



Republic of Namibia
Annotated Statutes

Townships and Division of Land Ordinance 11 of 1963

(OG 2487)

came into force on date of publication: 28 June 1963

as amended by

Townships and Division of Land Amendment Ordinance 36 of 1967 (OG 2837)

came into force on date of publication: 28 November 1967

Townships and Division of Land Amendment Ordinance 7 of 1969 (OG 2983)

came into force on date of publication: 28 March 1969

Townships and Division of Land Amendment Ordinance 2 of 1970 (OG 3058)

came into force on date of publication: 24 March 1970,
with one exception (see annotation note to section 2)

Townships and Division of Land Amendment Ordinance 10 of 1973 (OG 3333)

came into force on date of publication: 3 July 1973

Townships and Division of Land Amendment Ordinance 17 of 1975 (OG 3495)

came into force on date of publication: 16 October 1975

Townships and Division of Land Amendment Ordinance 9 of 1977 (OG 3629)

came into force on date of publication: 8 June 1977

Townships and Division of Land Amendment Act 3 of 1985 (OG 5092)

came into force on date of publication: 10 September 1975

Townships and Division of Land Amendment Act 28 of 1992 (GG 490)

brought into force by GN 142/1992 (GG 511)

Townships and Division of Land Amendment Act 21 of 1998 (GG 1948)

came into force on date of publication: 8 September 1998

Government Notice 63 of 1999 (GG 2083)

under the authority of section 4(2) of Act 21 of 1998;
came into force on date of publication: 15 April 1999

Townships and Division of Land Amendment Act 11 of 2000 (GG 2360)

came into force on date of publication: 29 June 2000

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REPEALED by the Urban and Regional Planning Act 5 of 2018 (GG 6631), which was brought into force on 3 September 2020 by GN 222/2020 (GG 7327). This Act neglects to repeal the Townships and Division of Land Amendment Act 21 of 1998 (GG 1948) or Government Notice 63 of 1999 (GG 2083), both of which amend the Townships and Division of Land Ordinance 11 of 1963, but these amendments would have no ongoing effect on their own.

ORDINANCE

To consolidate and amend the laws relating to the establishment of townships and to provide for the regulation and control of the development and subdivision of land and for matters incidental thereto.

*(Assented to 21th [21st] June, 1963)
(English text signed by the Administrator)*

ARRANGEMENT OF SECTIONS

[The provisions in this Ordinance have no headings, except in a few instances where sections with headings were substituted or inserted by amendments to the Ordinance.]

BE IT ORDAINED by the Legislative Assembly for the Territory of South West Africa as follows:-

[Ord. 10 of 1973 amends the Ordinance throughout to substitute "Executive Committee" for "Administrator".

Act 28 of 1992 makes the following substitutions throughout the Act:

- (a) "State" for "Administration";
- (b) "Minister" for "Executive Committee";
- (c) "Permanent Secretary" for "Secretary for South West Africa";
- (d) "Gazette" for "Official Gazette";
- (e) "Namibia Planning Advisory Board" for "South West African Planning Advisory Board"; and
- (f) "State Revenue Fund" for "Territory Revenue Fund".]

1. In this Ordinance unless the context otherwise indicates -

"approved township" means a township whose name appears in the First Schedule or a township proclaimed an approved township under the provisions of the Townships Ordinance, 1928 (Ordinance 11 of 1928) or this Ordinance;

"area" or "area of jurisdiction" means -

- (a) in relation to a municipal council, town council or village council the area declared under section 3 of the Local Authorities Act, 1992 (Act No. 23 of 1992) to be a municipality, town or village, as the case may be, or deemed to be so declared;
- (b) in relation to a regional council, the area declared under section 31 of the Regional Council Act, 1992 (Act No. 22 of 1992) to be a settlement area.

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**[The definition of “‘area’ or ‘area of jurisdiction’” is inserted by Act 11 of 2000.
The correct name of Act 22 of 1992 is the “Regional Councils Act” (with “Councils” being plural).]**

“Board” means the Townships Board constituted under section *two*:

“Deeds Registry” in relation to land situated in the district of Rehoboth means the deeds registry established by section 2 of the Registration of Deeds in Rehoboth Act, 1976 (Act No. 93 of 1976) and in relation to any other land the deeds registry of Windhoek referred to in section 1 of the Deeds Registries Act, 1937 (Act No. 47 of 1937);

[definition of “Deeds Registry” inserted by Act 21 of 1998]

“diagram” means a document containing geometrical, numerical and verbal representations of a piece of land, line, feature or area forming the basis of a real right, which has been signed by a person recognised, under any law then in force, as a land surveyor, or which has been approved or certified by the Surveyor-General or other officer empowered under any law so to approve or certify a diagram and includes a diagram or copy thereof prepared in the Surveyor-General’s office and a proved or certified as aforesaid or a document which has at any time, prior to the commencement of this Ordinance, been accepted as a diagram in the Deeds Registry or the Surveyor-General’s office;

“erf” means every piece of land in an approved township;

[definition of “Executive Committee” inserted by Ord. 10 of 1973 and deleted by Act 28 of 1992]

“general plan” means a plan which, representing the relative positions and dimensions of two or more pieces of land, has been signed by a person recognised, under any law then in force, as land surveyor, and which has been approved or certified as a general plan by the Surveyor-General or other officer empowered under any law so to approve or certify a general plan, and includes a general plan or copy thereof prepared in the Surveyor-General’s office and approved or certified as aforesaid or a general plan which has at any time, prior to the commencement of this Ordinance, been accepted for registration in the Deeds Registry or the Surveyor-General’s office or in any *Grundbuchamt* or *Vermessungsamt*;

[definition of “general plan” amended by Act 28 of 1992]

“local authority” means a municipal council, town council or village council as defined in section 1 of the Local Authorities Act, 1992 (Act No. 23 of 1992) or a regional council as defined in section 1 of the Regional Councils Act, 1992 (Act No. 22 of 1992);

[definition of “local authority” substituted by Ord. 10 of 1973, Act 28 of 1992 and Act 11 of 2000]

“Minister” means the Minister of Regional and Local Government and Housing;

[definition of “Minister” inserted by Act 28 of 1992 and amended by Act 11 of 2000]

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

[definition of “Namibia Planning Advisory Board” inserted by Act 28 of 1992]

“Permanent Secretary” means the Permanent Secretary: Regional and Local Government and Housing;

[definition of “Permanent Secretary” inserted by Act 28 of 1992 and amended by Act 11 of 2000]

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“public place” includes any street, road, lane, avenue, thoroughfare, sanitary passage, park, recreation or sports ground, square or other open space -

- (a) which is shown as such on a general plan of an approved township, as filed in the Deeds Registry or the Surveyor-General’s Office; or
- (b) which is represented by a diagram annexed to a deed conveying it as a public place to a local authority in pursuance of any sub-division of land; or
- (c) to which the public have acquired or at any time may acquire a common right;

[definition of “public place” substituted by Ord. 36 of 1967]

“prescribed” means prescribed by or under this Ordinance or any regulation;

“prior law” means the Townships Proclamation, 1920 (Proclamation 68 of 1920) and the Townships Ordinance, 1928 (Ordinance 11 of 1928);

[definition of “prior law” inserted by Ord. 36 of 1967]

“Registrar of Deeds” means the registrar of deeds responsible for the deeds registry referred to in the Deeds Registries Act, 1937 (Act No. 47 of 1937), or the registrar of deeds responsible for the deeds registry referred to in the Registration of Deeds in Rehoboth Act, 1976 (Act No. 93 of 1976).

