



Republic of Namibia
Annotated Statutes

REGULATIONS

REGULATIONS MADE IN TERMS OF

Mountain Catchment Areas Act 63 of 1970
section 38

Regulations under the Mountain Catchment Areas Act, 1970

RSA Government Notice R.1606 of 1971

[\(RSA GG 3255\)](#)

came into force on date of publication: 17 September 1971

as amended by

RSA Government Notice 1260 of 1976 [\(RSA GG 5230\)](#)

came into force on date of publication: 23 June 1976

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1. DEFINITIONS

1.1 In these regulations “the Act” means the Mountain Catchment Areas Act, 1970 (Act 63 of 1970), and, unless the context otherwise indicates, any expression to which a meaning has been assigned in the Act shall have the meaning so assigned thereto.

2. FIRE PROTECTION COMMITTEES

2.1 *Constitution*

A fire protection committee established in terms of section 7 of the Act shall consist of

- (a) one member nominated by an agricultural union recognised by the Minister as being representative of owners in the mountain catchment area concerned;
- (b) one member nominated by each recognised urban local authority whose area of jurisdiction or portion thereof is situated within the mountain catchment area concerned;

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- (c) one member nominated by each divisional council whose area of jurisdiction or portion thereof is situated within the mountain catchment area concerned;
- (d) not more than four members, who are owners or represent owners in the mountain catchment area concerned, appointed by the Minister by virtue of their special knowledge of fire protection matters; and
- (e) one officer of the department, or of the Department of Agricultural Technical Services, designated by the Minister.

2.2 Terms of office and allowances of members of a fire protection committee

- (1) A member of a fire protection committee shall hold office for a period of three years.
- (2) The tenure of office of a member of a fire protection committee shall be terminated if he-
 - (a) without leave fails to attend two consecutive meetings of such committee;
 - (b) becomes insolvent; or
 - (c) is convicted of an offence and sentenced to imprisonment without the option of a fine.
- (3) If a member of a fire protection committee is prevented by illness, absence or any other cause from performing the duties of his office, the body which or the person who nominated such member may designate some other person whom it or he considers suitable to act in the place of such member while he is so prevented.
- (4) Any vacancy on a fire protection committee shall be filled in accordance with regulation 2.1.
- (5) A member of a fire protection committee who is not an officer in the public service shall be paid allowances at such rates as may be determined from time to time by the Minister in consultation with the Minister of Finance.

2.3 Election of chairman, secretary and treasurer

A fire protection committee established in terms of section 7 of the Act shall at its first meeting and thereafter as often as may be necessary elect a chairman, secretary and treasurer from among its members to act in those capacities at the committee's pleasure.

2.4 Meetings of a fire protection committee

- (1) The first meeting of a fire protection committee shall be convened by the department as soon as possible after the members have been designated and shall be attended by an officer of the department who shall act as chairman until the meeting has elected a chairman from among the members of such committee.
- (2) Ordinary meetings of a fire protection committee for the transaction of business shall be held as often and at such places and times as the committee may decide from time to time.

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(3) The chairman of a fire protection committee may at his discretion call a special meeting of the committee at any time to deal with urgent matters and he may also convene a special meeting at the request of at least one-third of the total number of members.

(4) The department may, on at least twenty-one (21) days' prior notice, request the chairman of a fire protection committee to convene a special meeting to deal with special or urgent matters.

(5) The chairman of a fire protection committee shall arrange that each committee member be given at least fourteen (14) days' advance notice of the place, date and time of any ordinary or special meeting of the committee.

2.5 Quorum and procedure at meetings

(1) The quorum for a meeting of a fire protection committee shall be at least half the members of such committee; Provided that where such committee consists of less than four members, two members shall be a quorum.

(2) When the chairman of a fire protection committee is absent from a meeting, the members present shall elect from among themselves an acting chairman for that meeting.

(3) The decision of the majority of the members of a fire protection committee present at a meeting shall be deemed to be the resolution of the committee; Provided that, in the event of an equality of votes, the chairman of the committee shall, in addition to his deliberative vote, have a casting vote.

(4) Minutes of every meeting of a fire protection committee shall be kept and read to the next meeting, after which they shall, if declared by the meeting to be in order and confirmed by the signature of the chairman or acting chairman, be taken into safe custody by the secretary.

