



MINISTRY OF JUSTICE
REPUBLIC OF NAMIBIA

Annual Report Draft 2017/2018 Financial Year

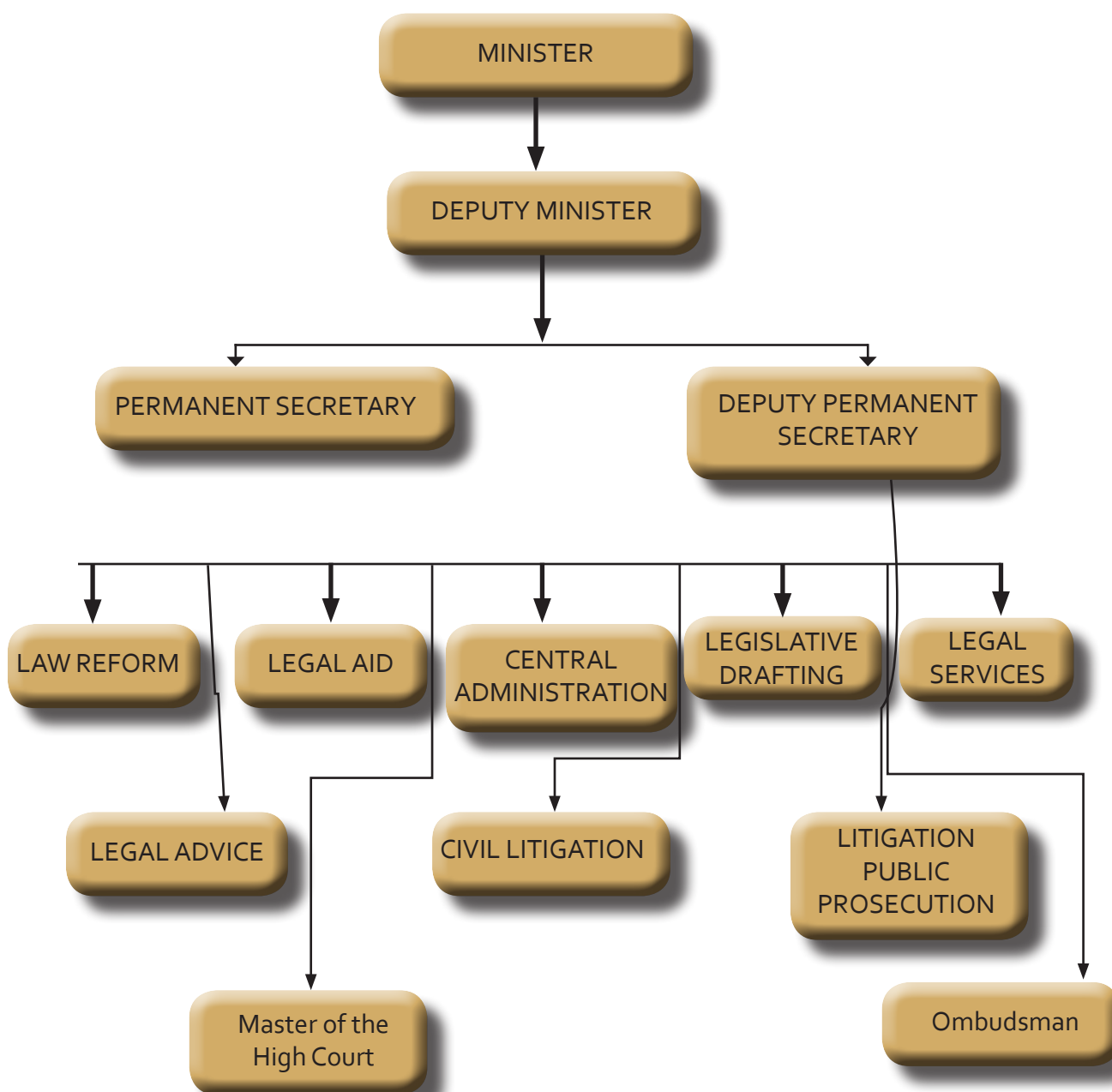


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MINISTERIAL STRUCTURE





FOREWORD

MINISTER OF JUSTICE

In keeping with the values of accountability, transparency and desire to keep the nation and all stakeholders informed, the Ministry of Justice is delighted to present its Annual Report for the 2017/2018 financial year.

The period under review was characterized by a heavy schedule of activities for me as Minister and the Deputy Minister, as well as all officials in the Ministry of Justice. It was a time during which our national economy was negatively affected by the global economic crisis which seriously impacted on the delivery of services by the Ministry.

However, I am proud to inform all Namibians that despite the challenges, we have risen to the occasion and achieved milestone successes in a number of areas.

We have implemented a number of capital projects that have made enormous contribution to the betterment of the working and of the living conditions of our staff members and our citizens. Despite some successes, much still needs to be done and we will continue to deliver in our mandate.

I am pleased to reaffirm that the Ministry of Justice will work harder to implement our stated policies, in line with the realization of vision 2030 and implement the Harambee Prosperity Plan so that we can enhance the socio-economic development of our country.

As we strive to remain true to our Vision and Mission, the Ministry will continue to promote and maintain effective administration of justice and enhance transparency, accountability and good governance.

Hon. Dr. Albert Kawana, (MP) Minister of Justice

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Hon. Dr. Albert Kawana, (MP) Minister of Justice



INTRODUCTORY REMARKS

PERMANENT SECRETARY

I am delighted to present to you this report, which covers activities of the Ministry of Justice during the 2017/18 financial year. The Ministry is mandated to carry out various functions on behalf of government in order to achieve its national developmental goals. During the period under review, the Ministry experienced serious budget cuts which resulted in some of the projects not being executed. However, with the limited resources, the Ministry has been consistent in the implementation of the Procurement Act, 2015 (Act No. 15 of 2015). All Committees were in place on time and all provisions of this Act are strictly adhered to.

Performance Management System has been at the fore front of the Ministry's priorities to enhance service delivery. The Ministry has effectively implemented PMS by assessing 91% of the staff on the establishment during the period under review. The Ministry contributes to E-Governance and has implemented a Case Management System for most legal directorates. The Ministry also implemented an Electronic Case Management System for the Master of the High Court, which empowers all clients to have online access to the services in order to avoid travelling long distances and to curb delays and increase transparency.

Capacity building is one core area that the Ministry recognises to ensure improved performance among its staff members. Thus, various training interventions were undertaken during the period under review to close gaps that hinders good performance. Such interventions were realised with the assistance of both in-house training and outside training providers.

Access to information is one core area that Government recognise for its citizens to be informed. Information sharing allows citizens to improve their well-being and be productive citizens. It enables citizens be aware of their rights and responsibilities. It also provides an opportunity for life-long learning. Information is an incredible asset in developing countries like Namibia to build a knowledge based economy, become competitive, provide education, govern fairly, and enhance overall public quality of life. Thus they will be able to make informed decisions that can positively improve their lives. It is with pleasure to note that the Ministry has contributed to this by making information accessible through its website and social network platforms, e.g, Facebook and Twitter.

The Ministry encountered various challenges during the period under review but it is worth noting that challenges are part and parcel of any journey undertaken. But through determination and perseverance, challenges can be overcome. Therefore, the Ministry will continue striving for the better through the current economic hardships the country as a whole is facing.

“

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Mr I.V.K Ndjoze Permanent Secretary, Ministry of Justice



ABBREVIATIONS



OFFICE OF THE MINISTER

DIRECTORATE: CENTRAL ADMINISTRATION

"The Directorate has been consistent in the implementation of the Procurement Act, 2015 (Act No. 15 of 2015). All Committees were in place on time and all provisions of this Act are strictly adhered to."



1. Mandate

The mandate of the Directorate Central Administration is to provide various administrative support services to the rest of the Ministry of Justice and to the Office of the Attorney-General in terms of its strategic objective "To ensure an enabling environment and high performance culture."



2. Successes

In order to restore confidence and trust in the public procurement regime, the Directorate has been consistent in the implementation of the Procurement Act, 2015 (Act No. 15 of 2015). All Committees were in place on time and all provisions of this Act are strictly adhered to.

The Directorate has effectively implemented the Performance Management System, by assessing 91% of the staff members during the period in question.



An Internal Audit Division is fully functional and regular audits are conducted with follow-ups on implementation of recommendations.

The Ministry appointed an Audit Committee. It is composed of representatives from the following institutions.....

The Ministry contributes to E-Governance and has implemented a Case Management System for most legal directorates. The Ministry also implemented an Electronic Case Management System for the Master of the High Court, which enables all clients to have online access to the services in order to avoid travelling long distances and to curb delays and increase transparency.

The Directorate also contributed to Government's online presence by developing and updating the Ministry's website on a regular basis and the Ministry's social media platforms such as twitter and Facebook.

The implementation of the Exchange e-mail system with OPM was successfully completed.

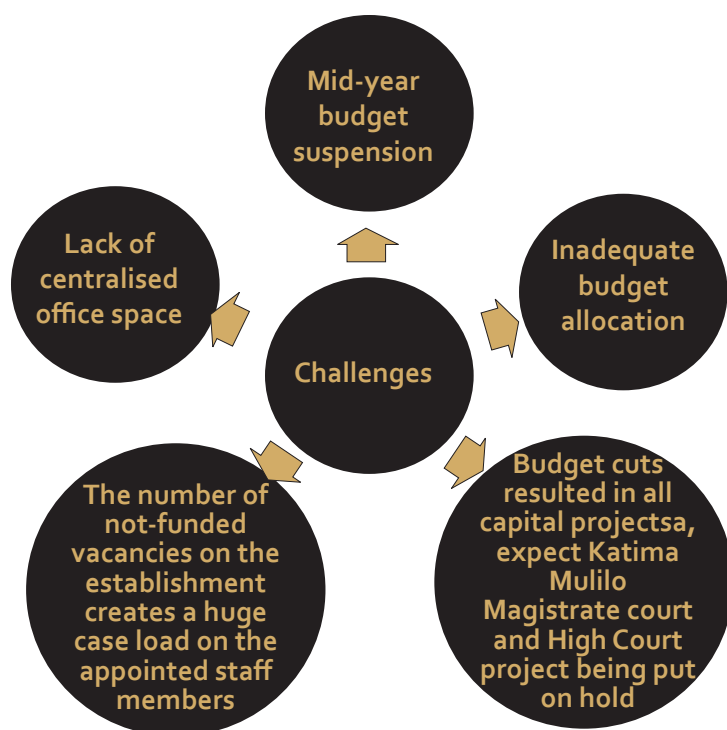
The mitigation of users to the MOJ Domain/Active Directory was successfully conducted.