**[definition of “Registrar of Deeds” inserted by Act 21 of 1998;
it should end with a semicolon rather than a full stop]**

“regulation” means any regulation made under this Ordinance;

**[definition of “South West African Planning Advisory Board”
inserted by Ord. 10 of 1973 and deleted by Act 28 of 1992]**

“subdivide” means to divide by means of a survey for registration of title or of a survey for registration of a lease; and “subdivision” has a corresponding meaning;

“this Ordinance” includes any regulations;

“townlands” means all land situate within the area of jurisdiction of a local authority but shall not include an approved township;

“township” means -

- (a) an approved township; or
- (b) any extension of any such township; or
- (c) any area of land registered as one or more pieces of land either contiguous or in close proximity to each other which is being or is intended to be laid out or divided into sites for residential, business, industrial, building, occupational or similar purposes or for urban settlement arranged in such a manner as to be intersected or connected by or to abut on public places;

“township owner” means in the case of any approved township or in the case of a township for the establishment of which application has been made, the person registered in any deeds

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registry as the owner of the land included or to be included in such township and includes the successor in township title of such person.

2. (1) There is hereby established a Board to be known as the Townships Board consisting of not less than five and not more than ten members.

(2) (a) The Surveyor-General, Windhoek, the Registrar of Deeds, Windhoek, and the Chief Roads Engineer, Director of Works and Director of Local Government of the State, or any officer of his office nominated in his stead by the said Surveyor-General, Registrar of Deeds, Chief Roads Engineer, Director of Works or Director of Local Government, as the case may be, for the purpose of any meeting, shall be members of the board *ex officio*.

(b) The Minister shall appoint as members of the Board a person who shall bring to the notice of the Board the views of local authorities and the interests of the inhabitants of areas of local authorities, and a person who is a member of the Namibia Planning Advisory Board, with a view to co-ordination between those two boards, and shall also appoint the other members of the Board.

[Subsection (2) is substituted by Ord. 10 of 1973. The word "appoint" is misspelt in the *Official Gazette*, as reproduced above.]

(3) The Administrator shall designate one of the members of the Board as chairman. In the absence of the chairman the members present shall elect from amongst themselves a chairman for the purpose of that meeting.

(4) Subject to any regulation providing for the vacation of office by a member, each member of the Board, other than persons who are members *ex officio*, shall hold office for such period, not exceeding three years, as the Administrator may determine, but shall be eligible for re-appointment for such further period, not exceeding three years, as the Administrator may determine.

(5) The Administrator may nominate any person as the deputy of any member of the Board, other than an *ex-officio* member, to act for such member whenever he is prevented by illness, absence or any other cause from performing the duties of his office: Provided that the appointment of any such deputy member shall be held subject to the regulations referred to in subsection (4).

(6) Any member of the Board who is not an officer of the public service or an officer in the service of the State may be paid from the State Revenue Fund such remuneration, allowances and fees as the Administrator may from time to time determine.

(7) Upon the commencement of this section the existing Board shall be dissolved and the members thereof shall vacate office.

[Section 2 was substituted by Ord. 2 of 1970, but the provision which made that substitution was to be brought into force by a Proclamation of the Administrator in terms of section 1(2) of the amending Ordinance. No such Proclamation has been located, but the next amendment to this section, made by Ord. 10 of 1973, assumes that the substitution by Ord. 2 of 1970 was in effect. The substitution made by Ord. 2 of 1970 has therefore been incorporated here, along with the amendments to section 2 made by Ord. 10 of 1973.]

Purpose of Board

2A. The purpose of the Board shall be to exercise and perform the functions, powers and duties entrusted to and conferred upon it in terms of the provisions of this Ordinance.

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[section 2A inserted, with heading, by Ord. 10 of 1973]

3. (1) It shall be the duty of the Board to consider the following matters in so far as applicable when enquiring and reporting on an application for permission to establish a township referred to it for report:-

(a)

[paragraph (a) deleted by Ord. 10 of 1973]

- (b) whether the land is suitable in respect of area, position, water supply, aspect, contour, extension, soil and other physical features and accessibility;
- (c) the existence of servitudes or encumbrances which may affect the establishment of the proposed township;
- (d) the proposals and stipulations contained in the application and the conditions on which in the opinion of the Board the application should be granted;
- (e) the extent of the townlands and the number, size and position of any erven and sites to be reserved for the State or for any public or local authority purposes or in the general interest of the inhabitants;
- (f) the proposed design and name of the township;
- (g) the allocation of districts or zones limiting the use to which the erven may be put and the order in which they may be sold;

[The word "and" is repeated in the Official Gazette.]

- (h) the maximum number of houses which may be built upon each erf and the maximum area of each erf which may be built upon;
- (i) the endowment, if any, which should be made for a local authority or future local authority;
- (j) any other matters to which, in the opinion of the Board, the attention of the Minister should be drawn.

(2) In addition to reporting on any application referred to it, the Board shall perform such other duties as may be prescribed by this Ordinance or by the Minister and shall report on such other matters as may be referred to it by the Minister.

4. Save as provided in section *thirty-seven*, no township shall be established after the commencement of this Ordinance otherwise than in accordance with the provisions of this Ordinance.

5. (1) The owner of land who proposes to establish a township thereon shall make application for permission to do so in writing to the Minister, in such form and accompanied by such information and documents as may be prescribed.

(2) Whilst an application is under consideration it shall be competent for the applicant to amend it in regard to any matter or proposal therein contained.

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(3) If the land on which it is proposed to establish a township is subject to a mortgage bond the consent of the mortgagee to the application shall be submitted therewith.

(4) The applicant shall deposit with the Minister such a sum of money as the Minister estimates to be sufficient to cover the expenses of the Board and an undertaking therewith to defray any balance of expenses which may become due by him in terms of this section.

- (5) (a) (i) Upon receipt of the application the Minister shall refer it to the Namibia Planning Advisory Board for consideration and a recommendation on the desirability and necessity of establishing the proposed township.
- (ii) The recommendation of the Namibia Planning Advisory Board shall be submitted to the Minister and the Minister shall decide whether the establishment of the proposed township is desirable and necessary, or not: Provided that the Minister may, before so deciding, refer the application back to the Namibia Planning Advisory Board for such further inquiry as the Minister may deem fit.
- (iii) Should the Minister decide that the establishment of the proposed township is desirable and necessary, it shall refer the application to the Board and thereupon the Board shall publish, once in the *Gazette* and once in such newspaper or newspapers as the Board may deem fit, a notice that such an application has been received and is open for inspection at the office of the Director of Local Government and at such other places (if any) as may be stated in such notice.

