



BUDGET BRIEF

MINISTRY OF LEGAL AFFAIRS HEADQUARTERS

HEAD 87

Mr. Chairman,

The Ministry of Legal Affairs, under the direction of the Minister of Legal Affairs and Attorney-General, is charged with responsibility for upholding the Constitution and Legal System of Bermuda. The Ministry's Mission is simply "To provide and promote fair administration of and access to justice."

The Departments that come under the umbrella of the Ministry are Legal Affairs Headquarters, the Judiciary, the Attorney-General's Chambers, the Department of Court Services and the Department of Public Prosecutions.

The Ministry of Legal Affairs as with many other Government Ministries was tasked with reducing its expenditures by

approximately 5% from its 2014-15 budgetary allocation. With this new budgetary reality in mind, the Ministry critically analyzed its expenditures and sought to preserve the efficient delivery of services.

CURRENT ACCOUNT EXPENDITURE

2014/15 vs. 2015/16

ORIGINAL ESTIMATE 2014/15	\$5,725,000
ESTIMATE 2015/16	\$5,119,000
DECREASE	\$ 606,000
% DECREASE	11%

Mr. Chairman,

The Current Account Expenditure Estimates for **HEAD 87**, The Ministry of Legal Affairs Headquarters, begins on **Page B-60** of the Estimates of Revenue and Expenditure Book. A total of **Five Million, One Hundred and Nineteen Thousand Dollars (\$5,119,000)** has been allocated to Ministry Headquarters. This represents a decrease of **Six Hundred and Six Thousand Dollars (\$606,000)** or **11%** from the 2014/15 Estimates. The decrease is mainly due to a targeted reduction in spending on

external legal Counsel in the Legal Aid Office due to budget constraints.

Mr. Chairman,

Of the **Five Million, One Hundred and Nineteen Thousand Dollars (\$5,119,000)** allocated to Ministry Headquarters, **One Million, Four Hundred and Sixty Two Thousand Dollars (\$1,462,000)** or **Twenty-Nine Percent (29%)** represents the allocation for Salaries. This includes salaries for Ministry Headquarters, the Legal Aid Office and the Office of the National Anti-Money Laundering Committee and is detailed as follows:

- \$570,000 – Ministry Headquarters
- \$454,000 – Legal Aid Office
- \$438,000 – Office of NAMLC

Mr. Chairman,

One Million Eight Hundred and Seven Thousand Dollars (\$1,807,000) or **Thirty Five Percent (35%)** of Ministry Headquarters Budget is allocated to Professional Services; largely consisting of the budget allocation for external legal counsel retained by the Legal Aid Office of **One Million Four**

Hundred Thousand Dollars (\$1,400,000). Also included in the Professional Services allocation is a budget of **Three Hundred Thousand Dollars (\$300,000)** for the Justice Protection Programme. This programme continues to produce excellent dividends for the Bermuda Government and the country as a whole by aiding in the successful prosecution and conviction of criminals.

Mr. Chairman,

The Ministry of Legal Affairs Headquarters is divided functionally into Five (5) Programmes:

97000 Administration

97010 Financial Intelligence Agency (a Grantee)

97030 Legal Aid

97040 NAMLC

97070 Justice Protection

(I) ADMINISTRATION – 97000

2014/15 vs. 2015/16

ORIGINAL ESTIMATE 2014/15	\$1,015,000
ESTIMATE 2015/16	\$ 693,000
DECREASE	\$ 322,000
% DECREASE	32%

This Programme provides for the administrative costs associated with Ministry Headquarters to which **Six Hundred and Ninety Three Thousand Dollars** has been allocated (**\$693,000**). This represents a decrease of **Three Hundred and Twenty Two Thousand Dollars** (**\$322,000**) or **32%** from the 2014/2015 estimates. Factored into this decrease is the withdrawal of funds used in the past to support the training of Pupils in their preparation for a call to the Bar. This programme in Headquarters is no longer sustainable. In addition funds used for one post was transferred to the Attorney General Chambers to fund a Senior Parliamentary Counsel position which is necessary if we are to continue meeting the demands of drafting legislation in a timely manner. We also terminated a Consultant contract with no plan for renewal. Collectively, the total movement aforementioned has decreased the budget by **Three Hundred and Thirteen Thousand Dollars** (**\$313,000**).

