

# **REPUBLIC OF NAMIBIA**



**BUDGET SPEECH BY THE HONOURABLE  
YVONNE DAUSAB, MP, MINISTER OF  
JUSTICE, NATIONAL ASSEMBLY,  
VOTE 16,  
MINISTRY OF JUSTICE**

**2022**

**NATIONAL ASSEMBLY**

Honorable Chairperson of the Whole House Committee, I am honored to be afforded this opportunity to present to you the budget for Vote 16, Ministry of Justice (MOJ), for the 2022/2023 fiscal year to this August House.

Universally, justice defines human interaction. It is often associated with a pervasive understanding that all aspects of our human activities are based on reasonableness and fairness. Justice is therefore the anchor of adherence to the rule of law and the cornerstone of our constitutional democracy.

It is therefore imperative that the pillars of fair process, accessible and decent infrastructure and impartial and service- oriented individuals are at the forefront of just service delivery.

**Honorable Chairperson,**

**Honorable Members,**

The Pillar of Effective Governance under the Harambee Prosperity Plan II, aims to improve accountability, transparency, strengthening the national anti-corruption mechanisms, improve performance and service delivery as well as security and the rule of law, sets out a clear performance framework for the MOJ.

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:

Goal 1: Accountability and Transparency.

Goal 3: Improved Performance and Service Delivery.

Goal 5: Enhancing Security and Rule of law.

The MOJ plays its part through four strategic pillars that govern our program of work and performance areas, namely:

- Administration of Justice;
- Provision of Legal Services;
- Promotion of Good Governance;
- Supervision and Support Services.

**Honorable Chairperson,**

**Honorable Members,**

In addition to the abovementioned key strategic performance indicators and under the provisions of the Judiciary Act 11 of 2015, it is our responsibility as MOJ, to oversee development projects of the Office of the Judiciary (OOJ) within the amount allocated.

Additionally, the MOJ, also manages payments and expenses associated with the Attorney-General (AG), Prosecutor- General (PG),

the Ombudsman and the Law Reform and Development Commission (LRDC). The support provided to these institutions is administrative and does not in any way interfere with their constitutional and statutory mandates. We also wish to point out that the Judiciary is independent and manages their own vote (21) and are responsible for court and associated processes which is duly set out in their budget speech.

It is a fact that budgets across Government have contracted and resources have incrementally (over the past two years) been redirected to the national Covid-19 response and various disaster risk management activities in the country.

During this period the MOJ re-arranged key items and prioritized its operations in order to ensure that the delivery of core services is not negatively affected. The MOJ, will continue to work, as it has always done, with the meagre resources at its disposal.

The succeeding paragraphs are accordingly dedicated to highlight some of our budget allocations that have a direct impact on the welfare of the most vulnerable members of our society. These include the provision of Legal Aid, the supervision and administration of estates, maintenance for children and the functioning of the Community Courts.

## **On Overall Ministerial Budget (Operational)**

Primarily, our allocated budget expended on activities associated with the provision of legal services and ensure access to justice. In terms of statistics I will focus on maintenance and the services rendered by the Master of the High Court, whereas there will be brief synopsis on legal aid. A full sheet with the specific allocations is attached as an annexure.

## **On Legal Aid**

The Directorate: Legal Aid has to date appointed 69 in-house lawyers. They are based all across Namibia. Their core function is to represent members of our society, who are indigent and would otherwise not afford legal representation, before all Namibian courts. Despite this noble objective the challenges have been myriad but not insurmountable.

For instance, the approved structure is inadequate to respond to the demand for legal representation and the caseload. This leaves us with no choice to outsource complex cases, especially civil ones, to private legal practitioners - often at great financial costs and the number of complaints about the quality of service rendered by primarily outsourced lawyers is increasing.

The scheme of outsourcing 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.

The bulk of cases are now being dealt with by our in-house counsel and we are adamant to enhance their capacity and have more control over the quality of service delivered to those that cannot afford legal services. In this current financial year, the Ministry will appoint three additional staff members to the civil unit in order to reduce outsourcing.

Also, we have also started considering the establishment of Legal Aid Committees and the appointment of Legal Aid Assistants for the Magistrate's Courts, in the respective regions, as provided for by the enabling statute. This we trust will facilitate the provision of legal representation at a faster pace to respond to the delays our members of the public experience currently.

**Honorable Chairperson,**

**Honorable Members,**

**On Master of the High Court**

The Master of the High Court is required by the Administration of Estates Act 66 of 1965, the Insolvency Act 24 of 1936, the Companies Act 28 of 2004, the Close Corporations Act 26 of 1988 and the Trust Moneys Protection Act 34 of 1934, to supervise the administration of

deceased estates, liquidations and insolvencies, registration of trusts and the administration of the Guardian's Fund on behalf of our minor children.

There are major reforms underway in this directorate to ensure due diligence, good governance, quality and timely service delivery and compliance with domestic and international obligations. This directorate's functions continue to have a profound effect on our most vulnerable members of our society and feedback from members of the public have not been kind and we looking to improve this perception, to ensure we serve the public better. This will require the provision of adequate funds to this directorate to enable it to perform these duties at a higher level than is currently the case since it remains a key priority area.

Despite the huge increase in applications, the Master of the High Court still managed to process a high number of applications. Due to the impact of the Covid-19 pandemic, there was an increase in the number of deceased estates. This high number of applications processed was achieved due to staff members working after hours without getting paid overtime because of limited resources.