2.6 Attendance of meetings

(1) A fire protection committee may grant any of its members leave of absence from any of its meetings or for a period not exceeding six months.

(2) When a member of a fire protection committee is or expects to be prevented from attending a duly convened meeting of the committee, he shall notify the chairman as soon as possible of the circumstances which have prevented or will prevent him from attending such meeting.

(3) The chairman shall advise such meeting or the following meeting of the receipt of such notice, stating the member's reasons for his absence, whereupon the meeting shall decide whether or not to grant leave for such absence, and each such resolution shall be recorded in the minutes of such meeting.

(4) When a member nominated by the Minister has failed, without leave, to attend two consecutive meetings of the committee, the committee shall advise the Minister thereof.

2.7 Financial aid to fire protection committees

The Minister may, on the basis of an estimate submitted by a fire protection committee annually on or before 31 July, grant moneys to such committee for the implementation of the provisions of its fire protection plan subject to the following conditions:

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- (a) All moneys granted to such committee in terms of section 10(a) of the Act shall be used only for the purposes specified in a duly approved fire protection plan;
- (b) such committee shall keep proper account of all receipts and expenditure;
- (c) the accounts and balance sheet of such committee shall be audited at least once a year by an accountant and auditor registered in terms of the Public Accountants' and Auditors' Act, 1951 (Act 51 of 1951), who shall be remunerated out of moneys granted to such committee; and
- (d) the accounts and balance sheet so audited shall be submitted to the Minister as soon as possible after 31 March every year, together with a report on such committee's activities during the year immediately preceding.

3. ADVISORY COMMITTEES

Election of Members

3.1 As soon as possible after an area has been declared a mountain catchment area in terms of section 2 of the Act, the Secretary shall by notice in one or more newspapers circulating in the area in which the declared mountain catchment area is situate -

- (a) designate a person (hereinafter called the convenor) to convene a meeting by notice in writing to all owners of land in such mountain catchment area for the election of members of the advisory committee for the mountain catchment area concerned in terms of the provisions of section 6 (2) (b) of the Act; and
- (b) announce the names of the members of such committee who have been appointed by the Minister.

3.2 The convenor shall at the beginning of the meeting -

- (a) announce the names, as given to the convenor by the Minister, of the owners who, in the opinion of the Minister, are affected by directions which are applicable to land situate in the mountain catchment area concerned;
- (b) determine the hours at which nominations and polls shall commence and close; and
- (c) specify the number of members, as given to the convenor by the Minister, to be elected by the meeting.

3.3 The nomination of a person as a candidate shall be made on a separate declaration and nomination form (obtainable from the convenor before or during the meeting) as set out in the First Annexure to these regulations, and the nominee, who need not necessarily be present at the meeting, shall, in the appropriate space thereon, intimate his acceptance of such nomination.

3.4 No person entitled to vote shall nominate more candidates than the number of members to be elected and, should more than that number be nominated by one person, only the first nominations up to and including the required number shall be accepted.

3.5 Any nomination form which is not properly completed or which does not comply in all respects with the provisions of these regulations shall be rejected as invalid.

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- 3.6 At the meeting held for the election of members the convenor shall -
- (a) if the number of lawfully nominated candidates, together with those persons referred to in regulation 3.2(a) whose names have been given to the convenor by the Minister, is equal to the number of members to be elected, immediately declare the candidates so nominated and the persons referred to, to be duly elected members of the advisory committee concerned;
 - (b) if the number of lawfully nominated candidates, together with those persons referred to in regulation 3.2(a) whose names have been given to the convenor by the Minister, exceeds the number of members to be elected, furnish the meeting with the names and addresses of the candidates and of the persons referred to and proceed to cause the meeting to elect the required number in the manner prescribed in these regulations;
 - (c) if the number of lawfully nominated candidates, together with those persons referred to in regulation 3.2(a) whose names have been given to the convenor by the Minister, is less than the number of members to be elected, request the meeting to make further nominations; or
 - (d) if no further nominations are made after a request as referred to in regulation 3.6(c), inform the Minister accordingly, who shall then declare the candidates for whom votes have been recorded, as well as such additional candidates as may be required to make up the requisite number of members, to be duly elected members.

