



REPUBLIC OF NAMIBIA

**INTRODUCTION OF VOTE 16, MINISTRY OF JUSTICE IN THE
NATIONAL ASSEMBLY**

BY

THE MINISTER OF JUSTICE

HONOURABLE YVONNE DAUSAB, MP

3 April 2023

***Honourable Chairperson of the Whole House Committee,
Honourable Members,***

1. It is with great honour that I rise to present Vote 16 for the Ministry of Justice for the 2023/2024 fiscal year to this August House. First, allow me to recognise the excellent work done by the Honourable Minister of Finance and his dedicated team. It is true that money is not the solution to all our problems particularly in the public sector, however, it is equally true that most projects require funding to effect change in the lives of the Namibian citizens we have sworn to serve. I therefore thank the Honourable Minister of Finance for the additional allocations towards the Community Courts, legal costs, and the operationalisation of the Witness Protection Act, 2017.
2. The Ministry of Justice is the only Ministry whose core mandate is featured on the Coat of Arms of the Republic of Namibia, making it a significant part of Namibia's identity. Article 1 of the Namibian Constitution establishes the Republic of Namibia as a sovereign, secular, democratic and unitary State, founded upon the principles of democracy, the rule of law and justice for all. The Universal understanding is that justice must guide our human interaction to ensure that all aspects of our human activities are based on reasonableness and fairness. Justice is the bedrock of a society governed by the rule of law and the anchor of a constitutional democracy.

***Honourable Chairperson,
Honourable Members,***

3. The Harambee Prosperity Plan II contains the Pillar of Effective Governance. This pillar seeks to enhance accountability and transparency, strengthen national anti-corruption mechanisms, improve performance and service delivery, and uphold security and the rule of law. The pillar provides the Ministry of Justice with a well-defined performance framework to guide its activities and operations.
4. The key performance and delivery chart under these noble goals are intended to achieve and execute five (5) goals and twenty-two (22) activities and the MOJ has a clear role to play in three goals namely:

–To be checked against delivery–

Goal 1: Accountability and Transparency.

Goal 3: Improved Performance and Service Delivery.

Goal 5: Enhancing Security and Rule of law.

5. The Ministry of Justice is guided by four strategic pillars that dictate its program of work and areas of performance, these are: the administration of justice, provision of legal services, promotion of good governance, and supervision and support services.

***Honourable Chairperson,
Honourable Members,***

6. In addition to its core mandate, the Ministry of Justice has the responsibility of supervising development projects for the Office of the Judiciary as per the Judiciary Act, 2015 (Act No. 11 of 2015) within the confines of allocated funding.
7. In this regard, I inform this August House that the Ministry will construct a Gender-based Violence specialised court in Keetmanshoop, and courts structures in Okahao and Hoachanas within this financial year, amongst other ongoing projects.
8. The Katima Mulilo Magistrate's court project has been the subject of an ongoing dispute resolution process between the Ministry of Justice and the contractor who was appointed for the project. That dispute was subjected to arbitration, which has since failed. The matter will now be taken to the High Court for an application to restore the possession of the building to the Ministry of Justice to complete the project. This is done with the intention to have that building occupied by its intended users as a matter of urgency.
9. The Office of the Judiciary remains independent with its own accounting officer for Vote 21 which I will introduce separately.
10. The Ministry of Justice also manages and administers payments and expenses for the Attorney-General (AG), the Prosecutor-General (PG), and the Ombudsman.

–To be checked against delivery–

The Ministry of Justice has no bearing on the functions of these independent offices and its role in the operations of these offices is administrative and supportive.