In the table below please see the overall case report for the past financial year that includes all applications lodged on the Master of the High Court integrated financial and case management system:

<b>Overall Case Report</b>										
Case Type	Number of Online Applications									
	Received		Approved		Rejected		In Process		% Processed	
Financial year	2020/ 2021	2021/ 2022	2020/ 2021	2021/ 2022	2020/ 2021	2021/ 2022	2020/ 2021	2021/ 2022	2020/ 2021	2021/ 2022
Guardian Fund	5,940	6,019	5,538	4,699	378	1,005	24	315	99.60%	94.77%
Deceased Estates	2,767	4,692	2,581	3,997	60	272	126	423	95.45%	90.98%
Trust	828	913	722	677	66	108	12	85	95.17%	85.98%
Total	9,535	11,624	8,841	9,373	504	1,385	162	823	98.01%	92.55%

Insolvencies and liquidations that were reported during the past financial year:

TYPE	2020/2021	2021/2022
Insolvencies	165	52
Insolvent deceased estate	0	0

Trusts registered during the past financial year:

TYPE	2020/2021	2021/2022
Trust	644	389



Activities of the Guardian's Fund during the past financial year:

<b>DESCRIPTION</b>	<b>2020/2021</b>	<b>2021/2022</b>
Interest rate	6.5%	6.5%
Monies paid to beneficiaries	N\$163,105,537.93	N\$166,465,435.87
Value of the fund	N\$ 1,858,792,115.97	N\$ 2,667,775,970.49

**Honorable Chairperson,**

**Honorable Members,**

### **On Maintenance**

There are many parents and legal guardians who are responsible for the maintenance of minors and other dependents/beneficiaries who still avoid or evade their legal duty to maintain.

During the 2021/22 financial year, the Ministry of Justice appointed more maintenance investigators and maintenance officers for deployment to the various courts across the county. To date, we now have 9 maintenance investigators appointed at 9 main Magistrate's Courts across the country with 8 Maintenance Officers appointed at four main Magistrate Courts.

Through these appointments, the MOJ is able to launch proper investigations into the ability of defendants to pay maintenance and to present evidence before court in order for the court to make a finding that is consistent with the evidence before it. The appointments according to the structure of the Maintenance Division has not been completed because of financial constraints, but we will continue to do so progressively when funds become available.

The table below reflects the figures of cases dealt with by the Maintenance Division during the last year. The data was obtained from nine (9) magistrate districts across the country where maintenance officers and investigators are assigned.

<b>ACTIVITY</b>	<b>KEETMANSHOOP</b>	<b>WINDHOEK</b>	<b>SWAKOPMUND</b>	<b>WALVIS BAY</b>	<b>OTJIWARONGO</b>	<b>OSHAKATI</b>	<b>ONDANGWA</b>	<b>RUNDU</b>	<b>KATIMA MULILO</b>	<b>TOTAL</b>
<b>Investigation</b>	86	1,021	41	47	19	33	50	27	272	<b>1,576</b>
<b>Default Judgement</b>	23	297	2	41	2	0	3	17	19	<b>404</b>
<b>Emoluments Applications</b>	30	298	31	41	79	0	0	12	88	<b>579</b>
<b>Summons served</b>	9	921	130	20 4	145	134	50	424	52	<b>2,069</b>

<b>Warrants of Arrest issued &amp; executed</b>	105	100	7	9	25	68	23	194	6	<b>555</b>
<b>Directives served</b>	19	867	117	16	0	99	21	17	143	<b>1,299</b>

**Honorable Chairperson,**

**Honorable Members,**

### **On Community Courts**

As you may be aware, the MOJ, administers the Community Courts Act 10 of 2003 and is therefore responsible for establishing Community Courts. Communities with traditional authorities now have access to Community Courts, so people do not have to travel long distances to magistrate's courts to file or resolve some of their cases. This improves access to justice for people in rural areas. As a result, litigating in community courts is cheaper, since parties do not pay litigation costs.

Community courts have become increasingly useful and desirable mechanisms for the speedy resolution of disputes amongst members of traditional communities given their nature of being easily accessible, cost free to the parties and awards are compensatory in nature.

Consequently, the MOJ provides for funds appropriated for that purpose by this August House to all Community Courts. On average

each Community Court is granted an amount of **one hundred and twenty thousand Namibia Dollars** (N\$120 000.00) each financial year. These funds are used to defray the costs of operating the Community Courts.

With a three-week court session in a month and an average of 8 cases in a day, these courts, combined processes about 1,955 cases in a year, with a total value of claims/disputes ranging from N\$ 1,000,000 (**million N\$**) to N\$ 1,200,000 (**one million two hundred thousand N\$**). This total value includes income generated from fines and penalties, ordinarily used for court administration and related expenses thus providing an additional income to the N\$120,000 they receive annually.

Admittedly, our biggest challenge is that, payment to court personnel for their services is paltry and out of sync with reality. Justices and Assessors are paid N\$30,00 – N\$20,00 per sitting for one hour, and N\$2-00 per kilometre for transport when they travel to attend the community court sessions. These figures are quite low in our view considering the important functions which they dispense and was further confirmed during our consultations with community leaders and community court functionaries. We have committed to review the community courts legislation and ancillary regulatory framework to improve these conditions for the sake of the people we serve.

**Honorable Chairperson,  
Honorable Members,**

I now seek the indulgence of this August House to approve the allocation totaling N\$446,353,000 (**Four Hundred and Forty-Six Million, Three Hundred and Fifty-three Thousand Namibia Dollars**). **The full allocation sheet is attached hereto as an annexure.**

**I Thank You.**

**End.**