



GOVERNMENT GAZETTE

OF THE

REPUBLIC OF NAMIBIA

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No. 490

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Government Notice

OFFICE OF THE PRIME MINISTER

No. 133

1992

PROMULGATION OF ACT OF THE NATIONAL ASSEMBLY

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

No. 28 of 1992: Townships and Division of Land Amendment Act, 1992.

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AMENDMENT ACT, 1992**

EXPLANATORY NOTE:

- _____ Words underlined with solid line indicate insertions in existing enactments.
- [] Words in bold type in square brackets indicate omissions from existing enactments.

ACT

To amend the Townships and Division of Land Ordinance, 1963, so as to entrust to the Minister of Local Government and Housing certain powers and functions in relation to the proclamation and deproclamation of townships and the extension of the boundaries of townships; to adjust certain provisions of the Ordinance in view of the independence of Namibia; and to provide for matters incidental thereto.

(Signed by the President on 18 September 1992)

BE IT ENACTED by the National Assembly of the Republic of Namibia, as follows:-

Amendment of section 1 of Ordinance 11 of 1963, as amended by section 1 of Ordinance 36 of 1967 and section 2 of Ordinance 10 of 1973.

1. Section 1 of the Townships and Division of Land Ordinance, 1963 (hereinafter referred to as the Ordinance), is hereby amended -

- (a) by the deletion of the definition of "Executive Committee";
- (b) by the deletion in the definition of "general plan" of the words "in the Territory";
- (c) by the substitution for the definition of "local authority" of the following definition:

" 'local authority' means a local authority established by or under the laws governing local authorities;";
- (d) by the insertion of the following definitions after the definition of "local authority":

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“ ‘Minister’ means the Minister of Local Government and Housing;

‘Namibia Planning Advisory Board’ means the board referred to in section 9 of the Town Planning Ordinance, 1954 (Ordinance 18 of 1954);”;

‘Permanent Secretary’ means the Permanent Secretary: Local Government and Housing;”;
and

(e) by the deletion of the definition of “South West African Planning Advisory Board”.

2. Section 6 of the Ordinance is hereby amended -

(a) by the substitution for paragraph (d) of subsection (3) of the following paragraph:

“(d) the reservation of erven for the [**Administration**] State or for local authority purposes;”;

(b) by the deletion of paragraph (e) of subsection (3);
and

(c) by the substitution for paragraph (k) of subsection (3) of the following paragraph:

“(k) the endowment, if any, which should be paid to a future authority or the [**Executive Committee**] State in trust for a future local authority;”.

3. The following section is hereby substituted for section 13 of the Ordinance:

“Establishment
of township.

13. Upon receipt of a notification from the Registrar of Deeds that the provisions of section [~~twelve~~] 12 have been complied with, the [**Executive Committee**] Minister shall by [**proclamation**] notice in the [**Official Gazette**] declare the area represented by the general plan concerned to be an approved township and such [**proclamation**] notice shall set forth in a schedule thereto the conditions subject

Amendment of section 6 of Ordinance 11 of 1963, as amended by section 3 of Ordinance 36 of 1967 and section 1 of Ordinance 10 of 1973.

Substitution of section 13 of Ordinance 11 of 1963, as amended by section 4 of Ordinance 36 of 1967 and section 1 of Ordinance 10 of 1973.

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to which the application for permission to establish the township concerned has been granted.”.

Amendment of section 14 of Ordinance 11 of 1963, as amended by section 1 of Ordinance 10 of 1973.

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

“(1) When a township has been proclaimed an approved township, under the provisions of this Ordinance or any other [**Ordinance**] law, the *dominium* of the land therein comprising all public places shall *ipso facto* vest in the local authority within whose area of jurisdiction such land is situated, or if such land is not situated within the area of jurisdiction of a local authority, in the [**Executive Committee**] State in trust for any local authority which may thereafter be constituted in respect of the area within which such land is situated.”.

Amendment of section 15 of Ordinance 11 of 1963, as amended by section 1 of Ordinance 10 of 1973.

5. Section 15 of the Ordinance is hereby amended -

(a) by the substitution for subsection (1) of the following subsection:

“(1) No transfer of any land or erf in any township established [**after the commencement of**] under this Ordinance, shall be registered in the Deeds Registry -

(a) unless and until the township owner concerned has transferred to the [**Executive Committee**] State such land or erven as have been reserved for the [**Administration**] State and such land or erven, other than public places, as have been reserved for any public purpose other than those referred to in paragraph (b) hereof; and

(b) unless and until such owner has transferred to the local authority within whose area of jurisdiction such township is situated, or, if such township is not situated within the area of jurisdiction of any local authority, to the [**Executive Committee**] State in trust for any local authority which may thereafter be constituted in respect of the area comprised in such township or any portion thereof, such land as has been reserved for townlands, such land or erven as have been reserved for local

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authority purposes, and such land or erven as have been reserved for the endowment of any such local authority.”;

- (b) by the repeal of subsection (2);
- (c) by the substitution for subsection (3) of the following subsection:

“(3) The [**Executive Committee**] Minister shall upon the constitution of any local authority for which [**he holds any**] land is held in trust by the State under the provisions of this section, transfer all such land to such local authority. The Registrar of Deeds shall effect such transfer free of duty and fees of office.”; and

- (d) by the substitution for subsection (4) of the following subsection:

“(4) The [**Executive Committee**] Minister may authorize any land, which is held by [**him**] the State under the provisions of this section in trust for a future local authority to be constituted, to be used by any public body established for the township or for the portion of the township in which that land is situate, or to be devoted to the use and benefit of the inhabitants of the township in such manner and subject to such conditions as [**he**] the Minister deems fit.”.

