

REPUBLIC OF NAMIBIA



**BUDGET SPEECH BY THE HONOURABLE DR
ALBERT KAWANA, MP, MINISTER OF
JUSTICE, NATIONAL ASSEMBLY,
VOTE 16,
MINISTRY OF JUSTICE**

7 APRIL 2017

**NATIONAL ASSEMBLY
WINDHOEK**

Honourable Chairperson of the Whole House Committee, I rise with humility to motivate the proposed budgetary allocation for Vote 16, Ministry of Justice to this august House. In presenting this motivation, I am mindful of the need to fast-track the debate on the Appropriation Bill for immediate implementation. Indeed, our able Minister of Finance and his colleagues have produced volumes of information, including the Accountability Report. The purpose of my motivation, therefore, is merely to fill the gaps on the Vote of the Ministry of Justice. I am further mindful of the fact that we are at the Committee stage of the Bill where only details should be addressed.

Honourable Chairperson,
Honourable Members,

It is important to point out that Vote 16 is sub-divided into four Programmes in line with the Medium Term Expenditure Framework. At the end of the financial year, the Accountability Report will indicate the extent of implementation of the Programmes as well as the Challenges encountered. The Programmes under Vote 16 and the funds allocated to each of them are as follows:

Programme 01: Administration of Justice – this Programme has been allocated an amount of **N\$77,419,000 (Seventy Seven Million, Four Hundred and Nineteen Thousand Namibia Dollars)**.

Under this Programme, there are two sub-programmes, namely:

- legal representation of indigent persons; and
- management of deceased estates, insolvencies, trusts and Guardians Fund.

Honourable Chairperson,
Honourable Members,

The provision of State assistance to persons who are unable to afford the cost of legal representation in criminal and civil matters is derived from Article 95 (h) of the Namibian Constitution which enjoins the Namibian State to provide legal assistance to our indigent citizens. Namibia should promote access to justice on the basis of affording equal opportunity of representation in judicial proceedings by providing indigent persons with the services of lawyers through legal aid at State expense. This is done within the letter and spirit of Article 95 (h) of the Namibian Constitution. The Legal Aid Act of 1990, is the legal framework adopted to implement the commitment as required under Article 95 (h) of the Namibian Constitution.

The Directorate of Legal Aid plays an important role in promoting access to justice in Namibia. It is responsible for financing the cost of legal representation in over 80% of criminal trials in the High Court, Regional Court and Magistrates courts. Legal Aid services are provided by either instructing a legal aid counsel, i.e. a lawyer employed and retained on the establishment of the Directorate, or instructing private legal practitioners who are remunerated on the basis of a tariff of fees agreed with the legal profession and promulgated by the Minister of Justice in the Government Gazette. In order to reduce costs, we are trying to increase the use of lawyers employed by the Ministry. However, due to the current limited staff compliment in the Directorate of Legal Aid, it is not envisaged to dispense with the services of private legal practitioners in the foreseeable future.

Honourable Chairperson,

Honourable Members,

The management of deceased estates, insolvencies, trusts and Guardian's Fund is the second sub-programme that is covered under the Administration of Justice Programme. The Master of the High Court is required by law to, *inter alia*, supervise the administration of deceased estates, liquidation of insolvent estates, registration of trusts, and the administration of the Guardian's Fund.

The Guardian's Fund is established under the Administration of Estates, Act of 1965 (Act No.66 of 1965). The value of the Guardian's Fund has increased from less than three hundred million Namibia Dollars at independence in 1990 to **One Billion, Four Hundred and Thirty-Six Million Seven Hundred and Sixty-Nine Thousand, Five Hundred and Ninety-One Namibia Dollars (N\$1,436,769,591.00)** last year. Following the filling of all funded vacant positions in the Guardian's Fund during the last financial year, the Master's office has been able to reduce the waiting time for payments from the Guardian's Fund from five working days to two days provided that the applicant has all the required documents.

In an effort to render timely and efficient service to the public, the Directorate of the Master of the High Court commenced with the development of an integrated financial and case management system during the last financial year. The main objective is to facilitate the speedy finalization of deceased estates, and ensure daily reconciliation of the accounts of the Guardian's Fund. The development of the system is almost complete and will be launched by or before July this year. The system includes an e-filing functionality which allows the registration of trusts and deceased estates via the internet. The turnaround time for applications for payments from the Guardian's Fund will reduce to one day.

Guardians will be able to view the accounts of the minors under their care and to apply for quarterly allowances via the internet. The Directorate will furthermore have a website which will enable members of the public to view information relating to deceased estates and trusts.

Honourable Chairperson,
Honourable Members,

While on this point, allow me to take this opportunity to thank the Honourable Minister of Finance, his Deputy Minister my young Brother, and my dear sister the Permanent Secretary for their understanding in providing additional financial resources in order to complete the project.