Included in the Administration cost center are Salaries and related costs for Ministry Headquarters. Administrative support for the **Minister** and **Permanent Secretary** is provided by one **Executive Assistant** and one **Administrative Assistant**. Policy formulation for Ministry legislative initiatives and project management is provided by a **Policy Analyst and an Assistant**. Fiscal and financial control is provided by a **Ministry Comptroller**.

(II) **LEGAL AID OFFICE – 97030**

Mr. Chairman,

The Legal Aid Office fulfills the Government's constitutional mandate to provide legal advice and representation to those who can least afford it.

CURRENT EXPENDITURE

2014/15 vs. 2015/16

ORIGINAL ESTIMATE 2014/15	\$2,633,000
ESTIMATE 2015/16	\$2,039,000
DECREASE	\$ 594,000

% DECREASE	23%
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Mr. Chairman,

The Legal Aid Programme, which is administered by the Legal Aid Committee under the authority of the Legal Aid Act 1980, is supported in 2015/16 by an allocation of **Two Million and Thirty Nine Thousand Dollars (\$2,039,000)** which is a **23%** or **Five Hundred and Ninety Four Thousand Dollars (\$594,000)** decrease from the 2014/2015 allocation. The decrease in the cash limit from 2014/15 is mainly due to a **Six Hundred Thousand Dollar (\$600,000)** reduction in the funds allocated to legal services.

The 2015/16 budget allocated to legal aid, **Four Hundred and Fifty-Four Thousand Dollars (\$454,000)** or **22%** represents salaries for administrative and management staff. **One Million Four Hundred Thousand Dollars (\$1,400,000)** or **69%** is cost allocated for legal services. The remaining **One Hundred and Eighty-Five Thousand Dollars (\$185,000)** or **9%** represents administrative expenses other than salaries for the legal aid

office. Due to budget constraints, reduced funds were allocated to legal services for 2015/16 . It is our plan to curtail expenses for legal services through revisions in legislation.

Mr. Chairman,

The legal aid office has focused primarily on increased operational and administrative efficiency and the reduction of expenditure where possible given the limitations in budget and small staff size coupled with a high demand for services.

Historically, the largest area of expenditure within the legal aid budget has been legal fees. Budgetary allocations over the past five (5) years have been insufficient to meet the demand for legal services. The legal aid office has made efforts to reduce costs through the following continuing initiatives:-

- Containment of legal fees through requirement of brief fees for all criminal trials in magistrates' court and supreme court and for appeals to the court of appeal and privy council for serious offences such as murder and drug offences.

- Strict adherence to the act with respect to eligibility criteria on the basis of type of matter and household income.
- Scanning and emailing all correspondence sent out to counsel in private practice who are involved in the legal aid scheme thereby reducing time spent by administrative staff faxing and preparing correspondence for mailing.
- Close monitoring of costs of current certificates by preparing and submitting with each taxed bill a total of previous payments which triggers correspondence to counsel requesting an estimate of time required to conclude the matter where payments are high or the matter has continued over more than one fiscal period.
- Regular income review of certificate holders with on-going matters to ensure that their income still falls within the statutory limit. Reassessment of certificate holders which reveals that their income no longer falls within the statutory limit results in immediate discharge of their legal aid certificates.

- General law reform to the justice system aimed at reducing the demand for legal services and therefore the cost to the system.

NEW COST SAVINGS INITIATIVES

The Ministry will consider further legislative amendments to enhance cost savings such as:-

- Establishing brief fees for all legal aid matters including domestic, matrimonial and civil matters.
- Increasing the legal aid committee's power of assignment of counsel for legal aid matters to maximize use of in house counsel.

