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Government Notice

OFFICE OF THE PRIME MINISTER

No. 182

2000

**PROMULGATION OF ACT
OF PARLIAMENT**

The following Act which has been passed by the Parliament and signed by the President in terms of the Namibian Constitution is hereby published in terms of Article 56 of that Constitution.

No. 16 of 2000: Agricultural (Commercial) Land Reform Amendment Act, 2000.

EXPLANATORY NOTE:

Words underlined with a solid line indicate insertions in existing provisions.

Words in bold type in square brackets indicate omissions from existing provisions.

ACT

To amend the Agricultural (Commercial) Land Reform Act, 1995 so as to insert certain definitions; to provide for the establishment and administration of the Land Acquisition and Development Fund; and to provide for matters incidental thereto.

(Signed by the president on 5 July 2000)

BE IT ENACTED by the Parliament of the Republic of Namibia as follows:-

Amendment of section 1 of Act No. 6 of 1995

1. Section 1 of the Agricultural (Commercial) Land Reform Act, 1995 (hereinafter referred to as the principal Act) is amended -

- (a) by the insertion of the following definition after the definition of "foreign national":

"Fund" means the Land Acquisition and Development Fund established by section 13A of this Act; and

- (b) by the insertion of the following definition after the definition of "Permanent Secretary":

"prescribed" means prescribed by regulation by the Minister;

Amendment of section 4 of Act No. 6 of 1995

2. Section 4 of the principal Act is hereby amended -

- (a) by the substitution for paragraph (a) of the following paragraph -

"(a) the Permanent Secretary who shall also be the chairperson of the Commission, and one other staff member from the Ministry of Lands, Resettlement and Rehabilitation;" and

- (b) by the deletion of subsection (3).

Substitution of section 12 of Act No. 6 of 1995

3. The following section is hereby substituted for section 12 of the principal Act:

"Expenditure

12. The remuneration and allowances payable to members of the

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AGRICULTURAL (COMMERCIAL) LAND REFORM
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Commission, and all expenses incidental to the performance of the functions of the Commission, shall be defrayed out of [moneys appropriated by Parliament for the purpose] the Fund."

Insertion of Part IA in Act No. 6 of 1995

4. The following Part is hereby inserted in the principal Act after Part I:

"PART IA

LAND ACQUISITION AND DEVELOPMENT FUND

"Establishment of the Land Acquisition and Development Fund

13A. (1) There is hereby established a Fund to be called the Land Acquisition and Development Fund.

(2) Notwithstanding anything contained in any other law, there shall be paid into the Fund –

- (a) moneys appropriated by Parliament for the purposes of the Fund;
- (b) moneys accruing to the Fund by virtue of any provision of this Act or any other law;
- (c) moneys which become payable to the State by any person in connection with the lease of any land allotted in terms of this Act, or the cancellation of any such lease;
- (d) interest on investments made from moneys of the Fund; and
- (e) moneys which with the approval of the Minister and the Minister of Finance, may accrue to the Fund from any other source, including donations and grants made for the benefit of the Fund.

Appropriation of the Fund

13B. Any amount which becomes payable in terms of this Act to meet any liability of the State –

- (a) arising from the exercise of any power or the performance of any function, or duty conferred or imposed on the Minister by this Act in relation to the acquisition or development of 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, function or duty; or
- (b) for the payment of compensation in connection with any termination or cancellation of a lease in terms of this Act,

shall be defrayed from the Fund.

Administration of the Fund

13C. (1) The Commission shall administer the Fund with the concurrence of the Minister in accordance with an estimate of revenue and expenditure approved by the Minister and the Minister of Finance, in respect of every financial year of the Fund, which shall end on 31 March of each year.

(2) No expenses shall be incurred as a charge against the Fund except in accordance with the estimate of expenditure referred to in subsection (1).

(3) The Commission shall open a current account with a banking institution registered under the Banks Act, 1965 (Act No. 23 of 1965), into which shall be deposited all moneys accruing to the Fund.

(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 Banks Act, 1965 (Act No. 23 of 1965), 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 of Finance.

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

Accounting responsibility

13D. (1) The chairperson of the Commission shall be 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 shall 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 transactions and financial position of the Fund.

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

(4) The Commission shall 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 shall 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) a report by the Commission on its activities during that financial year.

(5) The financial statements and reports submitted to the Minister in terms of subsection (4) shall be tabled in the National Assembly by the Minister within 30 days after receipt thereof, if Parliament is then in ordinary session or, if Parliament is not then in ordinary session, within 14 days after the commencement of its next ordinary session."

Amendment of section 14 of Act No. 6 of 1995

5. Section 14 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

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"(1) Subject to subsection (2), the Minister may, out of moneys [appropriated by Parliament for the purpose] available in the Fund, acquire, in accordance with the provisions of this Act, agricultural land in order to make such land available for agricultural purposes to Namibian citizens who do not own or otherwise have the use of agricultural land or adequate agricultural land, and foremost to those Namibian citizens who have been socially or economically disadvantaged by past discriminatory laws and practices."

Insertion of section 37A in Act No. 6 of 1995

6. The following section is hereby inserted after section 37:

"Development or improvement of Land

37A. The Minister may, from moneys available in the Fund, arrange for the undertaking of the development or improvement of land referred to in section 37 by any authority or person, subject to such terms and conditions determined by the Minister in concurrence with the Minister of Finance."

Short title and commencement

7. (1) This Act shall be called the Agricultural (Commercial) Land Reform Amendment Act, 2000 and shall come into operation on a date determined by the Minister by notice in the *Gazette*.

(2) A notice under subsection (1) may appoint different dates for different provisions of this Act.