REPUBLIC OF NAMIBIA

BUDGET SPEECH BY THE HONOURABLE DR ALBERT KAWANA, MP, MINISTER OF JUSTICE, NATIONAL ASSEMBLY,

VOTE 16,

MINISTRY OF JUSTICE

29 MARCH 2016 **NATIONAL ASSEMBLY**

Honourable Chairperson of the Whole House Committee, I rise with honour and humility to motivate 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. Honourable Members are kindly invited to consult these reports. 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. The Programmes under Vote 16 have been reduced so that the Office of the Judiciary can have its stand-alone Vote. This is part of the ongoing reforms aimed at achieving the autonomy of the Judiciary. In line with the Third Constitutional Amendment of 2014, the Judiciary is now a self-accounting entity.

Honourable Chairperson,

Honourable Members,

In addition to the Accountability report referred to above, I will also table an Annual report that 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$60,414,000 (Sixty Million, Four Hundred and Fourteen Thousand Namibia Dollars).**

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

- rendering financial assistance and administrative support to community courts;
- legal representation of indigent persons; and
- management of deceased estates, insolvencies, trusts and Guardian's Fund.

Honourable Chairperson,

Honourable Members,

The introduction of Community Courts has significantly reduced the workload in the district Courts as an alternative avenue to resolve disputes.

I have engaged our Traditional Authorities and will continue with consultations so that we improve the administration of justice at Community Courts level.

The Directorate of Legal Aid continues to promote access to justice on the basis of equal opportunity by making it possible for indigent persons to be provided with the services of lawyers through the provision of free legal aid in defined cases. This is a constitutional requirement under Article 95 (h) of the Namibian Constitution, as well as the Legal Aid Act of 1990, which establishes a legal aid scheme.

The Directorate of Legal Aid is responsible for financing the cost of legal representation in over 80% of criminal trials in the High court, Regional Court and Magistrate's courts. In terms of the Act, the Director provides legal Aid 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. I further wish to inform Honourable Members that this Directorate will play a major role in combating domestic violence and enforcing the implementation of the Maintenance Act.

If funds are made available, a specialized unit will be created so that indigent victims of domestic violence could take civil action against perpetrators. In addition, civil action could be taken against maintenance defaulters.

Another sub – Programme covered under Programme 01 is the management of deceased estates, insolvencies, trusts and Guardian's Fund. The Master of the High Court is required by statute to supervise the administration of deceased estates, liquidation of insolvent estates, registration of trusts, appointment of and administration pertaining to tutors and curators, and the administration of the Guardian's Fund in respect of minors and mentally challenged persons.

The value of the Guardian's Fund has increased from less than three hundred million Namibia Dollars during the 1990s to **One Billion, Four Hundred and Thirty - One Million, Four Hundred and Thirty Thousand, Nine Hundred and Sixty - Four Namibia Dollars and Seventy - Three Cents (N$1,431,430,964.73) in 2015/2016 financial year.** All funded vacant positions in the Guardian's Fund were filled during the year, which enabled the Master's office to reduce the cycle time of payments from five days to two days.

The Directorate of the Master of the High Court commenced with the development of an integrated financial and case management system during 2015/2016 financial year to facilitate the speedy finalization of deceased estates, protect information and ensure daily reconciliation of Guardian's Fund accounts. The development of the system is almost complete and will be launched during July this year.

The Directorate intends to focus on the review of the Administration of Estates Act of 1965 (as amended), the Trust Monies Protection Act of 1934 and the implementation of the Integrated Financial and Case Management System during the 2016/2017 financial year.

Programme 02: - Legal services – this Programme has been allocated an amount of N$38,087,000 (**Thirty-Eight Million, Eighty-Seven 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 such as extradition and mutual legal assistance.

The mandate of the Directorate: Legislative Drafting 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.

A severe shortage of experienced legislative drafters is an unfortunate reality. The Directorate consists of 16 legislative drafters with only 4 experienced drafters, who have to work on Bills as well as supervise the work of junior drafters and provide in-house training.

