Excise Department	4	\$1,042,227.02
Ministry of Health	2	\$66,948.20
Ministry Of Education	1	\$ 14,496.80
<b>Total</b>	<b>65</b>	<b>\$6,782,968.53</b>

Table 15

Nature of Settlement	Number	Amount
Court Judgment	13	\$1,513,428.07
Ex-Gratia	52	\$5,311,124.43
<b>Total</b>	<b>65</b>	<b>\$6,782,968.53</b>

**Releases**



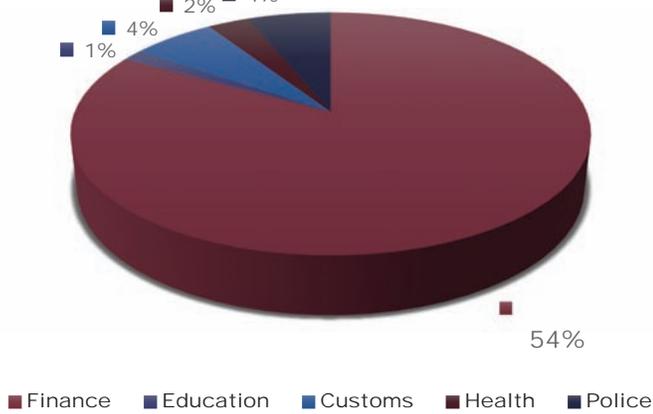
**MUTUAL LEGAL ASSISTANCE**

In 2019, Saint Lucia saw a slight increase in the number of mutual legal assistance requests processed. As shown in the table below there was a total of twenty-seven (27) requests processed, compared with twenty-four (24) processed in the previous year 2018. It is however noticeable that in both years there was a larger number of requests received as opposed to requests sent out.

The majority of the requests (both made and or received) related to the province of Martinique. Saint Lucia's geographical location offers some explanation for the correlation. There were twenty-seven (27) requests for 2019. The offences are highlighted in Bar Graph 18 and Table 20.

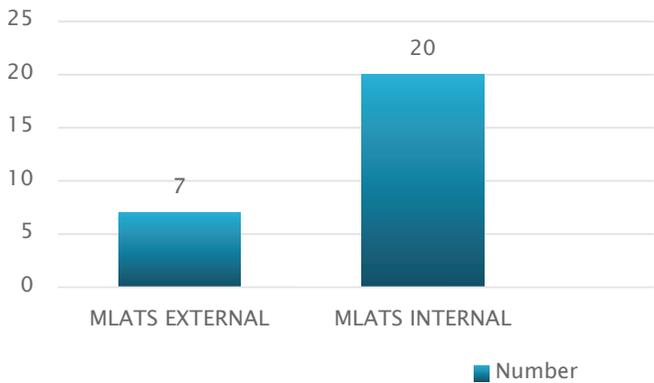
Further, requests would emanate from the Royal Saint Lucia Police Force, the Office of the Director of Public Prosecution, the Financial Intelligence Authority or the Customs and Excise Department. (Refer Table 21) It should be noted that there may be more than one executing agency depending on the nature of the information requested by the requesting state. To illustrate, one request can be sent to both the Financial Intelligence Authority and the Royal Saint Lucia Police Force for execution.

