



REPUBLIC OF NAMIBIA



REPORT OF THE AUDITOR-GENERAL ON THE ACCOUNTS OF THE

MINISTRY OF JUSTICE

FOR THE FINANCIAL YEAR ENDED 31 MARCH 2011

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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 2011 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 2012

**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 2011**

1. INTRODUCTION

1.1 Report

This report on the accounts of the Ministry of Justice for the financial year ended 31 March 2011 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\$ 11 665 802.34 (3.57%) which is unauthorised in terms of Section 6(a)(i) of the Act.
- (ii) Four (4) main divisions were overspent with a total amount of N\$ 13 886 011 .33 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, seventeen (17) operational subdivisions were exceeded by a total amount of N\$ 14 685 520.38. 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 Appropriation account

The following virements at the respective main divisions as reflected in the appropriation account do not agree with the virements as approved by the Treasury as illustrated in the table below:

Main Division	Appropriation account	Approved virements	Difference
	N\$	N\$	N\$
02. Central Administration	3 089 259	3 091 918	(2 659)
09. Legal Advice	246 848	141 839	(105 009)
10. Civil Litigation	2 755 569	2 860 578	105 009
12. Legal Services	173 046	175 705	(2 659)

The Accounting Officer explained that the differences were caused as a result of the time that lapse since a request is processed until such approval is obtained. Unfortunately the IFMS does not have a Mechanism to reserve any funds that are earmarked for virementation.

4.1.3 Suspense accounts

The final ledger shows ten (10) suspense accounts with balances at 31 March 2011. 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	523 782.34
S & T Advance Suspense Account	508 209.40
Magistrate Offices	17 920 664.04
Bills payable	(8 851 276.26)
Tax Code	114 769.17
Magistrate deposit account	(82 550 538.27)

The Ministry is commended for its regular and proper reconciliation of suspense accounts.

4.1.4 Guardian Fund

The Accounting Officer reported that the Ministry is unable to provide updated financial statements of the Fund for the financial year 2010/2011. However, the Accounting Officer submitted the financial statements for the period 2004/2005, 2009/2010 as promised in the previous report of 2009/2010.

It is recommended that the Accounting Officer submits the financial statements for the financial year 2010 for audit purposes.

5. ACKNOWLEDGEMENT

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

6. QUALIFIED AUDIT OPINION

I certify that I have audited the financial statements of the Ministry of Justice for the financial year ended 31 March 2011 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).

My opinion has been qualified due to the following:

- 1) Whole vote has been exceeded with an amount of N\$ 11 665 802.34 (3.57%).
- 2) Guardian Fund – Non submission of financial statements.

Except for my above-mentioned remarks, in my opinion the financial statements fairly represent the receipts and payments of vote 16 for the year ended 31 March 2011 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

2010/2011						2009/2010
Service	Authorized expenditure	Actual expenditure	Variations		Actual expenditure	
			Under-expenditure/ (Excess)	Percent age		
	N\$	N\$	N\$	%	N\$	
01. Office of the Minister						
Original budget	2 242 000					
Plus: Virement	298 311	2 540 311	2 715 798.54	(175 487.54)	(6.91)	2 764 681.55
02. Central Administration:						
Original budget	61 965 000					
Plus: Virement	3 089 259	65 054 259	70 422 666.28	(5 368 407.28)	(8.25)	66 876 885.84
03. Court Services:						
Original budget	109 940 000					
Less: Virement	(6 547 315)	103 392 685	109 834 710.44	(6 442 025.44)	(6.23)	83 787 018.85
04. Law Reform:						
Original budget	4 209 000					
Plus: Virement	280 185	4 489 185	4 342 723.09	146 461.91	3.26	3 123 979.05
05. Legislative Drafting:						
Original budget	4 970 000					
Plus: Virement	377 848	5 347 848	5 306 650.93	41 197.07	0.77	4 352 412.24
06. Office of the Ombudsman:						
Original budget	6 836 000					
Less: Virement	(122 000)	6 714 000	6 605 616.55	108 383.45	1.61	6 249 623.13
07. Legal Aid						
Original budget	21 233 000					
Plus: Virement	371 739	21 604 739	20 900 111.01	704 627.99	3.26	20 010 116.81

ANNEXURE A (continued)

2010/2011						2009/2010
Service	Authorized expenditure	Actual expenditure	Variations		Actual expenditure	
			Under-expenditure/ (Excess)	Percentage		
	N\$	N\$	N\$	%	N\$	
08. Supreme and High Court:						
Original budget	41 696 000					
Less: Virement	(100 325)	41 595 675	43 495 766.07	(1 900 091.07)	(4.57)	30 291 843.45
09. Attorney-General:						
Original budget	9 858 000					
Plus: Virement	246 848	10 104 848	10 094 459.64	10 388.36	0.10	7 841 729.97
10. Civil Litigations						
Original budget	12 235 000	14 990 569	14 903 424.15	87 144.85	0.58	14 257 352.72
Plus virement	2 755 569					
11. Public Prosecutions:						
Original budget	38 574 000					
Less: Virement	(528 278)	38 045 722	37 344 725.28	700 996.72	1.84	34 342 299.21
12. Legal Services						
Original budget	6 167 000					
Less: Virement	(173 046)	5 993 954	5 716 266.66	277 687.34	4.63	3 932 016.33
13. Master of the High Court:						
Original budget	6 810 000					
Plus: Virement	51 205	6 861 205	6 717 883.70	143 321.30	2.09	5 140 176.64
TOTAL:		326 735 000	338 400 802.34	(11 665 802.34)	(3.57)	282 970 135.79

