



GOVERNMENT GAZETTE

OF THE

REPUBLIC OF NAMIBIA

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WINDHOEK - 6 September 2013

No. 5279

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Government Notice

MINISTRY OF LANDS AND RESETTLEMENT

No. 241

2013

REGULATIONS ON PROCEDURE TO SUBLEASE PORTION OF FARMING UNIT: AGRICULTURAL (COMMERCIAL) LAND REFORM ACT, 1995

Under section 77, read with section 46, of the Agricultural (Commercial) Land Reform Act, 1995 (Act No. 6 of 1995), I have made the regulations set out in the Schedule.

A.G. !NARUSEB
MINISTER OF LANDS AND RESETTLEMENT

Windhoek, 20 June 2013

Definitions

1. 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).

Application for consent to sublet farming unit

2. (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.

Size of farming unit to be sublet

3. (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.

Duration to sublet farming unit

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

Conditions on subletting farming unit

5. (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.

Rent payable

6. (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.

Conditions on grazing livestock

7. (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.

General condition

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

ANNEXURE

FORM 1

REPUBLIC OF NAMIBIA

MINISTRY OF LANDS AND RESETTLEMENT

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

APPLICATION FOR CONSENT TO SUBLET PORTION OF FARMING UNIT:
(Section 46, Regulation 2)

IMPORTANT:

- 1. Application must be completed by the lessee of a farming unit, herein referred to as sub-
lessor.
- 2. Send the application to: Secretary of the Sub-Committee of the Commission within the
region where a farming unit is situated.

PARTICULARS OF SUB-LESSOR

- 1. Names in full:
-
- 2. Postal address:
- 3. Residential address:
-
- 4. Telephone number:
- 5. Occupation:
- 6. Business address:
- 7. Nationality:

PARTICULARS OF SUB-LESSEE

- 1. Names in full:
-
- 2. Postal address:
- 3. Residential address:
- 4. Telephone number:
-

- 5. Occupation:
- 6. Business address:
- 7. Nationality:

PARTICULARS OF FARMING UNIT

- 1. Name of the farming unit:
- 2. Location of the farming unit:
- 3. Size of the farming unit:
- 4. Size of a farming unit to be sublet:
- 5. Duration of sublease:
- 6. Nature of rent payable:
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.....
.....
- 7. Rent payable:
- 8. Purpose for which the portion of the farming unit is to be used:
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- 9. Infrastructure or improvements on a portion of the farming unit:
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.....
- 10. Types of livestock to graze on the farming unit:
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- 11. Carrying capacity of livestock and total number of livestock on the farming unit:
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- 12. Is the sub-lessor subletting a portion of a farming unit more than 25 percent of the farming unit? Yes or no?

If the answer is yes, give reasons:

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13. Motivation for the application:

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Signed at on this day of 20.....

1. Witness:
Sub-lessor

2. Witness:

Signed at on this day of 20.....

1. Witness:
Sub-lessee

2. Witness:
