

SPECIAL ISSUE

Kenya Gazette Supplement No. 126 (Bills No. 60)



REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

BILLS, 2012

NAIROBI, 28th September, 2012

CONTENT

Bill for Introduction into the National Assembly—

	PAGE
The Kenya Agricultural Research Bill, 2012.....	2979

NATIONAL COUNCIL FOR LAW REPORTING

RECEIVED

08 OCT 2012

P. O. Box 10443-00100

NAIROBI, KENYA

TEL: 2719231 FAX: 2712684

THE KENYA AGRICULTURAL RESEARCH BILL, 2012**ARRANGEMENT OF CLAUSES***Clause***PART I – PRELIMINARY**

- 1—Short title.
- 2—Interpretation.

PART II—ESTABLISHMENT AND FUNCTIONS OF THE ORGANIZATION

- 3—Establishment of the Organization.
- 4—Composition of the Organization.
- 5—Objects and functions of the Organization.

PART III—THE BOARD OF THE ORGANISATION

- 6— Board of the Organization.
- 7 —Term of office.
- 8—Vacation of office.
- 9—Functions of the Board.
- 10 —Powers of the Board.
- 11—Committees of the Board.
- 12—Delegation of powers by the Board.
- 13—Conduct of business affairs of the Board.
- 14 —Appointment of Director-General.

- 15—Qualifications of Director General.
- 16—Functions of Director General.
- 17—Removal of Director General or deputy Director General.
- 18—Staff of the Organisation.
- 19—Remuneration of staff of the Organisation.
- 20—Common seal of the Organisation.
- 21 —Protection from personal liability.
- 22 —Liability for damages.
- 23 —Relationship with the Science Council.

PART IV—THE SECRETARIAT

- 24— Secretariat of the Organisation.
- 25—Functions of the secretariat.
- 26—Operational units.

PART V—THE SCIENTIFIC AND TECHNICAL COMMITTEE

- 27 —Establishment of Scientific and Technical Committee.
- 28 —Functions of the Committee.
- 29 —Conduct of business affairs of the Committee.

PART VI—RESEARCH INSTITUTES

- 30 —Establishment of research institutes.
- 31 —Functions of research institutes.
- 32— Operation of research institutes.
- 33 —Institute research advisory committees.

34 —Functions of institute research advisory committees.

35 —Director of a research institute.

36 —Program review committees.

PART VII—FINANCIAL PROVISIONS

37 — Funds of the Organization.

38 — Agricultural Research Fund.

39 —Powers to raise or borrow money.

40 —Power to invest.

41 — Accounts and audit.

42 —Annual report and publication.

43— Financial year of the Organisation.

PART VIII—MISCELLANEOUS PROVISIONS

44 —Request for information.

45 —Board to keep information confidential.

46 —Offences-improper disclosure of information.

47— Exemptions.

48— Regulations.

PART IX – TRANSITIONAL PROVISIONS

49 —Amendment of Cap.250.

50 —Rights and obligations.

51 —Transfer of staff.

52 —Assets and liabilities.

53 —Legal proceedings.

54 —Reference to written laws.

55 —Directions, orders, etc of former institutions.

56 —Interpretation.

FIRST SCHEDULE—RESEARCH INSTITUTES

SECOND SCHEDULE—SECTORAL MINISTRIES

THIRD SCHEDULE —FORMER INSTITUTIONS

FOURTH SCHEDULE—PROVISIONS AS TO THE CONDUCT OF BUSINESS AND AFFAIRS OF THE BOARD

THE KENYA AGRICULTURAL RESEARCH BILL, 2012

A Bill for

AN ACT of Parliament to provide for the establishment and functions of the Kenya Agricultural Research Organization; to provide for organs of the Organization; to provide for the co-ordination of agricultural research activities in Kenya, and for connected purposes

WHEREAS it is desirable that a framework national agricultural research system legislation be promulgated so as to establish an appropriate legal and institutional framework for agricultural research in Kenya;

AND WHEREAS it is recognised that the Kenya agricultural research system must be reformed into a dynamic, innovative, responsive and well coordinated system driven by common vision and goal;

AND WHEREAS agricultural research is a key component of technology generation, knowledge management and technology transfer to provide solutions for sustainable development of agribusiness;

NOW THEREFORE BE IT ENACTED by the Parliament of Kenya, as follows—

PART I — PRELIMINARY

1. This Act may be cited as the Kenya Agricultural Research Act, 2012.

Short title.

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

Interpretation.

“Board” means the board of the Organisation constituted under section 6;

“Cabinet Secretary” means the Cabinet Secretary responsible for matters relating to agriculture;

“Committee” means the Science and Technology Committee established under section 27;

“financial year” means the financial year of the Organisation as specified under section 43;

“Fund” means the Agricultural Research Fund established under section 38;

“Science Council” means the National Council for Science and Technology established under section 3 of the Science and Technology Act.

Cap. 250.

(2) Despite subsection (1), until after the first elections under the Constitution, references in this Act to the expression “Cabinet Secretary” and “Principal Secretary” shall be construed to mean “Minister” and “Permanent Secretary” respectively.

PART II — ESTABLISHMENT OF THE KENYA AGRICULTURAL RESEARCH ORGANISATION

Establishment of
the
Organisation.

