REPUBLIC OF NAMIBIA

NATIONAL ASSEMBLY

LAND BILL

(As passed by the National Assembly)

(Introduced by the Minister Agriculture, Fisheries, Water and Land Reform)

[B. 2 - 2025]

BILL

To provide for the establishment of communal land boards and provide for their powers and functions; to provide for the establishment of the Communal Land Development Fund; to provide for the demarcation and extent of communal land areas, and the allocation of communal land rights; to provide for the powers and functions of chiefs, traditional authorities and land committees in the allocation of communal land rights; to provide for continuation of the Land Reform Advisory Commission; to provide for the continuation of the Land Acquisition and Development Fund; to provide for the acquisition of commercial agricultural land by the State for the purposes of land reform and for other land reform related purposes and for the allocation of such land to Namibian citizens who do not own or otherwise have the use of any or of adequate agricultural land; to vest in the State a preferential right to purchase commercial agricultural land; to provide for the compulsory acquisition and alienation of commercial agricultural land by the State for the purposes of land reform and other land reform related purposes; to prohibit the acquisition of commercial agricultural land by foreign nationals; to regulate the leasing of commercial agricultural land by foreign nationals; to provide for the valuation of commercial agricultural land; to provide for the continuation of the Valuation Court under the name Valuation Tribunal; to provide for the imposition of land tax; to provide for the continuation of the Lands Tribunal; to provide for the appointment of authorised officers to perform certain functions under the Act; and to provide for incidental matters.

(Introduced by the Minister Agriculture, Water and Land Reform)

ARRANGEMENT OF SECTIONS

PART 2
COMMUNAL LAND DEVELOPMENT FUND

PART 3
COMMUNAL LAND AREAS

PART 4
ALLOCATION OF RIGHTS IN RESPECT OF COMMUNAL LAND

PART 4
PREFERENTIAL RIGHT OF STATE TO PURCHASE
COMMERCIAL AGRICULTURAL LAND

PART 5
EXPROPRIATION OF COMMERCIAL AGRICULTURAL LAND

PART 6
ALLOTMENT OF COMMERCIAL AGRICULTURAL LAND

PART 7
PROHIBITION ON ACQUISITION OF COMMERCIAL AGRICULTURAL LAND BY FOREIGN NATIONALS

CHAPTER 4
LAND TAX

PART 1
PRELIMINARY

PART 2
LAND TAX

PART 3
VALUATION OF COMMERCIAL AGRICULTURAL LAND

PART 4
VALUATION ROLL, VALUATION TRIBUNAL AND APPEALS TO COURT

BE IT ENACTED as passed by the Parliament, and assented to by the President, of the Republic of Namibia as follows:

CHAPTER 1
PRELIMINARY PROVISIONS

Definitions

1. In this Act, unless the context indicates otherwise -

"Agricultural (Commercial) Land Reform Act" means the Agricultural (Commercial) Land Reform Act, 1995 (Act No. 6 of 1995) which is repealed by this Act;

"agricultural land" means any land that is used for agricultural purposes;

"agricultural purposes" includes game farming and aquaculture;

"authorised officer" means a staff member of the Ministry designated in terms of section 171 authorised to perform any functions or exercise any powers in terms of this Act;

"alienate", in relation to commercial agricultural land, means sell, exchange, donate, or otherwise dispose of, land, whether for any valuable consideration or otherwise, and includes, in the case where such land is registered in the name of -

(a) a company, the sale or transfer of any shares of a company to another person;

(b) a close corporation, the sale or transfer of any interest of a member in the close corporation, or any portion of such interest to another person;

(c) a trust or other juristic person, the sale or transfer of any interest of a beneficiary of the trust or person, or any portion of such interest to another person;

"appeal tribunal" means an appeal tribunal appointed in terms of section 57(1);

"area of the board" means the area described in a notice under section 4(2) as area of jurisdiction in respect of a board;

"board" means a communal land board established under section 4;

"chief" means a person who has been recognised under the Traditional Authorities Act, 2000 (Act No. 25 of 2000) as the chief of his or her traditional community;

"child" includes a child born outside marriage, a step child, an adopted child and a child under guardianship;

"close corporation" means a close corporation registered under the Close Corporations Act, 1988 (Act No. 26 of 1988);

"close relative" means a spouse, including a spouse or partner in a customary union, child, parent or sibling of the owner of land;

"commercial agricultural land" means –

(a) any agricultural land held under freehold title; or

(b) an undivided share in agricultural land held under freehold title, but excludes land excluded from the application of this Act by section 2;

"Commission" means the Land Reform Advisory Commission referred to in section 65;

"commonage" means that portion of the communal area of a traditional community which is traditionally used by the residents of such area for the purposes set out in section 34;

"communal area" means the geographical area habitually inhabited by a specific traditional community, and under the jurisdiction of a traditional authority;

"communal land" means land referred to in section 20;

"Communal Land Fund" means the Communal Land Development Fund established by section 16;

"Communal Land Reform Act" means the Communal Land Reform Act, 2002 (Act No. 5 of 2002) repealed by this Act;

"communal land right" means any of the rights that may be granted over communal land that are set out in section 24;

"community-based organisation" means an organisation, group, trust, foundation or a body established by or for a community and having as its aims and objectives to serve and benefit the community;

"company" means a company incorporated in terms of the Companies Act, 2004 (Act No. 28 of 2004);

"controlling interest", in relation to -

(a) a company, means –

   (i) more than 50 per cent of the issued share capital of the company;

   (ii) more than half of the voting rights in respect of the issued shares of the company; or

   (iii) the power, either directly or indirectly, to appoint or remove the majority of the directors of the company without the concurrence of any other person;

(b) a close corporation, means more than 50 per cent of the interest in the close corporation; or

(c) a trust or other juristic person, means more than 50 per cent of the interest in the trust or person;

"Deeds Registries Act" means the Deeds Registries Act, 1937 (Act No. 47 of 1937) or the Registration of Deeds in Rehoboth Act, 1976 (Act No. 93 of 1976), whichever is applicable;

"Executive Director" means the Executive Director of the Ministry;

"farming unit" means a portion of land allocated for farming purposes and conforming to the size prescribed under this Act for such purpose;

"foreign national" -

(a) means a person who is not a Namibian citizen;

(b) in relation to a company means -

(i) a company incorporated under the laws of any country other than Namibia and in which the controlling interest is held by persons who are not Namibian citizens; or

(ii) a company incorporated in Namibia in which the controlling interest is held by persons who are not Namibian citizens;

(c) in relation to a close corporation, means a close corporation in which the controlling interest is held by persons who are not Namibian citizens; and

(d) in relation to a trust or other juristic person, means trust or juristic person in which the controlling interest is held by persons who are not Namibian citizens;

"Fund" means the Land Acquisition and Development Fund referred to in section 77;

"group right" means a right to communal land held by two or more persons whether formed together in an association under this Act or any other law;

"interest", in relation to -

(a) a company, means -

(i) any percentage of the issued share capital of the company;

(ii) any voting rights in respect of the issued shares of the company; or

(iii) the power, either directly or indirectly, to appoint or remove any of the directors of the company without the concurrence of any other person;

(b) a close corporation, means any percentage of the interest in the close corporation; or

(c) a trust or other juristic person, means any percentage of the interest in the trust or person;

"land" includes commercial agricultural land and communal land, but excludes land excluded from the application of this Act by section 2;

"land reform" means a programme that reflects commitment of the Namibian State to address injustices of the past relating to unequal access to and distribution of land and to address social and economic imbalances in the Namibian society by ensuring equitable access to land for all citizens;

"Land Survey Act" means the Land Survey Act, 1993 (Act No. 33 of 1993);

“land tax” means land tax imposed under and payable in terms of section 129;

“land tax clearance certificate” means a statement in writing by the Minister certifying that all land taxes imposed under this Act on the commercial agricultural land in question have been paid;

“Land Valuation and Taxation Regulations” means the Land Valuation and Taxation Regulations published under Government Notice No. 285 of 1 November 2018;

“Lands Tribunal” means the Lands Tribunal referred to in section 158;

“lease” means any lease granted in respect of a portion or unit of commercial agricultural land as contemplated in section 108;

“leaseholder” means a person to whom a right of leasehold has been granted under section 37(2)(b);

“legal practitioner” means a legal practitioner as defined in section 1 of the Legal Practitioners Act, 1995 (Act No. 15 of 1995);

“local authority area” means -

(a) an area declared or deemed to have been declared under section 3 of the Local Authorities Act, 1992 (Act No. 23 of 1992) to be a municipality, town or village;

(b) an area declared under section 31 of the Regional Councils Act , 1992 (Act No. 22 of 1992) to be a settlement;

“local authority council” means a local authority council as defined in section 1 of the Local Authorities Act;

“Master” means the Master of the High Court of Namibia;

“Minister” means the Minister responsible for land affairs;

“Ministry” means the Ministry administering land affairs;

“occupational land rights” means a right to occupy communal land for the provision of services that are in the public interest and not for private gain;

“office, ministry or agency” means an office, a ministry or an agency as defined in section 1 of the Public Services Act;

“owner”, in relation to any land or any registered right in or over land, means the person in whose name such land or right is registered, and includes -

(a) if the owner is deceased, the executor of his or her estate;

(b) if the estate of the owner has been sequestrated, the trustee of the insolvent estate;

(c) f the owner is a company or a close corporation, trust or other juristic person which is being wound up, the liquidator;

(d) if the owner is a minor or a person otherwise under a legal disability, the guardian or curator of such person;

(e) in respect of property attached in terms of an order of court, the sheriff, deputy sheriff or messenger of the court concerned;

(f) the authorised representative of the owner in Namibia;

(g) in relation to a farming unit allotted or leased in terms of this Act, the person to whom it was allotted or leased or his or her cessionary or sub-lessee; and

(h) in the case of a right of leasehold granted in terms of section 37(2)(b), the holder of such right;

"public institution" includes –

(a) an office, a ministry or an agency;

(b) a public enterprise as defined in section 1 of the Public Enterprises Governance Act, 2019 (Act No. 1 of 2019);

(c) a religious institution; and

(d) any other institution offering public services;

"Public Service Act" means the Public Services Act, 1995 (Act No. 13 of 1995);

"prescribed" means prescribed by regulation made under this Act;

"region" means a region as defined in the Regional Councils Act, 1992 (Act No. 22 of 1992);

"regional council" means a regional council established under section 2 of the Regional Councils Act, 1992 (Act No.22 of 1992);

"registered", in relation to land or a right in or over land, means registered in terms of this Act or of the Deeds Registries Act, as applicable;

"Registrar" means the registrar responsible for the deeds registry referred to in the Deeds Registries Act;

"right of leasehold" means a right of leasehold granted under section 37(2)(b);

"spouse" includes the spouse in a civil marriage or spouse or partner in a customary union, whether or not such customary union has been registered;

"staff member" means a staff member as defined in section 1 of the Public Service Act;

"this Act" includes regulations made under section 176;

"traditional authority" means a traditional authority of which the traditional leaders have been recognised under the Traditional Authorities Act, 2000 (Act No. 25 of 2000);

"traditional community" means a traditional community as defined in the Traditional Authorities Act, 2000 (Act No. 25 of 2000);

“transfer,” in relation to a lease or right of leasehold, means sale, exchange, donate, sublease or otherwise dispose of, whether for any valuable consideration or otherwise, and includes, in the case where such lease or leasehold is registered in the name of -

(a) a company, the sale or transfer of shares of the company which results in any share in the company being passed to another person;

(b) a close corporation, the sale or transfer of any member’s interest in the close corporation, or any portion of such interest, which results in any interest in the close corporation being passed to another person; or

(c) a trust or other juristic person, the sale or transfer of any beneficiary’s or member’s interest in the trust or person or any portion of such interest, which results in any interest in the trust or juristic person being passed to another person; and

“Valuation Tribunal” means the valuation tribunal referred to in section 138.

Application of Act

2. (1) This Act applies to any land or an undivided share in land, excluding -

(a) land situated in a local authority area;

(b) land situated in a settlement area; and

(c) land declared as a game park or a nature reserve in terms of the Nature Conservation Ordinance, 1975 (Ordinance No. 4 of 1975).

(2) The Minister may, by notice in the *Gazette,* exclude any land from the application of this Act.

Objects of Act

3. The objects of this Act are -

(a) to address, in accordance with the Namibian Constitution, injustices of the past which included dispossessions, discrimination and inequitable access to and unequal distribution of land under colonialism and apartheid;

(b) to provide for a unitary land system, where Namibian citizens have equal rights, opportunities and security with regard to land, irrespective of where the land is situated;

(c) to make special provisions in the allocation of land to Namibian citizens who -

(i) do not own or otherwise have the use of any or of adequate land, and most importantly to those Namibian citizens who have been socially, economically or educationally disadvantaged by past discriminatory laws or practices in accordance with Article 23 of the Namibian Constitution;

(ii) are unemployed, incapacitated, indigent and disadvantaged as contemplated in Article 95(g) of the Namibian Constitution, to ensure a decent standard of living which recognises their inherent dignity as members of the human family;

(c) to demonstrate the commitment of Namibia to land reform and reforms to bring about equitable access to the natural resources of Namibia, in order to address the results of racial discriminatory laws or practices made under colonialism and apartheid;

(d) to ensure that there is established an independent, expeditious, cost effective and just system for adjudication of land disputes which will hear and determine land disputes fairly and without delay;

(e) to ensure the productive use of land in compliance with the principles of sustainable use for the benefit of present and future generations in accordance with Article 95 (l) of the Namibian Constitution;

(f) to ensure that payment of just compensation for expropriation of property reflects an equitable balance between the public interest, which includes Namibia's commitment to land reform and the rights of those affected; and

(g) to provide for an efficient, effective, economical and transparent system of land administration and accountability of public officials.

CHAPTER 2
COMMUNAL LAND

PART 1
COMMUNAL LAND BOARDS

Establishment of communal land boards

4. (1) The Minister, subject to subsection (4), must establish communal land boards to exercise the powers conferred, and perform the functions imposed on a board by this Act within the area for which the board is established.

(2) A board may under subsection (1) be established in respect of -

(a) the whole of any region in which communal land is situated;

(b) a defined part of a region; or

(c) an area comprising defined parts of two or more of regions.

(3) The Minister, subject to subsection (4), may alter the boundaries of any area determined in respect of a board under subsection (1).

(4) The powers conferred by subsections (1) and (3) may be exercised by the Minister only after consultation with the traditional authorities which will be affected by the Minister's action.

(5) The Minister must by notice in the *Gazette* announce –

(a) the establishment of every board under subsection (1), with a description of the area of jurisdiction of the board; and

(b) any alteration of the boundaries of the area of any board.

Powers and functions of boards

5. Subject to this Act, the powers and functions of a board are -

(a) to control the allocation and the cancellation of customary land rights by chiefs or traditional authorities under this Act;

(b) to receive applications for rights of leasehold under this Act and make recommendations to the Minister and, where applicable, grant rights of leasehold;

(c) to receive applications for occupational land rights under this Act and make recommendations to the Minister and, where applicable, grant occupational land rights;

(d) to establish and maintain, as prescribed, a register and a system of registration for recording the allocation, transfer and cancellation of -

(i) customary land rights;

(ii) rights of leasehold; and

(iii) occupational land rights,

under this Act, which rights are to registered in terms of this Act or may be registered in accordance with the Deeds Registries Act after such communal land has been surveyed;

(e) to consider and resolve land disputes or refer them to appropriate authorities in accordance with this Act; and

(f) to perform such other functions as are assigned to a board by this Act or any other law.

Constitution of boards

6. (1) Subject to section 7, a board consists of not less than 15 members, namely –

(a) the chief regional officer of the regional council concerned, and, if the area of the board extends over the boundaries of two or more regions, the chief regional officer of each such region;

(b) the regional head of the Ministry;

(c) other members appointed by the Minister as follows -

(i) one representative from each of the traditional authorities within the area of the board, nominated by each such authority;

(ii) one person to represent the organised farming community within the area of the board;

(iii) four persons at least two of whom must be women, of whom -

(aa) two are engaged in farming operations in the area of the board concerned;

(bb) two have expertise relevant to the functions of the board;

(iv) three staff members in the public service, of whom –

(aa) one is nominated by the Minister responsible for justice;

(bb) one is nominated by the Minister responsible for environment; and

(cc) one is nominated by the Minister responsible for agriculture, if applicable.

(2) Before assuming office a member of a board is required to make and subscribe to the oath of office or an affirmation in the prescribed form and manner before a magistrate.

(3) For the purpose of seeking nominations as contemplated in subsection (1)(c)(i) and (c)(iv), the Minister must in writing request –

(a) the traditional authorities in the area of the board; and

(b) the Ministers referred to in paragraph (c)(iv) of that subsection,

to nominate, subject to section 7, a person for appointment to the board within the period specified by the Minister in such written request.

(4) The Minister may, for the purpose of appointing a member –

(a) referred to in subsection (1)(c)(ii), consult with anybody or organisation engaged in activities for furthering the interests of the farming community in the area of the board and which the Minister recognises as being representative of that farming community; or

(b) referred to in subsection (1)(c)(iii), consult with any traditional authority or any other person whom the Minister may consider necessary.

(5) The Minister may, in respect of any member being a chief regional officer referred to in subsection (1)(a), and after consultation with the chief regional officer concerned, appoint any other person to attend on behalf of the chief regional officer a meeting of the board or any committee during the absence of the chief regional officer, and a person so appointed, when attending a meeting is considered to be a member of the board concerned.

(6) If a traditional authority fails to nominate a person for appointment following a request of the Minister under subsection (3)(a), the Minister may appoint any person whom the Minister considers suitable for appointment and the person so appointed holds office as if he or she had been nominated by the traditional authority concerned.

(7) The members of a board must elect the chairperson and a deputy chairperson of the board from among their number.

Disqualifications

7. A person is not eligible for appointment as a member of a board, if he or she -

(a) is not a Namibian citizen or permanent resident of Namibia;

(b) is a member of Parliament, a regional council or a local authority council;

(c) is a chief;

(d) is an unrehabilitated insolvent;

(e) has been sentenced to imprisonment without the option of a fine for any offence 10 years preceding the appointment; or

(f) has been found guilty of an offence in terms of section 11(3).

Term and vacation of office

8. (1) A member of a board, other than a member referred to in section 6(1)(a) or (b), holds office for a period of three years and is eligible for re-appointment at the expiry of his or her term but not for more than two terms.

(2) The office of a member, other than a member referred to in section 6(1)(a) or (b), becomes vacant if -

(a) he or she becomes disqualified in terms of section 7;

(b) he or she resigns as a member by written notice delivered to the Minister;

(c) the authority by whom he or she was nominated for appointment as a member, withdraws such nomination by written notice to the Minister; or

(d) he or she is removed from office under subsection (3).

(3) The Minister may by notice in writing remove a member from office if the Minister, after giving the member a reasonable opportunity to be heard, is satisfied that such member –

(a) has been absent from three consecutive meetings of the board without the prior permission of the board;

(b) is incapacitated by physical or mental illness or for any other cause is unable or unfit to efficiently discharge his or her functions; or

(c) has committed an act of misconduct which the Minister on reasonable grounds considers renders the member unsuitable to continue to hold office.

(4) If the office of a member of a board becomes vacant, the vacancy is filled by the appointment of another person, with due regard to section 6 for the unexpired term of office of the person who ceased to be a member.

Meetings of boards

9. (1) The Minister or his or her delegate must convene the first meeting of a board established after the commencement of this Act and thereafter every board established or deemed to be established under this Act must meet at least once every two months, or as circumstances requires, at such time and place as the board determines.

(2) The chairperson of a board may convene a special meeting of the board if –

(a) prior written approval is obtained from the Executive Director for such meeting; or

(b) he or she is requested in writing by the Minister to do so to transact any business stipulated by the Minister.

(3) The majority of the members of the board forms a quorum for a meeting of the board.

(4) The chairperson of a board, or in the absence of the chairperson, the deputy chairperson, or in the absence of both the chairperson and the deputy chairperson, the person elected by the members present from among their number, presides at a meeting of the board.

(5) A board, with the approval of the Minister, may invite not more than two persons with appropriate expertise, knowledge or experience to assist the board or any committee of the board in the discharge of any of its functions, but such person has no right to vote.

(6) A majority of votes of the members present and voting at a meeting of the board constitutes the decision of the board, and in the event of an equality of votes the person presiding at the meeting has a casting vote.

(7) A decision of the board or an act performed under the authority of the board is not invalid merely by reason of -

(a) a vacancy in the membership of the board; or

(b) the fact that a person not entitled to sit as a member of the board was present at a meeting when such decision was taken or such act was authorised, if the decision was taken or the act was authorised by a majority of the members present and entitled to vote at the meeting.

(8) A board must cause minutes to be kept of the proceedings at its meetings.

Committees

10. (1) A board may establish one or more committees consisting of members of the board for the purpose of advising the board on any matter which the board refers to the committee for investigation and advice.

(2) A board may co-opt into the membership of its committees other persons whose knowledge and skills are necessary for the committee to perform its functions.

(3) A board may at any time dissolve or reconstitute a committee.

(4) A committee may regulate its own procedure.

Disclosure of interest

11. (1) If at any stage during the course of proceedings at a meeting of a board or a committee it appears that a member has or may have an interest in a matter under consideration by the board or such committee which may cause a conflict of interest in the exercise and performance of his or her powers and functions as a member of the board or such committee -

(a) that member must disclose fully the nature of his or her interest and leave the meeting so as to enable the remaining members to discuss the matter and determine whether the member is precluded from participating in such meeting by reason of a conflict of interest; and

(b) such disclosure and the decision taken by the remaining members under paragraph (a) must be recorded in the minutes of the relevant meeting.

(2) If a member fails to disclose a conflict of interest as required by subsection (1) and -

(a) remains present at a meeting of the board or a committee; or

(b) in any manner participates in the proceedings,

such proceedings in relation to the relevant matter, as soon as such non-disclosure is discovered, are rendered invalid and thereafter the board or the committee must review the proceedings in the absence of the member concerned.

(3) A member of the board who knowingly fails to comply with subsection (1) commits an offence and on conviction is liable to a fine not exceeding N$10 000 or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

Remuneration

12. (1) The members of a board and persons referred to in section 9(5) are entitled to be paid such allowances in respect of their services as the Minister, with the concurrence of the Minister responsible for finance, may determine.

(2) Allowances referred to in subsection (1) may differ according to the different offices held by the members or the different functions performed by them.

Financing of boards

13. All expenditures in connection with the performance of the functions of a board are defrayed from –

(a) moneys appropriated by Parliament for that purpose; and

(b) the Communal Land Fund.

Performance of administrative work

14. (1) The administrative work, including the payment and receipt of money, in connection with the performance of the functions of a board are performed -

(a) by staff members in the public service made available by the Executive Director for the purpose; or

(b) by staff members of a regional council designated by such council upon agreement between the Minister and the regional council.

(2) The Executive Director or the regional council concerned, must, in respect of each board, appoint a staff member referred to in subsection (1) to act as the secretary of the board who performs such functions as may be prescribed or as may be assigned to him or her by the chairperson of the board.

Annual report

15. (1) Every board must, not more than three months after 31 March of each year, submit to the Minister a report on the functions performed by the board during the preceding year.

(2) The Minister must table every report received in terms of subsection (1) in the National Assembly within 30 days of receipt if the National Assembly is in ordinary session, or if the National Assembly is not in ordinary session, within 14 days after the commencement of its ensuing ordinary session.

PART 2
COMMUNAL LAND DEVELOPMENT FUND

Establishment of Communal Land Development Fund

16. (1) There is established a fund to be known as the Communal Land Development Fund.

(2) Despite anything contained in any other law, the Communal Land Fund consists of -

(a) moneys appropriated by Parliament for the purposes of the Communal Land Fund;

(b) moneys accruing to the Communal Land Fund by virtue of this Act or any other law;

(c) interest on investments made from moneys of the Communal Land Fund; and

(d) moneys which, with the approval of the Minister and the Minister responsible for finance, may accrue to the Communal Land Fund from any other source, including donations and grants made for the benefit of the Communal Land Fund.

Utilisation of money of Communal Land Fund

17. There must be defrayed from the Communal Land Fund –

(a) any amount which becomes payable in terms of this Act to meet any liability of the State -

(i) arising from the exercise of any power or the performance of any function conferred or imposed on the Minister or a communal land board by this Act in relation to the development and administration of communal land or any right or interest in such land, including the payment of compensation, interest, costs and other moneys incidental to the exercise or performance of any such power or function;

(ii) for the payment of compensation in connection with any termination or cancellation of communal land rights allocated in terms of this Act;

(iii) for the payment of agricultural infrastructure in communal lands as prescribed;

(iv) for the payment of capacity building of the beneficiaries and for providing farming inputs; and

(v) for payment of expenditure incurred in the valuation of any communal land pursuant to this Chapter; and

(b) any amount which the Communal Land Fund is liable to pay under this Act or any other law.

Administration of Fund

18. (1) The Executive Director must administer that Communal Land Fund in accordance with an estimate of revenue and expenditure approved by the Minister and the Minister responsible for finance in respect of every financial year of the Communal Land Fund which ends on 31 March of each year.

(2) Expenses may not be incurred as a charge against the Communal Land Fund except in accordance with the estimate of expenditure referred to in subsection (1).

(3) The Executive Director must open a banking account with a banking institution registered under the Banking Institutions Act, 1998 (Act No. 2 of 1998) or with any building society registered under the Building Societies Act, 1986 (Act No. 2 of 1986) into which all moneys accruing to the Communal Land Fund are deposited.

(4) The Executive Director may, with the approval of the Minister, invest moneys of the Communal Land Fund that are not immediately required for the purposes of the Communal Land Fund –

(a) with any banking institution registered under the Banking Institutions Act, 1998 (Act No. 2 of 1998) or with any building society registered under the Building Societies Act, 1986 (Act No. 2 of 1986);

(b) with the Post Office Savings Bank established by the Posts and Telecommunications Companies Establishment Act, 1992 (Act No. 17 of 1992); or

(c) with any other institution approved by the Minister and the Minister responsible for finance.

(5) Any unexpended balance in the Communal Land Fund at the end of a financial year is carried forward as a credit to the next financial year.

Accounting responsibility

19. (1) The Executive Director is the accounting officer of the Communal Land Fund charged with the responsibility of accounting for all moneys received by and paid from the Communal Land Fund.

(2) The accounting officer must cause such records of account to be kept as are necessary to represent fairly the state of affairs and business of the Communal Land Fund and to explain the transactions and financial position of the Communal Land Fund.

(3) The Auditor-General must audit the books of account, accounting statements and annual financial statements of the Communal Land Fund and must submit a copy of his or her report on such audit to the accounting officer.

(4) The accounting officer must furnish the Minister with such information as the Minister may request from time to time regarding the activities and financial position of the Communal Land Fund, and must as soon as practicable after the end of each financial year submit to the Minister copies of -

(a) the audited balance sheet and profit and loss accounts and the report of the Auditor-General; and

(b) the report by the Executive Director on the activities of his or her office on the administration of the Communal Land Fund during that financial year.

(5) The Minister must table the financial statements and reports submitted in terms of subsection (4) in the National Assembly within 30 days of receipt, if Parliament is in ordinary session or, if Parliament is not in ordinary session, within 14 days after the commencement of its next ordinary session.

PART 3
COMMUNAL LAND AREAS

Extent of communal land

20. (1) Subject to subsection (2), communal land consists of –

(a) the areas described in Schedule 1;

(b) any area which is declared to be communal land under section 21(1)(a); and

(c) any land which is incorporated under section 21(1)(b) into a communal land area referred to in paragraph (a) or (b).

(2) Where a local authority area is situated or established within the boundaries of any communal land area the land comprising such local authority area does not form part of that communal land area any longer and is not communal land.

Establishment of new communal land areas and additions to or subtractions from communal land areas

21. (1) The President, with the approval of the National Assembly, may by proclamation in the *Gazette* -

(a) declare any defined portion of unalienated State land to be a communal land area;

(b) incorporate as part of any existing communal land area any defined portion of unalienated State land; or

(c) withdraw from any communal land area, subject to subsection (2), any defined portion which is required for any purpose in the public interest or for public purposes,

and in such proclamation make appropriate amendments to Schedule 1 so as to include the description of any new communal land area declared under paragraph (a) or to redefine any communal land area affected by any change under paragraph (b) or (c).

(2) Before acting in terms of subsection (1)(c) the President, by proclamation in the *Gazette*, must publish –

(a) the location of the communal land to be withdrawn;

(b) the extent and boundaries of the communal land to be withdrawn; and

(c) a brief statement of the reasons for the proposed withdrawal,

and invite objections from persons to be affected by the proposed withdrawal and the date when the President intends to seek approval from the National Assembly as contemplated by subsection (1).

(3) Any person affected by the decision referred to in subsection (1)(c) may make representations to the National Assembly on the proposed withdrawal of

the land, by submitting the representations to the Minister for tabling in the National Assembly, and the National Assembly must take such representations into account when acting in terms of subsection (1).

(4) The President may not withdraw any land from any communal land area under subsection (1)(c) unless just compensation for –

(a) any right acquired in respect of such land or any portion of the land; and

(b) any improvements made on such land or any portion of the land, is paid to the persons concerned and, where available, suitable arrangements for the resettlement of the affected persons on alternative land have been made.

(5) The compensation payable to a person in terms of subsection (4) is determined –

(a) by agreement between the Minister and the person concerned, and failing such agreement, by the Lands Tribunal; and

(b) in accordance with prescribed criteria.

(6) Any portion of a communal land area withdrawn under subsection (1)(c) ceases to be communal land and becomes available for disposal as State-owned land.

Ownership and custody of communal land

22. (1) Subject to this Act, the ownership of all communal land areas vests in the State and such areas are held in trust in the custody of the traditional authorities concerned –

(a) for the benefit of the traditional communities residing in those areas; and

(b) for the purpose of promoting the economic and social development of the people of Namibia, in particular -

(i) the landless; and

(ii) those with insufficient access to land who are not in formal employment or engaged in non-agricultural business activities.

(2) A person may not –

(a) confer any right of freehold ownership in respect of any portion of communal land; or

(b) acquire any right of freehold of any portion of communal land.

Prohibition against fencing

23. (1) Subject to such exemptions as may be prescribed, a person may not –

(a) erect or cause to be erected a fence on any portion of land situated within a communal land area;

(b) upon the commencement of this Act, retain any fence that exists on any portion of communal land area land, by whomsoever erected, after a date notified by the Minister by notice in the *Gazette,*

unless authorisation for such erection or retention has been granted in accordance with the provisions of this Act.

(2) Subject to subsection (1), a person, who wishes to erect or cause to be erected a fence on any portion of land situated within a communal land area, may apply for authorisation to erect the fence in the prescribed form and manner to the relevant board.

PART 4
ALLOCATION OF RIGHTS IN RESPECT OF COMMUNAL LAND

Rights that may be allocated

24. The rights that may be allocated in respect of communal land under this Act are divided into -

(a) customary land rights;

(b) rights of leasehold;

(c) occupational land rights;

(d) group rights for customary land rights, rights of leasehold or occupational land rights; and

(e) any other form of communal land right that may be prescribed.

Power to allocate and cancel communal land rights

25. (1) The power to allocate or cancel any customary land right in respect of any portion of land in the communal area of a traditional community vests –

(a) in the chief of that traditional community, after consulting the traditinal authority of the relevant traditional community; or

(b) where the chief of that traditional community and the relevant traditional authority have so agreed, in the traditional authority of that traditional community,

subject to ratification by the relevant communal land board.

(2) Subject to sections 37(4) and 49(4), the power to allocate or cancel any –

(a) right of leasehold; or

(b) occupational land rights,

in respect of any portion of land in the communal area of a traditional community vests in the Minister acting on the recommendation of the relevant communal land board and subject to the consent of the that communal land board and the traditional authority of the traditional community in whose communal area the land is situated.

(3) If the chief or traditional authority refuses to allocate a customary land right in terms of subsection (1) when in the opinion of the board it ought to be allocated, any aggrieved person may request the board to refer the matter to the relevant land committee.

(4) The land committee may allocate a customary land right in terms of subsection (1) in the place of the chief or traditional authority if it is satisfied that the chief or traditional authority is withholding allocation unreasonably.

(5) A person who is dissatisfied with the decision of the land committee has the right to appeal to an appeal tribunal within the prescribed period after the decision of the land committee has been communicated to that person.

Land committees

26. (1) The Minister may appoint for each area of a communal land board, a land committee which must –

(a) perform the functions specified is subsection (3) or (4); and

(b) perform any other function assigned to it in terms of, or exercise any other power conferred on it by, this Act.

(2) A land committee consists of not less than four members and not more than six members appointed by the Minister.

(3) If a communal land right is to be allocated in an area where –

(a) there is no recognized chief or traditional authority; or

(b) because of disputes the land allocation cannot be done effectively,

the land committee for the area must allocate that right and perform the functions and exercise the powers that may be performed or exercised by the chief or traditional authority, subject to ratification by the relevant board.

(4) Where –

(a) there is no recognised traditional authority; or

(b) the jurisdiction area of two or more recognised traditional authorities are not clearly defined,

any decision which in terms of this Act could have been exercised by a traditional authority is exercised by a land committee, and any ratification of such decision is done by the relevant communal land board.

(5) A land committee must make recommendations to the Minister or advise the Minister in relation to any matter relating to communal land rights.

Application for customary land rights

27. (1) A person who wishes to be allocated a customary land right in respect of communal land must –

(a) apply for the allocation of such right in the prescribed manner and form; and

(b) submit the application to the chief or traditional authority of the traditional community within whose communal area the land in question is situated.

(2) An applicant referred to in subsection (1) must furnish such information and submit such documents as the chief or traditional authority may require for the purpose of consideration of the application.

(3) Before the allocation of any customary land right a chief or traditional authority must display for a period which may not be less than 30 days, on a notice board at the offices of the traditional authority and of the board concerned, a notice –

(a) stating –

(i) the name of the applicant;

(ii) the approximate size of the land applied for;

(iii) the geographical location of the land applied for;

(iv) the reason for wishing to acquire the customary land right;

(v) the intended purpose for which the customary land right is to be used;

(vi) the number of other customary land rights held by the applicant;

(vii) the type of customary land right applied for; and

(viii) any other matter of information that may be prescribed; and

(b) inviting interested persons to lodge with the traditional authority within 30 days of display of the notice any objections regarding the application.