*Pie Chart 17*



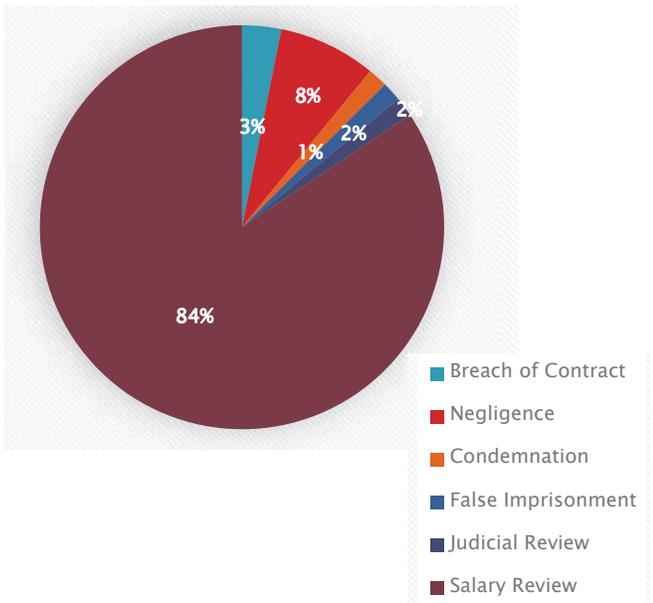
*Bar Chart 18*

**MLATS 2019**



*Pie Chart 18*

**2019 Releases**



Bar Chart 19

### Countries Featured in MLATS in 2019

#### MLAT PER COUNTRY

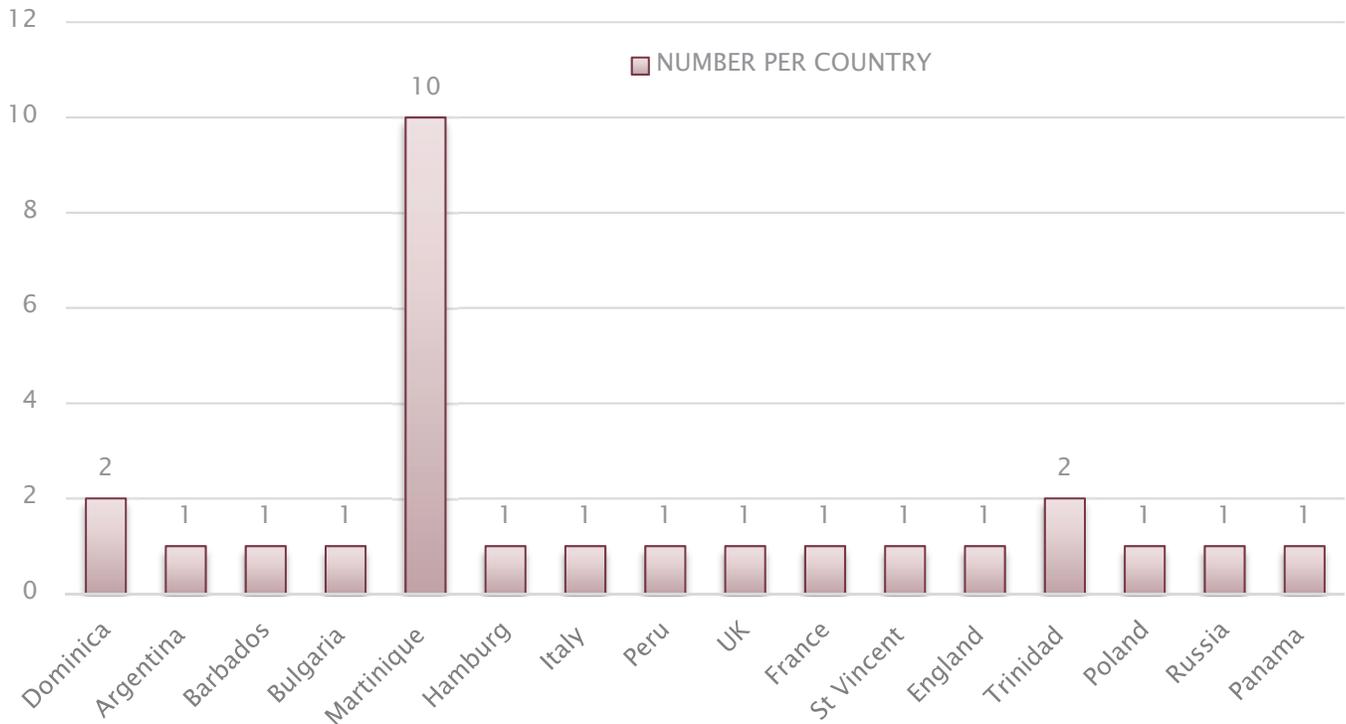


Table 20

Offences	Amount
Murder/Attempted Murder	8
Money Laundering	6
Robbery/Attempted Robbery	6
Organized Gang/Crime	5
Drugs/Drug Trafficking	5
Gang Rape	4
Kidnapping	4
Abduction	5
Fraud	3
Other (Extortion, Corruption, Human Trafficking etc)	7

#### Departments Requesting Information/ or Executing Agency

Table 21

FIA	Police	Dpp Office
13	15	1

#### Mutual Legal Assistance – January-March 2020

Chambers received a total of three (3) request for processing during the period. These requests were made by authorities outside of Saint Lucia.