3.(1) There is established an organisation known as the Kenya Agricultural Research Organization.

(2) The Organisation 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 and lending money;
- (d) entering into contracts; and
- (e) doing or performing all other things or acts necessary for the proper performance of its functions under this Act, which may lawfully be done or performed by a body corporate.

Composition of
the
Organization.

4. The Organization shall consist of the following organs—

- (a) the Board;
- (b) the Secretariat established under Part IV;
- (c) the research institutes specified in the Second Schedule to this Act and the public

universities; and

- (d) associate institutes, provided for under subsection (2).

(2) Any institution which undertakes agricultural or similar research, not being part of or sponsored by any sector Ministry specified in the Second Schedule to this Act and which have access and makes use of public resources may apply to the Board to join the Organization, and if the Board grants the application, the institution shall be an associate institute of the Organization.

5.(1) The object and function for which the Organisation is established is to-

Object and
functions of the
Organisation.

- (a) promote, streamline, co-ordinate and regulate research in crops, livestock, marine and fisheries, genetic resources and biotechnology in Kenya; and
- (b) expedite equitable access to research information, resources and technology and promote the application of research findings and technology in the field of agriculture.

(2) For the purpose of carrying out its functions under subsection (1), the Organisation shall-

- (a) formulate policy and make policy recommendations to the Cabinet Secretary on agricultural research;
- (b) prioritise areas for, and co-ordinate, agricultural research in Kenya in line with the national policy on agriculture;
- (c) determine and advise the Government on the

resource requirements for agricultural research in Kenya both at the national and county level;

- (d) regulate, monitor and ensure that all agricultural research undertaken by research institutes and other institutions or persons undertaking agricultural research is consistent with the national priorities specified in the relevant policy documents;
- (e) establish and exercise control over the research institutes, committees and research centres established pursuant to this Act;
- (f) formulate or approve medium and long term research plans, strategies and budgets of research institutes, committees and organisations established pursuant to this Act;
- (g) provide grants to research institutes and persons desirous of carrying out research and training programs which are consistent with the national research priorities and plans of the Organisation;
- (h) support and promote the training and capacity building in relation to agricultural research;
- (i) promote the dissemination and application of research findings in the field of agriculture and the establishment of a Science Park;
- (j) liaise with and ensure the co-ordination of institutions, agencies and persons involved in agricultural research;
- (k) establish platforms for the purposes sharing of research information, advancing research and transfer of technology and dissemination of information relating to advancements made in

agricultural research;

- (l) ensure continuance of performance improvement in the field of agricultural research; and
- (m) perform such other functions as may be conferred on it by this Act or any other written law.

PART III — BOARD OF THE ORGANISATION

6. (1) The management of the Organisation shall vest in a Board which shall consist of-

Board of the
Organisation.

- (a) a Chairperson appointed by the President;
- (b) the Principal Secretary in the Ministry for the time being responsible for agriculture;
- (c) the Principal Secretary in the Ministry for the time being responsible for finance;
- (d) the Principal Secretary in the Ministry for the time being responsible for co-operatives;
- (e) the Principal Secretary in the Ministry for the time being responsible for environment;
- (f) the Secretary to the Science Council appointed under paragraph 6 of the Second Schedule to the Science and Technology Act;
- (g) one person with experience in agricultural research nominated by the Kenya Private Sector Alliance and appointed by the Cabinet Secretary;
- (h) four persons appointed by the Cabinet Secretary, of whom-

- (i) one shall represent the interests of farmers;
- (ii) one shall be a vice-chancellor in a university that conducts agricultural research; and
- (iii) two non citizens who shall be scientists in the field of agriculture and possess knowledge and experience which, in the Cabinet Secretary's opinion, shall benefit the Board; and
- (iv) the Director General appointed in accordance with section 14.

(2) Members appointed under sections 6(a), (g) and (h) shall serve on a part-time basis.

(3) The Director-General shall be secretary to the Board.

Term of office.

7. The chairperson and members appointed under section 6 (i)(h) shall-

- (a) be competitively recruited and appointed on such terms and conditions as the Cabinet Secretary shall, in consultation with the Salaries and Remuneration Commission consider fit;
- (b) have qualification of a minimum of Masters Degree; and
- (c) hold office for a term of four years renewable for one further term.

Vacation of office.

8. A person shall cease to be a member of the

Board if such person—

- (a) is unable to perform the functions of his office by reason of mental or physical infirmity;
- (b) is adjudged bankrupt;
- (c) is convicted of a criminal offence and sentenced to a term of imprisonment of not less than six months;
- (d) is absent from three consecutive meetings of the Board without the permission of the Board;
- (e) resigns in writing, addressed, in the case of the Chairman to the President, and in the case of any other member, to the Cabinet Secretary;
- (f) fails to declare his interest in any matter being considered or to be considered by the Board;
- (g) violates Chapter Six of the Constitution; or
- (h) dies.

9. The functions of the Board shall be to -

Functions of the Board.

