

Namibia

Land Titles Proclamation, 1921

Proclamation 2 of 1921

Legislation as at 26 November 1976

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Republic of Namibia
Annotated Statutes

Land Titles Proclamation, 1921

Proclamation 2 of 1921

Published in Official Gazette 50 on 13 January 1921

Assented to on 11 January 1921

Commenced on 13 January 1921

**[This is the version of this document from 26 November 1976
and includes any amendments published up to 8 May 2024.]**

[Amended by Land Titles Amendment Proclamation 1922 (Proclamation 14 of 1922) on 1 June 1922]

[Amended by Rehoboth Gebiet (Extension of Laws)

Proclamation, 1930 (Proclamation 12 of 1930) on 1 May 1930]

[Amended by Rehoboth Affairs Proclamation, 1937 (Proclamation 1 of 1937) on 1 February 1937]

**[Amended by Rehoboth Affairs Amendment Proclamation,
1942 (Proclamation 6 of 1942) on 16 February 1942]**

**[Amended by Lands Titles Proclamation, 1921, Amendment
Proclamation, 1949 (Proclamation 3 of 1949) on 1 February 1949]**

[Amended by Registration of Deeds in Rehoboth Act, 1976 (Act 93 of 1976) on 26 November 1976]

[Repealed by Repeal of Obsolete Laws Act, 2022 (Act 12 of 2022) on 15 February 2023]

PROCLAMATION

BY HIS HONOUR GIJSBERT REITZ HOFMEYR, A COMPANION OF THE MOST DISTINGUISHED ORDER OF SAINT MICHAEL AND SAINT GEORGE, ADMINISTRATOR OF THE PROTECTORATE OF SOUTH-WEST AFRICA IN MILITARY OCCUPATION OF THE UNION FORCES

[This Proclamation has no long title. The date of signature appears at the bottom of the Proclamation.]

WHEREAS it is desirable to make provision for the issue of written registered title to certain lands in this Territory.

NOW THEREFORE under and by virtue of the powers in me vested I do hereby proclaim, declare and make known as follows:-

1.

Notwithstanding anything to the contrary contained in the Deeds Registry Proclamation, 1920, or the Regulations framed thereunder, any Company or person who is in possession of or claims title to land lawfully acquired:

[The Deeds Registry Proclamation, 1920 applied the SA Deeds Registries Act 13 of 1918 to South West Africa. This law was replaced by the Deeds Registries Act 47 of 1937, which has been replaced in turn by the Deeds Registries Act 14 of 2015.]

- (a) by virtue of any concession or agreement recognised by or concluded with the late German Government, in so far as such concession or agreement has not been cancelled or repudiated by the provisions of the Concessions Modification and Mining Law Amendment Proclamation, 1920;
- (b) from any person or Company in lawful possession of or claiming title to land by virtue of a concession or agreement mentioned in clause (a) hereof;
- (c) from any Native Chief or Tribe;
- (d) in the territory referred to as the Gebiet (hereinafter called "the Gebiet") in the Agreement contained in the Schedule to the Proclamation of the Administrator dated the twenty-eighth day of September, 1923 ([Proclamation No. 28 of 1923](#)), as amended by section fourteen of the Rehoboth Gebiet Affairs Proclamation, 1928 ([Proclamation No. 9 of 1928](#)), in such manner as may have been determined by the Kapitein and Raad of the Baster Community of the said Gebiet, and approved by the Administrator;

[Paragraph (d) is inserted by Proc. 1 of 1937 and deleted "in so far as it relates to land in the Gebiet" by Act 93 of 1976. Since that is the only application of the paragraph, it has no further relevance.]

shall in regard to land falling under the provisions of paragraphs (a), (b) and (c) of this section, and may in regard to and falling under the provisions of paragraph (d) of this section apply for and, on compliance with the provisions of this Proclamation, obtain a Certificate of Registered Title and the Registrar of Deeds is hereby empowered and authorised to issue such Certificate in the form "A" set out in the schedule annexed hereto. Any such application in regard to land falling under the provisions of paragraphs (a), (b) and (c) of this section shall be made not later than the fifteenth day of December, 1949, and if such company or person has not made an application in terms of this section by the said date, such company or person shall be deemed to have waived all rights to the ownership of such land under this Proclamation.

[Section 1 is amended by Proc. 3 of 1949. The Concessions Modification and Mining Law Amendment Proclamation 59 of 1920 (OG 42) concerns the cancellation of grants and concessions of rights of land, mining and other rights during the German colonial period "by agreements between native chiefs or tribes in the Protectorate and the late Government of the Protectorate".]

2.

Notwithstanding anything to the contrary contained in the Concessions Modification and Mining Law Amendment Proclamation 1920 any Company or person who is in possession of land lawfully acquired within any area, the rights to ownership of which have been cancelled by the above Proclamation, may, on production of a written consent signed by the Administrator, apply for, and on compliance with the provisions of this Proclamation, obtain a Certificate of Registered Title to such land.

3.

The Administrator may cancel without having recourse to a Court of Law any agreement or Deed of Sale of land recognised by or concluded with the late German Government if he is satisfied that the conditions thereof have not been complied with. If title to the property affected by any such agreement or deed of sale cancelled by the Administrator is registered in the "Grundbuch" or "Landregister" the Registrar of Deeds shall, on production of a written order for the cancellation of the Registered Title to such property, signed by the Administrator, make an endorsement of cancellation against the relative records and

entry in the Grundbuch or Landregister or Debt Register, as the case may be, whereupon the free and unencumbered dominium in the land shall vest in the Administration of South-West Africa.

