



# GOVERNMENT GAZETTE

## OF THE

# REPUBLIC OF NAMIBIA

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## Government Notices

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### MINISTRY OF LANDS, RESETTLEMENT AND REHABILITATION

No. 257 2001

#### COMMENCEMENT OF THE AGRICULTURAL (COMMERCIAL) LAND REFORM SECOND AMENDMENT ACT, 2001

In terms of section 9 of the Agricultural (Commercial) Land Reform Second Amendment Act, 2001 (Act No. 2 of 2001), I determine that the said Act comes into operation on the date of publication of this notice in the *Gazette*.

**H. POHAMB**  
**MINISTER OF LANDS, RESETTLEMENT**  
**AND REHABILITATION**

Windhoek, 23 November 2001

**MINISTRY OF LANDS, RESETTLEMENT AND REHABILITATION**

No. 258

2001

**COMMENCEMENT OF THE AGRICULTURAL (COMMERCIAL) LAND  
REFORM AMENDMENT ACT, 2000**

In terms of section 7 of the Agricultural (Commercial) Land Reform Amendment Act, 2000 (Act No. 16 of 2000), I determine that the said Act comes into operation on the date of publication of this notice in the *Gazette*.

**H. POHAMBA**  
**MINISTER OF LANDS, RESETTLEMENT**  
**AND REHABILITATION**

Windhoek, 23 November 2001

**MINISTRY OF LANDS, RESETTLEMENT AND REHABILITATION**

No. 259

2001

**LAND VALUATION AND TAXATION REGULATIONS: AGRICULTURAL  
(COMMERCIAL) LAND REFORM ACT, 1995 (ACT NO. 6 OF 1995)**

The Minister of Lands, Resettlement and Rehabilitation, with the concurrence of the Minister of Agriculture, Water and Rural Development and the Minister of Finance, and with the approval of the National Assembly, has under section 76 read with section 77 of the Agricultural (Commercial) Land Reform Act, 1995 (Act No. 6 of 1995) made the regulations as set out in the Schedule.

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**PART I  
PRELIMINARY**

**Definitions**

1. In these regulations, any word or expression to which a meaning has been assigned in the Act shall bear that meaning and, unless the context otherwise indicates -

“financial year” means the period from 1 March in any year to 28 February in the next ensuing year;

“land tax” means land tax as referred to in regulation 2;

“magistrate” includes an additional magistrate or assistant magistrate ;

“main valuation roll” means the main valuation roll referred to in regulation 16;

“notice of assessment” means a notice of assessment referred to in regulation 20(3);

“presiding officer” means a presiding officer referred to in regulation 9(3);

“provisional valuation roll”, means the provisional valuation roll prepared in terms of regulation 4;

“the Act” means the Agricultural (Commercial) Land Reform Act, 1995 (Act No. 6 of 1995);

“unimproved site value” means the value of agricultural land as determined by the valuer under regulation 4(5) and as referred to in regulation 2;

“valuation court” means the valuation court established by regulation 9;

“valuer” means a valuer appointed in terms of regulation 4.

**PART II  
LAND TAX**

**Land tax on land value**

2. (1) There shall be paid by every owner of agricultural land for the benefit of the Fund, in respect of each financial year, a land tax based on the land value (also to be known as the unimproved site value) of that land as shown on the main valuation roll and calculated at such rate or progressive rate as may be determined by a notice under section 76 of the Act.

(2) The land tax imposed under subregulation (1) shall be due and payable as required in the relevant notice of assessment served on the owner concerned and the amount of such tax shall be calculated in accordance with the formula set out in section 76(1)(a).

**PART III  
VALUATION OF AGRICULTURAL LAND**

**Valuation of agricultural land**

3. (1) The Minister -
- (a) shall, as soon as possible after the commencement of these regulations, and thereafter at intervals of five years, cause a general valuation to be made in respect of all agricultural land; and
  - (b) may, of his or her own accord or at the written request of 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 agricultural land.

(2) The Minister shall by notice in the *Gazette* determine the period during which any such general or interim valuation shall be made: Provided that where an interim valuation is to be made only in respect of particular agricultural land the Minister may give notice of that period by serving a notice in writing on the owner of the agricultural land in question.