Mr. Chairman,

LEGAL SERVICES

As at 31 March 2014 the legal aid office managed 138 domestic and matrimonial matters, 146 civil matters, and 375 criminal matters, a combined total of 659 matters. **Twenty-Five Thousand, One Hundred and Fifty Dollars (\$25,150.00)** was recovered in the form of client reimbursements and has been applied to the consolidated fund.

As at 31 January 2015, the legal aid office managed 64 domestic and matrimonial matters, 68 civil matters, and 167 criminal matters, for a combined total of 299 matters. **Twelve Thousand Nine Hundred Dollars (\$12,900)** has been recovered in the form of reimbursements and contributions and has been applied to the consolidated fund.

Mr. Chairman,

OUTPUT MEASURES

The legal aid office retains the ability to process applications for legal aid certificates within seven (7) days. However achieving this objective is dependent on whether applicants have submitted the required information in a timely manner.

The average cost of each legal aid matter increased from \$4,407.49 in 2012/2013 to \$8,063.99 in 2013/2014. This is a reflection of the increase in multiple defendant matters particularly in respect of serious offences such as murder and importation of drugs.

The legal aid office continues to process applications for temporary certificates which are commonly known as emergency certificates within 24 hours once all relevant financial information is submitted at the time of application.

Mr. Chairman,

CAPITAL EXPENDITURE

The capital expenditure for head 87 relating to the legal aid cost centre has decreased from fifty thousand dollars (\$50,000) in 2014/2015 to nil dollars in 2015/2016.

STAFF

The legal aid office has its full complement of staff. The staff establishment consists of five (5) permanent posts, two (2) Legal Counsel, one (1) office manager, one (1) accounting assistant and one (1) administrative assistant.

TRAINING AND DEVELOPMENT

The legal aid office looks to the development of its administrative and professional staff. Therefore, much attention has been

placed and will continue to be placed on training given the small size of the office and the need for cross training. Training opportunities enable staff to improve their skill set which in turn assists them in effective discharge of their duties as public servants. This office utilizes fully the training opportunities provided by the department of human resources and other departments where applicable and has therefore curtailed expenditure in this area.

The diversity of legal work in the legal aid office makes it an attractive option for pupils and law students to become highly competent and well-rounded advocates. The legal aid office had two (2) pupils – Jaleesa Simons over the period June to September 2014, and Crystal Payne for the month of October 2014.

It is anticipated that another pupil Kevin Simpson will be joining the office over the period March to May 2015.

Mr. Chairman,

OTHER INITIATIVES

ACCOMODATION

The current priority for this office is to secure suitable accommodation which will address staff security, client confidentiality, need for proximity to the courts and additional space requirements. This issue has been raised as a staff concern over the last five (5) years. The office's security needs have become more pressing over the past year since three (3) incidents have had to be reported to the police, the last of which resulted in a client being placed before the courts and found guilty of threatening behaviour towards staff in September 2014.

The legal aid office has located office space which meets all its operational requirements and moved into its new location, 120 Victoria Street, Hamilton on 27 February 2015.

Mr. Chairman,

CASE MANAGEMENT SYSTEM

The legal aid office is making use of technology to increase its productivity and efficiency and as a cost saving measure, without

need for additional staff. We are currently in the process of implementing a case management, document management, and workflow application to support the increasing demand for legal aid services and to reduce reliance on the current time consuming manual processes that are presently in effect.

Installation of the relevant software is currently underway and training for staff on the new system will take place at the end of February and in Mid-March 2015.