3.7 *Right to vote*

Every owner of land situate in the mountain catchment area concerned, or his representative authorised in writing, and every person who in the opinion of the Minister is affected by directions applying to land situate in such area, or his representative authorised in writing, shall be entitled to vote.

3.8 *Manner of voting*

(1) Every owner, or his representative authorised in writing, and every person who in the opinion of the Minister is affected by directions applying to land situate in the mountain catchment area concerned, or his representative authorised in writing, who are present at an election meeting may on demand obtain from the convenor a declaration and voting form initialled by him, as set out in the Second Annexure to these regulations, which he may then complete and deposit in a sealed ballot box provided for that purpose. A voter shall not use any voting form other than that supplied to him by the convenor.

(2) The convenor may, in his discretion, at the request of any person present at the meeting and entitled to vote, assist such person to complete the declaration and voting form, if such person is physically unable to do so himself or cannot read or write. The convenor shall record on the voting form of such person the fact that he has so assisted him and the reason therefor.

- (3) Whenever on a voting form -

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- (a) a vote has been recorded for a person who has not been duly nominated or for a person whose name has not been given by the Minister to the convenor as contemplated in regulation 3.2, such vote shall be disregarded;
- (b) more than one vote has been recorded for a duly nominated person or for a person whose name has been given by the Minister to the convenor as contemplated in regulation 3.2, only the first of such votes shall be counted;
- (c) votes have been recorded for more duly nominated persons or persons whose names have been given by the Minister to the convenor as contemplated in regulation 3.2, than the number of members to be elected, only the first votes up to and including the number to be elected as members shall be counted;
- (d) any detail has not been filled in, it shall be rejected as a spoilt voting form.

3.9 Result of election

(1) At closing time no further voting forms shall be issued and the convenor shall give all persons in the polling station who are in possession of voting forms a reasonable opportunity to record their votes. Immediately thereafter the convenor shall count the votes.

(2) In the event of an equality of votes which affects the result of the election, the convenor shall determine the order of priority of the candidates concerned by lot.

(3) As soon as possible after the conclusion of the meeting the convenor shall transmit to the Minister a report on the proceedings of the meeting, including a list of names and addresses of the candidates nominated, the number of votes recorded for each candidate and the names and addresses of those who have been declared elected, and shall also transmit to the Minister all nomination forms and voting forms used in connection with the election, and the Minister shall keep such forms for a period of not less than six months from the date of the election.

3.10 Validity of elections

No election shall be invalid by reason of a mistake or non-compliance with the provisions of these regulations, if the convenor is satisfied that such mistake or non-compliance did not affect the result of the election.

3.11 Allowances of members of an advisory committee

A member of an advisory committee who is not an officer in the public service shall be paid the allowances laid down from time to time by the Minister in consultation with the Minister of Finance.

3.12 Election of a secretary

An advisory committee established in terms of section 6 of the Act shall at its first meeting and thereafter as often as may be necessary elect from among its members a secretary to act in that capacity at the committee's pleasure.

3.13 Meetings of an advisory committee

The provisions of regulations 2.4 up to and including 2.6 shall apply *mutatis mutandis* to advisory committees.

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4. FINANCIAL AID

Applications for financial aid shall be made on the prescribed form as set out in the Third Annexure.

5. NOTICE TO OWNERS OF LAND

The secretary shall notify every owner whose land will be entered upon with a view to investigating -

- (a) the desirability of declaring that land a mountain catchment area in terms of the Act; or
- (b) whether the directions and provisions of a fire protection plan are being complied with in a declared mountain catchment area,

by registered post, at least fourteen (14) days before such land will be entered upon, of the proposed entry upon such land, as well as of the number of persons who will enter upon the land in connection with the investigation.

6. PROPOSED DIRECTIONS TO BE SERVED ON OWNERS OF LAND

6.1 In order to afford the owners of land situate in a declared mountain catchment area the opportunity of commenting on the directions which will apply to a specific mountain catchment area, the secretary shall serve the proposed directions by registered post on each owner in the mountain catchment area concerned.