Month	Request Received
January	Two (2)
February	One (1)
March	Zero (0)

#### NATIONAL SECURITY MATTERS

National Security Matters are highly confidential matters. These matters are with a view to assisting the Royal Saint Lucia Police Force and the Office of the Director of Public Prosecution in the fight against crime. In that regard the office of the Attorney General may be called upon to assist in facilitating and providing support in the country’s crime fighting strategy. The type of support required varies, in 2019 two (2) such applications were entertained from the Royal Saint Lucia Police Force. In the year 2018, a total of three (3) applications were received from the Royal Saint Lucia Police Force and the Office of the Director of Public Prosecution.

# ARTICLES

---

## THE RIGHT TO SILENCE: Senior Crown Counsel Cenac.

This article discusses the provisions in the Criminal Code (ss.909 and 912) as they relate to a defendant's right to silence in a criminal trial. The article will argue that these provisions do not extinguish the defendant's right to silence under the Constitution, it merely qualifies it. Whilst this topic requires a fuller exegesis, in the interest of brevity, only the key points will be set out.

In criminal proceedings, a defendant has always enjoyed the right to silence and/or the privilege against self-incrimination pursuant to section 8 (7) of the Saint Lucia Constitution Order 1978. This same right has been resident in English law from the 12th century. It was finally codified in the Judges' Rules of 1912.

Interconnected with this right was the absolute prohibition from adverse inferences being drawn against the defendant. The case of *R v Gilbert* (1978) 66 Cr.App.R.237 was authority for the proposition that it is/was a misdirection for the judge to direct a jury to draw any inferences from an accused person's silence.

The British however, pressed by the realities of a prosecution and the common sense thinking of the average person, modified this absolute prohibition. One can observe a similar attempt being made in Saint Lucia's Criminal Code by the introduction of sections 909 to 912. Unsurprisingly, given current legal thinking, the impact has been ineffectual.

The argument against sections 909 to 912 seem to be predicated on the premise that our Constitution preserves the right to silence - a right which cannot be derogated from by a simple act of parliament. Yet, it must be asked: is there any express provision established under our Constitution, which forbids the drawing of inferences? Not on its face. The Constitution appears to be silent on this point. Then is it implicit? If one squints very hard, one may well infer, that if no man can be forced to say something in his defence at his trial, it would be impermissible to draw any inference, for he would inadvertently assist the Crown in proving the case against him.

That notwithstanding, the Criminal Code under s.912 (1) states:

*"Where the defence –*

- a) fails to make that statement...*
- b) ...*

*c) sets out inconsistent defences in a defence statement given under s.909 ...*

*the Court or, with the leave of the Court, any other party, may make such comment as appears appropriate or the Court or jury may draw such inferences as appear proper in deciding whether the accused committed the offence concerned.*

*(2) A person shall not be convicted of an offence solely on an inference drawn under subsection (1)".*

A defence attorney may lay the objection that under the Evidence Act 2002 (EA 02), s.76 (1) states: *"no adverse inferences may be drawn against a party who remains silent during the course of official questioning"*. Official questioning, as defined by the EA 02 (s.2) is *"any questions asked by an investigating official into the commission of an offence"* – obviously, largely referring to police officers.

The prosecution may reply that it does not apply at trial, as the phrase *"official questioning"* under the EA 02, and *"If a person arrested (emphasis mine) is to be questioned..."* are not inclusive of questions put at trial.

In support of that contention is S.76 (3) of the EA 02 which says that subsection 1 does not preclude an inference that goes to a fact in issue. Therefore, it can be argued that as the guilt of the accused is always a fact in issue, an inference *could* be drawn.

However, s.584 (2) (a) of the Criminal Code says: *"If a person arrested is to be questioned, he or she shall be informed that the person has the right to remain silent, without such silence being a consideration in the determination of guilt or innocence..."* This appears to be inconsistent with section 912. But again, this appears to suggest questioning prior to trial and not after the prosecution has made out a case against the defendant.

