



# GOVERNMENT GAZETTE

OF THE

# REPUBLIC OF NAMIBIA

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## CONTENTS

*Page*

### GOVERNMENT NOTICE

No. 261	Promulgation of Agricultural (Commercial) Land Reform Second Amendment Act, 2003 (Act No. 19 of 2003), of the Parliament .....	1
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## Government Notice

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### OFFICE OF THE PRIME MINISTER

No. 261

2003

### PROMULGATION OF ACT OF PARLIAMENT

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

No. 19 of 2003: Agricultural (Commercial) Land Reform Second Amendment Act, 2003.

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**ACT**

To amend the Agricultural (Commercial) Land Reform Act, 1995 so as to empower the Minister to prescribe a tariff of different rates of land tax in respect of different categories of owners or different categories of agricultural land; to provide the basis for such differentiation of rates; to provide for the establishment of a system and process of registration of owners to identify the category into which they fall for the purpose of determining the appropriate rate of land tax applicable to them; and to provide for connected and incidental matters.

*(Signed by the President on 21 December 2003)*

**BE IT ENACTED** by the Parliament of the Republic of Namibia, as follows:

**Amendment of section 18 of Act No. 6 of 1995, as amended by section 3 of Act No. 2 of 2001**

1. Section 18 of the Agricultural (Commercial) Land Reform Act, 1995 is amended -

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

“(1) The Registrar shall not register any transfer of agricultural land unless -

(a) a certificate of waiver; **[and]**

(b) a land tax clearance certificate; and

(c) a fully completed land tax registration form contemplated in section 76(1A)(c),

in respect of such land is submitted to the Registrar.”; and

(b) by the substitution for the opening sentence of subsection (2) of the following opening sentence:

“(2) The provisions of paragraphs (a) and (c) of subsection (1) shall not apply where -”.

**Amendment of section 76 of Act No. 6 of 1995, as amended by section 6 of Act No. 2 of 2001**

2. Section 76 of the Agricultural (Commercial) Land Reform Act, 1995 is amended -

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

“(b) by notice in the *Gazette* determine the **[rate] rates** of such land tax **[which rate may be a progressive rate increasing in proportion as the size of a farm, and the number of farms owned by a particular owner, increases].**”; and

- (b) by the insertion after subsection (1) of the following subsection:

“(1A) A notice referred to in paragraph (b) of subsection (1) may -

- (a) prescribe a tariff of different rates in respect of different categories of owners or different categories of agricultural land, differentiating on the basis of any one or more of the following -
- (i) nationality or residence of owner;
  - (ii) size of agricultural land;
  - (iii) the number of farms owned by the same owner;
  - (iv) activities carried on or predominantly carried on agricultural land, whether farming operations or otherwise, by an owner or any person having the right of occupation and use of agricultural land through the owner thereof; or
  - (v) any other basis which the Minister may determine and prescribe in the notice;
- (b) provide, for the purposes of paragraph (a)(iii), that where more than one farm is possessed or controlled by a person, whether as individual owner or through a controlling interest in the shareholding or membership of a company or a close corporation or any other form of legal entitlement or representation, including a trust of which the person has the right of appointment of the trustee or of designating beneficiaries, and which company, close corporation, trust or trustee is the owner, that such farms must be deemed to be owned by the same owner;
- (c) establish a system and process of registration of owners to identify the category into which they fall and determining the appropriate rate of land tax applicable to them, and provide for the form and manner in which application for registration is to be made; and
- (d) create offences for a contravention of or failure to comply with a provision of the notice relating to a process of registration contemplated in paragraph (c) or for knowingly give false or misleading information in any document furnished in connection with the process of registration, and prescribe penalties for such offences not exceeding a fine of N\$20 000 or a period of five years imprisonment, or both such fine and such imprisonment.”.

#### **Short title and commencement**

3. This Act -
- (a) is called the Agricultural (Commercial) Land Reform Second Amendment Act, 2003; and
  - (b) commences on a date to be determined by the Minister by notice in the *Gazette*.
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