



Republic of Namibia
Annotated Statutes

REGULATIONS

REGULATIONS MADE IN TERMS OF

Agricultural (Commercial) Land Reform Act 6 of 1995

section 77

General Regulations

Government Notice 272 of 1996

(GG 1426)

came into force on date of publication: 17 October

as amended by

Government Notice 243 of 2001 (GG 2663)

came into force on date of publication: 15 December 2001

Government Notice 181 of 2005 (GG 3555)

came into force on date of publication: 15 December 2005

and possibly as intended to be amended by

Government Notice 120 of 2014 (GG 5530)

came into force on date of publication: 13 August 2014

GN 120/2014 (GG 5530) says that it is amending the Regulations relating to the Acquisition of Land by Foreign Nationals contained in GN 257/1996, but this statement seems to be an error. The Regulations relating to the Acquisition of Land by Foreign Nationals contained in GN 257/1996 contain only one form, which has no number. GN 120/2014 inserts a Form 1A and a Form 4 after Form 3. The General Regulations in GN 272/196 contain a Form 1 and a Form 2, but no Form 3.

Thus, the numbers of the forms in GN 120/2014 do not fit correctly with either of these sets of regulations. However, the forms in GN 120/2014 appear to concern sale and wavier in general (in terms of section 17 of Act 6 of 1995) rather than being relevant only to foreigner nationals (in terms of section 58 of Act 6 of 1995). Since it appears that these forms may have been intended to be additions to these regulations, they are included here for reference.

There are other errors in GN 120/2014. It states "In these regulations "the Regulations" means the regulations in relation to Acquisition of Agricultural Land by foreign nationals, published under Government Notice No. 257 of 19 September 1996 as amended by Government Notice Nos. 272 of 17 October 1996, 243 of 15 December 2001, 259 of 29 December 2001, 128 of 1 June 2004, 181 of 15 December 2005, 120 of 3 July 2007, 143 of 1 August 2007, and 241 of 6 September 2013." **This statement is incorrect.**

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Regulations relating to the Acquisition of Agricultural Land by Foreign Nationals were published in GN 257/1996, but all of the other Government Notices referred to concern other sets of regulations issued under the Act – with the exception of GN 143/2007, which is not a regulation but a notice issued under regulation 3 of the Land Valuation and Taxation Regulations concerning the dates for a general valuation of agricultural land. (Two of the previous amendments listed are amendments to these regulations.)

ARRANGEMENT OF REGULATIONS

1. Definitions
2. Particulars to be furnished in connection with an offer to sell agricultural land to the State
3. Certificate of waiver
4. Application for option to purchase a farming unit

Form 1: Certificate of waiver

Form 2: Application for an option to purchase a farming unit

[Form 1A: Certificate of waiver for previously disadvantaged person]

[Form 4: Offer of sale of agricultural land]

[GN 120/2014 possibly intended to insert Form 1A and Form 4 here, although it states that it is amending another set of regulations.]

Definitions

1. In these regulations, unless the context otherwise indicates, any word or expression defined in the Act shall have that meaning, and -

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

Particulars to be furnished in connection with an offer to sell agricultural land to the State

2. An offer to sell agricultural land to the State, as required by section 17 of the Act, shall contain or be accompanied by a statement containing the following information:

- (a) The name, nationality, postal address, business address and telephone number of the owner of the land;

[The word “the” at the beginning of paragraph (a) should not be capitalised.]