**Appointment, and powers and duties of valuer**

4. (1) When a general valuation or interim valuation of agricultural land is required to be made in terms of regulation 3, the Minister shall, subject to subregulation (3), on such terms and conditions (including remuneration) as he or she may determine, appoint a fit and proper person as a valuer who shall be responsible for the valuation of the agricultural land in question and for the preparation of a provisional valuation roll containing -

- (a) a description of the agricultural land in question;
  - (b) the name and address of the owner of that land;
  - (c) the size in hectares, and the carrying capacity per hectare, of that land; and
  - (d) the unimproved site value of that land.
- (2) (a) The valuer shall upon the completion of a provisional valuation roll referred to in subsection (1), sign and date such roll and submit it to the Minister.
- (b) A copy of such provisional valuation roll shall lie open for inspection by any interested person at such place or places and during such times as the Minister shall make known by notice in the *Gazette* or by notice in writing served on the owner of the agricultural land concerned.

(c) Any interested person may upon payment of such fee as may be determined by the Minister, 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 thereof.

(3) (a) A valuer shall before assuming his or her duties, make and subscribe before a commissioner of oaths an oath in the following form:

*I, A.B do hereby swear and solemnly and sincerely promise to appraise and value in accordance with, and for the purpose of, the provisions of the Agricultural (Commercial) Land Reform Act, 1995 and the Land Valuation and Taxation Regulations promulgated thereunder, all agricultural land, to the best of my skill and knowledge, without favour or prejudice, truly, impartially and conscientiously and for the full and fair value thereof according to the intent and requirement of the applicable laws.*

*So help me God.*

(b) A valuer may in lieu of an oath, make and subscribe to a solemn affirmation in corresponding form.

(c) (i) The Minister shall cause a certificate of appointment to be issued to the valuer upon his or her appointment.

(ii) A certificate of appointment referred to in subparagraph (i) shall be in such form as may be determined by the Minister.

(d) It shall be a condition of every appointment of a person as a valuer in terms of subregulation (1) that -

(i) all information provided to or gathered by the 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, shall be and remain the property of the State;

(ii) the valuer shall, while being in the possession of the information, calculations, records, plans and forms referred to in subparagraph (i), in whatever form, take all steps necessary to ensure their safe custody and to prevent them, or part thereof from getting lost, destroyed or defaced or being rendered useless or inaccessible in any other manner; and

(iii) all such information, calculations, records, plans and forms as may from time to time be required by the Minister from the valuer, and upon the termination of his or her appointment for whatever reason, shall be delivered by him or her to the Minister, 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 appointed,

but nothing in this paragraph shall be construed as preventing a valuer or any other authority from dealing with such information, calculations, records, plans or forms as may be required in terms of these regulations.

(4) (a) Subject to paragraph (b) and for the purposes of performing his or her functions in terms of these regulations, a valuer may -

- (i) enter on such land at any reasonable time and after having given the owner, occupier or other person in control of the land such prior notice as may in the circumstances be reasonable;
  - (ii) inspect and make copies or extracts from any register, document or record which contains particulars of any agricultural land and which is in the custody or under the control of a government official or any other person.
- (b) When a valuer exercises or performs a power or duty in terms of these regulations in the presence of any person affected thereby, he or she shall on demand by that person produce to such person the certificate issued to him or her in terms of subregulation (3)(c).
- (c) The owner, occupier or other person in control of any agricultural land shall within such reasonable period as may be determined in writing by the valuer furnish such information or documents as are required by the valuer to enable him or her to exercise or perform his or her powers or duties in terms of these regulations.
- (5) (a) A valuer shall, subject to paragraph (b), value any agricultural land at a value equal to the best price at which in his or her opinion such land might reasonably be expected to be sold by a willing buyer to a willing seller at the date of the valuation.
- (b) In determining the value of any agricultural land in terms of these regulations, a valuer shall have due regard to the carrying capacity of such land and any other agricultural land of a similar classification and location, but shall disregard in respect of such first mentioned agricultural land-
- (i) any mortgage or other judicial encumbrance on such land;
  - (ii) the value of the improvements on such land;
  - (iii) any depreciation in the value of such land caused by excessive grazing, bush encroachment and other bad farming practices on or poor management of such land.
- (6) Any person who without just cause refuses or fails to comply with a request by a valuer in terms of subregulation (4)(c) or who furnishes information or particulars which such person knows to be false or misleading commits an offence and is on conviction liable to a fine not exceeding N\$20 000 or to imprisonment for a period not exceeding five years or to both such fine and such imprisonment and if the offence of which such person is convicted is continued after the conviction he or she shall be liable to a fine not exceeding N\$200 for every day that the offence is so continued.

