



REPUBLIC OF NAMIBIA



REPORT OF THE AUDITOR-GENERAL ON THE ACCOUNTS OF THE

MINISTRY OF JUSTICE

FOR THE FINANCIAL YEAR ENDED 31 MARCH 2012

Published by authority

Price (Vat excluded) N\$ 24.55
Report 31/2013

REPUBLIC OF NAMIBIA



TO THE HONOURABLE SPEAKER OF THE NATIONAL ASSEMBLY

I have the honour to submit herewith my report on the accounts of the Ministry of Justice for the financial year ended 31 March 2012 in terms of Article 127(2) of the Namibian Constitution. The report is transmitted to the Honourable Minister of Finance in terms of Section 27(1) of the State Finance Act, 1991, (Act 31 of 1991) to be laid upon the Table of the National Assembly in terms of Section 27(4) of the Act.

WINDHOEK, March 2013

**JUNIAS ETUNA KANDJEKE
AUDITOR-GENERAL**

**REPORT OF THE AUDITOR-GENERAL
ON THE ACCOUNTS OF THE
MINISTRY OF JUSTICE
FOR THE FINANCIAL YEAR ENDED
31 MARCH 2012**

1. INTRODUCTION

1.1 Report

This report on the accounts of the Ministry of Justice for the financial year ended 31 March 2012 is presented to the National Assembly in accordance with the terms of Article 127(2) of the Constitution of the Republic of Namibia and Section 27(1) of the State Finance Act, 1991 (Act 31 of 1991), as amended.

1.2. Powers and duties

Section 25(1)(c) of the State Finance Act of 1991 provides that the Auditor-General satisfies himself that:

- (a) all reasonable precautions have been taken to ensure that all monies due to the State are collected and that the laws relating to the collection of such monies have been complied with;
- (b) all reasonable precautions have been taken to safeguard the receipt, custody and issue of and accounting for the State's assets such as stores, equipment, securities and movable goods; and
- (c) the expenditure has taken place under proper authority and is supported by adequate vouchers or other proof.

In addition, Section 26(1)(b)(iv), of the State Finance Act of 1991, empowers the Auditor-General to investigate and report on the economy, efficiency and effectiveness of the use of the State's resources.

2. FINANCIAL STATEMENTS

The appropriation accounts were submitted to the Auditor-General in terms of Section 13 of the State Finance Act, 1991.

The financial statements, notes to the financial statements and general information supplied by the Accounting Officer are attached as annexure A to this report.

3. SCOPE OF THE AUDIT

- 3.1** The Accounting Officer of the Ministry in co-operation with the Permanent Secretary of the Ministry of Finance is responsible for the preparation of the financial statements and for ensuring the regularity of the financial transactions therein.

It is the responsibility of the Auditor-General to form an independent opinion, based on the audit, on those statements and on the regularity of the financial transactions included in them and to report his opinion to the National Assembly. The audit included:

- (a) examination on a test basis of evidence relevant to the amounts, disclosure and regularity of financial transactions included in the financial statements; and
- (b) evaluation of the overall adequacy of the presentation of information in the financial statements.

3.2 The audit was planned and performed so as to obtain all the information and explanations considered necessary to provide sufficient evidence to give reasonable assurance that:

- (a) the financial statements are free from material misstatement, whether caused by error, fraud or other irregularity;
- (b) in all material respects, the expenditure and income have been applied to the purposes intended by the legislature; and
- (c) the financial transactions conform to the authorities that govern them.

4. AUDIT OBSERVATIONS

4.1. MAIN ISSUES/FINDINGS IDENTIFIED BY THE AUDIT

4.1.1 Expenditure

The under mentioned unauthorised expenditure occurred during the financial year and is reported as such in terms of Section 27(6)(a) of the State Finance Act, 1991 (Act 31 of 1991).

- (i) The whole vote was overspend with a total amount of N\$ 12 201 136.46 (3.03%) which is unauthorised in terms of Section 6(a)(i) of the Act.
- (ii) Two (2) main divisions were overspent with a total amount of N\$ 12 719 556.30 which is unauthorized in terms of Section 6(a)(ii) of the Act.
- (iii) Although Treasury authorization was obtained to utilize certain expected saving for the defrayal of expenditure by way of virement during the year, thirteen (13) operational subdivisions were exceeded by a total amount of N\$ 12 850 503.00. The excesses are unauthorised in terms of Section 6(a)(iii) of the act.

It is recommended that the Accounting Officer put budget control measures in place to avoid unauthorised expenditure in future.

4.1.2 Non submission of statements

The Accounting officer failed to provide statement number thirty seven (37) for vehicles accidents and total numbers of vehicles on hand at 31 March 2012. The due date for the statements to be submitted to the Office of the Auditor General was 31 October 2012.