Legislative Drafting is a very scarce and specialized skill not only in Namibia but the world over. To make matters worse, there are insufficient incentives to recruit and retain experienced legislative drafters. The Directorate experiences a huge loss when an experienced drafter resigns as 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. Allow me, Honourable Chairperson, while on this point to express my appreciation and gratitude to the Right Honourable Prime Minister and the Public Service Commission for creating more posts at this Directorate. Unfortunately, due to budgetary constraints, the posts are not funded.

Honourable Chairperson,

Honourable Members,

During 2015/2016 financial year, the Directorate of Legislative Drafting received **35** Bills of which **17** were completed for consideration by Parliament. The Directorate also received the following subsidiary legislation and administrative notices:

- **30** Proclamations, which were completed;
- **45** Regulations, of which **37** were completed;
- **220** Government Notices, of which **211** were completed; and
- **12** General Notices of which **7** were completed.

Due to the high demand from Offices, Ministries and Agencies, the Directorate is expected to finalize about 48 bills this year. This will be challenging given the fact that there are only 4 experienced and skilled legislative drafters in the Ministry.

The last sub programme is the Law Reform and Development Commission. Given Namibia's colonial past, law reform plays an important role in the reform of our laws.

There are a number of projects which are currently being handled by the Law Reform and Development Commission. Some of the projects are being coordinated with the Office of the Prime Minister such as the New Equitable Economic Empowerment Framework (NEEEF). Other projects are: the Family Law Project which will, ***inter alia***, deal with divorce and marriages north of the

Veterinary Condon Fence; Torture Project; Review of National Disability Policy Project; Review of Insolvency Project; Laws Inhibiting Economic Development Project, to mention but a few.

In order to successfully complete such projects, human resources will be critical. Against this background, I once again extend my appreciation and gratitude to the Right Honourable Prime Minister and the Public Service Commission for approving the creation of additional posts at this Directorate. Unfortunately, due to financial constraints, the posts have not been budgeted for. We, however, commit and rededicate ourselves to continue keeping the Namibian laws relevant and responding to the needs of the Namibian people.

Honourable Chairperson,
Honourable Members,

Allow me to turn to **Programme 03: - Promotion of good governance** – This Progamme has been allocated an amount of N$16,527,000 **(Sixteen Million, Five Hundred and Twenty-Seven 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 of the Office are the investigation of complaints relating to maladministration, human rights violations, misappropriation of public funds and the over-utilization of the natural resources of our country.

The Ombudsman has three (3) regional offices at Ongwediva, Keetmanshoop and Swakopmund. A further two regional offices are planned to be opened at Rundu and Otjiwarongo as soon as office space becomes available.

The Office of the Ombudsman is also the accredited National Human Rights Institution, and as such, the human rights mandate is receiving special attention especially with the expansion of the staff structure which now includes a dedicated human rights division headed by a children's advocate. This division is responsible for the school outreach programme for children and successfully managed visits to a number of schools in Namibia, reaching 11,690 children.

During the 2015/2016 financial year, the Ombudsman embarked on a torture prevention training programme for police officials. An information campaign aimed at the general public sensitizing them to the illegality of torture and how to report it was also carried out.

Some of the major planned activities for 2016/2017 financial year include the following:

- **Extended complaint intake clinics by Windhoek head office as well as Keetmanshoop, Oshakati and Swakopmund regional offices;**

- **Continuation of the National Human Rights Action Plan; and**

- **Public education campaign on racism and discrimination**

Honourable Chairperson,

Honourable Members,

Programme 04: - Supervision, Coordination and Support services - has been allocated an amount of N$185,726,000 **(One Hundred and Eighty-Five Million, Seven Hundred and Twenty-Six Thousand Namibia Dollars).** The main function of this programme is to provide administrative and technical support to ministerial programmes and to ensure proper financial management, gender mainstreaming and capacity building.

During the 2014/2015 financial year, the following capital projects were executed: Upgrading of Magistrate's Courts at Outapi in the Omusati region and Eenhana in the Ohangwena region. The construction of a new Magistrate's Court at Katima Mulilo in the Zambezi Region has already commenced.

Feasibility studies were carried out to upgrade existing Magistrate's Courts in various regions of our country. However, due to limited financial resources, first priority will be given to Omuthiya, and Nkurenkuru being new regional capitals.