

Namibia

Agricultural (Commercial) Land Reform Act, 1995

Land Valuation and Taxation Regulations, 2007

Government Notice 120 of 2007

Legislation as at 15 November 2017

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Land Valuation and Taxation Regulations, 2007

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Republic of Namibia
Annotated Statutes

Agricultural (Commercial) Land Reform Act, 1995

Land Valuation and Taxation Regulations, 2007

Government Notice 120 of 2007

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[Note: The version of this legislation as at 15 November 2017 was revised and consolidated by the Legal Assistance Centre and the Government of the Republic of Namibia. All subsequent amendments have been researched and applied by Laws.Africa for NamibLII.]

The Government Notice which publishes these regulations notes that they were made with the concurrence of the Minister responsible for agriculture and the Minister responsible for finance. It also repeals the Land Valuation and Taxation Regulations published in GN 259/2001 (GG 2678), as amended by GN 128/2004 (GG 3214).

as amended by

**Government Notice 210 of 2011 (GG 4833) came into force on date of publication: 15 November 2011
Government Notice 185 of 2015 (GG 5809) came into force on date of publication: 17 August 2015**

The Government Notice which publishes these amendments to the regulations notes that they were made with the concurrence of the Minister responsible for agriculture and the Minister responsible for finance.

Part I – PRELIMINARY

1. Definitions

In these regulations, a word or expression defined in the Act has that meaning and unless the context otherwise indicates-

“carrying capacity” means the potential of an area to maintain or support animals through grazing or browsing or fodder crops over an extended period of years without retrogression of the ecosystem;

“commissioner” means the Commissioner of Inland Revenue;

“date of valuation” means-

- (a) in relation to the main valuation roll, the date that the Minister causes the general valuation to be made in terms of regulation 3(1)(a); or

- (b) in relation to the interim valuation roll, the date that the Minister caused in the last general valuation to be made in terms of regulation 3(1)(a);
- “**financial year**” means the period from 1 April in any year to 31 March in the next year;
- “**interim valuation roll**” means the interim valuation roll referred to in regulation 3(2);
- “**iso-value map**” means the iso-value map referred to in regulation 4(7)(b);
- “**land tax**” means land tax as referred to in regulation 2;
- “**magistrate**” includes an additional magistrate or assistant magistrate;
- “**main valuation roll**” means the main valuation roll referred to in regulation 16;
- “**Ministry**” means the Ministry administering land affairs;
- “**presiding officer**” means a magistrate referred to in regulation 8(3);
- “**provisional valuation roll**” means the provisional valuation roll prepared in terms of regulation 4(2);
- “**representative**” means a representative referred to in paragraph (bb) of the proviso to section 76A of the Act;
- “**the Act**” means the Agricultural (Commercial) Land Reform Act, 1995 (Act No. 6 of 1995);
- “**unimproved site value**” means the value of agricultural land as determined by the valuer under regulation 4(7) and as referred to in regulation 2;
- “**valuation court**” means the valuation court established by regulation 8;
- “**valuer**” means a valuer appointed in terms of regulation 4;
- “**valuation roll**” means a main or interim valuation roll referred to in regulation 16;
- “**Valuer-General**” means the Valuer-General of the Ministry.

Part II – LAND TAX

2. Land tax on land value

- (1) There must be paid by every owner of agricultural land for the benefit of the Fund, in respect of each financial year, a land tax based on the land value (also to be known as the unimproved site value) of that land as shown on the main or interim valuation roll and calculated at such rate or progressive rate as may be determined by a notice under section 76 of the Act.
- (2) The land tax imposed under subregulation (1) is due and payable as required in the relevant notice of assessment served on the owner concerned and the amount of such tax is calculated in accordance with the formula set out in section 76(1)(a) of the Act.

Part III – VALUATION OF AGRICULTURAL LAND

3. Valuation of agricultural land

- (1) The Minister-
 - (a) must, as soon as possible after the commencement of these regulations, and thereafter at intervals of five years cause a general valuation to be made in respect of all agricultural land; and

- (b) may, of his or her own accord or at the request made on Form 3 by any person at any time during a period of five years referred to in paragraph (a), cause an interim valuation to be made in respect of any agricultural land.
- (2) The interim valuation roll may include-
 - (a) any agricultural land that was omitted from the main valuation roll;
 - (b) any agricultural land whose description has changed as a result of consolidation, subdivision or renumbering as shown on an approved diagram within the meaning of the Land Survey Act;
 - (c) any agricultural land whose size was incorrect on the main valuation roll; or;
 - (d) any agricultural land that was incorrectly assessed on the main valuation roll.
- (3) Subject to subregulation (4), the Minister must by notice in the *Gazette* determine the date of valuation and the period during which any such general or interim valuation must be made.
- (4) Where an interim valuation is to be made the Minister may give notice of that period by serving notices in writing on the owners of the agricultural land in question.
- (5) When making an interim valuation, the same procedure as set out in regulation 4 with regard to a general valuation is observed.
- (6) Any such interim valuation roll must be based on what the value of the land would have been at the last general valuation and any increase or decrease in the value of land generally between the last general valuation and such interim valuation must be disregarded.

