



GOVERNMENT GAZETTE OF THE REPUBLIC OF NAMIBIA

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CONTENTS

	<i>Page</i>
GOVERNMENT NOTICE	
No. 76 Rules of the Lands Tribunal: Agricultural (Commercial) Land Reform Act, 1995	1

Government Notice

MINISTRY OF LANDS, RESETTLEMENT AND REHABILITATION

No. 76 1996

RULES OF THE LANDS TRIBUNAL: AGRICULTURAL (COMMERCIAL) LAND REFORM ACT, 1995

The Rules Board established by subsection (1) of section 69 of the Agricultural (Commercial) Land Reform Act, 1995 (Act 6 of 1995), has, under subsection (5) of that section, made the rules pertaining to the Lands Tribunal as set out in the Schedule.

SCHEDULE

INDEX

1. Definitions
2. Service of process

3. Representation
4. Commencement of proceedings
5. Application for the determination of compensation whereby proceedings are instituted
6. Signing of documents
7. Service of application for the determination of compensation
8. Answer to the application for the determination of compensation
9. Notice of appeal whereby the appeal proceedings are instituted
10. Discovery of documents
11. Further particulars
12. Failure to deliver answer timeously
13. Intervention of parties in the proceedings
14. Amendment of documents
15. Special case and adjudication of law or fact in pending proceedings
16. Curtailment of proceedings
17. Proceedings immediately preceding the hearing of any application for the determination of compensation
18. Extension of time, condonation and notice to third parties
19. Variation and rescission of orders
20. Exchange of opinions of experts
21. Procedures to be observed by the Lands Tribunal
22. Manner of securing the attendance of witnesses before the Lands Tribunal and penalties for non-attendance
23. Witness fees
24. Setting down for hearing of application or appeal
25. Notice of date of hearing of application or appeal
26. Obligation to begin
27. Procedure at the hearing of proceedings
28. Procedure during the hearing relating to evidence
29. Execution
30. Fees of the Lands Tribunal
31. Fees of deputy-sheriff
32. Tariff of fees of legal practitioners
33. Taxation of costs

ANNEXURE

Forms

Definitions

1. (1) In these rules, unless the context otherwise dictates, any expression to which a meaning has been assigned in the Agricultural (Commercial) Land Reform Act, 1995 (Act 6 of 1995), has that meaning, and -

"appellant" includes the legal practitioners acting on behalf of the appellant;

"applicant" includes the legal practitioners acting on behalf of the applicant;

"day" means any day other than a Saturday, Sunday or public holiday;

"deliver" means the serving of copies of any notice, process of the Lands Tribunal, document in an application of appeal to be determined by the Lands Tribunal, or any other document required in terms of these rules, on any other party and filing of the original with the registrar;

"Lands Tribunal" means the Lands Tribunal established by section 63(1) of the Act;

"process" means any process of the Lands Tribunal;

"registrar" means the registrar of the Lands Tribunal appointed under section 66 of the Act;

"respondent" includes the legal practitioners acting on behalf of the respondent;

"Rules of Court" means the rules governing the proceedings of the High Court made in terms of section 39 of the High Court Act, 1990 (Act 16 of 1990) as amended from time to time;

"the Act" means the Agricultural (Commercial) Land Reform Act, 1995 (Act 6 of 1995).

Service of process

2. (1) The deputy sheriff shall have, with respect to the service in terms of the provisions of these rules or the Act of any process or any document by which an application or appeal is commenced, *mutatis mutandis*, the same powers and duties in regard to the Lands Tribunal as he or she has in regard to the High Court.

(2) Subject to the provisions of the Act and these rules, the provisions of Rule 4 of the Rules of Court shall apply, *mutatis mutandis*, to service in terms of these rules or the Act.

(3) The Lands Tribunal shall be competent at any time before or after delivery of an application for the determination of compensation -

(a) to authorise the substituted service on any person of any notice, process or document referred to in an application or other document required in terms of these rules, including an application for the determination of compensation;

(b) to make other orders as to the delivery of the application for the determination of compensation or any other notice, process or document required in terms of these rules;

(4) Unless the context otherwise indicates the provisions of sub-rule (3) shall apply *mutatis mutandis* to appeals before the Lands Tribunal.