#### Remuneration of valuer and other expenses

5. The expenses incidental to the performance of any general or interim valuation under these regulations, including the remuneration payable to a valuer appointed in terms of regulation 4, shall be defrayed out of the Fund.

**PART IV**  
**OBJECTIONS AND APPEALS**

**Objections against provisional valuation roll**

6. (1) The Minister shall cause a notice to be published in the *Gazette* and in at least two newspapers circulating in Namibia on a date not later than 60 days before the date determined by Minister for the commencement of the sitting of the valuation court -

- (a) stating -
  - (i) that the provisional valuation roll is lying open for inspection during ordinary office hours at the place or places and during the period specified in such notice;
  - (ii) that the valuation court will commence its sitting on the date and time and at the place specified in such notice to consider every valuation contained in such provisional valuation roll and to hear any objection lodged in respect of any such valuation;
- (b) calling upon every owner of agricultural land in respect of which a valuation is contained in the provisional valuation roll to lodge, within 21 days of the date of the notice, an objection against such valuation with the Minister setting out the grounds on which the objection is based.

(2) The Minister shall cause an owner who has lodged an objection pursuant to subregulation (1) to be notified in writing of the date and time on which and the place at which the valuation court shall be sitting.

**Validity of provisional valuation roll**

7. No valuation contained in a provisional valuation roll prepared under these regulations shall be invalid by reason only of -

- (a) a mistake or variance in the description of the agricultural land or in the name or address of the owner of any agricultural land; or
- (b) an irregularity which occurred during the preparation of such valuation roll.

**Submission of provisional valuation roll**

8. The Minister shall cause to be submitted to the valuation court at the expiry of the 21 days mentioned in regulation 6 -

- (a) the objections (if any) lodged with the Minister in terms of that regulation; and
- (b) the provisional valuation roll submitted to the Minister in terms of regulation 4(2).

**Establishment of valuation court**

- 9. (1) There is hereby established a valuation court.
- (2) The valuation court shall consist of three members, of whom -
  - (a) one shall be a magistrate designated, at the request of the Minister, by the Minister of Justice;
  - (b) one shall be a staff member of the Ministry of Lands, Resettlement and Rehabilitation designated by the Minister;

- (c) one shall be a person from the private sector appointed by the Minister by reason of his or her expertise in the field of land matters relevant to the application of these regulations,

when it becomes necessary for the purposes of considering valuations contained in a provisional valuation roll or objections lodged in relation to any such valuation, and designated or appointed for such period as may be necessary to conclude the mentioned matters.

(3) The magistrate designated under subregulation (2)(a) shall be the presiding officer of the valuation court.

(4) A decision of the majority of the members of a valuation court shall be a decision of the valuation court.

(5) (a) Notwithstanding subregulation (4), if at any stage during the proceedings before a valuation court a member of that court dies or is otherwise incapable of acting, the proceedings shall continue before the remaining members of the court, but only if such remaining members include the magistrate designated under subregulation (2)(a).

(b) In the event of the proceedings being continued before the remaining members as contemplated in paragraph (a) the decision of the magistrate shall prevail.

(c) If the magistrate is for any reason mentioned in paragraph (a) unable to so act the proceedings shall commence *de novo* before a valuation court constituted anew in accordance with the provisions of this regulation.

#### **Oath of office**

**10.** (1) A member of the valuation court shall not perform any function as such a member unless he or she has taken an oath or made an affirmation, which shall be subscribed by him or her, in the form set out below, namely:

“I, ..... do hereby  
(full name)

swear / solemnly and sincerely affirm and declare that I will in my capacity as member of the valuation court administer justice to all persons alike, without fear, favour or prejudice, and as the circumstances in any particular case may require, in accordance with the laws of the Republic of Namibia.”

(2) An oath or affirmation in terms of subsection (1) shall be made or taken before a magistrate.

#### **Assessors**

**11.** (1) For the purpose of procuring assistance in the determination of any matter under these regulations, the valuation court may appoint not more than two persons with special knowledge of and experience in the valuation of agricultural land to sit as assessors in an advisory capacity.