(III) OFFICE OF THE NATIONAL ANTI-MONEY LAUNDERING COMMITTEE (NAMLC) – 97040

2014/15 vs. 2015/16

ORIGINAL ESTIMATE 2014/15	\$ 574,000
ESTIMATE 2015/16	\$ 587,000
INCREASE	\$ 13,000
% INCREASE	2%

Mr. Chairman,

The purpose of the Office of the National Anti-Money Laundering Committee (Office of NAMLC) is to ensure that Bermuda has a strong, effective regime to combat money laundering and the

financing of terrorism and proliferation, while collaborating with international entities to help address these issues on a global scale. The Office of NAMLC's budget for the fiscal year 2015/16 is **Five Hundred and Eighty Seven Thousand Dollars (\$587,000)**, an increase of **Thirteen Thousand Dollars (\$13,000)** from the 2014/15 allocation. This increase is mainly attributable to salary adjustments with no furlough.

During the financial year 2014/2015, an important initiative undertaken by the Office of NAMLC was to ensure that Bermuda was formally recognized as having done the necessary work to satisfactorily address the recommendations made by the IMF assessors in the 2007 review of Bermuda's Anti-Money Laundering/Anti-Terrorist Financing regime (the AML/ATF regime); and thus could be deemed as having achieved a high level of compliance with the global standards in force at the time the review was done in 2007. Therefore, the Office of NAMLC worked with the agencies that play a key role in the fight against money laundering and terrorist financing, to prepare Bermuda's

application to the Caribbean Financial Action Task Force (CFATF) seeking removal from regular follow-up, which is the monitoring process imposed by CFATF following such reviews. The application contained detailed information on the enhancements made to Bermuda's legislative and operational framework between 2007 and 2014, as well as relevant statistics to support the submission. As a result of the significant work done to address the gaps that previously existed in our framework and the comprehensive report provided by the Bermuda team, Bermuda was removed from regular follow-up by CFATF and commended on the strength and level of compliance of its framework with the 2004 international standards. This was a significant achievement, which was important to maintain Bermuda's reputation as a quality international financial centre.

For the remainder of the financial year, the key focus for the Office of NAMLC has been working with the NAMLC agencies and other relevant parties to ensure that Bermuda's framework achieves a high level of compliance with the international

standards that were updated in 2012 and is well placed for success in its next review which is expected in 2016. In particular, the Office has worked closely with the NAMLC Legislative Working Group to analyse and address the legislative gaps in the framework. A consultation paper was prepared and circulated to industry on proposed legislative changes. The Office has since submitted drafting instructions to Parliamentary Counsel in relation to the proposals, taking into account the feedback received from industry. In addition, the Office continued to work with Government House and UK authorities, in relation to international sanctions, to ensure that Bermuda is in compliance with the international obligations in this regard. In addition, during this period the Office carried out a detailed review of the UN Convention against Corruption (UNCAC) vis-à-vis the legislative framework in Bermuda, to determine what action is required to be taken in order to have this Convention extended to Bermuda, as this is now a requirement in the updated international standards.

As part of Bermuda's preparations for the next review of its AML/ATF regime, a permanent leader for the Office of NAMLC has now joined the team. Ms. Paula Tyndale has significant experience and expertise in the AML/ATF area and, as National Coordinator, is expected to play a key role in the coordination of Bermuda's AML/ATF activities. We must thank Ms. Cindy Clarke who did an excellent job as Acting National Coordinator for 6 months during the 2014 /2015 financial year.

Mr. Chairman,

Bermuda has now embarked on its work to prepare for the next review of our AML/ATF regime which is expected to be carried out by the IMF in late 2016. This review will include an in-depth assessment of the effectiveness of our regime, to include an evaluation of the extent to which Bermuda's legal and institutional framework is successfully combating money laundering and terrorist financing within its borders, and cooperating with international counterparts in the global fight. The Office of NAMLC will play an integral role in coordinating and providing

relevant assistance for Bermuda's efforts to develop its framework in the required manner. This will ensure that we will be successful in this upcoming review, given its importance to maintaining Bermuda's position as a well-regarded international financial centre. Key initiatives that the Office of NAMLC team will be working on in financial year 2015/ 2016 to prepare Bermuda for the IMF's 2016 review, are as follows:

- i. Finalizing and implementing a Strategic Plan for Bermuda's AML/ATF regime based on the 2013 National Risk Assessment;
- ii. Progressing and completing the final legislative amendments required to align the legislative framework with the requirements of the 2012 updated international standards on AML/ATF;
- iii. Coordinating and organizing an update to the 2013 National Risk Assessment, for all NAMLC agencies and others involved in the AML/ATF regime to get a more current picture of progress made since 2013;

- iv. Coordinating training for personnel in NAMLC Agencies, to assist in their preparations for the IMF review in 2016;
- v. Working with Competent Authorities to finalize the bringing into the scope of the AML/ATF regime, operators in certain sectors such as real estate dealers, corporate service providers, as well as jewelers and dealers in high value goods; and
- vi. Coordinating across government to update and modernize our anti-corruption and bribery legislation.

In this regard, not only will the Office work closely with the relevant government ministries and agencies, but it will also continue to liaise with the private sector to assist them in understanding and effectively implementing the requirements imposed on them.

(IV) JUSTICE PROTECTION PROGRAMME – 97070

2014/15vs. 2015/16

ORIGINAL ESTIMATE 2014/15	\$ 303,000
ESTIMATE 2015/16	\$ 300,000
DECREASE	\$ 3,000
% DECREASE	1%

The Justice Protection Programme has been allocated a budget of Three Hundred Thousand Dollars **(\$300,000)** for fiscal year 2015/16 representing a decrease of **Three Thousand Dollars (\$3,000)**. This programme is operated pursuant to the Justice Protection Act 2010 and provides protection for prosecution witnesses who meet the legislative requirements for entry into the programme. The success of this legislative initiative is apparent from the increase in successful prosecutions; particularly those that are gang-related and involve violent offenders. It is in relation to these categories of offences that witness intimidation is most apparent.

GRANTS

2014/15 vs. 2015/16

ORIGINAL ESTIMATE 2014/15	\$ 1,235,000
ESTIMATE 2014/15	\$ 1,535,000
INCREASE	\$ 300,000
% INCREASE	24%

Mr. Chairman,

The Budget allocation for grants for fiscal 2015/16 is found at **Page C-16** of the Estimates of Revenue and Expenditure. For

Fiscal 2015/16 grants will be provided to the Financial Intelligence Agency and for the Government's annual membership fee for the Caribbean Financial Action Task Force.

(a) FINANCIAL INTELLIGENCE AGENCY (FIA):

In continuance of the Government's efforts to combat money laundering and terrorist financing, the FIA was established under the Financial Intelligence Agency Act 2007. The FIA is the independent agency authorized to receive, gather, store, analyze and disseminate information relating to suspected proceeds of crime and potential financing of terrorism. This information is received in the form of a suspicious activity report (SAR). The FIA is empowered to disseminate such information to the Bermuda Police Service and Foreign Intelligence Authorities. The FIA has been allocated **One Million, Five Hundred Thousand Dollars (\$1,500,000)** for fiscal 2015/16 an amount which has increased by **Three Hundred Thousand Dollars (\$300,000)** from fiscal 2014/15. In order for the agency to meet its financial obligations during the upcoming fiscal year, additional funding was needed. The statutory mandate of the FIA must meet

international regulatory standards for the financial sector with the necessary resources in place. The FIA, as required by law, reports its quarterly expenditure and provides an annual audited report to the Minister of Legal Affairs.

(b) CARIBBEAN FINANCIAL ACTION TASK FORCE (CFATF.):

Also included in grants is the Government's Annual Membership in the CFATF which is allocated from Office of National Anti-Money Laundering Committee's. As in past years the contribution will be **Thirty Five Thousand dollars (\$35,000)**.

CAPITAL EXPENDITURE ESTIMATES

Mr. Chairman,

The Budget allocation for Capital Expenditure is found at **Page C-9** of the Estimates of Revenue and Expenditure. The Ministry has been allocated a total of **Three Hundred and Ninety-Four Thousand Dollars (\$394,000)** for fiscal 2015/16. Just over 84% of this allocation or **Three Hundred and Twenty Nine Thousand Dollars (\$329,000)** is intended to be used towards Video Conferencing, JEMS Framework and Court Smart Reporting.