These issues were explored in the European Court of Justice who had to determine whether section 35 of the Criminal Justice and Public Order Act 1994 which allowed inferences to be drawn from the defendant's silence was contrary to the defendant's convention right to silence and to a fair trial.

The European Court decided that neither the right to silence nor the privilege from self-incrimination were absolute rights, but were capable of yielding to inferences and comments, where the circumstances were particularly compelling. Neither of which (the drawing of inferences or the making of comments) would render a trial unfair.

In other words, Strasbourg is saying, that the right to silence: *“cannot and should not prevent that the accused silence, in circumstances which clearly call for an explanation from him, be taken into account in assessing the persuasiveness of the evidence adduced by the prosecution”*: John Murray v UK (1996) 22 EHRR 29 at paragraph 47.

Simply, the inference or comment would be allowed, where a provable prosecution case has been established, and the defendant remains silent because *“he has no story to tell or one which cannot stand up against scrutiny”*. The prosecution case may then be accepted as proved. *“May”* here meaning *“allowing silence to be taken into account in assessing the persuasiveness of the evidence adduced by the prosecution”*: Murray v DPP (1993) 97 Cr.App.R.151

In applying this reasoning to our law, one can see that the position is similar. The Code speaks of drawing adverse inferences *“in appropriate circumstances”*, and *“where it appears proper”* which are similar to that expressed in the 1997 authority. The Code also makes mention of *“any party”*. That would mean that not only the prosecution may comment on an accused person’s silence, but also a potential co-accused.

In addition, if one goes further back to the previous Code, it provides for the disclosure of an alibi. (s.892 of the Criminal Code 1992), which could be objectionable under the Constitution, but was never regarded as such. That section has not been altered by the present Code, which has instead, extended the disclosure requirement to cover any special defence [s.704 (alibi) and s.864 of the Criminal Code 2004 (any special defence)].

To balance the drawing of the inference at trial, the English caution was reworded to reflect that change. It reads: *“You do not have to say anything. But it may harm your defence if you do not mention when questioned something which you later rely on in court. Anything you do say may be given in evidence”*.

Correspondingly, if the prosecution in Saint Lucia wanted to rely on the exception under s.76 (3), one may submit that it remains unfair to the defendant for inferences to be drawn where he is not warned of the consequences of so doing. In order for it to be admissible, the words of our caution should be reworded to put the defendant on notice of a possible inference being drawn. Words similar to that of the English caution would be consistent with that section.

In conclusion, based on the above reasoning, it is submitted, that the drawing of inferences from silence, and the right to make comments on that silence, are consistent with the Constitution and other relevant laws. However, if inferences, under s.76 (3) are to be drawn, or comments made on silence during police questioning, the wording of the caution, must be reworded.

## **A NEW ERA FOR THE EASTERN CARIBBEAN SUPREME COURT- THE ROAD TO ACHIEVING COURT EXCELLENCE.**

**Antonia Charlemagne, Crown Counsel**

The Eastern Caribbean Supreme Court is no stranger to the tides of change and it has without a doubt, adapted to the throes of a changing world, changes of the social fabric of the islands it serves, an expanding population and the constant technological advances which if not embraced, leaves the reluctant behind in a time akin to the dark ages. The luminescence which is the Eastern Caribbean Supreme Court first lit the shores of our island Saint Lucia by virtue of The West Indies Associated States Supreme Court Order (No. 223 of 1967) which was incorporated into our domestic legislation by virtue of the Supreme Court Act, chapter 2.01 which came into force on the 27th of February, 1967. The other Islands whose judicial landscape would be shaped by The West Indies Associated States Supreme Court Order (No. 223 of 1967) were Antigua, Dominica, Grenada, Saint Christopher, Nevis and Anguilla and Saint Vincent.

The West Indies Associated States Supreme Court Order (No. 223 of 1967) was the authority by which the Supreme Court was established, its structure being two pronged, the Court of Appeal and a High Court of Justice. The West Indies Associated States Supreme Court Order (No. 223 of 1967) also created the Judicial and Legal Services Commission and provided the framework and structure of the novel Supreme Court. That was some fifty – three (53) years ago.

Today, we have a monumental establishment, which has moved and swayed and grown with our ever changing world, being ever ready to adapt to the waves of change but remaining steadfast in its core principles; impartiality, dependability and its aspiration to provide justice swiftly to the persons who knock on its doors.

