



GOVERNMENT GAZETTE

OF THE

REPUBLIC OF NAMIBIA

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GOVERNMENT NOTICE

No. 282 Promulgation of Agricultural Bank of Namibia Amendment Act, 2004
(Act No. 22 of 2004), of the Parliament 1

Government Notice

OFFICE OF THE PRIME MINISTER

No. 282 2004

PROMULGATION OF ACT OF PARLIAMENT

The following Act which has been passed by the Parliament and signed by the President in terms of the Namibian Constitution is hereby published in terms of Article 56 of that Constitution.

No. 22 of 2004: Agricultural Bank of Namibia Amendment Act, 2004.

EXPLANATORY NOTE:

_____ Words underlined with a solid line indicate insertions in existing provisions.

[] Words in bold type in square brackets indicate omissions from existing provisions.

ACT

To amend the Agricultural Bank of Namibia Act, 2003, so as to further regulate the term of office of members of the Board of Agribank and the power of the Minister to remove a member from office; to vest in the Minister the power for appointment of the chairperson and vice-chairperson of the Board; to provide that performance criteria to be specified in an agreement which the Chief Executive Officer is required to conclude with the Board must be determined by the Board in consultation with the Minister and the Minister responsible for agriculture; and to provide for matters incidental thereto.

(Signed by the President on 8 December 2004)

BE IT ENACTED by the Parliament of the Republic of Namibia, as follows:-

Amendment of section 7 of Act No. 5 of 2003

1. The following section is substituted for section 7 of the Agricultural Bank of Namibia Act, 2003 (hereinafter referred to as the principal Act):

“**7.** The Minister, **[with the concurrence of]** after consultation with the Minister responsible for agriculture, must appoint a Board of the Agribank to be responsible for the policy, management and control of the affairs of the Agribank and which must exercise the powers and perform the functions and duties of the Agribank subject to this Act.”

Amendment of section 8 of Act No. 5 of 2003

2. Section 8 of the principal Act is amended by the substitution for subsection (2) of the following subsection:

“(2) **[The Board, with the concurrence of the]** The Minister must appoint one member as chairperson and another member as vice-chairperson of the Board, who may not at the same time be in the full-time employment of the State.”

Substitution of section 10 of Act No. 5 of 2003

3. The following section is substituted for section 10 of the principal Act:

“**10.** (1) Subject to subsection (3), a member holds office at the Minister’s pleasure, but not exceeding a period of 3 years.

(2) A member who has served a term of 3 years is eligible for reappointment but the member may not be appointed for more than three consecutive terms.

(3) The office of a member becomes vacant, if the member -

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- (a) becomes subject to a disqualification referred to in section 9;
- (b) resigns the office by written notice to the Minister;
- (c) is under any law declared to be of unsound mind;
- (d) is absent from three consecutive meetings of the Board without the leave of the chairperson; or
- (e) is removed from office by the Minister under subsection (4).

(4) The Minister may at any time remove a member from office for any reason which the Minister considers sufficient.

(5) If a member dies or his or her office becomes vacant in terms of subsection (3), a person must, subject to this Act, be appointed to fill the vacancy.

(6) The provisions of this section apply also to a person who immediately before the date of commencement of the Agricultural Bank of Namibia Amendment Act, 2004 served as a member of the Board.”.

Amendment of section 16 of Act No. 5 of 2003

4. Section 16 of the principal Act is amended -

(a) by the substitution for subsection (1) of the following subsection:

“(1) The Board, with the concurrence of the Minister, **[and]** acting after consultation with the Minister responsible for agriculture, must appoint a suitably qualified person as Chief Executive Officer of the Agribank, on such conditions of service as the Board may determine.”;

(b) by the substitution for subsection (2) of the following subsection:

“(2) The Chief Executive Officer must conclude a written agreement with the Board in which he or she undertakes to comply with performance criteria specified in that agreement, and which the Board **[may] must** determine in consultation with the Minister and the Minister responsible for agriculture.”; and

(c) by the substitution for subsection (6) of the following subsection:

“(6) If the Chief Executive Officer is for any reason unable to perform his or her duties, the Board must, **[after consultation with the Minister and]** with the concurrence of the Minister, acting after consultation with the Minister responsible for agriculture, appoint a suitably qualified person to act as Chief Executive Officer for the time being.”.

Amendment of section 22 of Act No. 5 of 2003

5. Section 22 of the principal Act is amended by the substitution for subsection (3) of the following subsection:

“(3) The Minister, with the concurrence of the Minister responsible for agriculture, must within a period of two months from the date of receipt of the draft performance agreement referred to in subsection (1) -

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- (a) approve the draft performance agreement; or
- (b) **[with the concurrence of]** after consultation with the Board, amend the draft performance agreement.”.

Amendment of section 29 of Act No. 5 of 2003

- 6. Section 29 of the principal Act is amended by the deletion of subsection (1).

Short title

- 7. This Act is called the Agricultural Bank of Namibia Amendment Act, 2004.
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