4. Appointment, powers and duties of valuer

- (1) When a general valuation or interim valuation of agricultural land is required to be made in terms of regulation 3, the Commission must, subject to subregulation (3), nominate a person by reason of his or her expertise in the field of real estate valuation-
 - (a) who is a staff member in the Public Service for designation by the Minister as valuer; or
 - (b) who is not in full-time employment of the Public Service for appointment by the Minister as a valuer on such terms and conditions as the Minister, subject to the laws governing public service, may determine.
- (2) The valuer is responsible for the valuation of the agricultural land in question and for the preparation of a provisional valuation roll containing-
 - (a) the farm number, registration division, and farm name of the agricultural land in question;
 - (b) the name of the owner of that land;
 - (c) the size in hectares of that land;
 - (d) the unimproved site value of that land;
 - (e) remarks (if any) with regard to the agricultural land in question; and
 - (f) such other information as the Minister may direct to be shown.
- (3) A valuer, before assuming his or her duties, must make and subscribe before a commissioner of oaths an oath or affirmation in the following form:

“I, A.B do hereby swear/affirm and solemnly and sincerely promise to appraise and value in accordance with, and for the purpose of the provisions of the Agricultural (Commercial) Land Reform Act, 1995 and the Land Valuation and Taxation Regulations made under that Act, any agricultural land, to the best of my skill and knowledge, without favour or

prejudice, truly, impartially and conscientiously and for the full and fair value thereof according to the intent and requirement of the applicable laws.

So help me God or I affirm.”

- (4) The Minister must cause a certificate of appointment in such a form as the Minister may determine to be issued to a valuer upon his or her designation or appointment.
- (5) It is a condition of every designation or appointment of a person as a valuer that-
 - (a) all information provided to or gathered by the valuer for the purpose of performing his or her duties as valuer, and all calculations made and all records, plans and forms generated by him or her in the performance of those duties, whether such information, calculations, records, plans or forms are kept in written form or stored in the form of data on a computer or any other mechanical or electronic device, are and remain the property of the State;
 - (b) the valuer, while being in the possession of the information, calculations, records, plans and forms referred to in paragraph (a), in whatever form, must take all steps necessary to ensure their safe custody and to prevent them, or part thereof from getting lost, destroyed or defaced or being rendered useless or inaccessible in any other manner; and
 - (c) all such information, calculations, records, plans and forms as may from time to time be required by the Minister from the valuer, and upon the termination of his or her designation or appointment for whatever reason, must be delivered by him or her to the Minister, in whatever form they were kept or stored by him or her, at no consideration other than the remuneration to which he or she is entitled by virtue of the terms and conditions upon which he or she has been designated or appointed,but nothing in this subregulation may be construed as preventing a valuer or any other authority from dealing with such information, calculations, records, plans or forms as may be required in terms of the Act or these regulations;
 - (d) the valuer may not value any land in which he or she has a personal interest, or in which his or her spouse, partner or relative within the first degree of consanguinity or affinity is interested, without disclosing the nature and extent of such interest; and
 - (e) the valuer must submit to the Minister a list (if any) of land in which he or she has an interest and extent of his or her interest and the Minister must submit such list to the valuation court.
- (6) Subject to subregulation (7), a valuer must value any agricultural land at a value equal to the best price at which in his or her opinion such land and other agricultural land of a similar carrying capacity classification might reasonably be expected to be sold by a willing seller to a willing buyer at the date of valuation.
- (7) In determining the value of any agricultural land in terms of these regulations, a valuer-
 - (a) must have due regard to the carrying capacity of such land as supplied by the Ministry administering agricultural affairs at the date of valuation; and
 - (b) may use a mass appraisal approach to value the land and may-
 - (i) divide the Republic of Namibia cadastral map into value zones to create an iso-value map showing the values of agricultural land per hectare;
 - (ii) create value zones each of which may contain agricultural land with the same carrying capacity classification, and any agricultural land that lies in two or more carrying capacity classifications may, for the purpose of preparing value zones, be placed in the carrying capacity classification that constitutes the greater part of such land.
 - (c) may conduct random inspections of any agricultural land but may not be obliged to conduct physical inspections on all the agricultural land to be valued, and