[subsection (5) substituted by Ord. 36 of 1967 and by Ord. 10 of 1973]

(6) Any person who objects to the granting of the application or who is desirous of being heard or of making representations in the matter may communicate in writing with the Board or may give evidence before the Board on the date and at the place stipulated by the Board in the notice referred to in sub-section (5): Provided that any such written communication shall be in the hands of the Board not later than one month as from date of publication of such notice.

[subsection (6) substituted by Ord. 36 of 1967]

(7) In the consideration of the application and any objections thereto which have been lodged, the Board may require the applicant or the objector, as the case may be, to furnish it with such further particulars, information, plans and diagrams as it deems fit.

(8) All expenses connected with publication of notices, the Boards visit of inspection and enquiry or meetings of the Board in connection with the application and establishment of a township, including the travelling or other allowances payable to members or staff of the Board, shall be borne by the person making the application, whether such application be granted or not.

(9)

[subsection (9) deleted by Ord. 36 of 1967]

6. (1) After consideration of the application for permission to establish a township the Board shall recommend to the Minister -

- (a) that the application be granted subject to such conditions as it deems necessary;
- (b) that the application be refused; or

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- (c) that a decision on the application either in its entirety or in respect of a certain portion of it be postponed for such period as the Board deems fit.

(2) The Minister, after considering the recommendations of the Board, may grant, refuse or postpone the application, but he shall not grant an application the refusal of which has been recommended by the Board without consultation with the Board.

(3) The Minister shall, if he grants the application, have the right to impose such conditions as he may deem fit in regard to -

- (a) the manner, or purpose for which, the land concerned may be used or occupied;
- (b) the number, nature, coverage, height and situation of buildings or structures which may be erected on such land;
- (c) the provision of, and transfer to a local authority of public places;
- (d) the reservation of erven for the State or for local authority purposes;

[paragraph (d) amended by Act 28 of 1992]

- (e)

[paragraph (e) deleted by Act 28 of 1992]

- (f) the minimum building value of any buildings or structures to be erected on the land concerned;
- (g) the deviation and flow of stormwater courses at the cost of the owner of such land;
- (h) the provision by the owner of such land for the parking of motor vehicles;
- (i) the construction at the cost of the owner of such land of retaining walls to prevent any portion of such land falling into the street or *vice versa*;
- (j) the construction at the cost of the owner of such land, of roads or streets to give access where no access exists or is unsatisfactory;
- (k) the endowment, if any, which should be paid to a future authority or the State in trust for a future local authority;

[paragraph (k) amended by Act 28 of 1992;
not all changes indicated by amendment markings]

- (l) any other matter or thing which he in his discretion may deem necessary or desirable in the interests of the health, welfare or convenience of the public:

Provided that he shall not modify the conditions recommended by the Board nor impose further conditions without consultation with the Board: Provided further, that if the proposed township is situated within an area to which a scheme approved in terms of the Town Planning Ordinance, 1954 (Ordinance 18 of 1954) applies, the Board shall not recommend and the Minister shall not impose any conditions which are in conflict with any of the provisions of that scheme.

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(4) Notwithstanding anything to the contrary in this section contained, the Minister may, between the date of the granting of the application aforesaid and the proclamation of the township aforesaid to be an approved township in terms of this Ordinance, with the consent of the owner of the land concerned, alter or amend any of the conditions subject to which the said application has been granted or add further conditions to such conditions: Provided that the Minister shall consult with the Board before making any such alteration, amendment or addition: Provided further, that any such alteration, amendment or addition shall not be in conflict with any of the provisions of a scheme referred to in the further proviso to sub-section (3).

(5)

[subsection (5) deleted by Ord. 36 of 1967]

7. The Minister shall not grant an application for permission to establish a township on land held under lease by the applicant.

8. (1) Save as in this section is provided, the Minister shall not grant an application for permission to establish a township on land the trading rights over which are held by one or more persons to the exclusion of others.

(2) If an application is made under the provisions of this Ordinance for permission to establish a township on land the trading rights over which are held by one or more persons to the exclusion of others, and if the Minister, after consultation with the Board, is satisfied that it is in the public interest that a township should be established on that land and that the owner of such land and the person or persons who hold such trading rights are unable to agree to their surrender to such owner upon reasonable terms, the Minister may grant the application for permission to establish the township subject to the cancellation of the said trading rights, and may by writing authorize the cancellation of all such trading rights against payment by the owner of such land of compensation for their loss.

(3) Upon such authority in writing being signed by the Minister, the Permanent Secretary shall issue a notice certifying the fact and addressed and served upon the owner of such land and the person or persons who hold such trading rights. Upon such notice being served upon the owner of such land and any person holding such trading rights over it, the question of the amount of compensation to be paid by the owner of such land to the holder or holders of such rights for the loss of such rights shall be deemed to have been submitted by them to arbitration, and thereupon the amount to be so paid shall be determined in accordance with the provisions of the Arbitration Proclamation, 1926 (Proclamation 3 of 1926), or any amendment thereof, and all such provisions shall apply to all matters connected with the determination of the said amount.

[The Arbitration Proclamation 3 of 1926 has been replaced by the Arbitration Act 42 of 1965.]

(4) Upon payment by the owner of such land to the holder or holders of any such trading rights of the amount or amounts of compensation determined as provided in sub-section (3), such trading rights shall be deemed to be cancelled. If such trading rights are registered or recorded in the Deeds Registry, the Registrar of Deeds shall, if proof is produced to him of such payment, make any entries, notices or endorsements that may be necessary to record such cancellation.

(5) All expenses in connection with anything done under this section shall be borne by the owner of the land concerned.

9. Upon the granting of any application for permission to establish a township, the Minister shall notify the applicant, the Board, the Surveyor-General, the Registrar of Deeds, and

if the land concerned is within the area of jurisdiction of a local authority, the local authority concerned, and shall state the conditions upon which such application has been granted, whereupon the erven in the township in respect of which such application was granted, shall be subject to all such conditions as may have been imposed in respect of such erven.

10. (1) If an application for permission to establish a township has been granted, the township owner concerned shall submit to the Board a plan showing the proposed design of such township and on the approval of such design by the Board such owner shall cause such township to be surveyed in accordance with the approved design.

(2) If in the course of the survey referred to in subsection (1) it is found that it is necessary or desirable to vary in parts the approved design, it shall be competent for the Board to approve such variation: Provided that if the variation is of a minor nature, such variation may be approved by the Chairman of the Board in which case he shall give notice of such variation at the next meeting of the Board.

11. (1) On the completion of the survey referred to in section *ten*, the township owner shall lodge with the Surveyor-General for approval a general plan of the proposed township and a diagram of the land included in such township and upon the approval of such plan and diagram, the Surveyor-General shall notify such approval to the Minister, such owner and the Registrar of Deeds.

