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THE BUKURA AGRICULTURAL COLLEGE ACT, 1999

No. 5 of 1999

Date of Assent: 31st December, 1999.

Date of Commencement: By Notice.

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An Act of Parliament to provide for the establishment and administration of Bukura Agricultural College, and for connected purposes

ENACTED by the Parliament of Kenya as follows:-

Short title and
Commencement.

1. This Act may be cited as the Bukura Agricultural College Act, and shall come into operation on such date as the Minister may, by notice in the Gazette appoint.

Interpretation.

2. In this Act, unless the context otherwise requires—

“academic board” means the academic board established under section 7;

“Board” means the Board of Governors of the College constituted under Section 7;

“College” means the Bukura Agricultural College established under the statutes;

“financial year” means the financial year of the College as specified in section 15 (1);

“lecturer” means a Senior Principal Lecturer, Principal Lecturer, Lecturer, or a person who holds any other teaching or research post which the Board of Governors, on recommendation of the academic board, may approve;

“Librarian” means the person appointed to be the Librarian of the College;

“Minister” means the Minister for the time being responsible for agriculture;

“Registrar” means the person appointed by the Board of Governors to be the Registrar of the College;

“statutes” means the Statutes of the College made by the Board of Governors under section 20;

“student” means a person registered by the College for the purposes of obtaining a qualification of the College, or any other person who the academic board determines to be a student.

PART II – ESTABLISHMENT AND FUNCTIONS OF THE COLLEGE

3. (1) There is established a college to be known as Establishment.
the Bukura Agricultural College.

(2) The College shall be a body corporate with perpetual succession and a common seal, and shall in its corporate name be capable of –

- (a) suing and being sued;
- (b) taking, purchasing or otherwise acquiring, holding, charging and disposing of movable and immovable property;
- (c) borrowing or lending money;
- (d) doing or performing all such other things or acts for the furtherance of the provisions of this Act which may lawfully be done by a body corporate.

(3) The College is the successor to the Bukura Institute of Agriculture, and subject to this Act all rights, obligations, assets and liabilities of the Bukura Institute of Agriculture existing at the commencement of this Act shall be automatically and fully transferred to the College, and any reference to the Bukura Institute of Agriculture in any contract or document shall for all purposes be deemed to be a reference to the College established under subsection (1).

4.(1) The functions of the College shall be

Functions of
the College.

- (a) to provide directly or in collaboration with other institutions of higher learning, facilities for education in agriculture and other ancillary subjects through the integration of teaching, research and effective application of extension services;

- (b) to participate in the discovery, transmission and preservation of knowledge in agriculture and any other related field;
- (c) to conduct examinations for and grant diplomas and such academic awards as may be provided in the statutes; and
- (d) subject to this Act, to co-operate with the Government in the planned development of agricultural education.

(2) Admission to the College of candidates for diplomas or other awards of the College shall be open to all persons accepted as being qualified by the academic board without distinction of ethnic origin, sex, or sect being imposed upon any person as a condition of his becoming or continuing to be a student, nor shall any such condition be imposed on any person for his becoming or continuing to be a lecturer of the College, and no preference shall be given to, or advantage be withheld from any person on the grounds of ethnic origin, sex, sect or creed.

Awards of the
College.

5.(1) Subject to this Act, the academic board may grant scholarships, diploma certificates or any other academic awards of the college which it is for the time being authorised by the statutes to grant.

(2) The academic board may withdraw any diploma certificate, scholarship or other award granted under this section if, subsequent upon such grant, the board is satisfied that –

- (a) such grant was contrary to any requirement prescribed under section 11 (2) (d); or
- (b) the qualification was obtained through fraudulent or other improper means.

PART III – MEMBERSHIP AND GOVERNANCE OF THE COLLEGE

Membership of
the College.

6. The membership of the College shall consist -

- (a) the members of the Board of Governors;
- (b) the Principal;
- (c) the Deputy Principal;
- (d) the Librarian;
- (e) members of the academic board;
- (f) the lecturers;
- (g) the students; and
- (h) such other members of staff of the College or any other body formally admitted into association with the College as the Board of Governors may from time to time determine.