- (d) must disregard in respect of such agricultural land-
 - (i) the value of the improvements on such land;
 - (ii) any depreciation in the value of such land caused by excessive grazing, bush encroachment and other bad farming practices on or poor management of, such land;
 - (iii) any mortgage or other judicial encumbrance on such land;
 - (iv) any appreciation in value attributed to proximity to a town;
 - (v) any appreciation of the land value attributed to tourism or mining potential; and
 - (vi) any depreciation or appreciation of the land value resulting from a public road or railway line crossing through the land.
- (8) Subject to subregulation (9) and for the purposes of performing his or her functions in terms of these regulations, a valuer or any person assisting the valuer may-
 - (a) enter on such land at any reasonable time after having given the owner, occupier or other person in control of the land such prior notice as may in the circumstances be reasonable; or
 - (b) inspect and make copies or extracts from any register, document or record which contains particulars of any agricultural land and which is in the custody or under the control of a government official or any other person.
- (9) When a valuer or any person assisting the valuer exercises or performs a power or duty in terms of these regulations in the presence of any person affected thereby, he or she must, on demand by such person-
 - (a) in the case of a valuer, produce to such person the certificate of appointment issued in terms of subregulation (4); or
 - (b) in the case of a person assisting the valuer, produce a letter duly signed by the valuer authorizing him or her to perform specified duties on the valuer's behalf in accordance with subregulations (13) and (14).
- (10) The owner, occupier or other person in control of any agricultural land must, within such reasonable period as may be determined in writing by the valuer, furnish such information or documents as are required by the valuer to enable the valuer to exercise or perform his or her powers or duties in terms of these regulations.
- (11) Any person who without just cause refuses or fails to comply with a notice or request by a valuer under subregulation (8) or (10) or any person assisting the valuer, or who furnishes information or particulars which such person knows to be false or misleading commits an offence and-
 - (a) is liable to a fine not exceeding N\$20 000 or to imprisonment for a period not exceeding five years or to both such fine and such imprisonment;
 - (b) if the offence of which such person is convicted is continued after the conviction he or she is liable to a fine not exceeding N\$200 for every day that the offence is so continued.
- (12) Despite a conviction under subregulation (11), a person so convicted remains under a duty to comply with subregulation (8) or (10), whatever the case may be.
- (13) A valuer, when necessary, may delegate or assign to any suitable person any power or duty conferred or imposed upon the valuer in terms of these regulations.
- (14) A delegation or an assignment under subregulation (13)-
 - (a) must be in writing, and subject to such limitations and conditions as the valuer may impose;
 - (b) may be reviewed and, if necessary, amended or withdrawn at any time.
- (15) A valuer is not divested of any power or duty delegated or assigned under subregulation (13).

- (16) The valuer may vary or revoke any decision taken under a delegation in terms of this regulation, but no such variation or revocation of the decision may detract from any right that may have accrued as a result of the decision.

5. Remuneration of valuer and other expenses

- (1) The Minister, with the concurrence of the Minister of Finance and subject to regulation 4(1)(b), must determine the remuneration and allowances payable to the valuer, who is not in full-time employment of the State.
- (2) The expenses incidental to the performance of any general or interim valuation under these regulations, including the remuneration and allowances payable to a valuer or any other person, are defrayed from the Fund.

Part IV – OBJECTIONS, APPEALS, VALUATION COURT, VALUATION ROLL, REMUNERATION AND ALLOWANCES OF MEMBERS AND EXPENCES

[The word “EXPENSES” is misspelt in the heading of PART IV. It is spelt correctly in the corresponding heading in the ARRANGEMENT OF REGULATIONS.]

6. Objections against provisional valuation roll

- (1) The valuer, upon the completion of a provisional valuation roll referred to in regulation 4(2), must sign and date a declaration appended to such roll and submit it to the Minister.
- (2) A declaration appended to the main valuation roll or the interim valuation roll must state-
- (a) that the main valuation roll or the interim valuation roll has been prepared in accordance with these regulations;
 - (b) the full names and professional qualifications of the valuer; and
 - (c) the date of valuation of the main valuation roll or the interim valuation roll.
- (3) Every copy of the main valuation roll or the interim valuation roll must bear a copy of the declaration referred to in subregulation (2).
- (4) The Minister must cause a notice to be published in the *Gazette* and in at least two newspapers widely circulating in Namibia on a date not earlier than 60 days before the date determined by the Minister for the commencement of the sitting of the valuation court-
- (a) stating-
 - (i) that the provisional valuation roll is lying open for inspection during ordinary office hours at the place or places and during the period specified in such notice;
 - (ii) that the iso-value map (if any) is lying open for inspection during office hours at the place or places and during the period specified in such notice;
 - (iii) that the valuation court will commence its sitting on the date time and at the place specified in such notice to consider any valuation contained in such provisional valuation roll and to hear every objection lodged in respect of any such valuation;
 - (iv) any interested person may upon payment of such fee as may be determined by the Minister, during the period and times specified in a notice referred to in paragraph (b), obtain a copy of such provisional valuation roll or any part thereof;
 - (b) calling upon every owner of agricultural land in respect of which a valuation is contained in the provisional valuation roll who wishes to object to the valuation, to lodge, within 30 days of the date of the notice, an objection on Form 1 against the valuation with the Minister setting out the grounds on which the objection is based;

