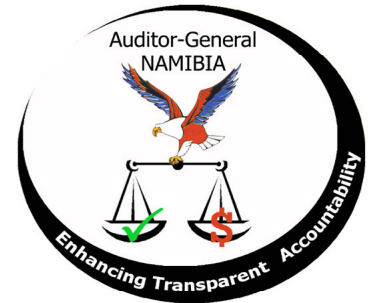




REPUBLIC OF NAMIBIA



REPORT OF THE AUDITOR-GENERAL ON THE ACCOUNTS OF THE
MINISTRY OF JUSTICE
FOR THE FINANCIAL YEAR ENDED 31 MARCH 2010

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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 2010 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 2011

**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 2010**

1. INTRODUCTION

1.1 Report

This report on the accounts of the Ministry of Justice for the financial year ended 31 March 2010 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 Unauthorised expenditure

The undermentioned 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) Although Treasury authorisation was obtained to utilise certain expected saving for the defrayal of expenditure by way of virement during the year, eleven (11) operational subdivisions were exceeded by a total amount of N\$ 3 380 349.00. The excesses are unauthorised in terms of Section 6(a)(iii) of the Act.

4.1.2 Guardian Fund

The Accounting Officer reported that the Ministry is still unable to provide updated financial statements of the Fund for the financial years 2006/07 up to 2009/10. At the time of writing this report financial statements have been received only until 2005/06. The non-submission of financial statement for such a long time is unacceptable. The Accounting Officer is seriously urged to submit all outstanding financial statements as a matter of urgency.

In his comments the Accounting Officer indicated that the financial statements for the years 2006/2007 – 2009/2010 will be completed between March 2011 and April 2011.

5. ACKNOWLEDGEMENT

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

6. AUDIT OPINION

I certify that I have audited the financial statements of the Ministry of Justice for the financial year ended 31 March 2010 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 the financial statements fairly represent the receipts and payments of vote 16 for the year ended 31 March 2010 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
Private Bag 13299
Windhoek
Namibia

ANNEXURE A

1. FINANCIAL STATEMENTS

1.1 Appropriation account

2009/2010						2008/2009
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	2 191 000.00					
Plus: Virement	852 169.40	3 043 169.40	2 764 681.55	278 487.85	9.15	3 963 598.92
02. Central Administration:						
Original budget	78 649 000.00					
Less: Virement	(8 878 330.40)	69 770 669.60	66 876 885.84	2 893 783.76	4.15	39 049 643.77
03. Lower Courts:						
Original budget	79 664 000.00					
Plus: Virement	4 378 257.57	84 042 257.57	83 787 018.85	255 238.72	0.30	71 065 222.37
04. Law Reform:						
Original budget	3 448 000.00					
Less: Virement	(219 574.00)	3 228 426.00	3 123 979.05	104 446.95	3.24	3 225 155.85
05. Legislative Drafting:						
Original budget	4 063 000.00					
Plus: Virement	409 742.43	4 472 742.43	4 352 412.24	120 330.19	2.69	3 680 152.52
06. Office of the Ombudsman:						
Original budget	6 809 000.00					
Less: Virement	(28 062.00)	6 780 938.00	6 249 623.13	531 314.87	7.84	5 280 383.53
07. Legal Aid:						
Original budget	19 127 000.00					
Plus: Virement	1 084 000.00	20 211 000.00	20 010 116.81	200 883.19	0.99	22 456 446.24

ANNEXURE A (continued)