- (a) carry out the objects and functions of the Organisation;
- (b) advise the Cabinet Secretary on matters of policy relating to agricultural research;
- (b) oversee the effective co-ordination of the

operations of the Organisation;

- (c) ensure that the activities of the Organisation are consistent with the policy and objectives of the Government, and the national priorities relating to agriculture and agricultural research;
- (d) approve, oversee and evaluate on a continuing basis the programs being implemented by the Organisation;
- (d) direct strategic research and policy and prioritise and determine the research agenda;
- (e).co-operation with other lead agencies and organizations in carrying out agricultural research;
- (g) development of a economic, efficient and cost . effective internal management structure, strategic and annual plan of the Organisation;
- (i) implementation and fulfilment of the polices and agreed objectives, performance targets and service standards of the Organisation;
- (j) provision of advice as required on all matters within the responsibility of the Organisation; and
- (f) perform such other functions as may be necessary for the exercise of its powers and functions under this Act.

for the proper performance of its functions under this Act and subject to the provisions of this Act, the Board shall have the power to-

- (a) enter into contracts;
- (b) manage, control and administer the assets of the Organisation in such manner and for such purposes as best promotes the purpose for which the Organisation is established;
- (c) receive gifts, grants, donations or endowments made to the Organisation and make disbursement therefrom;
- (d) open such bank accounts as may be necessary for the funds of the Organisation into which all moneys received by the Organisation shall be paid in the first instance and out of which all payments made by the Organisation shall be made;
- (e) determine the provisions to be made for capital and recurrent expenditure and for the reserves of the Organisation; and
- (f) invest any funds of the Organisation not immediately required for its purposes.

11.(1) The Board may, from time to time, establish such committees as it considers necessary for the better carrying out of its functions under this Act.

Committees of
the Board.

(2) The Board may co-opt into the membership of a committee established under subsection (1), such other persons whose knowledge and skills are found necessary for the functions of the Organisation.

12. The Board may by resolution either generally or in any particular case, delegate to any committee of

Delegation of
powers by the
Board.

the Board or to any member, officer, employee or agent of the Board, the exercise of any of the powers or the performance of any of the functions or duties of the Board under this Act or under any other written law.

Conduct of
business affairs
of the Board.

13.(1) The Board shall conduct its affairs in accordance with the provisions of the First Schedule, but subject thereto, the Board may regulate its own procedure.

Appointment of
Director
General.

14.(1) There shall be a Director-General of the Organisation who shall be competitively recruited by the Board and appointed by the Cabinet Secretary.

(2) The Director General shall be appointed on such terms and conditions of service as the Board shall determine, with approval of the Cabinet Secretary, for a term of five years renewable for one further term.

(3) The Director-General shall be an *ex-officio* member of the Board and shall have no right to vote at any meeting of the Board.

Qualifications of
Director
General.

15. A person shall qualify for appointment as Director General if that person —

- (a) holds a doctor of philosophy degree in agricultural or veterinary sciences from a recognized university;
- (b) has experience in —
 - (i) agricultural science;
 - (ii) policy formulation;
 - (iii) policy oriented research and analysis; and

- (iv) management of human resource and finance.

16.(1) The Director-General shall be the chief executive officer of the Organisation and shall be under the general supervision and control of the Board.

Functions of
Director
General.

(2) Subject to sub-section (1), the Director-General shall be responsible for the-

- (a) day-to-day operations of the Organisation;
- (b) administration, organization and control of the staff of the Organisation;
- (c) management of funds, property and affairs of the Organisation;
- (d) implementation of the policies and programs of the Organisation and reporting thereon to the Board;
- (e) development of an operations plan for achieving the Organisation objects; and
- (k) performance of any other duty necessary for the implementation of this Act as may be assigned to him by the Board.

(3) The Director General shall submit to the Board for approval, not later than three months before the commencement of each financial year, a programme of activities of the Organization in respect of that financial year.

17. The Board may remove the Director-General from office in accordance with his terms and conditions of service for

Removal of
Director
General.

- (a) inability to perform the functions of the office arising out of physical or mental incapacity;
- (b) gross misconduct or misbehaviour;
- (c) incompetence or neglect of duty; or
- (d) any other ground that would justify removal from office under the terms and conditions of service.

Staff of the
Organisation.

18.(1) The Board may appoint such officers, agents and staff as are necessary for the proper and efficient discharge of the functions of the Organisation under this Act upon such terms and conditions of service as the Board may determine.

(2) The Board may, on the advice of the Director General, engage, on behalf of the Organization, the services of such experts in respect of any of the functions of the Organization in connection with which they are considered to have special competence.

Remuneration of
staff of the
Organisation.

19.(1) The officers, agents and staff of the Organisation shall be paid such remuneration and allowances as the Cabinet Secretary shall, in consultation with the Salaries and Remuneration Commission determine.

(2) Pending the establishment of the Salaries and Remuneration Commission, the remuneration and allowances under sub-section (1) shall be determined by the Cabinet Secretary in consultation with the Treasury.

Common Seal of
the
Organisation.

20.(1) The common seal of the Organisation shall be kept in the custody of the Director General or such

other person as the Board may direct, and shall not be used except upon the order of the Board.

(2) The common seal of the Organisation shall, when affixed to a document and authenticated, be judicially and officially noticed and unless the contrary is proved any order or authorization by the Organisation under this section shall be presumed to have been duly given.