(4) A traditional authority must, at its own cost, cause the information in the notice referred to in subsection (3) to be –

(a) broadcasted on any radio station broadcasting in its communal area; and

(b) published in a newspaper circulating widely in the communal area.

(5) If the chief or any member of the traditional community objects to the allocation of the right the chief or traditional authority must conduct a hearing to afford the applicant and such objector the opportunity to make representations in connection with the application.

(6) A chief or traditional authority may –

(a) refuse the application –

(i) if the applicant already enjoys the beneficial use of other agricultural land or communal land rights; or

(ii) where the acquisition of the customary land right would be inconsistent with the land reform objectives; or

(b) grant the application subject to subsection (8) and section 28.

(7) A chief or traditional authority must keep a record of his or her or its proceedings.

(8) When granting an application for a customary land right the chief or traditional authority may -

(a) allocate the right in respect of the specific portion of land being applied for or, by agreement with the applicant, any other portion of land; and

(b) subject to section 28, determine the size and the boundaries of the portion of land in respect of which the right is allocated.

(9) An applicant referred to in subsection (1) must pay the prescribed application fee.

(10) The application fee is paid into the community trust account of the traditional authority concerned within whose communal area the land in question is situated to cover administrative costs relating to land allocation.

(11) Despite subsection (10), a chief or traditional authority may charge a fee that is customarily charged in the area for the allocation of a customary land right, but the fee may not exceed the fee as may be prescribed.

Limitation on size of land that may be held under customary land rights

28. (1) A person is not entitled, without the written approval of the Minister, to be allocated and to acquire any customary land right in respect of communal land which exceeds the maximum size which the Minister, with the consent of the Minister responsible for agriculture, if applicable, may prescribe for the purposes of this subsection.

(2) In prescribing a maximum size under subsection (1), the Minister may differentiate -

(a) according to the area where land is situated;

(b) according to the purpose for which land is to be used; or

(c) between persons according to the total extent of other land, whether communal land or otherwise, held by them under any right which permits the beneficial use of such land for a purpose similar to which land held under a customary land right may be used.

Ratification of allocation of customary land rights

29. (1) Any allocation or refusal of allocation of a customary land right made by a chief or traditional authority under section 27 does not have legal effect, unless the allocation or refusal of allocation is ratified by the relevant board in accordance with this section.

(2) Upon the allocation or refusal of a customary land right, the chief or traditional authority concerned must notify the relevant board and furnish to the board the reasons and prescribed particulars pertaining to the allocation or refusal of allocation of the right.

(3) Upon receipt of a notification and the particulars referred to in subsection (2), the board must determine whether the allocation or refusal of allocation of the right in the particular case was properly made in accordance with section 27.

(4) In exercising its function under subsection (3), a board may make such enquiries and consult such persons as the board may consider necessary or expedient for that purpose and -

(a) may ratify the allocation or refusal of allocation of the right if it is satisfied that such allocation or refusal of allocation was made in accordance with this Act;

(b) may refer the matter back to the chief or traditional authority concerned for reconsideration in the light of any comments which the board may make;

(c) must refuse the allocation of the right, if –

(i) the right has been allocated in respect of land in which another person has a right;

(ii) the size of the land concerned exceeds the maximum prescribed size; or

(iii) the right has been allocated in respect of land which is reserved for common usage or any other purpose in the public interest.

(5) If a board refuses the allocation of a right under subsection (4)(c) it must inform the chief or traditional authority and the applicant concerned in writing of the reasons for its decision.

(6) If an application for the allocation of a customary land right has been referred back to the chief or traditional authority in terms of subsection (4)(b), the board may ratify, refuse or vary the revised decision of the chief or traditional authority.

Registration of customary land rights

30. (1) If a board ratifies the allocation of a customary land right under section 29(4)(a) or makes a decision in terms of section 29(6) it must –

(a) cause such right to be registered in the prescribed register in the name of the person to whom it was allocated or in the name of the group in the case of a group right where they occur; and

(b) issue to that person or group a certificate of registration in the prescribed form and manner.

(2) The board must keep a duplicate copy of every certificate of registration issued under subsection (1)(b).

(3) If an original certificate of registration issued under subsection (1)(b) is lost, damaged or destroyed the board, upon an application made to it by the holder of the certificate in the prescribed manner and upon payment of the prescribed fee, must issue a duplicate certificate of registration to the applicant.

Duration of customary land rights

31. (1) Subject to section 33, and unless the right is relinquished by the holder, a customary land right allocated under this Act endures for the natural life of the person to whom it is allocated.

(2) Upon the death of the holder of a right referred to in subsection (1) such right, subject to subsection (7), reverts to the traditional authority for re-allocation –

(a) to the surviving spouse of the deceased person, if such spouse consents to such allocation;

(b) in the absence of surviving spouse or should he or she not consent as contemplated in paragraph (a), to such child or children of the deceased person as the chief or traditional authority determines to be entitled to the allocation of the right in accordance with customary law, if such child or children consent to such allocation;

(c) in the absence of a child or children or should the child or children not consent as contemplated in paragraph (b), to a family member of the deceased person or any person, if such family member or person and other family members of the deceased consents to such allocation; or

(d) in the case of a group customary land right, to the surviving group member or members.

(3) If a holder of a customary right becomes insolvent or if a curator is appointed for a holder under any law relating to health, the executor of the estate of the holder, trustee or such curator, may assign the customary law right to any person who is approved in writing by the Minister on the recommendation of the board concerned.

(4) For the purpose of determining the person to whom a customary land right is to be allocated in the circumstances contemplated in subsection (2), the chief or traditional authority concerned must first consult with such members of the family or families concerned in accordance with the customary law concerned.

(5) The provisions of this section do not apply where the holder of the customary land right leaves a will in which the disposition of the right is set out, and in that case but subject to section 35 the right devolves in terms of the will.

Recognition of existing customary land rights

32. (1) Subject to subsection (2), a person who immediately before 1 March 2003 held a right in respect of the occupation or use of communal land, being a right of a nature referred to in section 24, and which was granted to or acquired by such person in terms of any law continues to hold that right, unless –

(a) the claim to the right of such person to such land is rejected upon an application contemplated in subsection (2); or

(b) such land reverts to the chief or traditional authority by virtue of subsection (11).

(2) A person who claims to hold a right referred to in subsection (1) in respect of land, is required, within a period of three years from the date of commencement of this Act or within such extended period of time as the Minister may notify in the *Gazette* and in such other manner that the Minister considers appropriate, to apply in the prescribed form and manner to the relevant board

(a) for the recognition and registration of such right under this Act; and

(b) where applicable, for authorisation for the retention of any fence or fences existing on the land, if the applicant wishes to retain such fence or fences.

(3) An application in terms of subsection (2) must be accompanied by -

(a) any documentary evidence, if available, which the applicant can submit in support of his or her claim;

(b) a letter from the chief or traditional authority of the traditional community within whose communal area the land in question is situated, furnishing the prescribed information; and

(c) any further information or documents as the board may require.

(4) In considering an application in terms of subsection (2), and despite a report by an investigating committee in terms of section 55 in a particular case, a board may make such investigations or inquiries and consult such persons as it may consider necessary or expedient to establish any fact relevant to the claim of the applicant, including –

(a) the date when and manner in which the applicant acquired the right in question;

(b) whether any other person claims to hold any right in relation to the land in question;

(c) whether the area of the land conforms to the prescribed size referred to in section 28; or

(d) the position of the boundaries or any beacons of the land.

(5) If the board is satisfied as to the validity of the claim of the applicant to the right, it must –

(a) recognise the right of the applicant to the land concerned and cause particulars of that right to be entered in the prescribed register; and

(b) issue the applicant with a certificate of registration.

(6) If the applicant has, in terms of subsection (2)(b), applied for authorisation to retain any fence or fences which exist on the land in question and the board is satisfied that –

(a) the fence was erected in accordance with customary law or any other law;

(b) the fence does not unreasonably interfere with or curtail the use and enjoyment of the commonage by members of the traditional community; and

(c) in the circumstances of the particular case, reasonable grounds exist to allow the applicant to retain the fence or fences concerned,

the board must grant to the applicant authorisation for the retention of the fence, subject to any conditions which it may consider necessary to impose.

(7) If, in respect of any application in terms of subsection (2), the board is of the opinion -

(a) that there are conflicting claims in relation to the land; or

(b) that reasonable grounds exist to doubt the validity of the claim of the applicant,

it must cause a hearing to be conducted in the prescribed manner to resolve the matter, and may make such decision in relation to the claim as it considers just.

(8) Without prejudice to the generality of the power conferred by subsection (7), a decision under that subsection may include -

(a) confirmation of the claim;

(b) subject to subsection (9), rejection of the claim;

(c) confirmation of the claim subject to any variations as the board may determine, including variation in respect of the area or the position of the boundaries of the land if the board determines that -

(i) the area of the land exceeds the prescribed size; or

(ii) the position of the boundaries are not in accordance with customary law; or

(d) the allocation of a right in respect of an alternative portion of land if the land to which the claim of the applicant relates encroaches on the commonage.

(9) If a board is not satisfied as to the validity of the claim of the applicant to the right in question, it is not obliged to reject such claim but may instead refer the matter to the chief or traditional authority concerned for consideration whether the applicant should be allocated a customary land right under this Act, whether in respect of the land to which the claim of the applicant relates or to an alternative portion of land.

(10) Upon referral of a claim in terms of subsection (9), the chief or traditional authority concerned must consider and determine the claim as if it were a new application for the allocation of the right in question.

(11) On expiry of the period allowed for applications in terms of subsection (2), a person is not entitled, unless the Minister on good cause shown directs otherwise, to apply for the recognition and registration of any right referred to in subsection (1), and in that case –

(a) the person holding the land is deemed to have relinquished his or her claim to that land; and

(b) the land reverts to the traditional authority concerned and become available for the allocation of any right under this Act.

(12) If the person who holds a right referred to in subsection (1) dies –

(a) without such person having made the application contemplated in subsection (2), the surviving spouse or child of that person, as the board, with the consent of the chief or traditional authority concerned may approve, may make that application as if the right held by the deceased person vested in such spouse or child; and

(b) after he or she, has made the application contemplated in subsection (2), but before the determination of the application, the application is considered to have been made by the surviving spouse or child referred to in paragraph (a), unless such spouse or such child indicates otherwise.

Cancellation of customary land rights

33. (1) Subject to subsection (2), a chief or traditional authority may cancel a customary land right, including a right referred to in section 32(1) –

(a) if the holder of the right fails to observe in a material respect any condition or restriction attached to the right under this Act;

(b) if the land is being used predominantly for a purpose not recognised under customary law;

(c) if the customary land right was acquired fraudulently or as a result of duress or a misrepresentation which is attributable to the holder of the right; or

(d) if the customary land right was acquired in contravention of any law, including a law relating to protection of the environment or natural resources in Namibia.

(2) A cancellation of a customary land right by a chief or traditional authority under subsection (1) has no legal effect unless the cancellation is ratified by the relevant board.

(3) A customary land right may not be cancelled unless the chief or traditional authority has notified the holder in writing of the grounds on which the cancellation is to be effected and has given the holder not less than 30 days within which to make written representations as to why the right should not be cancelled.

(4) Upon the cancellation of a customary land right under subsection (1), the chief or traditional authority by whom it was cancelled must notify the relevant board and furnish to the board the prescribed particulars pertaining to the cancellation.

(5) A board must ratify the cancellation of a customary land right in terms of subsection (1) if it is satisfied that such cancellation was properly effected in accordance with this Act.

(6) The board must cause to be entered in the prescribed register any cancellation of a customary land right in terms of this section.

Commonage

34. (1) Subject to this section and in compliance with the relevant laws, the commonage in the communal area of a traditional community is available for use by the residents of such area for –

(a) the grazing and watering of livestock;

(b) fishing and hunting in established conservancies;

(c) the gathering of wood fuel and building materials;

(d) the gathering of forest resources for food and medicinal purposes; and

(e) such other purposes as are traditionally accepted by the community using the land communally.

(2) The use of commonage under subsection (1) is subject to such conditions as may be prescribed or as the chief or traditional authority concerned may, after consultation with the board and the traditional community concerned, impose, including conditions relating to –

(a) the kinds and number of livestock that may be grazed in compliance with relevant laws;

(b) the section or sections of the commonage where livestock may be grazed and the grazing in rotation on different sections;

(c) the routes to and from the commonage which livestock are required to use;

(d) where the commonage may be used for hunting in terms of the relevant laws, the terms and conditions on which hunting may take place; or

(e) the amount of wood fuel and building materials and other natural resources which a member of the community may gather for his or her homestead and his or her family.

(3) The President may, under section 21(1)(c), withdraw and reserve any portion of the commonage for any purpose in the public interest or for public purposes.

(4) Despite subsection (1), a chief or traditional authority may withdraw the rights referred to in subsection (1) of any right holder who –

(a) fails to observe in a material respect any condition referred to in subsection (2);

(b) contravenes any provision of subsection (9); or

(c) has access to other land, whether communal land or other agricultural land, held by such right holder under any right the total extent of which is equal to or more than the maximum size prescribed by the Minister under section 28 and which the chief or traditional authority considers to offer sufficient grazing for the livestock of such right holder.

(5) Before a chief or traditional authority acts in terms of subsection (4) he or she or it must give notice to the person, in writing, informing him or her of the intended decision and the grounds and inviting such person to make written representations as to why the right should not be withdrawn.

(6) Despite subsection (1), a chief or traditional authority may upon application of any person who is not a resident referred to in that subsection, grant a commonage right to such person, either for a specified or an indefinite period, and any such person must exercise such right subject to the conditions referred to in subsection (2).

(7) A chief or traditional authority may at any time withdraw a commonage right granted under this section if, due to drought or any other reasonable cause, the chief or traditional authority considers such cancellation in the interest of the residents of the traditional community concerned.

(8) The board concerned may ratify or decline to ratify a decision taken by the chief or traditional authority in terms of subsection (6) or (7).

(9) A chief or traditional authority may, subject to ratification of his or her or its decision by the board concerned, in writing refuse any person, including a person lawfully resident in his or her or its communal area, access to commonage for grazing if such person –

(a) has been allocated land under this Act which is adequate for the purposes of grazing of his or her livestock;

(b) acquired land through any scheme that is funded or in any other way wholly or partially supported by the Government of Namibia which land is adequate for the purposes of grazing of his or her livestock; or

(c) has otherwise acquired land which is adequate for the purposes of grazing of his or her livestock.

(10) A person may not –

(a) erect or occupy any building or other structure on the commonage;

(b) plough or cultivate any portion of the commonage;

(c) take up his or her abode on or occupy any portion of the commonage;

(d) obstruct the approaches to any watering place on the commonage or prevent or attempt to prevent any person from drawing water from, or watering stock at, such a watering place or interfere with the operation of any windmill, water-pump, water-pipe, dam or storage tank or other appurtenance installed or constructed at such a watering place; or

(e) carry on any activity on the commonage, other than the lawful grazing of livestock, which may prevent or restrict the residents of the traditional community concerned from a reasonable exercise of their grazing rights,

unless that person has obtained the written authorisation of the chief or traditional authority ratified by the board concerned to do so.

(11) A person who subsequently acquires a grazing right on commercial agricultural land or in a designated communal area as contemplated in subsection (13) automatically relinquishes his or her grazing right to the commonage in communal area.

(12) A person may not –

(a) claim an exclusive grazing right; or

(b) fence off land reserved for grazing,

in a communal area except in respect of land which is situated within a designated area referred to in subsection (13).

(13) The Minister, after consultation with the chief or traditional authority and the board concerned, may designate by notice in the *Gazette*, in respect of the communal area of each traditional community, an area within which the board may grant grazing and fencing rights for agricultural purposes.

(14) A person who –

(a) utilises the commonage for grazing purposes if access to such commonage has been refused by the relevant chief or traditional authority under subsection (9); or

(b) contravenes or fails to comply with subsection (10) or (12),

commits an offence and on conviction is liable to a fine not exceeding N$10 000 or imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

Prohibition on acquisition of customary land right by foreign nationals

35. (1) Despite anything to the contrary in any other law, a foreign national may not –

(a) acquire a customary land right; or

(b) enter into an agreement or arrangement with any other person where any right to the occupation of a customary land right is conferred upon the foreign national.

(2) A person may not acquire and hold, as a nominee, on behalf or in the interest of a foreign national any customary land right.

(3) Where a customary land right has been granted –

(a) to a foreign national in contravention of subsection (1); or

(b) to a nominee holder of a customary land right in contravention of subsection (2),

the Minister may issue an order that such customary land right be cancelled and the claimant be ordered to leave the land within a specified period.

(4) Where the Minister issues an order under subsection (3), he or she must issue and give a written notice containing the matters set out in subsection (5) –

(a) to the foreign national concerned; and

(b) where applicable, to the nominee holder of a customary land right concerned.

(5) The notice issued under subsection (4) must state that unless the foreign national or such nominee holder of a customary land right, submits to the Minister or the relevant board, within a period of 30 days from the date of service of the notice, the certificate of registration of the customary land right, such customary land right is automatically cancelled after the expiry of a period of 30 days from the date of the notice.

(5) The Minister must cause a copy of every notice issued under subsection (4) to be transmitted to the board, and the board must upon receipt of such notice endorse on such notice the day of its receipt and endorse in the appropriate register that such a notice has been given in respect of the customary land right in question.

(6) If improvements have been effected on any land which is the subject of a customary land right that has been acquired in contravention of subsection (1) or (2) those improvements are deemed to form part of that land and the person who has effected such improvements to the land in question is not entitled to be compensated for such improvements.

(7) A person who –

(a) acquires or holds a customary land right or enters into an agreement or arrangement with any other person in contravention of subsection (1) or (2); or

(b) without the written authorisation of the Minister removes, damages or destroys any improvements made to the land referred to in subsection (6) after a notice has been served on a foreign national or a nominee of a foreign national pursuant to subsection (4),

commits an offence and on conviction is liable to a fine not exceeding N$50 000 or to imprisonment for a period not exceeding 10 years or to both such fine and such imprisonment.

(8) In any prosecution under subsection (7) it is a defence to prove that the accused person had reasonable grounds for believing and did believe that person to whom the customary land right is conferred was entitled to hold such right.

Grant of right of leasehold

36. (1) Subject to subsections (4) and (5) and section 37(4), the Minister may, upon application and on the recommendation of the board concerned, grant to a person a right of leasehold in respect of a portion of communal land.

(2) A right of leasehold for agricultural purposes may be granted only in respect of land which is situated within a designated area referred to in subsection (3).

(3) The Minister, after consultation with the traditional authority and the board concerned, may designate by notice in the *Gazette*, in respect of the communal area of each traditional community, an area within which rights of leasehold for agricultural purposes may be granted.

(4) Despite subsection (2) a person may apply to the Minister for approval for the grant of a right of leasehold in respect of land which is wholly or partly situated outside a designated area, and the Minister may grant the application if the Minister, after consultation with the traditional authority and the board concerned, is satisfied that –

(a) the granting of the right of leasehold will not unreasonably interfere with or curtail the use and enjoyment of the commonage by members of the traditional community; and

(b) in the circumstances of the particular case, reasonable grounds exist for the grant of the right.

(5) Subject to subsection (6), the Minister may grant a right of leasehold only if the traditional authority of the traditional community in whose communal area the land is situated consents to the grant of the right.

(6) If a traditional authority refuses to grant consent in terms of subsection (5), when in the opinion of the Minister consent ought to be given, the aggrieved person may request the board to refer the matter to the land committee for the area in which the land is situated.

(7) The land committee may consent to the grant of the right of leasehold in the place of the traditional authority if the land committee is satisfied that the traditional authority is withholding the consent unreasonably.

(8) A person who is aggrieved by the decision of a land committee made under subsection (7) may appeal against that decision to the appeal tribunal.

Application for right of leasehold

37. (1) A person who wishes to be granted a right of leasehold in respect of communal land must apply for the grant of such right in the prescribed form and manner to the board in whose area the land in question is situated.

(2) A board contemplated in subsection (1) must –

(a) as soon as possible after receipt forward the application concerned to the traditional authority of the traditional community in whose communal area the land is situated for its consent as contemplated in section 36(5), as well as any other information or comments which the traditional authority may consider relevant for purposes of considering the application; and

(b) as soon as possible after the consent of the traditional authority or of the land committee, if the committee gave its consent pursuant to section 36(7), has been received, submit the application to the Minister together with –

(i) the consent of the traditional authority or of the land committee and the information and comments of the traditional authority referred to in paragraph (a); and

(ii) its recommendation to the Minister as contemplated in section 36(1), as well as any other information or comments which the board considers relevant for purposes of considering the application,

and Minister must make a determination on the application for the grant of a right of leasehold and in the case of a refusal, give the applicant written reasons for the refusal.

(3) A right of leasehold may not be granted in respect of a portion of land to which another person holds a customary land right, unless such person agrees to relinquish his or her right in respect of the land, subject to –

(a) the payment of compensation as agreed to by such person; and

(b) suitable arrangements for his or her resettlement on alternative land when necessary.

(4) A board may, without the prior written approval of the Minister, grant a right of leasehold in respect of any communal land –

(a) which does not exceed the maximum size prescribed for the particular use for which the right is required; or

(b) if the duration of the leasehold in respect of which the right has been granted does not exceed the prescribed duration,

except that when granting such right of leasehold the board must, subject to such necessary changes as may be required by the context, comply with the provisions of section 36.

(5) A board may not, without the prior written approval of the Minister, grant a right of leasehold in respect of any communal land if the applicant is a leaseholder in respect of another portion of land granted under this Act or occupies any communal land under a right referred to in section 41(1), unless recognition of such right is refused in accordance with that section.

(6) Before granting a right of leasehold in terms of subsection (2) or (4) in respect of land which is wholly or partly situated in an area which has been declared a conservancy in terms of section 24A of the Nature Conservation Ordinance, 1975 (Ordinance No. 4 of 1975), or a community forest in terms of section 15(3) of the Forest Act, 2001 (Act No. 12 of 2001), the Minister or a board –

(a) must have due regard to any management and utilisation plan framed by the conservancy committee concerned in relation to that conservancy or by the management authority in relation the community forest; and

(b) may not grant the right of leasehold if the purpose for which the land in question is proposed to be used under such right would defeat the objects of such management and utilisation plan referred to in paragraph (a).

(7) A holder of a right of leaseholder may apply to the Minister in the prescribed manner for –

(a) exemption from paying full rental fees for the initial three years from the date of commencement of the right of leasehold;

(b) permission to pay reduced rental fees for the initial three years from the date of commencement of the right of leasehold.

(8) The Minister may refuse or grant the exemption or reduction contemplated in subsection (7).

(9) A right of leasehold may be granted to a community based organisation and such organisation may sublease to an investor.

(10) A sublease agreement to be entered into between a community based organisation and an investor for the purpose of subsection (9) becomes valid after approval by the Minister on the recommendation of the board.

(11) The Minister may refuse to approve a sublease agreement referred to in subsection (10), if the sublease does not conform to the conditions or activities specified in the principal lease.

(12) A right of leasehold for farming units –

(a) in designated areas for agricultural purposes as contemplated in section 36(3); or

(b) outside a designated area as contemplated in section 36(4);

may be allowed to be subleased on the recommendation of the board and with the approval of the Minister and as prescribed.

(13) The Minister may refuse to approve the sublease contemplated in subsection (13) if the sublease does not conform to the conditions or activities specified in the principal right of leasehold.

(14) Whenever the Minister of a board refuses an application made to him or her under this section the Minister must provide written reasons to the applicant for the refusal.

Conditions applicable to right of leasehold

38. (1) The Minister or a board may grant a right of leasehold only –

(a) if an amount in respect of –

(i) that right, in the case of land with no improvements; or

(ii) that right and payment for any improvements on the land in question, in the case of land with imptrovements,

is paid to that board;

(b) if security is furnished to the satisfaction of the board for the payment of the said amount upon registration of the right of leasehold; or

(c) if the board allows such amount to be paid by way of instalments in a manner agreed upon between the board and the person to whom the right is granted.

(2) The amount referred to in subsection (1) must be determined in the manner prescribed.

(3) A right of leasehold is subject to such further conditions as may be prescribed generally or as may be approved by the Minister in a particular case.

(4) Conditions referred to in subsection (3) may include conditions prescribing or stipulating the circumstances in which the holder of the right of leasehold –

(a) may be required to cause the land in question to be surveyed, at the expense of the leaseholder, before the registration of such right in his or her name is effected;

(b) may be permitted to cause the land in question to be surveyed at his or her own expense;

(c) must be required to pay rent for the use of the property as a commercial venture;

(d) may sublease the right of leasehold subject to prior recommendation of the board and the approval of the Minister.

(5) Any amount required to be paid in respect of subsection (1) or (4)(c) and for a certificate of leasehold referred to in section 39 is paid into the Communal Land Fund.

Registration of right of leasehold

39. (1) If an application for an occupational land right is granted by the Minister, the Minister must direct the board concerned to –

(a) cause such right to be registered in the prescribed register in the name of the applicant; and

(b) issue to the applicant a certificate of right of leasehold in the prescribed form and manner.

(2) If an application for a right of leasehold is granted by a board, the board must –

(a) cause such right to be registered in the prescribed register in the name of the applicant; and

(b) issue to the applicant a certificate of leasehold in the prescribed form and manner.

(3) The board must keep a duplicate copy of every certificate of registration issued under subsection (1)(b) or (2)(b).

(4) If an original certificate of registration issued under subsection (1)(b) or (2)(b) is lost, damaged or destroyed the board, upon an application made to it by the holder of the certificate in the prescribed manner and on payment of the prescribed fee, must issue a duplicate certificate of registration to the applicant.

(5) If the land in respect of which the right of leasehold is granted is surveyed land which is shown on a diagram as defined in section 1 of the Land Survey Act and the term of lease is for a period of 10 years or more, the leasehold may be registered in accordance with the Deeds Registries Act.

Duration of right of leasehold

40. (1) A right of leasehold may be granted for such period, not exceeding 99 years, as the Minister may determine or, in the case of a right granted pursuant to section 37(4), the board concerned and the leaseholder may agree.

(2) A right of leasehold may be renewed by agreement between the Minister and the board concerned and the leaseholder.

(3) Upon the death of the holder of a right of leasehold referred to in subsection (1) such right, subject to subsection (8), reverts to the board for re-allocation –

(a) to the surviving spouse of the deceased person, if such spouse consents to such allocation;

(b) in the absence of such surviving spouse or should he or she not consent as contemplated in paragraph (a), to such child of the deceased person as the board, after consulting the chief and the traditional authority of the respective communal area, determines to be entitled to the allocation of the right in accordance with customary law, if such child consents or children consent to such allocation; or

(c) in the absence of a child or children or should the child or children not consent as contemplated in paragraph (b), to a family member of the deceased person or any person, if such family member or person and other family members of the deceased consent to such allocation.

(4) For the purpose of determining the person to whom a right of leasehold is to be allocated in the circumstances contemplated in subsection (3), the board after consulting the chief or traditional authority concerned must first consult with such members of the family or families concerned in accordance with the customary law concerned.

(5) If the holder of the right of leasehold is a juristic person which has ceased to exist, the right devolves in accordance with relevant law regulating succession to property owned by juristic persons.

(6) If –

(a) a holder of a right of leasehold becomes insolvent or, in the case of a jurist person, the holder is liquidated; or

(b) a curator is appointed for a holder under any law relating to health,

the executor of the estate of the holder, the liquidator of the estate, the trustee or the curator may assign the right of leasehold to any person who is approved in writing by the Minister on the recommendation of the board concerned.

(7) The provisions of this section do not apply where the holder of the right of leasehold leaves a will in which the disposition of the right is set out, and in that case but subject to section 43 the right devolves in terms of the will.

(8) If the leaseholder was awarded a loan and the leasehold was used as security to the creditor, the loan is taken over or paid off by the person who inherits the lease if he or she agrees.

(9) If the person who inherits the lease is not willing to take over the loan contemplated in subsection (8) or is declared insolvent, the Minister with the consent of the creditor and the relevant board may, through the prescribed procedure, grant the lease to any other person who is willing and able to inherit the lease and take over the loan.

(10) For the purposes of subsection (9), the creditor may recommend to the Minister or the relevant board for the transfer of the leasehold right to another person within the prescribed time but, subject to that subsection, the State has first right of refusal over the leasehold.

(11) Pending the assignment of the right of leasehold in accordance with this section, the executor or curator must continue the right of leasehold on behalf of the estate or the leaseholder subject to this section and the terms and conditions of the right of leasehold, which must be fulfilled by the executor or curator or on his or her behalf by a person nominated by him or her and approved in writing by the Minister.

(12) If the executor or the curator fails to assign the right of leasehold within the prescribed period after the date of his or her appointment as executor or curator, the Minister may cancel the right of leasehold, in which case the executor or curator is entitled to be paid by the State for the improvements made on the land.

(13) The Minister may deduct any rent due or any other debt owed to the State in respect of the land being leased from any compensation payable.

Recognition of existing rights to occupy communal land

41. (1) Subject to subsection (2), a person who immediately before 1 March 2003 held a right, not being a right under customary law, to occupy any communal land, whether by virtue of any authority granted under any law or otherwise, may continue to occupy such land under that right, subject to the same terms and conditions on which the land was occupied immediately before the commencement of this Act, until –

(a) such right is recognised and a right of leasehold is granted to such person in respect of the land upon acceptance of an offer made in terms of subsection (6);

(b) such person's claim to the right to such land is rejected upon an application contemplated in subsection (2);

(c) such person declines or fails to accept an offer of a right of leasehold made in terms of subsection (6); or

(d) such land reverts to the State by virtue of the provisions of subsection (12).

(2) With effect from a date notified by the Minister in the *Gazette* and in such other manner that the Minister considers appropriate, either generally or with respect to an area specified in the notice, every person who claims to hold a right referred to in subsection (1) in respect of land situated in the area to which the notice relates, is required to apply in the prescribed form and manner to the relevant board –

(a) for the recognition of such right and the grant of a right of leasehold under this Act; and

(b) where applicable, for authorisation for the retention of any fence or fences existing on the land, if the applicant wishes to retain such fence or fences.

(3) Subject to section 55, an application in terms of subsection (2) must be made within a period of 12 months of the date notified under that subsection, but the Minister may by notification in the same manner extend that period by such further period or periods as the Minister may determine.

(4) An application in terms of subsection (2) must be accompanied by –

(a) any documentary evidence, if available, which the applicant can submit in support of his or her claim;

(b) a letter from the chief or traditional authority of the traditional community within whose communal area the land in question is situated, furnishing the prescribed information; and

(c) any further information or documents as the board may require.

(5) In considering an application in terms of subsection (2), and despite a report by an investigating committee in terms of section 55 in a particular case, the Minister or a board, if the board had granted the lease pursuant to section 37(4), may make such investigations or inquiries and consult such persons as it may consider necessary or expedient to establish any fact relevant to the claim of the applicant, including –

(a) the date when and manner in which the applicant acquired the right in question;

(b) whether any other person claims to hold any right in relation to the land in question;

(c) whether the area of the land conforms to the prescribed size referred to in section 28;

(d) the position of the boundaries or any beacons of the land; and

(e) whether the land is fenced-off and the nature, extent and date of erection of the fence.

(6) If the Minister or the board concerned is satisfied as to the validity of the claim of the applicant to the right, the board must –

(a) offer to grant to the applicant a right of leasehold in respect of the land;

(b) state the conditions subject to which the leasehold is offered;

(c) specify the time, not being less than 90 days after the date on which the offer is made, within which the offer may be accepted; and

(d) inform such person that if he or she declines the offer or fails to accept it within the specified time, he or she ceases to have any claim to the land in question.

(7) A person who refuses or fails to accept an offer made in accordance with subsection (6) ceases to have any claim to the land in question, in which case the land reverts to the State for the allocation of any right under this Act.

(8) If the applicant has in terms of subsection (2)(b) applied for authorisation to retain any fence or fences which exist on the land in question and the Minister or the board concerned is satisfied that -

(a) the fence was erected in accordance with customary law or any other law;

(b) the fence does not unreasonably interfere with or curtail the use and enjoyment of the commonage by members of the traditional community; and

(c) in the circumstances of the particular case, reasonable grounds exist to allow the applicant to retain the fence or fences concerned, the Minister or the board concerned must grant to the applicant authorisation for the retention of the fence, subject to any conditions which he or she or it may consider necessary to impose.

(9) If, in respect of any application in terms of subsection (2), Minister or the board concerned is of the opinion –

(a) that there are conflicting claims in relation to the land; or

(b) that reasonable grounds exist to doubt the validity of the claim of the applicant,

the Minister or board must cause a hearing to be conducted in the prescribed manner to resolve the matter, and may make such decision in relation to the claim as he or she or it considers just.

(10) Without prejudice to the generality of the power conferred by subsection (9), a decision under that subsection may include –

(a) confirmation of the claim;

(b) subject to subsection (11), rejection of the claim;

(c) confirmation of the claim subject to any variations as the Minister or the board may determine, including variation in respect of the area or the position of the boundaries of the land if the Minister or the board determines that -

(i) the area of the land exceeds the prescribed size; or

(ii) the position of the boundaries are not in accordance with customary law; or

(d) the allocation of a right in respect of an alternative portion of land if the land to which the claim of the applicant relates encroaches on the commonage.

(11) If the Minister or a board is not satisfied as to the validity of the claim of the applicant to the right in question, he or she or it is not obliged to reject such claim but may instead offer to the applicant a right of leasehold under this Act, either in respect of the land to which the claim of the applicant relates or to an alternative portion of land.

(12) On expiry of the period allowed for applications in terms of subsection (3), a person is not entitled, unless the Minister on good cause shown directs otherwise, to apply for the recognition and the grant of a right referred to in subsection (1), and in that case –

(a) the person holding the land is deemed to have relinquished his or her claim to that land; and

(b) the land reverts to the State and becomes available for the allocation of any right under this Act.