Representation

3. (1) Any legal practitioner may act in any proceedings before the Lands Tribunal.

(2) Any applicant or respondent may act personally or through a legal practitioner in the proceedings before the Lands Tribunal.

(3) Any local authority, regional council, company or other body corporate may, in any proceedings to which it is a party, act through any of its officials whom it designates for this purpose.

(4) A partnership or group of persons acting jointly for a common purpose may, in any proceedings to which it is a party, act through any of its members whom it designates for this purpose.

(5) No person except a legal practitioner acting on behalf of a party to the proceedings shall be entitled to recover costs, but a person acting personally or on behalf of any party referred to in paragraphs (3) and (4) shall only be entitled to recover necessary expenses.

(6) It shall not be necessary for any person acting on behalf of any party to any proceedings before the Lands Tribunal to file a power of attorney authorising him or her to act on behalf of such party at such proceedings, but the competence of any person so acting may be disputed by the other party within a reasonable time after it has come to his or her notice that such person is acting, or by leave of the Lands Tribunal if good cause be shown, at any time before the final finding of the Lands Tribunal and thereupon such person shall not without leave of the Lands Tribunal further so act until he or she has satisfied the Lands Tribunal that he or she is authorized to act, and the Lands Tribunal may adjourn the hearing of the application or appeal, as the case may be, to enable him or her to do so.

Commencement of proceedings

4. (1) Proceedings in regard to the determination of compensation by the Lands Tribunal shall be instituted by means of an application for the determination of compensation, which application shall be duly signed by the applicant and filed with the registrar.

(2) Proceedings in regard to the determination of appeals by the Lands Tribunal shall be instituted by way of a notice of appeal which notice shall be duly signed by the applicant and filed with the registrar.

Application for the determination of compensation whereby proceedings are instituted

5. (1) The application for the determination of compensation shall state -

(a) the full name and address, if known, of the applicant and respondent;

- (b) the full address where the applicant will accept service of any notice, process or any other document, as the case may be, required in terms of these rules, which address shall be within the Municipality of Windhoek;
- (c) the right by virtue of which the applicant makes such application as well as the nature and grounds for the application;
- (d) a clear and complete description of the property involved, and -
 - (i) if land, full particulars of all improvements thereon;
 - (ii) if a right to use such land, full particulars of such right;
 - (iii) if a dispute as to the value of a lien or mortgage, the particulars required in subparagraphs (i) and (ii).
- (e) the amount, if any, last claimed and offered as compensation for the property before institution of the proceedings;
- (f) the names and addresses of any persons who have an interest in the property or proceedings concerned and the nature of their interest.

(2) Whenever the applicant applies for the determination of compensation with respect to various separate disputes based on separate facts such facts shall, as far as possible, be mentioned separately.

(3) The applicant shall, in his or her application for the determination of compensation, furnish all the particulars which are necessary to calculate the amount of compensation concerned.

- (4) Each application shall be accompanied by the original or a copy of -
 - (a) the relevant expropriation notice, in the case of an application in terms of section 27 of the Act, or the relevant offer and counter-offer, in the case of an application in terms of section 17 (7) of the Act, ; and
 - (b) the title deed to the property concerned or other document evidencing the applicant's claim, if any.

Signing and filing of documents

6. (1) Any notice, process or other document which is filed with the registrar shall be signed by the person who is responsible for the filing thereof.

(2) Any notice, process or other document required to be filed with the registrar, may be filed during the hours 09:00 - 12:30 and 14:00 - 16:30 on any day.

(3) Whenever a notice, process or other document is filed with the registrar at least four copies thereof shall also be filed.

Service of application for the determination of compensation

7. (1) The applicant shall, after the filing of the application for the determination of compensation, cause a copy thereof to be served on the respondent by the deputy-sheriff together with a notice substantially in the form set out in Form 1 in the Annexure specifying the time within which the respondent is required to deliver his or her answer in terms of these rules.

(2) The applicant shall cause to be delivered a notice substantially in the form set out in Form 2 in the Annexure to every such person as may appear from the application to have an interest in the property.