2009/2010						2008/2009
Service		Authorized expenditure	Actual expenditure	Variations		Actual expenditure
				Under-expenditure/ (Excess)	Percent-age	
	N\$	N\$	N\$	N\$	%	N\$
08. Supreme and High Court:						
Original budget	34 707 000.00					
Less: Virement	(2 461 644.00)	32 245 356.00	30 291 843.45	1 953 512.55	6.06	31 083 087.97
09. Attorney General:						
Original budget	10 748 000.00					
Less: Virement	(2 740 411.00)	8 007 589.00	7 841 729.97	165 859.03	2.07	5 423 190.83
10. Civil Litigation:						
Original budget	8 049 000.00	14 363 632.00	14 257 352.72	106 279.28	0.74	8 901 056.74
Plus: Virement	6 314 632.00					
11. Prosecutor General:						
Original budget	32 608 000.00					
Plus: Virement	2 497 594.00	35 105 594.00	34 342 299.21	763 294.79	2.17	29 442 438.45
12. Legal Services and International Co-operation:						
Original budget	4 599 000.00					
Less: Virement	(595 006.00)	4 003 994.00	3 932 016.33	71 977.67	1.80	3 547 548.97
13. Master of High Court:						
Original budget	5 926 000.00					
Less: Virement	(613 368.00)	5 312 632.00	5 140 176.64	172 455.36	3.25	5 605 305.57
TOTAL:		290 588 000.00	282 970 135.79	7 617 864.21	2.62	232 723 231.73

ANNEXURE A (continued)

1.2 Standard subdivisions

Subdivision	2009/2010			2008/2009
	Authorised expenditure	Actual expenditure	Under-expenditure/ (Excess)	Actual expenditure
	N\$	N\$	N\$	N\$
<u>Operational:</u>				
Current expenditure: Personnel				
001. Remuneration	142 646 543	143 773 079.88	(1 126 536.88)	112 772 527.75
002. Employer's contribution to staff's pension fund	11 049 000	10 870 499.02	178 500.98	9 811 159.93
003. Other conditions of service	2 673 046	2 484 754.05	188 291.95	3 361 058.22
Total	156 368 589	157 128 332.95	(759 743.95)	125 944 745.90
Current expenditure: Goods and other services				
021. Travel and subsistence expenses	15 366 602	13 725 634.79	1 640 967.21	11 583 505.30
022. Materials and supplies	6 352 290	6 328 037.97	24 252.03	4 480 595.82
023. Transport	8 477 170	8 477 170.17	(0.17)	5 582 556.00
024. Utilities	18 772 027	18 748 7968.97	23 228.03	17 106 781.04
025. Maintenance	3 723 199	3 708 190.15	15 008.85	2 612 051.92
026. Property rental and related charges	882 899	882 898.23	0.77	800 000.00
027. Other services and expenses	41 619 047	41 516 756.20	102 290.80	32 890 941.77
Total	95 193 234	93 387 486.48	1 805 747.52	75 056 431.85
Current expenditure: Membership fees and subscriptions				
041. International	171 447	170 685.38	761.62	167 886.30
042. Domestic	100 000	99 634.63	365.37	83 643.17
Total	271 447	270 320.01	1 126.99	251 529.47
Total: Current expenditure	251 833 270	250 786 139.44	1 047 130.56	201 252 707.22
Capital expenditure: Acquisition of assets				
101. Furniture and office equipment	4 949 730	4 999 477.84	(49 747.84)	3 816 759.61
Total: Capital expenditure	4 949 730	4 999 477.84	(49 747.84)	3 816 759.61
Total: Operational expenditure	256 783 000	255 785 617.28	997 382.72	205 069 466.83
<u>Development:</u>				
Capital expenditure: Acquisition of assets				
101. Furniture and equipment	240 000	71 934.08	168 065.92	-
105. Feasibility studies, design and supervision	5 852 000	4 385 230.57	1 466 769.43	3 679 491.78
107. Construction, renovation and improvements	27 713 000	22 727 353.86	4 985 646.14	23 974 273.12
Total: Development expenditure	33 805 000	27 184 518.51	6 620 481.49	27 653 764.90
GRAND TOTAL	290 588 000	282 970 135.79	7 617 864.21	232 723 231.73

1.3 Departmental revenue

Revenue for the year is as follows:

Revenue heading	Estimate	Actual revenue 2009/2010	More/(Less) than estimated	Actual revenue 2008/2009
	N\$	N\$	N\$	N\$
Legal fees	63 550	69 398.61	5 848.61	42 735.38
Private telephone calls	24 798	13 693.58	(11 104.42)	11 824.24
Miscellaneous	2 625 733	3 350 497.36	724 764.36	4 871 911.73
Members contribution to the government Employees Medical Aid Scheme.	-	540.00	540.00	-
TOTAL	2 714 081	3 434 129.55	720 048.55	4 926 471.35