(3) The affixing of the common seal of the Organisation shall be authenticated by the signatures of the chairperson and the Director General:

Provided that the Board shall, in the absence of the chairperson or the Director General, in any particular matter, nominate one member of the Board to authenticate the common seal of the Organisation on behalf of either the chairperson of the Board or the Director General.

21. (1) No matter or thing done by a member of the Board or any officer, employee, or agent of the Organisation shall, if the matter or thing is done in good faith for executing the functions, powers or duties of the Organisation render the member, officer, employee or agent personally liable to any action, claim or demand whatsoever.

Protection
from personal
Liability.

(2) Any expenses incurred by any person in any suit or prosecution brought against him in any court, in respect of any act which is done or purported to be done by him under the direction of the Organisation, shall, if the court holds that such act was done in good faith, be paid out of the general funds of the Organisation, unless such expenses are recovered by him in such suit or prosecution.

Liability for
damages.

22. The provision of section 22 shall not relieve the Organisation of the liability to compensate or pay damages to any person for any injury to him, his property or any of his interests caused by the exercise of any power conferred by this Act or any other written law or by the failure, wholly or partially of any works.

Relationship
with the Science
Council.

23.(1) The Organization shall operate in cooperation with the Science Council and shall, in relation to the Council, be responsible for research in the agricultural sector.

(2) The Board shall make available to the Science Council annual reports on research and development activities carried out by or under the auspices of the Organization.

PART IV — THE SECRETARIAT

Secretariat of
the
Organisation.

24.(1) There shall be a Secretariat to the Organisation which shall consist of—

- (a) the Director-General who shall be the head of the secretariat; and
- (b) such other persons as the Board shall determine for the proper performance of the functions of the secretariat under this Act.

(2) The persons under subsection (1) (b) shall be competitively recruited and appointed by the Board on such terms and conditions as the Board shall determine.

(3) The persons appointed under subsection (1) (b) shall possess such knowledge and experience as shall be determined by the Board.

25. The functions of the Secretariat shall be to-

Functions of
the secretariat.

- (a) provide logistical support to the Board and committees of the Board;
- (b) organise, direct, and monitor the implementation of research programs and training activities both at national and county level;
- (c) review of agricultural research proposals in terms of priority and technical content;
- (d) carry out periodic assessment of the performance of each research institute in terms of efficiency and adequacy of facilities and resources with reference to the functions to be performed;
- (e) promote collaboration and partnerships of the organisation with international organisations or research bodies on agricultural research;
- (f) review and present to the Board recommendations of the research institutes and committees on policies and priorities for agricultural research;
- (g) serve as a resource centre on matters relating to agricultural research;
- (h) establish a database and coordinate information flow among the research institutes and sector Ministries set out in the Third Schedule to this Act;
- (i) rate, compile and maintain an inventory of agricultural research activities and programs

undertaken by committees and organisations under this Act ;

- (j) collate, analyse and disseminate information including data on research programs undertaken pursuant to this Act;
- (k) monitor and report to the Board on arrangements for dissemination and utilisation of research results and their impact on the development of agriculture and social improvement in the country;
- (l) conduct research and gap analysis to ensure continuous performance improvement in the dissemination and adoption of research findings;
- (m) review and assess requests for Government support in relation to research activities and programs and advise the Secretariat on the relevant support that should be accorded to an institute or body undertaking research under this Act;
- (n) facilitate resource mobilization and management; and
- (o) carry out such other functions as may be conferred on it by the Board.

Operational
units.

26.(1) The Board shall, for the effective co-ordination of agricultural research and development activities in Kenya by organisations and individuals conducting agricultural research, establish operational units within the secretariat in the following sectors—

- (a) food systems;

- (b) natural resource management systems;
- (c) livelihood systems;
- (d) policy and institutional development;
- (e) partnership and business development;
- (f) planning, resource allocation and quality control;
- (g) knowledge management and information communication; and
- (h) administration and finances.

(2) Each operational unit shall consist of such members of the secretariat and such other persons as the Board shall determine.

(3) Each operational unit shall perform such functions as the Director General shall determine.

(4) The Board may create such other operational units or reconstitute, merge or dissolve an operational unit as it shall consider necessary.

PART V — THE SCIENTIFIC AND TECHNICAL COMMITTEE

27. (1) There is established a committee to be known as the Scientific and Technical Committee.

Establishment of
Scientific and
Technical
Committee.

(2) The Committee shall consist of-

(a) a chairperson; and

(b) such persons with such knowledge and expertise as the Board may consider

necessary for the performance of its functions under this Act.

(3) The chairperson and members of the Committee shall be appointed by the Board on such terms and conditions as the Board may determine with approval of the Cabinet Secretary

Functions of the
Committee.

28. (1) The Committee shall—

- (a) serve as the advisory arm to the Organisation; and
- (b) provide technical, financial and legal expertise to the Board and the research institutes established under this Act.

