



Republic of Namibia
Annotated Statutes

Agricultural Land Act 5 of 1981 (Rehoboth)

(Official Gazette 37 of Rehoboth, dated 21 August 1981)
appears to have been misprinted as *Official Gazette 38 of Rehoboth*, with a
handwritten correction; brought into force on 1 September 1981 by unnumbered notice
(Official Gazette 41 of Rehoboth, dated 23 September 1981)

This Act is applicable only in the Rehoboth Gebiet.

ACT

To provide for the control of the subdivision and, in connection therewith, the use of agricultural land; for the establishment of a Rehoboth Consolidation Fund; for the purchase, sale and consolidation of agricultural land; and for matters incidental thereto.

(Afrikaans text signed by the State President)
(Assented to 28 July 1981)

ARRANGEMENT OF SECTIONS

CHAPTER I DEFINITIONS

1. Definitions

CHAPTER II SUBDIVISION

2. Actions excluded from application of Chapter
3. Prohibition of certain actions regarding agricultural land
4. Application for consent of Kaptein's Council
5. Succession
6. Duties of Surveyor-General and Registrar of Deeds
7. Registration of servitudes

CHAPTER III REHOBOTH CONSOLIDATION FUND

Agricultural Land Act 5 of 1981 (Rehoboth)

8. Establishment and control of Rehoboth Consolidation Fund
9. Application of moneys in Fund
10. Auditing or accounts of Fund

CHAPTER IV
SALE, PURCHASE AND CONSOLIDATION

11. Sale of Government land
12. Purchase of land by Kaptein's Council
13. Consolidation
14. Utilisation of land
15. Submission of report Legislative Council
[The heading seems to be missing the word "to"; it should probably be "Submission of report to Legislative Council".]
16. Financial assistance

CHAPTER V
MISCELLANEOUS PROVISIONS

17. Entry upon and investigations on land
18. Payment of duties of fees
[The phrase "duties of fees" should probably be "duties or fees".]
19. Delegation of powers
20. Regulations
21. Offences and penalties
22. Repeal of laws
23. Short title and commencement

SCHEDULE

BE IT ENACTED by the Kaptein's Council and the Legislative Council of Rehoboth, as follows:

CHAPTER I

DEFINITIONS

Definitions

1. In this Act, unless the context indicates -

“advertise” means to distribute to members of the public or bring to their notice in any other manner any written, illustrated, visual or other descriptive material or oral statement, communication, representation or reference;

“agricultural land” means any land except -

- (a) land of which the Government is the owner of which is held in trust for any person by the Government;
- (b) land which the Kaptein in terms of a decision of the Kaptein's Council excludes from the provisions of this Act by notice in the *Official Gazette* of Rehoboth;

Agricultural Land Act 5 of 1981 (Rehoboth)

“building” means any building erected or used for any purpose whatsoever, and includes any other structure, whether of a temporary or permanent nature and irrespective of the materials used in the erection thereof, so erected or used;

“Chief Director” means the Chief Director of Rehoboth;

“citizen” means a citizen of Rehoboth referred to in section 5 of the Rehoboth Self-Government Act, 1976 (Act No. 56 of 1976 of the Parliament of the Republic of South Africa);

[The Rehoboth Self-Government Act 56 of 1976 is repealed by the Namibian Constitution.]

“Government” means the Government of Rehoboth;

“Government land” means all land of which the Government is the owner of which is held in trust for any person by the Government or which is in the possession of the Rehoboth Baster Community, including the Rehoboth Townlands, the Community farms, the Government farms and such land as the Kaptein’s Council may purchase in terms of the provisions of this Act;

“Kaptein’s Council” means the Kaptein’s Council referred to in section 2 of the Rehoboth Self-Government Act, 1976 (Act No. 56 of 1976 of the Parliament of the Republic of South Africa);

[The Rehoboth Self-Government Act 56 of 1976 is repealed by the Namibian Constitution.]

“Legislative Authority of Rehoboth” means the Legislative Authority of Rehoboth referred to in section 4 of the Rehoboth Self-Government Act, 1976 (Act No. 56 of 1976 of the Parliament of the Republic of South Africa);

[The word “Republic” is misspelt in the Official Gazette of Rehoboth. The Rehoboth Self-Government Act 56 of 1976 is repealed by the Namibian Constitution.]

