

THE AGRICULTURAL INSTITUTE OF ZAMBIA ACT, 2017

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GOVERNMENT OF ZAMBIA

ACT

No. 2 of 2017

Date of Assent: 12th April, 2017

An Act to establish the Agricultural Institute of Zambia; provide for the registration of agricultural professionals and regulate their professional conduct in the interest of the agricultural sector; and provide for matters connected with, or incidental to, the foregoing.

[13th April, 2017

ENACTED by the Parliament of Zambia.

Enactment

PART I

PRELIMINARY PROVISIONS

1. This Act may be cited as the Agricultural Institute of Zambia Act, 2017, and shall come into operation on the date determined by the Minister by statutory instrument.

Short title and commencement

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

Interpretation

“ agricultural by-product ” means a material arising from processing an agricultural product and is not meant for direct human consumption;

“ agricultural facility ” means an educational institution, research station, laboratory or a related facility providing services in a field of agriculture;

“ agricultural product ” means a material arising from the cultivation of plants and fungi for food, fibre, bio-fuel and medicinal plants and production of animals, and includes a product used to sustain and enhance human life;

“ agricultural professional ” means a scientist, technician or craftsperson in the science of agriculture, but excludes a veterinary professional or para-veterinary professional;

“ agriculture ” means the practice, science and application of scientific and technological principles in animal and plant production;

“ allied discipline ” means a discipline determined as such by the Council;

Act No. 27 of
2010

“animal ” has the meaning assigned to it in the Animal Health Act, 2010;

Act No. 3 of
2012

“ associate ” has the meaning assigned to it in the Anti-Corruption Act, 2012;

“ Board ” means the Agricultural Registration Board established under section 13;

“ certificate of registration ” means the certificate of registration issued under section 19;

“ code of ethics ” means the code of professional conduct adopted and published by the Institute for the purposes of this Act;

“ constitution ” means the constitution of the Institute;

“ Council ” means the Agricultural Council of the Institute constituted under section 8;

“ Deputy Registrar ” means a person appointed as Deputy Registrar under section 11;

“ Disciplinary Committee ” means the Disciplinary Committee constituted under section 43;

“ Fellow ” means a person registered as such under this Act;

“ Institute ” means the Agricultural Institute of Zambia established under section 3;

“ institution ” means an industry dealing with, or organisation providing a service in, agricultural products or by-products;

“ Member ” means a person registered as a member of the Institute in accordance with the provisions of this Act, and “ membership ” shall be construed accordingly;

“ plant ” means a crop, algae, fungi, seed and any related material produced as a food crop, cash crop, fibre or flower or produced for an aesthetic purpose or genetic conservation;

“ practice ” means the practice as a professional in an agricultural field and provision of a service to a third party for remuneration and “ practising ” shall be construed accordingly;

“ practising certificate ” means a certificate issued under section 25;

- “President ” means the person elected President of the Council pursuant to section 8;
- “professional misconduct ” has the meaning assigned to it in section 41;
- “Register ” means the Register of certificates of registration and practising certificates established under section 36;
- “Registrar” means a person appointed as Registrar under section 10;
- “ relative ” has the meaning assigned to it in the Anti-Corruption Act, 2012;
- “ student ” means a person who is enrolled at a higher education institution recognised by the Institute and undergoing training in the agricultural profession or allied discipline; and
- “ Vice-President ” means the person elected Vice- President of the Council pursuant to *Section 8*.

Act No. 3 of
2012

PART II

THE AGRICULTURAL INSTITUTE OF ZAMBIA

3. (1) There is established the Agricultural Institute of Zambia which is body corporate with perpetual succession and a common seal, capable of suing and being sued in its corporate name and with power subject to the provisions of this Act, to do all such acts and things as a body corporate may, by law, do or perform.

Establish-
ment of
Agricultural
Institute of
Zambia

(2) The provisions of the Schedule apply to the Institute.

4. (1) The seal of the Institute shall be such device as may be determined by the Council and shall be kept by the Registrar.

Seal of
Institute

(2) The affixing of the seal shall be authenticated by the President or Vice-President and the Registrar or any other person authorised in that behalf by a resolution of the Council.

(3) A contract or instrument which, if entered into or executed by a person not being a body corporate, would not be required to be under seal, may be entered into or executed without seal on behalf of the Institute by the Registrar or any other person generally or specifically authorised by the Council in that behalf.

(4) A document purporting to be a document under the seal of the Institute or issued on behalf of the Institute shall be received in evidence and shall be deemed to be so executed or issued, as the case may be, without further proof, unless the contrary is proved.