New pre-fabricated court structures were constructed at Rehoboth Magistrate's Court in the Hardap Region and Helao Nafidi in the Ohangwena Region.

Alterations and additions were carried out at the High Court in Windhoek (Khomas Region). The project is expected to be practically completed in December 2018; and

The Ministry's assigned houses were renovated at Karibib (Erongo Region), Eenhana (Ohangwena Region), Opuwo (Kunene Region), Ondangwa (Oshana Region), Oshakati (Oshana Region) and Tsumeb (Oshikoto Region).

3. Challenges

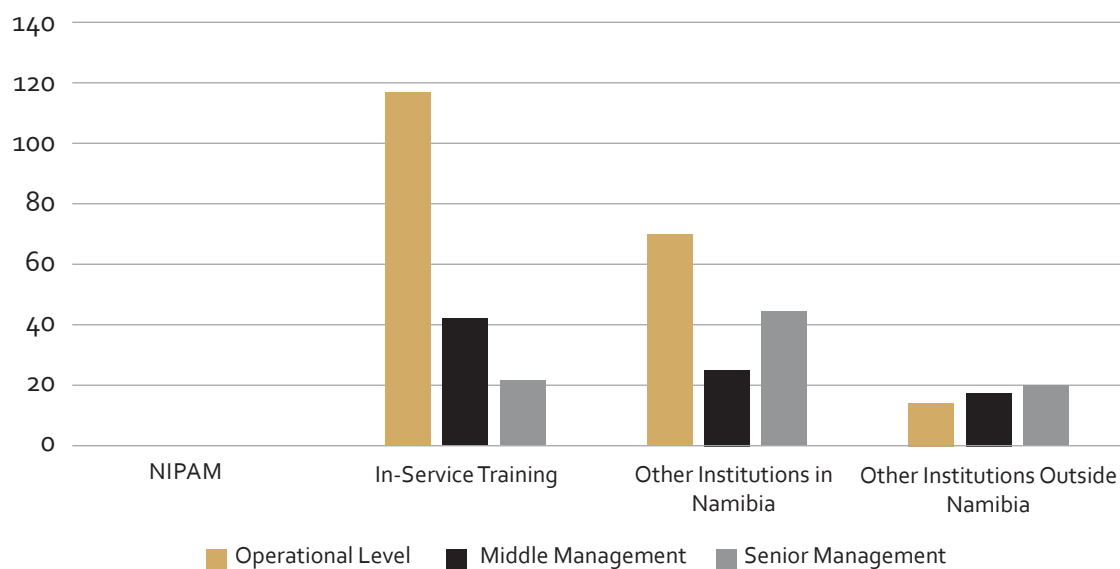




4. Training

Training and Development statistics for 2017/2018 Financial Year

MOJ & AG TRAINING SUMMARY 2017/2018

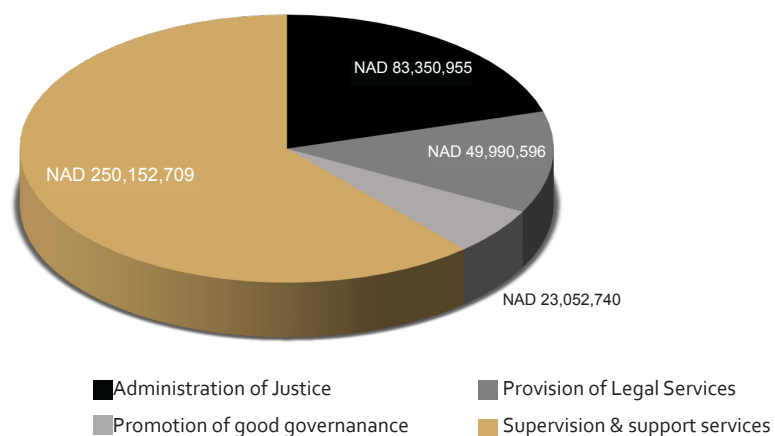


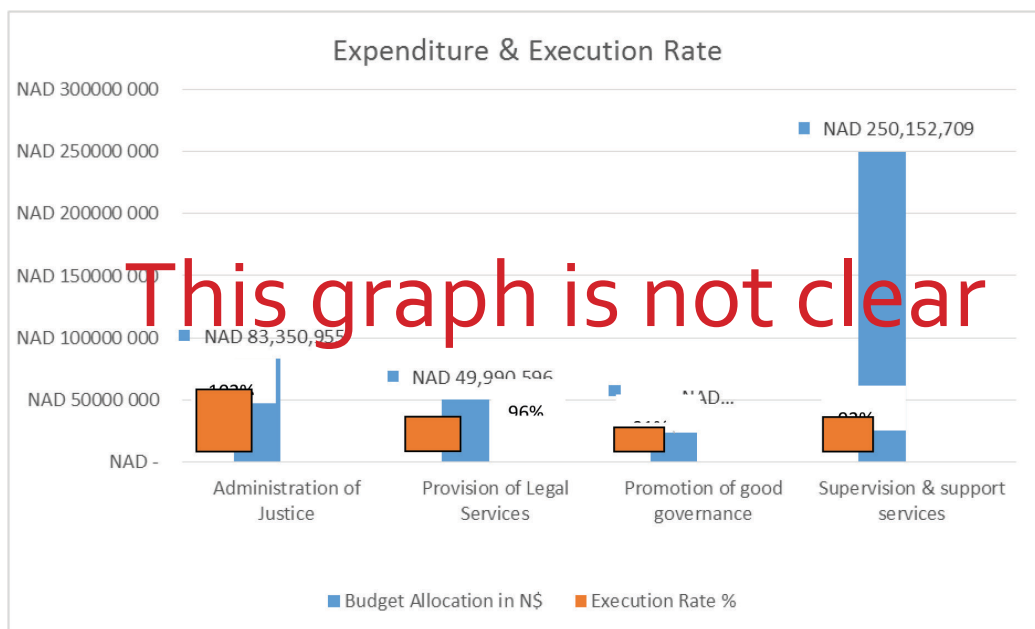
DIVISION: FINANCE AND BUDGETING

Breakdown of budget and utilization 2017/2018

Expenditure execution of Operational and Development Budget:

Budget allocation in N\$

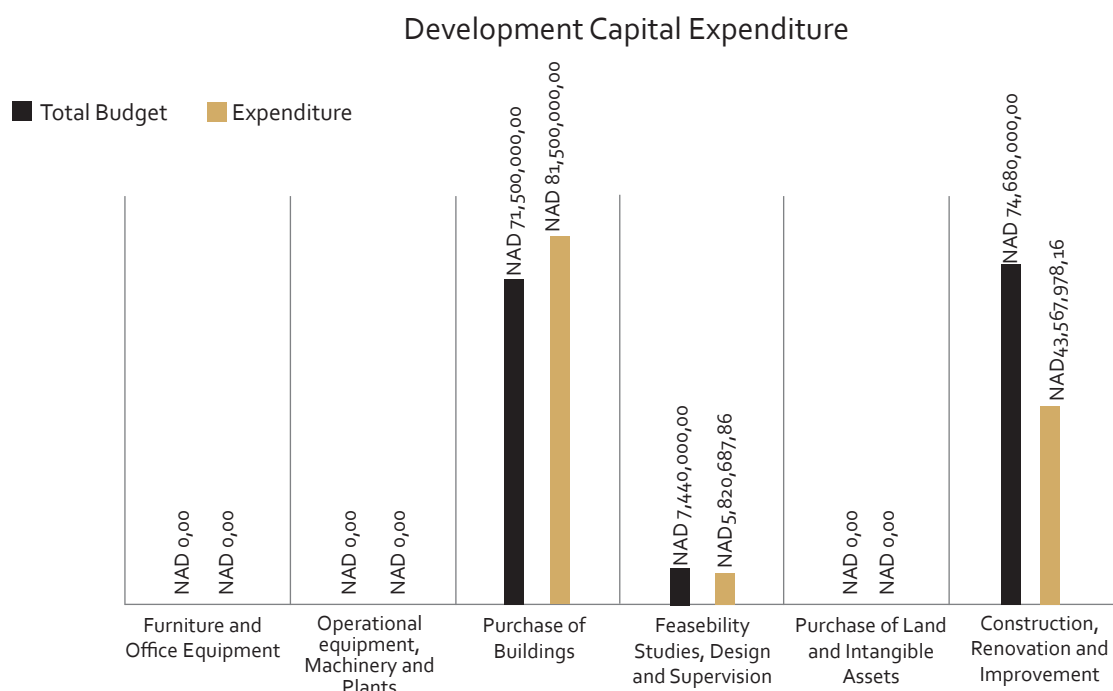




STAFFING STATUS MOJ, A-G & OMBUDSMAN BY 31 MARCH 2018

Political Office Bearer	4
Manager	19
Legal Officers	90
Administrative Staff	214
TOTAL: MEN	129
TOTAL: WOMEN	198
GRAND TOTAL	327

DIVISION: DEVELOPMENT PLANS AND FIXED ASSESTS





DIRECTORATE: LEGISLATIVE DRAFTING

1. Mandate

The Directorate: Legislative Drafting provides legislative drafting services and publication services. Under the Programme: Provision of Legal Services, the objective of the Directorate is to improve timely delivery of quality Legal Services. Our clients/customers include offices, ministries, agencies, local authorities and regional councils, state owned enterprises, other statutory bodies and the general public.