(3) The applicant shall, within 10 days of the receipt of a written request thereto, make available to a person who is an interested party to the proceedings, a copy of the application and of the documents which accompany such application free of charge.

Answer to the application for the determination of compensation

8. (1) A respondent shall cause a written answer to be delivered to the applicant within a period of 20 days of the date of service of the application for the determination of compensation on such respondent.

(2) A respondent shall in the answer deny, admit or confess and avoid all material facts averred in the application or shall mention which of the facts averred are not admitted and to what extent, and shall state clearly and concisely all the material facts on which his or her case rests.

(3) It shall not be sufficient for a respondent to make any general denial of the facts averred in the application.

(4) The respondent shall deal specifically with each averment of fact which is not admitted, and each averment of fact in the application not specifically denied in the answer shall be deemed to have been admitted.

(5) The respondent shall in the answer furnish such facts as are reasonably necessary to determine how the compensation offered or claimed by the respondent is calculated.

(6) (a) Any interested party may join in the proceedings as a party within 10 days of receipt by him or her of a copy of Form 2, by delivering a notice in the form of Form 3 in the Annexure, together with documents which indicate the nature of his or her interest to all parties to the proceedings.

(b) Such joining party shall within 10 days of delivery by him or her of the notice and documents referred to in paragraph (a), deliver a written answer to the application for the determination of compensation.

(c) The provisions of this rule shall *mutatis mutandis* apply to such answer.

- (d) If no such answer is delivered within the fixed time or such longer period as the parties may agree upon or as the Land Tribunal may on application order, the proceedings may be proceeded with without further notice to the joining party concerned.

Notice of appeal whereby the appeal proceedings are instituted

9. (1) Whenever an appeal is noted in terms of the Act to the Land Tribunal the notice of appeal shall state -

- (a) the full name and address of the appellant and of the respondent;
- (b) the decision or determination appealed against;
- (c) the full address where the appellant will accept service of any notice, process or any other document required in terms of these rules, which address shall be within the Municipality of Windhoek; and
- (d) the right by virtue of which the appeal is launched and the grounds upon which the appeal is based.

(2) The original of the decision or determination appealed against or a copy thereof shall accompany the notice of appeal.

(3) A respondent shall cause a written reply to be delivered to an appellant within 20 days of the date of service of the notice of appeal on the respondent.

(4) A respondent shall in such reply -

- (a) deal with the grounds of appeal set out in the notice of appeal; and
- (b) set out the reasons for the decision or determination appealed against.

(5) An appellant shall be entitled to amend the grounds of appeal within 10 days of receipt of a respondent's reply to a notice of appeal and a respondent shall be entitled to reply to such amendments within 10 days of the receipt of the amended notice of appeal.

Discovery of documents

10. (1) Every party shall within 20 days of the date of delivery of the answer or reply by the respondent deliver a statement making discovery on oath or affirmation of all documents which are or were in his or her possession or under his or her control and which are relevant to the issues in the application for the determination of compensation.

- (2) (a) Should privilege be claimed with regard to any of the documents specified in the statement, such documents shall be specified separately and the grounds upon which privilege is claimed in relation to such documents shall be stated.

(b) For the purposes of paragraph (a) a document shall be regarded as being privileged against discovery under the same circumstances as those under which documents are for the purposes of Rule 35 of the Rules of Court not required to be specified in discovery affidavits.

(3) No document not so discovered shall be used in the hearing of the application for any purpose by the party in whose possession or under whose control it is, but the other party concerned shall be entitled to use or claim such document during the cross-examination of any witness: Provided that the Lands Tribunal may at any time, on such conditions relating to adjournment and costs as it may deem reasonable, grant permission for such use.

(4) A party shall, upon 5 days' notice, forthwith allow the other party to inspect all documents discovered in terms of subrule (1) or books and documents as referred to in sub-rule (5), and to make copies thereof, excluding documents in respect of which privilege is claimed.

(5) Any party may by notice require any other party to produce, at the hearing of the application, the documents discovered in terms of sub-rule (1), as well as any other books and documents which may be relevant to the proceedings.