- (b) a description of the location of the land, with reference to the road along or in the vicinity of which it is situated, the nearest town and the distance from, and direction of situation in relation to such town, and any other information that may assist in locating the land;
- (c) whether the owner is residing on the land and the period for which he or she has been residing thereon, and if the owner is not personally resident on the land, particulars as to the management of the farming or other operations carried on upon the land;

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- (d) if a person other than the owner is entitled to the beneficial occupation of the land, the name and address of such person and the nature and particulars of the right under which that person occupies the land; and
- (e) the present land use, with reference to -
 - (i) the nature of the farming or other operations being carried on upon the land;
 - (ii) the dimensions of areas comprising -
 - (aa) cultivated land;
 - (bb) orchards;
 - (cc) vineyards;
 - (dd) commercial plantations; and
 - (ee) grazing-land;

with an indication in each case of the extent of such area which is arid land or under irrigation;
 - (iii) the number of livestock, large and small, currently kept on the land; and
 - (iv) the carrying capacity for livestock, and the natural grazing conditions;
- (f) particulars of water resources on or available to the land, including dams weirs, boreholes, reservoirs and other fixed works in connection with the development and use of water on the land as well as information concerning -
 - (i) the State Water Control Area in which the land is situated;
 - (ii) if a permit is held in relation to the use of water, the number and date of issue of such permit and the quantity of water to which the land is entitled per year thereunder;
 - (iii) the number of hectares permitted to be irrigated under any irrigation scheme which may be applicable to the land;
- (g) a description of all buildings and structures on the land, including the materials of construction and approximate areas thereof and, if known, the year of their erection or construction;
- (h) particulars of other developments on the land, including soil conservation and irrigation works, grazing camps, and the nature and distance of boundary and other fencing;
- (i) whether any exploration or mining operations are being carried on upon the land and, where applicable, the nature of such operations and, if known, the type of licence under which the operations are carried on and the name and address of the holder of the licence;

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- (j) particulars of any interest, lease, right of occupation or any other encumbrance affecting the land, the name and address of every person entitled to the benefit thereunder and, if available, a copy of the deed or other instrument embodying such interest, lease, right or encumbrance;
- (k) the number of employees and their family members residing on the land; and
- (l) any other information which the owner considers necessary or relevant to mention in connection with the offer to sell.

Certificate of waiver

3. A certificate of waiver referred to in section 16 of the Act shall be in the form set out in Form 1 in the Annexure.

Application for option to purchase a farming unit

4. An application for an option to purchase a farming unit in terms of section 47(2) of the Act shall be in the form set out in Form 2 in the Annexure.

FORMS

To view content without printing, scroll down.

To print at full scale (A4), double-click the icon below.



GN 181/2005
Form 1



GN 272/1996
Form 2



GN 120/2014
Forms 1A & 4

[Form 1 is substituted by GN 243/2001 and by GN 181/2005.

Form 1A and Form 4 may have been intended to be inserted “after Form 3” by GN 120/2014 – which states that it is amending another set of regulations, but seems by virtue of its subject matter to have been intended as an amendment to these regulations. There is no “Form 3” in either these regulations or in the regulations identified by GN 120/2014 as the ones being amended. It is possible that the forms in question were intended to be inserted after Form 2 of these regulations.]

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Form 1

CERTIFICATE OF WAIVER

(Section 16 of the Agricultural (Commercial)
Land Reform Act, 1995, and regulation 3)

I,, the Minister of Lands and Resettlement of the Republic of Namibia, certify that the State waives its preferent right to purchase agricultural land, as conferred by subsection (1) of section 17 of the Agricultural (Commercial) Land Reform Act, 1995 (Act No. 6 of 1995), in respect of the agricultural land described below, which has in terms of that section been offered for sale to the State by the owner mentioned below, and does not intend to acquire that agricultural land at the time of the offer.

This certificate of waiver does not entitle the owner to sell or otherwise dispose of the mentioned agricultural land to a foreign national without the prior written consent of the Minister of Lands and Resettlement, as required by section 58(1) of the Agricultural (Commercial) Land Reform Act, 1995, having been obtained by the foreign national who intends to acquire that agricultural land.

In terms of subsection (1) of section 17A of the Agricultural (Commercial) Land Reform Act, 1995, this certificate of waiver is valid for a period of one year from the date of issue, unless extended by the Minister of Lands and Resettlement under subsection (2) of that section.