7.(1) There shall be a Board of Governors of the College which shall consist of –

Board of
Governors.

- (a) a chairman who shall be appointed by the Minister;
- (b) the Director of Agriculture;
- (c) the Director of Livestock Production;
- (d) the Director of Education;
- (e) the Director of Personnel Management;
- (f) the Permanent Secretary to the Treasury;
- (g) the Permanent Secretary in the Ministry for the time being responsible for matters relating to agriculture;
- (h) two representatives of public universities in Kenya who shall be appointed on a three-

year rotational basis by the Minister on the advice of the said universities;

- (i) two representatives of the agricultural industry appointed by the Minister in consultation with the Agricultural Society of Kenya;
- (j) the Principal;
- (k) one representative of the Kenya National Farmers Union, appointed by the Minister in consultation with that Union;
- (l) the Director of the Kenya Agricultural Research Institute; and
- (m) the Registrar who shall be secretary to the Board.

(2) The Minister shall appoint a vice-chairman from among the members of the Board.

(3) Subject to subsection (5), a member of the Board, other than an *ex-officio* member, shall hold office for a period of three years but shall be eligible for re-appointment.

(4) The office of a member of the Board other than an *ex-officio* member, shall become vacant -

- (a) if the member resigns his office by writing under his hand addressed to the Registrar;
- (b) if the Board is satisfied that the member is, by reason of physical or mental infirmity, unable to exercise the functions of his office; or
- (c) upon his death.

(5) Where the office of a member of the Board becomes vacant under subsection (5), the Registrar shall

notify the Minister within one month of the occurrence and shall request the appointment of a replacement.

8. Subject to this Act, the Board shall be the governing body of the College and shall have the power to- Governance of the College.

- (a) control, supervise and administer the assets of the College in such manner as best promotes the purpose for which the college is established;
- (b) determine the provisions to be made for the capital and recurrent expenditure and for reserves of the College;
- (c) receive any grants, gifts, donations or endowments on behalf of the College and make legitimate disbursements therefrom;
- (d) enter into association with other colleges, universities or other institutions of higher learning as the Board may consider appropriate and in furtherance of the purpose for which the College is established;
- (e) open a banking account or banking accounts for the funds of the College;
- (f) invest any of the funds of the College not immediately required for its purposes in the manner provided for its purposes in the manner provided in section 16; and
- (g) in consultation with the academic board, make regulations Governing the conduct and discipline of students of the College.

9.(1) There shall be a Principal of the College who shall be appointed by the Minister in consultation with the Board. Principal of the College.

(2) The Principal shall –

- (a) have the overall responsibility for the direction, organisation, administration and programmes of the College;
- (b) be the chairman of the academic board; and
- (c) be responsible to the Board for the general conduct and discipline of the students.

(3) The Principal shall hold office for such period as may be provided by the statutes, and upon expiration of that period, shall be eligible for re-appointment.

Deputy Principal.

10.(1) The Board of Governors shall, in consultation with the Minister, appoint a Deputy Principal who shall, under the general authority of the Principal, exercise such powers and perform such duties as may be provided by the statutes.

(2) The Deputy Principal shall hold office for such period as may be provided by the statutes, and at the expiration of that period shall be eligible for re-appointment.

Academic Board.

11.(1) There shall be an academic board of the College which shall consist of –

- (a) the Principal;
- (b) the Deputy Principal;
- (c) all heads of Departments of the College;
- (d) the Dean of students;
- (e) the College farm manager; and
- (f) the Librarian.

(2) The academic board shall -

- (a) satisfy itself regarding the content and the academic standard of any diploma or other award of the College;

- (b) propose statutes to be made by the Board regarding the eligibility of persons for admission to a course of study;
- (c) propose statutes to be made by the Board regarding the standard of proficiency to be gained in each examination or other academic exercise of the College;
- (d) determine which students have attained the prescribed standard or proficiency and are therefore fit to be granted a diploma or other academic award of the College;
- (e) observe the conduct of the academic affairs of the College generally and make representations thereon to the Board of Governors.