(13) If the person who holds a right referred to in subsection (1) dies –

(a) without such person having made the application contemplated in subsection (2), the surviving spouse or child of that person, as the Minister or the board concerned may approve, may make that application as if the right held by the deceased person vested in such spouse or child; and

(b) after he or she, has made the application contemplated in subsection (2), but before the determination of the application, the application is considered to have been made by the surviving spouse or child referred to in paragraph (a), unless such spouse or such child indicates otherwise.

Cancellation of right of leasehold

42. In addition to the grounds for cancellation set out in a deed of leasehold, a right of leasehold may be cancelled by the Minister or a board, if the board had granted the lease pursuant to section 37(4), if the leaseholder fails –

(a) to comply with the terms and conditions of the right of leasehold; or

(b) to adhere to any restrictions imposed by or under any other law pertaining to the utilisation of the land to which the right relates.

Restriction on grant of right of leasehold to foreign nationals

43. (1) Despite anything to the contrary in any other law a foreign national may not –

(a) acquire a right of leasehold whether or not the right is required to be registered in the deeds registry; or

(b) enter into an agreement or arrangement with any other person where any right to the occupation, possession or benefit of communal land or a portion of such land is conferred upon the foreign national to be granted a right of leasehold –

without the prior written approval of the Minister.

(2) A foreign national who wishes to be granted a right of leasehold in the circumstances contemplated in subsection (1) must apply to the Minister in the prescribed manner and in accordance with the prescribed requirements.

(3) The Minister may approve or reject the application made in terms of subsection (2) subject to such conditions as the Minister may determine.

Grant and holding of right of leasehold as nominee of foreign national

44. A person may not acquire and hold, as a nominee, on behalf or in the interest of any foreign national any right of leasehold if the written approval of the Minister has not been obtained as required by section 43.

Right of leasehold unlawfully acquired or held

45. (1) Where any right of leasehold has been granted –

(a) to a foreign national in contravention of section 43(1); or

(b) to a nominee holder of a right of leasehold in contravention of section 44,

the Minister may issue an order that such right of leasehold be cancelled and the claimant be ordered to leave the land within a specified period.

(2) Where the Minister issues an order under subsection (1), he or she must issue and give a written notice containing the matters set out in subsection (3) –

(a) to the foreign national concerned; and

(b) where applicable, to the nominee holder of a right of leasehold concerned.

(3) The notice issued under subsection (2) must state that unless the foreign national or such nominee holder of a right of leasehold, submits to the Minister, within a period of 30 days from the date of service of the notice, a leasehold agreement with the board, such right of leasehold is automatically cancelled after the expiry of a period of 30 days from the date of the notice.

(4) The Minister must cause a copy of every notice issued under subsection (2) to be transmitted to the board and the Registrar, and the board and the Registrar must upon receipt of such notice endorse on such notice the day of its receipt and endorse in the appropriate registers that such a notice has been given in respect of the leasehold in question.

(5) The Registrar, after receipt by him or her of any notice referred to in subsection (4), may not register any transfer of, any sublease, mortgage bond or other encumbrance in respect of or over the leasehold in question in accordance with the Deeds Registries Act, except where the Minister notifies the Registrar in writing that -

(a) the registration of such transfer;

(b) the sublease;

(c) the mortgage bond; or

(d) the other encumbrance,

is in accordance with a leasehold agreement submitted to the Minister in terms of subsection (3).

(6) If improvements have been effected on any land which is the subject of a right of leasehold that has been acquired in contravention of section 43(1) or 44 those improvements are deemed to form part of that land and the person who has effected such improvements to the land in question is not entitled to be compensated for such improvements.

(7) A person who –

(a) acquires or holds a right of leasehold or enters into an agreement or arrangement with any other person in contravention of section 43(1) or 44; or

(b) without the written authorisation of the Minister removes, damages or destroys any improvements made to the land referred to in subsection (6) after a notice has been served on a foreign national or a nominee of a foreign national pursuant to subsection (2),

commits an offence and on conviction is liable to a fine not exceeding N$50 000 or to imprisonment for a period not exceeding 10 years or to both such fine and such imprisonment.

(8) In any prosecution under subsection (7) it is a defence to prove that the accused had reasonable grounds for believing and did believe that the written approval of the Minister had been obtained.

Offences in relation to disposal of right of leasehold

46. (1) Despite any action taken by the Minister under section 45, where any right of leasehold has been granted –

(a) to a foreign national in contravention of section 43(1)(a); or

(b) by a nominee holder of a right of leasehold in contravention of section 44,

the person who transferred or disposed of that right to the foreign national or nominee holder of a right of leasehold commits an offence and on conviction is liable to a fine not exceeding N$50 000 or to imprisonment for a period not exceeding 10 years or to both such fine and such imprisonment.

(2) In any prosecution under subsection (1) it is a defence to prove that the accused had reasonable grounds for believing and did believe that the person who acquired the right in question was not by law disqualified from acquiring it.

Restrictions upon registration of right of leasehold

47. (1) Despite anything to the contrary in any law, the Registrar may not register any lease or sublease in respect of a right of leasehold or any cession of such a lease or sublease, unless there is submitted to the Registrar a statement made under oath or affirmation by the lessee, sublessee or cessionary or, in the case of a company, close corporation, trust or other juristic person, by a person acting on behalf of the lessee, sublessee or cessionary, declaring -

(a) his or her nationality or, in the case of a company, close corporation, trust or other juristic person, the nationality of each shareholder, member or beneficiary and whether or not the company, close corporation, trust or other juristic person is a foreign national; and

(b) whether or not the land mentioned in the lease, sublease or cession, will be held by him or her or it on behalf or in the interest of any other person and, where applicable, giving particulars of the name and nationality of that person or, in the case of a company, close corporation, trust or other juristic person, the name and nationality of each shareholder, member or beneficiary.

(2) If in the statement referred to in subsection (1), the transferee, lessee, sub-lessee or cessionary declares that –

(a) he or she is not a Namibian citizen or, in the case of a company, close corporation, trust or other juristic person, that it is a foreign national; or

(b) the land in question will be held by him or her or it on behalf or in the interest of another person who is not a Namibian citizen or, in the case of a company, close corporation, trust or other juristic person, which is a foreign national,

the written approval of the Minister referred to in section 43(3) must be submitted to the Registrar.

(3) Despite subsection (1), the Registrar may request the lessee, sublessee or cessionary referred to in that subsection to submit to the Registrar such further information as he or she may require that the lessee, sublessee or cessionary may lawfully acquire or hold such right in terms of this Act.

(4) A person who in a statement referred to in subsection (1) makes any representation or any statement knowing it to be false commits an offence and on conviction is liable to a fine not exceeding N$20 000 or to imprisonment for a period not exceeding four years or to both such fine and such imprisonment.

Grant of occupational land rights

48. (1) Subject to subsections (3) and (4) and section 49(4), the Minister may, upon application and on the recommendation of the board concerned, grant to a public institution, an occupational land right in respect of a portion of communal land.

(2) An occupational land right for agricultural purposes may be granted only in respect of land which is situated within a designated area referred to in subsection (4).

(3) An occupational land right may be granted for –

(a) government projects;

(b) projects of a public enterprise as defined in section 1 of the Public Enterprises Governance Act, 2019 (Act No. 1 of 2019);

(c) health care facilities;

(d) educational facilities, social or sport facilities;

(e) religious facilities;

(f) non-profit making organisation facilities;

(g) cultural facilities; and

(h) community projects.

(4) The Minister, after consultation with the traditional authority and the board concerned, may designate by notice in the *Gazette*, in respect of the communal area of the traditional community, an area within which occupational land rights for agricultural purposes may be granted.

(5) Despite subsection (2), a public institution may apply to the Minister for approval for the grant of an occupational land right for agricultural purposes in respect of a portion of land which is wholly or partly situated outside a designated area, and the Minister may grant the application if the Minister, after consultation with the traditional authority and the board concerned, is satisfied that -

(a) the grant of the occupational land right will not unreasonably interfere with or curtail the use and enjoyment of the commonage by members of the traditional community; and

(b) in the circumstances of the particular case, reasonable grounds exist for the grant of approval.

(6) Subject to section (7), the Minister may grant an occupational land right if the traditional authority of the traditional community in whose communal area the land is situated consents to the granting of the right.

(7) If a traditional authority refuses to grant consent in terms of subsection (6) when in the opinion of the Minister consent ought to be given, the aggrieved party may request the board to refer the matter to the land committee for the area in which the land is situated.

(8) The land committee referred to in subsection (7) may grant consent in the place of the traditional authority or board if the land committee is satisfied that the traditional authority or a board is withholding consent unreasonably.

(9) A person who is aggrieved by the decision of a land committee made under subsection (7) may appeal against that decision to the appeal tribunal.

Application for occupational land rights

49. (1) A person who wishes to be granted an occupational land right in respect of communal land must apply for the grant of such right in the prescribed form and manner to the board in whose area the land in question is situated.

(2) A board contemplated in subsection must (1) –

(a) as soon as possible after receipt the application concerned forward to the traditional authority of the traditional community in whose communal area the land is situated for its consent as contemplated in section 48(6), as well as any other information or comments which the traditional authority may consider relevant for purposes of considering the application; and

(b) as soon as possible after the consent of the traditional authority or of the land committee, if the committee gave its consent pursuant to section 36(7), submit the application to the Minister together with –

(i) the consent of the traditional authority or of the land committee and the information and comments of the traditional authority referred to in paragraph (a); and

(ii) its recommendation to the Minister as contemplated in section 48(1) as well as any other information or comments which the board considers relevant for purposes of considering the application,

and Minister must make a determination on the application for the grant of an occupational land right and in the case of a refusal, give the applicant written reasons for the refusal.

(3) An occupational land right may not be granted in respect of a portion of land which another person holds under a customary land right, unless such person agrees to relinquish his or her right in respect of the land, subject to –

(a) the payment of compensation as agreed to by such person; and

(b) suitable arrangements for his or her resettlement on alternative land.

(4) A board may, without the prior written approval of the Minister, grant an occupational land right in respect of any communal land –

(a) which does not exceed the maximum size prescribed for the particular use for which the right is required; or

(b) if the duration of the occupational land right does not exceed the prescribed duration,

except that when granting such occupational land right the board must, subject to such necessary changes as may be required by the context, comply with the provisions of section 48.

(5) A board may not, without the prior written approval of the Minister, grant a right of occupational land right in respect of any communal land if a public institution that is not an office, a ministry or an office –

(a) is an existing occupational land right holder in respect of another portion of land granted under this Act; or

(b) occupies any communal land under a right referred to in section 41(1), unless recognition of such right is refused in accordance with that section.

(6) Before granting an occupational land right in terms of subsection (2) or (4) in respect of land which is wholly or partly situated in an area which has been declared a conservancy in terms of section 24A of the Nature Conservation Ordinance, 1975 (Ordinance No. 4 of 1975), or a community forest in terms of section 15(3) of the Forest Act, 2001 (Act No. 12 of 2001), the Minister or a board –

(a) must have due regard to any management and utilisation plan framed by the conservancy committee concerned in relation to that conservancy or by the management authority in relation the community forest; and

(b) may not grant an occupational land right if the purpose for which the land in question is proposed to be used under such right would defeat the objects of such management and utilisation plan referred to in paragraph (a).

(8) An applicant referred to in subsection (1) is required to pay the prescribed application fee for an occupational land right.

Conditions applicable to occupational land rights

50. (1) The Minister or a board may grant an occupational land right to a public institution that is not an agency, a minsitry or an office only –

(a) if an amount in respect of –

(i) that right, in the case of land with no improvements; or

(ii) that right and any improvements on the land in question, in the case of land with imptrovements,

is paid to that board.

(b) if security is furnished to the satisfaction of the board for the payment of the full amount contemplated in paragraph (a) upon registration of the occupational land right; or

(c) if the board allows the amount contemplated in paragraph (a) to be paid by way of instalments in a manner agreed upon between the board and the person to whom the right is granted.

(2) The amount referred to in subsection (1) must be determined in the prescribed manner.

(3) An occupational land right is subject to such further conditions as may be prescribed by the Minister generally or as may be approved by the Minister in a particular case.

(4) The conditions referred to in subsection (3) may include conditions prescribing or stipulating the circumstances in which the occupational land right holder may be required to cause the land in question to be surveyed, at the expense of the holder, before the registration of such right in the name of the holder.

Registration of occupational land rights

51. (1) If an application for an occupational land right is granted by the Minister, the Minister must direct the board concerned to –

(a) register or cause such right to be registered in the prescribed register in the name of the applicant; and

(b) issue to the applicant a certificate of occupational land right in the prescribed form and manner.

(2) If an application for an occupational land right is granted by a board, the board must –

(a) register or cause the right to be registered in the prescribed register in the name of the applicant; and

(b) issue to the applicant a certificate of occupational land right in the prescribed form and manner.

(3) The board must keep a duplicate copy of every certificate of registration issued under subsection (1)(b) or (2)(b).

(4) If an original certificate of registration issued under subsection (1)(b) or (2)(b) is lost, damaged or destroyed the board, upon an application made to it by the holder of the certificate in the prescribed manner and on payment of the prescribed fee, must issue a duplicate certificate of registration to the applicant.

(5) If the land in respect of which the occupational land right is granted is surveyed land which is shown on a diagram as defined in section 1 of the Land Survey Act and the term of occupational land right is for a period of 10 years or more, the occupational land right may be registered in accordance with the Deeds Registries Act.

Duration of occupational land rights

52. (1) An occupational land right may be granted for such period, not exceeding 99 years, as the Minister may determine, and in the case of a right granted pursuant to section 49(4), the board concerned and the occupational land right holder may agree.

(2) An occupational land right may be renewed by agreement between the Minister or a board and the occupational land right holder.

Recognition of existing rights to occupy communal land as occupational land rights

53. (1) Subject to subsection (2), any public institution which immediately before the commencement of this Act held a right, not being a right under customary law, to occupy any communal land, whether by virtue of any authority granted under any law or otherwise, may continue to occupy such land under that right, subject to the same terms and conditions on which the land was occupied, until –

(a) such right is recognised and an occupational land right is granted to such institution in respect of the land upon acceptance of an offer made in terms of subsection (8);

(b) the claim to the right of such institution to such land is rejected upon an application contemplated in subsection (2);

(c) such institution declines or fails to accept an offer of an occupational land right made in terms of subsection (8); or

(d) such land reverts to the State by virtue of subsection (8) or (14).

(2) With effect from a date determined by the Minister, by notice in the *Gazette*, either generally or with respect to an area specified in the notice, every public institution which claims to hold a right referred to in subsection (1) in respect of land situated in the area to which the notice relates is required to apply in the prescribed form and manner to the relevant board –

(a) for the recognition of such right and the grant of an occupational land right under this Act; and

(b) where applicable, for authorisation for the retention of any fence existing on the land, if the applicant wishes to retain such fence.

(3) Subject to section 55, an application in terms of subsection (2) must be made within a period of three years of the date notified under that subsection, but the Minister may by similar notice extend that period by such further period as the Minister may determine.

(4) A notification under subsection (2) or (3) may, in addition to publication in the *Gazette,* be communicated to the public in any other media as the Minister considers necessary.

(5) An application in terms of subsection (2) must be accompanied by -

(a) any documentary evidence, if available, which the applicant can submit in support of his or her claim;

(b) a letter from the chief or traditional authority of the traditional community within whose communal area the land in question is situated, furnishing the prescribed information; and

(c) any further information or documents as the board may require.

(6) In considering an application in terms of subsection (2), and despite a report by an investigating committee in terms of section 55 in a particular case, the Minister or a board, if the board had granted the occupational land right pursuant to section 49(4), may make such investigations or inquiries or cause such investigations and enquiries to be made and consult such persons as it may consider necessary to establish any fact relevant to the claim of the applicant, including –

(a) the date when and manner in which the applicant acquired the right in question;

(b) whether any other person or institution claims to possess any right in relation to the land in question;

(c) whether the land to which the claim relates conforms to the prescribed size for the particular use for which the land is held;

(d) the position of the boundaries or any beacons on the land; and

(e) whether the land is fenced-off and the nature, extent and date of erection of the fence.

(7) If the Minister or a board is satisfied as to the validity of the claim of the applicant, the Minister or board must in writing –

(a) offer to grant to the applicant an occupational land right in respect of the land;

(b) state the conditions, if any, subject to which the occupational land right is offered, but such conditions imposed may not be more restrictive than existing conditions;

(c) specify the time, not being less than 30 days and not more than 90 days after the date on which the offer is made, within which the offer may be accepted; and

(d) inform such institution that if it declines the offer or fails to accept it within the specified time, it ceases to have any claim to the land in question.

(8) A public institution which refuses or fails to accept an offer made in accordance with subsection (7) ceases to have any claim to the land in question, in which event the land reverts to the traditional authority for the allocation of any right under this Act.

(9) If the applicant has, in terms of subsection (2)(b), applied for authorisation to retain any fence which exists on the land in question and the Minister or a board is satisfied that -

(a) the fence was erected in accordance with the provisions of any law or with the consent of a competent authority;

(b) the fence does not unreasonably interfere with or curtail the use and enjoyment of the commonage by members of the traditional community; and

(c) in the circumstances of the particular case reasonable grounds exist for allowing the applicant to retain the fence,

the Minister or a board must grant to the applicant authorisation for the retention, subject to such conditions as he or she or it may consider necessary to impose.

(10) If, in respect of any application in terms of subsection (2), the Minister or a board is of the opinion -

(a) that there are conflicting claims in relation to the land; or

(b) that reasonable grounds exist to doubt the validity of the claim of the applicant,

the Minister or board must cause a hearing to be conducted in the prescribed manner to resolve the matter, and may make such decision in relation to the claim as he or she or it considers just.

(11) Without prejudice to the generality of the power conferred by subsection (10), the Minister or a board may –

(a) confirm the claim;

(b) subject to subsection (12), reject the claim; or

(c) confirm the claim subject to any variations as determined by the Minister or board, including variation in respect of the area or the position of the boundaries of the land if the Minister or board determines that the area of the land exceeds the prescribed size or that the position of the boundaries are not valid.

(12) Where the Minister or a board is not satisfied as to the validity of the claim of the applicant to the right in question, the Minister or board is not obliged to reject such claim but may instead offer to the owner or holder of a registered right the grant of an occupational land right under this Act, either in respect of the piece of land to which the claim of the applicant relates or a portion of that land or in respect of any other piece of land as the Minister or board may determine.

(13) Except where the Minister on good cause shown directs otherwise, on expiry of the period allowed for applications in terms of subsection (3) a public institution is not entitled to apply for the recognition of any right referred to in subsection (1) and the grant of an occupational land right under this Act and in that case –

(a) the institution holding the land is considered to have relinquished its claim to the land; and

(b) the land reverts to the traditional authority and becomes available for the allocation of a right under this Act.

Cancellation of occupational land rights

54. The Minister or a board may, if the board had granted the occupational land right pursuant to section 49(4), cancel an occupational land right if the occupational land right holder fails to –

(a) comply with the terms and conditions of the occupational land right; or

(b) adhere to any restrictions imposed by or under any other law pertaining to the utilisation of the land to which the right relates.

PART 5
GENERAL PROVISIONS

Preliminary investigation of claim to existing rights

55. (1) The Minister, with consent of a board, may establish for that board an investigating committee, comprising such members as the Minister may appoint, to –

(a) conduct a preliminary investigation referred to in subsection (3); and

(b) report to the board and the Minister.

(2) The Minister must designate one of the members of the investigating committee as chairperson.

(3) Despite sections 32, 41 and 53 and the period allowed for applications referred to in subsection (2) of sections 32 and 41 and subsection (3) of section 53, if the Minister or a board has not yet determined an application in respect of land occupied, used or otherwise controlled by a person or public institution and enclosed with a fence, irrespective of whether an application has been made, the Minister or a board may at any time direct an investigating committee referred to in subsection (1) to conduct a preliminary investigation to establish the circumstances concerning –

(a) the occupation, use or control of the land by such person;

(b) the existence of the fence on the land; or

(c) any other matter which the Minister himself or herself or a board itself may investigate in terms of either of those sections or which may be indicated by the Minister or a board.

(4) The chairperson of the investigating committee must give at least 30 days notice to the person in respect of whom the preliminary investigation is to be conducted, informing him or her –

(a) of the time and place of the preliminary investigation;

(b) that he or she is required to attend the preliminary investigation to be questioned on the matters mentioned in subsection (3); and

(c) that he or she must produce before the committee any book or document relevant to the subject of the preliminary investigation which he or she may wish to submit to the committee.

(5) For the purposes of a preliminary investigation –

(a) the chairperson of the investigating committee may summon the chief or any other traditional leader of the traditional community concerned or any other person who –

(i) is believed to be able to furnish information on the subject of the preliminary investigation; or

(ii) has in his or her possession or under his or her control a book or document which relates to that subject,

to appear before the investigating committee at the time and place specified in the summons to be questioned or to produce such book or document;

(b) the committee may question a person appearing before it under oath or affirmation administered by the chairperson, and examine or retain for further examination or safe custody any such book or document, but a receipt must be issued to the person and he or she is allowed to make and retain a copy of the book or document.

(6) The chairperson of the investigating committee must sign the notice referred to in subsection (4) and a summons referred to in subsection (5) and both documents must be served on the intended recipient in the manner prescribed.

(7) If a person summoned in terms of subsection (5) –

(a) without reasonable cause fails to appear before the investigating committee at the time and place specified in the summons or to remain in attendance until excused by the chairperson from further attendance;

(b) at his or her appearance before the investigating committee refuses to be sworn in or to make an affirmation when requested to do so by the chairperson;

(c) having taken the oath or having made an affirmation –

(i) fails to answer fully and satisfactorily any question lawfully put to him or her;

(ii) fails to produce a book, document or other object in his or her possession or under his or her control which he or she has been summoned to produce;

(iii) gives false evidence knowing it to be false or not knowing or believing it to be true,

that person commits an offence and on conviction is liable to a fine not exceeding N$5 000 or imprisonment for a period not exceeding 12 months or to both such fine and such imprisonment.

(8) If at the conclusion of the preliminary investigation the investigating committee considers it appropriate that the Minister or a board should consider the claim of the person or public institution –

(a) to the land in question; or

(b) to the entitlement of such person or institution to the fence on the land,

the investigating committee must instruct that person or institution to prepare and submit to the chairperson of the committee, within the time stipulated by the committee, an application in terms of section 32(2), 41(2) or 53(2), in respect of the land and the fence for referral to the Minister or a board.

(9) If the person or institution in respect of whom a preliminary investigation is held -

(a) fails to attend the preliminary investigation; or

(b) fails to comply with an instruction of the investigating committee in terms of subsection (7),

the investigating committee must state that fact in its report to the Minister or a board.

(10) If the investigating committee reports to the Minister or a board any failure on the part of the person or public institution as contemplated in subsection (9), the Minister or a board may, by notice in writing served on that person or institution in the prescribed manner –

(a) inform such person or public institution of the report of the investigating committee concerning the failure of such person or public institution;

(b) direct such person or public institution to comply, within the time specified in the notice, with such requirements as the Minister or board may stipulate in the notice in connection with that failure; and

(c) inform such person or public institution of the consequences referred to in subsection (11).

(11) If the person or public institution without reasonable cause fails to comply with a requirement stipulated in the notice referred to in subsection (10), the Minister or a board may declare the person or public institution to be divested of any claim in respect of the land in question.

(12) A person or public institution declared to be divested of a claim under subsection (11) –

(a) is not entitled to make an application in terms of section 32(2), 41(2) or 53(2) in respect of the land concerned; and

(b) ceases to have any claim to or in respect of that land or anything erected or installed on the land,

despite the fact that the period for applications in terms of any of those sections has not expired.

Transfer and conversion of rights

56. (1) Subject to subsection (2) and to such exemptions as may be prescribed or unless any condition attaching to a customary land right, a right of leasehold or an occupational land right under this Act provides otherwise –

(a) a customary land right may be transferred with the written consent of the chief or traditional authority concerned, subject to the ratification by the board;

(b) a right of leasehold may be transferred with the written consent of the Minister or a board, if the board had granted the occupational land right pursuant to section 49(4); and

(c) an occupational land right may be transferred with the written consent of the Minister or a board, if the board had granted the occupational land right pursuant to section 49(4).

(2) Subsection (1) does not apply where a customary land right, a right of leasehold or an occupational land right is transferred –

(a) in the administration of a deceased estate to an heir or legatee of such estate, except where that heir or legatee is a company or close corporation;

(b) in a redistribution of assets in an estate between heirs and legatees;

(c) by a co-owner of such right to another co-owner, except where –

(i) the other co-owner is a foreign national; or

(ii) such right is owned by a company, close corporation, trust or other juristic person; or

(d) in such other circumstances as the Minister may prescribe.

(3) A customary land right may be converted into a right of leasehold with the written consent of the traditional authority, subject to the approval of the Minister or a board, if the board had granted the right of leasehold pursuant to section 37(4).

(4) A right of leasehold may be converted into a customary land right with the written consent of the traditional authority, subject to the approval of the Minister or a board, if the board had granted the right of leasehold pursuant to section 37(4).

(5) When the Minister or a board approves an application for conversion, the Minister or a board may attach conditions to the conversion.

(6) A person who is aggrieved by a decision relating to a transfer of a communal land right or a conversion of a communal land right may appeal to the appeal tribunal.

Appeals

57. (1) Any person aggrieved by a decision of a chief or a traditional authority or any board under this Act, may appeal in the prescribed manner against that decision to an appeal tribunal appointed by the Minister.

(2) An appeal tribunal consists of such person or number of persons as the Minister may appoint, who must be a person or persons with adequate skills and expertise to determine the appeal concerned,

(3) If two or more persons are appointed under subsection (2) the Minister must designate one of them to act as chairperson of the appeal tribunal.

(4) All the members of an appeal tribunal constitute a quorum for a meeting of that tribunal.

(5) If the tribunal consists of more than one member –

(a) the decision of the majority of the members is the decision of the appeal tribunal; and

(b) the chairperson of the appeal tribunal has a casting vote in addition to a deliberative vote in the case of an equality of votes.

(6) An appeal tribunal may -

(a) confirm, set aside or amend the decision which is the subject of the appeal;

(b) make any order in connection therewith as is aproprorpiate in the circumstances in line with this Act.

(7) A member of the appeal tribunal must be paid from money appropriated by Parliament for the purpose such remuneration and allowances as the Minister determines with the concurrence of the Minister responsible for finance.

(8) A person who is aggrieved by the decision of an appeal tribunal made under this section may appeal in the prescribed manner against such decision to the Lands Tribunal.

(9) A person who or a public institution which is aggrieved by a decision of the Minister relating to the grant, cancellation, recognition, transfer or conversion of communal land rights or any related rights under this Chapter may appeal in the prescribed manner against such decision to the Lands Tribunal.

Compensation for improvements

58. (1) A person or a public institution –

(a) is not entitled to claim against a traditional authority, a board, the Minister or the State for compensation in respect of any improvement effected by such person or institution or any other person on the land in respect of which such person or institution holds or held a customary land right, a right of leasehold or an occupational land right under this Act, including a right referred to in section 32(1), 41(1) or 53(1), where such person or institution voluntarily vacates the land, unless such land is allocated to a person or an institution who is willing to pay for the improvement; or

(b) may not remove or cause to be removed from any land referred to in paragraph (a), or destroy, damage or cause to be destroyed or damaged on such land any improvement when such person or institution vacates or intends to vacate the land, whether such improvement was effected by such person or institution or any other person, but the board concerned after consultation with the Minister may grant consent for the removal of such improvement.

(2) Subsection (1) is not to be construed as precluding the holder of a communal land right who proposes to transfer the right to another person or public institution in accordance with this Act from accepting, in accordance with an agreement entered into between such holder and the person or institution, payment of compensation for any improvement on the land in respect of which the right is to be transferred.

(3) Despite subsection (1), and except if compensation is paid in the circumstances referred to in subsection (2) or in terms of subsection (4), the Minister, after consultation with the board concerned, upon the termination of a communal land right may compensate the person or public institution whose right has terminated in respect of any necessary improvement effected by the person or institution on the land concerned.

(4) If –

(a) a right of leasehold or an occupational land right has terminated in respect of land on which any improvement exists which was effected by the leaseholder or holder of an occupational land right during the currency of the right of leasehold or the occupational land right; and

(b) upon a subsequent grant of a further right of leasehold or occupational land right in respect of the land to another person or public institution, the person or institution is required by the Minister or the board, if the right of leasehold or occupational land right had been granted by the board, in terms of section 38(1) or 50(1) to pay any consideration in respect of the improvement,

the Minister must, from the moneys so recovered in respect of the improvement, pay compensation to the former holder of the right of leasehold or former holder of an occupational land right in such amount as may be determined in terms of subsection (6), except to the extent that any compensation has been paid to the holder of the right of leasehold or holder of an occupational land right in terms of subsection (3).

(5) The amount of compensation payable to a person or a public institution in terms of subsection (3) or (4) is determined –

(a) by agreement between the Minister and such person or institution or between the board concerned and such person or institution, subject to the approval of the Minister; and

(b) failing such agreement or approval, by the Lands Tribunal determined in accordance with prescribed criteria.

(6) Compensation payable to a person or institution in terms of subsection (3) is paid from the Communal Land Fund.

(7) If compensation in respect of any improvement has been paid from the Communal Land Fund in terms of subsection (3) and a subsequent allocation of a customary land right, a right of leasehold or an occupational land right in respect of the land concerned is made, the holder must –

(a) pay any consideration in respect of the improvement to the Communal Land Fund and the amount of money must be equal to the amount of the compensation paid; and

(b) provide proof of such payment to the Minister and to the communal land board concerned.

(8) A person who or a public institution which is aggrieved by a decision of the Minister or a board relating to entitlement to, or the amount of, compensation payable under this Chapter may appeal in the prescribed manner against such decision to the Lands Tribunal.

Compensation for cancellation of right to communal land

59. The Minister has, in the public interest, the right to divest a person or a public institution of any right held over communal land in terms of this Act, subject to the payment of just compensation in terms of section 58.

Survey of communal land

60. (1) A board, with the prior approval of the Minister, and subject to subsection (2), may cause any area of communal land within its region to be surveyed and a diagram and a general plan to be prepared in respect of the surveyed area.

(2) The survey of any area of land and preparation of a diagram and a general plan in accordance with subsection (1), must be carried out in accordance with a lay-out plan which the board must cause to be prepared with the co-operation of the traditional authority concerned.

(3) Where the area to be surveyed comprises individual portions of land occupied or used by persons or public institutions under a customary land right, a right of leasehold or an occupational land right granted under this Act, including a right referred to in section 32(1), 41(1) or 53(1), a board may -

(a) with the consent of the traditional authority concerned and of any other person or institution who is affected; and

(b) subject to the payment of just compensation by the State to such person or institution,

cause such adjustments to be effected to the layout of such individual pieces of land, as may be necessary for the purpose of preparing the lay-out plan in an effective manner.

Consideration not payable for allocation of customary land right

61. (1) Except where, and to the extent to which, compensation for any improvement is payable in any of the circumstances contemplated in section 58, consideration of any nature, whether money or goods or any other benefit of an economic value, may not be paid or delivered or given, or may not be claimed or received, by any person as compensation for the allocation of any customary land right under this Act.

(2) Subsection (1) does not apply to any fees, charges or other moneys which are prescribed to be paid in respect of any application or the issue of any certificate or document or for any other purpose in terms of this Act.

(3) The Minister must cause payments as prescribed to be made from the Communal Land Fund to a Community Trust Fund established in terms of section 18(3) of the Traditional Authorities Act 2007 (Act No. of 2007), for costs incurred in the administration of communal land by a traditional authority.

(4) A person who contravenes or fails to comply with subsection (1) commits an offence and on conviction is liable to a fine not exceeding N$10 000 or to imprisonment not exceeding a period of two years or to both such fine and such imprisonment.

Unlawful occupation of communal land

62. (1) A person or a public institution may not occupy or use for any purpose any communal land other than under a right acquired in accordance with this Act, including a right referred to in section 32(1), 41(1) or 53(1).

(2) The Minister, a traditional authority or a board concerned may institute legal action for the eviction of any person or institution who occupies any communal land in contravention of subsection (1).

(3) The holder of a communal land right acquired in terms of this Act, may institute legal action for the eviction of any person who or institution that occupies any communal land over which he, she or it holds such right.

Fences

63. (1) Any person who, without the required authorisation granted under this Act, and subject to such exemptions as may be prescribed –

(a) erects or causes to be erected on any communal land any fence of whatever nature; or

(b) retains any fence on any communal land after the expiry of a period of 30 days after the application of such person or public institution for such authorisation in terms of section 32(2)(b), 41(2)(b) or 53(2)(b) has been refused,

commits an offence and on conviction is liable to a fine not exceeding N$ 20 000 or to imprisonment for a period not exceeding four years or to both such fine and such imprisonment.

(2) If the offence for which a person is convicted in terms of subsection (1) is continued after the conviction, such person is liable to a fine not exceeding N$ 200 for every day on which the offence continues.

(3) If any fence is found to be on any communal land in contravention of subsection (1), the board concerned may –

(a) in accordance with the prescribed procedure, cause such fence to be removed; and

(b) dispose of the material used for the erection of the fence in such manner as may be prescribed.

(4) Any costs incurred in connection with the removal of a fence in terms of subsection (3) may be recovered from the person or institution who erected or retained such fence in contravention of subsection (1).

Compliance with other laws

64. Nothing in this Act may be construed as absolving the holder of a right acquired in terms of this Act from complying with any law relating to protection of the environment, land use, mining, water resources management, or any other law that is intended to prevent any usage of land that is detrimental to that land.

CHAPTER 3
COMMERCIAL AGRICULTURAL LAND
PART 1
LAND REFORM ADVISORY COMMISSION

Land Reform Advisory Commission

65. Despite the repeal of the Agricultural (Commercial) Land Reform Act, 1995 (Act No. 6 of 1995) by this Act, the Land Reform Advisory Commission established by section 2 of that Act continues to exist under that name, but subject to this Chapter.

Functions of Commission

66. The functions of the Commission are -

(a) to make recommendations to the Minister or to advise the Minister in relation to any power conferred upon the Minister by this Act and which the Minister is required to exercise upon a recommendation of, or after consultation with, the Commission;

(b) to deliberate and recommend to the Minister upon request by him or her on matters related to commercial agricultural land and other land owned by the State that may be required for the purposes of this Act;

(c) investigate and recommend upon a request by the Minister on matters he or she may refer to the Commission for that purpose;

(d) administer the Fund;

(e) to perform such other functions assigned to it by or under this Act; and

(f) at the request of the Minister or of its own accord, to advise the Minister on any other matter relating to commercial agricultural land.