The Accounting Officer should provide the explanation as to why this statement was not provided.

4.1.3 Guardian Fund

The Accounting Officer reported that the Ministry is unable to provide updated financial statements of the Fund for the financial year 2011-2012. At the time of submitting the statements the Master of High Court was still busy balancing the books of the fund for the current financial year.

It is recommended that the Accounting Officer submits the financial statements for the 2011/12 financial year.

4.1.4 Suspense accounts

The final ledger shows ten (10) suspense accounts with balances at 31 March 2012. There are seven (7) with debit and three (3) with credit balances. The following suspense accounts reflected balances of more than N\$ 100 000:

Account	Debit / (credit)
	N\$
R/D Cheques	843 873.55
S & T Advance Suspense Account	125 268.48
Magistrate Offices	21 573 082.64
Bills payable	(5 948 268.40)
Tax Code	224 254.09
Magistrate deposit account	(84 135 361.61)

It is recommended that the Accounting Officer should take all necessary steps to reconcile and reduce the balances on these accounts on a regular basis.

5. ACKNOWLEDGEMENT

The assistance and co-operation of the management and staff of the Ministry of Justice during the audit is appreciated.

6. EMPHASIS OF MATTER

Attention is drawn to the management on the following matter that relates to my responsibility in the audit of the financial statements:

- a) Paragraph 4.1.2 – Non-submission of statement. Statement on vehicle accidents not submitted.

7. BASIS FOR QUALIFIED OPINION

The Ministry failed to put proper budget control measures in place resulting in the overspending of the total vote by an amount of N\$ 12 201 136 (3.03%).

The financial statements of the Guardian Fund could also not be provided.

8. QUALIFIED AUDIT OPINION

I certify that I have audited the financial statements of the Ministry of Justice for the financial year ended 31 March 2012 in accordance with the terms of Article 127(2) of the Namibian Constitution and Section 25(1) of the State Finance Act, 1991 (Act 31 of 1991).

In my opinion, except for the effect of the matters discussed in the Basis for qualified opinion paragraph, the financial statements fairly represent the receipts and payments of vote 16 for the year ended 31 March 2012 and in all material respects the receipts and payments have been applied to the purposes intended by the National Assembly and conform to the authorities which govern them.

JUNIAS ETUNA KANDJEKE
AUDITOR-GENERAL

OFFICE OF THE AUDITOR-GENERAL
269 Independence Avenue
BPI Building, 6th Floor
Private Bag 13299
Windhoek
Namibia

ANNEXURE A

1. FINANCIAL STATEMENTS

1.1 Appropriation account

		2011/2012				2010/2011
Service		Authorized expenditure	Actual expenditure	Variations		Actual expenditure
				Under-expenditure/ (Excess)	Percent age	
	N\$	N\$	N\$	N\$	%	N\$
01. Office of the Minister:						
Original budget	1 893 000					
Plus: Virement	143 145	2 036 145	2 034 336.93	1 808.07	0.09	2 715 798.54
02. Central Administration:						
Original budget	82 024 000					
Plus: Virement	8 154 910	90 178 910	89 969 767.68	209 142.32	0.23	70 422 666.28
03. Court Services:						
Original budget	73 103 000					
Plus: Virement	7 817 638	80 920 638	93 441 054.83	(12 520 416.83)	(15.47)	109 834 710.44
04. Law Reform:						
Original budget	6 471 000					
Less: Virement	(833 077)	5 637 923	5 620 750.16	17 172.84	0.30	4 342 723.09
05. Legislative Drafting:						
Original budget	5 849 000					
Plus: Virement	834 476	6 683 476	6 678 316.74	5 159.26	0.08	5 306 650.93
06. Office of the Ombudsman:						
Original budget	8 155 000					
Plus: Virement	286 366	8 441 366	8 430 072.66	11 293.34	0.13	6 605 616.55
07. Legal Aid:						
Original budget	28 873 000					
Plus: Virement	1 518 290	30 391 290	30 276 367.91	114 922.09	0.38	20 900 111.01

ANNEXURE A (continued)