# ARTICLES

---

The challenges from the outside looking in, appears to be numerous. The Court now serves nine (9) jurisdictions, with an estimated Seven Hundred and Fifty-Seven Thousand, Eight Hundred and Thirty-Eight (757,838) persons who depend on the Court for the resolution of matters, sound judgments and the doling out of their notion of justice.

In 2017, Seven Thousand, One Hundred and Ninety - Seven (7,197) cases were filed in the High Courts throughout the jurisdictions served by the Eastern Caribbean Supreme Court. At that time, there were twenty – eight (28) High Court Judges and four (4) Masters. During that same period, Four Hundred and Fifty (450) cases were filed in the Court of Appeal.

With a growing population linked to an increase in litigation, it is inevitable that the contributions to the Court by the Member States ought to reflect the demand placed on the Court. An underfunded justice system or one without the necessary tools or resources to operate effectively, makes it increasingly difficult for the population to retain confidence in the Courts.

The Eastern Caribbean Supreme Court has truly embraced the Information Age and have changed the manner in which our Courts operate throughout the islands. Today, our Courts are equipped with computers, audio recordings and tools to conduct hearings via video link.

The Judicial Enforcement Management System (JEMS) which has been in use throughout the islands since 2002, has now been replaced by the E – Litigation web portal. The introduction of this new manner of filing, serving and case management has (like the introduction of the Civil Procedure Rules in 2000) been met with some resistance and uncertainty by many attorneys practicing within the Court. However, it is expected that in time, the users of the application will not only accept the new method of filing and the advantages it brings but will also appreciate the giant and bold steps taken by the Court to implement this system, in jurisdictions where change is very rarely welcomed. The obvious consequence of not adapting is to fail, but it is not only comforting but also encouraging that the attorneys who practice in the Courts are resilient and will in time, themselves become masters of the E – Litigation web portal, as so many of us have mastered the Civil Procedure Rules.

Access to justice is a fundamental right of all those who the Court serves. While the Court continues to steer the ship

on our behalf to calmer waters, we in our capacity as Deck Hand, Bosun, First Mate, Master or in whatever capacity we view ourselves within the structure of the ship, it cannot be overlooked that we are all ultimately passengers ourselves. We are therefore obligated to keep that ship steady even though we may not be in agreement in the direction in which it sails.

## **THE LEGISLATIVE DRAFTING PROCESS: A REVIEW: Gillian Vidal Jules, Director Legislative Drafting**

*Let us imagine that the owner of a vehicle has made a request to an automobile body repair technician to have his vehicle painted in pink. The automobile body repair technician complies with the request and paints the automobile pink. However, when the owner of the vehicle takes this vehicle on the road, persons seeing the vehicle criticize the colour of the vehicle. The owner of the vehicle then blames the automobile body repair technician for not complying with the original request.*

In this article, the scenario above will be used to describe some of the challenges of the legislative drafting process. This process consists of policy development and the preparation of legislation to give effect to the approved policy. According to the Tenth Edition Completely Revised of the Concise Oxford Dictionary, a policy is defined as “a course or principle of action adopted or proposed by an organization or individual”. The general policy of a Government is usually indicated in the Throne Speech and Budget Speech presented in each year. Policy development is therefore the responsibility of a Ministry or Department and the drafting of legislation is the function of the Legislative Drafting Unit in the Attorney General's Chambers. Policy takes many forms, such as drafting instructions, Cabinet Conclusions and policy papers.

A Ministry or Department must clearly identify the problem to be solved, provide the evidence and magnitude of the problem and explain the reason the problem occurred in a policy. A Ministry or Department must justify the Government's intervention to deal with the problem by making a realistic assessment of the benefits and costs of the action required and considering alternative ways of eliminating the problem. Similarly, the necessity of painting the vehicle pink must also be considered by the vehicle owner before making the request.