Constitution of Commission

67. (1) The Commission consists of 13 members, namely –

(a) the Executive Director who is the chairperson;

(b) 12 other members appointed by the Minister as follows –

(i) two staff members of the Ministry with knowledge and experience in land related matters, selected by the Minister one of whom is the deputy chairperson;

(ii) two staff members of the Ministry administering agricultural affairs with knowledge and experience of agriculture extension services and water services, nominated by the Minister responsible for agriculture, if applicable;

(iii) one staff member of the Ministry administering justice, who is a legal officer, nominated by the Minister responsible for justice;

(iv) one staff member of the Ministry administering environmental affairs, nominated by the Minister responsible for environment;

(v) one staff member of the Agribank referred to in section 3 of the Agricultural Bank of Namibia Act, 2003 (Act 3 No. of 2003), nominated by the chief executive officer of the Agribank; and

(vi) five persons, at least two of whom are women, and who are persons not employed in the public service and who, have knowledge and experience in any of the following fields –

(aa) land survey and valuation;

(bb) agricultural economics;

(cc) land management and administration; or

(dd) any other relevant field as the Minister may decide,

selected by the Minister after having successfully applied for the positions as members of the Commission.

(2) The Minister, for the purposes of appointment of persons under subsection (1)(b) (i) to (v), must request the respective nominating authority in writing to nominate, within a period specified in the notice, a staff member for appointment as a member of the Commission.

(3) The Minister, for the purposes of appointment of persons under subsection (1)(b)(vi), must by notice in the *Gazette* and in at least two newspapers circulating widely in Namibia invite any person who complies with the requirements for appointment as a member of the Commission referred in that subsection to apply in writing within a period specified in the notice, which period must not be less than 15 days of the notice, for appointment as a member of the Commission.

(4) If the applications from suitable applicants under subsection (3) are not received by the Minister within the period referred to in those subsections, the Minister must appoint suitably qualified persons as members of the Commission and a person so appointed holds office as if he or she was appointed in accordance with subsection(1)(b)(vi).

(5) Every member of the Commission must be sworn in or affirmed by a magistrate before assuming office and may not perform any function as such a member unless he or she has taken the oath or made an affirmation.

(6) The oath or affirmation referred to in subsection (5) must be made and subscribed to in the prescribed form and manner.

(7) A person who at the commencement of this Act held office as a member of the Land Reform Advisory Commission established by section 2 of the Agricultural (Commercial) Land Reform Act ceases to hold office by virtue of that appointment, unless such person has been re-appointed by the Minister.

(8) The Minister must make known by a notice in the *Gazette* the appointment of a member or members of the Commission made in terms of subsection (1).

(9) A person does not qualify for appointment as a member of the Commission if the person –

(a) is not a Namibian citizen;

(b) is a member of Parliament, a regional council or a local authority council;

(c) is an unrehabilitated insolvent; or

(d) has during a period of 10 years preceding the date of appointment been convicted of an offence for which he or she has been sentenced to imprisonment without the option of a fine for a period of 12 months or more.

Term of office

68. Subject to section 69(1), a member of the Commission, other than a member referred to in section 67(1)(a) or (b), holds office for a period of three years and may be re-appointed upon the expiry of such term after which the member may not hold office for more than two terms.

Vacation of office and filling of vacancies

69. (1) The office of a member of the Commission, other than a member referred to in section 67(1) (a) or (b), becomes vacant if the member –

(a) becomes subject to any disqualification mentioned in section 67(9);

(b) has been absent, without the leave of the Commission, from more than three consecutive meetings of the Commission or of a committee of the Commission of which he or she is a member;

(c) by 30 days written notice to the Minister resigns as a member of the Commission;

(d) is removed from office under subsection (2); or

(e) in the case of a member referred to in section 67(1) (b)(i) to (v), ceases to hold the office or position by virtue of which he or she was appointed as a member of the Commission.

(2) If the Minister, after having given the member an opportunity to be heard, is satisfied that a member of the Commission -

(a) has become physically or mentally incapable of performing his or her functions as a member;

(b) is otherwise unable or unfit to discharge the functions of a member of the Commission; or

(c) has committed an act of misconduct which the Minister on reasonable grounds considers renders the member unsuitable to continue to hold office, the Minister may remove such member from his or her office.

(3) A vacancy on the Commission arising from a circumstance referred to in subsection (1) or caused by the death of a member is filled by the appointment of another person in the manner in which the member whose office has been vacated was required to be appointed and any person so appointed holds office for the unexpired portion of the term of office of the member in whose stead he or she is appointed.

Remuneration and allowances

70. A member of –

(a) the Commission;

(b) a regional resettlement committee, and

(c) a committee established under section 72(3),

is entitled to be paid such allowances as the Minister, with the concurrence of the Minister responsible for finance, may determine.

Meetings of Commission

71. (1) Subject to subsection (2), meetings of the Commission are held at such times and places as the chairperson may determine.

(2) The chairperson must convene a meeting of the Commission if the Minister in writing so requests or at least five members in writing so request.

(3) Seven members form a quorum at a meeting of the Commission.

(4) The chairperson of the Commission or, in his or her absence, the deputy chairperson presides at meetings of the Commission, and if both the chairperson and the deputy chairperson are absent, or for any other reason are unable to preside at any meeting of the Commission, the members present must elect one of their number to preside at that meeting.

(5) The Commission may invite any person with relevant information, knowledge or expertise to attend and to participate in the deliberations of a meeting of the Commission, but such person has no right to vote.

(6) A decision of the Commission on any question is by a majority of the members present and voting at the meeting and, in the event of an equality of votes, the member presiding at the meeting has a casting vote in addition to his or her deliberative vote.

(7) The Commission may make rules in relation to the holding of, and procedure at meetings of the Commission.

Committees of Commission

72. (1) There is established for every region a regional resettlement committee to assist the Commission in the exercise of such of its powers or the performance of such of its functions under this Act as the Commission may delegate or assign to the committee.

(2) A regional resettlement committee established under subsection (1) consists of not less than 11 and not more than 19 members, namely –

(a) the regional governor appointed in terms of the Special Advisors and Regional Governors Appointment Act, 1990 (Act No. 6 of 1990) for the respective region who is the chairperson of the committee;

(b) one or more members of the Commission, designated by the Commission for that purpose, and, if the Commission considers it necessary;

(c) other suitable persons who are not members of the Commission appointed by the Commission consisting of –

(i) a person representing conservancies;

(ii) a person representing veterans of the liberation war;

(iii) a person representing traditional authorities;

(iv) a person representing the organised farming community;

(v) a person representing women's organisations;

(vi) a person representing youth organisations; and

(vii) a person representing persons living with disabilities,

in the respective region.

(3) The Commission may –

(a) establish one or more committees to assist the Commission in the exercise of such of its powers or the performance of such functions under this Act as the Commission may delegate or assign to it;

(b) at any time dissolve or reconstitute a committee contemplated in paragraph (a).

(4) If so authorised by the Commission a committee may invite any person whose presence is in its opinion desirable, to attend and participate in the deliberations of a meeting of the committee, but such person has no right to vote.

(5) A delegation or assignment under this section may be made subject to such conditions and restrictions as the Commission may determine and may, at any time, be varied or withdrawn by it.

(6) The Commission is not divested or relieved of any power or function delegated or assigned by it under this section, and may, without prejudice of a right, vary or set aside any decision taken in the exercise of the power so delegated.

Disclosure of interest

73. (1) A member of the Commission or a member of a committee of the Commission may not participate in the deliberations or vote on any matter which is the subject of consideration at a meeting of the Commission or committee of the Commission if, in relation to such matter, such member has any interest, whether direct or indirect, which precludes him or her from performing his or her functions as a member in a fair, an impartial and a proper manner.

(2) If at any stage during a meeting of the Commission or a of committee of the Commission it appears that a member of the Commission or a of committee of the Commission has or may have an interest which may cause a conflict of interests to arise on his or her part, such member must –

(a) immediately disclose the nature of his or her interest; and

(b) leave the meeting so as to enable the remaining members to discuss such disclosure and determine whether such member is precluded from participating in such meeting by reason of a conflict of interest.

(3) A disclosure by a member in accordance with subsection (2) and the decision taken by the remaining members in terms of that subsection must be recorded in the minutes of the meeting in question.

(4) A member of the Commission or of a committee of the Commission who contravenes subsection (1) or fails to comply with subsection (2) commits an offence and on conviction is liable to a fine not exceeding N$20 000 or to imprisonment for a period not exceeding four years or to both such fine and such imprisonment.

Prohibition on publication or disclosure of confidential information

74. (1) A –

(a) member of the Commission or of a committee of the Commission;

(b) person attending any meeting of the Commission or of a committee of the Commission; or

(c) person employed to assist the Commission or of a committee of the Commission in the performance of its functions,

may not, without the written consent of the Minister, disclose to any other person any confidential information obtained by such person in the performance of his or her functions under this Act, except –

(i) for the purpose of the performance of his or her functions under this Act; or

(ii) when required to do so by any court or under any other law.

(2) A person who contravenes or fails to comply with subsection (1) commits an offence and on conviction is liable to a fine not exceeding N$25 000 or to imprisonment for a period not exceeding five years or to both such fine and such imprisonment.

Expenditure

75. The remuneration and allowances payable –

(a) under section 70; and

(b) to any person referred to in section 76(1)(c),

and all expenses incidental to the performance of the functions of the Commission are defrayed from the Fund.

Performance of administrative work of Commission

76. (1) The Commission, in the exercise of its powers and the performance of its functions under this Act, may request the assistance of –

(a) staff members of the Ministry designated for that purpose by the Executive Director;

(b) such other staff members in the public service to be nominated by their executive directors; and

(c) such other persons as the Commission, with the approval of the Minister granted with the concurrence of the Minister responsible for finance, may enter into an agreement with to so assist the Commission or to advise it in regard to any matter falling within the scope of its functions.

(2) An agreement referred to in subsection (1)(c) is subject to such conditions as to remuneration and otherwise as the Minister with the concurrence of the Minister responsible for finance may determine.

PART 2
LAND ACQUISITION AND DEVELOPMENT FUND

Land Acquisition and Development Fund

77. (1) Despite the repeal of the Agricultural (Commercial) Land Reform Act, by this Act, the fund known as the Land Acquisition and Development Fund established by section 13A of that Act continues to exist under that name but subject to this Chapter.

(2) Despite anything contained in any other law, the Fund consists of –

(a) moneys appropriated by Parliament for the purposes of the Fund;

(b) moneys accruing to the Fund from land tax as contemplated in section 129 or by virtue of any other provision of this Act or any other law;

(c) interest on investments made from moneys of the Fund; and

(d) moneys which, with the approval of the Minister and the Minister responsible for finance, may accrue to the Fund from any other source, including donations and grants made for the benefit of the Fund.

Utilisation of money of Fund

78. There is defrayed from the Fund –

(a) any amount which becomes payable in terms of this Act to meet any liability of the State -

(i) arising from the exercise of any power or the performance of any function conferred or imposed on the Minister by this Act in relation to the acquisition or development of commercial agricultural land or any right or interest in such land, including the payment of compensation, interest, costs and other moneys incidental to the exercise or performance of any such power or function;

(ii) for the payment of compensation in connection with any termination or cancellation of a lease in terms of this Chapter;

(iii) for the payment of compensation for improvements on commercial agricultural land;

(iv) for the payment of agricultural infrastructure in commercial agricultural land as prescribed; and

(v) for the payment of capacity building of the beneficiaries and for providing farming inputs;

(vi) for payment of expenditure incurred in the valuation of land pursuant to this Act;

(b) any amount of money that constitutes the expenditure of the Commission, the Lands Tribunal and the Valuation Tribunal; and

(c) any amount which the Fund is liable to pay under this Act or any other law.

Administration of Fund

79. (1) The Commission must administer the Fund in accordance with an estimate of revenue and expenditure approved by the Minister and the Minister responsible for finance in respect of every financial year of the Fund which ends on 31 March of each year.

(2) Expenses may not be incurred as a charge against the Fund except in accordance with the estimate of expenditure referred to in subsection (1).

(3) The Commission must open a banking account with a banking institution registered under the Banking Institutions Act, 2023 Act No. 13 of 2023) or a building society registered under the Building Societies Act, 1986 (Act No. 2 of 1986) into which all moneys accruing to the Fund are deposited.

(4) The Commission may, with the approval of the Minister, invest moneys of the Fund that are not immediately required for the purposes of the Fund –

(a) with any banking institution registered under the Banking Institutions Act, 2023 Act No. 13 of 2023) or with any building society registered under the Building Societies Act, 1986 (Act No. 2 of 1986);

(b) with the Post Office Savings Bank established by the Posts and Telecommunications Companies Establishment Act, 1992 (Act No. 17 of 1992); or

(c) any other institution approved by the Minister and the Minister responsible for finance.

(5) Any unexpended balance in the Fund at the end of a financial year is carried forward as a credit to the next financial year.

Accounting responsibility

80. (1) The chairperson of the Commission is the accounting officer of the Fund charged with the responsibility of accounting for all moneys received by and paid from the Fund.

(2) The accounting officer must cause such records of account to be kept as are necessary to represent fairly the state of affairs and business of the Fund and to explain the transaction and financial position of the Fund.

(3) The Auditor-General must audit the books of account, accounting statements and annual financial statements of the Fund and must submit a copy of his or her report on such audit to the Commission.

(4) The Commission must furnish the Minister with such information as the Minister may request from time to time regarding the activities and financial position of the Fund, and must as soon as practicable after the end of each financial year submit to the Minister copies of -

(a) the audited balance sheet and profit and loss accounts and the report of the Auditor-General; and

(b) the report by the Commission on the activities of the Commission and the Fund during that financial year.

(5) The Minister must table the financial statements and reports submitted in terms of subsection (4) in the National Assembly within 30 days of receipt, if Parliament is in ordinary session or, if Parliament is not in ordinary session, within 14 days after the commencement of its next ordinary session.

PART 3
ACQUISITION OF COMMERCIAL AGRICULTURAL LAND BY STATE FOR PURPOSES OF LAND REFORM AND OTHER RELATED PURPOSES

Minister to acquire commercial agricultural land for purposes of land reform and other related purposes

81. (1) Subject to subsection (2), the Minister may in the public interest acquire for the purposes of land reform and other land reform related purposes, in accordance with this Act, commercial agricultural land in order to make such land available to Namibian citizens who –

(a) do not own or otherwise have the beneficial use of agricultural land or adequate agricultural land;

(b) have been socially, economically or educationally disadvantaged by past discriminatory laws or practices; or

(c) are unemployed, deprived, indigent, disadvantaged, including such other categories or groups of persons as may be prescribed,

in order to address social and economic imbalances in the Namibian society and bring about equitable access to land.

(2) The Minister may under subsection (1) acquire -

(a) any commercial agricultural land offered for sale to the Minister in terms of section 84(6) ;

(b) any commercial agricultural land which has been acquired by a foreign national, or by a nominee owner on behalf or in the interest of a foreign national in contravention of section 123 or 124;

(c) any commercial agricultural land which the Minister considers to be appropriate for the purposes contemplated in subsection (1); or

(d) any commercial agricultural land that is –

(i) held in excess of an economic farming unit;

(ii) owned by absentee land owner;

(iii) abandoned; or

(iv) under utilised,

as may be prescribed.

(3) Commercial agricultural land acquired under subsection (2) may only be used for the purposes of land reform and other land reform related purposes as prescribed.

Inspection of commercial agricultural land to be acquired

82. (1) Where the Commission considers it necessary for the performance of the functions in terms of section 81(1) and section 89(1) it may direct an authorised officer to enter upon any commercial agricultural land to investigate –

(a) the suitability of the land for the purposes contemplated in section 81(1);

(b) the existence of registered rights and take all reasonable steps to establish the existence of unregistered rights on the land;

(c) the value of the land;

(d) the current use of the land;

(e) the extent of direct State investment and subsidy in the acquisition of the land and any beneficial capital improvement of the property;

(f) the history of acquisition and use of the land; or

(g) other relevant factors pertaining to the land.

(2) An authorised officer conducting an investigation contemplated in subsection (1) may –

(a) enter upon such land with assistants and necessary vehicles and equipment;

(b) survey and determine the area and levels of the land;

(c) dig or bore on or into the land;

(d) employ any other method considered appropriate for determination of suitability;

(e) demarcate the boundaries of the land required for the purposes contemplated in section 81(1);

(f) require the owner, tenant or occupier of the land or the agent of the owner, on instructions by the Executive Director, to give the authorised officer access to a document in possession of the owner, tenant, occupier or agent that the person reasonably requires for the purposes of valuing the land;

(g) make extracts from or copies of a document to which he or she is given access in terms of paragraph (f); and

(h) in writing require the owner, tenant or occupier of the property or the agent of the owner, to provide the authorised officer, either in writing or verbally, with particulars regarding the property that the officer requires to value the land.

(3) An authorised officer –

(a) may, in so far as it may be necessary to gain access to the land in question, enter upon or go across any other land;

(b) may not, enter upon the land in question, unless he or she has given the owner or occupier at least seven-days written notice of his or her intention to do so;

(c) may not, in the exercise of the powers conferred by this section, enter into any dwelling-house without the consent of the owner or occupier of the house;

(d) must at all times while performing the inspection be in possession of his or her certificate of appointment; and

(e) must on demand, provide the owner, tenant or occupier of the property or the agent of the owner, tenant or occupier with a copy of his or her certificate of appointment as an authorised officer.

(4) If an authorised officer referred to in subsection (3) fails to comply with paragraph (e) of that subsection, the owner, tenant or occupier of the property or the agent of the owner, tenant or occupier, may refuse that person entry to the property or may refuse the performance of an act contemplated in subsection (2).

(5) If any person has suffered any damage as a result of the exercise of any power conferred in terms of subsection (1), the State is liable to pay damages or to repair such damage.

(6) Any proceedings by virtue of subsection (5) must be instituted within 12 months after the damage in question has been caused or within 12 months after the completion of the acts contemplated in subsection (1), whichever is the longer period.

(7) Proceedings referred to in subsection (6) may not be instituted before the prospective plaintiff has given the Minister at least 30 days notice and has stated, together with such notice the cause of the alleged damage.

PART 4
PREFERENTIAL RIGHT OF STATE TO PURCHASE COMMERCIAL AGRICULTURAL LAND

Definitions for purposes of this Part

83. For the purposes of this Part –

"certificate of waiver", in relation to any offer to sell commercial agricultural land in terms of section 84(6), means a statement in writing made by the Minister certifying that the State waives its preferential right conferred by subsection (1) of that section and does not intend to acquire the commercial agricultural land in question at the time of the offer; and

"day" excludes Saturdays, Sundays and public holidays, and the days during the period starting from 24 December of a particular year up to and including 1 January of the following year.

Vesting in State of preferential right to purchase commercial agricultural land

84. (1) Subject to subsection (4), the State has a preferential right to acquire commercial agricultural land whenever any owner of such land intends to alienate such land.

(2) Whenever one or more members of a company, close corporation, trust or other juristic person which is the owner of commercial agricultural land intends or intend to sell or transfer -

(a) in the case of a company, any shares of the company to another person;

(b) in the case of a close corporation, any interest in the close corporation to another person; or

(c) in the case of a trust or other juristic person, any share or interest in the trust property or person to another person,

it is, for the purposes of subsection (1) or (2), deemed that the company, close corporation, trust or other juristic person in its capacity as owner of the commercial agricultural land held by it, intends to alienate such land.

(3) Where an owner of commercial agricultural land intends to have a servitude, usufruct, *habitatio*, *usus* or any other real right registered over the whole or part of such land in favour of a person, other than a close relative of the owner, it is, for the purposes of subsection (1) or (2), deemed that the owner intends to alienate such land.

(4) Despite anything to the contrary in any other law and subject to subsection (5) –

(a) an agreement of alienation of commercial agricultural land entered into by the owner of such land; or

(b) in the case where such land is alienated by a company, close corporation, trust or other juristic person, an agreement of sale or instrument of transfer of any shares of the company or of any interest of a member in the close corporation or any interest or share in a trust or other juristic person,

is not of any force and effect until the owner of such land –

(i) has –

(aa) first offered such land for sale to the State; and

(bb) been furnished with a certificate of waiver in respect of such land; or

(ii) has been furnished with a certificate of waiver in respect of such land on the basis that the land is being sold to a buyer or donated to a person, who –

(aa) is a previously disadvantaged person contemplated in Article 23(2) of the Namibian Constitution; or

(bb) qualifies to be allocated such commercial agricultural land because he or she meets the criteria set out in section 82(1).

(5) Subsections (1), (2), (3) and (4) do not apply where commercial agricultural land is alienated –

(a) in the administration of a deceased estate to an heir or legatee of such estate, except where that heir or legatee is a company, close corporation, trust or other juristic person;

(b) in a redistribution of assets in an estate between heirs and legatees;

(c) by a co-owner of such land to another co-owner, except where –

(i) the other co-owner is a foreign national; or

(ii) such land is owned by a company, close corporation, trust or other juristic person; or

(d) in such other circumstances as the Minister may prescribe.

(6) An offer to sell commercial agricultural land to the State as required by subsection (4)(ii) must be made in writing to the Minister through the Executive Director, and must –

(a) specify the price which the owner is prepared to accept for the land;

(b) be accompanied by the original title deed or a deeds registry certified copy of the title deed under which such land is held by the owner concerned;

(c) contain such particulars as may be prescribed; and

(d) be accompanied by such other information or documents as may be prescribed.

(7) Unless the Minister decides to issue a certificate of waiver to the owner concerned, the Executive Director must within 30 days after receipt of an offer in terms of subsection (6) refer such offer to the Commission, which must consider the offer and make its recommendations to the Minister within 30 days of receipt of such referral.

(8) The owner of commercial agricultural land offered to the State as required by subsection (4)(ii) may, by notice in writing given to the Minister through the Executive Director, withdraw such offer at any time before the Minister –

(a) issues a certificate of waiver to such owner in terms of subsection (7) or section 85(1)(a); or

(b) accepts such offer or makes a counter offer for such commercial agricultural land in terms of subsection 85(1)(b)(i) or (ii).

(9) On receipt of a notice of withdrawal under subsection (8), the Executive Director must forthwith refer such notice to the Minister and Minister may, subject to subsection (10), accept the withdrawal of the offer.

(10) If the State has incurred any loss or damage as a result of an offer that is withdrawn under subsection (8) the owner of the commercial agricultural land concerned is liable for such loss or damage and the Minister must recover any amount of money from the owner as compensation for such loss or damage.

(11) A withdrawal of an offer under subsection (8) is effective from the time the notice of withdrawal –

(a) is delivered or tendered to the Exceutive Director; or

(b) is sent in any other prescribed method to the Exceutive Director.

Acceptance or rejection of offer to acquire commercial agricultural land

85. (1) The Minister must, within 14 days after the receipt of the recommendations of the Commission as contemplated in section 84(7), by notice in writing to the owner concerned, either –

(a) decline the offer and issue to the owner a certificate of waiver; or

(b) if the Minister decides to acquire the land in question for the purposes contemplated in section 81(1) –

(i) accept the offer; or

(ii) if the Minister, acting on the recommendation of the Commission, considers the purchase price specified in the offer to be excessive –

(aa) make a counter offer to such owner, specifying the price which the Minister is prepared to pay for the land; and

(bb) inform the owner that if such counter offer is not accepted by the owner, the owner must inform the Minister in writing within 14 days of receipt of the counter offer,

and after receipt of the notification by the owner referred to in paragraph (b)(ii)(bb), the Minister must convene a negotiating committee, to negotiate the purchase price with the owner, and for purposes of advising the Minister.

(2) The negotiation committee referred to in subsection (1)(b) consists of such number of staff members or persons holding such qualifications, experience or positions as may be prescribed.

(3) The negotiating committee may invite any person, whose presence in its opinion is desirable, to attend and to participate in its deliberations, but such person may not partake in the decisions of the negotiating committee.

(4) If the negotiating committee and the owner fail to reach an agreement on the purchase price –

(a) the owner may apply to the Lands Tribunal for the determination of the purchase price within 60 days after the failure to reach the agreement; and

(b) the committee must forthwith advise the owner of the provisions of subsection (8).

(5) The Minister may, at any time before the expiry of the period of 30 days referred to in in subsection (7) of section 85 or the 14 days referred to in subsection (1), and despite those subsections, by written notification to the owner extend the period within which -

(a) the Commission must make its recommendations as required by section 85(7); or

(b) the Minister may decline or accept the offer in question or make a counter offer as required by subsection (1),

for such period, not exceeding 90 days at a time, and on such conditions as the Minister and such owner may agree.

(6) An offer made in terms of section 85(6) is deemed to have been declined by the Minister –

(a) if the Commission has failed to make its recommendations on the offer to the Minister in terms of subsection (7) of section 85 within the period of 30 days referred to in that subsection, or, where that period has been extended by agreement under subsection (5)(a), such extended period; or

(b) if the Minister has failed to accept the offer in terms of subsection (1)(b)(i) or to make a counter offer in terms of subsection (1)(b)(ii) within the period of 14 days referred to in that subsection, or, where that period has been extended by agreement under subsection (5)(b), such extended period.

(7) Where, in the circumstances contemplated in subsection (6), an offer is deemed to have been declined, the Minister must, at the request of the owner concerned, issue a certificate of waiver in respect of the commercial agricultural land offered for sale.

(8) Unless the Minister –

(a) has issued to the owner a certificate of waiver;

(b) acting on a recommendation of the Commission, and the owner have agreed on the purchase price for the commercial agricultural land in question; or

(c) acting on the advice of the negotiating committee, and the owner have agreed on the purchase price,

the owner is deemed to have accepted a counter offer made by the Minister in terms of subsection (1)(b)(ii) if, upon expiry of the period specified in subsection (4)(a), the owner has not withdrawn the offer or made application to the Lands Tribunal for the determination of the purchase price.

(9) Where, in the circumstances contemplated in subsection (8), an owner is deemed to have accepted a counter offer made by the Minister, the owner must, at the request of the Minister, and if the Minister –

(a) pays to the owner the amount specified in the counter offer; or

(b) furnishes to the owner a guarantee for the payment of that amount against registration of transfer of the land into the name of the State, cause the land to be transferred to the State through the Government Attorney or, where the Minister and owner have so agreed, through a conveyancer appointed by the owner.

(10) Before the land is transferred as contemplated in subsection (9), the owner of the land may request the Minister to withdraw from the transaction and the Minister, on the recommendation of the Commission, may withdraw from the transaction if the owner is a Namibian citizen and the reasons given for the withdrawal are satisfactory.

(11) If the State has incurred any loss or damage as a result of a withdrawl from the transaction as comntempleted in subsection (10) the owner of the commercial agricultural land concerned is liable for such loss or damage and the Minister must recover any amount of money from the owner as compensation for such loss or damage.

(12) Where a mortgage bond is registered over the land in question the Minister must pay the amount concerned or furnish guarantees for the payment, as contemplated in subsection (9), in accordance with such terms as may have been agreed upon between the owner and the mortgagee and as the Minister may have been notified of by them.

(13) If the owner and the mortgagee fail to conclude an agreement as contemplated in subsection (12), any one of them or the Minister may make an application to the Lands Tribunal to determine what portion of the amount payable by the State, must be paid or guaranteed to the owner and mortgagee.

(14) Subject to subsection (8), and unless the Minister has issued to the owner concerned a certificate of waiver in respect of the land in question or the Minister and such owner have agreed otherwise, an offer made in terms of section 84(4)(i) or a counter offer made in terms of subsection (1)(b)(ii) remains in force until -

(a) it is substituted, either before or after the institution of proceedings in the Lands Tribunal to determine the purchase price by a subsequent offer by the owner or a subsequent counter offer by the Minister; or

(b) the purchase price is determined by the Lands Tribunal.

Period of validity of certificate of waiver

86. (1) Subject to subsection (2), a certificate of waiver issued in respect of commercial agricultural land remains in force for a period not exceeding 12 months from the date on which it was issued.

(2) If the certificate referred in subsection (1) is not lodged with Registrar for the purpose of transferring the land within the period referred to in that subsection, it lapses.

(3) When a certificate of waiver has lapsed in terms of subsection (2), the preferential right previously conferred on the State by section 84(1) to purchase the commercial agricultural land in question, reverts to the State if at any time after such lapsing the owner of such land still intends to alienate such land.

(4) The Minister must publish the prescribed information concerning the waivers issued in respect of commercial agricultural land in the prescribed manner.

Restriction on transfer of commercial agricultural land

87. (1) The Registrar may not register any transfer of commercial agricultural land unless –

(a) a certificate of waiver;

(b) a land tax clearance certificate; and

(c) a fully completed data verification form in duplicate,

in respect of such land is submitted to the Registrar.

(2) Paragraphs (a) and (c) of subsection (1) do not apply where -

(a) commercial agricultural land has been alienated by or to the State;

(b) commercial agricultural land has been alienated in any of the circumstances contemplated in section 84(5);

(c) commercial agricultural land is to be transferred otherwise than by virtue of an alienation; or

(d) the Minister in writing directs otherwise.

(3) Subsection (1)(b) does not apply where commercial agricultural land has been alienated by the State.

(4) The Registrar of Companies and Close Corporations, auditors and secretaries of companies and close corporations and a trustee or trust practitioner as defined in section 1 of the Trust Administration Act, 2023 (Act No. 11 of 2023) may not register or give effect to –

(a) the sale or transfer of any share of a company;

(b) the sale or transfer of any interest of a member in a close corporation; or

(c) the sale or transfer of any interest of a beneficiary of a trust,

or any portion of such shares or interest, where it results in any interest in commercial agricultural land passing to any person, without the prior written consent of the Minister having been granted.

PART 5
EXPROPRIATION OF COMMERCIAL AGRICULTURAL LAND

Definitions for purposes this Part

88. For the purposes of this Part –

“date of expropriation” means the date contemplated in section 92(2)(b);

“date of notice”, in relation to a notice of expropriation, means the date on which the notice of expropriation is in terms of section 91(6) delivered, tendered or is in the prescribed manner send to a person or is in terms of section 91(7) published in the *Gazette*, and if such a notice in respect of the same property is so delivered, tendered or send as well as so published in the *Gazette,* the date on which it is so published;

"lessee" includes a sub-lessee by virtue of a written sublease contract;

"notice of expropriation" means a notice contemplated in section 91(1);

"possess" includes the exercise of a right over a property; and

"property" means commercial agricultural land contemplated in section 81(2), and includes a right, whether registered or not, in or to such property.

Power of Minister to expropriate property

89. (1) Subject to the obligation to pay just compensation, the Minister, after consultation with the Commission, may at any time expropriate any property for land reform and other land reform related purposes as contemplated in section 81(1).

(2) The power of the Minister to expropriate property for the purpose of section 81(1) -

(a) must be in the public interest;

(b) includes the power to expropriate any other property which -

(i) has been affected by the expropriation of any property; and

(ii) for any reason the Minister may consider necessary to expropriate to achieve the objectives of this Chapter;

(c) in the case where only a portion of land is expropriated in terms of this section, includes the power to expropriate the remainder of such a piece of land if –

(i) the owner so requests and satisfies the Minister that due to that partial expropriation the remainder has become uneconomic to the owner; or

(ii) the Minister after consultation with the Minister responsible for agriculture, is satisfied that the remainder is or is likely to become an uneconomic farming unit.

Notice of intention to expropriate property

90. (1) If the Minister intends to expropriate property, the Minister must serve a copy of the notice to that effect on the owner of the property and on all persons, including holders of registered and unregistered rights, of whom the Minister is aware and whose rights or interests may be affected by the intended expropriation.

(2) The notice contemplated in subsection (1) must include –

(a) a statement of the intended expropriation, setting out the purpose for the expropriation;

(b) a full description of the property earmarked for expropriation;

(c) an invitation to the owner and to any person who may be affected by the intended expropriation to lodge with the Minister, within 30 days after service of the notice –

(i) any written submissions relating to the effects of the intended expropriation on his or her rights or interests; and

(ii) a postal address, a facsimile number or an email address, if any, to which further communications to such person may be addressed by the Minister; and

(d) a directive to the owner to submit in writing the names and addresses of all holders of unregistered rights and particulars of such rights, to the extent that such names, addresses and particulars are within the knowledge of the owner.

(3) In order to ensure that the notice referred to in subsection (1) is brought to the attention of the persons whose interests may be affected by the proposed expropriation of the property, the Minister must publish that notice in the *Gazette* and –

(a) may prescribe other additional ways in which the notice referred in that subsection may be published; and

(b) must publish or cause the notice referred to in that subsection to be published in the manner prescribed as contemplated in paragraph (a) and the notice must contain the matters mentioned in subsection (2).

(4) The Minister must –

(a) upon receiving the written submissions from the owner or an affected person, notify the owner or person that the submissions have been received; and

(b) within 15 days of receiving the submission referred to in paragraph (a), invite the owner or person to enter into negotiations regarding the procedure of the intended expropriation.

(5) If an agreement cannot be reached between the Minister and the owner or person referred to in subsection (4) within 20 days of the invitation contemplated in that subsection, the Minister may decide –

(a) to expropriate, and serve the required notice in terms of section 91; or

(b) not to expropriate, and inform the affected parties accordingly in writing.

(6) Despite anything to the contrary contained in this Act, the Commission must, before the Minister decides to expropriate any commercial agricultural land terms of subsection (5)(a), at the request of the Minister consider the interests of any persons employed and lawfully residing on such land, and the families of such persons residing with them, and may make such recommendation to the Minister in relation to such employees and their families as it may consider fair and equitable in the circumstances.

Notice to expropriate property

91. (1) If the Minister has decided in terms of section 90(5)(a) to expropriate the property the Minister must, subject to subsection (6), cause a notice of expropriation to be served on the owner of the property and a known holder of a registered or an unregistered right in the property in accordance with subsection (6).

