



Republic of Namibia
Annotated Statutes

Land Tenure Act 32 of 1966 (RSA)

(RSA GG 1554)

came into force in South West Africa, with the exception of section 5, on 1 April 1971 when Act 67 of 1970, which inserted section 10A, was brought into force by RSA Proc. R.32/1971 (RSA GG 3002); section 5 was never made applicable to South West Africa

APPLICABILITY TO SOUTH WEST AFRICA: Section 10A, which was inserted by Act 67 of 1970, states "This Act and any amendments thereof which may be made from time to time, with the exception of section 5, shall apply also in the territory", which is defined in section 1 as "the territory of South West Africa". Section 5 concerns the disposal of state land which is not required for or suitable for farming purposes in terms of the *State Land Disposal Act 48 of 1961*.

TRANSFER TO SOUTH WEST AFRICA: The administration of this Act was transferred to South West Africa by the Executive Powers (Agricultural Credit and Land Tenure) Transfer Proclamation, AG 13 of 1977, dated 18 November 1977. There were no amendments to the Act in South Africa after the date of transfer. The Act was repealed in South Africa by the *Second Community Development Amendment Act 68 of 1982* (RSA GG 8206), which was not made expressly applicable to South West Africa and therefore did not repeal the Act in respect of South West Africa.

Section 3(2) of the Executive Powers Transfer (General Provisions) Proclamation, AG 7 of 1977, excluded from transfer the provisions of any transferred law "which provide for or relate to the institution, constitution or control of any juristic person or any board or other body of persons that may exercise powers or perform other functions in or in respect of both the territory and the Republic". This may have excluded from transfer the provisions of this Act relating to the Land Tenure Board.

as amended by

Land Tenure Amendment Act 67 of 1970 (RSA) (RSA GG 2862)

brought into force on 1 April 1971 by RSA Proc. R.32/1971 (RSA GG 3002)

Land Tenure Amendment Act 16 of 1972 (RSA) (RSA GG 3458)

brought into force on 1 May 1972 by RSA Proc. R.107/1972 (RSA GG 3478)

Expropriation Act 63 of 1975 (RSA) (RSA GG 4780)

brought into force on 1 January 1977 by RSA Proc. 273/1976 (RSA GG 5363)

ACT

To establish a Land Tenure Board and to define its functions; to provide for the acquisition and development of land for or for use in connection with farming purposes; and to provide for other incidental matters.

(Afrikaans text signed by the State President)

(Assented to 30th September, 1966)

ARRANGEMENT OF SECTIONS

1. Definitions
2. Land Tenure Board
3. Functions of the board
4. Acquisition of land for farming purposes
5. **[not applicable]**
6. Development of State land for farming purposes
7. Offences
8. Regulations
9. Delegation of powers
10. Interpretation of references to the central land board or State Settlement and Farmers' Assistance Board in certain laws
- 10A. Application of Act to South-West Africa
11. Short title and date of commencement

BE IT ENACTED by the State President, the Senate and the House of Assembly of the Republic of South Africa, as follows:-

Definitions

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

“board” means the board established by section 2;

“member of the board” includes an additional member of the board;

“Minister” means the Minister of Agriculture;

[definition of “Minister” substituted by Act 67 of 1970]

“State land”, in the application of this Act in the territory, means land of the Administration of the territory placed at the disposal of the Department of Agricultural Credit and Land Tenure for the purposes of the application of this Act or the Agricultural Credit Act, 1966 (Act No. 28 of 1966);

[The definition of “State land” is inserted by Act 67 of 1970. Namibia’s Agricultural Bank Amendment Act 27 of 1991 repealed the RSA Agricultural Credit Act 28 of 1966. The current legislation is the Agricultural Bank of Namibia Act 5 of 2003.]

“territory” means the territory of South-West Africa.

[The definition of “territory” is inserted by Act 67 of 1970. It should end with a semicolon instead of a full stop.]

“this Act” includes regulations made under this Act.

Land Tenure Board

2. (1) There is hereby established a board to be known as the Land Tenure Board, which shall, subject to the provisions of subsection (2), consist of four members of whom -

- (a) one shall be an officer in the public service, designated from time to time by the Minister to be the chairman of the board;

[paragraph (a) substituted by Act 16 of 1972]

- (b) the other members shall be appointed by the Minister.

(2) The Minister may at any time appoint one or more additional members to the board to participate in such functions of the board as the Minister may determine, and any such additional member shall act as a member of the board only in connection with matters relating to such functions.

(3) A member of the board, other than the chairman, shall hold office for such period not exceeding five years as the Minister may determine at the time of the appointment, but shall be eligible for reappointment: Provided that if in his opinion there are good reasons for doing so, the Minister may at any time terminate the period of office of any member.

[subsection (3) substituted by Act 16 of 1972]

- (4) A member of the board, other than the chairman, shall vacate his office -
- (a) if his period of office has expired or is terminated by the Minister;
- (b) if he seeks election at any party or official nomination of candidates for Parliament or a Provincial Council or the Legislative Assembly of the territory, or attempts to have himself nominated at any such nomination;

[paragraph (b) substituted by Act 67 of 1970]

- (c) if his estate is sequestrated or he applies for assistance contemplated in section 10(1)(c) of the Agricultural Credit Act, 1966;
- (d) if he resigns.