(2) Should such owner fail to lodge the said general plan and diagram with the Surveyor-General within a period of two years from the date of notification by the Minister of the granting of the application as provided in section *nine* or within such further period as the Minister or the Chairman of the Board may allow, the permission to establish the township concerned shall be deemed to have lapsed.

12. (1) Within a period of one year from the date of notification by the Surveyor-General of the approval by him of the general plan and diagram mentioned in sub-section (1) of section *eleven*, the township owner concerned shall lodge with the Registrar of Deeds for endorsement as hereinafter provided, the said plan and diagram and the title deed under which he holds the land concerned with the diagram thereof.

(2) When the whole of the land held under such title is comprised in the proposed township, the Registrar of Deeds shall make upon each title deed and on the duplicate originals thereof filed of record an endorsement, *as* nearly as practicable in the form contained in the Second Schedule, indicating that the land concerned has been laid out as a township.

(3) When a portion only of the land held under such title is comprised in the proposed township the Registrar of Deeds shall under his hand and seal issue to the township owner thereof a certificate of township title to the portion so comprised. That certificate shall as nearly as practicable be in the form contained in the Third Schedule and shall have attached thereto a diagram of the said portion.

(4) Before the certificate of township title is issued, the Registrar of Deeds shall write off upon the title deed referred to in sub-section (1) the area of the portion described in that certificate and shall transmit the diagram thereof to the Surveyor-General for the necessary deductions to be made. Thereupon the said certificate shall, for all purposes be and serve as the sole title deed of the portion of land therein described: Provided that, upon the issue of the said certificate, the Registrar of Deeds shall, if the land held thereunder is subject to a mortgage bond or any encumbrance whatsoever disclosed on the title deed produced -

- (a) endorse upon the bond or document evidencing the encumbrance the statement that a certificate of township title has been issued in respect of such land; and

- (b) make an entry of that fact in the registers; and
- (c) endorse upon the said certificate that in accordance with this sub-section the land held under the said certificate is hypothecated or otherwise encumbered by the bond or document aforesaid;

and thereupon the land held under the said certificate shall be deemed to be hypothecated or otherwise encumbered (as the case may be) as fully and effectually as if it has been originally hypothecated or encumbered by the bond or other encumbrance: Provided further that, in every such case the written consent of the legal holder of the bond or other encumbrance is produced to the Registrar.

(5) The Registrar of Deeds shall open a register for every approved township (herein called the township register).

(6) Should the township owner fail to lodge such plans and diagrams and deeds and consent within the said period of one year or within such further period as the Minister or the Chairman of the Board may allow, the permission to establish the proposed township shall be deemed to have lapsed.

(7) When the provisions of this section have been complied with, the Registrar of Deeds shall notify the Administrator of the fact.

Establishment of township

13. Upon receipt of a notification from the Registrar of Deeds that the provisions of section 12 have been complied with, the Minister shall by notice in the *Gazette* declare the area represented by the general plan concerned to be an approved township and such notice shall set forth in a schedule thereto the conditions subject to which the application for permission to establish the township concerned has been granted.

[section 13 amended by Ord. 36 of 1967 and by Act 28 of 1992, which also inserts the heading]

14. (1) When a township has been proclaimed an approved township, under the provisions of this Ordinance or any other 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 State in trust for any local authority which may thereafter be constituted in respect of the area within which such land is situated.

[subsection (1) amended by Act 28 of 1992]

(2) The Registrar of Deeds shall record such vesting in the township register concerned.

(3) When a local authority is constituted in respect of the area within which any land comprising any public places within a township established before or after the commencement of this Ordinance, is situated, the *dominium* of such land shall *ipso facto* vest in such local authority, and the Registrar of Deeds shall record such vesting in the township register concerned..

15. (1) No transfer of any land or erf in any township established under this Ordinance, shall be registered in the Deeds Registry -

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- (a) unless and until the township owner concerned has transferred to the State such land or erven as have been reserved for the 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 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 authority purposes, and such land or erven as have been reserved for the endowment of any such local authority.

[subsection (1) amended by Act 28 of 1992]

(2)

[subsection (2) deleted by Act 28 of 1992]

(3) The Minister shall upon the constitution of any local authority for which 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.

[subsection (3) amended by Act 28 of 1992]

(4) The Minister may authorize any land, which is held by 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 the Minister deems fit.

[Subsection (4) is amended by Act 28 of 1992. The word "inhabitants" is misspelt in the *Official Gazette*, as reproduced above.]

16. No transfer of any erf in a township other than a township whose name appears in the list contained in the First Schedule shall be registered in the Deeds Registry unless and until that township has been proclaimed an approved township in terms of this or any other ordinance.

Conditions to be embodied in title deeds

17. No transfer of an 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.

[section 17 amended by Ord. 36 of 1967 and substituted by Act 28 of 1992, which also inserts the heading]

18. The owner of the land upon which a township has been established under this Ordinance or any other law or his successors in title thereto, shall not grant a title to any erf in such township other than a freehold title or a lease for a period not exceeding five years without the right of renewal: Provided that the provisions of this section shall not be deemed to limit or otherwise affect the powers of the State or of any local with authority to lease land in such township for a period exceeding five years or dispose of it in any other manner.

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19. (1) Subject to the provisions of sub-section (14), no diagram representing a subdivision of any erf or piece of land situated in an approved township shall be approved by the Surveyor-General unless the Minister's permission has been obtained.

[subsection (1) amended by Ord. 36 of 1967]

(2) If the owner of any such erf or land wishes to subdivide it, he shall apply to the Minister for permission to do so.

[Subsection (2) is substituted by Ord. 10 of 1973 and amended by Ord. 17 of 1975 to delete the proviso.]

(3) An application for permission to subdivide any such erf or land shall, together with the comments of the local authority (if any) within whose area of jurisdiction such erf or land is situated, be referred to the Board and the Board shall, after having considered the application, forward its recommendations to the Minister and may, if it recommends that such application be granted, recommend that conditions in regard to any matter mentioned in sub-section (3) of section *six* be imposed: Provided that if such application comprises the subdivision of the erf or piece of land concerned into eleven or more erven or pieces of land of which at least eleven are not built on such application shall before it is so referred to the Board, first be referred to the Namibia Advisory Board for consideration and a recommendation to the Minister on the desirability and necessity of such subdivision.

[The proviso to subsection (3) is added by Ord. 17 of 1975; a colon has been inserted accordingly.]

(4) The Minister shall, if he grants his permission, as aforesaid, have the right to impose such conditions in regard to any matter mentioned in sub-section (3) of section *six* against the proposed subdivision and remainder as he may deem fit: Provided that if such erf or land is situated within an area to which a scheme approved in terms of the Town Planning Ordinance, 1954 (Ordinance 18 of 1954) applies, the Board shall not recommend in terms of sub-section (3) of this section and the Minister shall not impose any conditions which are in conflict with any of the provisions of that scheme.