(6) If any party believe that there are, in addition to the documents disclosed as aforesaid, any other documents (including copies thereof) in the possession of any other party which may be relevant to any matter in question, such party may give notice to the other party requiring him or her to make the same available for inspection in accordance with sub-rule (4), or to state on oath or affirmation within 5 days that such documents are not in his or her possession, in which event he or she shall state their whereabouts, if known to him or her.

Further particulars

11. (1) Any party may, at any time after the respondent's answer but not later than 15 days after discovery of documents by a party in terms of rule 10(1) by notice demand that any other party provide such further particulars as may be necessary to enable the first-mentioned party to prepare his or her case for the hearing of the application or the appeal, as the case may be.

(2) The notice referred to in sub-rule (1) may require the party to whom it is delivered to furnish details -

- (a) concerning the date of purchase, purchase prices paid, the sizes and registry descriptions, if available, of all properties which such party intends to use as comparable transactions at the hearing of the application;
- (b) in the form of an abridged resume, concerning the basis upon which the compensation offered or claimed, as the case may be, was calculated.

(3) The party to whom a notice of demand referred to in sub-rule (1) is delivered shall, within 15 days of the date of delivery of that notice, deliver the particulars so demanded.

(4) If the party requested to furnish any particulars as aforesaid fails to deliver them timeously or sufficiently, the party requesting the same may apply to the Lands Tribunal for their delivery or for the dismissal of the claim or for the striking out of the answer, and the Lands Tribunal may make such order as it deems fit.

Failure to deliver answer timeously

12. (1) Any party failing to deliver his or her answer within the prescribed period shall, after expiry of a period of 7 days, calculated from the date of delivery to him or her of a notice which complies with the provisions of sub-rule (2), be barred from delivering such reply: Provided that such period may, either before or after expiry thereof, be extended with the consent of the opposite party or, if such consent be withheld, by the Lands Tribunal on application, subject to such conditions with regard to costs and otherwise as may in the discretion of the Lands Tribunal be just.

(2) The notice prescribed in sub-rule (1) shall state that, in the event of failure to deliver the answer within the period specified in such notice, application will be made for the summary determination of the compensation by the Lands Tribunal without reference to the other party.

(3) At the hearing of the application, where no answer was delivered, the Lands Tribunal may take such steps as it may deem necessary or expedient to determine the compensation as soon as possible: Provided that the Lands Tribunal may determine the compensation after hearing the evidence produced by only the applicant.

(4) Sub-rules (1) and (2) shall apply *mutatis mutandis* in respect of appeals where no answer was delivered and the Lands Tribunal may at the hearing of the appeal take such steps as it may deem necessary or expedient to decide the appeal, including the adjudication of the appeal in the absence of the defaulting party.

Intervention of parties in the proceedings

13. (1) Any party having an interest in the property or proceedings concerned and wishing to join in the proceedings may at any stage before or during the proceedings apply to the Lands Tribunal to join in the proceedings, and if the application is granted the provisions of these rules in so far as they relate to respondents shall, *mutatis mutandis*, apply to such party.

(2) The Lands Tribunal may grant the application referred to in sub-rule (1) on such conditions as the Lands Tribunal may deem necessary or expedient.

(3) The Lands Tribunal may at any time, either upon application by any party to proceedings before it or *mero motu*, order that some person other than the applicant or the respondent be joined on such conditions as the Lands Tribunal may deem necessary or expedient.

Amendment of documents

14. (1) Any party wishing to amend any notice, process or any other document filed in terms of these rules in connection with any proceedings shall give all other parties notice of his or her intention to amend.

(2) The notice shall state that, unless written objection is made to the proposed amendment within 10 days of delivery of the notice referred to in sub-rule (1), the party giving notice will amend the notice, process or other document concerned accordingly.

(3) Should no written objection be so made, the party receiving the notice referred to in sub-rule (1) shall be deemed to have agreed to the amendment.

(4) Should objection be made within the abovementioned period, the party wishing to proceed with the amendments shall, within 10 days of receipt of the objection, apply to the Lands Tribunal for permission to amend.

(5) When an amendment has been granted, or when no objection has been made within the period prescribed by sub-rule (2), the amending party shall deliver the amendment within the time fixed by the order, or within 10 days of the expiry of the time prescribed in sub-rule (2), as the case may be.