11. I further inform that funding for the operationalisation of the Witness Protection Act, 2017 (Act No. 11 of 2017) and the Whistleblower Protection Act, 2017 (Act No. 10 of 2017) is intended for appropriation in the proposed budget.
12. The staff structures and related administrative arrangements have been prepared and will be put in place to implement these crucial pieces of legislation in this financial year. Implementation of these laws have been prioritised and will be done in a phased manner. For the 2023/24 period, the appointments of key positions will be completed and official accommodation will be provided. Training of these newly appointed officials is scheduled for this financial period as well.
13. The implementation of these Acts are cost-intensive and the Ministry will ensure that funds are allocated prudently to ensure the operationalisation of the legislation.
14. Witness and whistleblower protection will positively impact on the successful prosecution of criminal cases in Namibia. The implementation of this legislation will further improve Namibia's efforts to combat corruption, money laundering and other serious offences, with a view to enhance good governance across the public and private sector.
15. There is also an allocation to the activities of the Minister and the Attorney-General to provide policy oversight and legal advice respectfully, within the overall paradigm of administration of justice throughout the country. The **allocation of N\$ 3,129,000** (Three Million One Hundred and Twenty-Nine Thousand) caters for the Office of the Minister and the Attorney-General as the principals tasked to oversee all legislative and legal affairs for and on behalf of the Government of the Republic of Namibia. The allocation will further go towards the facilitation of Ministerial affairs to ensure the implementation of policy and operational objectives.

I will now summarise the allocations for the directorates:

–To be checked against delivery–

16. DIRECTORATE: LEGAL AID

The Directorate of Legal Aid is allocated a total of N\$ 59,353,000.00 (Fifty-Nine Million, Three Hundred and Fifty-Three Thousand).

- 16.1 The Directorate of Legal Aid is an essential component of the mandate to provide legal services to the Namibian people. Premised on the implementation of Article 12 and 95 of the Namibian Constitution and the Legal Aid Act of 1990, (Act 29 of 1990), as amended., the mandate of this Directorate is to ensure access to justice by providing legal aid to indigent members of our society.
- 16.2 Legal Aid entails the provision of legal advice and legal representation to persons with insufficient means to do so themselves at the expense of the State upon successful application.
- 16.3 The execution of this crucial mandate ensures that the most vulnerable members of society and those acutely impacted by unemployment have access to justice and adequate legal representation.
- 16.4 The work of this directorate speaks directly to our duty to the Namibian people in terms of our Constitution, and it is therefore important that we ensure the effective and efficient operations of its systems and processes.
- 16.5 In the previous financial year, the Directorate acquired and implemented a case management system to streamline its internal processes, which includes processing of applications and their storage.
- 16.6 The case management system has also improved communication between the Directorate and its clients, particularly through the SMS notifications on the outcome of the application process.
- 16.7 We have however realised that our legal aid clients do not always understand the reasons for the decline of their applications and as a result they become agitated.
- 16.8 The Ministry will henceforth provide comprehensive reasons for any decline of an application and we endeavour to do so in layman's terms to ensure that our clients

–To be checked against delivery–

understand what we are talking about. We are currently running a fully fledged and very successful internship programme for law graduates in the Ministry and we will make use of this extra capacity to enhance the delivery of service in this regard.

- 16.9 The Directorate: Legal Aid is challenged by the inadequate structures which stifles professional growth within the Directorate. Increased number of applications place a high burden on the relatively small staff complement and directly affects speedy trials for clients. The geographical distances and lack of transport also impacts on the work of the legal aid legal officers.
- 16.10 The additional allocation for legal costs will contribute to alleviating the burden on the legal aid lawyers through the representation of clients by private lawyers at the cost of Government. However, we are aware that the outsourcing of complex cases, especially in civil matters, has proven to be unsustainable and efforts are underway to reform the scheme, which should be more sustainable in the long run.
- 16.11 The Ministry regularly receives complaints by clients that the lawyers instructed through outsourcing are not acting in their best interest. In this regard, the Ministry has put quality assurance measures in place to ensure that our clients' interests are safeguarded and also that the Ministry receives value for the funds spent on outsourcing.
- 16.12 In the meantime, budgetary allocations have been made for necessary advocacy training for legal aid lawyers to capacitate them in providing quality and efficient legal representation to indigent persons and persons in vulnerable situations.
- 16.13 We recognise that we are not able to assist more people and are thinking of other avenues to increase the pool of resources for legal representation, including getting the independent legal profession involved.

–To be checked against delivery–

*Honourable Chairperson,
Honourable Members,*

17. LEGISLATIVE DRAFTING

The Directorate of Legislative Drafting is allocated a total of N\$ 18,102,000.00 (Eighteen Million, One Hundred and Two Thousand).