Description of agricultural land:

Certain:

Registration Division:

Region:

Deed of Transfer No:

Owner:

Date of Offer:

Signed at Windhoek, on

.....
Minister of Lands and Resettlement

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Form 2

**APPLICATION FOR AN OPTION TO PURCHASE
A FARMING UNIT**

*(Section 47(1) of Agricultural (Commercial) Land
Reform Act, 1995 and Regulation 3)*

To: The Minister of Lands, Resettlement and Rehabilitation.

I,
(full names of applicant)

hereby apply to the Minister of Lands, Resettlement and Rehabilitation, in my -

- *personal capacity
- *capacity as director of the company.....
- *capacity as member of the close corporation

(delete whichever is not applicable)*

for the grant of an option to purchase the farming unit
(description)

and give the information in the relevant Part below.

I declare that the information given below and any accompanying statement or document is true to the best of my knowledge and belief.

.....
Date Signature of applicant

[If the space allowed under an item is insufficient, a separate sheet with item numbers and information and duly signed by applicant should be attached]

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PART A

[TO BE COMPLETED IF LESSEE IS A NATURAL PERSON]

1. (a) Full name of lessee
-
- (b) Address
-
- (c) Date and place of birth
- (d) Nationality
- (e) Identity document/passport No.
2. (a) Full name of spouse
- (b) Date and place of birth
- (c) Nationality
- (d) Identity document/passport No.
3. (a) Date of commencement of lease
- (b) Date of registration of lease in Deeds Registry
- Registration number
- [Attach a copy of the Agreement of Lease]*
4. (a) Date on which lessee took up effective occupation of farming unit... ..
-
- (b) Particulars of period(s), if any, that lessee was not resident on farming unit and reasons therefor
-
-
5. Full description and estimated values of improvements effected by the lessee on the farming unit since the commencement of the lease:
-
-
-
-
-
6. (a) Nature of farming operations:
-
-
-

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- (b) Number of livestock (*large and small*):
- (c) Area of cultivated lands and type of crops:
- (d) Nature of any other operations:

7. Number of persons residing on the farming unit:

- (a) Family or other persons (other than employees and their family members) and their relationship to lessee:
- (b) Employees
- (c) Family members of employees

8. (a) Period which lessee proposes should be allowed for exercise of option

- (b) Terms and conditions relating to payment of purchase price and time for registration of transfer which lessee proposes to be contained in contract of sale if option is exercised:

9. Statement of assets and liabilities of lessee, with an indication of the nature and amount of encumbrances (if any) attached to any assets:

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.....

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PART B

[TO BE COMPLETED IF LESSEE IS A COMPANY OR CLOSE CORPORATION]

1. (a) Name of Lessee
.....
- (b) Postal address
.....
- (c) Address of registered office
.....
- (d) Number of certificate of incorporation
- (e) Authorized and issued share capital (*in the case of a company*)
.....
- (f) Particulars and total value of members' contributions
(*in the case of a close corporation*)
.....
- (g) Name, address and nationality of each shareholder or member and
the number of shares or percentage of member's interest held by each
.....
.....
.....
.....
2. (a) Date of commencement of lease
- (b) Date of registration of lease in Deeds Registry
Registration number
- [Attach a copy of the Agreement of lease]*
3. (a) Name and address of manager residing on farming unit
.....
.....
- (b) Date on which manager took up occupation of farming unit
- (c) Particulars of period(s), if any, that lessee did not occupy the farming
unit through a manager and the reasons therefor
.....
.....

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- 4. Full description and estimated values of improvements effected by the lessee on the farming unit since the commencement of the lease:
- 5. (a) Nature of farming operations
- (b) Number of livestock (*large and small*)
- (c) Area of cultivated lands and type of crops
- (d) Nature and extent of any other operations
- 6. Number of persons residing on the farming unit:
 - (a) Persons other than employees and their family members
 - (b) Employees
 - (c) Family members of employees
- 7. (a) Period which lessee proposes should be allowed for exercise of option
- (b) Terms and conditions as to manner of payment of purchase and time for registration of transfer which lessee proposes to be included in contract of sale if option is exercised:

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8. **Statement of assets and liabilities of lessee, with an indication of the nature and amount of encumbrances (if any) attached to any assets (*Attach a copy of the audited financial statements of the company/ of the approved financial statements of the close corporation for the last financial year*)**

.....
.....
.....
.....