- (c) calling upon every owner of agricultural land in respect of which such land is contained or omitted on the provisional valuation roll who wishes to correct such information, to lodge, within 30 days of the date of the notice, a data correction request with the Minister to be made on Form 3.
- (5) The Commission, a registrar of deeds or any person representing any Government department may lodge an objection or data correction request with respect to any information contained on the provisional valuation roll setting out the grounds of objection or corrections to be made to the provisional valuation roll.
- (6) The Minister must cause an owner who has lodged an objection pursuant to subregulation (4) to be notified in writing of the date and time on which and the place at which the valuation court must be sitting.
- (7) Where an objection is made under subregulation (5), the Minister must, not less than 30 days prior to the sitting of the valuation court, cause the owner of such land to be informed in writing giving reasons for such objection and must be invited to the valuation court at a specified date, time and venue to hear his or her objection.
- (8) For the purpose of resolving an objection or reaching an agreement to settle an objection with an owner who has lodged an objection pursuant to subregulation (4), the valuer or any person assisting the valuer may communicate to such owner, and may
 - (a) withdraw the objection; or
 - (b) reach an agreement to settle the objection,prior to the valuation court sitting.
- (9) If an objection is withdrawn or a settlement agreement is reached under subregulation (8), the objector must complete the withdrawal of objection or a settlement agreement on Form 2 and submit it to the Minister.

7. Submission of provisional valuation roll

The Minister must cause to be submitted to the valuation court within 30 days after the expiry of the 30 days mentioned in regulation 6(4)(b)-

- (a) the objections (if any) lodged with the Minister in terms of that regulation;
- (b) the provisional valuation roll submitted to the Minister in terms of regulation 6(1); and
- (c) the data correction request forms lodged with the Minister under regulation 6(4)(c).

8. Establishment of valuation court

- (1) There is established a valuation court to consider and determine valuations or other information contained in a provisional valuation roll or objections lodged in relation to any such valuation.
- (2) A valuation court consists of four members-
 - (a) a magistrate designated, at the request of the Minister, by the Magistrates Commission established by section 2 of the Magistrates Act, 2003 (Act 3 of 2003);
 - (b) a staff member of the Ministry designated by the Minister;
 - (c) a person from the private sector appointed by the Minister by reason of his or her expertise in the field of land matters relevant to the application of these regulations; and
 - (d) a staff member of the Ministry administering agricultural affairs, designated, at the request of the Minister, by the Minister of that Ministry.
- (3) The magistrate designated under subregulation (2)(a) presides over the valuation court.

- (4) A decision of the majority of the members of a valuation court is the decision of the valuation court and in the event of equality of votes the presiding officer has a casting vote in addition to the deliberative vote.
- (5) Despite subregulation (4), if at any stage during the proceedings before a valuation court a member of that court dies or is otherwise incapable of acting, the proceedings must continue before the remaining members of the court, but-
 - (a) only if such remaining members include the magistrate designated under subregulation (2) (a);
 - (b) in the event of the proceedings being continued before the remaining members, the decision of the magistrate prevails;
 - (c) if the magistrate is for any such reason unable to so act the proceedings must commence anew before a valuation court constituted anew in accordance with this regulation.

9. Oath of office

A member of the valuation court other than the presiding officer may not perform any function as such a member, unless he or she has taken an oath or made an affirmation before a magistrate, which is subscribed by the member as follows:

“I, _____ do hereby(full name)

swear / solemnly and sincerely affirm and declare that I will in my capacity as member of the valuation court administer justice to all persons alike, without fear, favour or prejudice, and as the circumstances in any particular case may require, in accordance with the laws of the Republic of Namibia.

So help me God / I affirm.”

10. Assessors

- (1) For the purpose of procuring assistance in the determination of any matter under these regulations, a valuation court may appoint not more than two persons with special knowledge and experience in the valuation of agricultural land to sit as assessors in an advisory capacity.
- (2) If during any proceedings before a valuation court or so shortly before the commencement of the proceedings that a vacancy cannot be filled in time for the hearing, an assessor dies or for any other reason becomes incapable of taking his or her seat, the presiding officer may-
 - (a) adjourn the proceedings to invoke the assistance of another person as assessor; or
 - (b) continue with the proceedings with the remaining assessor, if there be one, or without any assessor should there be no remaining assessor.
- (3) A valuation court must give due consideration to, but is not bound by, the opinion of any assessor.