(2) In the performance of its functions under subsection (1), the Scientific and Technical Committee shall—

- (a) advise the Board on—
 - (i) science policy and broad strategic research directions; and
 - (ii) strategic planning, priority setting and research agenda;
- (b) commission and manage periodic external reviews of the programs of research;
- (c) undertake system level impact assessments;
- (d) collaborate with partners to mobilise and harness best science practices;
- (e) provide advice and capacity building to research institutes and individuals

undertaking agricultural research and programs pursuant to this Act;

- (f) analyse policies, research proposals and proposed research programs prior to submission to the Board for approval; and
- (g) perform such other functions relating to agricultural research as may be assigned to it by the Board.

29.(1) The provisions of the First Schedule shall apply *mutatis mutandis* with respect to the conduct of the business and affairs of the committee but subject thereto the Committee, may regulate its own procedure.

Conduct of
business affairs
of the
Committee.

PART VI—RESEARCH INSTITUTES

30.(1) There are hereby established the research institutes specified in the Second Schedule.

Establishment of
research
institutes.

(2) The Cabinet Secretary may, in consultation with the Board and by notice in the Gazette establish such other research institutes as he may consider necessary for the performance of its functions under this Act.

(3) Each research institute may establish such centres or units as it may consider necessary for the performance of its functions under this Act.

31. (1) The functions of the research institutes shall be to—

Functions of a
research
institute.

- (a) advise on, and develop appropriate systems to promote balanced, diversified and sustained agricultural development and to optimise agricultural production through adaptive and investigative research; and

- (b) facilitate the use of improved production technology, and to establish adequate feedback systems from agricultural producers in order to achieve and maintain national self-sufficiency and export capacities in agricultural products.

(2) For the purpose of carrying out its functions under subsection (1), the research institutes shall—

- (a) organise, design and carry out on-station and on-farm research in their respective sectors of agricultural research in accordance with such policies and in such priorities as may be determined by the Board;
- (b) identify production, policy, market, processing and utilisation constraints in the fields of agriculture, water, livestock, fisheries, forestry and environment, and prepare short and long-term research programmes within the framework of the national agricultural research system;
- (c) identify and disseminate, in collaboration with other relevant agencies, appropriate systems of mechanisation and technology options to improve agricultural production and provide answers to foreseeable problems facing crop, livestock, forestry and fisheries production;
- (d) collaborate with the extension and education services and other organisations, agencies and institutions including schools and universities, public or private, to disseminate research results and technologies;
- (e) establish and maintain regular contact with regional and international agricultural research

centres to ensure the rapid introduction, evaluation and use of improved technology of potential benefit to the country;

- (f) conduct, in association with the secretariat, annual reviews of research results and modify research programmes as appropriate;
- (g) promote bottom-up participatory research, planning and priority setting; and
- (h) perform such other functions as the Board shall determine.

32.(1) Each research institute shall be semi autonomous in its operations, implementation of its programs and the allocation and management of its resources.

Operation of
research
institutes.

(2) The annual programmes and budget of a research institute shall be as approved by the Board.

(3) The Board may request an institute research advisory committee appointed under this Act or any other person or body as the Board considers appropriate to manage on behalf of the Organization the property of the institute.

33.(1) The management of a research institute shall vest in an institute research advisory committee constituted by the Board for each research institute established under section 30.

Institute
research
advisory
committees.

(2) The Board shall competitively recruit and appoint such number of persons with such knowledge and experience as it shall consider necessary for the performance of the functions of the advisory committee.

(3) The members of the institute research advisory committee shall be appointed on such terms and conditions as the Board with approval of the Cabinet Secretary shall consider appropriate.

(4) The Board may co-opt into the membership of a committee established under subsection (1), such other persons whose knowledge and skills are found necessary for the functions of the committee.

Functions of
institute
research
advisory
committee.

34. The functions of a institute research advisory committee shall be to oversee the management of the research institute and shall-

- (a) make recommendations to the Board on strategic and policy issues related to agricultural research and research program infrastructure;
- (b) oversee the implementation of policies and programs of the research institute and recommendations of the program review committee;
- (c) advice the Board on the status of programs and projects undertaken by the research institute and make recommendations on the improvements that may be undertaken;
- (d) make recommendations to the Board on mechanisms for partnering and integrating basic and translational research programs and for the adoption of research findings within the agricultural sector;
- (e) evaluate and make recommendations to the Board on areas of strategic investment and collaborations with other research institutes, research centres, organisations or individuals

undertaking agricultural research;

- (f) review annually, the operations, administrative organisation and budgets of the research institute in relation to the programs and initiatives undertaken by the institute;
- (g) provide a forum for feedback and through which individuals undertaking research in the relevant area of research can submit their proposals and recommendations to the research institute; and
- (h) perform such other functions as shall be assigned to it by the Board.

35.(1) The Board shall competitively recruit and appoint a Director for each research institute on such terms and conditions as the Board shall determine.

Director of a research institute.

(2) The Director shall, subject to the directions of the Board, be responsible for the day to day management of a research institute.

36.(1) The Director of each research institute shall, with the approval of the Director General, appoint a programme review committee of that institute consisting of such persons as the Director General may approve.

Program review committees.

(2) The programme review committee established under subsection (1) shall scrutinise research proposals of the institute in relation to which it is established and make recommendations on the relevance and priority of research programmes and projects to be undertaken by the institute.

PART VI — FINANCIAL PROVISIONS

Funds of the
Organisation.

