



REPUBLIC OF NAMIBIA

OFFICE OF THE ATTORNEY-GENERAL

2016 BUDGET

NATIONAL ASSEMBLY

Windhoek, Namibia

March 2016



REPUBLIC OF NAMIBIA

ATTORNEY-GENERAL

March 17, 2016
National Assembly

Madam Deputy-Speaker,

1. This is my second opportunity to present to this August House, motivations for the appropriation portion of the Appropriation Bill, for Vote 35, The Office of the Attorney-General. I remain deeply humbled by the opportunity to do so.
2. The primary functions of the Attorney-General are outlined in the Namibian Constitution under Article 87, and they are:
 - (a) to exercise the final responsibility for the office of the Prosecutor-General;
 - (b) to be the principal legal adviser to the President and Government;
 - (c) to take all action necessary for the protection and upholding of the Constitution;
 - (d) to perform all such functions and duties as may be assigned to the Attorney-General by Act of Parliament.
3. Before I proceed to elaborate on the sought budget appropriation for the Office of the Attorney-General, I find it apt, to make some remarks about the work of Office of the Attorney-General, in line with the constitutional framework I have just referred to.
4. As I said last year, I would like to renew my commitment to the President and the people of Namibia through their representatives, the Honorable Members of this August House, that I will continue to endeavor to ensure that the strong legacy of competent, independent and timeous legal services will be improved without fear or favor for the betterment of our people. As I said, it does not mean that the legal positions taken will be concurred with by all, and you have seen it. Yet I promise you, I do not act without consultation, far from it. I will not shy away from

defending the Namibian Constitution, the laws of the Republic of Namibia and the wider interests of justice as Attorney-General.

5. Again, it is my understanding that the function of the Attorney-General, upon request or upon his own instance,¹ *via* the Courts,² in this August House, the Cabinet or elsewhere, should be aimed at upholding and protecting the Namibian Constitution. The duty to take all action necessary for the protection and upholding of the Namibian Constitution may require such a pro-active approach to matters.

Madam Deputy-Speaker,

6. Three main functions resort under Vote 35, namely, that of the Prosecutor-General, Legal Advice and Litigation Services in the Government Attorney.
7. The function of providing legal advisory services, which is one of the reasons I am on the floor to justify the sought appropriation, in my mind, encompasses the preparation of legal advice *simpliciter*; the certification of legislation for Government (if need be, drafting that legislation); negotiating the position of State on international agreements, conventions and other instruments; representing the State in matters that become litigious or the subject of arbitrations, both locally and internationally; the performance of conveyancing work for the State and many other legal functions which need no enumeration.
8. As far as the criminal justice system is concerned, the Prosecutor-General and her prosecutors represent the State in criminal matters and prosecute all crimes before the Courts on behalf of the State. The Criminal Procedure Act, 1977 (Act No. 51 of 1977) is the primary legal instrument, and as you may be aware Honorable Members, many laws contain penal provisions providing that upon conviction, a certain fine or imprisonment can be imposed, meaning that there is far more work for prosecutors than there was in 1990.
9. Wherever there is a Magistrate's Court, there is at least a Prosecutor, most often more than one, and there are 46 such District and Regional courts across the country. The two High Courts, and the Supreme Court are of course excluded.

Madam Deputy-Speaker,

¹ In Latin, it is considered action *mero motu*.

² By virtue of Article 79 (2) and (3) of the Namibian Constitution.