(6) When an amendment is delivered under this rule, the other party concerned may reply or answer thereto or amend accordingly any document handed in by him or her within 15 days of receipt of the amendment concerned.

(7) Any party giving notice of amendment shall, unless the Lands Tribunal otherwise directs, be liable for the costs thereby incurred by the other party.

(8) The Lands Tribunal may, during the hearing of an application for the determination of compensation, at any stage before judgment, grant leave for an amendment of any notice, process or any other document on such conditions and with such orders relating to costs as it may deem fit.

(9) An amendment granted in terms of these rules shall appear on a separate page, which shall be joined to the notice, process or other document concerned at a suitable place.

Special case and adjudication upon questions of law or fact in pending proceedings

15. (1) The parties to a case may, after institution of the proceedings but before the hearing thereof by the Lands Tribunal, agree upon a written statement of facts in the form of a special case for adjudication by the Lands Tribunal.

(2) The statement shall contain the facts agreed upon, the questions of law in dispute and the parties' contentions thereon in numbered paragraphs, together with copies of any relevant documents, and shall be signed by the various parties.

(3) Should the Lands Tribunal, upon application by any party, be of the opinion that there is a question of law or of fact in the pending proceedings before it which may conveniently be decided before evidence is led or which may be decided separately from some other question, the Lands Tribunal may prescribe, at its discretion, the settling of such question and direct that all further proceedings be suspended until then.

(4) When the Lands Tribunal so decides such question, it may give judgment accordingly and determine how any remaining issues shall be tried in order to dispose of the case finally.

(5) Should the issue be a question of law and should the parties agree upon the facts, the facts may be admitted and recorded at the hearing of the proceedings and the Lands Tribunal may give judgment without hearing evidence.

Curtailement of proceedings

16. (1) Any party wishing to set down a case with respect to an application for the determination of compensation, shall, as soon as possible after delivery of the reply and before delivery of a notice of set-down, request the other parties, in writing, to attend a consultation at a mutually suitable time for the purpose of agreeing on ways of curtailing the proceedings, and more particularly on as many as possible of the following:

- (a) The admission of facts and documents;
- (b) the holding of any inspection or examination;
- (c) the discovery of documents;
- (d) the giving of any further particulars reasonably required for the purposes of the hearing of the application for the determination of compensation;
- (e) the plans, diagrams, photographs, models and the like to be used at the hearing of the application;
- (f) the preparation and handing in at the proceedings of copies of correspondence and other documents in the form of a volume with copies for the Lands Tribunal and all parties;
- (g) the exchange between parties of the reports of experts.

(3) After the consultation the parties shall draw up a minute of the matters upon which they -

- (a) agreed; and
- (b) did not agree,

and shall sign such minute.

(4) The consultation contemplated in sub-rule (1) may be held at any time after the delivery of the reply but at least 5 days before the commencement of the proceedings.

(5) At least 5 days prior to the commencement of the proceedings the parties shall file a report with the Lands Tribunal stating whether such consultation was held and, if so, shall hand in the signed minute referred to in sub-rule (3).

(6) The provisions of this rule shall apply *mutatis mutandis* to appeals to the Lands Tribunal.

Proceedings immediately preceding the hearing of any application for the determination of compensation

17. (1) The Lands Tribunal may, before proceeding to the hearing of an application for the determination of compensation, direct that the parties set forth concisely the questions of fact and of law that are at issue and may note the points at issue so set forth.

(2) When it appears from the documents to the Lands Tribunal that there are various questions of fact at issue, and it is of the opinion that the deciding of any one of such issues may settle the whole matter or materially curtail the proceedings, the Lands Tribunal may require the parties to deal with that issue before proceeding with other issues and the Land Tribunal may thereupon give final judgment without dealing with such other issues.

(3) Should the issue be a question of law and the parties agree in regard to the facts, the facts before the Lands Tribunal may be admitted by the parties, either by verbal or by written statement, and be noted by the Land Tribunal and judgment may be given thereon without further evidence.

(4) When questions of law and of fact arise in the same proceedings and the Lands Tribunal is of the opinion that the dispute can be dealt with solely on the questions of law, then the Lands Tribunal may require the parties to argue only those questions and may give its decision thereon before evidence is taken regarding the questions of fact at issue and may give final judgment without dealing with such questions of fact.