Section 5 of the Financial Intelligence Act of 2007 requires the Master of the High Court to keep information as prescribed by the Act on trusts and to update such information annually. The intention is to ensure that trusts are not used as conduits for money laundering activities. I am pleased to inform Honourable Members that all the trusts registered during the 2015/2016 financial year are fully compliant with Section 5 of the Act. However, we are facing challenges due to staff constraints when it comes to trusts registered prior to the 2015/2016 financial year. However, we are doing everything possible to overcome this challenge.

During the 2017/2018 financial year, the Directorate intends to focus on the review of the Administration of Estates Act of 1965, and the Trust Monies Protection Act of 1934.

Programme 02: - Legal services – this Programme has been allocated an amount of N\$48,596,000 (**Fourty-Eight Million, Five Hundred and Ninety-Six Thousand Namibia Dollars**). The objectives of this Programme is to translate policies into legislation, recommend reform of the law, provide legal services and promote international cooperation in legal matters.

The Directorate of Legal Services is responsible for the execution of requests on extradition and mutual legal assistance in civil and criminal matters, service of civil process and reciprocal enforcement of maintenance orders and other foreign judgements.

The Directorate is also responsible for coordination of Namibia's Human rights obligations and co-operation with treaty bodies to which Namibia is required to submit periodic human rights reports. The Directorate also provides administrative support services to the Board for Legal Education, as well as to the Disciplinary Committee established under the Legal Practitioners Act of 1995.

The Ministry created a new Division to facilitate the effective implementation of the Maintenance Act of 2003 through the appointment of maintenance officers and maintenance investigators. However, due to financial constraints, no financial resources have been made available in the current budget to implement these important measures. The Ministry will soon approach Cabinet with recommendations aimed at ensuring that the Act is fully implemented.

The Ministry recognizes the important role Community Courts play in the administration of justice as an alternative avenue to resolve disputes through the traditional justice system. I have, therefore, engaged our Traditional Authorities in the current year and will continue with consultations so that we improve the administration of justice at Community Courts level. I am also aware that due to limited financial resources, Community Courts are faced with a lot of challenges. We will do everything possible to address some of these challenges during the current financial year.

Honourable Chairperson,
Honourable Members,

Within Programme 2 there is a sub-programme called the Reform of the Law.

The Directorate of Law Reform supports the Law Reform and Development Commission in executing its statutory mandate as set out in its enabling legal framework, the Law Reform and Development Commission Act of 1991. During the period under review, new Commissioners were appointed to serve on the Commission until 2018. The current Law Reform and Development Commission reviewed the work of the last Commission and took measures to finalize reports which were outstanding. The Commission also assumed responsibility for new projects identified under the Harambee Prosperity Plan.

Another sub-programme under Programme 2 is called Translating Government Policy into Legislation. Under this sub-programme falls the Directorate of Legislative Drafting. Its main function is to translate Government policy into legislation; which includes drafting of Bills and subsidiary legislation such as proclamations, regulations, rules, and drafting of Government Notices. As I pointed out last year, a severe shortage of experienced legislative drafters is an unfortunate reality. Legislative Drafting is a very scarce and specialized skill. When an experienced drafter resigns, it takes more than 7 years to find a suitable replacement. Due to some changes in the Government structure, more Bills are expected to be drafted and tabled in Parliament.

If something is not done to address the critical shortage of experienced legislative drafters, we will experience more challenges in the lawmaking process which might affect the work of the Legislative arm of the State. Additional posts were created but unfortunately, they are not funded. In addition, a number of vacant posts due to resignations have been frozen.

Honourable Chairperson,

Honourable Members,

During 2016/2017 financial year, the Directorate of Legislative Drafting received **42** Bills including 13 Bills which were brought forward from the previous financial year. The Directorate managed to complete **25** Bills for consideration by Parliament. The Directorate also received the following subsidiary legislation and administrative notices:

- **13** Proclamations, of which **all** were completed;
- **59** Regulations, of which **46** were completed;
- **172** Government Notices, of which **166** were completed; and
- **11** General Notices, of which 10 were completed.

Honourable Chairperson,

Honourable Members,

Allow me to turn to **Programme 03: - Promotion of good governance.**

This Programme has been allocated an amount of N\$19,636,000 **(Nineteen Million, Six Hundred and Thirty-Six Thousand Namibia Dollars)**. The Ombudsman is a constitutional office which exercises its powers and functions under Chapter 10 of the Namibian Constitution as well as the Ombudsman Act of 1990.

The main activities carried out by the Office of the Ombudsman are the investigation of complaints relating to maladministration, human rights violations, and degrading of the environment.