- 17.1 The Directorate: Legislative Drafting provides legislative drafting services and publication services on all Bills, Statutory Instruments, Publications in the Government Gazette and the relevant advisory function to all Offices, Ministries, Agencies, Local Authority and Regional Councils, Public Owned Enterprises, other statutory bodies, and the public.
- 17.2 Given the extent of its clientele, the Directorate is inundated with drafting legislation, notices, and proclamations most of which tend to be at the same level of priority for the various Offices, Ministries, and Agencies (OMA's). The Directorate's work is negatively impacted by the lack of adequate policy instructions and policy documents from the OMA's. To improve client engagement and the quality of instructions to fast-track delivery, OMA's must ensure that all legislative or statutory instructions stem from a comprehensive policy document to guide the legislative drafting process. A proposal in this regard was submitted to Cabinet, which was approved in principle.
- 17.3 Legislative Drafting is a highly specialised field of law, and not a popular one at that, therefore only a handful of lawyers go through the lengthy on-the-job training to become qualified and competent legislative drafters. The allocated funds will cover activities of the Directorate relating to training and capacity building for drafters, the recruitment of additional staff and related induction.
- 17.4 Further, in an effort to enhance output and address delays, the Directorate is in the final stages of drafting a Drafting Manual to create a reference guide for Drafters and additionally achieve uniformity in legislative drafting.

–To be checked against delivery–

*Honourable Chairperson,
Honourable Members,*

18. DIRECTORATE: MASTER OF THE HIGH COURT

The Directorate: Master of the High Court is allocated a total of N\$ 21,897,000.00 (Twenty-One Million, Eight Hundred and Ninety-Seven Thousand).

- 18.1 I now move to the Directorate: Master of the High Court which is required by statute to supervise the administration of deceased estates, liquidations (insolvent estates) registration of trusts, appointments of administrators pertaining to tutors and curators, and the administration of the Guardians Fund (in respect of minors and persons with mental disabilities).
- 18.2 The mandate of this Directorate has a profound effect on the lives of those in the most dire of situations in our society and feedback from members of the public indicates we have a long way to go in providing adequate and quality service to the public.
- 18.3 The Ministry acknowledges that we have to address, as a matter of urgency, the inordinate delays that are often experienced in services delivered by the Master of the High Court.
- 18.4 Areas of concern involve the finalisation of deceased estates and payment of allowances by the Guardians Fund. Too many delays are caused because of non-adherence to prescribed timelines as well as poor communication between officials and executors or agents appointed to administer the estates on behalf of the executors.
- 18.5 The ethical conduct of agents appointed by the Master's office is also under scrutiny as more and more cases of dishonesty, mishandling of estate assets and general disregard for the heirs' interests are reported. The stakeholders involved in addressing this concern will soon be called together to address issues of concern and to find solutions thereto.

–To be checked against delivery–

- 18.6 Customer care at the Master's office is a big concern that the Ministry will address in an ongoing manner through training, which includes emotional intelligence training of front line staff.
- 18.7 All of the above will require the prudent spending of allocated funds to this directorate to enable it to execute its mandate at a higher level than is currently the case.
- 18.8 The operations of the Master of the High Court have improved in many ways including in the processing of applications and the progress made in the digitalisation of its records.
- 18.9 The Directorate also carried out public education interventions aimed at providing the necessary information to clients and the nation at large on the mandate, functions and operations of Master of the High court.
- 18.10 In many parts of the country, people are not informed on the adequate preparations for retirement and the significance of drafting last Wills and Testaments as a vital part of estate planning, hence the need for increase public information campaigns.
- 18.11 The Directorate conducted a country-wide assessment to determine which catchment areas had most of its clients. The purpose of this exercise is to inform plans on the overdue decentralisation of services of the Directorate to other parts of Namibia beyond Windhoek and Oshakati.
- 18.12 In relation to the appointment of liquidators, the Ministry has recently started inquiring into the possible succession plans for eligible candidates to take over from the few experienced liquidators in Namibia. This is a matter of concern that is becoming imminent and to which we have to find a solution in order to avoid a catastrophe in insolvencies where we don't have enough qualified liquidators.
- 18.13 There is also an increased call for this profession to be opened up to a bigger pool of eligible candidates and to ensure that the appointment of liquidators is

–To be checked against delivery–

transparent. We therefore invite stakeholders to participate in discussions that will be conducted in this regard, in the near future.