Bills: In terms of the Administrative Directive published in Government Notice No.1 of 5 February 1993, all Bills whether a new proposal for a law or an amendment to an existing law, must be scrutinised and certified by the Directorate before the Attorney-General certifies them for introduction to National Assembly.

Statutory Instruments: The Directorate scrutinises and certifies proclamations by the President, regulations and rules and administrative notices for offices, ministries and agencies as well as for Local Authority and Regional Councils, public owned enterprises and other statutory bodies, but only where a Minister is involved in the making of the regulation/rule or action to be notified.

Publications in the Government Gazette: The Directorate is also responsible for publishing legislation and notices and other legal publication in the Government Gazette. The printing of publication in the Government Gazette is done on public tender.

Advisory function: The Directorate also advises the Cabinet Committee on Legislation (CCL) in their legislative capacity.

2. Overview of Activities

From Independence in 1990 to 31 March 2018, the Directorate's Gazette Office published **574 Acts of Parliament**.

Due to the hard work of the Directorate during the reporting financial year a total of 15 laws were enacted: these are Bills which were finalised by the Directorate, passed by Parliament, assented to by the President and published in the *Gazette*. Some of the more complex pieces of legislation enacted in this financial year are; the Witness Protection Act, Whistle Blowers Protection Act, One-Stop Border Post Act, Namibia Revenue Agency Act, the Lotteries Act, Combating of Torture Act and the Combating of Trafficking in Persons Act.

“Despite the increasing demand for fast and responsive legislative drafting and publication services, and within the constraints of resources, the Directorate continues to deliver on its mandate”



3. Successes

- ❖ **Bills:** The standard is to finalise Bills within 3 months from the date of receipt of instructions. During this financial year, a total of 12 Bills were received of which 8 Bills were finalised within timeframes of 3 months. This translates to 67% against the target of 59%. During the reporting period the Directorate also cleared/finalized a backlog of 10 Bills, including the Basic Education Bill, Seeds and Seed Variety Bill, NAMFISA Bill, FIM Bill, Micro-lending Bill, Financial Adjudicator Bill, Arms and Ammunition Bill amongst others.
- ❖ **Regulations:** The standard is to finalise Proclamations within 3 days, Regulations/Rules within 90 days and Administrative Notices within 5 days. This financial year the Directorate received a total of 318 Statutory Instruments of which 142 were completed in the set timeframes. This translates to 50% against the target of 65%. Despite the timeframes, the Directorate completed 100% of proclamations and 100% of Administrative Notice clearing all backlogs for those Statutory Instruments.
- ❖ **Publications in the Gazette:** This financial year the Directorate's Gazette Office published a total of 992 instructions consisting of Acts, Statutory Instruments, Estates, Trade Marks and Advertisements amongst others.
- ❖ **Other Achievements:**
 - **Client Education:** The Directorate held two (2) client education sessions; one for 15 staff members of the Bank of Namibia and one for 7 staff of the Attorney-General's Office. The purpose of the sessions were to educate clients on the Directorate's requirements for drafting instructions.
 - **E-Governance:** The Directorate uploaded its requirements for drafting instructions and publication in the Gazette on the Ministry of Justice website.

5. Challenges

- ❖ **Shortage of experienced legislative drafters.** The fact remains that drafting is a highly specialized field and the skill of drafting can only be mastered by 7-10 years of dedicated and continuous drafting practice. Shortage of experienced drafters continues to haunt the Directorate. This financial year, a drafter with drafting experience of more than 20 years went on early retirement. Namibia also lost two private legislative drafters with more than 20 years drafting experience. In total Namibia only has 2-3 private legislative drafters with more than 15 years' drafting experience.
- ❖ **Delays:** On average clients take 2-3 months to respond to request for information or to give policy directions. Other factors include, supervision of work by more experienced drafters; the complexity of instructions; constitutionality/legality issues; contact persons often not knowledgeable in the policy to be translated into law; incomplete and unclear instructions; proofreading of work before publication; drafting of amendments on the floor from Parliament.
- ❖ **No Incentives:** Currently there are no incentives to retain and attract legislative drafters.
- ❖ **Laypersons draft Bill:** The Directorate is inundated with requests by ministries to assist them to prepare laypersons' draft Bills. (Layman's draft Bills are Bills which have not been approved by Cabinet and CCL).

6. Training

This financial year -

- Two (2) Legislative drafters successfully completed the 3 months online certificate course in Legislative



Drafting offered by University of Pretoria: South Africa.

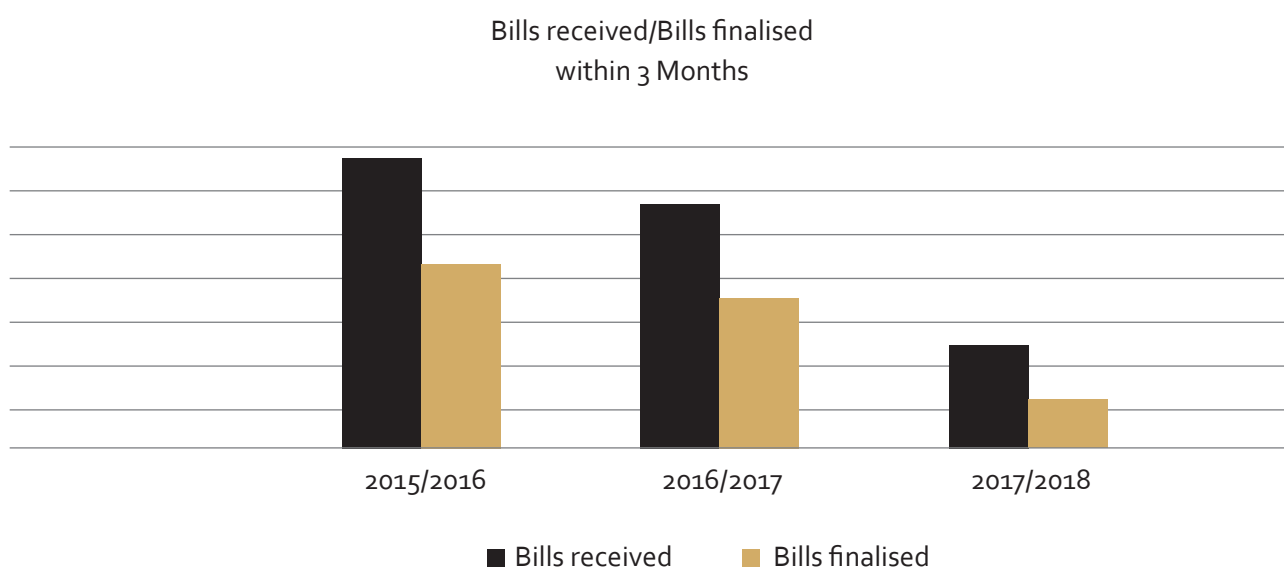
- Eight (8) Legislative Drafters received a one (1) week practical drafting training on the drafting of legislation. This training was facilitated by the drafters from the Directorate.
- Sixteen (16) Legislative Drafters received a 2 week training on Policy and Drafting of Bills.

The practical training facilitated by the Drafters from the Directorate is rated as the most effective training as it focusses on common mistakes drafters make during the drafting process. From the policy and drafting training the Directorate learnt best policy and drafting practices from the experts from South Africa, Ghana and Kenya.

7. Statistics

BILLS

In 2015/2016 the Directorate finalised 29/34 Bills which translates to 85%; in 2016/2017 it finalised 22/29 Bills which translates to 76%; and in 2017/2018 it finalised 9/12 Bills which translates to 75%. The main reason for the high performance is the fact that drafters and gazette staff worked after hours to meet the increasing demand for drafting and publication services. The major factors which impacted perfor



STATUTORY INSTRUMENTS

Despite the set timeframes the Directorate achieved a 100% completion for Proclamations and Administrative Notices, during this financial year.



Subordinate legislative measure	Received 2017/2018	Finalised Within Timeframe 2017/2018	Finalised 2017/2018
Regulations/Rules	65	29	45
Proclamations	19	12	19
Administrative Notices	234	101	234
TOTAL	318	142	298

PUBLICATIONS IN THE GAZETTE

The Directorate's Gazette Office published 992 instructions in this financial year.

PUBLICATIONS 2017/2018	NUMBER OF PUBLICATIONS
Acts	15
Proclamations	30
Government Notices	331
General Notices	531
Air Services	10
Road Carrier Permits	11
Trade Marks	12
Estates	52
TOTAL PUBLICATIONS	992



DIRECTORATE: LEGAL AID

1. MANDATE

The Directorate of Legal Aid provides legal aid to indigent persons at State expense. The Directorate derives its mandate from Article 12 and Article 95 (h) of the Constitution, as well as the Legal Aid Act 29 of 1990 as amended, together with the Regulations made thereunder.

2. OVERVIEW OF ACTIVITIES

- 2.1. To designate legal aid officers at all Magistrates Court
- 2.2. To implement performance standards for designated legal aid officers
- 2.3. To review the Legal Aid organizational structure with a view to decentralize the Legal Aid decision making process.
- 2.4. To develop the Legal Aid Website

3. SUCCESSES

- 3.1. Reviewed Legal Aid Regulations have been completed and were submitted to the Minister.
- 3.2. Performance standards for designated legal aid counsels were finalized.
- 3.3. The recruitment of 13 legal aid counsel under the Public Defender Project is finalized and all the lawyers have been appointed and have been deployed to their respective duty stations.
- 3.4. New Legal Aid offices were opened at Outjo, Otavi, Okahandja, Ohangwena and Aranos.
- 3.5. Additional legal aid counsel have been deployed at Khorixas, Rehoboth, Gobabis, Walvis Bay, Mariental, Tsumeb, Grootfontein, Outapi, and Ondangwa. At these stations, there will now be two legal aid council, to enable them to cope with the work load and fairly match the ratio of public prosecutors/magistrates to legal aid counsel. This will also see a reduction in instructions to private legal practitioners which should save Government on legal fees costs.