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FORM 1A

CERTIFICATE OF WAIVER FOR PREVIOUSLY DISADVANTAGED PERSON

AGRICULTURAL (COMMERCIAL) LAND REFORM ACT, 1995 (ACT NO. 6 OF 1995)

(Section 17(2)(b) (Section 77))

I in my capacity as Minister of Lands and Resettlement of the Republic of Namibia, certify that the State waives its preferent right to purchase agricultural land, as conferred by subsection (2) of section 17 of the Agricultural (Commercial) Land Reform Amendment Act, 2014 (Act No. 1 of 2014), in respect of the agricultural land described below, which has in terms of that section been offered for sale to the State by the owner mentioned below, and the State waives its preferent right to acquire the land in favour of the purchaser mentioned below who is a previously disadvantaged person contemplated in Article 23(2) of the Namibian Constitution.

This certificate of waiver does not entitle the owner to sell or otherwise dispose of the agricultural land mentioned below to anyone whatsoever, including to a foreign national or nationals except the purchaser or purchasers mentioned below, without first having offered such land to the State as required by section 17(2) of the Agricultural (Commercial) Land Reform Amendment Act, 2014, (Act No. 1 of 2014).

DESCRIPTION OF AGRICULTURAL LAND:

CERTAIN :

EXTENT :

REGISTRATION DIVISION :

REGION :

DEED OF TRANSFER NO. :

PURCHASE PRICE :

DATE OF OFFER :

DETAILS OF OWNER(S):

FULL NAMES AND IDENTITY NUMBER(S):

FULL ADDRESS :

FULL CONTACT DETAILS :

DETAILS OF PURCHASER(S): (Previously Disadvantaged Namibian(s))

FULL NAMES AND IDENTITY NUMBER(S):

FULL ADDRESS :

FULL CONTACT DETAILS :

Signed at Windhoek on

.....
Minister of Lands and Resettlement

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FORM 4

OFFER OF SALE OF AGRICULTURAL LAND: AGRICULTURAL (COMMERCIAL) LAND
REFORMACT, 1995 (ACT NO. 6 OF 1995)

(Section 17(2)(a), (Section 77))

I, Mr./ Mrs./ Ms* the registered owner/ duly authorized agent of the owner*
of the property

of property known as and No. in
Registration Division

hereby offer the said property for sale to the Government through the Permanent Secretary, Ministry
of Lands and Resettlement: Private Bag 13343 Windhoek.

I further certify that the information given in this form is true and to the best of my knowledge.

I have attached as required:

- i. Copy of Deed of Transfer No.
- ii. Copy of farm plan

.....
Date Signature of registered owner/agent**

.....
Date Signature of Spouse

Address of registered owner

.....

Tel. No.

Fax. No.

* Delete where necessary.

** If the offer is made by an agent a letter of authority from the registered owner should be attached.

Please draw a sketch plan showing the access and location of property. (Indicate clearly the boundaries
of the property and access from a well known landmark with approximate distances)

Sketch Plan

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SECTION 1

A	Name of Agricultural Property	Number of Agricultural Property	Registration Division			
	Area of land HA				
	Date of Purchase and Purchase price					
	Name of Owner					
B	Nationality					
	Postal Address					
	Telephone					
	Fax					
C	Period of occupation by the owner whether she or he is residing on the farm; if not state last date of residence					
	Name of occupier if not occupied by the owner. State whether leased or not.					
	Terms of occupation or lease	Period of lease	From	To	Rent p.a.	Other details
..... years						
D	Sale Price	Rate per Ha		Price		
E	Servitudes and other rights existing over the property if any.					

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2 IMPROVEMENTS

If existing at the time of purchase, an estimate may be made of the respective costs of the items listed below. The items added after purchase of property should be stated at the cost as at date of construction/installation. If space provided is not sufficient, please use part (xiv).
When completing the column "condition", please use the terms, very good, good, average and poor.