ANNEXURE A (continued)

1.2 Standard subdivisions

Subdivision	2010/2011			2009/2010
	Authorised expenditure	Actual expenditure	Under-expenditure/ (Excess)	Actual expenditure
	N\$	N\$	N\$	N\$
Operational:				
Current expenditure: Personnel				
001. Remuneration	165 231 509	171 596 657.02	(6 365 148.02)	143 773 079.88
002. Employer's contribution to staff's pension fund	15 675 000	14 788 643.40	886 356.60	10 870 499.02
003. Other conditions of service	3 593 991	3 864 784.66	(270 793.66)	2 484 754.05
Total	184 500 500	190 250 085.08	(5 749 585.08)	157 128 332.95
Current expenditure: Goods and other services				
021. Travel and subsistence expenses	18 756 020	19 141 581.21	(385 561.21)	13 725 634.79
022. Materials and supplies	6 789 489	6 630 078.57	159 410.43	6 328 037.97
023. Transport	6 451 360	6 451 266.13	93.87	8 477 170.17
024. Utilities	20 001 855	19 920 803.56	81 051.44	18 748 798.97
025. Maintenance	3 717 909	3 708 105.96	9 803.04	3 708 190.15
026. Property rental and related charges	-	-	-	882 898.23
027. Other services and expenses	40 223 408	41 259 044.44	(1 035 636.44)	41 516 756.20
Total	95 940 041	97 110 879.81	(1 170 838.87)	93 387 486.48
Current expenditure: Membership fees and subscriptions				
041. International	395 124	259 910.54	135 213.46	170 685.38
042. Domestic	99 444	99 443.06	0.94	99 634.63
Total	494 568	359 353.60	135 214.40	270 320.01
Total: Current expenditure	280 935 109	287 720 318.55	(6 785 209.55)	250 786 139.44
Capital expenditure: Acquisition of assets				
101. Furniture and office equipment	6 550 891	11 574 210.33	(5 023 319.33)	4 999 477.84
Total: Capital expenditure	6 550 891	11 574 210.33	(5 023 319.33)	4 999 477.84
Total: Operational expenditure	287 486 000	299 294 528.88	(11 808 528.88)	255 785 617.28
Development:				
Capital expenditure: Acquisition of assets				
101. Furniture and equipment	250 000	247 194.65	2 805.35	71 934.08
104. Purchase of buildings	3 200 000	3 200 000.00	-	-
105. Feasibility studies, design and supervision	4 400 000	4 336 288.92	63 711.08	4 385 230.57
107. Construction, renovation and improvements	31 399 000	31 322 789.89	76 210.11	22 727 353.86
Total: Development expenditure	39 249 000	39 106 273.46	142 726.54	27 184 518.51
GRAND TOTAL	326 735 000	338 400 802.34	(11 665 802.34)	282 970 135.79

ANNEXURE A (continued)

1.3 Revenue

Revenue for the year is as follows:

Revenue heading	Estimate	Actual revenue 2010/2011	More/(Less) than estimated	Actual revenue 2009/2010
	N\$	N\$	N\$	N\$
Legal fees	62 016	108 479.55	46 463.55	69 398.61
Private telephone calls	15 127	11 460.23	(3 666.77)	13 693.58
Bail	2 000 000	3 467 036.30	1 467 036.30	-
Government Gazette	250 000	271 160.80	21 160.80	-
Photocopies	35 000	83 361.85	48 361.85	-
Unclaimed money	300 000	164 950.87	(135 049.13)	-
Miscellaneous	816 815	(550 461.30)	(1 367 276.30)	3 350 497.36
Medical Aid Scheme	-	-	-	540.00
TOTAL	3 478 958	3 555 988.30	77 030.30	3 434 129.55

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-expenditures

Main division 01 – Office of the Minister (N\$ 175 487.54 – 6.91%)

Excess occurred in view of changes to the DSA module, which necessitated a process where closing balances of the previous financial year 2009/10 should have been carried forward as opening balances to the 2010/2011 financial year, given the amended design of the DSA Module. This Matter required an engagement between the Ministry of Finance and SILNAM for an amicable solution.

Main division 02 – Central Administration (N\$ 5 368 407.28 – 8.25%)

Excess occurred mainly in view of the late receipt of invoices for transport expenses from Government Garage, which was charged against this main division even though funds were not available.

Main division 03 – Court Services (N\$ 6 442 025.44 – 6.23%)

Excess occurred mainly on remuneration in view of the virement of projected underexpenditure to supplement expected shortfalls on DSA for the Lower Courts and Legal Costs at Government Attorney.