4.

Provided that nothing herein contained shall be deemed to affect in any way the powers and right of the Union Government or the Administrator to repudiate or acknowledge any agreement, contract or deed of sale entered into by the Government of German South-West Africa.

Notwithstanding the provisions of Regulation No. 59 of the Regulations framed under the Deeds Registries Act 1918 of the Union Parliament, as applied to this Territory by the Deeds Registry Proclamation 1920, and of the Tariff of Fees and Charges appended to such Regulations, the Fees and Charges for drawing the Certificate mentioned in Sections one and two hereof, including the necessary copy or copies of such deeds and attendance on lodgement, shall be limited to £3.3.0 and in the case of land falling under the provisions of paragraph (d) of section one, to 15s. 0d.

[Section 4](#sec_4) is amended by Proc. 1 of 1937. The Deeds Registries Act 13 of 1918 has been replaced by the Deeds Registries Act 47 of 1937, which has been replaced in turn by the Deeds Registries Act 14 of 2015.]

[There are 20 shillings in a pound in British currency. An amount of £3.3.0 (three pounds and three shillings) is equivalent to just over N\$6 (£3 is equivalent to N\$6).]

[The abbreviation “d” refers to pence in British currency, and there are 240 pence in a pound. An amount of 15s. 0d. (fifteen shillings and zero pence) is less than N\$2 (£1 is equivalent to N\$2).]

5.

- (1) Any Company or person making application for a Certificate of Registered Title under the provisions of paragraphs (a), (b) and (c) of section one or desirous of obtaining a Certificate of Registered Title in respect of land referred to in paragraph (d) of section one and in section two hereof shall apply, in writing, to the Registrar of Deeds for such Certificate.

[subsection (1) amended by Proc. 3 of 1949]

- (2) Such application shall be accompanied by:-
 - (a) a diagram in duplicate of the land, certified or approved of by the Surveyor General;
 - (b) the original or certified copy of the concession, agreement or deed of sale of the land, if such document be not already filed in the Deeds Registry, or such other proof of ownership, in the form of affidavit, as the Registrar may require;
 - (c) in the case of land acquired from the late German Government of the Protectorate of South-West Africa a Certificate from the Senior Officer in charge of the Lands Branch of this Territory stating that all the conditions of sale and purchase or other contractual rights and obligations have been complied with, and stating further the balance amount still due to Government to be secured by Mortgage;
 - (d) proof of payment of Transfer Duty on all intermediate sales (if any);
 - (e) proof of payment of Land Taxes and other duties and rates (if any);
 - (f) three copies of a Notice in the Form “B” set out in the Schedule annexed hereto, for approval of the Registrar of Deeds.

6.

- (1) The applicant shall insert at his own expense in two consecutive issues of the Gazette, the Notice approved of under Sub-section 2(f) of Section five hereof, and shall furnish the Registrar with a copy of each issue of the newspaper in which such notice appears.

[subsection (1) amended by Proc. 14 of 1922]

- (2) The Registrar of Deeds shall post a copy of such Notice for information in some conspicuous place at or in the Deeds Registry.

7.

Every such Certificate of Registered Title shall be prepared by a Conveyancer duly admitted to practise as such in this Territory.

7bis.

[section 7bis inserted by Proc. 1 of 1937, amended by Proc. 6 of 1942 and deleted by Act 93 of 1976]

8.

The Administrator may make Regulations not inconsistent with this Proclamation in respect of matters necessary to give due force and effect hereto.

9.

This Proclamation may be cited for all purposes as the "Land Titles Proclamation 1921".

GOD SAVE THE KING.

Given under my hand at Windhoek this 11th day of January, 1921.

GIJS. R. HOFMEYR

Administrator

Form A

Prepared by Conveyancer

CERTIFICATE OF REGISTERED TITLE

(issued under the provisions of Proclamation No. 2 of 1921.)

WHEREAS, has applied for the issue of a Certificate of Registered Title and whereas it appears that (he) is entitled to the land hereinafter described by virtue of (here recite full particulars and nature of transaction by virtue of which applicant claims title).

NOW THEREFORE, in pursuance of the provisions of the abovementioned Proclamation, I, the Registrar of Deeds for South-West Africa, do hereby certify that the said, his heirs, executors, administrators or assigns, is the registered owner of certain (here describe the land and extent in full) as will more fully appear from the annexed diagram, and further subject to (here insert any servitudes or conditions to which the land may be subject), and that by virtue of these presents the said, his heirs, executors, administrators or assigns, now is and henceforth shall be entitled thereto, conformably to local custom, the Administration of South-West Africa, however, reserving its rights.

[The word "pursuance" is misspelt in the Official Gazette, as reproduced above.]

IN WITNESS whereof I, the said Registrar, 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 the month of in the Year of our Lord One Thousand Nine Hundred and (19 ...).

Registrar of Deeds.

Registered in the Register of Book folio on the above date,

[The form should end with a full stop rather than a comma.]

Form B

NOTICE

Application having been made by for the issue and registration of a Certificate of Registered Title in respect of (here insert full description and extent of the land) originally held by under and by virtue of Deed of dated all persons claiming to have any right or title in or over the said land are hereby required to notify me in writing of such claim within three months from the date of publication of this notice.

Should any objection be taken it shall be the duty of the person objecting, in the absence of any agreement between the parties, to apply to the High Court of South-West Africa within a period of one month from the date on which the objection is lodged for an Order restraining the issue of the Certificate in question, failing which such certificate will be issued.

Registrar of Deeds.