(2) If during any proceedings before the valuation court or so shortly before the commencement of the proceedings that a 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 presiding officer of the valuation court may either adjourn the proceedings in order to invoke the assistance of another person as assessor or 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 court shall give due consideration to, but shall not be bound by, the opinion of any assessor.

#### **Seat of valuation court**

12. (1) Subject to subregulation (2), a valuation court may conduct its proceedings at any place throughout Namibia.

(2) Subject to regulation 6, the presiding officer of the valuation court shall determine the dates and times when and places where a valuation court shall sit.

#### **Powers and duties of valuation court**

13. (1) (a) A valuation court shall consider every valuation contained in the provisional valuation roll and shall subject to paragraph (b) hear any objection lodged in connection with any valuation so contained.

(b) The valuation court shall not hear an objection against any valuation contained in the provisional valuation roll if the objection is not lodged in accordance with or as prescribed under these regulations.

(2) After having considered any valuation or any objection referred to in subregulation (1) the valuation court may -

(a) confirm the valuations contained in the provisional valuation roll;

(b) uphold any objection lodged pursuant to regulation 6 and decrease any valuation contained in the provisional valuation roll;

(c) decrease without any objection having been lodged as contemplated in paragraph (b), or increase after having afforded the owner of the agricultural land in question an opportunity to be heard, any valuation contained in the provisional valuation roll so contained;

(d) order the valuer to value any agricultural land omitted from the provisional roll, or revalue any agricultural land with due regard to such guidelines and directions as it may, subject to regulation 4(5), determine;

(e) make any other amendment to the provisional valuation roll as it may deem necessary.

#### **Proceedings before a valuation court**

14. (1) The proceedings before the valuation court shall be conducted in such a manner as the presiding officer considers most suitable to resolve the issues before the court and the court shall not be bound by any law relating to procedure and admissibility of evidence.

(2) For the purposes of considering any valuation contained in the provisional valuation roll or hearing any objection lodged under these regulations a valuation court may -

(a) summon by a notice in writing issued by the presiding officer, or by any other member of the court if such member is so authorised thereto 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 valuer), present at a sitting of the valuation court, and examine any such person under oath or affirmation.

(3) An owner who has lodged an objection against a valuation contained in the provisional valuation roll, shall appear either in person or through a valuer or a legal practitioner as defined in section 1 of the Legal Practitioners Act, 1995 (Act No. 15 of 1995).

(4) The valuer shall attend all sittings of the valuation court.

(5) (a) No member of the valuation court shall take part in any proceedings or decision in relation to any agricultural land of which he or she or any connected person is the owner.

(b) For the purposes of subparagraph (a) "connected person" means -

(i) any person who is related to a member of the valuation court by affinity or consanguinity;

(ii) any person with whom a member of the valuation court, or his or her partner, agent, or business associate, is in terms of the traditional laws and customs prevailing in Namibia a partner in a customary union.

(6) The valuation court shall keep proper record of the proceedings at the sittings and the findings of the valuation court or cause such record to be kept.

#### **Appeal against decisions of valuation court**

15. (1) An owner who has lodged an objection pursuant to regulation 6 and who is aggrieved by a decision of the valuation court made in relation to that objection may appeal against that court's decision to the High Court of Namibia.

(2) For the purpose of an appeal referred to in subregulation (1) and the procedure to be followed with regard to such appeal, the decision of the valuation court shall be deemed to be a civil judgment of a magistrate's court.

#### **Main valuation roll**

16. (1) The provisional valuation roll containing the valuations as decreased or increased or otherwise amended by the valuation court, of all agricultural land shall be the main valuation roll for the purposes of any assessment under regulation 20.

(2) The main valuation roll shall at all times be available for inspection by any interested person during ordinary office hours at the offices of the Ministry of Lands, Resettlement and Rehabilitation.

(3) The Minister shall at the request of any interested person and on payment of the such fee as may be determined by the Minister, furnish that person with an extract from or copy of the main valuation roll.