(5) The chairperson of the Lands Tribunal may, before the hearing of an application for the determination of compensation is proceeded with, call the parties into his or her chambers with a view to securing agreement on any matters likely to curtail the proceedings.

(6) The provisions of this rule shall apply *mutatis mutandis* to appeals to the Lands Tribunal.

Extension of time, condonation and notice to third parties

18. (1) In the absence of agreement between the parties, the Lands Tribunal may, upon application on notice and on good cause shown, extend or abridge any period of time prescribed by these rules or by any order of the Land Tribunal in connection with any proceedings, upon such conditions as it may deem necessary or expedient, and may also extend or abridge any period of time fixed by an order extending or abridging the time for doing any act or taking any step in connection with such proceedings.

(2) Any such extension may be granted although the application therefor is not made until after the expiry of the time prescribed or fixed, and the Lands Tribunal may, at its discretion, make such order as to the cancelling or varying of the

results of the expiry of any time so prescribed or fixed, whether such results flow from any order of the Lands Tribunal or from these rules.

(3) The Lands Tribunal may, on good cause shown, condone the non-compliance with any provisions of these rules.

(4) If it appears, at any stage during the hearing of an application or appeal, that the rights of persons, excluding those notified thereof, may be affected by the judgment in such application or appeal, the Lands Tribunal may order that a notice of the application or appeal, or copy of any process of the Lands Tribunal, or of any other document, be served on such other persons in such manner as the Lands Tribunal may order, and the Lands Tribunal may to that end adjourn the hearing of the application or the appeal concerned.

(5) The Lands Tribunal may, upon such conditions as it may deem necessary or expedient, permit a respondent to be heard at the hearing of the application, notwithstanding the fact that such respondent has failed to file an answer.

Variation and rescission of orders

19. (1) A Lands Tribunal shall have the right to rescind or vary, *mero motu* or upon the application of any party affected, any order which -

- (a) was erroneously sought or erroneously made in the absence of any party affected thereby;
- (b) contains an ambiguity or a patent error or omission, but only to the extent of such ambiguity, error or omission;
- (c) was made as the result of a mistake common to the parties concerned;
- (d) was made because the respondent is in default with his or her answer or failed to appear at the hearing of the proceedings: Provided that such order shall be rescinded or varied only on good cause shown for such rescission or variation.

(2) Any party applying under sub-rule (1) shall give notice of his or her application to all parties whose interests may be affected by any rescission or variation sought.

(3) The Lands Tribunal shall not rescind or vary any order unless it is satisfied that all parties whose interests may be affected have notice of the rescission or variation proposed.

Exchange of opinions of experts

20. Except by leave of the Lands Tribunal or with the consent of all parties to the case, no person shall be entitled to call as a witness any person to give evidence as an expert upon matters upon which expert evidence may be received, unless he or she shall have delivered a notice not less than 15 days before the hearing of the relevant application for the determination of compensation to the effect that he or

she wishes so to do together with a summary of such expert's opinions and his or her reasons therefor.

Procedures to be observed by the Lands Tribunal

21. The procedures relating to the proceedings in the Lands Tribunal shall take place in accordance with the provisions of the Act and these rules: Provided that if in any particular case no such provision applies the Lands Tribunal may, notwithstanding the fact that some other rule of procedure or practice is followed in the High Court, act in such a manner as it may deem most appropriate to such case and in the circumstances in pursuing the objects of the Act and these rules in order to cause justice to be done in such case and to the parties concerned.

Manner of securing the attendance of witnesses before the Lands Tribunal and penalties for non-attendance

22. (1) The provisions of Rule 38 of the Rules of Court, as amended from time to time, in regard to the obtaining and the giving of evidence at a hearing shall, *mutatis mutandis*, apply to the obtaining and the giving of evidence at the hearing of an application for the determination of compensation by the Lands Tribunal.

(2) The Lands Tribunal may set aside any subpoena if it appears that the witness upon whom it has been served has not been given reasonable time to enable him or her to attend in obedience to the subpoena or where there are special circumstances which justify the setting aside of such subpoena.