2011/2012						2010/2011
Service	Authorized expenditure	Actual expenditure	Variations		Actual expenditure	
			Under-expenditure/ (Excess)	Percentage		
N\$	N\$	N\$	N\$	%	N\$	
08. Supreme and High Court:						
Original budget	63 578 000					
Less: Virement	(8 144 321)	55 433 679	55 632 818.47	(199 139.47)	(0.36)	43 495 766.07
09. Attorney-General:						
Original budget	8 426 000					
Plus: Virement	1 619 038	10 045 038	9 995 147.30	49 890.70	0.50	10 094 459.64
10. Civil Litigations:						
Original budget	18 959 000					
Less: virement	(134 159)	18 824 841	18 799 085.77	25 755.23	0.14	14 903 424.15
11. Public Prosecutions:						
Original budget	38 080 000					
Plus: Virement	10 373 719	48 453 719	48 416 350.29	37 368.71	0.08	37 344 725.28
12. Legal Services:						
Original budget	7 901 000					
Less: Virement	(1 394 590)	6 506 410	6 492 860	13 550.00	0.21	5 716 266.66
13. Master of the High Court:						
Original budget	7 911 000					
Less: Virement	(1 209 055)	6 701 945	6 689 527.51	12 417.49	0.19	6 717 883.70
14. Magistracy						
Original Budget	38 648 000					
Less: Virement	(6 232 565)	32 415 435	32 395 495.21	19 939.79	0.06	
TOTAL:		402 670 815	414 871 951.46	(12 201 136.46)	(3.03)	338 400 802.34

ANNEXURE A (continued)

1.2 Standard subdivisions

Subdivision	2011/2012			2010/2011
	Authorised expenditure	Actual expenditure	Under-expenditure/ (Excess)	Actual expenditure
	N\$	N\$	N\$	N\$
Operational:				
Current expenditure: Personnel				
001. Remuneration	194 493 510	204 312 839.95	(9 819 329.95)	171 596 657.02
002. Employer's contribution to staff's pension fund	16 424 767	16 415 702.49	9 064.51	14 788 643.40
003. Other conditions of service	2 003 207	1 997 694.10	5 512.90	3 864 784.66
Total	212 921 484	222 726 236.54	(9 804 752.54)	190 250 085.08
Current expenditure: Goods and other services				
021. Travel and subsistence expenses	20 142 000	20 031 404.60	110 595.40	19 141 581.21
022. Materials and supplies	7 435 329	7 404 606.66	30 722.34	6 630 078.57
023. Transport	13 462 789	13 462 788.90	0.10	6 451 266.13
024. Utilities	26 092 000	26 087 244.19	4 755.81	19 920 803.56
025. Maintenance	3 895 580	3 895 579.12	0.88	3 708 105.96
026. Property rental and related charges	1 200 000	1 200 000.00	-	-
027. Other services and expenses	75 527 474	78 347 527.89	(2 820 053.89)	41 259 044.44
Total	147 755 172	150 429 151.36	(2 673 979.36)	97 110 879.87
Current expenditure: Membership fees and subscriptions				
041. International	233 685	232 393.70	1 291.30	259 910.54
042. Domestic	129 654	129 653.91	0.09	99 443.06
Total	363 339	362 047.61	1 291.39	359 353.60
Total: Current expenditure	361 039 995	373 517 435.51	(12 477 440.51)	287 720 318.55
Capital expenditure: Acquisition of assets				
101. Furniture and office equipment	6 075 845	5 894 326.69	181 518.31	11 574 210.33
Total: Capital expenditure	6 075 845	5 894 326.69	181 518.31	11 574 210.33
Total: Operational expenditure	367 115 840	379 411 762.20	(12 295 922.20)	299 294 528.88
Development:				
Capital expenditure: Acquisition of assets				
101. Furniture and equipment				247 194.65
104. Purchase of buildings				3 200 000.00
105. Feasibility studies, design and supervision	12 774 200	12 766 061.94	8 138.06	4 336 288.92
107. Construction, renovation and improvements	22 780 775	22 694 127.32	86 647.68	31 322 789.89
Total: Development expenditure	35 554 975	35 460 189.26	94 785.74	39 106 273.46
GRAND TOTAL	402 670 815	414 871 951.46	(12 201 136.46)	338 400 802.34

ANNEXURE A (continued)

1.3 Revenue

Revenue for the year is as follows:

Revenue heading	Estimate	Actual revenue 2011/2012	More/(Less) than estimated	Actual revenue 2010/2011
	N\$	N\$	N\$	N\$
Legal fees	66 130	82 118.53	15 988.53	108 479.55
Private telephone calls	15 486	6 467.06	(9 018.94)	11 460.23
Bail	2 300 000	2 464 939.40	164 939.40	3 467 036.30
Government Gazette	251 000	307 848.20	56 848.20	271 160.80
Photocopies	37 000	81 626.70	44 626.70	83 361.85
Unclaimed money	320 000	66 180.99	(253 819.01)	164 950.87
Miscellaneous	606 269	219 835.60	(386 433.40)	(550 461.30)
TOTAL	3 595 885	3 229 016.48	(366 868.52)	3 555 988.30