10. Having spelt out the functions of the Office of the Attorney-General in respect of the sought appropriation, permit me, to spare some words and remarks at what I committed to last year.
11. Last year, I committed to endeavoring to avail legal officers to the Offices/Ministries/Agencies of Government. I want to report that after having ascertained as to the required numbers for every such Offices/Ministries/Agencies, the Public Service Commission has approved the structure of Vote 35 inclusive an additional 130 positions for legal officers and administrative staff. Sadly, the Ministry of Finance has not granted funding for the positions for this financial year. In the interim, I am engaging universities such as Cambridge, the Commonwealth Secretariat, to avail graduates, which we can attach to specialist Ministries such as Environment and Tourism, Finance etc.
12. The objective, is that the work of Government can receive timeous and specialized legal services, subject of course to approval from the Attorney-General.
13. As I said before, these lawyers will therefore not diminish the role or negate the role of the Attorney-General. To the contrary, they may aid the work of the Attorney-General as secondary legal advisers and the Namibian Constitution envisaged that there may be more than one legal adviser to the President and Government, except that, the principal legal advisor shall be the Attorney-General. We will of course craft appropriate terms of reference for assigned and posted lawyers to assist with their work. In the meantime, we will continue to assist and perform our function centrally.

Madam Deputy-Speaker,

14. I also made mention last year, that we would be engaging with the Namibia Students Financial Assistance Fund (NSFAF) so that we may send lawyers out to specialize. We have concluded an agreement with the NSFAF and as we speak, two lawyers are in South Africa, one in Pretoria and another in Cape Town, pursuing Masters degrees. Later on, some will be dispatched to Europe to pursue master level studies in Finance. If we do this over a sustained period of time, I am sure that we can develop specialist skills at masters and doctoral levels to improve on the quality of our work.
15. Last year, I spoke of the need for office space for the Attorney-General and the Prosecutor-General. The situation has become dire for the Prosecutor-General,

as the Judiciary needs the space in the High Court and she and her team must move out to make that space. Luckily, I must report that the Minister of Finance is assisting in the acquisition of a building as an interim measure, and once they are in a position to do so, will finance the construction of our offices in the fullness of time. Appropriate permanent offices, custom made for the needs of these two institutions, the Prosecutor-General and the Attorney-General, is a must, 26 years after Independence.

Madam Deputy-Speaker,

16. It is hoped that the appropriation amounts for Vote 35 will be put to good use as has been the case before. I have not compiled statistics for presentation today. This is deliberate. My intention is that when we publish the next edition of Frequently Asked Legal Questions, we can have a small reception on the premises of the National Assembly, so that we may create more awareness on the functions of the Office and its component offices. I want to experiment with this so I can see if we make more
17. To summarize, the following amounts are required for each of the programmes and related activities that are administered by the Office of the Attorney-General under Vote 35:

COORDINATION AND SUPERVISION: N\$11,933,000 (Eleven Million, Nine Hundred and Thirty Three Thousand Namibian Dollars).

To review policies and regulations of the Office of the Attorney-General component Offices and ensure proper implementation thereof in accordance with legislative requirements and national objectives.

PROVISION OF LEGAL SERVICES: N\$18,461,000 (Eighteen Million, Four Hundred and Sixty One Thousand Namibian Dollars).

To handle all Government advice to the President and Government.

CIVIL LITIGATION: N\$24,293,000 (Twenty Four Million, Two Hundred and Ninety Three Thousand Namibian Dollars)

To handle all Government litigation

PROSECUTION OF CRIME: N\$ 62, 522, 000 (Sixty Two Million, Five Hundred and Twenty Two Thousand Namibia Dollars)

To prosecute in the name of the Republic of Namibia in criminal proceedings and defend appeals in criminal proceedings in the Superior Courts.

OFFICE OF THE ATTORNEY-GENERAL SECRETARIAT: N\$ 3, 531, 000 (Three Million, Five Hundred and Thirty One Thousand Namibia Dollars)

This is the private Office of the Attorney-General.

Total: N\$ 120,740,000 (One Hundred and Twenty Million, Seven Hundred and Forty Thousand Namibian Dollars).

18. Although it represents a reduction from the allocation of last year, we will endeavour to do more with less.

19. I now seek the indulgence of the House to approve the allocation of **N\$ 120,740,000 (One Hundred and Twenty Million, Seven Hundred and Forty Thousand Namibian Dollars)** for Vote 35.

I thank you.