(2) The notice of expropriation must include an offer of compensation and must –

(a) contain a clear and full description of the property, including –

(i) in the case where the expropriation applies to a portion of the land only, the approximate extent of such portion and an annexed sketch plan showing the approximate position of such portion in relation to the whole;

(ii) in the case where the expropriation applies to a right in land, a sketch plan showing the approximate position of the right on such land, unless the right in land is accurately described without such a sketch plan;

(b) state the date of the expropriation;

(c) state the date upon which the State takes possession of the property;

(d) contain a statement as to the date or dates on which the Minister intends to pay compensation and any interest due in terms of section 95(4), if any such date is later than the date on which the compensation and interest becomes payable in terms of section 95(1);

(e) on the recommendation of the Commission, state the amount offered as compensation for the property, including the amount offered as compensation to holders of registered and unregistered rights in the property of which the Minister is aware;

(f) contain an explanation of what the amount of compensation contemplated in paragraph (e) comprises of;

(g) call upon the owner to submit in writing the names and addresses of all holders of unregistered rights and particulars of such rights, other than those furnished in accordance with section 90(2)(d), to the extent that such names, addresses and particulars are within the knowledge of the owner;

(h) be accompanied by copies of reports detailing how the amount of compensation was determined; and

(i) draw the attention of the owner of the property to the fact that if a person has an unregistered right in respect of the property of which the Minister had no knowledge on the date of notice, the Minister may adjust the offer.

(3) Rights in property or properties may be expropriated from different owners or holders of rights in the same notice of expropriation.

(4) The Minister must state a separate offer of compensation in respect of each owner or holder of rights mentioned in the notice of expropriation contemplated in subsection (3).

(5) Non-compliance by the Minister with any provision of this section does not affect the validity of the expropriation, but the owner or holder of rights in the property may request any non-compliance with any provision to be rectified by the Minister within seven days of such notice, failing which the owner or holder of the right is entitled to approach the Lands Tribunal to order compliance.

(6) Subject to subsection (7), the notice of expropriation and all other notices and documents must be delivered, tendered or send in the prescribed manner to the owner or holder of rights, his or her spouse or his or her duly authorised agent.

(7) If –

(a) the whereabouts of the owner or of any person having any right or interest in the property as contemplated in subsection (1), is not readily ascertainable by the Minister; or

(b) by reason of the number of such owners or persons having such rights or interests or for any other reason, the Minister is satisfied that service of a notice or other document in accordance with subsection (6) is not practicable,

the Minister may, instead of causing a notice or document to be delivered in accordance with subsection (6), cause to be published –

(i) once in the *Gazette*; and

(ii) in any manner that has been prescribed,

a notice of appropriation complying with subsection (2).

(8) Where the property expropriated is land which is registered in the deeds registry referred to in section 2 of the Registration of Deeds in Rehoboth Act, 1976 (Act 93 of 1976) –

(a) the provisions of the second proviso to section 16 and of sections 31 and 32 of the Deeds Registries Act, 1937 (Act 47 of 1937) do, subject to necessary changes required by the context, apply as if those provisions were provisions contained also in the Registration of Deeds in Rehoboth Act, 1976; and

(b) regulation 57 of the regulations promulgated under section 10 of the Deeds Registries Act, 1937 by Government Notice 225 of 1964 do, subject to necessary changes required by the context, apply as if that regulation were a regulation made under the Registration of Deeds in Rehoboth Act, 1976.

Passing of ownership in expropriated property

92. (1) The effect of an expropriation of property is that –

(a) on the date of expropriation the ownership of the property so expropriated vests in the State, released from all mortgage bonds, but subject to section 97;

(b) all unregistered rights in such property are also expropriated on the date of expropriation unless otherwise stated in the notice of expropriation; and

(c) the property remains subject to all registered rights, with the exception of mortgage bonds, in favour of third parties with which the property has been burdened prior to expropriation unless or until such registered rights are expropriated from the holder in accordance with this Act.

(2) Possession of the expropriated property passes to the State on the date stated in terms of section 91(2)(b) or such other date as may be agreed upon between the owner or holder of a registered right of a registered or an unregistered right and the Minister.

(3) The owner or holder of a registered or an unregistered right who is in possession of the property must, from the date of expropriation to the date upon which the State takes possession of the property, take care of and maintain the property.

(4) If an owner or holder of a registered or an unregistered right, who is in possession of the property, intentionally or negligently fails to take care of and maintain the property and as a result the property depreciates in value, the Minister may recover the amount of the depreciation from the owner or the holder of such right.

(5) The Minister must compensate the owner or the holder of a registered or an unregistered right for costs which in the opinion of the Minister were necessarily incurred after the date of expropriation in respect of such maintenance or care.

(6) If –

(a) the owner of expropriated property or holder of a registered right or an unregistered right desires to place the State in possession of the property expropriated prior to the date stated in terms of section 91(2)(b); and

(b) such owner or holder of a registered or an unregistered right and the Minister do not agree upon a date on which possession passes to the State,

the owner or holder of a registered or an unregistered right must give the Minister notice in writing of not less than 30 days before the date on which he or she desires to place the State in possession, in which case possession of the property passes to the State on that date.

(7) The owner or holder of a registered or an unregistered right, whoever is in possession of the expropriated property –

(a) remains entitled to the use of and the income from the property, as was enjoyed immediately prior to the date of expropriation, from the date of expropriation to the date upon which possession passes to the State; and

(b) during the period from the date of expropriation to the date the State takes possession, remains responsible for the payment of any charges in respect of the property as if the property had not been expropriated.

Compensation for claims

93. (1) The owner or holder of a registered or an unregistered right whose property has been expropriated in terms of this Act, must within 60 days from the date of notice referred to in section 91(6) or (7), in the prescribed manner deliver or cause to be delivered to the Minister a written statement indicating –

(a) whether the offer of compensation is accepted; and

(b) the physical address or postal address and facsimile number or email address, if any, to or at which further documentation in connection with the expropriation is to be delivered.

(2) If the offer of compensation referred to in subsection (1) is not accepted, the owner or holder of a registered right or an unregistered right must also set out in the statement contemplated in subsection (1) –

(a) the amount claimed by him or her as compensation;

(b) full particulars as to how the amount is made up, including a copy of a valuation or other professional report, if any, that forms the basis of the compensation claimed;

(c) full particulars of all improvements on the property, which, in the opinion of the owner, affect the value of such property; and

(d) the physical address or postal address and facsimile number or email address, if any, to or at which further documentation in connection with the expropriation is to be delivered.

(3) The Minister may extend the period of 60 days referred to in subsection (1) upon request of the owner or holder of a registered right or an unregistered right.

(4) If the owner or holder of a registered right or an unregistered right requests the extension of the period of 60 days in writing before the expiry of that period, the Minister must extend such period by a further 60 days.

(5) The owner or holder of a registered right or an unregistered right must deliver or cause to be delivered to the Minister within 60 days of the request by the Minister, the title deed to such land or, if it is not in his or her possession or under his or her control, written particulars of the name and address of the person who is in possession of the title deed or who has the title deed under his or her control.

(6) The person referred to in subsection (5), in whose possession the title deed may be, must deliver or cause to be delivered the title deed in question within 60 days of the request by the Minister.

(7) A person who –

(a) in a statement referred to in subsection (1) or (2, furnishes particulars which such person knows to be false or misleading;

(b) refuses or fails to comply with a request by the Minister in terms of subsection (5) or (6),

commits an offence and on conviction is liable to a fine not exceeding N$10 000 or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

Offers of compensation

94. (1) If the Minister does not accept the amount claimed by an owner or a holder of a registered right or an unregistered right in terms of subsection (2) of section 93, the Minister, on the recommendation of the Commission, must within 60 days of delivery of the statement contemplated in that subsection –

(a) make a counter offer of compensation in writing to the owner or holder of a registered right or an unregistered right in writing; and

(b) indicate how the amount is made up and calculated.

(2) If the owner or holder of a registered right or an unregistered right fails to claim an amount of compensation or to furnish the information contemplated in section 93, the Minister, on the recommendation of the Commission, must within 60 days after the expiry of the period or the extended period contemplated in that section, offer in writing an amount of compensation to such owner or holder of a registered right or an unregistered right.

(3) In the written counter offer or offer made in terms of subsection (1) or (2), the Minister must inform the owner of the property or holder of a registered right or an unregistered right in the property that –

(a) he or she must indicate whether he or she accepts or declines the offer; and

(b) if he or she does not accept the offer, he or she must apply to the Lands Tribunal for a determination,

within a period specified in the offer which not be less that 60 days from the date of receiving the written counter offer or offer.

(4) The offer of compensation contemplated in subsection (1)(a) or (2) must be accompanied by copies of reports detailing how the amount of compensation is determined, if the amount is different from the amount offered by the Minister in terms of section 91(2)(e).

(5) If the owner or holder of a registered right or an unregistered right fails to respond to an offer of compensation as contemplated in subsection (3) he or she is deemed to have accepted the offer made to him or her by the Minister in terms of subsection (1) or (2).

(6) An offer of compensation remains in force until –

(a) the Minister makes a revised offer;

(b) it has been accepted; or

(c) the amount of compensation has been approved or decided otherwise by the Lands Tribunal in case of disagreement between the parties.

(7) The Minister or the owner or holder of a registered right or an unregistered right may from time to time request for relevant particulars regarding the claim for compensation or the offer of compensation and particulars so requested must be furnished within 30 days of such request.

(8) If the Minister or the owner or holder of a registered right or an unregistered right fails to comply with a request in terms of subsection (7), the Lands Tribunal may, on application, issue an order directing the defaulting party to comply.

Payment of amounts offered as compensation

95. (1) Compensation due to an owner or a holder of a registered right or an unregistered right in terms of this Act becomes payable on the date on which the amount of such compensation –

(a) has been determined by agreement between the Minister and the owner or holder of a registered right or an unregistered right;

(b) is deemed to have been accepted by the owner or holder of a registered right or an unregistered right in terms of section 94(5); or

(c) has been approved or determined by the Lands Tribunal.

(2) Despite subsection (1) and subject to sections 97 and 98, the Minister may –

(a) before the determination of the amount of compensation payable in terms of this Act for the property in question; and

(b) after the State has taken possession of the property,

pay, by way of an advance payment, not more than 80 per cent of the amount of compensation offered to the owner or holder of a registered right or an unregistered right concerned or to the person referred to in section 97.

(3) Interest due in terms of section 96(4) becomes payable only after the amount of compensation has been determined and at the time when payment of the last outstanding portion of compensation is made.

(4) If the Minister has proposed a later date or dates in terms of section 91(2)(d), the compensation and the interest are payable, subject to an agreement to the contrary between the owner or holder of a registered right or an unregistered right and the Minister, on such dates as the Lands Tribunal may order.

(5) An owner or holder of a registered right or an unregistered right or the Minister may apply to the Lands Tribunal for an order contemplated in subsection (4) at any time after the Minister has proposed a later date in terms of section 91(2)(d).

(6) The payment or use of the money in terms of sections 97, 98 or 99 or of any amount under subsection (2) may not preclude the determination by the Lands Tribunal of a different amount as compensation.

(7) If the amount determined by the Lands Tribunal as compensation is less than the amount paid in terms of subsection (2), the owner or holder of a registered right or an unregistered right must refund the difference to the Minister together with interest at the rate contemplated in section 95(4) from the date on which the amount was so paid or any interest that accrued on the amount.

Basis on which compensation is to be determined

96. (1) The amount of compensation to be paid to an owner or a holder of a registered right or an unregistered right must be just, having due regard to the public interest in land reform and other land reform related purposes, the interests of the owner or holder of a registered right or an unregistered right and to the factors specified in subsection (3), but that amount may not exceed -

(a) where the property expropriated is commercial agricultural land, the aggregate of –

(i) the amount which the land would have realized if sold on the date of notice on the open market by a willing seller to a willing buyer; and

(ii) an amount to compensate any actual financial loss caused by the expropriation; and

(b) where the property expropriated is a right or an interest, an amount to compensate any actual financial loss caused by the expropriation of the right or interest.

(2) Despite anything to the contrary in this Act, there is added to the total amount payable in accordance with subsection (1) a *solatium* amount equal to 10 per cent of such total amount, except that the *solatium* amount may not exceed N$50 000.

(3) In determining the amount of compensation to be paid in terms of this Act the Minister may not take account of -

(a) the fact that the property has been acquired without the consent of the owner or holder of a registered right or an unregistered right;

(b) the special suitability or usefulness of the property in question for the purpose for which it is required by the State if it is unlikely that the property would have been purchased for that purpose on the open market;

(c) any enhancement in the value of the property, if such enhancement is a consequence of the use of the property in a manner which is unlawful;

(d) improvements made on the property in question, after the date on which the notice of expropriation was served on the owner or holder of a registered right or an unregistered right, except where they were undertaken in compliance with an obligation in terms of section 92(3) or where they were undertaken in pursuance of obligations entered into before that date;

(e) anything done with the object of obtaining compensation; or

(f) any enhancement or depreciation, after the date of service of the notice of expropriation, in the value of the property in question which can be attributed to the scheme or purpose in connection with which the property was expropriated.

(4) Interest at the interest rate determined in terms of section 35(a) of the State Finance Act, 1991 (Act No. 31 of 1991), is due from the date of expropriation on the outstanding portion of the amount of compensation payable in accordance with this section and becomes payable in accordance with section 95(1).

(5) If the owner or holder of a registered right or an unregistered right fails to comply with section 93(1) or (2) within the periods referred to in that section, including any extension of such periods, the amount so payable during the period of such failure and for the purposes of the payment of interest, is not regarded as an outstanding amount.

(6) Interest due in terms of subsection (4) is regarded as having been paid on the date on which the amount has been made available or been send in the prescribed manner to the owner or holder of a registered right or an unregistered right concerned.

(7) Any payment, utilisation or deposit of an amount in terms of section 95(2), 97(2) or 98 (2) must be regarded as being a payment to the owner or holder of a registered right or an unregistered right and interest does not accrue on any such amount as from the date on which it has been paid, utilised or deposited.

(8) An owner or holder of a registered right or an unregistered right is not entitled to interest for any period before possession of the property has passed to the Minister in terms of section 92(2) or (6).

(9) If the owner or holder of a registered right or an unregistered right occupies or utilises the property or any portion, such owner or holder of a registered right or an unregistered right is not entitled to interest in respect of the period during which he or she so occupies or utilises the property or portion of the property on so much of the outstanding amount as relates to the property or portion so occupied or utilised.

Property subject to mortgage bonds and deeds of sale

97. (1) If a property expropriated in terms of this Act was immediately prior to the date of expropriation encumbered by a registered mortgage bond or subject to a deed of sale, the Minister may not pay out any portion of the compensation money in question to the owner or holder of a registered right or an unregistered right concerned.

(2) Despite subsection (1), compensation or a portion of the compensation money may be paid to the mortgagee or buyer –

(a) if the compensation due to the mortgagee or buyer, has been determined; and

(b) on such terms as may have been agreed upon between the owner or holder of a registered right or an unregistered right and the mortgagee or buyer concerned after the owner or holder of a registered right or an unregistered right has notified the Minister of such agreement.

(3) If the owner or holder of a registered right or an unregistered right and the mortgagee or buyer fail to conclude an agreement contemplated in subsection (2)(b), any of the parties may apply to the Lands Tribunal for an order directing the Minister to pay out the compensation money or an advance payment in terms of section 95(2) in such manner as the Lands Tribunal may determine.

(4) The Lands Tribunal may on such application issue such order, including an order as to costs, as the Lands Tribunal considers just.

Payment of land tax out of compensation money

98. (1) If a property has been expropriated, the owner must, upon receipt or publication of an expropriation notice in terms of section 91(6) or (7), inform the Minister in writing of any outstanding land tax.

(2) The Minister may utilise so much of the compensation money in question as is necessary for the payment on behalf of the owner of any land tax in terms of subsection (1).

Deposit of compensation money with Master

99. (1) If –

(a) a property expropriated under this Act was left in terms of a will or testament to undetermined beneficiaries;

(b) compensation is payable in terms of this Act to a person whose address is not readily ascertainable or who fails to supply the prescribed information and documentation for payment after 30 days' written notice to do so; or

(c) compensation is payable and the Minister is unable to determine to whom it is payable,

the Minister may deposit the amount of compensation payable in terms of this Act with the Master after which the Minister ceases to be liable in respect of that amount.

(2) If there is –

(a) a dispute or doubt as to the person who is to receive any compensation payable in terms of this Act; or

(b) an interdict issued by a competent court in respect of the payment of compensation, the Minister may pay such compensation to the Master.

(3) Any money received by the Master in terms of subsection (1) or (2) –

(a) must be paid into the Guardian's Fund referred to in section 86 of the Administration of Estates Act, 1965 (Act No. 66 of 1965), for the benefit of the persons who are or may become entitled to the money, and bears interest at a rate determined from time to time under section 88 of that Act; and

(b) remains subject to the terms and conditions of the will or other testament under which the property was left to the undetermined beneficiaries.

(4) The Lands Tribunal has jurisdiction to make an order which may be necessary in respect of any moneys received by the Master in terms of subsection (1) or (2).

Withdrawal of expropriation

100. (1) Despite anything to the contrary in any law, the Minister, after consultation with the Commission, may withdraw any expropriation from a date mentioned in a notice of withdrawal if the withdrawal of that expropriation is in the public interest or such withdrawal is otherwise justified.

(2) The notice of withdrawal contemplated in subsection (1) must be served on every person on whom the notice of expropriation in question was served.

(3) An expropriation notice may not be withdrawn –

(a) after the expiration of 90 days from the date of expropriation, except –

(i) with the written consent of the owner and all holders of registered right or unregistered rights; or

(ii) where the Lands Tribunal, on application by the Minister, authorises the withdrawal on the ground that it is in the public interest that the expropriation be withdrawn;

(b) if the property has already been registered in the name of the State in consequence of the expropriation; or

(c) if the Minister has already paid compensation in connection with such expropriation, unless the agreement in writing of every person to whom such compensation has been paid is obtained to refund the State.

(4) If an expropriation of property is withdrawn in terms of this section –

(a) ownership of such property again vests, from the date contemplated in subsection (1), in the owner from whom it was expropriated;

(b) any mortgage bonds and other rights discharged or expropriated by virtue of section 92(1) as a consequence of the expropriation are fully revived; and

(c) the Registrar, on receipt of a copy of the notice of withdrawal, must cancel any endorsement made in connection with the expropriation in his or her registers and on the title deed in question.

Application of Expropriation Ordinance, 1978

101. (1) The provisions of the Expropriation Ordinance, 1978 (Ordinance No. 13 of 1978) do not apply to an expropriation of property for the purposes contemplated in section 81(1).

(2) Nothing in this Act may be construed as preventing the expropriation of commercial agricultural land in accordance with the provisions of the Expropriation Ordinance, 1978 for a purpose contemplated in that Ordinance.

PART 6
ALLOTMENT OF COMMERCIAL AGRICULTURAL LAND

Definitions for purposes of this Part

102. For the purposes of this Part –

"farming unit" means any piece of surveyed land allotted or available for allotment under this Chapter; and

"date of allotment" means the date on which the beneficiary signs the allotment letter from the Minister.

Power of Minister to lease or dispose of certain State land or commercial agricultural land

103. Subject to this Chapter, the Minister after consultation with the Commission may by way of lease or in such other manner as may be prescribed, allot to any person or group of persons contemplated in section 81(1) for agricultural purposes –

(a) any land, other than communal land, of which the State is the owner and which has been made available to the Minister for the purpose of this Act;

(b) any commercial agricultural land acquired by the State under Part 3, 4 or 5; or

(c) any land allotted under this Part which has reverted to the State in terms of section 113(2).

Subdivision of land

104. (1) The Minister, with concurrence of the Minister responsible for agriculture, if applicable, may –

(a) direct that any land acquired under this Act be subdivided into holdings for allotment to persons for purposes of small-scale farming; and

(b) cause each such holding to be surveyed.

(2) Any subdivision of land in terms of subsection (1) must be carried out in accordance with a partition plan recommended by the Commission and approved by the Minister.

(3) Despite anything to the contrary in any other law regarding the subdivision and registration of land –

(a) the Surveyor-General may approve any diagram or plan of subdivision prepared in accordance with a partition plan referred to in subsection (2); and

(b) the Registrar may register the transfer of any such piece of subdivided land.

Preparation and publication of allotment plans

105. (1) The Commission must prepare and recommend to the Minister an allotment plan for the purpose of the allotment of land in terms of section 103 as a farming unit.

(2) An allotment plan referred to in subsection (1) must –

(a) show the boundaries of each farming unit;

(b) have annexed to it or recorded on it a statement of the approximate area of each farming unit; and

(c) have annexed to it a statement –

(i) indicating the nature of any improvements.

(ii) specifying the manner in which, as contemplated in section 104, the Commission recommends that farming units are to be allotted and the terms and conditions subject to which such allotment is made; and

(iii) setting out the minimum qualifications which the Commission recommends may be required of persons to qualify for allotment of any farming unit.

(3) When an allotment plan has been approved by the Minister, the Minister must cause copies to be made available for public inspection at such place or places and during such times as the Minister notifies by notice in the *Gazette* and in at least one newspaper circulating widely in the area in which the land is situated and, if the Minister considers it necessary, in any other manner as the Minister may direct.

(4) The notice published under subsection (3) must invite applications for the allotment of farming units offered for allotment and must state –

(a) the number of farming units offered for allotment and the location of each such unit;

(b) a description of each such farming unit;

(c) any special conditions upon which each farming unit is offered for allotment;

(d) the minimum qualifications required of applicants to qualify for the allotment of a farming unit;

(e) where any farming unit is offered for lease, the approximate rent;

(f) the manner of application for the allotment of a farming unit; and

(g) the closing date for such applications.

(5) Allotment of any farming unit included in an allotment plan referred to in subsection (1) may not be made unless –

(a) such allotment plan has been made available for public inspection in accordance with subsection (3); and

(b) the closing date for applications specified in accordance with subsection (4)(g) has expired.

(6) Section 104, this section and section 106 do not apply to the allotment of any farming units that the Minister on the recommendation of the Commission has -

(a) specifically reserved or designated to certain identified vulnerable groups or communities; or

(b) designated for allocation to communities that have been affected by natural disasters or any other causes as the Minister may prescribe.

Disposal of farming units reverting to State

106. (1) Sections 104 and 105 do not apply to the re-allotment of any farming unit that has previously been allotted but has reverted to the State in terms of this Part and which the Minister considers for allotment without any alteration of the boundaries.

(2) Whenever the Minister intends to allot any farming unit referred to in subsection (1), the Minister must by notice, given in the manner as specified in section 105(3), offer the farming units for allotment, and such notice must contain the information contemplated in section 105(4).

(3) The Minister may not allot any farming unit referred to in subsection (1) unless –

(a) the notice referred to in subsection (2) has been published in the *Gazette*; and

(b) the closing date for applications specified in the notice has expired.

Application for allotment and consideration of application

107. (1) Every application for the allotment of a farming unit offered for allotment under this Part must be made to the Minister in the prescribed manner.

(2) The Minister must, as soon as possible after the expiration of the closing date specified in the relevant notice of offer, refer every application for the allotment of a farming unit in terms of subsection (1) to the Commission,

(3) The Commission must consider an application referred to in terms of subsection (1) and must make recommendations to the Minister and –

(a) if there is more than one application for the same farming unit, recommend to which applicant the farming unit should be allotted; or

(b) in the case of several farming units, recommend which farming unit or choice of different farming units should be offered to the applicant.

(4) The Commission may, and must if the Minister so directs, require any applicant for a farming unit to appear before it or any of its members to enable the Commission to obtain more information about the applicant and the applicant's ability to develop and work the farming unit beneficially and carry out and observe the conditions subject to which the allotment is to be made.

(5) In considering any application for the allotment of any farming unit the Commission or the Minister must have regard to -

(a) the qualifications of the applicant as set out in the applicant's application or as determined by virtue of the provisions of subsection (4);

(b) the financial means of, or available to, the applicant or applicants for the use, maintenance and development of the farming unit; and

(c) any other factors which are relevant to the application.

(6) The Minister may not approve any application for allotment of any farming unit made on behalf of a company, close corporation, trust or other juristic person unless such company, close corporation, trust or other juristic person -

(a) is 100% owned by Namibian citizens who were previously disadvantaged by past discriminatory laws and is incorporated, created or established under the laws of Namibia;

(b) undertakes that it will occupy the farming unit through the agency of a manager to be approved by the Minister under section 110(1) who will personally reside on that farming unit and use and develop it for agricultural purposes; and

(c) is legally competent to hold commercial agricultural land under this Act or any other law.

(7) The Minister, with consent of the applicant, may allocate farming units to applicants elsewhere other than the specific units they have applied for.

(8) The Minister must by written notice inform all the applicants of his or her decision on their applications.

(9) An applicant who is aggrieved by a decision of the Minister under this section may, within 30 days from the date that the applicant received the Minister's

decision not to allot a farming unit as contemplated in subsection (8) to the applicant or such extended period as the Minister in a particular case may allow, appeal against that decision to the Lands Tribunal.

(10) If an applicant in his or her application furnishes information or makes a statement material to the application which the applicant knows to be false or misleading, he or she commits an offence and on conviction is liable to a fine not exceeding N$20 000 or to imprisonment for a period not exceeding four years or to both such fine and such imprisonment.

(11) If an applicant for the allotment of a farming unit is convicted under subsection (10) and the farming unit has been allotted to the applicant, the Minister must cancel the allotment and the lease.

Duration and registration of leases

108. (1) The Minister may grant any lease in respect of a farming unit under this Chapter for any period not exceeding 99 years.

(2) The Minister must cause any lease referred to in subsection (1) which is for a period of 10 years or more to be registered in accordance with the Deeds Registries Act.

(3) The lessee of a farming unit is liable for the payment of any fees and costs pertaining to the registration of the lease, unless the Minister prescribes otherwise.

Rent of farming unit leased

109. The yearly rent payable in respect of any farming unit is such amount and is payable on such terms and conditions as the Minister, on the recommendation of the Commission, may determine.

Occupation of farming unit leased

110. (1) A lessee must take up effective occupation of the farming unit and beneficially use that farming unit for agricultural purposes, either personally or through a manager in the full-time employment of the lessee approved by the Minister on the recommendation of the Commission, within 90 days after the date of commencement of the lease or such extended period as the Minister on the recommendation of the Commission in a particular case may approve.

(2) For the purposes of subsection (1) "beneficially use" means –

(a) from the date of taking up effective occupation as required by that subsection -

(i) residence on the farming unit, either by the lessee personally or by a manager referred to in that subsection;

(ii) the practice of sound methods of good husbandry;

(iii) the proper care and maintenance of improvements on the farming unit;

(b) before the expiration of a period of three years after the date of the lessee taking up occupation as required by subsection (1), the annual cultivation of such portion of the area of the farming unit or the maintenance of livestock in accordance with the requirements laid down by the Minister on the recommendation of the Commission.

(3) If the lessee fails to comply with subsection (1), the Minister may withdraw the allotment for re-allocation

Compensation on termination of lease

111. (1) On the termination of a lease by effluxion of time or by agreement between the Minister and the lessee or for any other reason, but subject to section 115 or 116, compensation is payable to a lessee in respect of buildings or improvements effected on the farming unit after the allotment to the lessee in terms of this Part.

(2) The Minister on the recommendation of the Commission must, in relation to the compensation to be paid in terms of subsection (1) and in the determination of such compensation, have regard to –

(a) the value of the buildings or improvements concerned and the period of the lease;

(b) the economic state, at the date of termination of the lease, of the agricultural industry in the area in which the farming unit is situated; and

(c) contributions made from public funds towards the cost of permanent improvements on the farming unit.

(3) Despite anything to the contrary in any other law, when any compensation determined under subsection (2) is payable to a lessee, there must be deducted from the amount so payable any rent due and payable under the lease and any other debts owing to the State by the lessee may be deducted from the amount so payable.

(4) The Minister must, by written notice, inform a lessee of the amount -

(a) of any compensation payable to the lessee in terms of subsection (1); and

(b) when compensation is so payable to the lessee, of any deductions under subsection (3).

(5) A lessee who is not satisfied with the amount of –

(a) any compensation determined by the Minister under subsection (2); or

(b) any deductions made under subsection (3) from the compensation payable to him or her or it,

may, within 30 days from the date of receipt of the of notice of the amount so determined or deducted or such extended period as the Minister in a particular case may allow, appeal against the determination of that compensation or deductions to the Lands Tribunal.

Restraint on certain transactions by lessee of farming unit

112. (1) A lessee may not –

(a) assign, mortgage or in any manner whatsoever encumber or part with possession of the farming unit in question or any part of the unit; or

(b) enter into any partnership for the operation of such farming unit,

except with the prior written consent of the Minister granted on the recommendation of the Commission.

(2) An application for the consent of the Minister for the purposes of subsection (1) must be made to the Minister in the prescribed manner.

(3) The Minister must, by written notice, inform the lessee concerned of his or her decision under subsection (1).

(4) A lessee who is aggrieved by a decision of the Minister under subsection (1) may, within 30 days from the date of receipt of notice of the decision or such extended period as the Minister in a particular case may allow, appeal against the decision to the Lands Tribunal.

(5) An act referred to in subsection (1)(a) which entails the registration, execution or attestation of any deed or other document in a deeds registry may not be registered, executed or attested, unless proof of the required consent of the Minister under subsection (1) is submitted to the Registrar.

(6) A person may not sublet a farming unit allotted under this Act.

Cancellation of lease

113. (1) Subject to subsection (3), if a lessee fails to –

(a) comply with any provision of this Act which is applicable to the lessee or to fulfil any term or condition of the lease, the Minister may cause written notice to be served upon such lessee calling upon that lessee to remedy any default within a period specified in the notice; and

(b) remedy such default referred to in paragraph (a) within the period specified in the notice referred to in that paragraph,

the Minister, on the recommendation of the Commission, may cancel the lease, and if the lease is so cancelled, the Minister must by written notice inform the lessee of such cancellation.

(2) Subject to subsection (3), upon cancellation of a lease under subsection (1) the right to occupy the farming unit in question and all improvements revert to the State, subject to the payment of compensation in accordance with section 111.

(3) A cancellation of a lease under subsection (1) may not take effect –

(a) until the period for noting an appeal under subsection (4) has expired and the lessee concerned has not noted an appeal; or

(b) where an appeal has been noted under subsection (4), until the appeal has been abandoned or dismissed.

(4) Any lessee who is aggrieved by a decision of the Minister under subsection (1) to cancel his or her or its lease may, within 30 days from the date of receipt of the notice of the decision of the Minister to cancel the lease or such extended period as the Minister in a particular case may allow, appeal against that decision to the Lands Tribunal.

Debts due under lease cancelled or surrendered

114. (1) The termination of a lease under this Chapter or the surrender of a lease does not extinguish any debt due by the lessee to the State under such lease and upon such termination or surrender such debt, subject to subsection (2), becomes payable to the State.

(2) If the Minister, on the recommendation of the Commission, is satisfied that the termination or surrender of a lease was due to drought, flood, tempest, locusts, lack of water, failure of crops, disease of livestock or other adverse farming conditions not attributable to the conduct of the lessee, the Minister may waive the whole or any part of any debt which has become due and payable in terms of subsection (1).

Insolvency of lessee

115. (1) If –

(a) a lessee becomes insolvent; or

(b) in the case of a lessee which is a company, close corporation, trust or other juristic person, the company, close corporation or juristic person is placed under liquidation,

the trustee of the insolvent estate or the liquidator of the company, close corporation or juristic person may assign the lease to any person approved in writing by the Minister on the recommendation of the Commission.

(2) If the trustee or liquidator fails to assign the lease within the period of 90 days after the date of his or her appointment or such longer period as the Minister may allow, the Minister may cancel the lease, in which event, the trustee or liquidator is, subject to subsection (3), entitled to be paid by the State compensation for the benefit of the insolvent estate or the company, close corporation or juristic person under liquidation in accordance with section 111.

(3) Despite anything to the contrary in any other law contained, the Minister may deduct from any compensation payable in terms of subsection (2) any rent due or any other debt owing to the State in respect of the farming unit.

Death or mental illness of lessee

116. (1) Upon the death of a lessee the lease reverts to the State for assignment by the Minister on the recommendation of the Commission –

(a) to the surviving spouse of the deceased person, if such spouse consents to such assignment;

(b) in the absence of such surviving spouse or should he or she not consent as contemplated in paragraph (a), to such child of the deceased, if such child consents or children consent to such assignment; or

(c) in the absence of a child or children or should the child or children not consent as contemplated in paragraph (b), to a family member of the deceased person or any person, if such family member or person and other family members of the deceased consent to such assignment.

(2) For the purpose of determining the person to whom a lease is to be assigned in the circumstances contemplated in subsection (1), the Commission or the Minister may consult with such members of the family of the deceased person.

(3) If the lessee is a juristic person which has ceased to exist, the lease devolves in accordance with relevant law regulating succession to property owned by juristic persons.

(4) If a curator is appointed for a lessee under any law relating to health, the curator may assign the lease to any person who is approved in writing by the Minister on the recommendation of the Commission.

(5) The provisions of this section do not apply where the lessee leaves a will in which the disposition of the lease is set out, and in that case but subject to Part 7 of this Chapter, the lease devolves in terms of the will.

(6) If the lessee was awarded a loan and the lease was used as security to the creditor, the loan is taken over or paid off by the person who inherits the lease if he or she agrees.

(7) If the person who inherits the lease is not willing to take over the loan as contemplated in subsection (6) or is declared insolvent the Minister, on the recommendation of the Commission and with the consent of the creditor may, through the prescribed procedure, assign the lease to any other person who is willing and able to inherit the lease and take over the loan.

(8) For the purposes of subsection (7), the creditor may recommend to the Minister for the assignment of the lease to another person within the prescribed time but, the State has first right of refusal over the lease.

(9) The creditor, with the consent of the Minister, may sublease the leasehold for the remainder of the period or alternatively for a reasonable period during which the creditor can recover the loan balance.

(10) Pending the assignment of the lease in accordance with this section, the executor or curator must continue the lease on behalf of the estate or the lessee subject to this section, and on terms and conditions of the lease, which must be fulfilled by the executor or curator or on his or her behalf by a person nominated by him or her and approved in writing by the Minister on the recommendation of the Commission.