“*Official Gazette* of Rehoboth” means the official Gazette of Rehoboth;

“prescribed” means prescribed by regulation;

“Registrar of Deeds” means the registrar of deeds appointed, under section 3 of the Registration of Deeds in Rehoboth Act, 1976 (Act No. 93 of 1976 of the Parliament of the Republic of South Africa), in respect of the registry established by section 2 of the said Act;

“regulation” means a regulation made under this Act;

“Rehoboth Gebiet” means the Gebiet referred to in section 1 of the Rehoboth Self-Government Act, 1976 (Act No. 56 of 1976 of the Parliament of the Republic of South Africa);

[The Rehoboth Self-Government Act 56 of 1976 is repealed by the Namibian Constitution.]

“right”, in relation to agricultural land, does not include any right to minerals or a prospecting or mining right;

“statutory body” means -

- (a) any board or body which has been established by or under law and whose funds consist wholly or partly of moneys appropriated by the Legislative Authority of Rehoboth in aid of such board or body;

Agricultural Land Act 5 of 1981 (Rehoboth)

- (b) any other board or body which the Kaptein may in terms of a decision of the Kaptein's Council by notice in the *Official Gazette* of Rehoboth declare to be a statutory board or body for the purpose of this Act;

“Surveyor-General” the official appointed in terms of section 4 of the Land Survey Act, 1927 (Act No. 9 of 1927 of the Parliament of the Republic of South Africa), as Surveyor-General for the region in which the Rehoboth Gebiet is situated;

[The Land Survey Act 9 of 1927 has been replaced by the Land Survey Act 33 of 1993.]

“this Act” includes the regulations.

CHAPTER II

SUBDIVISION

Actions excluded from application of Chapter

2. The provisions of this Chapter shall not apply in respect of -
- (a)
 - (i) any subdivision of land for the purpose of transferring a portion thereof to the Government or a statutory body;
 - (ii) the transfer of an undivided share in land to the Government or a statutory body;
 - (iii) the sale or grant of any right to any portion of agricultural land to the Government or a statutory body;
 - (b) any subdivision of, or the passing of an undivided share in, any land in accordance with a testamentary disposition or intestate succession, if the testator died before the commencement of the Subdivision of Agricultural Land Act, 1970 (Act No. 70 of 1970 of the Parliament of the Republic of South Africa);
 - (c) the passing of an undivided share in any land in accordance with a contract entered into prior to the commencement of the Subdivision of Agricultural Land Act, 1970 (Act No. 70 of 1970 of the Parliament of the Republic of South Africa);
 - (d) any subdivision of any land in connection with which a surveyor has completed the relevant survey and has submitted the relevant subdivisional diagram and survey records for examination and approval to the Surveyor-General prior to the commencement of the Subdivision of Agricultural Land Act, 1970 (Act No. 70 of 1970 of the Republic of South Africa);
 - (e) the registration of a lease referred to in section 3(d) in respect of a portion of agricultural land, concluded in writing prior to the commencement of the Subdivision of Agricultural Land Amendment Act, 1974 (Act No. 19 of 1974 of the Parliament of the Republic of South Africa).

Prohibition of certain actions regarding agricultural land

3. Subject to the provisions of section 2 -
- (a) agricultural land shall not be subdivided;

Agricultural Land Act 5 of 1981 (Rehoboth)

- (b) no undivided share in agricultural land not already held by any person, shall vest in any person;
- (c) no part of any undivided share in agricultural land shall vest in any person, if such part is not already held by any person;
- (d) no lease in respect of a portion of agricultural land of which the period is 10 years or longer, or is the natural life of the lessee or any other person mentioned in the lease, or which is renewable from time to time at the will of the lessee, either by the continuation of the original lease or by entering into a new lease, indefinitely or for periods which together with the first period of the lease amount in all to not less than 10 years, shall be entered into;
- (e) no portion of agricultural land, whether surveyed or not, and whether there is any building thereon or not, shall be sold or advertised for sale, and no right to such portion shall be sold or granted for a period of more than 10 years or for the same person for periods aggregating more than 10 years, or advertised for sale or with a view to any such granting,

unless the Kaptein's Council has consented in writing.

Application for consent of Kaptein's Council

4. (1) Any application for the consent of the Kaptein's Council for the purposes of section 3 shall be lodged with the Chief Director, and shall be in such form and be accompanied by such plans, documents and information as may be prescribed by regulation and shall be submitted to the Kaptein's Council without delay.

- (2) The Kaptein's Council may in its discretion refuse or -
 - (a) unconditionally;
 - (b) on such conditions, including conditions as to the purpose for or manner in which the land in question may be used, as he deems fit,

grant an application referred to in subsection (1).