1.4 NOTES TO THE FINANCIAL STATEMENTS

1.4.1 Appropriation account: Explanations of variations exceeding 2 % between the authorised and actual expenditure.

(i) Underderexpenditure

- **Main division 01 – Office of the Minister (N\$ 278 487.85 – 9.15%)**

This underexpenditure occurred mainly due to amendments on the Daily Subsistence and Allowance Module with effect from 1 June 2009. It allows for reversals of the commitments which were made for DSA advances during February and/or March 2010, if such commitments are not set-off by DSA claims in the same financial year. Since most claims were not received and set-off before 31st March it has created an underexpenditure in the concerned financial year. There were also lesser expenses on Salaries and GIPF due to a vacant post of Personal Assistant to the Minister.

- **Main division 02 – Central Administration (N\$ 2 893 783.76 – 4.15%)**

Underexpenditure on personnel expenditure was due to vacant posts as well as the fact that funds for annual general salary adjusted were mainly allocated to this Main Division (1602). Due to time constraints no allocations could be made to the respective Directorates. When the Ministry of Finance was approached to virement funds so allocated, this request was rejected since the latter was of the opinion that the Ministry requested this virement to smoothen the books. It is because of this rejection that it will be noticed on the explanations on variations of Subdivisions that the Subdivision Remuneration (001) on Main Divisions Lower Courts (03) and Supreme and High Courts (08) have variations in excess of two percent.

- **Main division 04 – Law Reform (N\$ 104 446.95 – 3.24%)**

Underexpenditure was caused by a vacant post of (1) Deputy Chief: Law Reform. Another contribution resulted from the same explanation given about Daily Subsistence Allowance in Main division 01.

- **Main division 05 – Legislative Drafting (N\$ 120 330.19 – 2.69 %)**

Underexpenditure on other conditions of services was caused by lesser payments made for separation gratuities. Another contributing factor is similar to the explanation given in Main division 01 about Daily Subsistence Allowances.

- **Main division 06 – Office of the Ombudsman (N\$ 531 314.87 – 7.84 %)**

Underexpenditure was mainly contributed by a capital project for the Ombudsman's Office of which N\$ 500 000.00 was budgeted for, but only N\$ 70 944.36 was eventually utilized, leaving an underexpenditure of N\$ 429 055.64. The estimated amount of N\$ 500 000.00 was based on the assumption that a very big office complex would be constructed. However, the eventual accommodation requirements for the said Office were very small. Lesser expenditure was also incurred on utilities such as telephone as well as on funds provided for furniture.

- **Main division 08 – Supreme and High Court (N\$ 1 953 512.55 – 6.06%)**

Underexpenditure occurred due to the Supreme Court Renovation. A total amount of N\$ 8 600 000.00 was allocated to the project, but only N\$ 2 759 595.57 was utilized, because the renovation work started too late. A total amount of N\$ 2 800 000.00 was viremented from this project to lower Courts Upgrading and Lower Courts Renovations respectively. Lesser expenditure was also incurred on subsistence and travelling expenses, other conditions of service and furniture.

- **Main division 09- Attorney-General (N\$ 165 859.03 - 2.07%)**

Underexpenditure occur due to the same reasons given in relation to Daily Subsistence Allowance in Main division 01.

- **Main division 11- Prosecutor General (N\$ 763 294.79 - 2.17%)**

The budgeted amount for GIPF was more than the amount expended due to delays experienced with the filling of posts. Lesser expenditure was also incurred on other conditions of service and furniture.

- **Main division 13 – Master of High Court (N\$ 172 455.36 – 3.25%)**

The budgeted amount for GIPF was more than the amount expended due to delays experienced with the filling of posts. Lesser expenditure was also incurred on subsistence and travelling expense and furniture.