(5) (a) Whenever any application for permission to subdivide any erf or piece of land situated in an approved township, or any piece of land situated within the townlands of any approved township is granted as aforesaid and the owner of such erf or land disposes of any portion of such divided erf or land (hereinafter in this section called the "portion"), whether by sale, exchange, gift or in any other manner, or is leased by him for a period of ten years or more, the said owner shall pay as an endowment to the local authority within whose area of jurisdiction the portion falls, such percentage of the value of the portion as may be fixed by the Minister on the recommendation of the Board after the Board has consulted the local authority concerned: Provided that such endowment shall not be paid by the said owner on any portion so disposed of or leased by such owner to the State or to the local authority concerned: Provided further that when such portion does not fall within the area of jurisdiction of a local authority such endowment shall be paid to the Minister in trust for any future local authority.

(b) Any endowment paid in terms of this subsection shall be used by the local authority, or the 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.

[paragraph (b) substituted by Act 3 of 1985 and amended by Act 28 of 1992]

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- (c) Endowments shall be calculated as a percentage of the value of such portion at the time of such disposal or lease.
- (d) For the purposes of endowment, the value of any portion, exclusive of the value of any buildings or permanent improvements thereon, shall be determined as follows:-
 - (i) if there be a purchase price, such purchase price shall, subject to the provisions of sub-paragraphs (ii), (iii) and (iv) hereof be deemed to be the value of such portion;
 - (ii) if the local authority or the Minister, as the case may be, is of opinion that the purchase price does not reflect the true value of the portion, a valuation of the portion may be obtained from a sworn appraiser appointed by the local authority or the Minister, as the case may be;
 - (iii) if the value placed on the portion by such sworn appraiser is higher by fifteen percent or more than the purchase price, such value shall be deemed to be the value of the portion and shall be final, and the owner shall pay the costs of obtaining the valuation;
 - (iv) if the value placed on the portion by such sworn appraiser is less than fifteen percent higher than the purchase price, the purchase price shall be deemed to be the value of the portion and the local authority or the Minister, as the case may be, shall pay the costs of obtaining the valuation;
 - (v) if there be no purchase price, the value of such portion shall be declared by the owner as if it were the purchase price and thereafter the provisions of sub-paragraphs (ii), (iii) and (iv) hereof shall, as the case may be, apply;
 - (vi) where two or more portions are disposed of together to one person, the local authority or the Minister, as the case may be, shall for the purposes of determining the value of each portion, have the right to obtain a valuation by a sworn appraiser in respect of each portion separately, subject to the provisions of sub-paragraphs (ii), (iii), (iv) and (v) hereof;
 - (vii) if any portion is leased for a period of ten years or more, the provisions of sub-paragraph (v) hereof shall apply.
- (e) Any moneys paid by way of endowment to the Minister in trust for a future local authority shall be held in trust by the Minister who shall, as soon as possible after the constitution of the local authority, pay to such local authority the amount received without interest less any amounts expended by him under paragraph (b) hereof.

(6) The Registrar of Deeds shall not register the transfer of any portion which is subject to a condition of endowment referred to in sub-section (5), unless the application for such registration is accompanied by a receipt or certificate from the local authority concerned or by or on behalf of the Minister, as the case may be, as proof that the endowment on the portion has been paid.

(7) If the Minister grants the application referred to in sub-section (5), he shall give to the applicant a certificate that he has granted such application and setting forth the conditions imposed by him in terms of subsection (4) and such certificate shall be produced to the Registrar of Deeds when the portion concerned is sought to be registered in the Deeds Registry.

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(8) Notwithstanding anything to the contrary contained in the Deeds Registries Act, 1937 (Act No. 47 of 1937) or the Registration of Deeds in Rehoboth Act, 1976 (Act No. 93 of 1976), any conditions imposed by the Minister in terms of subsection (4) may either be inserted in the relevant title deed or registered by means of a notarial deed, and the Registrar of Deeds shall endorse on the title deed of any land retained by the transferor, including certificates of title taken out by the owner concerned, every such condition which relates to the land so retained.

[subsection (8) substituted by Act 21 of 1998]

(9) All expenses in connection with an application under this section shall be borne by the applicant, who may be required by the Minister to deposit with him such a sum of money as he estimates to be sufficient to cover such expenses.

(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 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 14 and the provisions of section 25 shall, *mutatis mutandis*, apply to all such land.

[subsection (10) amended by Act 28 of 1992]

(11)

[subsection (11) deleted by Ord. 36 of 1967]

(12)

[subsection (12) deleted by Ord. 36 of 1967]

(13) Any permission to subdivide, given in terms of this section, shall be valid for a period of not more than two years, and should the applicant concerned fail to lodge the relevant diagram with the Surveyor-General within a period of two years from the date of notification by the Minister of the granting of the application in terms of sub-section (7) or within such further period as the Minister or the Chairman of the Board may allow, the permission to subdivide shall be deemed to have lapsed.

(14) The provisions of this section shall not apply to the subdivision of any erf or piece of land situated in an approved township for any purpose other than creating a right of way or thoroughfare providing a new frontage or means of access to such subdivision, if such township falls within the area of jurisdiction of a local authority which is empowered to exercise control over the subdivision of land in terms of the provisions of a scheme approved in terms of the Town Planning Ordinance, 1954 (Ordinance 18 of 1954).

20. (1) No diagram representing a subdivision of any land situate outside an approved township or outside the townlands of any such township, where either the subdivision or the remainder so created is less than twenty-five hectares in extent, shall be approved by the Surveyor-General unless such subdivision has been approved of by the Minister;

(2) The owner of such land who wishes to subdivide it, as contemplated in subsection (1), shall apply to the Minister for permission to do so.

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(3) The application shall be accompanied by a plan showing how it is proposed to subdivide such land and any other information which the Minister or the Namibia Planning Advisory Board requires.

(4) The Minister shall refer the application to the Namibia Planning Advisory Board for its report.

(5) After consideration and after such enquiry or inspection as it considers necessary, the Namibia Planning Advisory Board shall report to the Minister on the application or on any matter connected therewith which it may deem necessary or desirable to bring to his notice.

(6) The Minister shall, if he grants his permission, have the right to impose such conditions in regard to any matter mentioned in sub-section (3) of section *six* against the subdivision or the remainder, as he may deem fit.

(7)

[subsection (7) deleted by Ord. 36 of 1967]

(8)

[subsection (8) deleted by Ord. 36 of 1967]

(9) The provisions of sub-sections (7), (8) and (13) of section *nineteen*, shall *mutatis mutandis* apply to any permission given in terms of this section.

[Section 20 amended by Ord. 10 of 1973 to substitute "South West African Planning Advisory Board" for "Board" throughout; this term is then replaced by "Namibia Planning Advisory Board" as a result of the global substitution made by Act 28 of 1992.]

21. The provisions of section *twenty* shall apply *mutatis mutandis* in respect of the subdivision of any land situated within the townlands of any approved township not being an erf in such township: Provided that the Board shall be furnished with the comments of the local authority (if any) within whose area of jurisdiction such land is situated before its report is forwarded to the Minister.

22.