(11) If the executor or curator fails to assign the lease within the period of five months after the date of his or her appointment as executor or curator, the Minister may cancel the lease, in which event the executor or curator is entitled to be paid by the State for the improvements made on the land.

(12) The Minister may deduct any rent due or any other debt owed to the State in respect of the land being leased from any compensation payable.

Transfer of lease

117. (1) Subject to subsection (2) and to such exemptions as may be prescribed or unless any condition attaching to a lease under this Chapter provides otherwise, a lease granted under this Chapter may only be transferred with the written consent of the Minister given on the recommendation of the Commission.

(2) Subsection (1) does not apply where a lease is transferred –

(a) in the administration of a deceased estate to an heir or legatee of such estate, except where that heir or legatee is a company, close corporation or other jurist person;

(b) in a redistribution of assets in an estate between heirs and legatees;

(c) by a co-owner of such right to another co-owner, except where –

(i) the other co-owner is a foreign national; or

(ii) such lease is owned by a company, close corporation or other juristic person; or

(d) in such other circumstances as the Minister may prescribe.

Option to purchase farming unit leased

118. (1) A lessee of a farming unit may apply to the Minister to obtain an option to purchase the farming unit concerned at a purchase price equal to the market value of the unit on condition that –

(a) at least five years have lapsed, whether before or after the commencement of this Act, since the date of commencement of the lease; and

(b) all the provisions of this Act which are applicable to the lessee and all the terms and conditions of the lease have been complied with.

(2) An application for an option to purchase a farming unit as contemplated in subsection (1) must be made to the Minister in the prescribed form and manner.

(3) The Minister must refer the application made in terms of subsection (2) to the Commission for recommendation to the Minister.

(4) The Commission must, in relation to every application referred to it in terms of subsection (3) –

(a) satisfy itself whether or not the requirements stated in subsection (1) are met; and

(b) if satisfied that the requirements stated in subsection (1) are met, make a recommendation to the Minister to grant the option to purchase, stipulate the terms and conditions on which it recommends the option, including conditions as to the manner in and time within which the option may be exercised.

(5) Where the Commission, under subsection (4), recommends to the Minister that it is not satisfied with the application the Minister may either –

(a) by written notice to the applicant, refuse the application; or

(b) refer the application back to the Commission for reconsideration in the light of any comments which the Minister may make in relation on the application.

(6) Where the Commission, under subsection (4), has advised the Minister that it is satisfied with the application, the Minister must grant the applicant an option to purchase the farming unit on the terms and conditions determined by the Minister on the recommendation of the Commission.

Amendment of terms and conditions of option to purchase

119. The Minister, on the recommendation of the Commission may, at the request of the lessee, either before or after the exercise of the option, amend the terms and conditions on which an option was granted under section 118.

Land to be registered subject to existing rights and encumbrances

120. (1) Any land purchased under this Part is subject to all rights and encumbrances as are registered against the title held by the State in respect of the land.

(2) A person who purchases land under this Part is entitled to obtain registered title of the land upon payment to the State of the whole purchase price, survey fees and the transfer costs.

Purchased farming unit to be used for agricultural purposes

121. (1) A farming unit purchased under this Part may not, except with the prior written approval of the Minister, be used for any purpose other than for agricultural purposes and for occupancy by the purchaser and the family of the purchaser and the necessary employees of the purchaser and their families.

(2) If a person uses the farming unit in contravention of subsection (1), the Minister may by notice in writing require such person to cease such other use within a period specified in the notice, and, if such person fails to comply with such requirement within the specified period, the farming unit becomes subject to expropriation and the Minister must expropriate the farming unit and Part 5 applies with the necessary changes.

Right to enter and inspect

122. (1) Any authorised officer may at all reasonable times enter and inspect any farming unit allotted under this Part for the purpose of ascertaining whether this Act or the terms and conditions for the occupancy of that farming unit or of the relevant agreement of lease are being complied with in respect of the farming unit.

(2) Before exercising the powers conferred by subsection (1), the authorised officer concerned must, whenever reasonably practicable –

(a) obtain the consent of the lessee of the farming unit; or

(b) give the lessee not less than 48 hours notice in writing of his or her intention to enter and inspect the farming unit,

and unless such consent has been obtained or such notice has been given, the authorised officer concerned may not, in the exercise only of the powers conferred by this section, enter into any enclosed building or dwelling house without the consent of the lessee.

PART 7
PROHIBITION ON ACQUISITION OF COMMERCIAL AGRICULTURAL LAND BY FOREIGN NATIONALS

Prohibition on acquisition of commercial agricultural land by foreign nationals

123. (1) Despite any provision to the contrary in any law a foreign national may not -

(a) acquire commercial agricultural land through the registration of transfer of ownership in the deeds registry; or

(b) directly or indirectly acquire any shares or interest in a company, close corporation, trust or other juristic person that owns, directly or indirectly, commercial agricultural land.

(2) If –

(a) the Registrar of Companies or the secretary or auditors of the company becomes aware that an interest in a company;

(b) the Registrar of Close Corporations or the secretary or auditors of the close corporation becomes aware that an interest in a close corporation; or

(c) a trustee or trust practitioner as defined in section 1 of the Trust Administration Act, 2023 (Act No 11 of 2023) becomes aware that an interest of a beneficiary in a trust,

owning commercial agricultural land has passed to a foreign national, he or she must inform the Minister in a prescribed form and manner that such interest has so passed.

(3) A foreign national, with the written approval of the Minister given on the recommendation of the Commission, may enter into an agreement with any other person where any right to the occupation of commercial agricultural land or a portion of such land is conferred upon the foreign national –

(a) for a prescribed period of time which is renewable; or

(b) for a fixed period of less than the prescribed period, but which is renewable, and it being a condition of such agreement that the right of occupation of the land concerned may not exceed the prescribed period in total, renewable for another maximum prescribed period at a time.

(4) A foreign national, with the written approval of the Minister given on the recommendation of the Commission, may enter into an agreement with any other person where any right to the occupation of commercial agricultural land or a portion of such land is conferred upon the foreign national for a period of more than the prescribed period, but before granting such a lease the Minister must first obtain the approval of the Cabinet.

(5) An application for approval of the Minister for the purposes of subsection (3) or (4) must be made in the prescribed form and manner.

(6) The Minister may grant an application in terms of subsection (5) and give the necessary written approval, subject to such conditions as the Minister may determine.

(7) The Minister may not grant an application made in terms of subsection (5), unless the Minister is satisfied –

(a) with the concurrence of the Minister responsible for investment and the Minister responsible for agriculture, if applicable, that the acquisition of the right to occupation of such land will constitute an eligible investment as contemplated in section 5 of the Foreign Investments Act, 1990 (Act No. 27 of 1990) in respect of which a Certificate of Status Investment has been issued or will be issued to the applicant under section 7 of that Act;

(b) that the land concerned is capable of being occupied beneficially for the purpose which the applicant proposes to use or occupy it;

(c) that the use or occupation of the land concerned will not have an adverse effect on the environment or adequate measures will be provided by the applicant to prevent or deal with any adverse environmental consequences which may result from such use or occupation;

(d) that the holding of the land in question will contribute towards the economic development of Namibia, by either –

(i) utilising Namibian resources, including labour and natural resources;

(ii) increasing employment opportunities;

(iii) providing for training of Namibian citizens;

(iv) earning or saving foreign exchange; or

(v) generating development in the less developed areas of Namibia; and

(e) that the holding of the land in question is not inconsistent, whether directly or indirectly, with the implementation, whether by or under any law or otherwise, of policies or programmes aimed at redressing economic imbalances in Namibia, including such policies or programmes relating to any land reform or resettlement in Namibia.

Acquisition and holding of commercial agricultural land by and on behalf of foreign nationals

124. A person may not acquire and hold as a nominee owner on behalf of or in the interest of any foreign national any commercial agricultural land.

Commercial agricultural land unlawfully acquired or held

125. (1) Where any commercial agricultural land has been acquired –

(a) by a foreign national in contravention of section 123(1); or

(b) by a nominee owner in contravention of section 124,

the Minister may –

(i) issue an order that such commercial agricultural land be sold to a person who is not by law disqualified from acquiring the land in question; or

(ii) acquire such land in accordance with the provisions of Part 1 of this Chapter for the purposes of section 81(1).

(2) Where the Minister issues an order under subsection (1) he or she must give notice in the prescribed manner –

(a) to the foreign national concerned; and

(b) where applicable, to the nominee owner concerned,

and such notice must state that unless the foreign national or such nominee owner submits to the Minister, within a period of 60 days from the date of service of the notice, an agreement of sale or disposal otherwise of the land concerned to a person who is not by law disqualified from acquiring it, the Minister may cause such land to be sold in accordance with subsection (3).

(3) If –

(a) an agreement of sale or for the disposal otherwise of the land as contemplated in subsection (2) is not submitted to the Minister within the period referred to in that subsection; or

(b) upon submission of such an agreement, subsequent proof that the land has been transferred to the purchaser concerned is not furnished to the Minister within 60 days of the date of the notice in terms of subsection (2) or such extended period as the Minister in a particular case may allow,

the Minister, instead of acquiring the land as contemplated in subsection (1), may cause such land to be sold by public tender or public auction on such terms and conditions as the Minister may determine.

(4) If, according to the registers of the Registrar, any mortgage bond or any other encumbrance or real right is registered over or in relation to commercial agricultural land in respect of which an order is issued by the Minister under subsection (1), the Minister must, if the address of the person in whose favour such mortgage bond, other encumbrance or real right is registered is stated in the deed or other instrument embodying such mortgage bond, other encumbrance or real right, cause a copy of the notice referred to in subsection (2) to be served on that person in the prescribed manner..

(5) The Minister must cause a copy of a notice given under subsection (2) to be transmitted to the Registrar and the Registrar must upon receipt endorse the date of its receipt and endorse in the appropriate registers that such a notice has been received in respect of the land in question.

(6) Subject to subsection (7), after receipt of any notice referred to in subsection (2), the Registrar may not register any transfer of, or any mortgage bond or other encumbrance or real right in respect of or over, the land in question, unless the Minister notifies the Registrar in writing that the registration of such transfer, mortgage bond or other encumbrance or real right is in pursuance of -

(a) an agreement of sale submitted to the Minister in terms of subsection (3); or

(b) a sale by public tender or public auction under subsection (3).

(7) If the Minister withdraws a notice referred to in subsection (2), the Minister must cause a notice of the withdrawal to be transmitted to the Registrar, and upon receipt of such a notice or upon the transfer of the land in question in accordance with subsection (6), the Registrar must cancel any endorsement made under subsection (5).

(8) The costs incidental to the sale of any commercial agricultural land by public tender or public auction under subsection (3) is a first charge upon the proceeds derived from such sale and –

(a) any balance is applied towards the payment of any debt the payment of which is secured by the land in question, in its legal order of priority; and

(b) any balance left is paid to the foreign national or, where applicable, to either the nominee owner or the foreign national, as the Minister may direct.

(9) The Minister or any staff member of the Ministry designated in writing by the Minister for that purpose may sign any document and do whatever may be necessary in order to effect the transfer of any land sold by public tender or public auction under subsection (3) to the purchaser of such land.

(10) If –

(a) the owner of the land in question fails to produce the title deed; or

(b) the holder of any mortgage bond over the land in question fails to consent to the cancellation of the bond or the release of the land from the operation of the bond, the Registrar must, if the Minister so directs in writing, register the transfer of ownership of the land and endorse the transfer on the duplicate title filed in his or her office and in the appropriate registers.

(11) If improvements have been effected on any land which has been acquired in contravention of section 123 or 124 those improvements are deemed to form part of that land and the person who has effected such improvements to the land in question is not entitled to be compensated for such improvements.

Offences in relation to sale or otherwise disposal of commercial agricultural land

126. (1) Despite any action taken by the Minister under section 125, a person who –

(a) acquires or holds commercial agricultural land or enters into an agreement or arrangement with any other person in contravention of section 123 or 124; or

(b) without the written authorisation of the Minister removes, damages or destroys any improvements made to the land referred to in subsection (11) of section 125 after a notice has been served on a foreign national or a nominee of a foreign national pursuant to subsection (2) of that section,

commits an offence and on conviction is liable to a fine not exceeding N$50 000 or to imprisonment for a period not exceeding 10 years or to both such fine and such imprisonment.

(2) In any prosecution under subsection (1), it is a defence to prove that the accused had reasonable grounds for believing and did believe that the person who acquired the commercial agricultural land in question was not by law disqualified from acquiring it.

Restrictions upon registration of commercial agricultural land

127. (1) Despite anything to the contrary in any law, the Registrar may not register any transfer of commercial agricultural land or any lease or sublease in respect of such land or any cession of such a lease or sublease, unless there is submitted to the Registrar a statement made under oath or affirmation by the transferee, lessee, sublessee, cessionary or beneficiary or, in the case of a company, close corporation, trust or other juristic person, on behalf of the transferee, lessee, sub-lessee, cessionary or beneficiary declaring –

(a) his or her nationality or, in the case of a company, close corporation, trust or other juristic person, the nationality of each member and whether or not the company, close corporation, trust or other juristic person is a foreign national; and

(b) whether or not the land to be transferred or mentioned in the lease, sub-lease or cession will be held by him or her or it on behalf or in the interest of any other person and, where applicable, giving particulars of the name and nationality of such person or, in the case of a company, close corporation, trust or other juristic person, the name and nationality of each member.

(2) If in the statement referred to in subsection (1), the transferee, lessee, sub-lessee or cessionary declares that –

(a) he or she is not a Namibian citizen or, in the case of a company, close corporation, trust or other juristic person, that it is a foreign national; or

(b) the land in question will be held by him or her or it on behalf or in the interest of another person who is not a Namibian citizen or, in the case of a company, close corporation, trust or other juristic person, which is a foreign national,

the written approval of the Minister referred to in section 123(6) must be submitted to the Registrar.

(3) Despite subsection (1), the Registrar may request the lessee, sublessee or cessionary referred to in that subsection to submit to the Registrar such further information as he or she may require that the lessee, sublessee or cessionary may lawfully acquire or hold such right in terms of this Act.

(4) A person who in a statement referred to in subsection (1) makes any representation or any statement knowing it to be false commits an offence and on conviction is liable to a fine not exceeding N$20 000 or to imprisonment for a period not exceeding four years or to both such fine and such imprisonment.

CHAPTER 4
LAND TAX

PART 1
PRELIMINARY

Definitions for this Chapter

128. (1) For purposes of this Chapter –

"appointed valuer" means a person appointed as such under section 132;

"date of valuation", –

(a) in relation to the main valuation roll, means the date that the Minister causes the general valuation to be made in terms of section 130(2)(a); or

(b) in relation to the interim valuation roll, means the date that the Minister caused the last general valuation to be made in terms of section 130(2)(a);

"financial year" means the period from 1 April in any year to 31 March in the next year;

"Income Tax Act" means the Income Tax Act, 1981 (Act No. 24 of 1981);

"interim valuation roll" means the interim valuation roll referred to in section 130(2)(b);

"main valuation roll" means the main valuation roll referred to in section 131(1);

"presiding officer" means a magistrate referred to in section 139(2)(a);

"provisional valuation roll" means the provisional valuation roll prepared in terms of section 132(2);

"representative" means a representative referred to in section 156;

"unimproved site value" means the value of commercial agricultural land as determined by the appointed valuer under section 132(2)(d); and

"valuer" means a person registered as a professional valuer in terms of section 17 of the Property Valuers Profession Act, 2012 (Act No. 7 of 2012).

(2) In the application of this Chapter and of any notice made pursuant to section 130, "owner", includes a representative referred to in section 157 to the extent that those provisions relate to land tax.

PART 2
LAND TAX

Land tax

129. (1) Despite any other law to the contrary, the Minister, after consultation with the Minister responsible for agriculture, if applicable, and the Minister responsible for finance, for the benefit of the Fund, may by notice in the *Gazette* and in any other appropriate prescribed media platform, impose a land tax to be paid by every owner of commercial agricultural land on the unimproved site value of such land.

(2) An owner of commercial agricultural land must, for the benefit of the Fund, in respect of each financial year, pay a land tax based on the unimproved site value of the land as –

(a) shown on the main or interim valuation roll; and

(b) calculated at such rate or progressive rate as the Minister, with the approval of the National Assembly, may determine by notice issued under subsection (1).

(3) The land tax referred to in subsection (1) is calculated in accordance with the following formula:

$$T = V \times R,$$

in which formula –

"T" represents the land tax payable;

"V" represents the unimproved site value as determined under this Act; and

"R" represents the rate of land tax as determined under subsection (2).

(4) A notice referred to in subsection (1) may –

(a) prescribe a tariff of different rates in respect of different categories of owners or different categories of commercial agricultural land, differentiating on the basis of any one or more of the following -

(i) nationality or residence of the owner;

(ii) size of the commercial agricultural land;

(iii) the number of farms owned by the same owner;

(iv) activities carried on or predominantly carried on whether farming operations or otherwise, by an owner or any person having the right of occupation and use of commercial agricultural land through the owner; or

(v) any other basis which the Minister may determine and prescribe in the notice;

(b) provide, for the purposes of paragraph (a)(iii), that where more than one farm are possessed or controlled by a person –

(i) whether as an individual owner; or

(ii) through –

(aa) an interest in the shareholding or membership of a company or a close corporation; or

(bb) any other form of legal entitlement or representation, including a trust or other juristic person of which the person has the right of appointment of the trustee or of designating beneficiaries,

and which company, close corporation, trust, trustee or juristic person is the owner,

that such farms are considered to be owned by the same owner;

(c) establish a system and process of registration of owners to identify the category into which they fall, determine the appropriate rate of land tax applicable to them, and provide for the form and manner in which application for registration is to be made; and

(d) create offences for –

(i) a contravention of, or failure to comply with, a provision of the notice relating to the process of registration contemplated in paragraph (c); or

(ii) knowingly giving false or misleading information in any document furnished in connection with the process of registration,

and prescribe penalties for such offences not exceeding a fine of N$20 000 or a period of imprisonment not exceeding four years or both such fine and such imprisonment.

(5) For purposes of imposing land tax the notice referred to in subsection (1) may also provide for any other matter which in the opinion of the Minister is necessary for the effective imposition of land tax.

PART 3
VALUATION OF COMMERCIAL AGRICULTURAL LAND

Valuation of commercial agricultural land

130. (1) Despite anything to the contrary in any other law, the valuation roll in place at the commencement of this Act which is referred to in section 148(5) remains in force until the Minister causes a general valuation to be made as contemplated in subsection (2).

(2) The Minister may –

(a) at intervals of five years, cause a general valuation to be made in respect of all commercial agricultural land; and

(b) of his or her own accord or at the request made in the prescribed manner by any person at any time during a period of five years referred to in paragraph (a), cause an interim valuation to be made in respect of any commercial agricultural land.

(3) The interim valuation roll may include any commercial agricultural land –

(a) that was omitted from the main valuation roll;

(b) whose description has changed as a result of consolidation, subdivision or renumbering as shown on an approved diagram within the meaning of the Land Survey Act;

(c) whose size was incorrect on the main valuation roll; or

(d) that was incorrectly assessed on the main valuation roll.

(4) The Minister must by notice in the *Gazette* and in any other prescribed media platform determine the date of valuation and the period during which any general or interim valuation is made.

(5) Where an interim valuation is to be made the Minister, instead of giving a notice in the *Gazette* in terms of subsection (4), may give notice of that period by serving notices in the prescribed manner on the owners of the commercial agricultural land in question.

(6) Any interim valuation roll is based on what the value of the land would have been at the last general valuation and any increase or decrease in the value of land generally between the last general valuation and such interim valuation is disregarded.

Main valuation roll

131. (1) The provisional valuation roll, containing the valuations as decreased or increased or otherwise amended by the Valuation Tribunal, of all commercial agricultural land is the main valuation roll for the purposes of any assessment under section 150.

(2) The Minister must ensure that the main valuation roll is at all times readily available for inspection by any interested person during office hours at the offices of the Ministry.

(3) The Minister, at the request of any interested person and on payment of such fee as may be determined by the Minister, must furnish that person with an extract from or copy of the main valuation roll.

Appointment, powers and functions and revocation of appointment of valuer

132. (1) When a general valuation or interim valuation of commercial agricultural land is required to be made, the Minister must appoint a valuer, whether in full time employment of the State or not, who –

(a) by virtue of his or her expertise in the field of real estate valuation is suitable for such appointment; and

(b) does not have any interest, whether direct or indirect, which might give rise to a conflict of interest during the performance of his or her functions as an appointed valuer.

(2) The appointed valuer must value the commercial agricultural land in question and prepare a provisional valuation roll as prescribed containing -

(a) the farm number, registration division, region and farm name of the commercial agricultural land in question;

(b) the name of the owner of the land;

(c) the size in hectares of the land;

(d) the unimproved site value of the land;

(e) remarks, if any, with regard to the commercial agricultural land in question; and

(f) such other information as the Minister may direct to be shown.

(3) An appointed valuer, before assuming his or her duties, must take or make and subscribe before a commissioner of oaths an oath or affirmation in the prescribed form and manner.

(4) The Minister must cause a certificate of appointment in such a form as the Minister may determine to be issued to an appointed valuer upon the appointment of the valuer.

(5) An appointed valuer must value any commercial agricultural land at a value equal to the market value at which in his or her opinion such land and other commercial agricultural land of a similar agro-ecological zone classification might reasonably be expected to be sold by a willing seller to a willing buyer at the date of valuation.

(6) In determining the value of any commercial agricultural land in terms of this Act, an appointed valuer -

(a) may use the agro-ecological zone data supplied by the Ministry administering agricultural affairs at the date of valuation;

(b) must use a mass appraisal approach to value the land and must –

(i) divide the cadastral map of Namibia into value zones to create an iso-value map showing the values of commercial agricultural land per hectare; and

(ii) create value zones each of which may contain commercial agricultural land with the same agro-ecological zone classification and any commercial agricultural land that lies in two or more agro-ecological zone classifications may, for the purpose of preparing value zones, be placed in the agro-ecological zone classification that constitutes the greater part of such land;

(c) must conduct random inspections of any commercial agricultural land but is not obliged to conduct physical inspections on all the commercial agricultural land to be valued; and

(d) must disregard in respect of such commercial agricultural land –

(i) the value of the improvements on such land;

(ii) any depreciation in the value of such land caused by excessive grazing, bush encroachment and other bad farming practices or poor management of such land;

(iii) any mortgage or other judicial encumbrance on such land;

(iv) any depreciation or appreciation in value attributed to proximity to an urban area;

(v) any depreciation or appreciation of the land value attributed to tourism or mining potential; or

(vi) any depreciation or appreciation of the land value resulting from a public road or railway line crossing through the land.

(7) For the purposes of performing his or her functions in terms of this Act, an appointed valuer or any person assisting the valuer may, subject to Article 13 of the Namibian Constitution, in case where any land or premises is used as a home -

(a) enter on such land at any reasonable time and after having given the owner, occupier or person in control of the land or premises such prior notice as may in the circumstances be reasonable; or

(b) request for, inspect and make copies or extracts from, any register, document or record which contains particulars of any commercial agricultural land and which is in the custody or under the control of a government official or any other person.

(8) When an appointed valuer or any person assisting the valuer exercises a power or performs a function in terms of this Act in the presence of any person affected, he or she must, on demand by such person –

(a) in the case of an appointed valuer, produce to such person the certificate of appointment issued in terms of subsection (4); or

(b) in the case of a person assisting the appointed valuer, produce a letter duly signed by the valuer authorising him or her to perform specified functions on behalf of the valuer in accordance with this Act.

(9) The owner, occupier or person in control of any commercial agricultural land must, within such reasonable period as may be determined in writing by the appointed valuer, furnish such information or documents as are required by the valuer to enable the valuer to exercise or perform his or her powers or functions in terms of this Act.

(10) Any person who –

(a) without just cause refuses or fails to comply with a notice or request by an appointed valuer under subsection (7) or (9) or any person assisting the valuer; or

(b) furnishes information or particulars which such person knows to be false or misleading,

commits an offence and –

(i) on conviction is liable to a fine not exceeding N$20 000 or to imprisonment for a period not exceeding four years or to both such fine and such imprisonment; and

(ii) if such person is convicted of an offence under paragraph (a) and the offence is continued after the conviction he or she is liable to a fine not exceeding N$200 for every day that the offence is so continued.

(11) Despite a conviction under subsection (10), a person so convicted remains under a duty to comply with subsection (7) or (9).

(12) It is a condition of every appointment of a person as a valuer that –

(a) all information provided to or gathered by the appointed valuer for the purpose of performing his or her duties as valuer, and all calculations made and all records, plans and forms generated by him or her in the performance of those duties, whether such information, calculations, records, plans or forms are kept in written form or stored in the form of data on a computer or any other mechanical or electronic device, are and remain the property of the State;

(b) the appointed valuer, while being in the possession of the information, calculations, records, plans and forms referred to in paragraph (a), in whatever form, must take all steps necessary to ensure their safe custody and to prevent them or part of them from getting lost, destroyed or defaced or being rendered useless or inaccessible in any other manner; and

(c) upon –

(i) a request by the Minister, the appointed valuer must deliver to the Minister; and

(ii) the termination of his or her appointment for whatever reason, the appointed valuer must deliver to the Minister,

all such information, calculations, records, plans and forms as may from time to time be required by the Minister from the appointed valuer, in whatever form they were kept or stored by him or her, at no consideration other than the remuneration to which he or she is entitled by virtue of the terms and conditions upon which he or she has been designated or appointed, but nothing in this subsection may be construed as preventing an appointed valuer or any other authority from dealing with such information, calculations, records, plans or forms as may be required in terms of this Act.

(13) The appointed valuer –

(a) may not value any land in which he or she has a personal or financial interest, or in which his or her spouse, business partner or close relative has an interested, without disclosing the nature and extent of such interest; and

(b) must submit to the Minister a list, if any, of land in which he or she has an interest and the extent of his or her interest and the Minister must submit such list to the Valuation Tribunal.

(14) An appointed valuer, when necessary may, delegate or assign to any suitably qualified person any power or functions conferred or imposed upon the valuer in terms of this Act.

(15) A delegation or an assignment under subsection (14) –

(a) must be in writing and subject to such limitations and conditions as the appointed valuer may impose; and

(b) may be reviewed and, if necessary, amended or withdrawn by the appointed valuer at any time.

(16) An appointed valuer is not divested of any power or function delegated or assigned under subsection (14).

(17) The appointed valuer may vary or revoke any decision taken under a delegation or an assignment in terms of this Act, but such variation or revocation of the decision may not detract from any right that may have accrued as a result of the decision.

(18) The Minister may, in accordance with this subsection, terminate the appointment of an appointed valuer and appoint another one in his or her place on any of the following grounds –

(a) if the registration of the appointed valuer as a professional valuer has been cancelled in terms section 18 of the Property Valuers Profession Act, 2012 (Act No. 7 of 2012) during the period of his or her appointment;

(b) incapacity, incompetence or misconduct;

(c) he or she is found guilty of a criminal offence involving fraud, perjury, theft, corruption or dishonesty by a court; or

(d) he or she is declared insolvent.

Remuneration of valuer and other expenses

133. (1) The Minister, with the concurrence of the Minister responsible for finance, must determine the remuneration and allowances payable to the appointed valuer.

(2) The expenses incidental to the performance of any general or interim valuation, including the remuneration and allowances payable to an appointed valuer or any other person, are defrayed from the Fund.

PART 4
PROVISIONAL VALUATION ROLL, VALUATION TRIBUNAL AND APPEALS TO COURT

Submission of provisional valuation roll to Minister

134. On the completion of a provisional valuation roll referred to in section 132(2), the appointed valuer must certify the roll in the prescribed manner and submit it to the Minister.

Objections against provisional valuation roll and withdrawal of valuation roll

135. (1) The Minister must cause a notice to be published in the *Gazette* and in any other prescribed media platform –

(a) stating that –

(i) the provisional valuation roll is lying open for inspection during office hours at the place or places and during the period specified in such notice;

(ii) that the iso-value map, if any, is lying open for inspection during office hours at the place or places and during the period specified in such notice; and

(iii) any interested person may upon payment of such fee as may be prescribed, during the period and times specified in a notice referred to in paragraph (b), obtain a copy of such provisional valuation roll or any part of the roll;

(b) calling upon every owner of commercial agricultural land in respect of which a valuation is contained in the provisional valuation roll who wishes to object to the valuation, to lodge, within 30 days of the date of the notice, an objection in the prescribed form and manner against the valuation with the Minister setting out the grounds on which the objection is based; and

(c) calling upon every owner of commercial agricultural land in respect of which such land is contained or omitted on the provisional valuation roll who wishes to correct such information, to lodge, within 30 days from the date of notice, a data correction request with the Minister to be made in the prescribed form.

(2) The Executive Director, the Registrar or any person representing any office, ministry or agency may, in the prescribed form and manner and within 30 days from the date of notice, lodge with Minister an objection or a data correction request with respect to any information contained on the provisional valuation roll setting out the grounds of objection or corrections to be made to the provisional valuation roll.

(3) The Minister, not less than 30 days prior to the sitting of the Valuation Tribunal –

(a) may direct the appointed valuer to correct any data which is the subject matter of a data correction request referred to in subsection (1)(c) or (2), if the Minister is satisfied that the request to correct the data is justified; and

(b) must cause an owner who has lodged an objection pursuant to subsection (1)(b) or an official or institution that has lodged an objection pursuant to subsection (2) to be notified in the prescribed manner of the date and time on which and the place at which the Valuation Tribunal will be sitting to hear the objection.

(4) For the purpose of resolving an objection or reaching an agreement to settle an objection with an owner who has lodged an objection pursuant to subsection (1)(b) or an official or institution that has lodged an objection pursuant to subsection (2), the appointed valuer or any person assisting the valuer may communicate to such owner, official or institution and explain issues, and the owner, official or institution may –

(a) withdraw the objection; or

(b) reach an agreement to settle the objection, prior to the Valuation Tribunal sitting.

(5) If an objection is withdrawn or a settlement agreement is reached under subsection (4), the objector must complete the withdrawal of objection or a settlement agreement in the prescribed form and manner and submit it to the Minister.

(6) The Minister may, by notice in the *Gazette*, withdraw a provisional valuation roll if the appointment of the appointed valuer is terminated.

Submission of provisional valuation roll to Valuation Tribunal

136. The Minister must cause to be submitted to the Valuation Tribunal within 30 days after the expiry of the 30 days mentioned in section 135 (1)(b) or (c) –

(a) the objections, if any, lodged with the Minister in terms of that section; and

(b) the provisional valuation roll submitted to the Minister in terms of section 135.

Notice of Valuation Tribunal sitting

137. The Minister must cause a notice to be published in the *Gazette* and in at least two newspapers widely circulating in Namibia stating –

(a) that the Valuation Tribunal commences sitting within 60 days after the expiry of the periods mentioned in subsection 135(1); and

(b) the time and the place or places as specified in such notice, to consider any valuation contained in the provisional valuation roll referred to in section 135(1)(a)(i) and to hear every objection lodged in respect of any such valuation.

Valuation Tribunal

138. (1) The Valuation Court established by regulation 10 of the Land Valuation and Taxation Regulations to consider and determine valuations, information contained in a provisional valuation roll and objections lodged in relation to any such valuation continues to exist but is to be known as the Valuation Tribunal but subject to this Chapter.

(2) The Valuation Tribunal consists of the following five members –

(a) a magistrate designated, at the request of the Minister, by the Magistrates Commission established by section 2 of the Magistrates Act, 2003 (Act No. 3 of 2003);

(b) a valuer appointed by the Minister by virtue of his or her knowledge of valuations matters relevant to the application of this Act;

(c) a person from the farming community appointed by the Minister by virtue of his or her knowledge of agricultural matters relevant to the application of this Act;

(d) a person who is not employed in the public service of Namibia appointed by the Minister by virtue of his or her expertise in the field of land or real estate matters relevant to the application of this Act; and

(e) a staff member of the Ministry administering agricultural affairs, if applicable, designated by the Minister of that Ministry, at the request of the Minister.

(3) The Minister may designate a staff member of the public service or any other suitable member person, but who may not be a staff member of the directorate responsible for valuations and estate management in the Ministry, to serve as secretary of the Valuation Tribunal and who must administer the affairs of the Valuation Tribunal.

(4) The magistrate designated under subsection (2) (a) presides over the Valuation Tribunal.

(5) Three members of the Valuation Tribunal form a quorum at a sitting and a decision of the majority of the members at a sitting is the decision of the Valuation Tribunal and in the event of equality of votes the presiding officer has a casting vote in addition to the deliberative vote.

(6) If at any stage during the proceedings before the Valuation Tribunal a member of that tribunal dies or is otherwise incapable of performing his or her duties, the proceedings must continue before the remaining members of the tribunal, but only if such remaining members include the magistrate designated under subsection (2)(a).

(7) If the magistrate is for any reason unable to preside over the proceedings of the Valuation Tribunal, the Magistrates Commission must, at the request of the Minister, designate an *ad hoc* magistrate, but –

(a) the proceedings of the Valuation Tribunal must start afresh; and

(b) the Minister must cause a notice to be placed in the *Gazette* and in any other prescribed media, stating that the Valuation Tribunal commences sitting within 30 days after the designation of the *ad hoc* magistrate.

Oath of office

139. A member of the Valuation Tribunal other than the presiding officer may not perform any function as such a member, unless he or she has taken an oath or made an affirmation before a magistrate, which is made or subscribed to by the member in the prescribed form and manner.

Assessors

140. (1) For the purpose of procuring assistance in the determination of any matter under this Act, a Valuation Tribunal may appoint not more than two persons who are valuers to sit as assessors in an advisory capacity.

(2) If during any proceedings before a Valuation Tribunal or so shortly before the commencement of the proceedings that a vacancy cannot be filled in time for the hearing, an assessor dies or for any other reason becomes incapable of taking his or her seat, the presiding officer may –

(a) adjourn the proceedings to invoke the assistance of another person as assessor; or

(b) continue with the proceedings with the remaining assessor, if there be one, or without any assessor should there be no remaining assessor.

(3) The Valuation Tribunal must give due consideration to, but is not bound by, the opinion of any assessor.