37. The funds and assets of the Organisation shall comprise of—

- (a) such moneys or assets as may accrue to or vest in the Organisation in the course of the exercise of its power or the performance of its functions under this Act;
- (b) the Agricultural Research Fund;
- (c) such moneys as may be payable to the Organisation pursuant to this Act or any other written law;
- (d) such gifts as may be donated to the Organisation;
- (e) such moneys as may be appropriated by Parliament for the purposes of the Organisation; and
- (f) moneys from any other source granted, donated, or lent to the Organisation.

Establishment,
of the Fund.

38. (1) There is established a fund to be known as the Agricultural Research Fund.

(2) The Fund shall consist of—

- (a) any funds provided by bilateral or multilateral donors, for the purpose of agricultural research;
- (b) moneys provided by Parliament specifically for the purpose of agricultural research;
- (c) any interest from loans and advances; and

- (d) funds from any other source approved by the Trustees.

(3) The Fund shall be managed by the Trustees appointed by the Board on such terms and conditions as the Board shall determine.

(4) The Organisation shall apply the moneys received into the Fund to provide strategic and predictable funding to agricultural research activities of the Organisation and carry out the operations of the Organisation.

(5) The Trustees may, from time to time and in consultation with the Board make rules for the better management of the Fund.

39. The Board may, upon consultation with the Cabinet Secretary and from time to time, raise or borrow, either by way of mortgage, charge or overdraft from a bank or in such other ways as may be appropriate, such sums of money as it may consider necessary for or in connection with the exercise of its powers or performance of its functions and duties under this Act.

Powers to raise or borrow money.

40. The Organisation may, from time to time and, subject to the provisions of this Act, invest any sums standing to the credit of the Organisation, whether in any fund established by it, in securities or in any form of property in which the Trustees are authorized to invest under the Trustee Act, and in such other securities or property as may be approved for the purpose by the Cabinet Secretary for the time being responsible for finance..

Power to invest.

Cap. 167

41.(1) The Board shall cause to be kept such books of accounts and other books in relation thereto of all its undertakings, funds, activities and property as the

Accounts and Audit.

Cabinet Secretary may from time to time approve and shall, within a period of four months after the end of the financial year, or within such a longer period as the Cabinet Secretary may approve, cause to be prepared, signed and forwarded to the Auditor-General—

- (a) a balance sheet showing in detail the assets and liabilities of the Organisation; and
- (b) such other statements of accounts as the Cabinet Secretary may approve.

No. 12 of 2003

(2) The accounts of the Organisation shall be examined, audited and reported upon annually by the Auditor-General in accordance with the Public Audit Act, 2003.

(3) The Board shall produce and lay before the Auditor-General all books and accounts of the Organisation, together with all vouchers in support thereof, and all books, papers and writings in its possession or control relating thereto; and the Auditor-General shall be entitled to require from any member, officer, employee or agent of the Organisation such information and explanation as he may consider necessary for the performance of his duties as Auditor-General.

(4) The expenses incurred in and incidental to the auditing of the accounts of the Organisation shall be met by the Organisation.

Annual report
and publication.

42.(1) The Organisation shall, within a period of seven months after the end of the financial year or within such longer period as the Cabinet Secretary may approve, submit to the Cabinet Secretary a report of the operations of the Organisation during such year, and the yearly balance sheet and such other statements of account as the Cabinet Secretary shall require, together

with the Auditor-General's report thereon.

(2) The Organisation shall, if the Cabinet Secretary so requires, publish the reports, balance sheet and statements submitted to him under subsection (1) in such manner as the Cabinet Secretary may specify.

(3) The Cabinet Secretary shall cause to be laid the before Parliament the reports, balance sheet and statements submitted to him under sub-section (1), and such statements of accounts as may he may approve, within a period of fourteen days of the receipt of the reports and statements by him, or, if Parliament is not sitting, within fourteen days of the commencement of its next sitting.

43. The financial year of the Organisation shall be the period of twelve months ending on the thirtieth of June in each year.

Financial year of
the
Organisation.

PART VII — MISCELLANEOUS

44.(1) The Director General may, in writing, request any person to furnish the Organization with such information or to produce such documents or records as he deems necessary and relevant for the performance of the functions of the Organization.

Request for
information.

(2) A person who—

(a) refuses or fails, without reasonable cause, to comply with a request under subsection (1) to furnish any information or to produce any documents or records; or

(b) in furnishing such information, makes a statement which he knows to be false, commits an offence and shall be liable, on conviction, to a fine not exceeding thirty thousand shillings, or

to imprisonment for a term not exceeding two years, or to both.

Board to keep
information
confidential.

44. The Board shall keep information acquired for purposes of the Organization confidential and shall disclose such information only to the extent it considers necessary for the proper performance of the functions of the Organization.

Offences-
improper
disclosure of
information.

45. (1) No officer, member of staff, or agent of the Organization shall disclose information acquired under this Act except—

(a) in the course of his duties under this Act; or

(b) with the written consent of the Board.

(2) No person who receives information in contravention of subsection (1) shall disclose or publish the information.

(3) A person who contravenes subsection (1) or (2) commits an offence and shall be liable, on conviction, to a fine not exceeding thirty thousand shillings or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

Exemptions.