[subsection (4) amended by Act 16 of 1972]

(5) The remuneration, allowances, leave or other privileges and conditions of service of any member of the board or his alternate, not being in the full-time employment of the State (including the Administration of the territory) under any law other than this Act, shall be determined from time to time by the Minister acting in consultation with the Minister of Finance: Provided that the remuneration, allowances, leave or other privileges and conditions of service of an ordinary member, an additional member and an alternate member may differ.

[subsection (5) amended by Act 67 of 1970]

Functions of the board

3. The functions of the board shall be to advise the Minister in regard to the value of land and any rights in or over land, the alienation and allocation of State land, and in regard to any other matter which the Minister may refer to the board.

Acquisition of land for farming purposes

4. (1) The Minister may -
- (a) out of moneys appropriated by Parliament for the purpose, purchase any land which he considers suitable for or for use in connection with farming purposes;

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- (b) exchange any State land for any other land which he considers suitable for or for use in connection with such purposes, and issue a deed of grant in respect of any land so exchanged.

(2)

[subsection (2) deleted by Act 63 of 1975]

(3)

[subsection (3) substituted by Act 67 of 1970 and deleted by Act 63 of 1975]

- (4) Land acquired under this section -

- (a) in the Republic, shall be transferred to and registered in the name of the Republic of South Africa;
- (b) in the territory, shall be transferred to and registered in the name of the Administration of the territory.

[subsection (4) substituted by Act 67 of 1970]

~~Disposal of State land not suitable for farming purposes~~

~~5. State land, which in the opinion of the Minister is not suitable or required for farming purposes, may be disposed of under section 2 of the State Land Disposal Act, 1961 (Act No. 48 of 1961).~~

[Section 5 was not made applicable to South West Africa.]

Development of State land for farming purposes

6. The Minister may develop for or for use in connection with farming purposes any State land which in the opinion of the board is suitable for or for use in connection with any such purposes, or construct any works thereon.

Offences

7. Any person who -

- (a) being a member of the board, is present at or takes part in any discussion of or voting upon any matter before the board, or endeavours to influence the opinion or vote of any other such member in respect of such matter, if such or to his knowledge any other person related to him in the third or a closer degree of affinity or consanguinity has any pecuniary or other interest in such matter, whether as a partner, creditor, debtor or otherwise;
- (b) being a member of the board, receives directly or indirectly any fee or reward from any person in respect of or in connection with any matter dealt with by the board;
- (c) being a member of the board, discloses, except in a report to the Minister or the Secretary for Agricultural Credit and Land Tenure, the vote or opinion of himself or any other such member on any matter relating to the performance of the functions of the board;

[The definition of “Minister” was changed from the “Minister of Agricultural Credit and Land Tenure” to the “Minister of Agriculture” by Act 67 of 1970, but no corresponding change was made to the reference to the “Secretary for Agricultural Credit and Land Tenure” in paragraph (c).]

- (d) in respect of or in connection with any matter dealt with by the board, gives or offers any fee or reward to any member of the board for the purpose of corruptly influencing or inducing him to act in conflict with his duty under this Act,

shall be guilty of an offence and liable on conviction to a fine not exceeding one thousand rand or, in default of payment, to imprisonment for a period not exceeding five years.

Regulations

8. The Minister may make regulations relating to -
- (a) the calling of and procedure and quorum at meetings of the board and the appointment of alternates to members of the board;
- (b) any other matter in respect of which he deems it necessary or expedient to make regulations in order to achieve the objects of this Act.

Delegation of powers

9. The Minister may delegate any power conferred upon him by this Act, other than the powers referred to in subsections (1)(b), (2), (3) and (5) of section 2 and in section 8, to any officer of the State (including the Administration of the territory), but is not thereby divested of any power so delegated, and may amend or withdraw any decision of such officer.

[section 9 amended by Act 67 of 1970 and substituted by Act 16 of 1972]

Interpretation of references to the central land board or State Settlement and Farmers’ Assistance Board in certain laws

10. Any reference to the “central land board” in any law not repealed by the Agricultural Credit Act, 1966, shall be construed as a reference to the board, and any reference to the “State Settlement and Farmers’ Assistance Board” in any law not repealed State by the Agricultural Credit Amendment Act, 1970, shall be construed as a reference to the board established by section 2 of the first-mentioned Act.

[Section 10 is substituted by Act 67 of 1970. Namibia’s Agricultural Bank Amendment Act 27 of 1991 repealed the RSA Agricultural Credit Act 28 of 1966. The current legislation is the Agricultural Bank of Namibia Act 5 of 2003.]

Application of Act to South-West Africa

10A. This Act and any amendment thereof which may be made from time to time, with the exception of section 5, shall apply also in the territory.

[section 10A inserted by Act 67 of 1970]

Short title and date of commencement

11. This Act shall be called the Land Tenure Act, 1966, and shall come into operation on a date to be fixed by the State President by notice in the *Gazette*.