Remuneration and allowances of members of Valuation Tribunal and expenses

141. (1) The Minister, with the concurrence of the Minister responsible for finance, determines the allowances payable to a member or an assessor of the Valuation Tribunal.

(2) The allowances referred to in subsection (1) and the expenditure incidental to the performance of the functions of the Valuation Tribunal are defrayed from the Fund.

Seat of Valuation Tribunal

143. The Valuation Tribunal may conduct its proceedings at any place in Namibia.

Powers and functions of Valuation Tribunal

143. (1) The powers and functions of the Valuation Tribunal are –

(a) to consider any valuation contained in the provisional valuation roll and, subject to subsection (2), to hear every objection lodged in connection with such valuation;

(b) to examine the iso- value map used as the basis for the valuation of commercial agricultural land;

(c) to examine the agro-ecological zones and carrying capacity map data at the date of valuation as supplied by the Ministry administering agricultural affairs;

(d) to consider any withdrawal of objection or settlement agreement forms duly completed and lodged by land owners who had previously objected to the value of their commercial agricultural land; and

(e) to consider any other information other than the unimproved site values contained on a provisional valuation roll.

(2) The Valuation Tribunal may not hear an objection against any valuation contained in the provisional valuation roll, if the objection is not lodged in accordance with this Act.

(3) After having considered any valuation contained in the provisional valuation roll or any objection lodged in connection with such valuation pursuant to subsection (1), the Valuation Tribunal may –

(a) confirm such valuation;

(b) uphold such, objection and decrease or increase such valuation;

(c) decrease such valuation without any objection having been lodged or increase such valuation after having afforded the owner of the commercial agricultural land in question an opportunity to be heard;

(d) order the appointed valuer –

(i) to value any commercial agricultural land omitted from the provisional valuation roll; or

(ii) to revalue any commercial agricultural land with due regard to such guidelines and directions as it may determine, subject to section 133(5); or

(e) make any other amendment to the provisional valuation roll as it may think necessary.

Proceedings before Valuation Tribunal

144. (1) The proceedings before the Valuation Tribunal are conducted in accordance with the prescribed procedure.

(2) For the purposes of considering any valuation or other information contained in the provisional valuation roll or hearing any objection lodged under this Act, the Valuation Tribunal may –

(a) summon by a notice in writing issued by the presiding officer or by any other member of the Valuation Tribunal if such member is so authorised by the presiding officer, any person to appear before it at a date, time and place specified in such notice;

(b) administer an oath or take an affirmation from a person referred to in paragraph (a) or any other person, including the appointed valuer, present at a sitting of the Valuation Tribunal and examine any such person under oath or affirmation.

(3) A person who has lodged an objection against a valuation contained in the provisional valuation roll must appear either in person or through a valuer or that person's duly appointed legal representative.

(4) If an objection has been duly lodged in terms of this Act and has not been withdrawn and the objector fails to appear either personally or through a representative on the day appointed for the hearing of his or her objection, the Valuation Tribunal must consider and determine the objection.

(5) The appointed valuer must attend all sittings of the Valuation Tribunal.

(6) A member of the Valuation Tribunal may not take part in any proceedings or decision in relation to any commercial agricultural land of which he or she or any connected person is the owner, and for the purposes of this subsection "connected person" means –

(a) a spouse or close relative of a member of the Valuation Tribunal; or

(b) any person –

(i) who is the spouse or close relative of a member of the Valuation Tribunal or his or her business partner, agent or business associate; or

(ii) with whom a member of the Valuation Tribunal or his or her business partner, agent or business associate is, in terms of the traditional laws and customs prevailing in Namibia, a partner in a customary union.

(7) Every decision made by the Valuation Tribunal in terms of section 143(3) with regard to an objection or information on particular commercial agricultural land contained in a provisional valuation roll must be signed by all the members of the Valuation Tribunal who participated in the making of the decision, and must –

(a) state the commercial agricultural land concerned;

(b) set out the entry which is to be made in the valuation roll in respect of such commercial agricultural land; and

(c) state the reasons for such decision.

(8) The Valuation Tribunal must keep or cause to be kept a proper record of its proceedings and findings, electronically or manually.

(9) An objector or his or her representative have the right to examine, without charge, the record of the Valuation Tribunal proceedings relating to the objection to the valuation of his or her land, but any interested person may also have access to the record, and upon payment of the prescribed fee, is entitled to obtain extracts from the record.

(10) The Minister or any staff member of the Ministry has free access to the Valuation Tribunal records at all times.

Appeals against decision of Valuation Tribunal

145. (1) A person who has lodged an objection in terms of section 135, including the State, and who is aggrieved by a decision of the Valuation Tribunal made in relation to that objection may, within 30 days from the date on which notification of the decision was given, appeal against the decision of the tribunal to the High Court.

(2) An appeal referred to in subsection (1) must, subject to necessary changes as may be required by the context, be instituted and prosecuted in terms of the rules of the High Court made under the High Court Act, 1990 (Act No. 16 of 1990),.as if it were an appeal against a judgment of a magistrates' court in a civil matter.

(3) Despite any law to the contrary, the fact that an appeal against the decision of a Valuation Tribunal is pending does not –

(a) interfere with or affect the operation of such decision; or

(b) prevent the land tax from being assessed and recovered on the basis of the valuation fixed by such decision in like manner as if no appeal was pending.

Main or interim valuation roll

146. (1) When the Valuation Tribunal has completed its consideration of the provisional valuation roll and has made a decision referred to in section 144(7) –

(a) the presiding officer must certify the roll; and

(b) the secretary of the Valuation Tribunal must transmit the certified roll to the Minister together with a certified copy of all decisions of the Valuation Tribunal.

(2) The provisional valuation roll containing the valuations, as decreased or increased or otherwise amended by the Valuation Tribunal, of all commercial agricultural land is, after certification in terms of subsection (1), known as the main or interim valuation roll.

(3) The Minister must by notice in the *Gazette* and in any other prescribed media platform, notify all persons that the valuation roll has been completed and certified in terms of subsection (1) and that on the valuation roll coming into operation as contemplated in section 148 –

(a) the main valuation roll or interim valuation roll supersedes any previous main valuation roll or interim valuation roll; and

(b) if any commercial agricultural land appears in both the main valuation roll and interim valuation roll, the interim valuation roll entry supersedes the main valuation roll entry.

(4) The valuation roll is the primary basis upon which the land tax is assessed under section 150.

(5) The main or interim valuation roll must at all times be available for inspection by any interested person during office hours at the offices of the Ministry.

(6) The Minister, at the request of any interested person and on payment of such fee as the Minister may prescribe, must cause such person to be furnished with an extract from or copy of the main valuation roll.

Alteration or correction of main valuation roll

147. (1) The Minister, at the request of any interested party or of his or her own accord, may cause the alteration or correction of the main or interim valuation roll but the alteration or correction is only made for the following purposes –

(a) to correct a clerical error which does not affect the value per hectare assigned to a value zone on the iso-value map;

(b) to correct an error which relates to the name, address or identity number of the owner concerned;

(c) to record a change in the name or address of the owner concerned; or

(d) to correct an error which relates to the size or land extent of the commercial agricultural land in question.

(2) Where the request for a correction is on the accord of the Minister or an appointed valuer, the Minister or the appointed valuer, before causing any error to be corrected as referred to in subsection (1), must notify the land owner of the correction.

Date of operation and period of validity of valuation roll

148. (1) Subject to subsection (2), the valuation roll comes into operation on the commencement of the financial year following the certification under section 144(1).

(2) The Minister may by notice in the *Gazette* determine some other date on which the valuation roll comes into operation.

(3) Subject to subsection (4), the valuation roll is valid for a period of five years from the date it comes into operation.

(4) The Minister may by notice in the *Gazette* extend the validity of the existing main valuation roll for a further period of five years or until such time that a new valuation roll comes into operation, whichever comes first.

(5) Despite any provision in this Act or any other law to the contrary, the valuation roll published under Government Notice No. 143 ?????of 2007 remains valid until a new valuation roll comes into operation.

(6) A valuation contained in the main or interim valuation roll certified by the presiding officer and transmitted in terms of section 144(1) is not invalid by reason only of –

(a) a mistake or variance in the name of owner, farm name, postal address or identity number of the owner of any commercial agricultural land; or

(b) an irregularity which occurred during the preparation of such valuation roll.

PART 5
RETURNS AND ASSESSMENTS

Owners to furnish land tax returns

149. (1) The Minister, by notice in the *Gazette*, must require all owners or specified owners of commercial agricultural land to furnish land tax returns in respect of a particular financial year or a particular financial year and each subsequent financial year.

(2) A land tax return referred to in subsection (1) must be in the prescribed form and must contain –

(a) the particulars of all commercial agricultural land owned by the person who in terms of that subsection is required to complete such a return; and

(b) such other information as may be prescribed or as the Minister may reasonably require for the purposes of assessment under section 150.

(3) Every owner who is required to furnish a land tax return in respect of any financial year must do so on or before 31 January of such year.

(4) Any person who fails to furnish a return in accordance with this Act commits an offence and on conviction is liable to a fine not exceeding N$10 000 or to imprisonment for a period not exceeding two years, or to both such fine and such imprisonment.

Assessment of land tax to be made

150. (1) The Minister may, from any relevant information in his or her possession, including information contained in the main valuation roll, and if available any land tax return referred to in section 149, cause an assessment to be made of the land tax payable by an owner of commercial agricultural land.

(2) An assessment under subsection (1) may be made even if the time for lodging of returns has not yet expired.

(3) Despite subsection (1), if –

(a) any particular commercial agricultural land does not appear on the main or interim valuation roll; and

(b) a request is made to the Minister to include the land referred to in paragraph (a) on the valuation roll under section 130(2)(b) by an owner who intends to apply for a land tax clearance certificate,

the Minister must cause preparation of a provisional unimproved site value on the same basis used to value the main valuation roll provided that such land would be included on the next provisional valuation roll.

(4) Where an assessment has been made under this section, the Minister must serve a notice of assessment on the owner concerned for payment of land tax as prescribed.

(5) The notice of assessment must –

(a) state the amount of the land tax payable on each piece of land and the total of such amounts;

(b) state the date on which land tax is due and payable; and

(c) call upon every owner of commercial agricultural land in respect of which an assessment has been done who wishes to object to the assessment, to lodge, within 30 days of the date of the notice, an objection in the prescribed form and manner against the assessment with the Minister setting out the grounds on which the objection is based.

(6) Where no objection is made to any assessment as contemplated in subsection (5)(c) or where an objection has been upheld or withdrawn, such assessment or altered or reduced assessment, as the case may be, becomes, subject to the right of appeal provided for in this section, final.

(7) On receipt of a notice of objection to an assessment the Minister may –

(a) dismiss the objection and confirm the assessment and send a written notice to the owner of the land notifying him or her or it of the dismissal and the reasons for the dismissal; or

(b) uphold the objection, and reduce or alter the assessment and must send a written notice to the owner of the land notifying him or her or it of such alteration or reduction and the reasons for the alteration or reduction, and record any alteration or reduction made in the assessment.

(8) A person who is aggrieved by a decision of the Minister made under subsection (7) may within 30 days of receipt of the decision appeal against the decision to the special court for income tax established by section 73 of the Income Tax Act or, if applicable, to the tax tribunal established by section 73A(2) of that Act.

(9) The special court or the tax tribunal, if applicable, referred to in subsection (8) has, despite anything to the contrary in the Income Tax Act or in any other law, jurisdiction to hear and determine any appeal lodged with it under subsection (8), and such appeal must, subject to changes required by the context, be instituted and prosecuted as if it were an appeal against the decision of the Minister responsible for finance as contemplated in sections 73 and 73A of that Act and the provisions of those sections and sections 74, 75, 76, 77 and 78 of that Act apply to any appeal lodged under this section.

(10) If, as contemplated in subsection 8, an appeal is noted with the tax tribunal any reference in section 73A of the Income Tax Act to the Commissioner must be construed as a reference to the Minister, who may perform any function assigned to, or exercise any power conferred on, except for the powers or functions referred to in subsections (5) and (6) of that section, the Commissioner by or under that section.

(11) When an owner of commercial agricultural land ceases to be the owner before the end of the financial year in respect of which a land tax assessment in respect of the land was made –

(a) such owner is liable to pay a portion of the land tax payable for the whole of such period proportionate to the time up to the end of the last month during which he or she continued to be the owner; and

(b) any person who is the new owner of such land during the remainder of the period contemplated in paragraph (a) is liable to pay a portion of such land tax in proportion to the time during which the person is the owner and the land tax must be recovered from such new owner in the same manner as if he or she had been originally assessed for such land.

(12) An owner of commercial agricultural land may for the purposes of subsection (10)(a) request for a land tax clearance certificate during the period of the financial year in respect of which a land tax assessment for such year has not been made yet.

(13) The Minister, upon receipt of the request under subsection (12), must cause a land tax assessment to be made for a portion of the land tax payable for the whole of such period proportionate to the time up to the end of the last month in which such person would cease to be the owner upon transfer of the commercial agricultural land in question.

(14) A prescribed fee is charged for every land tax clearance certificate issued in terms of subsection (13).

PART 6
COLLECTION AND RECOVERY OF TAX

Rebate and interest on land tax payable

151. (1) To encourage the early payment of land tax the Minister may allow a rebate at such different rates not exceeding five percent of the land tax payable on or before any due date for payment mentioned in the relevant notice of assessment.

(2) If land tax is not paid on or before the due date for payment mentioned in the relevant notice of assessment, the Minister may charge interest at a rate not

exceeding the rate prescribed under the Prescribed Rate of Interest Act, 1975 (Act No. 55 of 1975), which may be charged in respect of a judgment debt of any competent court.

Land tax as debt due to Fund

152. (1) When any land tax or any interest payable in terms of this Act becomes due and payable –

(a) it is considered to be a debt due to the Fund; and

(b) it may be recovered by the Minister in the manner provided for in this Act.

(2) If an owner who has been served with a notice of assessment issued under section 150 –

(a) does not object to the assessment within the period specified in subsection (5)(c) of that section;

(b) objects to the assessment and the objection has been dismissed by the Minister as contemplated in that section and the owner has not appealed against the dismissal within the period specified in subsection (8) of that section; or

(b) appeals to the special court as contemplated in subsection (8) of that section but abandons the appeal or fails to finalise the appeal in accordance with the provisions of the Income Tax Act,

fails to pay any land tax or interest within a period of 14 days after the occurrence of any one of the events set out in paragraphs (a) to (c) of this subsection, the Minister may cause the filing with the clerk or registrar of a court of competent jurisdiction of a statement –

(a) certified, by the Minister, as correct and setting forth the amount of all land tax and interest owed by the owner; and

(b) which for all purposes –

(i) has the effect of a civil judgment of the court at which that statement has been so filed, and

(ii) any proceedings may be taken as if it were a civil proceedings of the court at which that statement has been so filed,

in favour of the Fund for a liquid debt in the amount specified in that statement.

(3) The Minister may by notice in writing addressed to the clerk or registrar of the relevant court, withdraw any statement referred to in subsection (2), and that statement ceases to have any effect.

(4) The Minister may institute proceedings afresh under subsection (2) in respect of any tax or interest to which a statement withdrawn under subsection (3) relates.

Reimbursement of overpayment of land tax

153. (1) Where the owner of commercial agricultural land has paid any land tax in excess of any amount payable by him or her in terms of this Act, the owner may in writing apply to the Minister for a refund of the amount paid in excess.

(2) Any claim for a refund under subsection (1) must be accompanied by documentary proof of the payment of the excess amount.

(3) If upon receipt of an application referred to in subsection (1) the Minister is satisfied that a refund is due to an owner of commercial agricultural land, the Minister must cause the owner to be refunded from the Fund with the amount paid in excess not later than the end of the second calendar month following the date on which the excess was reported in terms of subsection (1).

(4) Where the Minister fails to refund any amount of land tax due to an owner on or before the date referred to in subsection (3), interest is paid on such amount at the rate prescribed under the Prescribed Rate of Interest Act, 1975 (Act No. 55 of 1975).

Recovery of land tax from representatives

154. (1) Any land tax or interest payable by any representative in his or her representative capacity is recoverable from him or her under this Act, but to the extent only of any assets belonging to the owner whom he or she represents which may be in his or her possession or under his or her control.

(2) Any land tax or interest payable by a company or close corporation is not recoverable from the public officer of the company or from any member of a close corporation referred to in section 156, but is recoverable from the company or close corporation.

(3) A representative who pays any land tax or interest due under this Act is entitled –

(a) to recover the amount so paid from the owner on whose behalf it is paid; or

(b) to retain out of moneys that may be in his or her possession or may come to him or her in his or her representative capacity an amount equal to the amount so paid.

(4) A representative referred to in section 156(1)(b) who, pays any land tax or interest due under this Act by any deceased owner is entitled –

(a) to recover the amount so paid from the estate of such deceased owner; or

(b) to retain out of any moneys of the estate of such deceased owner that may be in his or her possession or that may come to him or her as executor or administrator of such estate, an amount equal to the amount so paid.

(5) A representative is personally liable for the payment of any land tax or interest payable by him or her in his or her representative capacity, if, while the amount remains unpaid he or she –

(a) alienates or disposes of the commercial agricultural land in respect of which such tax is payable; or

(b) disposes off or parts with any moneys belonging to the owner whom he or she represents and is in his or her possession or comes to him or her after such tax or interest has become payable, if such tax or interest could legally have been paid from or out of such money.

Recovery of land tax from third parties

155. (1) Where an owner of commercial agricultural land fails to pay land tax in respect of such land on or before the due date for payment, the Minister may, where the land is subject to a lease or other right of occupation or to a mortgage, by a notice in writing served on the lessee, occupier or mortgagee concerned, require the lessee, occupier or mortgagee concerned to pay to the Minister for the benefit of the Fund, on or before a date specified in such notice, an amount equal to the amount of land tax due.

(2) The money contemplated in subsection (1) is recoverable by the Minister from –

(a) such lessee or occupier but only to the extent of any rent or other payments due by such lessee or occupier to the owner at the time of the request under that subsection or becoming due by such lessee or occupier to the owner after such request; or

(b) such mortgagee if in accordance with section 51 of the Deeds Registries Act, 1937 (Act No. 47 of 1937) and the Registration of Deeds in Rehoboth Act, 1976 (Act No. 93 of 1976)/ section 49 of the Deeds Registries Act the mortgage bond that is registered over such land contains a stipulation that future debts generally or future debts with regard to taxes are secured by it.

(3) Where a lessee, occupier or mortgagee on whom a notice was served under subsection (1) is unable to comply with such notice he or she must, before the expiry of the date for payment specified in such notice, serve a notice in writing on the Minister informing the Minister accordingly and stating the reasons for his or her inability to so comply.

(4) Upon receipt of a notice referred to in subsection (3), the Minister may –

(a) require any party concerned to furnish such further information and evidence as the Minister may think necessary to conclude the matter; and

(b) by notice in writing, accept the notification or reject it.

(5) Any payment made pursuant to a notice under this section is considered –

(a) to have been made under the authority of the defaulting owner, and no liability may attach to the lessee, occupier or mortgagee in respect of the making of such payment; and

(b) in the case where the lessee or occupier made such payment, to be a valid discharge, to the extent of the amount so paid, against the rent or other payments due by such lessee or occupier to the defaulting owner.

(6) The provisions of this Act relating to the collection and recovery of land tax apply with necessary changes to any amount due under this section as if such amount were land tax due under this Act.

Representatives of owners of commercial agricultural land

156. (1) The person responsible for exercising any power or performing any duty relating to land tax conferred or imposed by or under this Act on an owner is –

(a) where such owner is not ordinarily resident in Namibia, any agent of such owner controlling his or her affairs in Namibia;

(b) where such owner is deceased, the executor or administrator of the estate of the deceased owner;

(c) where the estate of the owner has been sequestrated, the trustee or the administrator of the estate of such insolvent owner;

(d) where such owner is a body corporate or unincorporated other than a company or close corporation, any person responsible for accounting for the receipt and payment of moneys on behalf of any such body;

(e) where such owner is a company –

(i) the public officer of the company contemplated in section 93 of the Income Tax Act; or

(ii) the liquidator of such company where it has been wound up;

(f) where such owner is a close corporation –

(i) any member standing in a fiduciary relationship contemplated in section 42 of the Close Corporations Act, 1988 (Act No. 26 of 1988); or

(ii) the liquidator of such close corporation where it has been wound up.

(2) Nothing contained in subsection (1) may be construed as relieving any owner from having to exercise or perform any power or duty relating to land tax conferred or imposed on such owner by or under this Act –

(a) where circumstances other than those contemplated in subsection (1) prevail; and

(b) which any person mentioned in paragraphs (a) to (f) has failed to perform.

Exemption from land tax

157. (1) The Minister, on application made by an owner of commercial agricultural land, by notice in the *Gazette*, may fully exempt or partially exempt such owner for such period as may be specified in that notice from liability to pay land tax imposed under section 129 in respect of –

(a) any commercial agricultural land of such owner, but only if he or she is a person belonging to the category of persons contemplated in Article 23 of the Namibian Constitution; or

(b) any commercial agricultural land that is primarily used for the activities of –

(i) a hospital, provided such activities are not for profit or gain;

(ii) any association not for gain or any charitable organisation as defined in section 1 of the Value Added-Tax Act, 2000 (Act No. 10 of 2000); or

(iii) any commercial agricultural land that has been adversely affected by natural disasters or calamities.

(2) An application referred to in subsection (1) must be made in the prescribed form and manner and must specify the commercial agricultural land to which it relates.

(3) The Minister may revoke any exemption granted under subsection (1) if the reason for granting such exemption ceases to exist, but may do so only after having afforded the owner concerned an opportunity to be heard.

CHAPTER 5
LANDS TRIBUNAL

Lands Tribunal

158. (1) Despite the repeal of the Agricultural (Commercial) Land Reform Act by this Act, the tribunal known as the Lands Tribunal established by section 63 of that Act continues to exist but subject to this Chapter.

(2) The Lands Tribunal consists of seven members, of whom –

(a) one is a person who has legal qualifications and has been practising law, whether in the public or private sector, for a period of at least 10 years, who is the chairperson;

(b) one is a person who has legal qualifications and has experience in the legal profession whether in private practice or in any legal environment for a period of at least 10 years, who is the deputy chairperson;

(c) one is a person who has knowledge and experience of at least 10 years in customary law or practices;

(d) one is a person who has knowledge and experience of at least 10 years in the practice of social sciences;

(e) one is a person who has knowledge and experience of at least 10 years in agricultural or land matters;

(f) one is a person who has knowledge and experience of at least 10 years in land or property valuation;

(g) one is a person who has knowledge and experience of at least 10 years in economics, financial or accounting profession,

appointed by the Minister with the approval of the National Assembly upon recommendation of the Minister.

(3) At least three of the members appointed under subsection (2) must women.

(4) For purposes of appointment under subsection (2), the Minister must request, by notice in at least two newspapers circulating widely in Namibia, qualified persons contemplated in that subsection to apply for appointment as members of the Lands Tribunal.

(5) If pursuant to the request made under subsection (4), the Minister fails –

(a) to receive sufficient applications; or

(b) to secure a fit and proper person for appointment from the interviewed candidates,

the Minister may select any person meeting the requirements mentioned in subsection (2) for appointment as a member of the Lands Tribunal, subject to the procedures laid down in that subsection.

(6) The members of the Lands Tribunal are appointed for a period of five years and are entitled to be paid from the Fund such allowances as the Minister, with the concurrence of the Minister responsible for finance, may determine.

(7) The office of a member of the Lands Tribunal becomes vacant if he or she –

(a) resigns office by written notice to the Minister; or

(b) is removed from office under subsection (8).

(8) The Minister with the approval of the National Assembly given on the recommendation of the Minister may remove a member of the Lands Tribunal from office if the member -

(a) is incapable of performing his or her duties;

(b) neglects his or her duty or is indolent;

(c) engages in dishonourable conduct;

(d) is declared insolvent; or

(e) is convicted of a Schedule 1 offence referred to in the Criminal Procedure Act, 1977 (Act No. 51 of 1977).

(9) The Minister may only exercise his or her power under subsection (8) after having given a member of the Lands Tribunal a reasonable opportunity to be heard.

(10) Any vacancy that occurs on the Lands Tribunal is filled by the appointment of another member in accordance with subsection (2) and any person so appointed holds office for the unexpired portion of the period of office of the member in whose place he or she is appointed.

Oath of office

159. (1) A member of the Lands Tribunal may not perform any function as such a member unless he or she has taken an oath or made an affirmation which is subscribed to by him or her in the prescribed form and manner:

(2) An oath or affirmation in terms of subsection (1) must be taken or made before the Judge-President of the High Court or any other judge of that court designated by the Judge-President.

Assessors

160. (1) For the purpose of procuring assistance in the determination of any matter under this Act, the Lands Tribunal may appoint not more than two persons with expertise relevant to the matter to sit as assessors in an advisory capacity.

(2) If during any proceedings before the Lands Tribunal or so shortly before the commencement that the vacancy cannot be filled in time for the hearing, an assessor dies or he or she for any other reason becomes incapable of taking his or her seat, the chairperson of the Lands Tribunal may –

(a) either adjourn the proceedings in order to invoke the assistance of another person as assessor; or

(b) proceed with the hearing with the remaining assessor, if there be one, or without any assessor should there be no remaining assessor.

(3) A person appointed as an assessor is entitled to be paid from the Fund such allowances as the Minister, with the concurrence of the Minister responsible for finance, may determine.

(4) The Lands Tribunal must give due consideration to, but is not bound by, the opinion of any assessor.

Registrar of Lands Tribunal

161. The Minister must designate a staff member of the public service to be –

(a) the registrar of the Lands Tribunal; and

(b) in charge of the administrative functions of the Lands Tribunal.

Seat and jurisdiction of Lands Tribunal

162. (1) The seat of the Lands Tribunal is Windhoek, but the functions of the Lands Tribunal may be performed at any such place in Namibia as the chairperson of the Lands Tribunal may determine.

(2) The Lands Tribunal has jurisdiction to –

(a) adjudicate upon all land related disputes and matters referred to it in terms of this Act;

(b) consider and decide any appeal lodged with it in terms of this Act;

(c) consider and decide any application made to it in terms of this Act; and

(d) generally to inquire and adjudicate upon any matter which is required or permitted to be referred to it under this Act or any other law.

Proceedings of Lands Tribunal

163. (1) Subject to subsection (2), the chairperson of the Lands Tribunal presides over the proceedings of the Tribunal.

(2) If at the commencement of any proceedings before the Lands Tribunal the chairperson is for any reason unable to preside at such proceedings, the deputy chairperson presides.

(3) Where –

(a) any proceedings have commenced before the Lands Tribunal with either the chairperson or the deputy chairperson presiding, such proceedings must be completed with the person so presiding; and

(b) at any stage before the Lands Tribunal has taken a decision on the subject matter of the proceedings, the person so presiding dies or becomes incapable of performing his or her functions, the proceedings must be adjourned and commenced afresh.

(4) If at any stage during any proceedings before the Lands Tribunal any member, other than the chairperson or the deputy chairperson dies or becomes incapable of serving, the hearing must commence afresh, unless all the parties to the proceedings agree unconditionally in writing to accept the decision of the remaining members.

(5) If the term of office of any member of the Lands Tribunal expires during the course of any proceedings before the Lands Tribunal, the Minister may authorise the member concerned to continue serving as a member of the Lands Tribunal for the purpose of completing such proceedings.

(6) Five members of the Lands Tribunal one of whom must be the chairperson or deputy person form a quorum at a sitting of the Lands Tribunal.

(7) A decision of the majority of the members at a sitting of the Lands Tribunal is the decision of the Lands Tribunal.

(8) A member of the Lands Tribunal or an assessor may not sit at a hearing of the Tribunal if he or she has any interest, direct or indirect or personal or pecuniary, which might give rise to conflict of interest on the part of the member in any matter before the Lands Tribunal.

(9) The Lands Tribunal –

(a) may conduct the proceedings in a manner that it considers appropriate in order to determine the dispute fairly and quickly;

(b) may at the commencement of the case or at any time during the hearing of the case advise the parties to the case that, in its opinion, the nature of the case is such that mediation would be appropriate to the resolution of the case and the Lands Tribunal may adjourn the case for such period as it considers appropriate to enable the parties to refer the matter for mediation in accordance with the rules of the High Court made under the High Court Act, 1990 (Act No. 18 of 1990);

(c) must deal with the substantial merits of the dispute with less legal formalities;

(d) may determine a matter referred to it without strictly applying the rules of evidence;

(e) may condone non-compliance with the rules governing its proceedings; and

(f) may condone the late noting of an appeal on good cause shown and if substantial injustice would occur.

Representation

164. In any proceedings before the Lands Tribunal a party to such proceedings may appear personally or may be represented at such proceedings by a legal practitioner or any person of his or her choice.

Securing attendance of witnesses

165. (1) A party to any proceedings before the Lands Tribunal may procure the attendance of any witness in the manner provided for in the rules of the Lands Tribunal.

(2) The chairperson may administer the oath to, or accept an affirmation from, any witness appearing before it to give evidence or to produce any book, record, document or thing.

(3) A member of the Lands Tribunal and any person sitting as an assessor in any proceedings before the Lands Tribunal may put any question to any witness appearing before the Lands Tribunal.

(4) The chairperson of the Lands Tribunal may disallow any question put to a witness which in the opinion of the chairperson is not relevant to the matter which is being dealt with.

(5) If a person who has been duly subpoenaed to attend any proceedings before the Lands Tribunal for the purpose of giving evidence or producing any book, record, document or thing in his or her possession or under his or her control fails, without lawful or reasonable excuse –

(a) to attend or to give evidence or to produce that book, record, document or thing according to the subpoena, unless excused by the chairperson of the Lands Tribunal; or

(b) to remain in attendance throughout the proceedings,

such person commits an offence, and the Lands Tribunal, upon being satisfied on oath or affirmation or by return of the person by whom the subpoena was served that –

(i) such person has been duly subpoenaed; and

(ii) his or her reasonable expenses have been paid or offered to him or her,

may impose upon the person a fine not exceeding N$5 000 or imprisonment for a period not exceeding 12 months or to both such fine and such imprisonment.

Costs

166. The Lands Tribunal may in any proceedings make an order as to costs as it considers just.

Contempt of Lands Tribunal

167. (1) A person may not -

(a) insult, disparage or belittle any member of the Lands Tribunal in that capacity, or prejudice, influence the proceedings or findings of the Lands Tribunal;

(b) wilfully interrupt the proceedings of the Lands Tribunal or misconduct himself or herself in any manner during such proceedings; or

(c) do anything in relation to the Lands Tribunal which if done in a court of law would have constituted contempt of court.

(2) A person who contravenes subsection (1) commits an offence and on conviction is liable to a fine not exceeding N$5 000 or to imprisonment for a period not exceeding 12 months or to both such fine and such imprisonment.

Appeals from Lands Tribunal

168. (1) A party to proceedings before the Lands Tribunal who is aggrieved by a decision of the Lands Tribunal may, within 30 days from the date of receiving the decision, appeal against the decision, order or determination given by the Lands Tribunal to the High Court.

(2) An appeal referred to in subsection (1) must, subject to necessary as may be required by the context, be instituted and prosecuted in terms of the rules of the

High Court made under the High Court Act, 1990 (Act No. 16 of 1990),.as if it were an appeal against a judgment of a magistrates' court in a civil matter.

Expenses of Lands Tribunal

169. The expenditure incidental to the performance of functions of the Lands Tribunal are defrayed from the Fund.

Lands Tribunal Rules Board

170. (1) There is established a rules board to be known as the Lands Tribunal Rules Board which consists of five members as follows –

(a) the Judge-President of the High Court or any judge of that court designated by the Judge President, who is the chairperson of the Lands Tribunal Rules Board;

(b) a practising legal practitioner nominated by the Law Society of Namibia and appointed by the Minister;

(c) a legal officer serving in the office of the Attorney-General designated by the Attorney-General;

(d) a legal officer serving in the Ministry administering justice designated by the Minister responsible for justice; and

(e) a staff member serving in the Ministry designated by the Minister.

(2) A person appointed as a member of the Lands Tribunal Rules Board is entitled to be paid from the Fund such allowances as the Minister, with the concurrence of the Minister responsible for finance, may determine.

(3) The majority of the members of the Lands Tribunal Rules Board form a quorum for a meeting of the Board.

(4) A decision of the majority of the members of the Lands Tribunal Rules Board present at a meeting constitutes a decision of the Board and, in the event of an equality of votes, the member presiding at the meeting has, in addition to his or her deliberative vote, a casting vote.

(5) The Lands Tribunal Rules Board may make rules in relating to -

(a) the conduct of the proceedings of the Lands Tribunal;

(b) the manner in which any matter to be heard and determined by the Lands Tribunal is brought and continued before it;

(c) the tariff of fees chargeable by legal representatives;

(d) the fees payable in respect of the service or execution of any process of the Lands Tribunal and the tariff of costs and expenses which may be allowed in respect of such service or execution;

(e) the taxation of bills of costs;

(f) the hours during which the office of the registrar of the Lands Tribunal opens for the transaction of business;

(g) the period within which and the manner in which an appeal from a decision of the Lands Tribunal to the High Court is noted;

(h) the appointment of a negotiating committee referred to in section 85(1)(b) to negotiate particular cases and appeals referred to in that section and to submit reports with respect to such cases or appeals to the Lands Tribunal; and

(i) any matter on which it may be necessary to make rules in order to ensure the proper dispatch and conduct of the proceedings of the Lands Tribunal.

(6) Rules made by the Lands Tribunal Rules Board under subsection (4) may not be of any force and effect unless published in the *Gazette*.

CHAPTER 6
GENERAL PROVISIONS

Authorised officers

171. (1) The Minister may, for the purposes of enforcing the provisions of this Act –

(a) designate such number of staff members of the Ministry; or

(b) on such terms and conditions as may be agreed between the Minister and the other persons, appoint such other persons who are not staff members of the public service,

as may be necessary as authorised officers, and must issue to them, in writing or in such form as may be prescribed, certificates of appointment to act as such authorised officers.

(2) In addition to authorised officers designated under subsection (1), any member of the Commission may perform the functions or exercise the powers of an authorised officer under this Act.

(3) A person designated as an authorised officer holds office subject to such conditions as the Minister may determine.