#### **Alteration or correction of main valuation roll**

17. The valuer may at the request of any interested party or of his or her own accord, and on notice to the Minister save where such request is by or on behalf of the Minister, alter or correct the main valuation roll, but the alteration or correction shall only be made for the following purposes:

(a) To correct a clerical error which does not affect a valuation;

(b) to correct an error which relates to the name or address of the owner concerned;

(c) to record a change in the name or address of the owner concerned;

- (d) to correct an error which relates to the description of the agricultural land in question.

#### **Remuneration and allowances of members of valuation court and other expenses**

18. (1) The Minister, with the concurrence of the Minister of Finance, shall determine the remuneration and allowances (if any) payable to a member or an assessor of the valuation court who is not in the full-time employment of the State.

(2) The remuneration and allowances referred to in subregulation (1) and the expenditure incidental to the performance of functions of the valuation court shall be defrayed from the Fund.

### **PART V RETURNS AND ASSESSMENTS**

#### **Owners to furnish land tax returns**

19. (1) The Minister may by notice in the *Gazette* require of all owners or specified owners of agricultural land to furnish the Commission with 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 subregulation (1) shall be in such form as may be determined by the Minister and shall contain -

- (a) the particulars of all agricultural land owned by the person who in terms of that subregulation are required to complete such a return;
- (b) such other information as the Minister may reasonably require for the purposes of an assessment under regulation 20.

(3) Every owner who is required to furnish a land tax return in respect of any financial year shall do so on or before 31 January of that year.

(4) Any person who fails to furnish a return in accordance with the provisions of this regulation shall be guilty of an offence and liable on conviction to a fine not exceeding N\$8 000 or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

#### **Assessments to be made**

20. (1) The Minister shall, 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 regulation 19, cause an assessment to be made of the land tax payable by owners of agricultural land.

(2) An assessment under subregulation (1) may be made even if the time for lodging of returns has not yet expired.

(3) Where an assessment has been made under this regulation, the Minister, or if authorized thereto by the Minister, the Commission, shall serve a notice of assessment on the owner concerned, which notice shall state -

- (a) the amount of the land tax;
- (b) the date on which such tax is due and payable;
- (c) the place where the payment shall be made;

- (d) whether the tax is payable as a lump sum or in instalments and, if payable in instalments, the number of instalments and the date on which each instalment shall be due and payable; and
- (e) the rebate (if any) in respect of early payments.

## PART VI COLLECTION AND RECOVERY OF LAND TAX

### **Rebate and interest on land tax payable**

21. (1) To encourage the early payment of land tax the Minister may allow a rebate, not exceeding five percent of the tax payable, on land tax paid on or before any due date for payment mentioned in the relevant notice of assessment, and the rebate allowed under this subregulation may be at such different rates as may be specified in that notice.

(2) The Minister may, on tax not paid on or before the due date for payment mentioned in the relevant notice of assessment, 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 judgement debt of any competent court.

### **Land tax as a debt due to the Fund**

22. (1) Any land tax or any interest payable in terms of these regulations shall, when such tax or interest becomes due and payable, be deemed to be a debt due to the Fund and may be recovered by the Commission in the manner provided for in this regulation.

(2) Subject to subregulation (3), if an owner fails to pay any land tax or interest when it is due and payable, the Commission may file with the clerk or registrar of a court of competent jurisdiction a statement certified, by the chairperson of the Commission, as correct and setting forth the amount of all land tax and interest owing by that owner, and that statement shall for all purposes have the effect of, and any proceedings may be taken thereon as if it were, a civil judgment 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 Commission shall before filing a statement in terms of subregulation (2), serve a notice on the owner concerned informing him or her of the Commission's intention to file such a statement within 30 days of the date of the service of such notice in accordance with regulation 26.

(4) The chairperson of the Commission may by notice in writing, addressed to the clerk or registrar of the relevant court, withdraw any statement referred to in subregulation (2), and that statement shall thereupon cease to have any effect.

(5) The Commission may institute proceedings afresh under subregulation (2) in respect of any land tax or interest to which a statement withdrawn under subregulation (3) relates.

### **Reimbursement of overpayment of land tax**

23. (1) Where the owner of agricultural land has paid any land tax in excess of any amount payable by him or her in terms of these regulations that owner may in writing apply to the Commission for a refund of the amount paid in excess.

(2) Any claim for a refund under subregulation (1) shall be accompanied by documentary proof of the payment of the excess amount.