11. Seat of valuation court

Subject to regulation 6(4), a valuation court may conduct its proceedings at any place throughout Namibia.

12. Powers and duties of valuation court

- (1) The Powers and duties of a valuation court are-

[The word “powers” should not be capitalised.]

- (a) to consider any valuation contained in the provisional valuation roll and, subject to subregulation (2), to hear every objection lodged in connection with such valuation;
 - (b) to examine the iso-value map used as the basis for the valuation of agricultural land;
 - (c) to examine the carrying capacity data at the date of valuation as supplied by the Ministry administering agricultural affairs;
 - (d) to consider any withdrawal of objection or settlement agreement forms duly completed and lodged by land owners who had previously objected to the value of their agricultural land; and
 - (e) to consider any other information other than the unimproved site values contained on a provisional valuation roll.
- (2) The valuation court may not hear an objection against any valuation contained in the provisional valuation roll if the objection is not lodged in accordance with these regulations.
- (3) After having considered any valuation contained in the provisional valuation roll or any objection lodged in connection with such valuation pursuant to regulation 6, the valuation court may-
- (a) confirm such valuation;
 - (b) uphold such objection, and decrease or increase such valuation;
 - (c) decrease such valuation without any objection having been lodged, or increase such valuation after having afforded the owner of the agricultural land in question an opportunity to be heard;
 - (d) order the valuer-
 - (i) to value any agricultural land omitted from the provisional valuation roll; or
 - (ii) to revalue any agricultural land with due regard to such guidelines and directions as the court, subject to regulation 4(5), may determine; or
 - (e) make any other amendment to the provisional valuation roll as it may think necessary.

13. Proceedings before valuation court

- (1) The proceedings before a valuation court are conducted in such a manner as the presiding officer considers most suitable to resolve the issues before the court and the court is not bound by any law relating to procedure and admissibility of evidence.
- (2) For the purposes of considering any valuation or other information contained in the provisional valuation roll or hearing any objection lodged under these regulations, a valuation court may-
- (a) summon by a notice in writing issued by the presiding officer, or by any other member of the court if such member is so authorised thereto by the presiding officer, any person to appear before it at a date, time and place specified in such notice;
 - (b) administer an oath or take an affirmation from a person referred to in paragraph (a) or any other person (including the valuer), present at a sitting of the valuation court, and examine any such person under oath or affirmation.

- (3) A person who has lodged an objection against a valuation contained in the provisional valuation roll must appear either in person or through a valuer or a legal practitioner as defined in section 1 of the Legal Practitioners Act, 1995 (Act No. 15 of 1995).
- (4) If an objection has been duly lodged in terms of these regulations and has not been withdrawn and the objector fails to appear either personally or through a representative on the day appointed for the hearing of his or her objection, the valuation court must nevertheless consider and determine the objection.
- (5) The valuer must attend all sittings of the valuation court.
- (6) A member of the valuation court may not take part in any proceedings or decision in relation to any agricultural land of which he or she or any connected person is the owner, and for the purposes of this subregulation "connected person" means-
 - (a) any person who is related to a member of the valuation court by first degree affinity or consanguinity;
 - (b) any person with whom a member of the valuation court, or his or her partner, agent, or business associate, is in terms of the traditional laws and customs prevailing in Namibia a partner in a customary union.
- (7) Every decision made by the valuation court in terms of regulation 12(3) with regard to an objection or information on particular agricultural land contained in a provisional valuation roll must be signed by the members of the valuation court and must-
 - (a) state the agricultural land concerned;
 - (b) set out the entry which is to be made in the roll in respect of such agricultural land; and
 - (c) state the reasons for such decision.
- (8) The valuation court must keep or cause to be kept proper record of its proceedings and findings.
- (9) An objector or his or her representative has the right to examine, without charge, the record of the valuation court proceedings relating to the objection to the valuation of his or her land.
- (10) The Ministry has free access to the valuation court records at all times.

14. Appeal against decisions of valuation court

- (1) A person who has lodged an objection pursuant to regulation 6 and who is aggrieved by a decision of the valuation court made in relation to that objection may, within 30 days from the date on which notification of the decision was given appeal on a point of law against the court's decision to the High Court.
- (2) For the purpose of an appeal referred to in subregulation (1) and the procedure to be followed with regard to such appeal, the decision of the valuation court is deemed to be a civil judgment of a magistrate's court.
- (3) Despite any law to the contrary, the fact that an appeal against the decision of a valuation court is pending does not-
 - (a) interfere with or affect the operation of such decision; or
 - (b) prevent the land tax from being assessed and recovered on the basis of the valuation fixed by such decision in like manner as if no appeal was pending.