1.4 NOTES TO THE FINANCIAL STATEMENTS**1.4.1 Appropriation account: Explanations of variations exceeding 2 % between the authorised and actual expenditure of the main divisions.****(i) Over-expenditure****Main division 03 – Court Services (N\$ 12 520 416.83 – 15.47%)**

The shortfall was caused by a shortage of funds to cater for the annual salary adjustment with effect from first April 2011, in respect of staffing needs such as remuneration and employee's contribution to social security as well as the re – grading of various job categories such as Legal Clerk, Clerical Assistant, Clerk, Typist and Private Secretary which was implemented from first April 2011. Unfortunately, the allocated provision for staffing was inadequate and since the Ministry has an obligation to consistently pay salaries to serving staff members, such overspending was unavoidable.

1.4.2 Departmental Revenue: Explanations of variations exceeding N\$ 100 000**(i) Overestimated****Miscellaneous**

Revenue is collected from Ministerial debts such as overpayments on remuneration or conditions of service of any nature e.g. salaries, bonuses, allowance, unpaid leave as well as exhibits forfeited to the state in criminal matters.

Unclaimed Money

Unclaimed money older than (12) months on the General Register of the Magistrate Suspense Account at several Magistrates Offices in the Grootfontein, Opuwo, Maltahohe, Tsumeb and Aranos were updated and cleared during the reporting year, in view of the implementation of the Namibian Courts Information System (NAMICIS) and deposited in the Ministerial Revenue Account

(ii) Underestimated**Bail**

Revenue on bail is collected from bail forfeited to the state in the event of accused persons that fail to comply with their bail conditions. In this regard, a substantial amount of N\$ 2 041 974.40 was forfeited during the reporting period. However, when the Deposit Suspense Account was audited where the Namibian Court Information System (NAMCIS) has been implemented during the reporting year, unclaimed bail to the tune of N\$ 422 965 that appeared in excess of twelve months, were paid over to the Ministerial Revenue Account.

2. GENERAL INFORMATION

2.1 Capital projects

The following were development projects of the Ministry.

Nature of Project	Approved total budget	Approved Appropriation 2011/2012	Total expenditure at 31/03/2011	Actual expenditure 2011/2012	Total expenditure at 31/03/2012	Expected year of completion
		N\$	N\$	N\$	N\$	
Justice Building Renovation	100 617 000	7 403 283	6 623 884.13	7 403 282.79	14 027 166.92	31/03/2015
Katutula Court Lift Construction	1 227 000	127 791	1 332 382.86	126 620.68	1 459 003.52	31/03/2012
High Court Construction Phase 2	1 5000 000	-	65 447 496.28	-	65 447 496.58	31/03/2013
Lower Courts Renovation	14 523 000	3 855 849	16 304 231.85	3 818 047.47	20 122 279.32	31/03/2014
Lower Courts Upgrading	169 502 000	17 336 173	112 120 171.79	17 288 499.37	129 408 671.16	31/03/2014
Construction of Flats and Houses	3 800 000	19 066 540	3 418 477.09	1 958 403.59	5 376 880.68	31/03/2014
Supreme Court Renovation	15 115 000	881 840	16 028 595.57	881 839.32	16 910 434.89	31/03/2012
Ombudsman Office Construction	4 190 000	992 449	370 944.36	992 446.92	1 363 391.28	31/03 2013
Windhoek High Court Renovation	21 408 000	2 991 050	408 205.76	2 991 049.12	3 399 254.88	31/03/2015
	331 882 000	35 554 975	222 054 389.69	35 460 189.26	257 514 578.95	

2.2 Study assistance

Thirty two (32) staff members received study assistance to a total amount of N\$ 237 472.92 for the financial year under review.

2.3 Tender Board exemptions

Tender board exemption (E1/12-1/2011) amounting to N\$ 108 625 000 was granted for the following goods and services for the period under review:

Service	Exempted Amount	Actual expenditure	Difference
	N\$	N\$	N\$
Travel and subsistence expenses	18 597 000	16 415 702.49	2 181 297.51
Material and supplies	6 991 000	5 431 472.80	1 559 527.20
Transport	120 000	-	120 000.00
Utilities	1 615 000	1 610 956.57	4 043.43
Maintenance expenses	2 157 000	1 911 925.12	245 074.88
Property rental & related expenses	1 200 000	1 200 000.00	-
Other services & expenses	77 945 000	34 855 921.13	43 089 078.87
Total	108 625 000	61 425 978.11	47 199 021.89

WINDHOEK, 2012-10-19

Dr. P SHIPOH
ACCOUNTING OFFICER