4. CHALLENGES

- 4.1 Designation of clerks of the court as legal aid counsel in terms of the Act
 - 4.1.1 Designation of legal aid counsel require an amendment to the Legal Aid Act. Following the split of the Ministry of Justice with Office of the Judiciary, the designation of legal aid officers might require an amendment of the Legal Aid Act, so that the Minister is empowered to source designation from staff members of the Office of the Judiciary.
 - 4.1.2 Consultations with the stakeholders is still on going to decide whether a Memorandum of Understanding can be entered into with the Directorate: Court Services, in which the performance standards for the legal aid officers can be implemented. The concern which has necessitated the need to formalize and regulate the execution of the functions of designated officers in this regard is that applications for legal aid from the Magistrates' Courts take long to reach the Legal Aid office in Windhoek for decision making.
 - 4.1.3 To solve this problem, performance standards were prepared for the clerks of the court, to guide them on how to handle applications for legal aid.
 - 4.1.4 However, the Directorate: Court Services in the Office of the Judiciary, has on several



occasions indicated that they no longer have the capacity to carry out agency functions of other institutions, including receiving and forwarding Legal Aid applications at Magistrate courts.

4.1.5 Consequently the directorate on many occasions received applications for legal aid very late from the clerks of the courts. This has negatively affected the cycle time the directorate had determined to consider applications for legal aid within a short period of time.

4.2 Office Space for Legal Aid Counsel

4.2.1 There is a severe shortage of office space for legal aid counsel countrywide. For instance, at Omaruru, the legal aid counsel who was deployed there since.....operated from her house, for two years. She was only allocated an office by the Judiciary in March 2018.

4.2.2 At Kisting House (headquarters), space is a serious challenge as some staff members share tiny offices where clients cannot consult in private.

4.3 Official accommodation for legal aid counsel in the regions

4.3.1 Unlike their counterparts in the Directorate: Public Prosecutions legal aid counsel have to fend for themselves when it comes to official accommodation. This is very demoralizing, to the extent that some legal aid counsel resorted to writing to the Permanent Secretary to seek assistance with official accommodation.

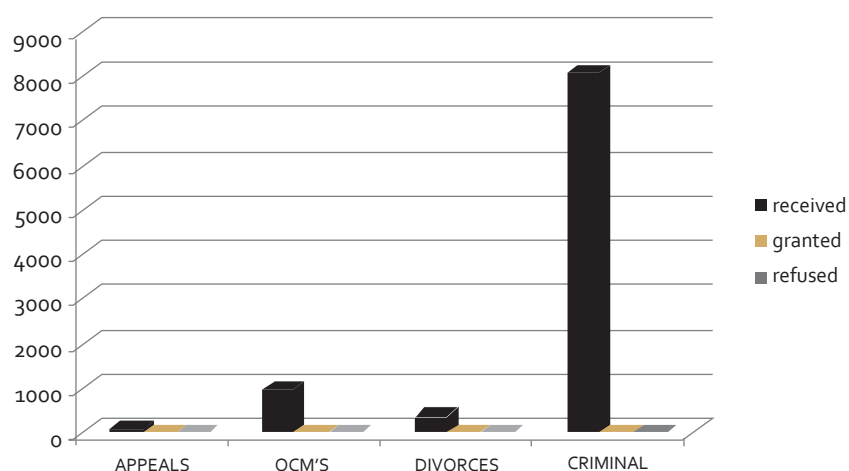
5. TRAINING

The newly appointed 9 lawyers were trained during August 2017. A senior legal officer was appointed to train all newly appointed legal aid lawyers on the process of representing a legal aid client from the moment he or she receives an instruction.

As most of the recruits have never been in court, the in-house training equipped them with the skills, ability and confidence to represent a legal aid client in the district court, including bail applications, plea proceedings, actual trial and appeal processes. As some of the recruits were to be alone at a station, it was necessary to provide an extensive training, so that they can perform their duties optimally.

6. STATISTICS

Graphical representation of the work done by the Directorate of Legal Aid is shown below, and shows increase in the number of applications for legal aid received.





DIRECTORATE: LEGAL SERVICES

1. MANDATE:

The Directorate Legal Services, is responsible for processing requests for mutual legal assistance in criminal matters; extradition; reciprocal enforcement of maintenance orders; reciprocal service of civil process; enforcement of foreign civil judgments; and human rights reporting; administrative support to the Board for Legal Education and to the Inter-Ministerial Committee on Human Rights and Humanitarian Law; investigate and initiate maintenance cases; to facilitate recognition and establishment of community courts and to provide operational support to the community courts.

2. OVERVIEW OF ACTIVITIES

The activities of the Directorate are as follows:

2.1. Extradition

A total of six extradition requests were processed by the directorate. Three (3) outgoing requests were from Namibia and the other three (3) incoming requests were from foreign states.

2.2. Mutual Legal Assistance in Criminal Matters.

The directorate processed thirteen (13) outgoing requests from Namibia and four (4) requests from foreign states.

2.3. Reciprocal Service of Civil Process.

The directorate processed three (3) outgoing requests from Namibia and four (4) incoming requests from foreign states.

2.4. Reciprocal Enforcement of Maintenance Orders

The directorate processed three (3) outgoing requests from Namibia and one (1) incoming request from a foreign state for enforcement of maintenance orders.

2.5. Issuing of Apostille

Approximately 1800 of Apostille were issued during the period under review. The total income derived from the issuing of apostille was approximately N\$ 90000.00.

2.6. Human Rights Reporting

The directorate drafted and submitted the Universal Periodic Review Mid-term Report of the second cycle on behalf of the Ministry of Justice and the Republic of Namibia (February 2019).



2.7. Administrative Support to the Inter-Ministerial Committee on Human Rights and Humanitarian Law

The IMC held two meetings in July and November 2018. The meeting held in July discussed the status of the human rights reports, namely: African Charter on Human and Peoples' Rights, International Convention on the elimination of all Forms of racial discrimination and Midterm Report of the Universal Periodic Review second cycle. The meeting held in November 2018 was to discuss, validate, edit, to incorporate input and comments from stakeholders.

2.8. Administrative Support to the Disciplinary Committee for Legal Practitioners

During the period of 01 April 2018 until 31 March 2019, the Disciplinary Committee held five (5) ordinary meetings in which thirty nine (39) complaints were tabled for consideration and twenty four (24) complaints registered by the Secretary against legal practitioners, mainly in private practice.

2.9. Administrative Support to the Board for Legal Education

During the period of 01 April 2018 until 31 March 2019, the Board held ten (10) ordinary meetings, fourteen (14) interviews of exemption applicants and one (1) JTC Examiners meeting. Furthermore the consideration of one (1) foreign academic qualifications for purposes of prescription by the Minister of Justice which, was University of Nizhni Novgorod, the Russian Federation.

2.11. Supervise the Administration of Community Courts

The division community court provided training to justices, assessors, clerks and messengers. The activities of the division are contained in the table under item 8 below.

3. SUCCESSES

3.1 The exercise of clustering of concluding observations and recommendations of the human rights reports and universal periodic review was finalised.

3.2 The Office of the High Commissioner of Human Rights sponsored training on the clustering of concluding observations, recommendations and implementation of recommendations was attended by all members of Interministerial Committee and other stakeholders (August 2018, Heja Lodge, Republic of Namibia).

3.3 The implementation of payment for apostilles was successfully implemented as from 1 August 2018.

3.4 The vacancies for maintenance investigation officers for all regions were advertised February 2019.

3.5 The following agreements were signed between:

3.5.1. The Republic of Namibia and the Republic of Angola

Memorandum of Understanding between the Ministry of Justice of the Republic of Namibia and the Ministry of Justice and Human Rights of the Republic of Angola;

3.5.2. The Republic of Namibia and the Republic of Botswana



- (i) Treaty on Extradition; and
- (ii) Treaty on Mutual Legal Assistance in Criminal Matters.

4. CHALLENGES:

The lack of bilateral-agreements between countries on mutual legal assistance, extradition and reciprocal maintenance orders. The mandate of the Directorate continues to expand yet there is no corresponding increase in staff members to service the mandate adequately.

5. LEGAL PRACTITIONERS DISCIPLINARY COMMITTEE

5.1 CHALLENGES

The Disciplinary Committee, especially the secretariat component had numerous challenges and obstacles to overcome. The impending national financial downturn and inability to access state funds has resulted in the backlog of twenty two (22) disciplinary hearings against accused legal practitioners.

5.2 ACHIEVEMENTS

Successful appointment of five (5) pro bono initiators to conduct the scheduled hearings during 2018 was spearheaded by Ms Coerecius, the Secretary and Advocate van der Westhuizen, the Chairperson and finalised the backlog of complaints from 2013 until 2018.

6. TRAINING OF STAFF MEMBERS

- 6.1 Three (3) staff members attended training offered by OHCHR in August 2018.
- 6.2 One staff member attended induction training for the Ministry of Justice.