(3) The Board shall not initiate any action in respect of the matters referred to in paragraphs (a), (b) or (c) of subsection (2) except upon receipt of a report or proposal from the academic board, and shall not reject or amend any such report or proposal without further reference to the academic board.

12. Where necessary, the Board may appoint specialised committees from amongst its members or the members of the academic board to discharge such duties as it may specify and make reports thereon to the Board.

13.(1) The academic staff of the College shall consist of the Principal, the Deputy Principal, the Librarian, lecturers, and all other members of staff engaged in research or extension services.

(2) The administrative staff of the college shall consist of the Principal, the Deputy Principal, the Registrar, the Finance Officer and other members of staff not engaged in teaching, research or extension services.

(3) All members of staff of the College shall, subject to this Act, be appointed by the Board of Governors either –

- (a) upon such terms and conditions of service as the Board may determine; or
- (b) in the case of a person being seconded to the service of the College from the service of another college, the Government or any other part of the public service, upon such terms and conditions as may be agreed upon between the Board of Governors and the seconding body.

(4) The Board may, subject to such restrictions as it may impose, delegate either generally or specifically to any committee the power to appoint any member of staff of the College.

(5) All members of staff of the College shall –

- (a) be subject to the general authority of the Principal; and
- (b) be deemed to be employed on a full time basis unless otherwise specifically provided by the terms of a particular appointment.

Incapacity.

14.(1) In the event of incapacity of the Principal, the Deputy Principal may with the authority of the chairman of the Board, perform the duties of the Principal during the period of incapacity.

(2) In the event of the incapacity of any other member of staff of the College, the Principal may in consultation with the Board of Governors, appoint another person who is equally qualified to perform the functions of such member during the period of incapacity.

(3) In this section “incapacity” includes absence from Kenya.

PART IV – FINANCIAL PROVISIONS

Financial Year.

15. The financial year of the College shall be the period of twelve months ending on 30th June in every year.

16.(1) The Board may invest any of the funds of the college in securities in which, for the time being, trustees may by law invest trust funds and in any other securities which the Treasury may from time to time approve.

Investment
of funds.

(2) The Board may place any monies not immediately required for the purposes of the college on deposit with such banks as the Treasury may approve or in Government securities.

17.(1) At least five months before the commencement of each financial year, the Board shall cause to be prepared estimates of the revenue and expenditure of the College for that year.

Annual estimates

(2) The annual estimates shall make provision for all the estimated expenditure of the College for the financial year concerned, and in particular, shall provide for –

- (a) the payment of salaries, allowances and other charges in respect of the activities of the Colleges;
- (b) the payment of pensions, gratuities and other charges in respect of retirement benefits which are payable out of the funds of the College;
- (c) the proper maintenance of buildings and grounds of the College.
- (d) the maintenance, repair and replacement of the equipment and other movable property of the College;
- (e) the funding of the cost of teaching and research activities of the College;
- (f) the proper maintenance of the catering, accommodation and recreational facilities for the students of the College; and

- (g) the creation of reserve funds to meet future or contingent liabilities in respect of retirement benefits, insurance, replacement of buildings or equipment, or in respect of such other matters as the Board of Governors may deem fit.

(3) The annual estimates shall be approved by the Board at least two months before the commencement of the financial year to which they relate and shall be submitted to the Minister for approval.

(4) No expenditure shall be incurred for the purpose of the College except in accordance with the annual estimates approved under subsection (3) or in pursuance of an authorization of the Board given with prior written approval of the Minister and the Permanent Secretary to the Treasury.

Books of
Accounts.

18.(1) The Board shall cause to be kept proper books and records of account of the income, expenditure and assets of the College.

(2) Within four months after the end of each financial year, the Board shall submit to the Auditor-General (Corporations) or an auditor appointed in accordance with subsection (3), the books of account of the College together with

- (a) a statement of income and expenditure during that year; and
- (b) a statement of the current assets and liabilities of the College.