Substitution of section 17 of Ordinance 11 of 1963, as amended by section 5 of Ordinance 36 of 1967 and section 1 of Ordinance 10 of 1973.

6. The following section is hereby substituted for section 17 of the Ordinance:

“Conditions to be embodied in title deeds.

17. No transfer of any erf in a township established under the provisions of this Ordinance or any prior law, shall be registered in the Deeds Registry unless the conditions that are, under this Ordinance or any prior law, required to be registered against the title deeds of erven in such township are embodied therein.”.

Amendment of section 19 of Ordinance 11 of 1963, as amended by section 6 of Ordinance 36 of 1967, sections 1 and 7 of Ordinance 10 of 1973, section 1 of Ordinance 17 of 1975 and section 1 of Act 3 of 1985.

7. Section 19 of the Ordinance is hereby amended -

- (a) by the substitution for paragraph (b) of subsection (5) of the following paragraph:

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“(b) Any endowment paid in terms of this subsection shall be used by the local authority, or the **[Cabinet] State**, as the case may be, to finance and carry out betterment works or for erecting, constructing or acquiring amenities or public places in the public interest;” and

(b) by the substitution for subsection (10) of the following subsection:

“(10) If, by any subdivision in terms of this section, new public places are created, the *dominium* of the land comprising such public places shall *ipso facto* vest in the local authority within whose area of jurisdiction such land is situated, or if such land is not situated within the area of jurisdiction of a local authority, in the **[Executive Committee] State** in trust for any local authority which may thereafter be constituted in respect of the area within which such land is situated. The provisions of subsections (2) and (3) of section **[fourteen] 14** and the provisions of section **[twenty-five] 25** shall, *mutatis mutandis*, apply to all such land.”.

Amendment of section 24 of Ordinance 11 of 1963, as amended by sections 1 and 10 of Ordinance 10 of 1973.

8. Section 24 of the Ordinance is hereby amended by the substitution for subsection (7) of the following subsection:

“(7) If the **[Executive Committee] Minister** grants the application in respect of the whole or a portion of the area which the applicant desires to have deproclaimed, he or she shall, upon being satisfied that the conditions imposed by him or her in terms of this section have been fulfilled, in so far as they are capable of being fulfilled before deproclamation, by **[proclamation] notice** in the **[Official] Gazette** declare the township or portion of the township no longer to be a township or no longer to form portion of a township. Thereupon the area so deproclaimed shall cease to be a township or to form portion of a township.”.

Amendment of section 25 of Ordinance 11 of 1963, as amended by section 1 of Ordinance 10 of 1973.

9. Section 25 of the Ordinance is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) Whenever any township or any portion of any township is deproclaimed under the provisions of

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section [~~twenty-four~~] 24 the *dominium* of the land comprising all public places situated within such township or such portion of a township shall *ipso facto* re-vest in the person on whose application such deproclamation took place, and all land and erven which, in terms of [~~section eleven of the Townships Proclamation, 1920 (Proclamation 68 of 1920) or section eighteen of the Townships Ordinance, 1928 (Ordinance 11 of 1928)~~], the provisions of any prior law or section [~~fifteen~~] 15 of this Ordinance, have been transferred to a local authority or to the [~~Executive Committee~~] State in trust for a local authority to be constituted, and which are still registered in the name of such local authority or in the name of the [~~Executive Committee~~] State in trust for such local authority, as the case may be, shall be transferred to the person on whose application such deproclamation took place: Provided that such re-vesting or transfer shall be subject to such conditions as the [~~Executive Committee~~] Minister may impose: Provided further that the costs of and in connection with such re-vesting and transfer shall be paid by such applicant.”.

Amendment of section 29 of Ordinance 11 of 1963, as amended by section 1 of Ordinance 10 of 1973 and section 1 of Ordinance 9 of 1977.

10. Section 29 of the Ordinance is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) Whenever any area of land constitutes, by reason of its situation, a portion of an approved township, or adjoins an approved township, the [~~Executive Committee~~] Minister may, by [~~proclamation~~] notice in the [~~Official~~] Gazette and after consultation with the Board, extend the boundaries of that township to include such area.”.

Amendment of section 31A of Ordinance 11 of 1963, as inserted by section 11 of Ordinance 36 of 1967 and amended by sections 1 and 12 of Ordinance 10 of 1973.

11. Section 31A of the Ordinance is hereby amended by the substitution for paragraph (b) of subsection (2) of the following paragraph:

“(b) the making of any variation of any such conditions in terms of this subsection, together with particulars of such variation, shall be notified by the [~~Executive Committee~~] Minister by [~~proclamation~~] notice in the [~~Official~~] Gazette.”.

Substitution of certain words and expressions in Ordinance 11 of 1963.

12. The Ordinance is hereby amended -

(a) by the substitution for the word “Administration”, wherever it occurs, of the word “State”;

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- (b) by the substitution for the expression "Executive Committee", wherever it occurs, of the word "Minister";
- (c) by the substitution for the expression "Secretary for South West Africa", wherever it occurs, of the expression "Permanent Secretary";
- (d) by the deletion in the expression of "*Official Gazette*", wherever it occurs, of the word "*Official*";
- (e) by the substitution for the expression "South West African Planning Advisory Board", wherever it occurs, of the expression "Namibia Planning Advisory Board"; and
- (f) by the substitution for the expression "Territory Revenue Fund", wherever it occurs, of the expression "State Revenue Fund".

Short title.

13. This Act shall be called the Townships and Division of Land Amendment Act, 1992, and shall come into operation on a date to be determined by the Minister by notice in the *Gazette*.