7. STATISTICS

7.1 STATISTICS FOR THE PERIOD APRIL 2018 - MARCH 2019

EXTRADITION REQUESTS		MUTUAL LEGAL ASSISTANCE REQUESTED		RECIPROCAL ENFORCEMENT OF MAINTENANCE ORDERS		RECIPROCAL SERVICE OF CIVIL PROCESS		CRIMINAL (SUBPOENA'S)	
TO NAMIBIA	FROM NAMIBIA	TO NAMIBIA	FROM NAMIBIA	TO NAMIBIA	FROM NAMIBIA	TO NAMIBIA	FROM NAMIBIA	TO NAMIBIA	FROM NAMIBIA
3	3	4	13	1	3	4	3	1	9



8. TRAINING AND INSPECTIONS 2018 – COMMUNITY COURTS

12-16 February 2018		
Oshakati, Training for clerks and messengers of Community courts	Ukwambi Otjikaako Vita Royal Ondonga Maharero	Mrs. K. Phillipus Mr. J. Ndjuluwa
19-23 February 2018		
OTjiwarongo, Training of clerks and messengers of Community courts	Kambazembi Aodaman Gaiodaman Daure-daman Ovambanderu Fransfontein	Ms. A.A. Nathaniel Ms. K. Loch
05-16 March 2018,		
Omaheke & Hardap region Inspections for Community courts	Khobesen Community Court Khai-khauben Community Court King Morwe Community Court !Xhoo Community Court	Mrs. K. Phillipus Ms. J. Sinvula
23 March 2018		
Meeting Ondonga Traditional Authority and Community Court	Ondonga Traditional Authority Community Court	Honourable Minister Ms. A.A. Nathaniel
16-25 April 2018		
Rundu Region Inspection for Community Courts	Gciriku Community Court Ukwangali Community Court	Ms. K. Loch Mr. J. Ndjuluwa
24 May 2018		
Meeting Ondonga Traditional Authority and Community Court	Ondonga Traditional Authority Community Court	Honourable Minister Ms. A.A. Nathaniel
16-20 July 2018		
Training for Justices and Assessor of Community Courts	Mafwe Community Court Mayeyi Community Court Masubia Community Court Linyanti Community Court	Mrs. K. Phillipus Ms. K. Loch
23-27 July 2018		
Zambezi region Inspection of community courts	Mafwe Community Court Mayeyi Community Court Masubia Community Court Linyanti Community Court	Mrs. K. Phillipus Ms. K. Loch
15-17 October 2018		
Kunene region (Khorixas) recognition of Dariem remarks	Dariem	Ms. A.A. Nathaniel



08-19 October 2018		
Kunene region Inspections for community courts	Daure Daman Community Court Otjikaoko Community Court Fransfontein Community Court Tsoadaman Community Court Aodaman Community Court Zeraua Community Court Gaio daman Community Court Oegan Community Court Vita Royal Community Court	Mrs K. Phillipus Ms. J. Sinvula
12—16 November 2018		
Training for Justices and Assessor of Community Courts	Khobesen Community Court Tsaouxudaman Community Court Ongandjera Community Court Fransfontein Community Court !Xoo Community Court Ombalantu Community Court King Morwe Community Court Khai Khuben Community Court	Ms. A.A. Nathaniel Mr. J. Ndjuluwa
26 November 2018 to 7 December 2018		
Inspection for Community Courts	Ondonga Community Court Oukwanyama Community Court Ukwambi Community Court Uukwaluudhi Community Court Uunkolokadhi Community Court Ongandjera Community Court Ombalantu Community Court	Ms. A.A. Nathaniel Mr. J. Ndjuluwa



DIRECTORATE: MASTER OF THE HIGH COURT

1. MANDATE

The Directorate: Master of the High Court is required by statute to supervise the administration of deceased estates, liquidations (of insolvent estates) registration of trusts, appointments of and administration pertaining to tutors and curators, and the administration of the Guardian's Fund (in respect of minors and mentally challenged persons).

2. OVERVIEW OF ACTIVITIES

- 2.1 The Master supervises the administration of deceased estates, in order to ensure an orderly winding up of the financial affairs of the deceased, and the protection of the financial interests of the rightful heirs and creditors that have claims against estates.
- 2.2 All liquidations and insolvencies fall under the jurisdiction of the Master of the High Court and as such the Master must ensure that the rights of creditors and the business world are protected. The administrative process supervised by the Master includes the following duties:
 - With an application to the High Court the Master must advise the Court by way of a report on whether or not insolvency will be to the advantage of the creditors;
 - appoints and removes trustees and liquidators;
 - advertises Court orders and first meetings of creditors;
 - presides at all meetings and interrogations;
 - decides on the validity of creditor's claims;
 - issues orders for payment of contribution by the insolvent;
 - approves trustee's/liquidator's liquidation and distribution account;
 - with an application for rehabilitation to the High Court, the Master must advise the Court by way of a report on whether or not the applicant should be rehabilitated.
- 2.3 All inter vivos trusts i.e. must be registered to the Master of the High Court. The Master must ensure that trusts are administered in terms of the provisions the Trust Deed and the Trust Monies Protection Act (Act No 34 of 1934).
- 2.4 The Master of the High Court administers the Guardian's Fund, which is created to administer funds which are paid to the Master on behalf of various persons known or unknown, such as minors, persons incapable of managing their own affairs, unborn heirs, missing or absent persons or persons having an interest of a usufructuary or fideicommissary nature in the moneys. Funds may be claimed by guardians of minors for maintenance and education of such minors. Funds not needed for the needs of minors must be invested and earn interest.

The functions of the Guardian's Fund are as follows:

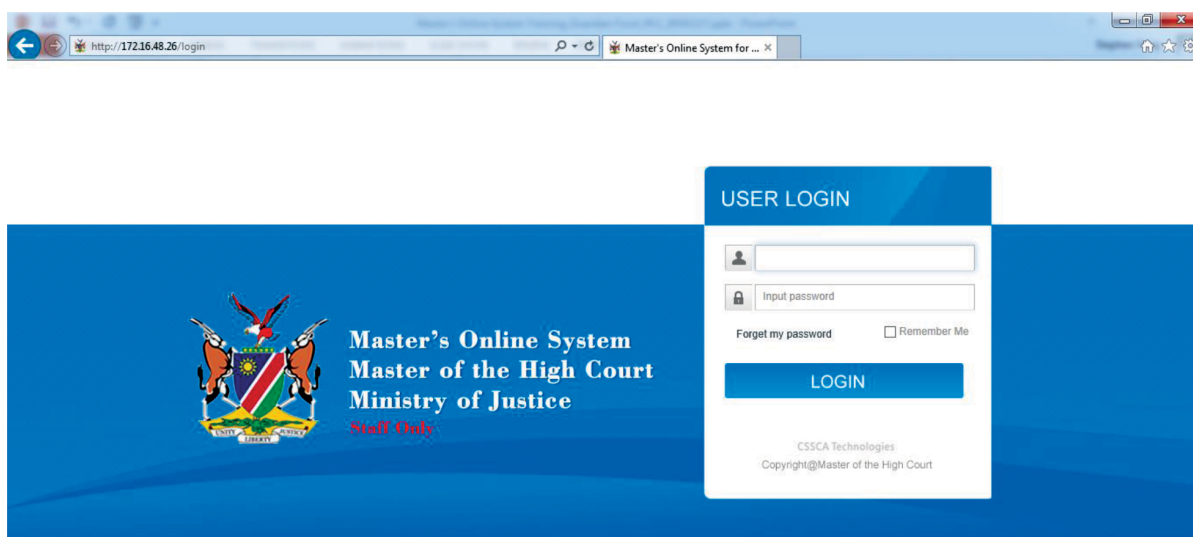
- To receive and disburse funds;
- to invest funds and calculate interest thereon;
- to safe keep and control hypothecation and security deeds for money accruing to minors;
- to compile and publish annual lists of unclaimed sums exceeding N\$500,000.



3. SUCCESSES

The primary achievement of the Directorate is the progress in the development and implementation of the integrated financial and case management system. Phase one (Guardian's Fund) of the system was implemented during August 2017.

The Master's Online System provides online service to the public. Through the web portal, guardians can log onto the system to apply for quarterly allowances. To get their account from Guardian Fund, guardians need to come to the. After a guardian's identity is verified, the accountant can create an account for him/her.

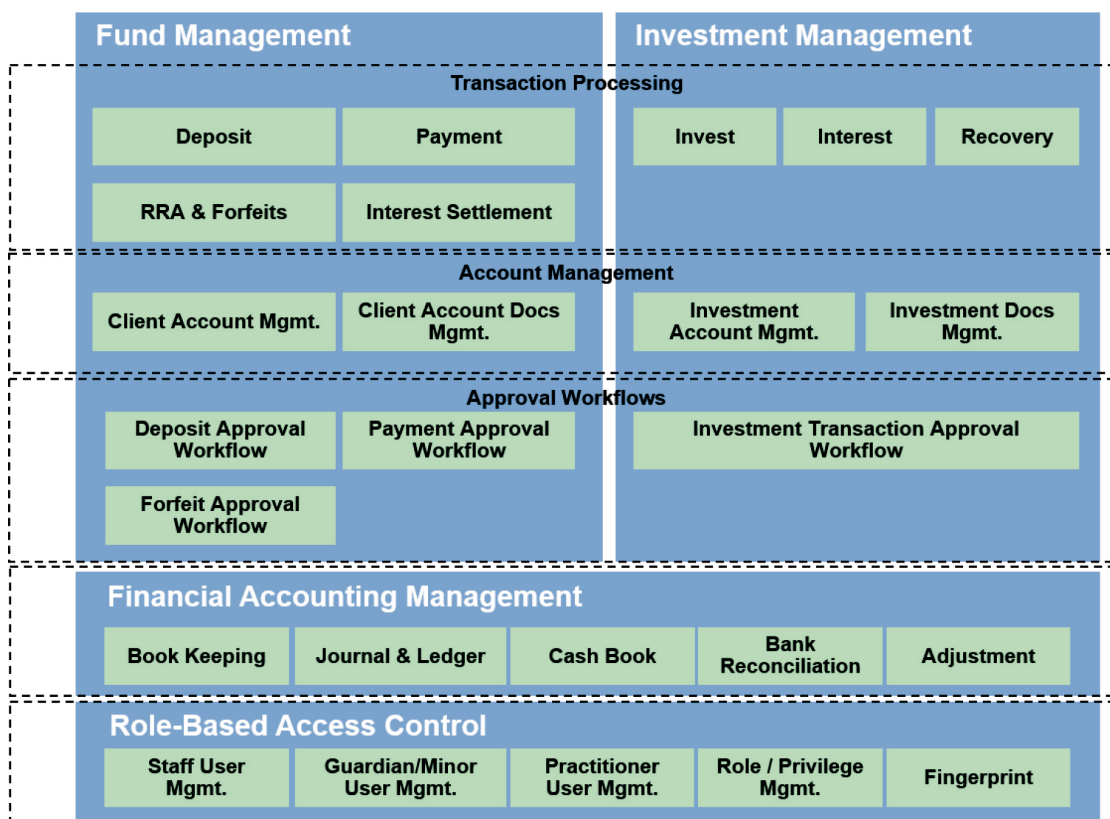


The new Guardian's Fund system has much more functions which include the following:

- At the beginning of each fiscal year, Guardian's Fund calculates pro forma interests for all interest-bearing accounts.
- During the course of a year, every deposit and payment updates the pro forma interest.
- At the end of a fiscal year, the Guardian's Fund finally pays interest to the interest-bearing accounts.
- The Fiscal Year Management function enables users to control the fiscal year status. When a fiscal year is switched off, the bookkeeping process in the system would be terminated. Hence, NO transaction can be registered into the system.
- The Bank Reconciliation function enables users to perform reconciliation between the Bank Account (also known as cashbook) transaction records and bank statements provided by the bankers of the Fund, Bank of Windhoek.
- Digitized documents of all applications are linked to the relevant accounts so that users can easily refer to the original documents when viewing an account.
- Fingerprint module is integrated with the process to verify the applicant's identity.
- The investment management function keeps track of all investments by the Guardian's Fund.
- Historical investment accounts and transactions are digitized and migrated into the new system.
- Staff performance reports illustrate the overall progress of deposit/payment applications received, the number of tasks completed by each accountant in a certain period of time, and the percentage of tasks completed within the cycle period.
- Finance reports show the financial condition in the Guardian's Fund, including statistics of investments,



payments, receipts in the Guardian's Fund and other reports designed for specific purposes.



4. CHALLENGES

Disputes and conflicting interests by parties to estates and lack of understanding of the administration process by beneficiaries in some estates delay the winding –up of estates.

The lack of uniform legislation governing deceased's estates of different groups in the country is a major course for concern in the country.

The lack of a uniform matrimonial regime in the country (e.g marriages below and above the Red Line). Customary laws of inheritance in the country are not uniform, and thus cause confusion as to the governing custom in cross cultural marriages.

5. TRAINING

Training was given to forty-three staff members during the financial year:

Subject	Nr. Of Staff members
PMS refresher training	4
GF Master's online system	9
Leadership Training	7



Deceased Estates system training (Letter of Authority)	14
Trust system training	4
Historical data system training	5
Total	43

PUBLIC EDUCATION

The Directorate participated in the following public education events:

- *Free Legal Advice Day in Oshakati on 15 June 2018*
- *Gobabis on 13 July 2018*
- *Windhoek on 3 August 2018*
- *Walvis Bay on 28 September 2018*

6. STATISTICS

During the 2017/2018 financial year, 2066 estates were reported to the Master of the High Court offices in Windhoek while 591 estates were reported to the office at Oshakati.

Windhoek		Oshakati	
2017/2018		2017/2018	
Received	Finalized	Received	Finalized
2066	1270	591	553

Activities on liquidations and insolvencies

Insolvencies and liquidations that were reported during 2017/18:

2017/2018
28 Reported

Trusts registered during 2017/18:

2017/2018
508 Registered

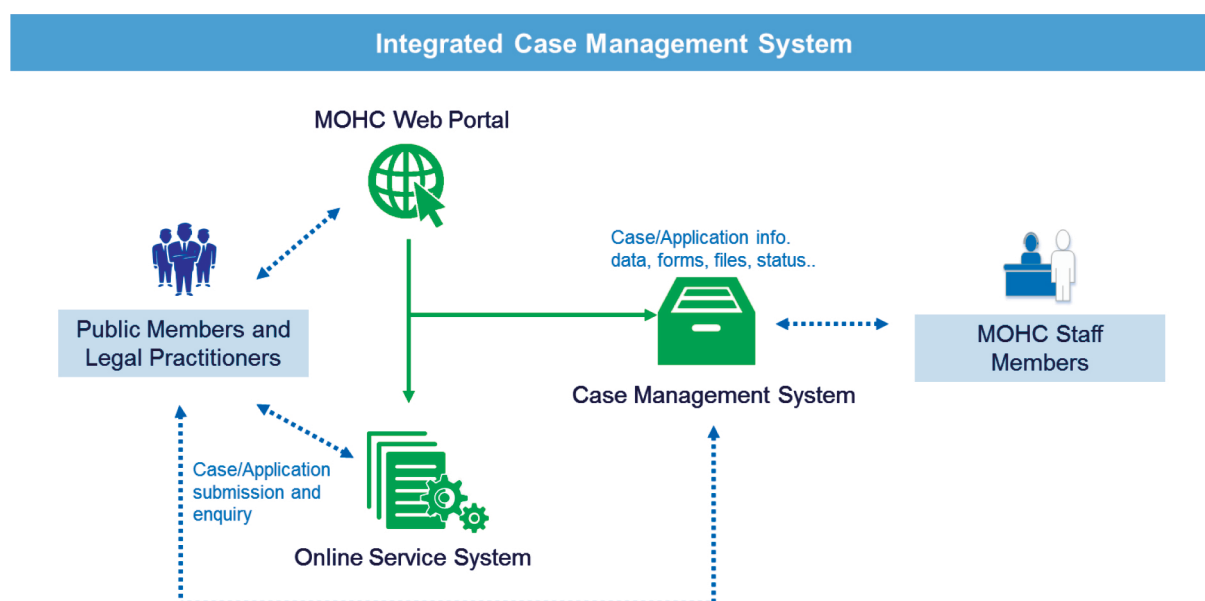
Activities of the Guardian's Fund during 2017/18:

DESCRIPTION	2017/2018
Interest rate	6.5%
New accounts opened for beneficiaries	5934
Monies paid to beneficiaries	139,886,630.59
Value of the Fund	1,540,130,772.98



8. Major activities planned for 2018/19

- The Directorate will launch the Website, Deceased estates and Trust modules of the integrated financial and case management system during the 2018/19 financial year. The system includes a website, web portal for electronic reporting of deceased estates and registration of trusts. The system will reduce the turnaround time of all applications and can be submitted to the Masters online which will ensure much more accessibility to the services provided by the Directorate.



- The Ministry is in the process of reviewing all legislation relating to succession matters, which includes but is not limited to the Administration of Estates Act, 1965 (Act No. 66 of 1965), the Wills Act, 1953 (Act No. 7 of 1953), Estates and Succession Amendment Act 15 of 2005 and the rules of intestate succession such as the remaining sections of the Native Administration Proclamation 15 of 1928, Schedule 2 of the Administration of Estates (Rehoboth Gebiet) Proclamation 36 of 1941 and the common law.

The review process aims to include all inheritance matters under one law and will include a new legal framework, administration process, testate and intestate succession, Wills, Guardian's Fund and Curatorships.



DIRECTORATE: LAW REFORM

1. MANDATE

The Law Reform and Development Commission Act, (Act No. 29 of 1991) establishes the Law Reform and Development Commission which came into operation on 15 July 1992. The core mandate of the Commission is to undertake research in connection with and to examine all branches of the Namibian Law and to make recommendations for reform and development of the said law. The key activities of the Commission to support this broad mandate are provided for in section 6 of the enabling legislation and include:

- The repeal of obsolete or unnecessary enactments;
- The consolidation or the codification of any branch of the law or introduction of other measures aimed at making the law more readily accessible;
- The integration or harmonization of the customary law with the common and statutory law;
- New or more effective procedures for the administration of the law and the dispensing of justice; and
- The enactment of laws to enhance respect for human rights enshrined in the Namibian Constitution or to ensure compliance with international legal obligations.

The role of the Directorate Law Reform

In terms of the LRDC Act, the Executive Director has to provide administrative support to the Commission to execute its statutory mandate. The role of the Directorate is to provide secretarial and research support to the Commission. The Chief Law Reform is the Secretary of the Commission and ensures that the Commission receives support to execute its mandate. Staff members of the Directorate are the enablers of the Commission.

The LRDC consists of seven (7) Commissioners with the Chairperson and is chaired by the chairperson, who is a full-time public office bearer charged with responsibility to ensure that the Commission delivers on its mandate. The Commission meets every second month to review the work of researches availed by the directorate to execute several projects adopted by the commission for implementation.

The commission executes its projects after these have been (agreed with) the Minister of Justice, to whom the Commission approved by renders reports on its work.

LAW REFORM AND DEVELOPMENT COMMISSION

The Law Reform and Development Commission of Namibia (the "LRDC" or the "Commission") is a creature of statute established by section 2 of the Law Reform and Development Commission Act, 1991 (Act No. 29 of 1991) and came into operation on 15 July 1992. It has been 25 years since this Act came into force.

The core mandate of the Commission is to undertake research in connection with all branches of law and to make recommendations for the review, reform and development of such laws if and when necessary.



PROJECTS OF THE COMMISSION

The Commission is, from time to time, required to submit a programme of its work to the Minister of Justice for approval, in terms of section 7 (1) of the Law Reform and Development Commission Act, 1991.

During the financial year under review, the Commission worked on the following projects:

- Laws that Impede or Retard Development in Namibia
- Uniform Matrimonial Property Projects
- Divorce Law Project
- Road Safety Management Bill
- New Equitable Economic Empowerment Framework (NEEEF)
- Review of Administrative Justice in Namibia
- Review of the Namibian Red Cross Society Act, 1991 (Act No. 16 of 1991)
- Domestication of the United Nations Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment ("UNCAT")
- The Repeal of Obsolete Laws Programme: Volume 1: Repeal of Obsolete Laws Administered by the Ministry of Agriculture, Water & Forestry

The LRDC conducted a number of consultations with stakeholders and the public on some of the projects during the period under review, as depicted below.

PROJECT TITLE: *Laws That Impede Or Retard Development In Namibia.*

The Project is an initiative of the Office of the President and the LRDC was requested by the Minister of Justice to undertake the project and to report thereon.

The Project has been approved by the current Commission during August 2015 and therefore forms part of the three year Work Program of the current Commission.