(3) The accounts of the College shall be audited and reported upon in accordance with sections 29 and 30A of the Exchequer and Audit Act, by the Auditor General (Corporations) or by an auditor appointed by the College with the authority of the Auditor-General (Corporations) given in accordance with section 29 (2) (b) of the Exchequer and Audit Act.

PART V – MISCELLANEOUS PROVISIONS

19.(1) The common seal of the College shall be kept in such custody as the Board shall direct, and shall be used upon the order of the Board.

Common
Seal.

(2) The common seal of the College shall be authenticated by the signature of the Chairman of the Board, the Principal or one other member of the Board duly authorised by the Board in that behalf, and of the Registrar.

(3) The common seal of the College, when affixed to any document and duly authenticated under this section, shall be judicially and officially noticed, and unless the contrary is proved, the necessary order or authorization of the Board under this section shall be deemed to have been duly given.

20. All documents, other than those required by law to be under seal, made on behalf of the Board, shall be signified by the hand of the Chairman of the Board, the Principal, the Deputy Principal or any other member of the Board generally or specifically authorized by the Board in that behalf.

Signification
of documents.

21.(1) In the performance of its functions under this Act the Board shall make statutes generally for the administration of the College, and in particular for

Statutes.

- (a) the establishment of Departments of College;
- (b) the requirements for the award of diplomas or other awards of the College;
- (c) the conduct of examinations;
- (d) prescribing fees, boarding and other charges;
- (e) prescribing the terms and conditions of service, including the appointment, discipline, dismissal, and retirement benefits of the staff of the College; and

- (f) the quorum and procedure of meetings of the Board and the establishment, composition and terms of reference of the committees of the Board.

(2) Statutes shall be made by a resolution made at a meeting of the Board and passed by a majority of not less than three-fourths of the members present and voting, not being less than half of the total membership of the Board.

Protection
of name.

22.(1) No public officer performing functions relating to registration of companies or business names shall accept for such registration any name which includes the words "Agricultural College" together with the word "Bukura" unless the application for the registration is accompanied by the written consent of the Board.

(2) Any person who, except with the written consent of the Board, uses the words "Agricultural College" together with the word "Bukura" in furtherance of, or as, or in connection with, any advertisement for any trade, business, calling or profession, commits an offence, and is liable on conviction to —

- (a) imprisonment for a term not exceeding twelve months, or
- (b) a fine not exceeding thirty thousand shillings; or
- (c) both such fine and imprisonment;

Provided that nothing in this section shall be construed as preventing the *bona fide* use by any person of any title consequent to the grant to him of a diploma or any other award of the College.

PART VI – TRANSITIONAL PROVISIONS

Interpretation.

23. In this part —

"appointed day" means the day appointed by the Minister as the commencement date for this Act;

"Institute" means the Bukura Institute of Agriculture existing immediately before the commencement of this Act.

24.(1) On the appointed day, all the funds, assets and other property, both movable and immovable, which immediately before such date were vested in the institute, shall by virtue of this paragraph, vest in the College. Assets.

(2) On the appointed day, all rights, powers and liabilities, whether arising under any written law or otherwise which immediately before such day were vested in, imposed on or enforceable against the Institute shall, by virtue of this paragraph, be deemed to be vested in, imposed on or enforceable against the College.

(3) Any reference in any written law or in any document or instrument to the Institute shall on and after the appointed day, be construed to be a reference to the College.

(4) The annual estimates of the Institute for the financial year in which the appointed day occurs shall be deemed to be annual estimates of the College for the remainder of that financial year;

Provided that such estimates may be varied by the Board in such manner as the Minister may approve.

(5) The administrative directions made by the Institute or by the Minister which are in force immediately before the appointed day shall, on and after such day, have force as if they were directions made by the Board or the Minister under this Act.

(6) Every person who is a member of the staff of the Institute immediately before the appointed day shall, on and after such day, be deemed to be a member of staff of the College appointed under this Act, upon the terms and conditions of service applicable to such person immediately before such day.