As the accredited National Human Rights Institution of Namibia, the Ombudsman is giving special attention to its human rights mandate through the work of a dedicated human rights division headed by a children's advocate. This division is, amongst others, responsible for the investigation of complaints relating to children, visiting childcare facilities and maintenance courts, looking into circumstances of parents and children in unopposed divorce matters and to compile reports for the Court, and designing and implementing human rights education projects for schools. Since its inception, the division managed to reach 11,690 children with its education programmes.

Over and above the day to day activities, the following major projects will be carried out during the 2017/2018 financial year:

- **Complaint intake clinics by Windhoek head office as well as Keetmanshoop, Oshakati and Swakopmund regional offices:**

The complaint intake clinics will include visits to police cells countrywide, while the human rights division will undertake visits to childcare facilities and places of detention for all vulnerable groups, including the elderly.

- **Continuation of the National Human Rights Action Plan:**

The Ombudsman drives the implementation of the National Human Rights Action Plan which will enter year 3 of its implementation phase in 2017/2018 financial year. This involves constant consultation with appropriate Offices, Ministries and Agencies and continuous monitoring of progress through workshops and meetings.

- **Public hearings on Racism and Racial or General discrimination:**

Nationwide public hearings about racism and racial or general discrimination will be conducted with a view to solicit comments or inputs about people's experiences and understanding of racism and racial or general discrimination, as well as proposals on how it should be addressed.

- **Investigation into solid and liquid waste management by towns and village councils:**

A consultant was appointed to investigate solid and liquid waste management by towns and village councils in all 14 regions of the country; the project started in November 2016 with the Karas region for which a comprehensive report with recommendations were already submitted to relevant authorities for action. The project will continue during 2017/2018 financial year.

- **Other special investigations:**

Other special investigations will include a comparative study of education facilities in rural and urban areas, as well as the long delays in the finalisation of criminal cases against police officers.

Programme 04: - Supervision, Coordination and Support services - has been allocated an amount of N\$277,778,000

(Two Hundred and Seventy Seven Million, Seven Hundred and Seventy-Eight Thousand Namibia Dollars). The objectives of this Programme are to ensure an enabling environment and high performance culture, to provide administrative and technical support services to ministerial programmes and to ensure proper financial management, gender mainstreaming, capacity building as well as an equitable distribution and effective utilization of resources.

The Directorate Central Administration oversees the implementation of the Performance Management System in the Ministry as well as other Public Service reform initiatives which were formulated by the Office of the Prime Minister. In this regard, all staff members were required to declare their business interests and to apply for approval to conduct such businesses.

- Staff members signed performance agreements.
- Performance agreements were assessed at the Directorate level.
- Overall performance of Directorates were assessed through Ministerial quarterly review sessions.
- A terminal report on the review of the 5 year Strategic Plan has been submitted to the Office of the Prime Minister.
- Work is at an advanced stage to adopt a new Strategic Plan.

Honourable Chairperson,

Honourable Members,

Allow me also to inform this august House regarding progress we have made on the capital projects. In this regard, I wish to highlight some of the activities undertaken by the Ministry as follows:

- **New prefabricated court structures** were constructed at Rehoboth Magistrate's Court in the Hardap Region and Helao Nafidi in the Ohangwena Region respectively. The construction of the mentioned facilities was aimed at addressing the backlog in the finalization of cases, which is one of the challenges faced by the Office of the Judiciary.
- **Construction works on a new Magistrate's Court at Katima Mulilo** in the Zambezi Region will continue during 2017/2018, financial year. The project is scheduled for completion during this financial year.
- **Alterations & Additions** were also carried out at the High Court in Windhoek during the period under discussion. The project is expected to be completed in June 2017.
- The Ministry also renovated its assigned houses at Karibib, , Eenhana, Opuwo, Ondangwa, Oshakati and Tsumeb.

Honourable Chairperson,

Honourable Members,

The Ministry of Justice is entrusted with numerous functions under a number of Acts of Parliament. This august House is currently considering legislation on whistle-blower and witness protection which will mean additional responsibilities once these laws are passed.

Honourable Chairperson, I can assure Honourable Members of this august House that the money allocated to the Ministry will be well spent. I am pleased to inform Honourable Members that for three consecutive years, the Ministry obtained unqualified audits.

I now seek the indulgence of this august House to approve the allocation totaling **N\$423,429,000 (Four Hundred and Twenty-Three Million, Four Hundred and Twenty-Nine Thousand Namibia Dollars)** for Vote 16.

Of this total allocation, an amount of N\$242,530,000 (**Two Hundred and Forty-Two Million, Five Hundred and Thirty Thousand Namibia Dollars**) is earmarked for the Operational budget, while the remaining N\$180,920,000 (**One Hundred and Eighty Million, Nine Hundred and Twenty Thousand Namibia Dollars**) is earmarked for the Development Budget.

I Thank You.