(3) The Kaptein's Council may vary or withdraw any condition referred to in subsection 2(b) and, if it has been registered against the title deed of the land, the Kaptein's Council may direct that it be varied or cancelled.

Succession

5. (1) If the Kaptein's Council does not in terms of section 4 consent to the subdivision of any particular agricultural land in accordance with any testamentary disposition or intestate succession or to the vesting of any undivided share in such land in accordance therewith, and no agreement is reached as to a subdivision or vesting in respect of which the Kaptein's Council grants its consent in terms of section 4, the executor of the estate concerned shall realize the land or undivided share concerned, as the case may be, and dispose of the nett proceeds thereof in accordance with the said testamentary disposition or intestate succession, as the case may be.

(2) The provisions of section 16 of the Expropriation Ordinance, 1978 (Ordinance 13 of 1978), shall *mutatis mutandis* apply in respect of any such proceeds of land or an undivided share in any land, and in such application of the said section a reference therein to the Executive

Agricultural Land Act 5 of 1981 (Rehoboth)

Committee shall be deemed to be a reference to an executor referred to in subsection (1) of this section.

Duties of Surveyor-General and Registrar of Deeds

6. (1) Subject to the provisions of section 2 the Surveyor-General shall only approve a general plan or diagram relating to a subdivision of agricultural land, and the Registrar of Deeds shall only register the vesting of an undivided share in agricultural land referred to in section 3(b), or a part of any such share referred to in section 3(c), or a lease referred to in section 3(d), or, if applicable, a right referred to in section 3(e) in respect of a portion of agricultural land, if the written consent of the Kaptein's Council in terms of this Act has been submitted to him.

(2) If such consent has been granted subject to a registeralbe condition, such condition shall, on such approval or registration, be endorsed on the title deed of the land concerned.

[The word "registerable" is misspelt in the *Official Gazette of Rehoboth*.]

Registration of servitudes

7. (1) Subject to the provisions of the Water Act, 1956 (Act No. 54 of 1956 of the Parliament of the Republic of South Africa), a servitude in respect of agricultural land, except -

- (a) a right of way, aqueduct, pipe line or conducting of electricity with a width not exceeding 15 metres;
- (b) a usufruct over the whole of agricultural land in favour of one person or in favour of such person and his spouse or the survivor of them if they are married in community of property,

shall not be registered by the Registrar of Deeds without hte written consent of the Kaptein's Council.

[The Water Act 54 of 1956 was repealed by the Water Resources Management Act 11 of 2013.]
The word "the" in the phrase "the written consent" is misspelt in the *Official Gazette of Rehoboth*.]

(2) The provisions of section 4 shall *mutatis mutandis* apply in relation to any application for the written approval of the Kaptein's Council for the purposes of subsection (1).

CHAPTER III**REHOBOTH CONSOLIDATION FUND****Establishment and control of Rehoboth Consolidation Fund**

8. (1) There is hereby established a Rehoboth Consolidation Fund (hereinafter referred to as the Fund) into which shall be paid such moneys as may be appropriated for the purpose by the Legislative Authority of Rehoboth.

(2) The Fund shall be controlled and managed by the Kaptein's Council in accordance with the provisions and directions of this Act.

(3) All moneys forming part of the Fund shall, until they are invested or spent in accordance with the provisions of this Act, be paid into a bank of the Kaptein's Council's choice to the credit of an account to be called the Rehoboth Consolidation Fund Account.

Agricultural Land Act 5 of 1981 (Rehoboth)**Application of moneys in Fund**

9. The Fund shall be applied by the Kaptein's Council -
- (a) to purchase land subject to the provisions of Chapter IV;
 - (b) to defray the costs of the administration of the Fund and such other expenditure as the Kaptein's Council may determine for achieving the objects of Chapter IV.

Auditing or accounts of Fund

10. The provisions of section 31 of the Rehoboth Self-Government Act, 1976 (Act No. 56 of 1976 of the Parliament of the Republic of South Africa), shall *mutatis mutandis* apply in respect of the examining, enquiring into and auditing of the accounts and financial statements of the Fund.

[The Rehoboth Self-Government Act 56 of 1976 is repealed by the Namibian Constitution.]

CHAPTER IV

SALE, PURCHASE AND CONSOLIDATION

Sale of Government land

11. Subject to the provisions of this Act the Kaptein's Council may sell Government land for agricultural purposes to citizens in accordance with such terms and conditions as may be agreed upon.