(4) An authorised officer may, subject to Article 13 of the Namibian Constitution in cases where premises are used as a home, at any reasonable time and on production of his or her certificate of authority, enter any land or premises for purposes of performing a function or duty imposed on him or her or exercising a power conferred on him or her under this Act,

(5) Any person who –

(a) intentionally obstructs an authorised officer –

(i) to enter upon any land or building for the purpose of inspection or carrying out any act prescribed by this Act;

(ii) to perform his or her functions;

(iii) to take possession of any commercial agricultural land in terms of this Act; or

(iv) to exercise any power or performing any functions conferred or imposed under this Act,

(b) intentionally fails to comply with any requirement properly made to him or her by an authorised officer;

(c) without lawful or reasonable excuse fails to give to authorised officer any assistance or information which the authorised officer may reasonably require of that person for the purpose of the performance of the authorised officer's duties under this Act; or

(d) in giving any information mentioned in paragraph (c), makes any statement which he or she knows to be false or does not believe to be true,

commits an offence and on conviction is liable to a fine not exceeding N$20 000 or to imprisonment for a period not exceeding four years or to both such fine and such imprisonment.

(6) In so far as this section provides for a limitation on the fundamental rights contemplated in Sub-Article (1) of Article 13 of the Namibian Constitution, in that it authorises interference with the privacy of a person's home, correspondence or communication, that limitation is enacted upon the authority of that Article.

Service of notices and documents

172. (1) Any notice, document or other communication required or authorised under this Act to be given to or served, or caused to be given to or served, on any person must be served in the prescribed manner, and unless otherwise specifically provided for in this Act, must be served by an authorised officer.

(2) Where –

(a) the whereabouts of the person, or in the case of several owners of property or several persons having an interest in property, every such owner or interested person, is not readily ascertainable by the Minister;

(b) by reason of the number of such owners or persons having such an interest or for any other reason, the Minister is satisfied that service of a notice or other document in accordance with subsection (1) is not practicable; or

(c) the property is subject to a *fideicommissum* and it is not known to the Minister who all the *fidecommissaries* are or will be,

the Minister, instead of or in addition to causing any notice or document to be served in accordance with subsection (1), must cause to be published, in the *Gazette* and in any other media platform as may be prescribed, an appropriate notice complying with the relevant provision of this Act.

Delegation of powers and assignment of duties

173. (1) The Minister may in writing delegate or assign to Executive Director, the Commission or any member of the Commission or to any staff member in the Ministry any power or function conferred or imposed on the Minister by this Act, except the power to –

(a) issue notices in the *Gazette* relating to appointments, taking of any action or announcing action taken for which notification is required in terms of this Act;

(b) appoint members of the communal land boards, Commission, Lands Tribunal and the Valuation Tribunal;

(c) table any reports or other documents in, and to make recommendations to, the National Assembly where required under this Act;

(d) expropriate land under Part 5 of Chapter 3;

(e) impose land tax under section 129 and to exempt land from land tax under section 157; and;

(f) make regulations under section 176.

(2) The Minister may vary or withdraw a delegation or assignment made under subsection (1) subject to such conditions as the Minister may determine.

(3) The Minister is not precluded from exercising or performing any power or function delegated or assigned under this section.

Limitation of liability

174. (1) The Minister or any person referred to in subsection (2) is not personally liable for any loss or damage arising out of or in connection with the exercise or performance of any power or function conferred or imposed by or under this Act, unless the loss or damage is due to –

(a) his or her dishonest, gross negligence or unlawful act; or

(b) anything done by him or her in bad faith.

(2) The persons to whom subsection (1) apply are -

(a) the Executive Director and any staff member of the Ministry;

(b) a chief;

(c) member of a traditional authority;

(d) a member of a communal land board or of a committee of the board;

(e) a member of a lands committee appointed in terms of this Act;

(f) a member of an appeals tribunal;

(g) a member of the Commission or of a committee of the Commission;

(h) a member of the Lands Tribunal and an assessor of that tribunal;

(i) an appointed valuer and his or her assistant;

(j) a member of the Valuation Tribunal and an assessor of that tribunal; and

(k) any other person performing a function or exercising a power that he or she is lawfully required or requested to perform or exercise in terms of this Act.

Authority for limitation of rights in respect of immovable property

175. In so far as the provisions of this Act limit the fundamental right of persons to dispose of immovable property and authorise the compulsory acquisition by the State of immovable property and of rights in or over such property, those provisions are enacted on the authority of Article 16 of the Namibian Constitution read with Article 23 of that Constitution.

Regulations

176. (1) The Minister may make regulations that the Minister considers necessary or advisable for the due carrying out of the provisions of this Act and to achieve the objects of this Act and, without derogating from the generality of this subsection the Minister may make regulations relating to any of the matters specified in subregulations (2) to (4).

(2) For the purposes of Chapter 2, the Minister may make regulations in relation to –

(a) the administrative functions that may be performed by a secretary to a communal land board in terms of that Chapter;

(b) the utilisation of money from the Communal Land Fund for purposes not specifically provided for in this Act and other matters relating to the Communal Land Fund;

(c) the payment of compensation to persons or institutions and the criteria to used to determine payment of compensation where a portion of land has been withdrawn from communal land pursuant to section 21;

(d) communal land rights that may granted over communal land in addition to those set out in section 24;

(e) the appointment of land committees to perform functions in terms of that Chapter, the qualifications for appointment and additional functions of such land committees, the fees payable for expenses of the land committee, procedure for referral of a matter to the land committee and the procedure to be followed during proceedings of the land committees;

(f) the forms to be used for an application in respect of a communal land right and the procedure for making any application required to be made under that Chapter;

(g) the fees payable for any application, the grant of a right and the issue of any certificate or other document in terms of that Chapter;

(h) the maximum size of communal land area over which a communal land right may be granted under that Chapter;

(i) the form of communal land rights registers and other registers to be used in relation to communal land rights, and the information to be included in such registers;

(j) the procedure for investigations to be conducted by a board for the purpose of considering an application under this Act, including securing the attendance of witnesses;

(k) the procedure to be followed at a hearing in connection with conflicting claims over the recognition of existing land rights over communal land;

(l) the cancellation of communal land rights and additional grounds upon which communal land rights may be cancelled under that Chapter;

(m) conditions that may be imposed on the grant of an application for a communal land right, including, where applicable, the registration of such in the deeds registry;

(n) succession to communal land rights and the procedure to followed when assigning or transferring such rights;

(o) the procedure for applications for authorisation for the erection of a fence on communal land and the circumstances in which such authorisation is not required;

(p) the procedure and period for the lodging of any appeal permitted in terms of that Chapter and the fees payable in connection with that appeal;

(q) matters relating to roads, fences, pounds, watercourses, woods and the use of water, wood, clay and stone on communal land;

(u) the conditions, in addition to conditions imposed by or under any other law, under which prospecting or mining operations may be carried out on communal land;

(r) the combating and prevention of soil erosion, the protection of the pastoral resources and the limitation and control of the grazing of stock; and

(s) any matter which in terms of that Chapter is required or permitted to be prescribed.

(3) For the purposes of Chapters 3 and 4, the Minister may make regulations in relation to –

(a) the utilisation of money from the Fund for purposes not specifically provided for in this Act and other matters relating to the Fund;

(b) the different categories or types of land reform or land reform related purposes for which commercial agricultural land may be acquired and additional categories of land that may be subject to acquisition for purposes of land reform;

(c) the methods of valuation to be used for the acquisition or expropriation of land for purposes of land reform;

(d) the manner in which commercial agricultural land may be first offered to the State and the additional circumstances under which commercial agricultural land need not be first offered to the State;

(e) the composition of negotiation committees and their functions and powers;

(f) the issuing certificates of waiver, information required for the issue of such certificates and the public notification of waivers;

(g) the guidelines for identification of land for acquisition or expropriation pursuant to Chapter 3;

(h) the procedure for depositing with the Master of the High Court of money intended for payment compensation under Chapter 3;

(i) the methods of allotment of commercial agricultural land for agricultural purposes;

(j) the preparation and subdivision of commercial agricultural land and maximum allowable size of an economic farming unit;

(k) the forms to be used for an application required to be made under Chapter 3 in respect of commercial agricultural land or any matter in connection such land and the procedure for making such application;

(l) the procedure for applying for any consent to any transaction relating to or affecting commercial agricultural land under Chapter 3;

(m) the transfer of or succession to rights derived from allotted commercial agricultural land and the procedure to followed when assigning or transferring such rights;

(n) matters pertaining to acquisition of an option to purchase a farming unit;

(o) the transmission of information to the Minister in respect of shares of company or an interest in a corporate body that transfers commercial agricultural land to a foreign national;

(p) the imposition of land tax and the different rates of land tax payable by different categories of owners of commercial agricultural land or different categories of commercial agricultural land;

(q) the forms that may be used for purposes of land tax including forms for different forms of the valuation rolls;

(u) the fees that are required to be paid for any purpose envisaged in those Chapters;

(r) the procedures for valuation of commercial agricultural land, the lodging of objections to the valuation roll, for proceedings before the Valuation Tribunal and other matters pertaining to that tribunal;

(s) any matter which in terms of those Chapters is required or permitted to be prescribed.

(4) The Minister may make regulations in relation to –

(a) the form of and the manner in which an oath or affirmation required to be made or subscribed to under this Act may be administered;

(b) the procedure for and manner of lodging appeals to the Lands Tribunal and the fees for lodging such appeals;

(c) the lodging of appeals from the Lands Tribunal to the High Court;

(d) the form and manner in which, and the fees payable in respect of, an application not specifically provided for in subsection (2) or (3);

(e) the manner in which any notice, document or other communication required to be served in terms of this Act may be served on the intended recipient;

(f) the form and manner in which the identity of persons is established or verified for the purpose of this Act;

(g) the fees that are required to be paid for any purpose envisaged in this Act;

(h) any matter which in terms of this Act is required or permitted to be prescribed; and

(i) any other matter that the Minister may consider necessary or expedient for giving effect to the objects of this Act.

(5) Regulations made under this section may –

(a) be made for a specified area or areas or in respect of a specified category or categories of persons or institutions and different regulations may be made for different areas or different categories of persons or institutions;

(b) prescribe penalties for a contravention of or failure to comply with any regulation not exceeding a fine of N$10 000 or imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

Repeal of laws

177. The laws mentioned in Schedule 2 are repealed to the extent set out in Column 3 of that Schedule.

Savings and transitional provisions

178. (1) Despite the repeal of the Communal Land Reform Act by section 177, a communal land board –

(a) established under section 2 of the Communal Land Reform Act; and

(b) existing at the date of commencement of this Act,

is deemed to have been established under this Act and continues to exist as if that law has not been repealed.

(2) Despite the repeal of laws by section 177, a person who on the date of the commencement of this Act held office as a member of –

(a) a communal land board established in terms of section 2 of the Communal Land Reform Act;

(b) the Lands Tribunal established by section 63(1) of the Agricultural (Commercial) Land Reform Act; or

(c) the Lands Tribunal Rules Board referred to in section 69(1) of the Agricultural (Commercial) Land Reform Act,

is deemed to have been appointed as a member of the respective board, tribunal or board under this Act –

(i) until the expiry of his or her term of office as determined by or under the relevant Act; and

(ii) on such conditions as applied to him or her as a member at the commencement of this Act.

(3) Despite the repeal of laws by section 177, on the date of the commencement of this Act any application made under the Communal Land Reform Act, for –

(a) a customary land right or grazing right, that is pending before a chief or traditional authority for a determination or before a communal land board for ratification;

(b) the recognition of an existing right that is similar to a customary right as a customary land right or an authorisation to retain an existing fence, that is pending before a communal land board for a determination;

(c) a right of leasehold, that is pending before a communal land board or the Minister for a determination or an approval or before a traditional authority or an arbitrator for consent;

(d) the recognition of an existing right that is not a customary right as a right of leasehold or an authorisation to retain an existing fence, that is pending before a communal land board for a determination;

(e) an occupational land right, that is pending before a communal land board or the Minister for a determination or an approval or before a traditional authority or an arbitrator for consent;

(f) the recognition of an existing right that is not a customary right as an occupational land right, that is pending before a communal land board for a determination,

must be processed, continued and finalised in terms of the repealed Act.

(4) Despite the repeal of laws by section 177, on the date of the commencement of this Act, any appeal that is pending before an appeal tribunal appointed in terms of section 39 of the Communal Land Reform Act must be continued and finalised in terms of that Act, except that any party to that appeal has the right to appeal against the decision of that tribunal to the Lands Tribunal.

(5) Despite the repeal of laws by section 177, on the date of the commencement of this Act any application made under the Agricultural (Commercial) Land Reform Act for –

(a) any process to acquire or to expropriate any agricultural land, including any application, request or procedure relating to such process, which had been commenced under the repealed Act must be continued and finalised under the repealed Act;

(b) an allotment of agricultural land, that is pending before the Lands Advisory Commission for a recommendation or the Minister for a determination or an approval must be continued and finalised in terms of the repealed Act; and

(c) the written consent of the Minister to acquire or enter into an agreement to occupy or possess agricultural land, that is pending before the Minister for a determination must be continued and finalised under the provisions of the repealed Act.

(6) Despite the repeal of the Land Valuation and Taxation Regulations by section 177, on the date of the commencement of this Act any proceedings that, before the date of the commencement of this Act, were commenced before the Valuation Court established by the Land Valuation and Taxation Regulations and that are pending before that court must be continued and finalised under the repealed regulations.

(7) Despite the repeal of laws by section 177, any proceedings that were commenced before the date of the commencement of this Act and that are pending before the Lands Tribunal are deemed to have been commenced under a corresponding provision of this Act and must be finalised in terms of that corresponding provision.

(8) Anything done, including any regulation made or any notice, directive or other subordinate legal instrument issued under the Communal Land Reform Act or the Agricultural (Commercial) Land Reform Act or regulations made under those Acts that could have been done under this Act is deemed to have been done under a corresponding provision of this Act and remains valid and, in the case of any regulations, other than the Land Valuation and Taxation Regulations, notice or other legal instrument, remains valid until otherwise lawfully repealed.

Short title and commencement

179. This Act is called the Land Act, 2025 and commences on a date determined by the Minister by notice in the *Gazette*.

(2) Different dates may be determined under subsection (1) in respect of different provisions or Chapters of this Act.

(3) Any reference in this Act to the commencement of this Act must be construed as a reference to the date determined under subsection (1) or (2).

SCHEDULE 1
DESCRIPTION OF COMMUNAL LAND AREAS
(Section 20)

FORMER KAOKOLAND

Area 1

From a point where the +100 600 metre y-co-ordinate line on the LO 22/13-trigonometrical survey system intersects the middle of the Kunene River; thence eastwards along the said middle to a point where it intersects the meridian of longitude 14E 00’ 00” east; thence south-eastward along a straight line to a point where the meridian of longitude 14E 32’ 00” east intersects the parallel of latitude 18E 30’ 00” south; thence along a straight line to the south-eastern corner beacon of the Omatambo Maowe Quarantine Camp 740; thence south-eastward along a straight line to a point five kilometres due east of the water-hole Onaiso; thence south-westwards along a straight line to a point where the western boundary of the road reserve of Main Road 67 intersects the northern boundary of the farm Kowares 276; thence south-eastward along the western boundary of the said road reserve to a point where it intersects the northern boundary of the Remaining Extent of Tevrede 643; thence generally westwards and southwards along the boundaries of the following farms so as to exclude them from this area: The Remaining Extent of Tevrede 643, Westend 642, Marenphil 641, De Ville 638, Portion 1 and the Remaining Extent of Kamdescha 624 and Farm 621, to a point where the middle of the Ombonde River intersects the north-western boundary of the last-mentioned farm (approximately 2 000 metres from the westernmost corner beacon thereof); thence generally north-westward along the middle of said Ombonde River up to its confluence with the Hoanib River; thence generally north-westwards along the middle of the Hoanib river to a point where it intersects the south-eastern boundary of Sesfontein 207; thence along the boundary of the said Sesfontein 207, so as to exclude it from this area, to a point where the middle of the Hoanib River intersects the south-western boundary of Sesfontein 207; thence south westwards along the middle of the Hoanib River to a point where it intersects the meridian of longitude 13E 07’ 02” east; thence northwards along the said meridian to a point where it intersects the parallel of latitude 19E 21’ 57” south on the northern bank of the Hoanib River; thence south-westwards with the said bank to a point where it intersects the -5 300 metre y-co-ordinate line on the LO 22/13-trigonometrical survey system, thence north-westwards in a straight line to a point where the +92 200 metre y-co-ordinate line on the said system intersects the parallel of latitude 18E 00’ 00” south; thence in a straight line to a point where the +100 600 metre y-co-ordinate line on the said system intersects the middle of the Kunene River, the point of beginning.

Area 2

From a point where the middle of the Kunene River meets the coast line of the Atlantic Ocean; thence Eastwards along the middle of the said river to a point where it intersects the + 100 600 metre y-co-ordinate line on the LO 22/13-trigonometrical survey system; thence in a straight line to a point where the +92 200 metre y-co-ordinate line on the said system intersects the parallel of latitude 18E 00’ 00” south; thence south-eastward in a straight line to a point where the northern bank of the Hoanib River intersects the -5300 metre y-co-ordinate line on the said system, thence south-westwards along the said northern bank to a point where it intersects the meridian of longitude 13E east; thence south-westwards in a straight line to a point where the parallel of latitude]9E 32’ 00” south intersects the coast line of the Atlantic Ocean; thence generally north-westwards along the said coast line to the point of beginning.

FORMER DAMARALAND

Area 1

From the point where the meridian of longitude 13E 07’ 02” East intersects the middle of the Hoanib River; thence north-eastward along the middle of that river to a point where it intersects the south-western boundary of Sesfontein 207; thence along the boundary of the said Sesfontein 207, so as to include it in this area, to a point where the south-eastern boundary thereof intersects the middle of the Hoanib River; thence generally south-eastward along the middle of the Hoanib River up to its confluence with the Ombonde River; thence along the middle of the Ombonde River to a point where it intersects the north-western boundary of Farm 621 (approximately 2 000 metres from its westernmost corner beacon); thence generally northwards and eastward along the boundaries of the following farms so as to include them in this area: Farm 621, the Remaining Extent and Portion 1 of Kamdescha 624, De Ville 638, Marenphil 641, Westend642 and the Remaining Extent of Tevrede 643, to a point where the western boundary of the road reserve of Main Road 67 intersects the northern boundary of the last-mentioned farm; thence along the western boundary of the said road reserve to a point where it intersects the eastern boundary of the Remaining Extent of Marienhohe 639; so as to include the following farms in this area: The Remaining Extent of Tevrede 643, Portion1 of Khoabendes 645, Portion 6 of Kaross 237, the Remaining Extent of Swartskamp640, Portion 2 and the Remaining Extent of Marienhohe 639; thence south-eastward along the eastern boundary of the last- mentioned farm to its south-eastern corner beacon; thence generally southwards and south-westwards along the boundaries of the following farms so as to include them in this area: The Remaining Extent of Marienhohe 639, QuoVadis 625, Waterbron 623, Condor 617, Emmanuel 613, Deo Volento 610, Dwars – Trek 611, Anker 602, Kakatswa Onguati 236, Portion 2 and Portion 1 of Amkarub 269, Portion 1 and the Remaining Extent of Brambach 271, the Remaining Extent and Portion 1 of Engelbrecht 272, Annabis 677, Spitskop 678, Rockeys 682, Portion 1 and the Remaining Extent of Aub 683, Smalruggens 684, Fransfontein 6, Waterval 384, Stille Woning 386, Braunfels 387, the Farm 388, Renosterkop 389, Löwenfontein 84, Otjiwarongo 150, Okombahe 139, Springbock-fontein 21, Tsumib 20, Kudubis 19, the Remaining Extent of Pforte 65, Sandamap - Noord 115, Sandamap 64, Eureka 99, Sukses 90, Hakskeen 89 and Portion 2 of Trekkoppe 120, to the most southern corner beacon of the last-mentioned farm, approximately 1 600 metres north of the Usakos-Swakopmund railway line; thence generally south-westwards along a line approximately 1 600 metres from and parallel to the said railway line to a point where it intersects the eastern boundary of Arandis Townlands 170, with geographic co-ordinate values 14E 59N 39O East and 22E 23N 25O South, thence generally northwards, westwards and southwards along the boundaries of the last mentioned property, to a point with geographic co-ordinate values

14E 46N 55O East and 22E 26N 49O South, approximately 1 600 metres north of the Usakos B Swakopmund railway line, so as to exclude Arandis Townlands 170 from this area, thence generally south-westwards along a line approximately 1 600 metres from and parallel to the said railway line to a point where the meridian of longitude 14E 53' 33" East intersects the parallel of latitude 22E 29' 08" South; thence north-westwards along a straight line to a point with geographic co-ordinate values 14E 31N 58O East and 21E 55N 05O South, on the southern boundary of Desert Water South 219, thence eastward, north-eastward, northwards, westwards and southwards, along the boundaries of Desert Water South 219 and Desert Water North 218, to a point with geographic co-ordinate values 14E 31N 33O East and 21E 54N 25O South on the western boundary of Desert Water South 219; so as to exclude these two properties from this area: thence north-westwards along a straight line to a point where the meridian of longitude 13E 57'33" East intersects the parallel of latitude 21E 00' 09" South; thence north-westwards along a straight line to the point of beginning.

Area 2

Otjimbingwe 104, Registration Division H.

FORMER OWAMBOLAND

From the point where the meridian of longitude 14E East intersects the middle of the Kunene River; thence eastward along the middle of that river to a point at the Ruacana Falls above the crest or lip where the said middle intersects the parallel of latitude 17E 23' 23,73" South; thence eastward along the said parallel of latitude to a point where it intersects the meridian of longitude 18E east; thence southwards along the said meridian of longitude 180 east to the point where it intersects the northern boundary of the farm Last Hope 880; thence westwards to the north-western corner beacon of the farm Tsintsabis 881; thence southwards along the western boundary of the last-mentioned farm to the north-eastern corner beacon of the Farm 878; thence westwards along the northern boundaries of the following farms: Farm 878, the Remaining Extent and Portion 1 of Concordia 876, Vaalwater 875, the Remaining of Pietersburg 1347, Mankettifeld 1074, Gutwohne Nord 1073, Kumewa 1072, Stofdraai 1071, Grenspos 1070, Geluksanker 1279 and Operet 1260, to a point where the south-western road reserve boundary of Trunk Road 1, Section 10, intersects the northern boundary of Operet 1260; thence north-westwards along the north-eastern road reserve boundary of Trunk Road 1, Section 10, to a point where the north-eastern road reserve boundary intersects the parallel of latitude 18E 30N 00O South; thence westwards along the parallel of latitude 18E 30N 00O South to a point where the said parallel of latitude is intersected by a straight line drawn generally north-eastward from a point south-east of Otjivalunda East Salt Pan, so that the said salt pan is included; thence generally south-westwards along the said straight line to a point south-east of the said Otjivalunda East Salt Pan; thence generally westwards to the south-eastern corner beacon of the farm Quarantine Station 742; thence westwards along the southern boundary of the said farm Quarantine Station 742 to its south-western corner beacon; thence north-westwards in a straight line to a point where the parallel of latitude 18E 30N 00O South intersects the meridian of longitude 14E 32N 00O East; thence north-westwards in a straight line to a point where the meridian of longitude 14E East intersects the middle of the Kunene River, the point of beginning.

FORMER KAVANGO

Area 1

From the point where meridian of longitude 18E east intersects the parallel of latitude 17E 23’ 23,73” south; thence eastward along the said parallel up to a point where it intersects the middle of the Okavango River; thence generally south-eastwards along the said middle up to point where it intersects the boundary common to Namibia and Botswana; thence generally westwards along the said boundary up to a point where it joins meridian of longitude 21(east; thence southwards along the said meridian of longitude up to a point where it intersects the parallel of latitude 19(10’ south; thence westwards along the said parallel of latitude to a point where it intersects the eastern boundary of the farm Talitha 1006; thence northwards along the boundaries of but excluding the following farms: Talitha 1006, Hero 1007, Verskyn 1012, Farm 1013, Wildgrund 1018 and Wildhagen 1019, to the north-eastern corner beacon of thelast-mentioned farm; thence westwards along the boundaries of but excluding the following farms: Wildhagen 1019, Farm 1020, Farm 1021, Tiervlei 1166, Na-Oes 1027, Onreg 1028, Tranedal 1033, Farm 1034, Farm 1039, Farm 1040, Wag-’n-Bietjie 1046, Farm 1047, Farm 1052, Farm 1164, Farm 1058, Farm 1059, Farm 1061, Randeier 1062, the Remaining Extent of Wildernis 882 and Last Hope 880, to a point where the meridian of longitude 18(east intersects the northern boundary of the farm Last Hope 880; thence northwards along the meridian of longitude 18(east to a point where it intersect the parallel of latitude 17E 23’ 23,73” south, the point of beginning.

Area 2

From a point at the northern extremity of Sibanana Island in the Okavango River; thence north-eastward in a straight line up to Beacon 22 where meridian of longitude 23E 18’ 00” east intersects the parallel of latitude 17E 40’ 00” south; thence southwards along the said meridian of longitude up to a point where it intersects the boundary common to Namibia and Botswana; thence generally westwards along said boundary up to point where it intersects the middle of the Okavango River; thence generally north-westwards along the said middle to the point of beginning.

ZAMBEZI

That part of Namibia lying east of the meridian of longitude 23E 18’ 00”.

FORMER BUSHMANLAND

From a point where the eastern boundary of the farm Talitha 1006 is intersected by the parallel of latitude 19E 10N south; thence eastward along the said parallel of latitude 19E 10N south to a point where the said parallel of latitude intersects the boundary common to Namibia and Botswana; thence southwards along the said common boundary to point where it intersects the parallel of latitude 20E south; thence westwards along the said parallel of latitude 20E south-eastern corner beacon of the Otjitou Native Reserve 235; thence north-westwards along the boundary of the said Otjituo Native Reserve to corner beacon of the farm Sandveld Game Ranch 1265; thence in a northerly, north-easterly and northerly direction along the boundary, of but excluding the following farms: Sandveld Game Ranch 1265, Oorkant 953, Onjama 952, Simondeum 991, Rumara 993, Farm 1124, the Remaining Extent and Portion 1 of Horabe Wes 1139, Hieromtrent 995, Vreugde 1000, Rooidag 1001 and Talitha 1006, to a point where the eastern boundary of the last-named farm is intersected by the parallel of latitude 19E 10N south, being the point of beginning.

FORMER HEREROLAND WEST

Area 1

From a point where the middle of the Otjosondjou Omuramba intersects the southern boundary of the Eastern Native Reserve 792; thence generally north-westwards along the boundary of the Eastern Native Reserve 792 to where it meets the Waterberg East Native Reserve 341; thence north-westwards, north-eastward and south-eastward along the boundaries of and including the said Waterberg East Native Reserve 341 and the Otjituo Native Reserve 235, to the corner beacon common to the Otjituo Native Reserve 235 and the Eastern Native Reserve 792 on the parallel of latitude 20E south; thence in a south-easterly direction along the boundary of the Eastern Native Reserve 792 to a point where the said boundary intersect the middle of the Otjosondjou Omuramba; thence generally westwards and south-westwards along the middle of the Otjosondjou Omuramba to a point where is intersects the southern boundary of the Eastern Native Reserve 792, being the point of the beginning.

Area 2

Ovitoto 55, Registration Division J.

FORMER HEREROLAND EAST

Area 1

From the corner beacon common to the Otjituuo Native Reserve 235 and the Eastern Native Reserve 792 on the parallel of latitude 20E south; thence eastward in a straight line along the said parallel of latitude 20E south to a point where it intersects the boundary common to Namibia and Botswana; thence southwards along the said common boundary to a point where it intersects the parallel of latitude 22E south; thence westwards along the said parallel to a point where it intersects the meridian of longitude 20E east; thence in a straight line south to the south-western corner beacon of the farm 855; thence northwards along the boundaries of and including the following farms: Farm 855, Farm 854, Farm 849, Farm 848, Farm 843, Farm 842, Farm 837 and Farm 836**,** to the north-western corner beacon of the last-mentioned farm; thence south-westwards, northwards and generally westwards along the boundaries of an including the Epukiro Native Reserve 329 and the Eastern Native Reserve 792 to a point where the boundary of the last-mentioned Reserve intersects the middle of the Otjosondjou Omuramba; thence northwards and north-eastward along the middle of the said Omuramba to a point where it intersects the north-eastern boundary of the Eastern Native Reserve 792; thence north-westwards along the north-eastern boundary of the last-mentioned Reserve to the corner beacon common to the Otjituuo Native Reserve 235 and the Eastern Native Reserve 792, being the point of beginning.

Area 2

Aminuis Native Reserve 330 Registration Division L.

Area 3

Beginning at the north-eastern beacon of farm 949, Registration Division L; thence clockwise along the boundaries of the following farms so as to include them in this area; The said Farm 949, Farms 951, 953, 955, 957, 959, 961, 963, 965, 967, 969, 968, 966, 964, 962, 960, 958, 956, 954, 952, 950, 948 and 949, to the north-eastern beacon of the last-mentioned farm, the point of beginning.

FORMER NAMALAND

Area 1

Starting at a point, the most western corner beacon of the farm Uibis 34, then generally eastwards, along the boundaries of the following farms, so as to include them in to this area: Uibis 34, portion A of farm Fleyfeld 33, portion B of Fleyfeld 33, Ubians 32, Ganaus 27, the Remaining Extent of Hatzum II 28, Rosenhof 97, Anis-kubab 96, Gibeon Reserve 76, Portion 1 of New Castle 218, Glencoe 78, Portion 1 of Kriess 219, Portion 1 of Verloorveld 220, to the north-eastern corner beacon of the last-mentioned farm, thence southwards along the boundaries of the following farms so as to include them in this area:

Portion 1 and the Remaining Extent of Verloorveld 220, Portion A of Goamus 70, Goamus Ost 69, the Remaining Extent and Portion 2 of Ventershoop 164, the Remaining Extent of Springbokvlei 237, Portion 1, the Remaining Extent and Portion 2 of Zoekmakaar 236, Portion 1 of Gross Daberas 17, Portion 1, the Remaining Extent and Portion 2 of Daberas Ost 18, the Remaining Extent of Klein Daberas 19, Tses Reserve 169, Blaukehl-Nord 141, Blaukehl-Sud 142, to the most south-eastern corner beacon of the last-mentioned farm, thence westwards along the boundaries of the following farms so as to include them in to this area: Blaukehl-Sud 142, Portion 1 of Blau Ost 144, Bloemhof 311, the Remaining Extent, Portion 4 and Portion 1 of Itzawisis 9, to a point common to the last-mentioned farm, Paradies 8 and Berseba Reserve 170, thence eastwards along the boundaries of the following farms so as to include them in to this area: Berseba Reserve 170, the Remaining Extent and Portion 1 of Nabaos 7, the Remaining Extent and Portion 1 of Gellap-West 4, Berseba Reserve 170, to the most southern corner beacon (Neck, Trigonometric Beacon) of the last-mentioned farm, thence westwards along the boundaries of the following farms soas to include them into this area: Berseba Reserve 170, Garis 74, Schnepfenrivier 73, Kosis 72, Isaaksbrunn 71, Soromaas Reserve 40, to the south-western corner beacon of the last-mentioned farm; thence northwards, eastwards and northwards along the boundaries of the following farms so as to include them into this area, Soromaas Reserve 40, the Remaining Extent and Portion 1 of Florsheim 69, Nugoais 65, Pfalz 61, Doachas 57, Landshut 58, Berseba Reserve 170, Eidsamub 51, Liebenstein 50, Portion 2 and Portion 1 of Ou Tempelhof 583, Teschenbrugge 48, Kinachas I 37, Vergelee 380, Portion A of Kosis 36, Kamagams 35, Uibis 34, to the most western corner beacon of the last-mentioned farm, the point of beginning.

Area 2

Certain portion of the remaining extent of the farm Bondelswarts Reserve No. 134, Registration Division V, situate in the magisterial district of Karasburg, held under certificate of registered title No. 1800/1967; and Certain portion 23 (a portion of portion 8 of portion A) of the farm Kalkfontein West No. 48, Registration Division V, situate in the magisterial district of Karasburg, held under deed of transfer No. 1801/1967;

Area 3

Certain portion of the remaining extent of the farm Warmbad West No. 305, Registration Division V, situate in the magisterial district of Karasburg, held under certificate of registered government title No. 1534/1973; Certain portion 1 of the farm Warmbad West No. 305, Registration Division V, situate in the magisterial district of Karasburg, held under grant of land T1783/1977; and

Area 4

The farms Gainatseb No. 67, Eastwood No. 73, Tsumamas No. 74, and Kranspoort No. 475, Registration Division A, situate in the magisterial district of Outjo.

Area 5

Certain Farm Hoachanas No. 120, registration division M, situate in the magisterial district of Mariental, measuring 14252,5049 hectares.

SCHEDULE 2
LAWS REPEALED
(section 180)

No. and year of law	**Short title**	**Extent of repeal**
Act No. 6 of 1995	Agricultural (Commercial) Land Reform Act, 1995	The whole
Act No. 16 of 2000	Agricultural (Commercial) Land Reform Amendment Act, 2000	The whole
Act No. 2 of 2001	Agricultural (Commercial) Land Reform Amendment Act, 2001	The whole
Act No. 5 of 2002	Communal Land Reform Act, 2002	The whole
Act No. 13 of 2002	Agricultural (Commercial) Land Reform Amendment Act, 2002	The whole
Act No. 14 of 2003	Agricultural (Commercial) Land Reform Amendment Act, 2003	The whole
Act No. 19 of 2003	Agricultural (Commercial) Land Reform Second Amendment Act, 2003	The whole
Act No.11 of 2005	Communal Land Reform Amendment Act, 2005	The whole
Act No. 8 of 2013	Agricultural (Commercial) Land Reform Amendment, 2013	The whole
Act No. 13 of 2013	Communal Land Reform Amendment Act, 2013	The whole
Act No. 1 of 2014	Agricultural (Commercial) Land Reform Amendment, 2014	The whole
Government Notice No. 285 of 1 November 2018	Land Valuation and Taxation Regulations	The whole