19. OFFICE OF THE OMBUDSMAN

The Office of the Ombudsman is allocated a total of N\$ 21,807,000.00 (Twenty-One Million, Eight Hundred and Seven Thousand).

- 19.1 The Office of the Ombudsman is tasked with the implementation of the Namibian Constitution and the Ombudsman Act, 1990 (Act No. 7 of 1990). The Ombudsman bears the constitutional duty to safeguard human rights and perform functions under Article 91 of the Namibian Constitution.
- 19.2 These include investigations into alleged human rights violations, and the over-utilisation of natural resources.
- 19.3 The Office of the Ombudsman is independent in its operations, with the Ministry of Justice serving as administrative support.
- 19.4 The Ombudsman Bill was approved by the Cabinet Committee on Legislation and was certified by the legislative drafters and handed over to the Attorney General for certification.
- 19.5 The proposed legislation, once approved and funding is provided, will gradually see the extrication of that office from the Ministry of Justice. This will enhance the independence of the Ombudsman and align it with the Paris Principles on the National Human Rights Institutions which set out the minimum standards that the Ombudsman must meet to be considered credible and to operate effectively.
- 19.6 The allocations to the Office of the Ombudsman will further capacitate the satellite offices in Rundu, Otjiwarongo and Keetmanshoop, which aim to bring the Ombudsman closer to the people.

–To be checked against delivery–

*Honourable Chairperson,
Honourable Members,*

20 DIRECTORATE: CIVIL LITIGATION

The Directorate: Civil Litigation is allocated a total of N\$ 48,277,000.00 (Forty-Eight Million, Two Hundred and Seventy-Seven Thousand).

- 20.1 The Directorate of Civil Litigation is mandated to deal with all litigation on behalf of Government. Its mandate includes conveyancing, motor vehicle accidents, litigation, and settlement of legal claims against the State, and rendering any related legal advice.
- 20.2 The Directorate of Civil Litigation is inundated with many cases which have crippled the operations of the Directorate. The Namibian society becoming increasingly litigious and the high turnover of staff members in the Directorate are contributing factors.
- 20.3 The outsourcing of matters to private lawyers to meet court deadlines and avert delays is not sustainable because of the related high legal costs. As it stands, there is a backlog in the legal costs owed to private legal practitioners, and the additional funding for legal costs will contribute to clearing this backlog.
- 20.4 I must point out that there is an urgent need to enhance good governance, adherence to the rule of law and administrative justice across the Government sectors, as this would mitigate and prevent the increase in civil claims against the State.
- 20.5 This exercise will require multi-stakeholder coordination and training and the pooling of resources to achieve a preventative approach in all Government operations.
- 20.6 In the meantime, the Ministry is in the process of implementing a turn-around strategy to restore the effective and efficient functioning of the Directorate utilising the allocated funds.

–To be checked against delivery–

*Honourable Chairperson,
Honourable Members,*

21. DIRECTORATE: LEGAL ADVICE

The Directorate: Legal Advice is allocated a total of N\$ 33,622,000.00 (Thirty-Three Million, Six Hundred and Twenty-Two Thousand).

- 21.1 As I indicated earlier, the Ministry of Justice provides administrative services to the Attorney-General and the Directorate of Legal Advice serves under that portfolio of providing legal advice to the President and all OMA's.
- 21.2 The Directorate is also required to negotiate legal agreements, treaties and policies and serve on various negotiating committees on behalf of Government.
- 21.3 The Directorate's mandate is daunting and extremely demanding, and though the structure of this Directorate makes adequate provision for the recruitment of sufficient staff members, majority of these positions are not funded.
- 21.4 The structure has a total of ninety-nine (99) legal officer positions, but only twenty-eight (28) are filled due to financial constraints. This challenge is compounded by the high staff turnover experienced over the last financial year, leading to great delays in the provision of legal advice.
- 21.5 Efforts to capacitate the Directorate are underway to improve service delivery and ease the burden on staff members.
- 21.6 The allocated funds will allow the Directorate to assist OMA's with legal advice, including negotiations and representation at national, regional, and international levels.
- 21.7 The Directorate is currently busy with the review of all Government Support Agreements for the development of the legal framework for the Green Hydrogen Project, and the finalisation of the Air Namibia liquidation process.