A Ministry or Department must also compare other policies taking into account costs, benefits, the distribution of the costs and benefits and the administrative requirements. The legal basis for the legislation is of utmost importance to the Ministry or Department as there must be respect for the “rule of law” including the requirement that legislation is authorized by higher level legislation, is consistent with treaty obligations and complies with legal principles for example, certainty, proportionality and procedural requirements. The appropriate Government Ministry or Department which takes the lead in developing the policy and implementing corrective action must be determined. If more than one Ministry or Department is necessary then the policy should provide for coordination between the different Ministries or Departments. The total estimated costs and benefits of the action should be assessed and other options considered. The policy must be lucid, reliable, and available to users. Interested parties, such as affected businesses and trade unions, other interest groups, or other levels of government must have the opportunity to give feedback on the policy. The Ministry or Department must assess and devise receptive execution strategies relating to the incentives and institutions through which the legislation will take effect.

In other words, a Ministry or Department is expected to use the principles of good decision-making to improve the value of legislation by upgrading the legal and factual basis for legislation, creating more systematic and conventional decision procedures, discovering and remedying legislation that is archaic or superfluous and making Government actions more transparent.

When the automobile repair body technician receives the vehicle, he must inspect the vehicle before he proceeds to paint it. Similarly, the Legislative Drafter on receipt of the policy must examine the policy to ensure that there is conformity with the Constitution of Saint Lucia, Cap. 1.01, acquiescence with the existing law and legal system and compliance with regional and international obligations. In addition, the Legislative Drafter must conduct an implementation check that examines the administrative requirements, enforcement methods and conflict resolution mechanisms. The Legislative Drafter has to also verify the regulatory approach proposed in the policy as well as the clarity of the policy. As such,

the Legislative Drafter will consider the impact of the policy including the cost and economic impact, effectiveness and achievability of the policy. The Legislative Drafter may have several meetings with the Ministry or Department to understand the policy.

After inspecting the vehicle, the automobile body repair technician will paint the vehicle pink because the request for the colour pink is not illegal. Therefore, when the colour of the vehicle is criticized, the simple response from the automobile body repair technician is that the vehicle owner requested the colour pink. Likewise, the Legislative Drafter after examining the policy may conclude that the policy has no legal implications and proceed to draft the legislation as required by the policy. Once the Ministry or Department is satisfied that the legislation prepared adopts the policy advanced and approves the legislation, the Legislative Drafter assists the Ministry or Department at consultations with stakeholders on the prepared legislation. As a result, the Legislative Drafter can advise if criticism is leveled that legislation is ambiguous and not well conceptualized, that the legislation reflects the policy of the Ministry or Department.

To conclude, there are clear comparisons between the legislative drafting process and a simple request by a vehicle owner to an automobile body repair technician to paint a vehicle. Therefore, the same way that the automobile body repair technician cannot be blamed for the colour of the vehicle chosen by the vehicle owner, the Legislative Drafter should not be held responsible for the drafting of legislation that is in keeping with a policy developed by a Ministry or Department. In furtherance of its efforts to assist Ministries and Departments with policy development, the Attorney General's Chambers has in collaboration with IMPACT Justice trained senior officials of Ministries and Departments at a workshop entitled “Sound Policy for Better Law” from 3-5 July, 2019 and yet again in March, 2020 these officials were further instructed on the preparation of policy. In the absence of proper policy, legislation is unlikely to bear significant results especially when resources are insufficiently provided. Consequently, it is imperative that the policy developed in the legislative drafting process be comprehensive and succinct so that the proper legislation can be prepared by the Legislative Drafter.

# APPENDIXES

## Appendix 1 - 2019 Releases

No of 2019	Date	Exgratia/ Judgment	Claim No.	Case Type	Department	Amount
1	10/4/2019	Judgment	SLUHCV2018/0016	Breach of Contract	Customs	\$145,000.00
2	14/5/2019	Judgment	SLUHCV2016/0620	Negligence	Health	\$11, 667.75
3	12/6/2019	Judgment	SLUHCV2014/0100	Condemnation	Customs	\$752, 227.02
4	13/6/2019	Judgment	SLUHCV2014/0100	Condemnation	Customs	\$50, 000.00
5	22/7/2019	Judgment	SLUHCV2013/0282	Negligence	Health	\$55, 280.45
6	5/8/2019	Judgment	SLUHCV2014/0065	Negligence	Police	\$20, 307.83
7	30/8/2019	Judgment	SLUHCV2018/0195	Breach of Contract	Ministry of Education	\$14, 496.80
8	23/9/2019	Judgment	SLUHCV2018/0583	False Imprisonment	Police	\$105,829.35
9	30/9/2019	Exgratia	N/A	Salary Review	Finance	\$5,269,540.46
10	21/10/2019	Judgment	Appeal 0019/2017	Judicial Review	Customs	\$95,000.00
11	29/11/2019	Judgment	SLUHCV2015/0598	Negligence	Police	\$45, 392.92
12	16/12/2019	Judgment	SLUHCV2018/0345	Salary Review	Finance	\$ 5, 000.00
13	31/12/2019	Judgment	SLUHCV2018/0271	Negligence	Police	\$18, 015.97
					<b>Total</b>	<b>\$6, 782,968.53</b>