15. Validity of main or interim valuation roll

A valuation contained in a main or interim valuation roll approved by the valuation court in terms of regulation 16(1) is not invalid by reason only of-

- (a) a mistake or variance in the name of owner, farm name, postal address or identity number of the owner of any agricultural land; or
- (b) an irregularity which occurred during the preparation of such valuation roll.

16. Main valuation roll or interim valuation roll

- (1) When the valuation court has completed its consideration of the provisional valuation roll and has made decisions referred to in regulation 13(7)-
 - (a) the presiding officer must certify the roll; and
 - (b) the clerk of the court must transmit the certified roll to the Valuer-General together with a certified copy of all decisions of the court.
- (2) The provisional valuation roll containing the valuations, as decreased or increased or otherwise amended by the valuation court, of all agricultural land is known as the main or interim valuation roll.
- (3) The Minister must cause a notice to be published in the *Gazette* and in at least two newspapers widely circulating in Namibia, informing all persons that the valuation roll has been completed and certified in terms of subregulation (1) and that on coming into operation-
 - (a) the main valuation roll supersedes any previous main or interim valuation rolls;
 - (b) if any agricultural land appears both in the main and interim valuation rolls, the latter entry supersedes the former entry.
- (4) Subject to regulation 21(2) a valuation roll is the basis upon which the land tax is assessed under regulation 21(1).
- (5) The main or interim valuation roll must at all times be available for inspection by any interested person during office hours at the offices of the Ministry.
- (6) The Valuer-General at the request of any interested person and on payment of such fee as the Minister may determine must furnish such person with an extract from or copy of the main valuation roll.

17. Date of operation and period of validity of valuation roll

- (1) Subject to subregulation (2), the valuation roll comes into operation on the commencement of the financial year following the certification under regulation 16(1).
- (2) The Minister may appoint some other date on which the valuation roll comes into operation.
- (3) The valuation roll is valid from the date it comes into operation until it is replaced by a new valuation roll.

[subregulation (3) substituted by GN 185/2015]

18. Alteration or correction of main valuation roll

- (1) The Valuer-General, at the request of any interested party or of his or her own accord, and on notice to the Minister except where such request is by or on behalf of the Minister, may alter or correct

the main or interim valuation roll but the alteration or correction is only made for the following purposes-

- (a) to correct a clerical error which does not affect the value per hectare assigned to a value zone on the iso-value map;
 - (b) to correct an error which relates to the name, address or identity number of the owner concerned;
 - (c) to record a change in the name or address of the owner concerned;
 - (d) to correct an error which relates to the size or land extent of the agricultural land in question.
- (2) Where the request for a correction is on the Minister's or valuer's own accord, the valuer, before causing any error to be corrected, must notify the land owner of the correction.

19. Remuneration and allowances of members of valuation court and expenses

- (1) The Minister, with the concurrence of the Minister of Finance, determines the remuneration and allowances payable to a member or an assessor of the valuation court who is not in the full-time employment of the State.
- (2) The remuneration and allowances referred to in subregulation (1) and the expenditure incidental to the performance of the functions of the valuation court must be defrayed from the Fund.

Part V – RETURNS AND ASSESSMENTS

20. Owners to furnish land tax returns

- (1) The Minister, by notice in the *Gazette*, may require all owners or specified owners of agricultural land to furnish the Commission with land tax returns in respect of a particular financial year, or a particular financial year and each subsequent financial year.
 - (2) A land tax return referred to in subregulation (1) must be submitted on Form 4 and must contain-
 - (a) the particulars of all agricultural land owned by the person who in terms of that subregulation is required to complete such a return; and
 - (b) such other information as the Minister may require for the purposes of assessment under regulation 21.
- [subregulation (2) substituted by GN 210/2011]**
- (3) Every owner who is required to furnish a land tax return in respect of any financial year must do so on or before 31 January of such year.
 - (4) Any person who fails to furnish a return in accordance with this regulation commits an offence and is liable to a fine not exceeding N\$8 000 or to imprisonment for a period not exceeding two years, or to both such fine and such imprisonment.

21. Assessment of land tax to be made

- (1) The Commissioner, from valuations supplied by the Minister, must cause assessments to be made of the land tax payable by owners of agricultural land.
- (2) Despite subregulation (1), if a particular agricultural land does not appear on the main or interim valuation roll and a request is made to the Minister to include such land on the valuation roll under regulation 3(2) by an owner who intends to apply for a land tax clearance certificate, the Valuer-General must prepare a provisional unimproved site value on the same basis used to value the main valuation roll provided that such land would be included on the next provisional valuation roll.