[section 22 amended by Ord. 36 of 1967 and deleted by Ord. 10 of 1973]

23. The name of an approved township may, on the application of the local authority within whose area of jurisdiction it is situated or, if there be no such authority, of the township owner at the date of the proclamation of that township, be changed: Provided that the alteration shall be subject to the approval of the Minister and to such conditions as the Minister after consultation with the Board, may impose.

24. (1) Subject to the provisions of sub-section (3), any owner referred to in that sub-section may at any time apply to the Minister for the deproclamation of any township or portion of a township and every such application shall be in writing and shall be accompanied by such information as the Minister requires.

(2) The applicant shall deposit with the Minister such a sum of money as the Minister estimates to be sufficient to cover the expenses of the Namibia Planning Advisory Board and an undertaking therewith to defray any balance of expenses which may become due by him under this section.

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(3) The application shall not be considered unless the applicant is the owner of all the erven and land, other than public places or erven or land referred to in subsection (1) of section fifteen, within such township or the portion of such township which he desires to have deproclaimed, and unless there is attached to the application the written consent of the legal holder of every registered mortgage bond hypothecating any erf or land within such township or the portion of such township.

(4) The Minister shall upon receipt thereof refer the application to the Namibia Planning Advisory Board and the Namibia Planning Advisory Board shall forthwith publish in the *Gazette* and in such newspaper or newspapers circulating in the area concerned as it may deem fit, a notice that such application has been made, and calling upon all persons having any objection to the proposed deproclamation to lodge such objections in writing with the Namibia Planning Advisory Board within a time to be stated in such notice, not being less than two months from the date of the last publication thereof. The Namibia Planning Advisory Board shall also serve a copy of such notice upon the local authority (if any) within whose area of jurisdiction the area which is the subject of the application, is situated.

(5) The Namibia Planning Advisory Board shall, after considering all objections (if any) lodged, and after making such investigation, including the hearing of evidence, as it thinks proper, recommend to the Minister - (a) (b) (c) (d) that the application be granted subject to such conditions as it deems necessary; that a portion of the area which the applicant desires to have deproclaimed be so deproclaimed; that the application be refused; that a decision on the application either in its entirety or in respect of a certain portion of it, be postponed for such period as the Namibia Planning Advisory Board deems fit.

(6) The Minister after considering the recommendations of the Namibia Planning Advisory Board, may grant, refuse or postpone the application, and if he grants it in respect of the whole of the area which the applicant desires to have deproclaimed, or in respect of a portion of such area, he may impose such conditions as he thinks fit: Provided that the Minister shall not grant an application for the deproclamation of any township or portion of any township unless he is satisfied that such deproclamation is not against the interest of the public.

(7) If the 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 notice in the *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.

[subsection (7) amended by Act 28 of 1992]

(8) All expenses connected with publication of notices, visits, enquiries and meetings of the Namibia Planning Advisory Board in connection with the application, including the travelling or other allowances payable to members or staff of the Namibia Planning Advisory Board, shall be borne by the person making the application, whether such application be granted or not.

[Section 24 amended by Ord. 10 of 1973 to substitute "South West African Planning Advisory Board" for "Board" throughout; this term is then replaced by "Namibia Planning Advisory Board" as a result of the global substitution made by Act 28 of 1992.]

25. (1) Whenever any township or any portion of any township is deproclaimed under the provisions of section 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,

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the provisions of any prior law or section 15 of this Ordinance, have been transferred to a local authority or to the 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 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 revesting or transfer shall be subject to such conditions as the Minister may impose: Provided further, that the costs of and in connection with such revesting and transfer shall be paid by such applicant.

[subsection (1) amended by Act 28 of 1992]

(2) The Registrar of Deeds shall record such revesting and shall make the necessary notes and endorsements on the relevant title deeds, in accordance with the law relating to the registration of deeds.

[This section is inconsistent in its use of word forms relating to "revest" without a hyphen and "re-vest" with a hyphen.]

26. (1) Whenever a township or a portion of a township is deproclaimed under the provisions of section twenty-four the general plan or the relevant portion of the general plan filed in the Deeds Registry or the Surveyor-General's office shall be cancelled by the Surveyor-General.

(2) Any general plan of an approved township filed in the Deeds Registry or the Surveyor-General's office may be amended by the Surveyor-General for the purpose of rectifying errors in survey.

(3) Upon the application of any township owner or of the local authority concerned (if any) the Minister shall have the power to authorize the amendment, or the partial or entire cancellation of a general plan or an approved township: Provided that the procedure, laid down in this Ordinance in connection with the granting of an application for permission to establish a township shall be followed in every respect in such a case unless the Board shall recommend to the Minister that, in view of the fact that the proposed amendment, or partial or entire cancellation is of a minor nature, compliance with such procedure referred to shall be dispensed with, in which event the Minister shall have power to authorize the amendment, or partial or entire cancellation without the said procedure being followed: Provided further that, where any such amendment, or partial or entire cancellation affects any public place within the area of jurisdiction of a local authority which is authorised by law to close or partially close any public place, the Surveyor-General shall, prior to making such amendment, or partial or entire cancellation be advised by the Minister that the provisions of any law relating to the permanent closing of any public place or portion thereof have been complied with.

[subsection (3) substituted by Ord. 10 of 1973]

(4) In the event of any public place or portion thereof being closed by such amendment, or partial or entire cancellation within an approved township in respect of which no local authority has been constituted or in respect of which, though a local authority has been constituted, such local authority is not authorized by law to close any public place or portion thereof, the Minister shall, prior to authorizing any amendment, or partial or entire cancellation, publish a notice setting forth the proposed amendment, or partial or entire cancellation in two consecutive issues of the *Gazette* and in two issues of a newspaper circulating in the township concerned, the issues of such newspaper appearing in consecutive weeks and calling upon all persons interested to lodge any objections they may have to the proposed amendment, or partial or entire cancellation with him, in writing, before a date stated in such notice, such date being not less than one month after the date of the last publication of such notice. The Minister shall thereupon submit the proposed amendment, or partial or entire cancellation and any objections thereto to the Board for consideration and the Board shall make such recommendations to the

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Minister, as it deems fit, and the Minister's decision regarding the proposed amendment, or partial or entire cancellation shall be final.

[subsection (4) substituted by Ord. 10 of 1973]

(5) Whenever the number or the nature of the amendments of a general plan to be made under the provisions of this section render it expedient to do so, the Surveyor-General may cancel the existing general plan and substitute therefor a new general plan exactly corresponding with such existing general plan but embodying the said amendments.

(6) Whenever a general plan of an approved township is partially or entirely cancelled, or amended, under this section, the Registrar of Deeds shall make corresponding entries in the township register concerned and on the title deeds whereby the land concerned is held.

[subsection (6) substituted by Ord. 10 of 1973]

(7) Notwithstanding anything contained in any other law, where a public place is shown on a general plan of an approved township, such public place shall not in any way be altered in its character as a public place, unless the Minister shall have approved such alteration: Provided that the Minister shall, before giving such approval, refer the matter to the Board for its recommendations, and shall not, without further reference to the Board, approve any such alteration in character which the Board has refused to recommend: Provided further that no recommendation by the Board to the Minister shall be made unless the procedure in respect of the closure of public places, referred to in sub-sections (3) and (4) has been followed in every respect.