These capital improvements should lead to a decrease in future current expenditure as they are used by Government to more efficiently process matters through our justice system. The remaining **Seventy Thousand dollars (\$70,000)** will be used towards the purchase of fully depreciated assets with no residual value for departments under the Ministry.

INITIATIVES IN THE FORTHCOMING YEAR

MINISTRY OF LEGAL AFFAIRS

CRIMINAL JUSTICE REFORM

Mr. Chairman,

Going into future legislative sessions, a key priority of the Ministry will be legal reform. Our first plank of reform will concern the criminal justice system in Bermuda. Honourable Members will recall a commitment made in the Government's recent Throne Speech to reviewing Criminal Procedure for the purpose of modernizing the administration of justice to make it more efficient and effective.

Such reform took an important first step recently with the introduction of the Criminal Procedure Rules in 2013. Those rules mandated a criminal justice system which abides by an overriding objective to deal with cases justly. This includes: acquitting the innocent and convicting the guilty; dealing with the prosecution and defence fairly; recognizing the rights of the defendant; respecting the interests of witnesses, victims and jurors; and dealing with the case efficiently and expeditiously.

Mr Chairman,

The Ministry's aim in the coming months is to give the Bench the tools needed to enforce their overriding objective to do justice. Much of our criminal legislation is based on Victorian-era precedents and is no longer fit for purpose in the 21st century. Criminal trials have become unjustifiably delayed, which in turn affects fairness. We have seen complex trials last many weeks which could have been concluded in far less time. This state of affairs places considerable pressure on the

public purse, and we will be looking to reforms which have been tried and tested overseas and adjusting them to the Bermudian context.

Mr Chairman,

When these reforms come into force, they will require a major shift in the culture of all who practice in the Criminal Justice System, bar and bench alike. In particular, once given these new tools, judges and magistrates presiding over criminal trials should take full advantage of them to actively manage trials in a manner which is fair to all. When fully in force, these reforms should lead to cost savings – directly, as it relates to processing of cases through our criminal justice system, and indirectly, as the demand for legal services covered by legal aid.

DIVERSION FROM PROSECUTION

Mr Chairman,

The Chief Justice discussed before the legal profession at the 2014 Start of the Legal Year Bermuda's relatively high levels of incarceration. Honourable Members will note the success of our Electronic

Monitoring Device (EDM) programme, also popularly known as “ankle bracelets”. These are available to those on bail and on probation. This has resulted in a decrease in the number of spaces that are being occupied in our correctional system, which in turn, feeds further savings into the budgets of both the Ministry of Legal Affairs and the Ministry of National Security.

In very much the same vein, these two Ministries will look to incorporating a philosophical focus on ‘diversion from prosecution’ to our criminal justice system. Honourable Members should recall two relevant Throne Speech Commitments: we will work with the Director of Public Prosecutions and the Bermuda Police service to amend the formal Caution Policy to permit greater discretion on the part of police officers when dealing with first-time offenders who might otherwise have been charged with simple possession of cannabis.

Mr. Chairman,

The Government will also examine the ramifications of fixed penalty notices for certain minor offences. Fixed penalties allow police to issue on-the-spot fines to persons committing an offence, giving them the opportunity to pay the fine out-of-court. Fixed penalties can ease the burden on the criminal justice system through the elimination of unnecessary court appearances.

Other diversionary options under consideration include the possibility of conditional cautions and deferred prosecution agreements, both of which are recent innovations coming out of the UK.

Mr. Chairman,

I am satisfied that the Ministry of Legal Affairs Budget allocations for 2015/16 will enable us to successfully fulfill our mandate with careful monitoring and the exercise of financial prudence.

That completes Head 87.

Thank You Mr. Chairman.