(3) Whenever any person subpoenaed to attend a case as a witness fails without reasonable excuse to obey the subpoena, and it appears from the return of the officer who served the subpoena concerned or from evidence given under oath that the subpoena was served on the person to whom it was directed and that his or her reasonable expenses, calculated in accordance with the tariff framed under section 38 of the High Court Act, 1990, have been paid or offered to him or her or that he or she is evading service of the subpoena, or if any person who has attended in obedience to a subpoena fails to remain in attendance, the Lands Tribunal may issue a warrant directing that he or she be arrested and brought before the Lands Tribunal at a time and place stated in the warrant or as soon thereafter as possible.

(4) Any person arrested under any such warrant may be detained thereunder before the Lands Tribunal or in any prison or lock-up or other place of detention or in the custody of the person who is in charge of him or her with a view to securing his or her presence as a witness at the said proceedings: Provided that the Lands Tribunal may release him or her on recognizance with or without bail or sureties or bail and sureties for his or her appearance to give evidence as required.

(5) A witness who evades the service of a subpoena or fails to obey the subpoena or to remain in attendance shall, unless it is proved that such person has a reasonable excuse for such evasion or failure, be guilty of an offence and upon conviction be liable to a fine not exceeding N\$2 000 or imprisonment for a period not exceeding six months.

(6) If a person who has entered into any recognizance for his or her appearance to give evidence at such proceedings fails so to appear, the Lands Tribunal may declare his or her bail or sureties or bail and sureties forfeited, and any such forfeiture shall have the effect of a judgment on the recognizance for the amounts therein specified against him or her or her and his or her sureties respectively, and in addition to such forfeiture, he or she may be dealt with as if he or she had failed to obey a subpoena to attend such proceedings.

Witness fees

23. Any witness subpoenaed to give evidence before the Lands Tribunal shall be entitled to the fees and costs to which he or she would have been entitled if he or she had given evidence in a civil case in the High Court.

Setting down for hearing of application or appeal

24. (1) After the last process required in terms of these rules has been filed, the applicant or appellant, as the case may be, may set down the case on a date to be arranged with the registrar.

(2) Should the applicant or appellant, as the case may be, fail to apply within 15 days of such last process having been filed for a date of hearing of the application, the respondent shall be entitled to make such application.

(3) If the provisions of rule 12 apply to the further continuation of the hearing of the application, the applicant or appellant, as the case may be, may, without any reference to any other party, arrange a date for the hearing of the application in consultation with the registrar.

Notice of date of hearing of application or appeal

25. Notice of the date of the hearing of the application or the appeal shall be given to the other party by the applicant or the appellant or, as the case may be, the respondent, at least 30 days before the hearing of the application or the appeal, and the time and place of the hearing shall be mentioned in the notice.

Obligation to begin

26. The obligation to adduce evidence first shall rest upon the applicant or the appellant, as the case may be, unless the parties agree otherwise.

Procedure at the hearing of proceedings

27. (1) The hearing before the Lands Tribunal shall take place in public.

(2) Should the applicant or appellant, as the case may be, appear at the commencement of the proceedings and the respondent fails to appear, the applicant or appellant may adduce evidence in so far as it is necessary for his or her case, where-

upon the Lands Tribunal may make a determination.

Procedure during the hearing relating to evidence

28. (1) Any witness who is not a party to a case may be ordered by the Lands Tribunal to -

- (a) leave the tribunal until his or her evidence is necessary or after he or she has given evidence; or
- (b) remain in tribunal after he or she has given evidence until the session is concluded or adjourned.

(2) After the respondent has adduced evidence, the applicant or appellant, as the case may be, shall have the right to adduce rebutting evidence on any issue in regard to which the onus rested on the respondent: Provided that should the applicant or appellant have adduced evidence on any such issue before he or she closed his or her case, he or she shall be precluded from adducing further evidence on that issue.

(3) No provision of sub-rule (2) shall prevent the respondent from cross-examining any witness who was called at any stage by the applicant or appellant, as the case may be, on any issue, and the applicant or appellant shall be entitled to re-examine such witness after such cross-examination without prejudice to the right conferred upon him or her by sub-rule (2) to adduce evidence at a later stage on an issue on which such witness was cross-examined. The applicant or appellant, as the case may be, may further call the witness who was so re-examined to give evidence at a later stage on any such issue.