Purchase of land by Kaptein's Council

12. The Kaptein's Council may purchase land in accordance with such terms and conditions as may be agreed upon in order to citizens for agricultural purposes in accordance with the provisions of section 11.

Consolidation

13. The Kaptein's Council may at its discretion consolidate or in any other way join pieces of land referred to in section 12 in order to sell it for agricultural purposes.

Utilisation of land

14. No person shall utilise land which has been sold to him in terms of section 11 for other than agricultural purposes without the written consent of the Kaptein's Council.

Submission of report Legislative Council

[The heading seems to be missing the word "to"; it should probably be "Submission of report to Legislative Council".]

15. A report containing all the relevant particulars of all land transactions entered into under this Chapter during the previous calendar year shall annually be submitted to the Legislative Council by the Kaptein's Council.

[The word "calendar" is misspelt in the Official Gazette of Rehoboth.]

Agricultural Land Act 5 of 1981 (Rehoboth)

Financial assistance

16. The provisions of the Agricultural Credit Act, 1979, shall *mutatis mutandis* apply in respect of an application for financial assistance by a citizen which may arise from a transaction in terms of section 11.

CHAPTER V

MISCELLANEOUS PROVISIONS

Entry upon and investigations on land

17. The Chief Director may either generally or in any particular case authorize any person to enter upon any land at all reasonable times with the consent of the owner or other person ostensibly in control and to carry out thereon such investigations or to perform thereon such other acts as are necessary or expedient for achieving the objects of this Act.

Payment of duties of fees

[The phrase "duties of fees" in the heading should probably be "duties or fees", as in the text of the provision.]

18. Notwithstanding anything to the contrary contained in any other law no duties or fees of office shall be payable in respect of any document drawn up for the purposes of this Act and submitted to the Registrar of Deeds for registration or filing.

Delegation of powers

19. The Kaptein's Council may delegate to the Chief Director or any other officer in the employ of the Government any power conferred upon it by this Act (excluding the powers referred to in section 8(2) and (3), 11, 12, 13, and 20 and the powers derived from the Act mentioned in section 16, as applied in terms of the said section 16.

Regulations

20. (1) Subject to the provisions of subsection (2) the Kaptein's Council may make regulations with reference to any matter which may be prescribed under this Act, or in respect of which, in its opinion, it is necessary or expedient to make regulations for achieving the objects of this Act.

(2) Regulations made under subsection (1) may provide that any person who contravenes or fails to comply with any provision thereof shall be guilty of an offence and liable on conviction to a fine not exceeding two hundred and fifty rand or to imprisonment for a period not exceeding three months.

Offences and penalties

21. Any person who -

- (a) in any application or other document for the purposes of this Act makes any statement which is false in any material respect, knowing it to be false, or fails to disclose any information with intent to deceive;
- (b) contravenes the provisions of section 3(d) with regard to the entering into of a lease contemplated therein;

Agricultural Land Act 5 of 1981 (Rehoboth)

- (c) contravenes the provisions of section 3(e);
- (d) contravenes or fails to comply with a condition imposed in terms of section 4(2);
- (e) hinder or obstructs in the performance of his functions any other person acting under an authority from the Chief Director in terms of section 17,

shall be guilty of an offence and liable on conviction a fine not exceeding five hundred rand or to imprisonment for a period not exceeding six months, and in addition, in the case of an offence contemplated in paragraph (c) or (d), to a fine not exceeding tend rand in respect of each day on which the offence continues.

[The word “to” appears to be missing in the phrase “liable on conviction to...”.]

Repeal of laws

22. (1) Subject to the provisions of subsection (2), the laws specified in the Schedule are hereby repealed

[There is no full stop at the end of subsection (1).]

(2) Anything done under any provision of any law repealed by subsection (1) which is not contrary to or inconsistent with any provision of this Act, shall be deemed to have been done under the corresponding provision of this Act.

Short title and commencement

23. This Act shall be called the Agricultural Land Act, 1981, and shall come into operation on a date to be fixed by the Kaptein’s Council and promulgated by notice in the *Official Gazette* of Rehoboth.

SCHEDULE

No. and year of law	Title
Act 70 of 1970	Subdivision of Agricultural Land Act, 1970
Act 55 of 1972	Subdivision of Agricultural Land Amendment Act, 1972
Act 19 of 1974	Subdivision of Agricultural Land Amendment Act, 1974