1.4.2 Departmental revenue: Explanations of variations exceeding N\$ 100 000.

(i) Underestimated

Miscellaneous revenue

Items under this revenue head are rather unpredictable.

Exhibits were forfeited to the State.

2. GENERAL INFORMATION

2.1 Capital projects

The following were development projects of the Ministry.

Nature of Project	Approved total budget	Approved appropriation 2009/2010	Total expenditure at 31/03/2009	Actual expenditure 2009/2010	Total expenditure at 31/03/2010	Expected year of completion
	N\$	N\$	N\$	N\$	N\$	
Justice building renovation	10 466 000	4 300 000	3 080 308.88	3 443 575.25	6 523 884.13	31/03/2011
Katutura Court Lift Construction	1 610 000	1 500 000	-	1 254 453.28	1 254 453.28	31/03/2011
Lower courts Renovation	10 290 000	4 350 000	10 577 618.28	3 828 523.42	14 406 141.70	31/03/2012
Lower courts upgrading	104 539 000	12 055 000	82 085 034.71	11 061 890.53	93 146 925.24	31/03/2012
Ombudsman Offices Construction	1 000 000	500 000	-	70 944.36	70 944.36	31/03/2011
Supreme Court Renovation	33 134 000	5 800 000	-	2 759 595.57	2 759 595.57	31/03/2012
High Court Construction Phase 2	76 529 000	2 000 000	62 947 496.28	2 000 000.00	64 947 496.28	31/03/2012
Windhoek High Court upgrading	2 800 000	300 000	-	208 205.76	208 205.76	31/03/2012
Renovation of Houses	2 349 000	500 000	1 622 720.56	493 178.54	2 115 899.10	31/03/2012
Construction of flats and houses	6 483 000	2 000 000	1 481 766.69	1 600 421.48	3 082 188.17	31/03/2012
Construction of victim friendly courts	1 108 000	500 000	608 185.88	467 327.92	1 075 513.80	31/03/2010
	250 308 000	33 805 000	162 403 131.28	27 188 116.11	189 591 247.39	

2.2 Commissions and special committees

The Ministry spent a total amount of N\$ 81 300.00 on the following committees and commissions:

Commissions and special committees	Amount
	N\$
Board of Legal Education	28 040
Legal Practitioners Disciplinary Committee	33 560
Law Reform Development Commission	7 810
Magistrate Commission	11 890
Total	81 300

2.3 Bursaries and study assistance

Staff members from the Ministry of Justice received study assistance to a total value of N\$ 270 827.95 for the financial year under review.

2.4 Deviation from normal Tender Board procedure

Tender exemption (E1 /12-2/09) amounting to N\$ 45 010 000 was granted for the following goods and services for the period under review:

Service	Amount	Additional Amounts	Actual expenditure	Difference
	N\$	N\$	N\$	N\$
Travel and subsistence	11 635 000	2 883 395.72	13 725 634.75	13 725 634.75
Material and supplies	6 223 000	78 000,00	4 940 346.15	1 360 653.85
Transport	120 000	-	-	120 000.00
Utilities	596 000	-	573 748.42	22 251.58
Maintenance Expenses	1 049 000	-	2 118 542.72	76 921.77
Property rental	930 000	-	882 898.23	47 101.77
Other services & expenses	24 457 000	4 138 000.00	26 094 495.25	2 500 504.75
Total	45 010 000		48 335 665.52	(3 325 665.52)

2.5 Suspense accounts

The final ledger shows nine (9) suspense accounts with balances at 31 March 2010. There are six (6) with debit and three (3) with credit balances. The following suspense accounts reflected balances of more than N\$ 100 000 at 31 March 2010:

Account	Debit / (credit)
	N\$
R/D Suspense IRD	154 381.72
S & T Advance Suspense Account	1 225 121.89
Magistrate Offices	5 338 968.02
Bills payable	(19 044 122.02)
Tax Code	(266 263.74)
Magistrate deposit account	(68 642 458.67)

WINDHOEK, 2009-10-05

S. V. KATJIUANJO
ACCOUNTING OFFICER