The Project came about as a result of an instruction by the Head of State, Dr Hage G. Geingob, to the Minister of Justice in mid-2015. The instruction required the Minister of Justice to investigate and identify laws that impede and or retard development in Namibia. This instruction was further re-stated in the Harambee Prosperity Plan and therefore became an activity for Year 2 of the HPP implementation Plan.

The aims of the Project are to:

1. Identify laws that are considered to impede or retard development in Namibia.
2. Amend the laws identified as impeding or retarding development in order to undertake the project and to report thereon.



PROJECT TITLE: *Uniform Matrimonial Property Project*

- » The Directorate/Secretariat submitted a revised final report towards the end of July 2017 on the Uniform Matrimonial Property to the Chairperson of the LRDC for further consideration.
- » The Secretariat is in the process of finalising the revised Uniform Matrimonial Property Final report. The Bill and Regulations were submitted to the Minister of Home Affairs and Immigration, for consideration.
- » The secretariat is busy completing of a revised final report and lay man's Bill. The Bill will then be submitted by the Minister of Home Affairs and Immigration to Minister of Justice for consideration at the Cabinet Committee on Legislation (CCL).
- » The final report will be submitted to the Minister of Home Affairs and Immigration as required under section 9 (1) of the Law Reform and Development Commission Act, 1991.

PROJECT TITLE: *Divorce Law Project*

- » Submitted a revised final report on Divorce towards the end of August 2017 to the Chairperson of the LRDC for further consideration.
- » The Divorce Bill has been submitted to the Minister of Justice for consideration/comments after several comments on the Bill were received from the Law Society and the Legal Assistance Center.
- » Completion of a revised final report and further direction from the Minister of Justice on the Divorce bill
- » The final report will be submitted to the Minister of Justice as required under section 9 (1) of the Law Reform and Development Commission Act, 1991.

PROJECT TITLE: *Road Safety Management Bill*

The Commission approved the Road Safety Management Bill Project upon the request of the National Road Safety Council to assist with the consultation and reviewing of the Road Safety Management Bill. The project came to the LRDC at an advanced stage. The LRDC undertook to assist the National Road Safety Council with stakeholder's consultations on the Bill as well as with the process of reviewing and validating the Bill, having regard to the fact that the proposed Bill will be to the benefit of all Namibian road users.

The objectives of this project is to assist the National Road Safety Council in the reviewing and validation process of the Road Safety Management Bill through stakeholder consultations and bring about the required law reform.

THE TERMS OF REFERENCE ARE TO:

Road safety is a pertinent issue in Namibia due to high incidents of road crashes on our roads. Each year, over 600 people are killed and more than 5000 people are injured on our roads. Each crash entails cost, not to mention the social cost of pain, grief and suffering of the families of the victims. On average, one person is killed on Namibian roads and about 16 suffer serious injury on average, daily. The nation loses a huge portion of its youth each year as a result of road related fatalities. For instance, 43% of road related death are young people aged between 16 and 35 years, while children age zero to 15 years accounted for 14% of fatalities in



the year 2015¹. These were young people in the prime of their lives and poised to become the leaders and economic drivers of the country. The number of people killed on Namibian roads has increased over the past five years since 2009, with 634 people killed in 2013, which indicates a 14% increase from the 2012 figures². The Roads Safety Management Bill proposes the establishment of a Roads Safety Agency. The Agency will assist with the implementation of a national roads safety management plan and an integrated roads safety management system. The Bill will also provide for the continued existence of the Central Roads Safety Fund, to repeal the National Roads Safety Act, 1972 (Act No. 9 of 1972) and to provide for any other relevant matter. The Roads Safety Management Bill is intended to enable change by putting up institutions to ensure that road safety is efficiently planned and managed. The aim of the Bill is to bring about measures to limit the number of persons that perish on roads every year.

No bench-marking will be done by the LRDC under this Project. The National Road Safety Council will rely on the investigative and benchmarking report conducted prior to it handing over the project to LRDC for consultations with stakeholders.

The discussion Paper was considered and approved by the Commission and handed over to the Road Safety Council.

PROJECT TITLE: *New Equitable Economic Empowerment Framework (Neeef)*

Namibia will soon be joining countries like South Africa, Zimbabwe, Malaysia and the United Arab Emirates in transforming its economy to a more equitable and transformative one.

Since the introduction of the New Equitable Economic Empowerment Framework (NEEEF), work has been done by the Commission together with the Office of the Prime Minister (OPM) to translate the policy document into a proposed law. To this effect, the NEEEF Bill was drafted and consulted on extensively during 2016.

The intention of NEEEF is to radicalise the Namibian economy and ascertain its representation of the country's demographics. Radical means real change, a noticeable break from the past. Owing to Namibia's historical context, the country's economy was entrenched in the hands of the few, i.e. white males. Transformation aims to break these barriers and intends to introduce those who were previously excluded from economic intercourse into the economic space. Transformation calls for a skills revolution, one that benefits previously disadvantaged persons and unlocks their economic potential.

NEEEF proposes to transform the economic landscape of Namibia through 6 pillars, namely:

1. Ownership Pillar to promote ownership of productive resources by previously disadvantaged Namibians;
2. Management Control and Employment Equity Pillar to ensure that the management of enterprises and labour force reflect the demographic, gender and employment equity requirement and that the labour force more accurately reflects the demographics of the Namibian population;
3. Human Resources and Skills Development Pillar to promote staff development in respective enterprises and provide scholarships in the areas of scarce skills;
4. Entrepreneurship Development and Marketing Pillar to promote growth of new Enterprises especially



- those owned by previously disadvantaged Namibians;
5. Corporate Social Responsibility Pillar to encourage corporate social investment in communities; and
 6. Value Addition, Technology and Innovation Pillar to encourage local processing of natural resources, innovation, invention and technology in the Namibian business sector.

The LRDC and OPM had a benchmarking trip to the Department of Trade and Industry (DTI) Pretoria, South Africa. The purpose of the exercise was to understudy the various departments and institutions involved in the facilitation of B-BBEE in South Africa as well as to understand their verification, funding and implementation processes and how the LRDC can shape these processes into our the Namibian context in facilitating the implementation of NEEEF.

The philosophical foundations provided by the South African experience are an important lesson for Namibia. The lessons learnt from this exercise were many and in particular Namibia will be emulating sentiments of Black Industrialisation, Equity Equivalent programs for companies that are unable to comply with the ownership requirement and the development of Accreditation Agencies to regulate Verification Institutions.

Once we have made recommendations to Cabinet, it is envisaged that the Bill will be refined and consulted on once more, before it is finally implemented.

PROJECT TITLE: *Review Of The Namibia Red Cross Society Act, 1991 (Act No. 16 Of 1991)*

The review of the Namibia Red Cross Act, 1991 (Act No. 16 of 1991) has been on the LRDC work programme since 2015 and has been carried over to the Work Programmes of subsequent Commissions including the current Commission.

A proposal from the Namibian Red Cross Society (NRCS) was introduced to the Chairperson of the Law Reform and Development Commission to have the Red Cross Act, 1991 (Act No. 16 of 1991) reviewed and amended to bring it into conformity with the requirements of the International Red Cross and Red Crescent Movement.

The law aims to achieve two broad objectives to:

1. Enable the Namibia Red Cross Society to create income generating activities to fund its own projects and be less dependent on external funding;
2. Exempt the goods donated to the NRCS to formalize the commitment of the public authorities to respect the duty and ability of the National Red Cross Societies; and
3. Provide a tax deductible benefit to persons who donate to the NRCS.

It is important to acknowledge that a partnership was entered into by the LRDC and the Namibia Red Cross Society for the Review of the Namibia Red Cross Act Project. The partnership was undertaken with the understanding that the NRCS would provide the LRDC with insight into the internal mechanisms of the NRCS. This program undertakes to support initiatives that are geared towards bringing the NRCS into conformity with the requirements of the International Red Cross and Red Crescent Movement.



The final report and the draft Bill have been completed and submitted to the Namibia Red Cross Society for further action.

The project has been finalised.

PROJECT TITLE: *Domestication Of The United Nations Convention Against Torture And Other Cruel, Inhuman And Degrading Treatment Or Punishment ("UNCAT")*

The LRDC was extremely excited at the finalisation of the Report on the Domestication of CAT in Namibia. The LRDC completed a comprehensive report that interrogates all key aspects of domesticating the CAT. The report primarily focused on Namibia's legal obligations under the CAT and findings in reports submitted by the Committee against Torture. The LRDC equally finalised the Prevention and Combatting of Torture Bill, which was informed by the research content of the report. The LRDC eagerly awaits the tabling of the Prevention and Combatting of Torture Bill in Parliament.

The LRDC maintains its support in the implementation phase of its projects. The LRDC thus anticipates to provide legal support and guidance with regard to the content of the Bill at the Cabinet Committee on Legislation.

PROJECT TITLE: *The Repeal Of Obsolete Laws Programme: Volume 1: The Repeal Of Obsolete Laws Administered By The Ministry Of Agriculture, Water And Forestry.*

The LRDC has taken a resolution to transform the status of the project into a programme. The change of methodology adopts a ministerial approach. Such approach required all national laws that are potentially obsolete to be considered one ministry at a time. The programme commenced with the relevant laws of the Ministry of Agriculture Water & Forestry for the first volume. The LRDC primarily changed the work methodology of this project due to the mammoth task of considering all laws that are potentially obsolete. The revised methodology allowed for continued progress and the work could be considered in a more manageable manner.

The LRDC plans to compile a database of all the laws administered by the Ministry of Agriculture, Water and Forestry. The LRDC has requested each Ministry to appoint a liaison officer that will assist the project officer by providing feedback on how the laws are applied in practice. This allows the LRDC to ascertain which laws or provisions within specific laws are still administered, as well as an in-depth understanding of why certain laws need to be repealed or maintained. Once the database is compiled and the liaison officer is identified, the LRDC will subsequently conduct desk and field research, in the determination of the obsolescence of the laws administered by the Ministry of Agriculture, Water and Forestry. The finalisation of this programme would indeed serve the nation at large, as various laws have caused the impediment of effective and efficient administration within the government. In addition, in terms of section 6 of the Law Reform and Development Commission Act, 1991 the LRDC has a statutory mandate to ensure the repeal of all obsolete laws in Namibia and this programme aligns the LRDC with its statutory mandate.



