



GOVERNMENT GAZETTE
OF THE
REPUBLIC OF NAMIBIA

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Government Notice

OFFICE OF THE PRIME MINISTER

No. 158

1991

**PROMULGATION OF ACT OF
THE NATIONAL ASSEMBLY**

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

No. 32 of 1991: State Repudiation (Cultura 2000) Act, 1991.

**STATE REPUDIATION
(CULTURA 2000) ACT, 1991**

ACT

To provide for the repudiation of certain actions done under laws in force prior to the date of independence of Namibia by the Government or a Minister or other official of the Republic of South Africa pursuant to Article 140(3) of the Namibian Constitution; and to provide for matters incidental thereto.

(Signed by the President on 12 December 1991)

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

Definitions.

1. In this Act, unless the context otherwise indicates -

“date of independence” means 21 March 1990;

“Minister”, in any provision of this Act, means the Minister to whom, or the Minister to whom acting in consultation with another Minister, the administration of that provision has been assigned by proclamation issued under section 5;

“the Association” means Cultura 2 000 incorporated as an association without gain in terms of section 21 of the Companies Act, 1973 (Act 61 of 1973), and includes its directors, agents, successors or assigns, as the case may be.

Repudiation of certain actions of Government of South Africa.

2. (1) Subject to the provisions of subsection (2), the following actions done under laws in force prior to the date of independence by the Government or a Minister or other official of the Republic of South Africa as contemplated in Article 140 of the Namibian Constitution, are hereby repudiated, namely -

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- (a) the sale, donation or other alienation of movable or immovable property, whether corporeal or incorporeal, including any right in or over such property;
- (b) the entering into any lease;
- (c) the granting of any loan or subsidy;
- (d) the rendering of any other form of financial assistance,

whether in money or in kind, and of whatsoever nature, to or in respect of or with the Association.

(2) For the purposes of subsection (1), but subject to the provisions of this Act -

- (a) any transaction or agreement entered into between the said Government or Minister or other official of the Republic of South Africa and the Association or any offer of settlement made or accepted by the said Government or Minister or official and the Association, as the case may be, by virtue of any action so repudiated, shall be null and void; and
- (b) any obligation of whatever nature of the Government or any Minister or official of the Republic of Namibia arising from or related to any action so repudiated is hereby terminated.

Effect of nullity of transactions.

3. (1) Notwithstanding anything to the contrary in any law or the common law or any agreement or other document contained -

- (a) in the case of any action repudiated under paragraph (c) or (d) of subsection (1) of section 2, the whole amount owing in respect of any financial or other assistance already rendered by virtue of such action shall, subject to the provisions of subsection (2), on the date of commencement of this Act, become due and repayable;
- (b) in the case of any action repudiated under paragraph (a) or (b) of subsection (1) of that section, any movable or immovable property

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transferred, as the case may be, under any law by such Government, Minister or official of the Republic of South Africa to the Association, shall, subject to the provisions of subsection (2), on the date of commencement of this Act, vest from such date in the Government of Namibia, and any lease in respect of any such property shall on such date be regarded as cancelled.

(2) For the purposes of subsection (1) -

(a) in the case of paragraph (a) of that subsection, any amount so due and repayable may be recovered by the institution of legal proceedings;

(b) in the case of paragraph (b) of that subsection -

(i) the officer in charge of the deeds registry shall, without payment of transfer duty, stamp duty or any other fee or charge and upon production to him or her of the title deed of any immovable property which vests in terms of the provisions of this Act in the Government of Namibia, endorse such title deed to the effect that the immovable property described therein is vested in the Government of Namibia, and shall make the necessary entries in his or her registers, and thereupon the said title deed shall serve and avail for all purposes as proof of the title of the Government of Namibia in respect of the said property; or

(ii) if the owner of the property in question fails to produce the title deed thereof, or if the holder of any mortgage bond over such property fails to consent to the cancellation of the bond or the release of the property from the operation of the bond, such officer shall nevertheless pass transfer of the property and note the transfer on the duplicate title filed in his or her office and in the appropriate registers.

(3) Notwithstanding anything to the contrary in this Act or in any other law contained, the Minister may in his or her discretion on application by a person concerned determine the terms and conditions subject to which any

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amount recoverable from such person under this Act shall be repayable.

Administration of Act by Ministers.

4. (1) The President may by proclamation in the *Gazette* assign the administration of the provisions of this Act to any Minister, or partly to one Minister and partly to another Minister, or assign to different Ministers the administration of any of the said provisions in so far as they relate to different specified actions, and may in such proclamation prescribe the powers and functions which shall be exercised and performed by the several Ministers, and may further prescribe that any power or duty conferred or imposed by this Act upon the Minister shall be exercised or performed by one Minister acting in consultation with another Minister.

(2) The President may from time to time vary or amend any such proclamation.

Actions against State or Minister or official.

5. No action shall lie against the State, or any Minister or official of any Ministry as defined in section 1 of the Public Service Act, 1980 (Act 2 of 1980), arising from or in consequence of anything done in good faith under this Act.

Application of this Act.

6. This Act shall also apply in respect of actions repudiated under section 2 which may be the subject matter of pending legal proceedings, or in respect of which judgment may have been delivered prior to the date of commencement of this Act.

Short title and commencement.

7. This Act shall be called the State Repudiation (Cultura 2 000) Act, 1991, and shall come into operation on a date to be determined by the President by proclamation in the *Gazette*.