46. Subject to other applicable laws, the Organization shall be exempted from such taxes, duties, fees, levy, cess or other charges as the Cabinet Secretary for the time being responsible for finance may by, notice in the Gazette, specify.

Regulations.

47. The Cabinet Secretary may, on the recommendation of the Board, make regulations generally for the better carrying into effect the provisions of this Act.

PART VIII—TRANSITIONAL PROVISIONS

48. (1) The Science and Technology Act is amended—

Amendment of
Cap. 250.

- (a) in the Fourth Schedule, by deleting the words “Kenya Agricultural Research Institute”; Kenya Marine and Fisheries Research Institute”; and “Kenya Trypanosomiasis Research Institute” appearing in the first column, and the corresponding provisions in the second and third columns;
- (b) in the Fifth Schedule, by deleting the words “Kenya Agricultural Research Institute”; Kenya Marine and Fisheries Research Institute”; “Kenya Forestry Research Institute” and “Kenya Trypanosomiasis Research Institute” appearing in the first column, and the corresponding provisions in the second column.

(2) This Part shall come into force on such date as the Cabinet Secretary may, by notice in the Gazette, appoint, and such date shall not be later than two years from the commencement of this Act.

49. All rights, obligations and contracts which, immediately before the coming into operation of this Act, were vested in or imposed on a former institution shall by virtue of this section, be deemed to be the rights, obligations and contracts of the Organisation.

Rights and
obligations.

51.(1) Every person who, immediately before the appointed day was an officer or member of staff of a former institution, not being then under notice of dismissal or resignation shall, on the appointed day and subject to subsection (2), become an officer or staff of the Organisation as the Cabinet Secretary may, by order, determine on the same or improved terms and

Transfer of staff.

conditions of service.

(2) A person who does not intend to become an officer or member of staff of the Organisation, as the case may be, shall, within a period of fourteen days from the appointed day, give a notice in writing to the Organisation, and such person shall be deemed not to have become such an officer or member of staff under subsection (1) but to have retired from the service of the former institution on the day preceding the appointed day.

(3) The term of any person who is, at the commencement of this Act, a member of the Board of a former institution shall expire on the commencement of this Act.

(4) The Cabinet Secretary may, by order, make provisions with respect to pension or provident fund benefits of the members of staff of the Organisation and with respect to the pension scheme and provident fund of the former institutions.

Assets and
liabilities.

52. On the appointed day—

- (a) all funds, assets, and other property, moveable and immovable which, immediately before such day were vested in the former institutions, shall, by virtue of this paragraph, vest in the Organisation as the Cabinet Secretary may, by order, determine;
- (b) every officer having the power or duty to effect or amend any entry in a register relating to property, or to issue or amend any certificate or other document effecting or evidencing title to property, shall, without payment of a fee or other charge

and upon request made by or on behalf of the Organisation, do all such things as are by law necessary to give final effect to the transfer of property referred to under paragraph (a); and

- (c) all rights, powers, liabilities and duties whether arising under any written law or otherwise howsoever, which immediately before the appointed day were vested in, imposed on or enforceable by or against a former institution shall, by virtue of this paragraph, be transferred to, vested in, imposed on or enforceable by or against the Organisation.

53. On or after the appointed day, all actions, suits or legal proceedings whatsoever pending by or against a former institution shall be carried on or prosecuted by or against the Organisation as the case may be, and no such action, suit or legal proceedings shall in any manner abate or be prejudicially affected by the enactment of this Act.

Legal
proceedings.

54. Any reference to the former institution in any written law or in any contract, document or instrument of whatever nature shall, on the commencement of this Act, be read and construed as a reference to the Organisation.

Reference to
written laws.

55. All directions, orders and authorizations given, or licenses or permits issued, or registrations made by a former institution and subsisting or valid immediately before the appointed day, shall be deemed to have been given, issued or made by the Organisation under this Act.

Directions,
orders, etc of
former
Institutions.

56. In this Part —

Interpretation

“appointed day” means the day appointed by the Cabinet Secretary under section 49(2);

“former institution” means the research institutes and advisory committees established under the Science and Technology Act and institutions involved in the conduct of agricultural research established under the Companies Act, the State Corporations Act or such other written law which are specified in the Fourth Schedule and dissolved or wound up by virtue of this Act.

FIRST SCHEDULE

(S.13)

PROVISIONS AS TO THE CONDUCT OF BUSINESS AND AFFAIRS OF THE BOARD

Tenure of office.

1. Any member of the Board, other than an *ex-officio* member shall, subject to the provisions of this Schedule, hold office for a period of four years, on such terms and conditions as may be specified in the instrument of appointment, but shall be eligible for re-appointment, subject to a maximum of two terms of office.

Meetings.

2.(1) The Board shall meet not less than four times in every financial year and not more than four months shall elapse between the date of one meeting and the date of the next meeting.

(2) Notwithstanding the provisions of subparagraph (1), the Chairman may, and upon requisition in writing by at least six members shall, convene a special meeting of the Board at any time for the transaction of the business of the Board.

(3) Unless three quarters of the total members of the Board otherwise agree, at least fourteen days'

written notice of every meeting of the Board shall be given to every member of the Board.

