

Namibia

Agricultural (Commercial) Land Reform Act, 1995

## Regulations on Procedure to Sublease Portion of Farming Unit, 2013

Government Notice 241 of 2013

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## Regulations on Procedure to Sublease Portion of Farming Unit, 2013

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Republic of Namibia  
**Annotated Statutes**

**Agricultural (Commercial) Land Reform Act, 1995**

**Regulations on Procedure to Sublease  
Portion of Farming Unit, 2013**

**Government Notice 241 of 2013**

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**1. Definitions**

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

“**Ministry**” means the Ministry responsible for lands and resettlement;

“**sub-lessee**” means a person subleasing a portion of a farming unit from a sub-lessor under section 46 of the Act;

“**sub-lessor**” means a holder of a lease referred to in section 42 of the Act who is subleasing a portion of his or her farming unit under section 46 of the Act; and

“**the Act**” means the Agricultural (Commercial) Land Reform Act, 1995 (Act [No. 6 of 1995](#)).

**2. Application for consent to sublet farming unit**

- (1) Where a lessee, to whom a farming unit is allocated under section 41 of the Act, wishes to sublease a portion of such farming unit, as contemplated in section 46 of the Act, he or she must apply for the prior written consent of the Minister.
- (2) An application for the consent of the Minister, referred to in subregulation (1), to sublease a portion of farming unit is made in the form set out in Form 1 of the Annexure.
- (3) The application referred to in subregulation (2) is submitted to the Commission via the Secretary of the Sub-Committee of the Commission within the region where such particular farming unit is situated.

### 3. Size of farming unit to be sublet

- (1) Where a lessee wishes to sublease a portion of a farming unit as contemplated in section 46 of the Act, such portion may not exceed 50 percent of such farming unit.
- (2) Where a portion to be subleased exceeds 25 percent of a farming unit, a sublessor must, in addition to the particulars requested in Form 1 of the Annexure, provide the Minister with his or her reasons and motivations for subleasing such portion exceeding 25 percent of such farming unit.
- (3) A sub-lessor or a sub-lessee may not sub-divide a farming unit for agricultural purposes.

### 4. Duration to sublet farming unit

A sub-lessor may not sublease a portion of a farming unit to a sub-lessee for a period exceeding five years.

### 5. Conditions on subletting farming unit

- (1) A sub-lessor may sublease a portion of a farming unit, if such sub-lessor -
  - (a) is a full time farmer on that particular farming unit and is not employed elsewhere;
  - (b) is employed elsewhere and has been resettled on that farming unit for less than three years;
  - (c) has no water infrastructure on a farming unit and the sub-lessee to sublease a portion of a farming unit from the sub-lessor is to pay rent in the form of drilling boreholes or providing water infrastructure on a farming unit; or
  - (d) has limited agricultural knowledge or farming management skills and the sub-lessee to sublease a portion of the farming unit is willing to train the sub-lessor at no cost.
- (2) A sub-lessor may sublease a portion of his or her farming unit to a sub-lessee, if a sub-lessee has no place to farm or is -
  - (a) farming on town lands;
  - (b) farming in an overcrowded communal area;
  - (c) farming in an overcrowded resettlement farm;
  - (d) an unemployed new farmer;
  - (e) willing to pay rent; or
  - (f) willing to train the sub-lessor in agriculture or farm management at no cost and pays rent.

### 6. Rent payable

- (1) A sub-lessor determines the amount of rent payable in respect of subleasing a portion of a farming unit and such amount of rent payable in respect of such portion of a farming unit must be approved by the Minister on the recommendation of the Commission.
- (2) The rent referred to in subregulation (1) may be in a form of -
  - (a) cash;
  - (b) farm infrastructure development; or
  - (c) livestock.
- (3) In determining and approving the amount of rent payable for a portion of a farming unit, consideration is made to the -
  - (a) purpose for which the portion of the farming unit is to be used;

- (b) value of infrastructure development or improvements on the portion of a farming unit to be sublet;
  - (c) size of the portion of a farming unit to be sublet; and
  - (d) period for which the portion of a farming unit is to be sublet.
- (4) The sub-lessor, in determining the amount of rent payable for subleasing a portion of the farming unit, may use the service of any valuator employed by the Ministry.
- (5) The sub-lessor who receives rent under this regulation must use such rent to develop the farm infrastructure on the farming unit or to buy farm equipment or livestock.

## **7. Conditions on grazing livestock**

- (1) A sub-lessor may only allow a sub-lessee to graze livestock on such portion of a farming unit, if such livestock is authorised in the sub-lessor's allotment letter or lease agreement.
- (2) A sub-lessor may not allow a person, other than a sub-lessee, to bring or cause or permit to bring livestock into a farming unit.
- (3) The total number of livestock of the sub-lessor and sub-lessee may not exceed the carrying capacity of the farming unit as prescribed in the lessee's allotment letter or lease agreement.

## **8. General condition**

The provisions contain in Part V of the Act pertaining to the lessee apply with the necessary changes to a sub-lessee.

## **Annexure 1**

Forms

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