- (3) Where an assessment has been made under this regulation, the Commissioner, must serve a notice of assessment on the owner concerned, stating-
 - (a) the amount of the land tax payable on each piece of land and the total of such amounts;
 - (b) the date on which land tax is due and payable in terms of regulation 23.
- (4) When an owner of agricultural land ceases to be the owner thereof before the end of the financial year in respect of which a land tax assessment in respect of the land was made-
 - (a) such owner is liable to pay a portion only of the land tax payable for the whole of such period proportionate to the time up to the end of the last month during which he or she continued to be the owner; and
 - (b) any person who is the new owner of such land during the remainder of the period contemplated in paragraph (a) is liable to pay a portion of such land tax in proportion to the time during which the person is the owner thereof and the land tax must be recovered from such new owner in the same manner as if he or she had been originally assessed for such land.
- (5) When an owner of agricultural land requests for a land tax clearance certificate during the period of the financial year in respect of which a land tax assessment for such year has not been made yet, the Commissioner must cause a land tax assessment to be made for a portion only of the land tax payable for the whole of such period proportionate to the time up to the end of the last month in which such person would cease to be the owner upon transfer of the agricultural land in question.

Part VI – COLLECTION AND RECOVERY OF LAND TAX

22. Rebate and interest on land tax payable

- (1) To encourage the early payment of land tax the Minister may allow a rebate at such different rates not exceeding five percent of the land tax payable on or before any due date for payment mentioned in the relevant notice of assessment.
- (2) The Minister may, on tax not paid on or before the due date for payment mentioned in the relevant notice of assessment, charge interest at a rate not exceeding the rate prescribed under the Prescribed Rate of Interest Act, 1975 (Act No. 55 of 1975), which may be charged in respect of a judgment debt of any competent court.

23. Land tax as debt due to Fund

- (1) When any land tax or any interest payable in terms of these regulations becomes due and payable-
 - (a) it is deemed to be a debt due to the Fund; and
 - (b) it may be recovered by the Commission in the manner provided for in this regulation.
- (2) Subject to subregulation (3), if an owner fails to pay any land tax or interest when it is due and payable, the Commission may file with the clerk or registrar of a court of competent jurisdiction a statement-
 - (a) certified, by the chairperson of the Commission, as correct and setting forth the amount of all land tax and interest owed by the owner; and
 - (b) which for all purposes-
 - (i) has the effect of a civil judgment of the court at which that statement has been so filed, and

- (ii) any proceedings may be taken thereon as if it were a civil proceedings of the court at which that statement has been so filed,

in favour of the Fund for a liquid debt in the amount specified in that statement.
- (3) The Commission, before filing a statement in terms of subregulation (2), must serve a notice on the owner concerned informing him or her of the Commission's intention to file such a statement within 30 days of the date of the service of such notice in accordance with regulation 26.
- (4) The chairperson of the Commission may by notice in writing, addressed to the clerk or registrar of the relevant court, withdraw any statement referred to in subregulation (2), and that statement thereupon ceases to have any effect.
- (5) The Commission may institute proceedings afresh under subregulation (2) in respect of any tax or interest to which a statement withdrawn under subregulation (3) relates.

24. Reimbursement of overpayment of land tax

- (1) Where the owner of agricultural land has paid any land tax in excess of any amount payable by him or her in terms of these regulations the owner may in writing apply to the Commission for a refund of the amount paid in excess.
- (2) Any claim for a refund under subregulation (1) must be accompanied by documentary proof of the payment of the excess amount.
- (3) If upon receipt of an application referred to in subregulation (1) the Commission is satisfied that a refund is due to an owner of agricultural land it must cause the owner to be refunded from the Fund with the amount paid in excess not later than the end of the second calendar month following the date on which the excess was reported in terms of subregulation (1).
- (4) Where the Commission fails to refund any amount of land tax due to an owner on or before the date referred to in subregulation (3), interest must be paid on such amount at the rate prescribed under the Prescribed Rate of Interest Act, 1975 (Act No. 55 of 1975).

25. Recovery of land tax from representatives

- (1) Any land tax or interest payable by any representative in his or her representative capacity is recoverable from him or her under these regulations, but to the extent only of any assets, belonging to the owner whom he or she represents, which may be in his or her possession or under his or her control.
- (2) Any land tax or interest payable by a company or close corporation is not recoverable from the public officer of the company or from any member of a close corporation referred to in section 76A of the Act, but is recoverable from the company or close corporation.
- (3) Every representative who, as such, pays any land tax or interest due under these regulations is entitled-
 - (a) to recover the amount so paid from the owner on whose behalf it is paid; or
 - (b) to retain out of moneys that may be in his or her possession or may come to him or her in his or her representative capacity, an amount equal to the amount so paid.
- (4) Every representative referred to in paragraph (b) of section 76A of the Act who, as such, pays any land tax or interest due under these regulations by any deceased owner is entitled-
 - (a) to recover the amount so paid from the estate of such deceased owner; or
 - (b) to retain out of any moneys of the estate of such deceased that may be in his or her possession or that may come to him or her as executor or administrator of such estate, an amount equal to the amount so paid.