(4) The quorum for the conduct of the business of the Board shall be seven members including the chairperson or the person presiding.

(5) The chairperson shall preside at every meeting of the Board at which he is present but, in his absence, the members present shall elect one of their numbers to preside, who shall, with respect to that meeting and the business transacted thereat, have all the powers of the chairperson.

(6) Unless a unanimous decision is reached, a decision on any matter before the Board shall be by a majority of votes of the members present and voting and, in the case of an equality of votes, the chairperson or the person presiding shall have a casting vote.

(7) Subject to subparagraph (4), no proceedings of the Board shall be invalid by reason only of a vacancy among the members thereof.

3.(1) If a member is directly or indirectly interested in any contract, proposed contract or other matter before the Board and is present at a meeting of the Board at which the contract, proposed contract or other matter is the subject of consideration, that member shall, at the meeting and as soon as practicable after the commencement thereof, disclose the fact and shall not take part in the consideration or discussion of, or vote on, any questions with respect to the contract or other matter, or be counted in the quorum of the meeting during consideration of the matter:

Disclosure of
interest by
Board members.

Provided that, if the majority of the members present are of the opinion that the experience or expertise of such member is vital to the deliberations of

the meeting, the Board may permit the member to participate in the deliberations subject to such restrictions as it may impose but such member shall not have the right to vote on the matter in question.

(2) A disclosure of interest made under this paragraph shall be recorded in the minutes of the meeting at which it is made.

(3) A member of the Board who contravenes subparagraph (1) commits an offence and is liable to imprisonment for a term not exceeding six months, or to a fine not exceeding one hundred thousand shillings, or both.

4. Any contract or instrument which, if entered into or executed by a person not being a body corporate, would not require to be under seal, may be entered into or executed on behalf of the Board by any person generally or specially authorized by the Board for that purpose.

5. The Board shall cause minutes of all resolutions and proceedings of meetings of the Board to be entered in books kept for that purpose.

SECOND SCHEDULE

(S.30)

RESEARCH INSTITUTES

- (a) Food Crop Research Institute.
- (b) Livestock Research Institute.
- (c) Fisheries and Marine Research Institute.
- (d) Industrial Crop Research Institute.
- (e) Horticulture Research Institute

Execution of
instruments.

Minutes.

- (f) Forest and Environment Research Institute.
- (g) Water Resource Management Research Institute.
- (h) Arid and Range Lands Research Institute.
- (i) Genetic Resources Research Centre.
- (j) Biotechnology Research Institute.

THIRD SCHEDULE

(S.25(h))

SECTORAL MINISTRIES

The Ministries for the time being responsible for matters relating to—

- (a) agriculture;
- (b) regional development authorities;
- (c) cooperative development and marketing;
- (d) livestock development;
- (e) fisheries development;
- (f) lands;
- (g) development of northern Kenya and other arid lands;
- (h) environment mineral resources;
- (i) forestry and wildlife; and
- (j) water and irrigation.

FOURTH SCHEDULE**(S.56)****FORMER INSTITUTIONS**

- (a) Kenya Agricultural Research Institute
- (b) Kenya Marine and Fisheries Research Institute
- (c) Kenya Trypanosomiasis Research Institute
- (d) Kenya Forestry Research Institute
- (e) Agricultural Science Advisory Research Committee
- (f) Coffee Research Foundation
- (g) Tea Research Foundation of Kenya
- (h) Kenya Sugar Research Foundation

MEMORANDUM OF OBJECTS AND REASONS

The principal object of this Bill is to streamline agricultural research in Kenya. It acts as a focal point through which institutions in various agricultural sectors are able to engage in agricultural research in a more structured manner devoid of duplication.

Part I contains preliminary provisions.

Part II provides for the establishment, powers and functions of the Organization. The Organization is the body which has been mandated with the responsibility of overseeing and co-ordinating research in the wider agricultural field.

Part III provides for the establishment of the Board, which shall be the administrative organ of the Organization. In particular, the Board is

mandated to formulate policies for the Organization and to carry out the objects and functions of the Organization. It is similarly empowered to hire staff for the Organization and in particular, the Director-General of the Organization.

Part IV provides for the secretariat of the Organization, to be headed by the Director-General. The secretariat is supposed to provide secretarial and logistical support to the Board and its committees.

Part V contains provisions on Scientific and Technical Committee which will serve as the advisory arm to the Organisation and will also provide technical, financial and legal expertise to the Board and the research institutes established under the Act.

Part VI contains elaborate provisions on research institutes which shall be the implementing arms of the Organization. It lays down the various functions which these institutes are required to perform under the Bill, and how their operations are supposed to be carried out.

Part VII contains financial provisions. In particular, it provides for the establishment of the Agricultural Research Fund to provide the financial resources required in undertaking agricultural research activities.

Part VIII contains miscellaneous provisions.

The enactment of this Bill will occasion additional expenditure of public funds to be provided for in the estimates.

Part IX contains the Transitional provisions.

The enactment of this Bill will occasion additional expenditure of public funds to be provided for in the estimates.

Dated the 10th September, 2012.

SALLY J. KOSGEI,
Minister for Agriculture.