6.2 Owners in the mountain catchment area concerned shall, within thirty (30) days of the date on which the notice contemplated in regulation 5 and the proposed directions have been served on them, lodge, in writing, any objections which they may have against the proposed directions with the chairman of the advisory committee for such area. Upon receipt of any objections in connection with directions the chairman of the advisory committee shall convene a meeting at which owners who have raised objections against the proposed directions shall be given the opportunity of explaining their objections more fully. After the meeting the chairman of the advisory committee shall submit to the secretary any objections against the proposed directions and a resume of any oral evidence thereon, as well as the advisory committee's comments and recommendations on the objections raised. The secretary shall submit such objections, together with the proposed directions, to the Minister for a final decision on the directions which are to be declared applicable in the mountain catchment area concerned.

6A. *Boundary description and beacons*

6A.1 Unsurveyed beacons, which were erected on properties by the Secretary in terms of section 2A of the Act, shall be stacked or masoned around an iron peg, and each such beacon shall be numbered with a distinctive number.

6A.2 The definition of boundaries of a mountain catchment area, as required by section 2 of the Act, shall define unsurveyed beacons as accurately as possible by referring to distances and directions from other existing surveyed beacons or fixed points.

6A.3 Fire-breaks along the defined boundaries of a mountain catchment area may, for practical reasons, be cleared on a give-and-take basis.

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6A.4 When directions, as contemplated by section 3 of the Act, are served on a landowner, the situation of any unsurveyed beacons, as well as the situation of give-and-take fire-breaks along the boundaries of the catchment area, shall be pointed out to the owner.

[regulation 6A inserted by RSA GN 1260/1976]

7. RECORD TO BE KEPT OF SERVICE OF DIRECTIONS

7.1 In the case of a direction served in accordance with sections 15(a) and (b) of the Act, the person who has served such direction shall make a note on a copy of the direction to indicate the manner in which, the place where and the date when the direction was served.

7.2 In the case of a direction served in accordance with section 15(c) of the Act, the registered letter receipt issued by the post office shall be kept with a copy of such direction.

8. APPLICATIONS FOR COMPENSATION FOR PATRIMONIAL LOSS

Applications for compensation for patrimonial loss under section 4 of the Act shall be submitted to the Minister on the form as set out in the Fourth Annexure to these regulations.

9. REPEAL OF REGULATIONS

The regulations published by Notice R.1396 of 28 August 1970 are hereby repealed.

ANNEXURES

To view content without printing, scroll down.

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



Annexures 1-4

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FIRST ANNEXURE

DECLARATION AND NOMINATION FORM: CANDIDATES FOR ELECTION AS MEMBERS OF AN ADVISORY COMMITTEE

1. I, the undersigned, _____, residing at _____, in the Magisterial District of _____ hereby nominate (name) _____ (address) _____ as a candidate for election as a member of the Advisory Committee for the _____ Mountain Catchment Area.

2. I hereby declare that I am entitled in terms of the provisions of the Mountain Catchment Areas Act, 1970, and the regulations promulgated thereunder, to vote in the election of members of the Advisory Committee—

(a) on my own behalf as owner of the land known as _____ situate in the said Mountain Catchment Area; or

(b) as the representative, authorised in writing, of _____, being the owner(s) of the land known as _____ situate in the said Mountain Catchment Area.

(c)* _____

*If the deponent is voting in any other capacity, give particulars here.

Witness _____
 Date _____ Signature of deponent _____
 Place _____

ENDORSEMENT BY NOMINEE

I, the person herein nominated, do hereby—

(a) declare that I am a bona fide farmer in the said Mountain Catchment Area; and
 (b) accept nomination.

 Signature of nominee

Full address _____
 Witness _____
 Date _____ Place _____

SECOND ANNEXURE

DECLARATION AND VOTING FORM: ELECTION OF MEMBERS OF AN ADVISORY COMMITTEE

I, the undersigned, _____, residing at _____, in the Magisterial District of _____ hereby declare that I am entitled in terms of the Mountain Catchment Areas Act, 1970, and the regulations promulgated thereunder, to vote in the election of members of the Advisory Committee for the _____ Mountain Catchment Area—

(a) on my own behalf as owner of the land known as _____ situate in the said Mountain Catchment Area; or

(b) as the representative, authorised in writing, of _____ being the owner(s) of the land known as _____ situate in the said Mountain Catchment Area.