–To be checked against delivery–

*Honourable Chairperson,
Honourable Members,*

22. DIRECTORATE: LEGAL SERVICES

The Directorate: Legal Services is allocated a total of N\$ 32,695,000.00 (Thirty-Two Million, Six Hundred and Ninety-Five Thousand).

- 22.1 The Directorate of Legal Services is mandated to provide domestic and international legal services emanating from various legal agreements.
- 22.2 The activities of the Directorate include the handling of extradition requests, facilitation of state reports to international human rights bodies, and handling of Mutual Legal Assistance in criminal and civil matters.
- 22.3 The Directorate is working with the Office of the Prosecutor-General to facilitate collection of evidence from Iceland in the fishing quotas corruption case and the related extradition of suspects.
- 22.4 The Directorate is also charged with maintenance matters and support provided to Community Courts. The Directorate successfully enforced Maintenance Court Orders resulting in the collection of N\$ 13 484 907.63 (Thirteen Million, Four Hundred and Eighty-Four Thousand, Nine Hundred and Seven Namibian Dollars and Sixty-Three Cents) which was paid over to the beneficiaries.
- 22.5 I must emphasise the importance of implementing the Maintenance Act, particularly as it relates to the care and support of children and minors. However, a challenge remains with the lack of maintenance officers at every Magistrates Court across the country.
- 22.6 The administration of Community Courts is crucial to the implementation of Articles 12, 19 and 66 of the Namibian Constitution. The Community Courts are an important vehicle aimed at improving access to justice and to alleviate the burden on the Magistrate's Courts.

-To be checked against delivery-

22.7 The increased allocation of funds to these courts is intended to gradually enhance the achievement of this goal. For a long time, Community Courts have been operating with inadequate resources impacting on access to justice at community level. Community courts have a restorative justice approach and are often preferred, and must therefore be supported.

22.8 The Honourable Minister of Finance has heeded to our call for additional support and the additional allocation will go towards improving the operations of the Community Courts.

*Honourable Chairperson,
Honourable Members,*

23. DIRECTORATE: LAW REFORM

The Directorate: Law Reform is allocated a total of N\$ 9,772,000.00 (Nine Million, Seven Hundred and Seventy-Two Thousand).

23.1 The Directorate Law Reform is tasked to conduct research and to make recommendations for the reform and development of Namibian laws, and serve as secretariat to the statutory Law Reform and Development Commission (LRDC).

23.2 The Directorate has been able to finalise a number of reports during the past financial year, including the reports on the proposed sexual offenders register and the possible introduction of compulsory pro bono services to rendered by legal practitioners. Both these discussions are still under consideration and being consulted for possible future implementation.

23.3 The researchers in this Directorate do extensive research on topics informing policies and proposed reform of laws and need to conduct education and public consultations on the projects.

23.4 The funds allocated to this division will provide for the recruitment of additional qualified researchers and to conduct the necessary public consultations to inform

–To be checked against delivery–

the proposals for law reform. Public participation in the legal reform process is cardinal to develop people centred and responsive laws for the betterment of all.

23.5 Legislative reforms to address a more cost-effective Law Reform and Development Commission are underway and consultations in this regard will start soon.

*Honourable Chairperson of the Whole House Committee,
Honourable Members,*

I now seek the indulgence of this August House to approve the allocation **totalling N\$ 599,430,000 (Five Hundred and Ninety-Nine Million, Four Hundred and Thirty Thousand Namibia Dollars)**. The full allocation sheet and relevant statistics are attached in the annexure for ease of reference.

I thank you.

- End. -

-To be checked against delivery-