Main division 08 – Supreme and High Court (N\$ 1 900 091.07 - 4.57%)

Excess on personnel expenditure occurred due to the appointment of acting Judges which was done on the recommendation of the judicial Service Commission. Other contributing factors to this excess resulted from higher expenditure incurred on witnesses and interpreter's fees for the high treason trial.

(ii) Underexpenditure**Main division 04 – Law Reform (N\$ 146 461.91 – 3.26 %)**

The underexpenditure occurred mainly due to a vacancy of a Deputy Chief: Law Reform which could not be filled during the financial year. There were also lesser expenses on Office stationery than anticipated.

Main division 07 – Legal Aid (N\$ 704 627.99 – 3.26 %)

underexpenditure on personnel expenditure occurred due to the delayed filling of vacant posts of Legal Officer, which resulted in lesser expenditure on GIPF. Other contributing factors to the underexpenditure was lesser expenditure on office stationery.

Main division 12- Legal Services (N\$ 277 687.34 – 4.63%)

Underexpenditure on salaries and GIPF were caused by the turnover of staff due to the expiry of the contract of the former Chief: Legal Services. Other contributing factors were lesser expenses on other conditions of service and the printing of the Government Gazette.

Main division 13- Master of the High Court (N\$ 143 321.30 -2.09%)

The budgeted amount for salaries and 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 expenses and office stationery.

1.4.2 Departmental Revenue: Explanations of variations exceeding N\$ 100 000**(i) Over-estimated****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. A substantial amount of N\$ 2 026 678.91 was forfeited at the Magistrate Office Mungunda Street in Windhoek.

Unclaimed Money

Older than (12) months on the General Register of the Magistrate Suspense Account at several Magistrates Offices in the Otjozondjupa and Erongo regions 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 that accused persons fail to comply with their bail conditions. However, when the Deposit Suspense Account was audited where the Namibian Courts Information System (NAMICIS) has been implemented during the reporting year, unclaimed bail that appeared on the bail register of the respective Magistrate Offices for periods 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	Total expenditure at 31/03/2011	Approved appropriation 2010/2011	Actual expenditure 2010/2011	Total expenditure at 31/03/2011	Expected year of completion
	N\$	N\$	N\$	N\$	N\$	
Justice Building Renovation	130 000 000	6 523 884.13	100 000	100 000.00	6 623 884.13	31/03/2013
Katutula Court Lift Construction	1 630 000	1 254 453.23	80 000	77 929.58	1 332 382.86	31/03/2011
High Court Construction Phase 2	83 816 000	64 947 496.28	500 000	500 000.00	65 447 496.28	31/03/2013
Lower Courts Renovation	17 145 000	14 406 141.70	1 900 000	1 898 090.15	16 304 231.85	31/03/2013
Lower Courts Upgrading	133 267 000	93 146 925.25	19 000 000	18 973 246.55	112 120 171.79	31/03/2013
Renovation of Houses in Various Regions	3 800 000	2 115 899.10	300 000	300 000.00	2 415 899.10	31/03/2013
Construction of Flats and Houses	5 682 000	3 082 188.17	400 000	336 288.92	3 418 477.09	31/03/2012
Construction of Victim friendly courts	-	1 075 513.80	-	-	1 075 513.80	31/03/2012
Supreme Court Renovation	22 639 000	2 759 595.57	13 269 000	13 269 000.00	16 028 595.57	31/03/2012
Ombudsman Office Construction	4 520 000	70 944.36	300 000	300 000.00	370 944.36	31/03/2013
Windhoek High Court Renovation	5 900 000	208 205.76	200 000	200 000.00	408 205.76	31/03/2013
Purchasing of Kisting House	3 200 000	-	3 200 000	3 200 000.00	3 200 000.00	31/03/2010
Default Value				(48 281.72)		
	411 599 000	189 591 247.39	39 249 000	39 106 273.48	228 745 802.59	

2.2 Commissions and special committees

The Ministry spent a total amount of N\$ 61 056.00 on the following committees and commissions:

Commissions and special committees	Amount
	N\$
Board of Legal Education	11 070.00
Legal Practitioners Disciplinary Committee	17 081.00
Law Reform Development Commission	10 335.00
Magistrate Commission	22 570.00
Total	61 056.00

2.3 Study assistance

Forty nine (49) Staff members received study assistance to a total amount of N\$ 297 550.60 for the financial year under review.

2.4 Assets

The Ministry bought a building to the total amount of N\$ 2 982 000 during the financial year under review.

2.5 Tender Board exemptions

Tender Board exemption (E1/12-1/2010) amounting to N\$ 52 107 000.00 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	14 522 000	19 141 581.21	(4 619 581.21)
Material and supplies	6 149 000	4 542 230.16	1 606 769.84
Transport	120 000	-	120 000.00
Utilities	742 000	969 823.34	(227 823.34)
Maintenance Expenses	1 257 000	1 624 613.77	(367 613.77)
Property rental & related expenses	1 000 000	-	1 000 000.00
Other services & expenses	28 317 000	28 565 967.26	(248 967.26)
Total	52 107 000	54 844 215.74	(2 737 215.74)

WINDHOEK, 2011-10-19

S V KATJIUANJO
ACCOUNTING OFFICER