## Appendix 2 - Statutory Instruments Published In 2019/20

### Price Control Orders

Price Control (Amendment) (No. 5) Order, No. 36 of 2019
Price Control (Amendment) (No. 6) Order, No. 46 of 2019
Price Control (Amendment) (No. 7) Order, No. 58 of 2019
Price Control (Amendment) (No. 8) Order, No. 91 of 2019
Price Control (Amendment) (No. 9) Order, No. 101 of 2019
Price Control (Amendment) (No. 10) Order, No. 106 of 2019
Price Control (Amendment) (No. 11) Order, No. 114 of 2019
Price Control (Amendment) (No. 12) Order, No. 116 of 2019
Price Control (Amendment) (No. 13) Order, No. 125 of 2019
Price Control (Amendment) (No. 14) Order, No. 127 of 2019
Price Control (Amendment) (No. 15) Order, No.134 of 2019
Price Control (Amendment) (No. 16) Order, No. 144 of 2019
Price Control (Amendment) (No. 17) Order, No. 152 of 2019
Price Control (Amendment) (No. 18) Order, No. 157 of 2019

### Tourism Incentives Orders

Name	Statutory Instrument
Stonefield Limited	No. 38 of 2019
Aupic Paradise	No. 49 of 2019
Toraille Waterfall ATV Park Inc.	No. 54 of 2019
Pure Vibe Entertainment Inc.	No. 56 of 2019
Mystique Breeze	No. 62 of 2019
Coconut Bay Management Limited	No. 70 of 2019
Francein's Inc.	No. 71 of 2019
Jairo Management Limited	No. 72 of 2019
Bel Jou (St. Lucia) Limited	No. 73 of 2019
Carib Invest Capital Ltd.	No. 100 of 2019
Atlantic Shores Riding Stables Incorporated	No. 121 of 2019
Nico's Touring Services Limited	No. 138 of 2019
Fond Doux Estate Limited	No. 147 of 2019
Carib Invest Capital Ltd. (Revocation)	No. 148 of 2019
Poinsettia Apartments Limited	No. 159 of 2019
Ciceron Management Limited	No. 160 of 2019
Spice of India Inc.	No. 168 of 2019

**Tourism Stimulus and Investment Orders**

Name	Statutory Instrument
Stonefield Limited (No. 1)	No. 39 of 2019
Stonefield Limited (No. 2)	No. 40 of 2019
Fond Doux Estate Limited	No. 41 of 2019
Carib Invest Capital Ltd.	No. 50 of 2019
Bay Gardens Limited	No. 51 of 2019
Redman Limited	No. 52 of 2019
Carib Invest Capital Ltd.	No. 69 of 2019
Bel Jou (St. Lucia) Limited	No. 74 of 2019
Kimatri Hotel	No. 75 of 2019
East Winds Resort Ltd.	No. 118 of 2019
Carib Invest Capital Ltd. (Revocation)	No. 119 of 2019
Coconut Bay Management Limited	No. 142 of 2019
SL Acquisition Company Ltd.	No. 154 of 2019
Yellow Sands Luxury Villas Inc.	No. 155 of 2019
PRIMCO Corporation	No. 165 of 2019
Paradise Breeze	No. 169 of 2019