(4) Where a party is represented, every witness shall be examined, cross-examined and re-examined, as the case may be, by only one representative of such party, although not necessarily the same representative.

(5) The applicant or appellant, as the case may be, may, after the evidence in the case has been closed on both sides, address the Lands Tribunal, after which the respondent may do the same and the applicant or appellant may reply to anything arising therefrom.

(6) The Lands Tribunal may, notwithstanding any provision to the contrary in these rules contained, penalise in the award of costs any party where it is of the opinion that the proceedings have been unnecessarily protracted by him or her by calling unnecessary witnesses or by excessively lengthy examination or cross-examination or by labouring the point.

(7) The rules and procedures of the High Court in relation to the recording of proceedings in civil cases shall, *mutatis mutandis*, apply in relation to the proceedings before the Lands Tribunal.

Execution

29. The rules of procedure in force from time to time relating to the execution

of judgments or orders of the High Court shall *mutatis mutandis*, apply to any order or reward of the Lands Tribunal.

Fees of the Lands Tribunal

30. The tariff of court fees in force from time to time in the High Court in terms of Rule 67 of the Rules of Court shall apply *mutatis mutandis* in relation to proceedings in the Lands Tribunal.

Fees of deputy sheriff

31. The tariff of fees and charges in force from time to time in the High Court relating to the service of documents and execution of orders shall apply *mutatis mutandis* in relation to the service of documents and execution of orders of the Lands Tribunal.

Tariff of fees of legal practitioners

31. Rules 69 and 70 of the Rules of Court in relation to the fees chargeable by legal practitioners for services rendered in matters before the High Court, shall apply *mutatis mutandis* in relation to their services in matters before the Lands Tribunal.

Taxation of costs

33. The provisions of the Rules of Court in relation to the taxation of bills of costs, the review of taxation and the recovery of costs shall apply *mutatis mutandis* to the taxation of costs, the review of taxation and the recovery of costs in matters before the Lands Tribunal, and for the purposes of such application, any reference in those provisions to the taxing master and to a judge shall be construed as a reference to the registrar of the Lands Tribunal and the chairperson of the Lands Tribunal, respectively.

**ANNEXURE
FORM 1**

IN THE LANDS TRIBUNAL

In the case between

APPLICANT

and

RESPONDENT

Take notice that if you wish to file an answer in relation to the application for the determination of compensation, a copy of which is hereby served upon you, you are required to deliver such answers within 20 days of the date of service of this notice upon you by lodging the original answer (in which is set forth the full address where you will accept service of process or other documents) with the registrar of the Lands Tribunal and to cause a copy thereof to be served on the applicant.

DATED AT THIS DAY OF
..... 19

To: The Registrar of the Lands Tribunal
And to: The Respondent

.....
APPLICANT OR LEGAL PRACTITIONER
(Name and address)

FORM 2

IN THE LANDS TRIBUNAL

In the case between

APPLICANT

and

RESPONDENT

- 1. Take notice that the applicant has instituted proceedings against the respondent, in which the applicant claims the following legal aid:

.....

- 2. The application for the determination of compensation and the documents which accompany it are open to inspection at the office of the registrar of the Lands Tribunal and copies may be obtained free of charge from the applicant on request.
- 3. Take notice that, should you wish to file an answer in relation to the application for the determination of compensation you are hereby required to deliver the said answer within 20 days of the date of service of this notice upon you by lodging the original answer plus 4 copies thereof (in which is set forth the full address where you will accept service of process or other documents) with the registrar of the Lands Tribunal and cause a further copy thereof to be served on the applicant.
- 4. Further take notice that, if you fail to deliver such answer within the period specified, the application for the determination of compensation will be proceeded with without any further notice to you.

DATED AT THIS DAY OF

..... 19

To: The Registrar of the Lands Tribunal
 And to: Mortgagee or other interested party
 And to: The Respondent

.....
 APPLICANT OR LEGAL PRACTITIONER
 (Name and address)