DIRECTORATE: LEGAL ADVICE

1. MANDATE

The Directorate: Legal Advice forms part of the Office of the Attorney-General, which is steered by the Attorney-General appointed pursuant to Article 32(3) (i)(ee) of the Namibian Constitution.

The Attorney-General's constitutional mandate pursuant to Article 87 of the Namibian Constitution includes:

- exercising the final responsibility for the Office of the Prosecutor-General;
- being the principal legal advisor to the President and Government;
- taking all actions necessary for the protection and upholding of the Namibian Constitution; and
- performing all functions and duties as may be assigned to him by Act of Parliament.

This Directorate assists the Attorney-General in executing his constitutional mandate with respect to the provision of legal advice to the President and Government.

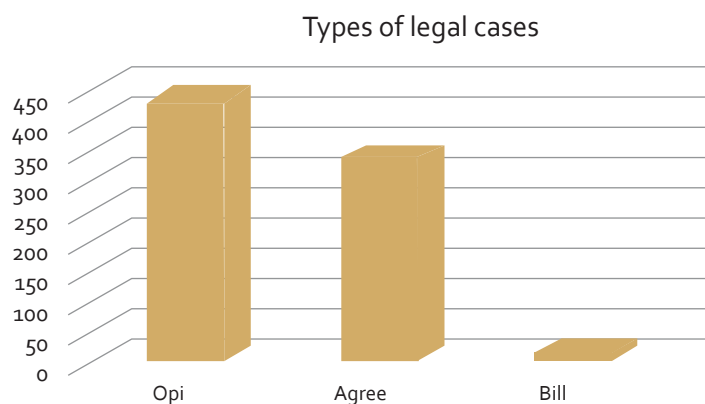
2. OVERVIEW OF ACTIVITIES

This Directorate is involved in the provision of legal advice and opinions, consultations with clients and drafting of agreements, scrutinizing Bills and Proclamations before tabling in Parliament, representing and negotiating on behalf of the Government on national and international forums, representing the President and Government on commissions of enquiry and Offices / Ministries / Agencies (O/M/As) in disciplinary hearings as presiding officers, investigators and initiators.

The Directorate also advises O/M/As on the legal and constitutional aspects of policy issues, when so requested as well as the training, coaching and mentoring of staff as a measure to build capacity.

3. SUCCESSES

- 3.1. The successes of the directorate are reflected by the output achieved. A total of 792 matters were received by the directorate during the year under review, of which 192 were closed and 600 are pending. The graph below indicates the nature of files that were received by the directorate during the year under review, which include opinions, agreements and bills.





3.2. Some of the high profile matters this Office was involved in during the financial year under review are:

3.2.1 On International level:

- Opinion on the Draft Maritime Authority Bill;
- Namibian Multilateral Investment Guarantee Agreement (MIGA) on the use of local currency;
- COMESA-EAC-SADC Tripartite Negotiations;
- Ongoing negotiation between the Republic of Namibia and the Government of the Federal Republic of Germany regarding Genocide, Apology and Reparations;
- Conclusion of Boundary Treaty between Namibia and Botswana;
- Conclusion of AFDB loan agreements;
- Participation in the SADC Trade Negotiation Forum for Trade-in-Services;
- Acquisition of the 34% shares in MTC by Government;
- Negotiations of African Continental Free Trade Area (AfCFTA);
- Trade-related Financing Agreement: Negotiated the Trade Related Financing Agreement for a grant amounting to EURO 2,600,000.00 from the European Union;
- Revision of the 2000 ORASECOM Agreement;
- Implementation phase of SADC EPA Agreement;
- Neckartal Dam Agreement; and
- Ongoing Orange River negotiations.

3.2.2 On National level:

- Closure of the SME Bank;
- Completion of the GRN/NHE Mass Housing Agency Agreement;
- NEF-DBN Oil Storage Facility (SOSF) N\$ 1.5 B funding;
- Authority to enter into lease agreements and the custodianship of State immovable property vesting in the Ministry of Works and Transport;
- Legal scrutiny of and the provision of legal advice on the Public Procurement Act, 2015;
- Legal advice with respect to the Gazetting of various community forests;
- Public Service Amendment Act;
- Ongoing negotiations with respect to the Ehafo Trust;
- Several Joint Ventures between Ministry of Urban and Rural Development through Regional and Local Authorities and Investors;
- Oanob Dam land dispute; and
- Legal advice relating to several Traditional Authority disputes.

4. CHALLENGES AND HOW THEY WERE OVERCOME

The main challenges that the directorate encountered during the financial year under review were:

- 4.1 An increase in requests for legal advice by O/M/As, which was partially addressed by the appointment of more lawyers;



- 4.2 Insufficient co-operation from O/M/As in their provision of essential information needed by the directorate to be able to provide timeous and quality legal advice to them. This problem was partially overcome by having more consultative meetings with O/M/As;
- 4.3 A high demand by O/M/A's, Regional Councils and Local Authorities for legal officers to serve on committees and boards (which entails negotiations, investigations and the attendance of several meetings) in relation to / when compared to vis a vis the number of legal officers in the Directorate. The problem was partially overcome by the appointment of more lawyers in the filling of vacant positions on the establishment;
- 4.4 Inevitable demand for staff to travel as an intrinsic part of the work performed by the directorate in order to serve O/M/As effectively. [The budget cut contributed even further to the already insufficient budget vote for subsistence and travel allowance. This remains a problem].
- 4.5 Lack of training of staff as the Directorate was unable to train staff to develop their skills due to financial constraints. The directorate will in future be able to partially overcome the challenge by making use of sponsored training.

5. STATISTICS ON TRAINING

5.1. Training attended by staff members:

A total of five (5) staff members were trained. Two (2) legal officers were trained on Refugee Law, which knowledge they are applying in the performance of their duties. Three (3) cleaners were trained on customer service, which are assisting them more in better service delivery and communication.

5.2. Number of staff members attending workshops and conferences (including nominations for representation):

Three (3) staff members attended Conferences, one (1) staff member attended a workshop and nominated lawyers from the Directorate attended sixty (60) meetings on behalf of the Directorate and O/M/A's.



DIRECTORATE: CIVIL LITIGATION

1. MANDATE

In terms of the Government Attorney Proclamation 1982 (Proclamation No. R161 of 1992) the Directorate: Civil Litigation is mandated to provide legal representation in Courts to Offices, Ministries and Agencies of the Government without fear or favour.

2. OVERVIEW OF ACTIVITIES

During the period under review the directorate managed to represent OMAs in the following cases that were successful.

Samuel Eichab v The Minister of Safety and Security and 4 others

Urgent Application. A Trial awaiting inmate sought relief, amongst others, to be compensated in an amount of N\$ 1. 3 million for alleged violation of his constitutional rights by the Respondents. The High Court dismissed the Application and struck it from the roll for a lack of urgency.

Extreme Customs Clearing Services vs Minister of Finance and Others, HC-MD-CIV-MOT-REV-2017/00141

Review and urgent interdict (twelve billion Namibian dollars) was sought against tax authorities over accounts and funds seized amounting to almost N\$12 000 000 over unpaid taxes. The matter settled and an order was made in court confirming that clients retain the seized funds and that applicant pay N\$400 000 per month towards tax liability while engaging clients to resolve the tax disputes. Each party to pay its own costs in the matter.

Alexander Tjame Maulisu // Minister of Home affairs

This is a case about malicious prosecution filed by a Home Affairs and Immigration official who was charged with selling birth certificates and ID's to Angolan nationals. The Government Attorney defended and won this case and legal costs were awarded to Government. The Government Attorney is still awaiting payment of the bill of costs which totals N\$ 37,492.00.

Alex Mabuku Kamwi Kamwi vs The Prosecutor general and another HC-MD-CIV-OTH-2017/01050

The Plaintiff re-instituted a claim for malicious prosecution, unlawful detention, injury to reputation and loss of business claiming N\$2 500 000. The two million five hundred thousand Namibian Dollars matter was defended and special pleas were raised. Special plea was argued successfully and the claim was dismissed with costs.

3. SUCCESSES

The Directorate has been successful in defending and instituting claims on behalf of OMAs. No default judgements or sanctions were ordered against the Office of the Government Attorney. Many of the cases which the Directorate deals with span over several years and cannot be closed during a budget year.



The directorate handled 1204 cases during the 2017/2018 financial year, and managed to finalise 445. A total of 386 older files from previous years were closed during the period under review. Therefore all cases finalized in this financial year under review are 831.

During the financial year under review the Directorate managed to collect N\$ 4147 596.22 on behalf of OMAs.

4. CHALLENGES

- The Directorate does not have office space at the Northern Local Division of the High Court of Namibia at Oshakati.
- Staff members are not adequately trained for their duties;
- A high staff turnover was experienced during the financial year under review and continue to face such a challenge;
- The integrated case management system is not yet fully functional.
- The Directorate experienced difficulties in implementing the legal suite system even thou it was paid for. The service provider has neglected, refused and/or failed to make it operational despite demand.

5. TRAINING

- a. During the period under review 3 staff members of the Directorate participated in training interventions which were organised to enhance their capacity to be better equipped for their respective roles.
- b. The training was only provided to the legal officers. Some of them attended training on basic advocacy training for a period of 3 months.
- c. The training has improved their legal officer's drafting skills and their preparation for trials in both the High and Supreme Courts, respectively.



5. STATISTICS

The graph below illustrates the work undertaken during the financial under review in respect of various matters corresponding to the categories of POCA cases, Administrative law, MVA and Loss Opinion, Unlawful arrests, Labour, Immigration, Medical negligence and Other delictual claims.