- (5) Every representative is personally liable for the payment of any land tax or interest payable by him or her in his or her representative capacity, if, while the amount thereof remains unpaid-
 - (a) he or she alienates or disposes of the agricultural land in respect of which such tax is payable; or
 - (b) disposes of or parts with any moneys belonging to the owner whom he or she represents and is in his or her possession or comes to him or her after such tax or interest has become payable, if such tax or interest could legally have been paid from or out of such money.
- (6) For the purposes of this regulation “representative” means a representative referred to in paragraph (bb) of the proviso to section 76A of the Act.

26. Recovery of land tax from third parties

- (1) Where an owner of agricultural land fails to pay land tax in respect of such land on or before the due date for payment, the Commission may, where the land is subject to a lease or other right of occupation or to a mortgage, by a notice in writing served on the lessee or occupier or mortgagee concerned require him or her to pay to the Commission for the benefit of the Fund, on or before a date specified in such notice, an amount equal to the amount of land tax due.
- (2) The money contemplated in subregulation (1) is recoverable by the Commission from-
 - (a) such lessee or occupier but only to the extent of any rent or other payments due by him or her to the owner at the time of the request under that subregulation, or becoming due by him or her to the owner after such request;
 - (b) such mortgagee if-
 - (i) in accordance with section 51 of the Deeds Registries Act, 1937 (Act N. 47 of 1937) the mortgage bond that is registered over such land contains a stipulation that future debts generally or future debts with regard to taxes must be secured by it; or
 - [The reference to the Deeds Registries Act should be “Act No. 47 of 1937”.]
 - (ii) a mortgage bond securing future debts has been registered over such land under section 27 of the Registration of Deeds in Rehoboth Act, 1976 (Act No. 93 of 1976), whichever may be applicable.
- (3) Where a lessee or occupier or mortgagee, on whom a notice was served under subregulation (1) is unable to comply with such notice he or she must before the expiry of the date for payment specified in such notice
 - (a) serve a notice in writing on the Minister informing the Minister accordingly and stating the reasons for his or her inability to so comply;
 - (b) serve a copy of the notice referred to in paragraph (a) on the Commission.
- (4) Upon receipt of a notice in terms of subregulation (3), the Minister may-
 - (a) require any party concerned to furnish such further information and evidence as the Minister may think necessary to conclude the matter;
 - (b) by notice in writing, accept the notification or reject it.
- (5) Any payment made pursuant to a notice under this regulation is deemed-
 - (a) to have been made under the authority of the defaulting owner, and no liability may attach to the lessee or occupier or mortgagee in respect of the making of such payment; and
 - (b) in the case where the lessee or occupier made such payment, to be a valid discharge (to the extent of the amount so paid) against the rent or other payments due to such lessee or occupier to the defaulting owner.

- (6) The provisions of these regulations relating to the collection and recovery of land tax apply with necessary changes to any amount due under this regulation as if such amount were land tax due under these regulations.

Part VII – GENERAL

27. Service of notices

- (1) Any notice required or authorized under these regulations to be given to or served on any person by the Commission is deemed to have been duly given or served if the original of such notice or a true copy thereof is-
- (a) delivered to the person concerned personally; or
 - (b) sent by registered post to the person concerned, or to his or her registered office or any office or place of business of that person in Namibia.
- (2) Where the whereabouts of a person is not readily ascertainable by the Commission or for any other reason the Commission is satisfied that the service of a notice in accordance with subregulation (1) is not practicable it must cause to be published
- (a) once in the *Gazette*; and
 - (b) once a week during two consecutive weeks in two newspapers circulating in the area in which the land in question is situated,
- an appropriate notice complying with the relevant provision of these regulations.
- (3) Any notice or document required or authorized under these regulations to be lodged, given to or served on the Minister or Valuer-General is deemed to have been duly given or served if the original of such notice or a true copy thereof is-
- (a) delivered to the registered office of the Minister or Valuer-General; or
 - (b) sent by registered post to the registered office of the Minister or Valuer-General.

28. Documents to serve as conclusive proof

A copy of or an extract from-

- (a) the main or interim valuation roll or provisional valuation roll;
- (b) a certificate or notice issued by the Minister, Valuer-General or Commission under these regulations, purporting to be signed by the Minister Valuer-General or chairperson of the Commission must, in the absence of evidence to the contrary, serve as conclusive proof of the facts contained in any such document without further proof or production of the original document.

29. Savings

Anything done under a regulation repealed by these regulations and that could have been done under a corresponding provision of these regulations is deemed to have been done under the corresponding provision of these regulations.

ANNEXURE

Forms

[Editorial note: The forms have not been reproduced.]