BUILDINGS

	Year of construction	Cost of construction	Materials used				Condition
			Roof	Floor	Walls	Floor area	
- Main house		N\$					
- Subsequent additions, if any		N\$					
- Outbuildings Stores 1 2 3		N\$					
- Garage		N\$					
- Workshops		N\$					
- Workers quarters		N\$					
- Others		N\$					
<i>Total</i>		N\$					

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3. AGRICULTURAL IMPROVEMENTS

(1) BOREHOLES

	Yield	Depth (m)	Date of Installation	Total cost of Installation	Condition
Borehole 1					
Borehole 2				N\$	
Borehole 3				N\$	
Borehole 4				N\$	
Borehole 5				N\$	
Others				N\$	
				Total N\$	

(2) PUMPS

	Brand Name	Capacity	Serial no.	Date of Installation	Cost of Installation	Condition
No. 1					N\$	
No. 2					N\$	
No. 3					N\$	
No. 4					N\$	
No. 5					N\$	
Others					N\$	
					Total N\$	

(3) ENGINES

	Brand Name	Capacity	Serial no.	Date of Installation	Cost of Installation	Condition
No. 1					N\$	
No. 2					N\$	
No. 3					N\$	
No. 4					N\$	
No. 5					N\$	
Others					N\$	
					Total N\$	

(4) WINDMILLS

	Brand Name	Capacity	Serial no.	Date of Installation	Cost of Installation	Condition
No. 1					N\$	
No. 2					N\$	
No. 3					N\$	
No. 4					N\$	
No. 5					N\$	
Others					N\$	
					Total N\$	

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(5) UNDERGROUND PIPING

Total Length	Material used	Diameter	Date of Installation	Cost of Installation	Condition
				N\$	
				N\$	
				Total N\$	

(6) RESEVOIRS

	Capacity (m)	Serial no.	Date of Installation	Cost of Installation	Condition
No. 1				N\$	
No. 2				N\$	
No. 3				N\$	
No. 4				N\$	
No. 5				N\$	
Others				N\$	
				Total N\$	

(7) DRINKING TROUGHES

	Capacity (m)	Serial no.	Date of Installation	Cost of Installation	Condition
No. 1				N\$	
No. 2				N\$	
No. 3				N\$	
No. 4				N\$	
No. 5				N\$	
Others				N\$	
				Total N\$	

(8) DETAILS OF CAMPS

Please state whether all camps are established as shown in the farm plan submitted.

No.	Size (HA)	No.	Size (HA)	No.	Size (HA)	No.	Size (HA)	Condition

(9) FENCING

	Type of material used and number of strands	Cost of Installation	Condition
(a) Total length of external boundary fence		N\$	
(b) Total length of internal fence		N\$	
		Total N\$	

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(10) ANY OTHER IMPROVEMENTS (not included in the above sections)

Nature of improvement	Material used	Date of Installation	Cost	Condition
			N\$	
			N\$	
			Total N\$	

(11) MINING OPERATIONS

State whether any exploration of mining operations are being carried on or upon land. If so, the nature of such operation, name of holder and type of licence must be stated.	
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(11) DETAILS OF FARM WORKERS

Name	Marital Status	Number of children if any and ages

(12) ANY OTHER INFORMATION

This space may be used if space provided in (i) - (xii) is insufficient to submit all relevant information.

Signature of owner/Authorized Agent

Date

Signature of Spouse

Date

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SECTION 3
DECLARATION

a) I/We do solemnly declare that I/We offered the farm(s) No. Registration Division
No. measuring hectares in Region.

b) I/We further declare that the property(ies) offered above is/are free from any encumbrances
of any nature that might prohibit the full occupation and enjoyment thereof by the purchaser
and that the information provided above is true and correct to the best of my/our knowledge.

Signature:

Place:

Date:

Before me:
(Commissioner of Oaths)