(8) Prior to the amendment of a general plan in respect of the closure of a public place, or portion thereof, the Surveyor-General shall be furnished with a diagram representing the portion of land which has been closed, unless he is able to frame such diagram from records filed in his office.

27. No transfer duty, stamp duty or deeds registration fees shall be payable in respect of any transfer of land under the provisions of section fifteen or section twenty-five, and no stamp duty shall be payable in respect of the diagrams concerned.

28. (1) Whenever it is sought to transfer an erf in an approved township shown on a general plan filed in the Deeds Registry which specifies the area, sides and angles of such erf, it shall not be necessary to annex to the deed of transfer a diagram of such erf, but as soon as it is sought to transfer a portion of any erf in such township, except as provided in sub-section (2), there shall be annexed to the deed of transfer a diagram of that portion and there shall be lodged with the Registrar of Deeds a diagram of the whole of such erf.

(2) If an erf in such township is subdivided into a number of portions which in the opinion of the Board may constitute a new township, the provisions of this Ordinance relating to the granting of an application for permission to establish a township shall apply in every respect.

(3) Nothing in this section contained shall be construed as affecting in any way the right of the transferee of an erf in an approved township to obtain a diagram of such erf and such diagram shall be registered with and form part of his title.

29. (1) Whenever any area of land constitutes, by reason of its situation, a portion of an approved township, or adjoins an approved township, the Minister may, by notice in the *Gazette* and after consultation with the Board, extend the boundaries of that township to include such area.

[subsection (1) substituted by Ord. 9 of 1977 and amended by Act 28 of 1992]

(2) The Minister may impose such conditions in regard to any matter mentioned in sub-section (3) of section six against such area of land as he may deem fit: Provided that the Minister shall not exercise his powers under this sub-section or sub-section (1) unless the local authority (if any) within whose area of jurisdiction such area of land is situated, has been consulted: Provided further that if such area of land is situated within an area to which a scheme approved in terms of the Town Planning Ordinance, 1954 (Ordinance 18 of 1954) applies, the Minister shall not impose any conditions which are in conflict with any of the provisions of that scheme.

(3) Any conditions imposed in terms of sub-section (2) shall be set forth in a schedule to the proclamation referred to in sub-section (1) and the Registrar of Deeds shall endorse the relevant title deeds accordingly.

30. (1) No diagram representing a consolidation of erven and/or portions of erven, shall be approved by the Surveyor-General unless prior consent of the Minister has been obtained.

(2) An application for such consent, together with the comments of the local authority (if any) within whose area of jurisdiction such erven or portions of erven are situated, shall be made to the Minister who shall thereupon refer the matter to the Board for consideration and the Board may, if any of the title deeds concerned contain any conditions imposed by the Minister in terms of this Ordinance or any prior law, recommend to the Minister that such conditions be varied, modified, deleted or added to in order that the whole of the land to be consolidated shall become subject to one uniform set of conditions.

[subsection (2) amended by Ord. 36 of 1967]

(3) The Minister shall, if he grants his consent, as aforesaid, have the right to authorize such variation, modification, deletion or addition so recommended by the Board and such new uniform set of conditions may, notwithstanding anything to the contrary contained in the Deeds Registry Proclamation, 1939 (Proclamation 37 of 1939), either be inserted in the consolidated title issued by the Registrar of Deeds or be registered by means of a notarial deed: Provided that if such erven or portions of erven are situated within an area to which a scheme approved in terms of the Town Planning Ordinance, 1954 (Ordinance 18 of 1954) applies, the Minister shall not authorize any such variation, modification, deletion or addition which is in conflict with any of the provisions of that scheme.

[Subsection (3) is amended by Ord. 7 of 1969. The Deeds Registry Proclamation 37 of 1939 has been replaced by the Deeds Registries Act 47 of 1937.]

Conditions imposed may be enforced and penalties for noncompliance with conditions imposed

31. (1) If the Minister has imposed conditions in terms of this ordinance or any other law -

[The word "Ordinance" should be capitalised here to be consistent with the rest of the Ordinance.]

- (a) in respect of land situated within the area of jurisdiction of a local authority, such local authority may enforce compliance with such conditions; or
- (b) in respect of land situated outside such an area, the Minister may enforce compliance with such conditions.

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(2) Any person who contravenes or fails to comply with any of the conditions mentioned in sub-section (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding two hundred rand or in default of payment to imprisonment for a period not exceeding six months, and in the case of a continuous offence to an additional fine not exceeding four rand for each day on which the offence continues.

[subsection (2) amended by Ord. 2 of 1970]

[section 31 substituted by Ord. 36 of 1967]

Variation of conditions in terms or this Ordinance or any prior law

31A. (1) The Minister may, on application by the owner of any land, the title deeds of which are subject to conditions, imposed in terms of this Ordinance, the Municipal Ordinance, 1963 (Ordinance 13 of 1963) or any prior law, vary such conditions, by amending, substituting or deleting any such conditions or by adding further conditions to such conditions: Provided that –

[The words preceding the proviso are substituted by Ord. 10 of 1973. The Municipal Ordinance 13 of 1963 has been replaced by the Local Authorities Act 23 of 1992.]

- (a) the Minister may, before making any proposed variation, require public notification thereof to be given as he may deem necessary;
- (b) the Minister shall refer the matter to the Board before making such variation;
- (c) if such land is situated within the area of jurisdiction of a local authority, the Board shall before making any recommendation to the Minister, refer the matter to such local authority for its comments;
- (d) if such land is situated within an area to which a scheme approved in terms of the Town Planning Ordinance, 1954 (Ordinance 18 of 1954) applies, the Minister shall not make any such variation which is in conflict with any of the provisions of that scheme.

(2) The Minister may, on the application of a township owner, vary the conditions set forth in the schedule to a proclamation issued in terms of section 13 in respect of the township concerned, by amending, substituting or deleting any such conditions or by adding further conditions to such conditions: Provided that –

- (a) the provisions of the proviso to subsection (1) shall *mutatis mutandis* apply in respect of such application; and
- (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 Minister by notice in the *Gazette*.

[paragraph (b) amended by Act 28 of 1992]

[section 31A inserted by Ord. 36 of 1967]

Cancellation by Registrar of Deeds of conditions imposed

31B. Notwithstanding anything to the contrary in any law contained, the Registrar of Deeds may, with the written approval of the Minister and upon payment of any duty or fee prescribed under the Deeds Registries Act, 1937 (Act No. 47 of 1937) or the Registration of Deeds in Rehoboth Act (Act No. 93 of 1976), as the case may be, cancel by endorsement any

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conditions which have, in terms of this Ordinance or any other law, been inserted in a deed of transfer or certificate of title or endorsed upon a title deed.

[Section 31B is inserted by Ord. 36 of 1967, along with the heading, and substituted by Act 21 of 1998. The word "Notwithstanding" is misspelt in the *Government Gazette*, as reproduced above.]