**Other Orders**

Type	Name	Statutory Instrument
Caribbean Community Orders	Caribbean Community (Amendment of Schedule) Order	No. 77 of 2019
Caribbean Community Skilled Nationals Orders	Caribbean Community Skilled Nationals (List of Qualifications) Order	No. 76 of 2019
Customs Orders	Customs (Service Charge) (Variation of Service Charge) (Sunrod Properties Inc.) Order	No. 96 of 2019
	Customs Duties (Amendment of Schedule 4) (No. 4) Order	No. 171 of 2019
	Customs Duties (Amendment of Schedule 4) (No. 5) Order	No. 172 of 2019

**Other Orders**

Type	Name	Statutory Instrument
Education Orders	Education (Suspension and Abolition of Corporal Punishment) Order	No. 44 of 2019
External Trade Orders	External Trade (Restricted Imports) (Amendment) Order	No. 67 of 2019
Income Tax Orders	Income Tax (Exemption) (Appointments) (Judicial and Legal Services Commission) Order	No. 108 of 2019
	Income Tax (Exemption) (Trust Media Corporation Limited) Order	No. 131 of 2019
	Income Tax (Exemption) (Public Sector Offices) Order	No. 132 of 2019
	Income Tax (Exemption) (Hewanorra International Airport Redevelopment Project) Order	No. 141 of 2019
	Income Tax (Exemption) (Appointments) (Judicial and Legal Services Commission) (No. 2) Order	No. 173 of 2019
Labour Orders	Labour (Work Permit Fees) (Exemption) Events Company of St. Lucia Inc.) Order	No. 128 of 2019
Maritime Areas Order	Maritime Areas (Declaration of Continental Shelf and Exclusive Economic Zone) (Saint Lucia and Barbados) (Amendment) Order	No. 60 of 2019

**Other Orders**

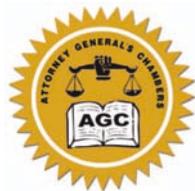
Type	Name	Statutory Instrument
Motor Vehicles and Road Traffic Orders	Motor Vehicles and Road Traffic (Designation of Inspectors) (Amendment) Order	No. 136 of 2019
Revised Edition of the Laws Orders	2015 Supplement to the Revised Edition of the Laws (Commencement) Order	No. 130 of 2019
Telecommunications Order	Telecommunications (Exemption) (Government Islandwide Wifi Network) Order	No. 65 of 2019
	Telecommunications (Diplomatic Mission) (Exemption) (Embassy of the Republic of China (Taiwan) Order	No. 104 of 2019
Value Added Tax	Value Added Tax (Amendment of Schedule 3) Order	No. 103 of 2019
	Value Added Tax (Amendment of Schedules 1 and 3) Order	No. 156 of 2019
	Value Added Tax (Amendment of Schedules 1 and 3) (No. 2) Order	No. 174 of 2019

**Excise Tax Orders**

Excise Tax (Amendment of Schedule 1) (No. 5) Order, No. 37 of 2019
Excise Tax (Amendment of Schedule 1) (No. 6) Order, No. 47 of 2019
Excise Tax (Amendment of Schedule 1) (No. 7) Order, No. 59 of 2019
Excise Tax (Amendment of Schedule 1) (No. 8) Order, No. 92 of 2019
Excise Tax (Amendment of Schedule 1) (No. 9) Order, No. 102 of 2019
Excise Tax (Amendment of Schedule 1) (No. 10) Order, No. 107 of 2019
Excise Tax (Amendment of Schedule 1) (No. 11) Order, No. 117 of 2019
Excise Tax (Amendment of Schedule 1) (No. 12) Order, No. 126 of 2019
Excise Tax (Amendment of Schedule 1) (No. 13) Order, No. 135 of 2019
Excise Tax (Amendment of Schedule 1) (No. 14) Order, No. 145 of 2019
Excise Tax (Amendment of Schedule 1) (No. 15) Order, No. 153 of 2019
Excise Tax (Amendment of Schedule 1) (No. 16) Order, No. 158 of 2019







**Attorney General's Chambers**

2nd Floor Francis Compton Building, Waterfront, Castries  
Tel: 468-3206/3200 | Fax: 458-1131  
Email: [attorneygeneral@gosl.gov.lc](mailto:attorneygeneral@gosl.gov.lc) | [ps.agchambers@govt.lc](mailto:ps.agchambers@govt.lc)  
Website: [attorneygeneralchambers.com](http://attorneygeneralchambers.com)

Designed by the National Printing Corporation