(3) If upon receipt of an application referred to in subregulation (1) the Commission is satisfied that a refund is due to an owner of agricultural land it shall cause

that 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 subregulation (1).

(4) Where the Commission fails to refund any amount of land tax due to an owner on or before the date referred to in subregulation (3), interest shall be 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**

24. (1) Any land tax or interest payable by any representative in his or her representative capacity shall be recoverable from him or her under these regulations, 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: Provided that any land tax or interest payable by a company or close corporation shall not be recoverable from the public officer of the company or from any member of a close corporation referred to in section 76A of the Act, but shall be recoverable from the company or close corporation.

(2) Every representative who, as such, pays any land tax or interest due under these regulations shall be entitled to recover the amount so paid from the owner on whose behalf it is paid, or 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.

(3) Every representative referred to in paragraph (b) of section 76A of the Act who, as such, pays any land tax or interest due under these regulations by any deceased owner shall be entitled to recover the amount so paid from the estate of such deceased owner or to retain out of any moneys of the estate of such deceased 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.

(4) Every representative shall be 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 thereof remains unpaid -

- (a) he or she alienates or disposes of the agricultural land in respect of which such tax is payable; or
- (b) disposes of 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.

(5) For the purposes of this regulation "representative" means a representative referred to in paragraph (bb) of the proviso to section 76A of the Act.

#### **Recovery of land tax from third parties**

25. (1) Where an owner of agricultural land fails to pay land tax in respect of such land on or before the due date for payment, the Commission 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 or occupier or mortgagee concerned require him or her to pay to the Commission 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 subregulation (1) shall be recoverable by the Commission from -

- (a) such lessee or occupier but only to the extent of any rent or other payments due by him or her to the owner at the time of the request under that subregulation, or becoming due by him or her to the owner after such request;

- (b) such mortgagee if -
- (i) in accordance with section 51 of the Deeds Registries Act, 1937 (Act No. 47 of 1937) the mortgage bond that is registered over such land contains a stipulation that future debts generally or future debts with regard to taxes shall be secured by it; or
  - (ii) a mortgage bond securing future debts has been registered over such land under section 27 of the Registration of Deeds in Rehoboth Act, 1976 (Act No. 93 of 1976),

whichever may be applicable.

(3) Where a lessee or occupier or mortgagee, on whom a notice was served under subregulation (1) is unable to comply with such notice he or she shall before the expiry of the date for payment specified in such notice -

- (a) serve a notice in writing on the Minister informing the Minister accordingly and stating the reasons for his or her inability to so comply;
- (b) serve a copy of the notice referred to in paragraph (a) on the Commission.

(4) Upon receipt of a notice in terms of subregulation (3), the Minister may require any party concerned to furnish such further information and evidence as the Minister may deem necessary to conclude the matter and may by notice in writing accept the notification or reject it.

(5) Any payment made pursuant to a notice under this regulation shall be deemed-

- (a) to have been made under the authority of the defaulting owner, and no liability shall attach to the lessee or 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 these regulations relating to the collection and recovery of land tax shall with the necessary changes apply to any amount due under this regulation as if such amount were land tax due under these regulations.

## PART VII GENERAL

### Service of notices

26. (1) Any notice required or authorized under these regulations to be given to or served on any person by the Commission shall be deemed to have been duly given or served if the original of such notice or a true copy thereof is -

- (a) delivered or tendered to the person concerned personally; or
- (b) sent by registered post to the person concerned, or to his or her registered office or any office or place of business of that person in Namibia.

(2) Where the whereabouts of a person is not readily ascertainable by the Commission or for any other reason the Commission is satisfied that the service of a notice in accordance with subsection (1) is not practicable it shall cause to be published once in the *Gazette* and once a week during two consecutive weeks in two newspapers circulating in the area in which the land in question is situated an appropriate notice complying with the relevant provision of these regulations.

**Documents to serve as conclusive proof**

27. A copy of or an extract from -
- (a) the main valuation roll or provisional valuation roll;
  - (b) a certificate or notice issued by the Minister or Commission under these regulations,

purporting to be signed by the Minister or chairperson of the Commission shall, in the absence of evidence to the contrary, serve as conclusive proof of the facts contained in any such document without further proof or production of the original document.

**Short title**

28. These regulations shall be called the Land Valuation and Taxation Regulations, 2001.
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