I vote for the undermentioned candidates for election as members of the Advisory Committee for the said Mountain Catchment Area:

Full names of candidates

- | | |
|----------|-----------|
| 1. _____ | 7. _____ |
| 2. _____ | 8. _____ |
| 3. _____ | 9. _____ |
| 4. _____ | 10. _____ |
| 5. _____ | 11. _____ |
| 6. _____ | 12. _____ |

Date _____ Signature of voter _____

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THIRD ANNEXURE
 APPLICATION FOR FINANCIAL AID IN TERMS OF SECTION
 10 OF THE MOUNTAIN CATCHMENT AREAS ACT, 1970 (ACT
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(Conditions overleaf)

Part A

1. Name and address of applicant _____
2. Name and number of farm _____
3. Mountain Catchment Area _____
4. Purpose for which expenses are to be incurred _____
5. Amount of financial aid required: R _____

I certify that the information I have given above is to the best of my knowledge true and correct.

Signature of owner or occupier _____
 Date _____

Part B

Recommendation of Advisory Committee:
 _____ Date _____
 Chairman

Part C

Amount of financial aid recommended: R _____
 _____ Date _____

Chairman: Central Committee for
 the Demarcation of Mountain Catch-
 ment Areas

Part D

Amount in Part C approved. _____ Date _____

 Secretary for Forestry

CONDITIONS FOR FINANCIAL AID

1. Any person to whom financial aid is granted shall, with the moneys so granted to him, perform to the satisfaction of the Secretary for Forestry on land in his possession those acts which qualify for such aid.

2. Should any person to whom financial aid has been granted under section 10 (b) of the Act—

- (a) furnish false information, as a result of which he receives too large an amount of financial aid; or
- (b) infringe or fail to comply with any condition subject to which such aid was granted;

the Minister may, irrespective of any action which may be taken in terms of section 14 of the Act, demand that such person refund the full amount of the financial aid granted to him, or such portion thereof as the Minister, in consultation with the Minister of Finance, may determine, together with interest thereon reckoned from the day on which the financial aid was paid out, at the rate for Government loans as determined in accordance with section 1 (1) of the Financial Adjustments Act, 1917 (Act 42 of 1917), and in force on the day on which the person is notified of the amount for which he is liable.

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FOURTH ANNEXURE

APPLICATION FOR COMPENSATION FOR PATRIMONIAL
LOSS IN TERMS OF SECTION 4 OF THE MOUNTAIN CATCH-
MENT AREAS ACT, 1970 (ACT 63 OF 1970)

(First read information overleaf)

Part A

1. Name and address of owner or occupier _____
2. (a) Name and number of farm in respect of which compensation is claimed _____
 (b) Magisterial District _____
3. Description and area of land in respect of which compensation is claimed (attach sketch) _____
4. Name and address of mortgagor, if any _____
5. Balance of bond on date of application and terms of repayment _____
6. Purpose for which land was used on the date on which the Minister declared a direction to be applicable to that land (furnish full particulars, e.g. in the case of an orchard, the kinds, number and ages of trees, or, in the case of grazing, the kind and number of stock etc., if necessary on a separate sheet) _____
7. Financial benefit which owner or occupier has derived during the last five years from use of land for each of the purposes described in 6 above (proof of income and expenditure must be produced, if possible) _____
8. Amount of compensation claimed for patrimonial loss: R _____

I certify that the information I have given above is to the best of my knowledge true and correct.

Date _____
 Place _____ Signature of owner or occupier _____

Part B

Comments and recommendation of Advisory Committee _____
 _____ Date _____
 Chairman

Part C

Amount of compensation recommended: R _____
 _____ Date _____
 Chairman: Central Committee for
 the Demarcation of Mountain Catch-
 ment Areas

Part D

Compensation in the amount of R _____ approved.

 Secretary for Forestry
 Date _____

INFORMATION

1. All particulars furnished will be treated in strict confidence.
2. Only Part A should be completed by the owner or occupier.
3. Please complete a separate form in respect of each farm for which an application is submitted.