32. The Minister may by notice in the *Gazette* define the boundaries of any township mentioned in the First Schedule whenever the boundaries of such township have not been defined.

33. It shall be lawful for the owner of land upon which an approved township is situate, to transfer by one deed the whole or any portion of that land or an undivided share in such land or portion thereof: Provided that -

- (a) the transfer of a portion of such land shall be in accordance with a diagram to be annexed to the deed of transfer, and from the diagram shall be excluded all erven in such township or in the portion affected, which have already been transferred. The aggregate area of such erven shall be indicated on such diagram;
- (b) the boundaries of a portion proposed to be transferred shall coincide with one or more division lines shown on the general plan;
- (c) the deed of transfer shall state that the land described therein has been laid out as an approved township or is a portion of or share in land so laid out and that such land remains subject to the provisions of the law in force relating to the registration of townships or of erven in a township, and that the land is subject to the rights held as regards the public places by the owners of the erven in the particular township affected.

34. The Minister may from time to time and subject to such conditions as he may, in his discretion, impose, delegate all or any of the powers conferred upon him by this Ordinance to any officer, and may at any time withdraw such delegation: Provided that the powers so delegated to such an officer shall be exercised only in respect of an approval of a recommendation of the Board.

35. This Ordinance shall bind the State.

36. (1) The Minister may make regulations with respect to -

[Introductory phrase of subsection (1) amended by Ord. 2 of 1970]

- (a) the circumstances under which a member of the Board, other than a person who is a member ex officio, shall vacate his office, and the filling of casual vacancies;

[paragraph (a) substituted by Ord. 2 of 1970]

- (aA) the meetings of the Board, the conduct of proceedings thereat and the number of members who shall constitute a quorum for any meeting;

[paragraph (aA) inserted by Ord. 2 of 1970]

- (b) the form of any application in terms of this Ordinance and the information and documents to be submitted with such application;

[paragraph (b) substituted by Ord. 2 of 1970]

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(c) the fees, if any, to be charged in respect of any act, matter or thing required or permitted to be done under this Ordinance or in terms of the regulations promulgated thereunder; and

(d) generally for the better carrying out of the objects and purposes of this Ordinance.

(2) Any fees prescribed in terms of sub-section (1)(c) shall upon payment, be paid by the Minister into the State Revenue Fund.

[subsection (2) inserted by Ord. 36 of 1967]

37. The laws specified in the Fourth Schedule are hereby repealed to the extent set out in the third column of that Schedule but notwithstanding such repeal every application for permission to establish a township made before the commencement of this Ordinance shall be considered and decided under the provisions of the said laws as if they had not been repealed.

38. This Ordinance shall be called the Townships and Division of Land Ordinance, 1963.

[Act 21 of 1998 provides the following transitional provision:

“Variation of conditions imposed

5. (1) Any condition attaching to any erf in the district of Rehoboth upon the commencement of this Act shall be deemed to have been imposed under the Ordinance.

(2) Subject to subsection (3) the Minister may, on the recommendation of the Board, in relation to any erf referred to in subsection (1), by notice in the *Gazette* vary the conditions referred to in that subsection by amending, substituting or deleting any of those conditions, or by imposing further conditions in regard to any matter mentioned in section 6(3) of the Ordinance.

(3) No condition shall be imposed which purports to alter the purpose for which any such erf was used immediately prior to the commencement of this Act, without the written approval of the owner of the erf concerned.”]

FIRST SCHEDULE

**[The First Schedule is substituted by Act 21 of 1998.
Act 21 of 1998 provides as follows in section 4(2):**

“The Minister may by notice in the *Gazette* amend the First Schedule to the Ordinance so as to include any area in the district of Rehoboth which has been divided into sites, whether surveyed or not, prior to the commencement of this Act, and in respect of which a general plan is approved by the Office of the Surveyor-General.”

The First Schedule was accordingly amended by Government Notice 63 of 1999.]

Aroab
Aus
Bethanie
Gibeon
Gobabis
Grootfontein
Karibib
Keetmanshoop
Klein Windhoek
Lüderitz
Maltahöhe
Mariental
Okahandja
Omaruru

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Otjiwarongo
 Outjo
 Rehoboth
 Rehoboth Block A
 Rehoboth Block A (Extension 1)
 Rehoboth Block A (Extension 2)
 Rehoboth Block B
 Rehoboth Block C
 Rehoboth Block D
 Rehoboth Block D (Extension 1)
 Rehoboth Block E
 Rehoboth Block E (Extension 1)
 Rehoboth Block E (Extension 2)
 Rehoboth Block E (Extension 3)
 Rehoboth Block F
 Rehoboth Block F (Extension 1)
 Rehoboth Block F (Extension 2)
 Rehoboth Block G
 Rehoboth Block H
 Swakopmund
 Tsumeb
 Usakos
 Walvis Bay
 Warmbad
 Windhoek

SECOND SCHEDULE

(Endorsement to be made under the provisions of sub-section (2) of section *twelve* of this Ordinance.)

The land herein described has been laid out as a township under the name of according to diagram No. A. framed by Surveyor in and approved/confirmed by the Surveyor-General on the day of 19

THIRD SCHEDULE

CERTIFICATE OF TOWNSHIP TITLE

(Issued under the provisions of sub-section (3) of section *twelve* of this Ordinance.)

KNOW ALL MEN WHOM IT MAY CONCERN:

Whereas is the registered owner of (here describe the land held under his title deeds), held by him under; and

Townships and Division of Land Ordinance 11 of 1963

Whereas he has laid out a township called the township of upon a portion of the said land hereinafter described;

Now, therefore, I the Registrar of Deeds, do hereby certify that the said is the registered owner of (here describe the portion) now known as the township of, measuring as will more fully appear from the diagram No. A. hereunto annexed, framed by Surveyor in and approved/confirmed by the Surveyor-General on the day of 19..... and subject to such conditions as are mentioned or referred to in the said deed of transfer (or grant).

And that by virtue of these presents the said his heirs, executors, administrators, and assigns, now are and henceforth shall be entitled thereto conformably to local custom, Government, however, reserving its rights.

In witness whereof I, the said Registrar of Deeds, have subscribed to these presents and have caused my seal of office to be affixed thereto.

Thus done and executed at the Office of the Registrar of Deeds at Windhoek, on the day of in the year of Our Lord. One thousand Nine hundred and

.....
Registrar of Deeds

Registered in the Register of
Book Page

FOURTH SCHEDULE

<i>Number and year of law</i>	<i>Short title of law</i>	<i>Extent repealed</i>
Ordinance 11 of 1928	Townships Ordinance, 1928	The whole
Ordinance 14 of 1931	Townships Amendment Ordinance, 1931	The whole
Ordinance 9 of 1937	Townships Amendment Ordinance, 1937	The whole
Proclamation 45 of 1951	Townships Amendment Proclamation, 1951	The whole
Ordinance 30 of 1957	Townships Amendment Ordinance, 1957	The whole