5. The functions of the Institute are to—

Functions of
Institute

- (a) register agricultural professionals and regulate their professional conduct;
- (b) promote the agricultural profession in Zambia;

- (c) recommend the development and maintenance of appropriate standards of qualification in the agricultural profession to the Higher Education Authority and the Zambia Qualifications Authority;
- (d) promote and encourage internationally accepted agricultural practice standards in Zambia;
- (e) undertake research in agricultural policy-related issues;
- (f) investigate allegations of professional misconduct and impose such sanctions as may be necessary;
- (g) advise Government on matters relating to the agricultural profession;
- (h) promote the advancement of science and technology in agriculture for the improvement of quality of human, animal and plant life;
- (i) promote and recognise agricultural scientists and award them accordingly;
- (j) promote alternative dispute resolution mechanisms for disputes in the agricultural profession;
- (k) collaborate with private and State institutions on matters relating to the agricultural profession; and
- (l) do all such other things as are necessary or incidental to the performance of its functions under this Act.

Constitution
of Institute

6. (1) The Institute shall, by a vote of at least two-thirds of the members voting at a general meeting of the Institute, adopt a constitution and may, in the like manner, amend it.

(2) Subject to this Act, the constitution shall regulate the conduct of the affairs of the Institute.

(3) Subject to subsection (1), the constitution shall provide for the following matters—

- (a) the meetings of the Institute, including the delivery and sufficiency of notices of the meetings, the quorum, voting, adjournment and other matters of procedure or conduct of the meeting;
- (b) the election, qualifications and tenure of the President, Vice-President and other office bearers;

- (c) the composition, functions, powers and procedures of the committees of the Institute;
- (d) the establishment, powers and functions of the branches of the Institute; and
- (e) any other matter as the membership may determine.

7. (1) Subject to this Act, the Institute may regulate its own procedure. Meetings of Institute

(2) The meetings of the Institute shall be conducted in accordance with the provisions of the constitution.

(3) The validity of any proceedings, act or decision of the Institute shall not be affected by any person's absence from any meeting of the Institute.

PART III

THE AGRICULTURAL COUNCIL

8. (1) There is constituted the Council which shall be responsible for the management and control of the affairs of the Institute. Constitution of Council

(2) The Council shall be elected in accordance with the provisions of the constitution.

(3) The Council shall consist of the following members:

- (a) the President, who is a Fellow;
- (b) the Vice-President, who is a Fellow and shall be responsible for administration and policy direction;
- (c) the Information and Publicity Secretary, who is a Fellow and shall be responsible for public relations;
- (d) the Treasurer, who is a Fellow with financial skills and shall be responsible for finance and administration;
- (e) one representative from each province; and
- (f) one professional member.

(4) A person does not qualify to be elected as a member of the Council if that person—

- (a) has a mental disability that would make that person incapable of carrying out the functions of office of member;
- (b) has committed any professional misconduct within a period of five years preceding the election or nomination as member;
- (c) is adjudged bankrupt under any law; or

(d) is in lawful custody or the person's freedom of movement is restricted under any law in force in or outside Zambia on the date of the election or nomination.

(5) The provisions of the Schedule apply to the Council.

Functions of Council

9. (1) The functions of the Council are to—

- (a)* perform the functions of the Institute;
- (b)* approve the policy and strategic plan of the Institute;
- (c)* oversee the implementation and successful operation of the policy and functions of the Institute;
- (d)* approve the annual budget and plans of the Institute;
- (e)* monitor and evaluate the performance of the Institute against budgets and plans;
- (f)* represent, coordinate and develop the agricultural profession and promote its interest;
- (g)* protect and assist the public in matters relating to the practice of the agricultural profession;
- (h)* promote continuing professional development among agricultural professionals;
- (i)* make recommendations relating to the agricultural profession to the general meeting of the Institute;
- (j)* establish and issue guidelines and standards for purposes of this Act;
- (k)* establish and approve rules and procedures for the appointment, discipline, termination and terms and conditions of service of the staff of the Institute;
- (l)* advise the Government on policies and measures relating to the agricultural profession; and
- (m)* do all such things as are necessary or incidental to the performance of its functions under this Act.

Registrar

10. The Council shall appoint a suitably qualified registered agricultural professional as Registrar, on the terms and conditions that the Council may determine, who shall be the chief executive officer of the Institute and Secretary to the Council.

Deputy Registrar and other staff

11. (1) The Council shall appoint a suitably qualified registered agricultural professional as Deputy Registrar who shall assist the Registrar in performing the Registrar's duties under this Act.

(2) The Council may appoint, on the terms and conditions that

the Council may determine, any other staff that as it considers necessary for the performance of its functions under this Act.

12. (1) The Council shall appoint suitably qualified persons as inspectors to ensure compliance with this Act. Inspectors

(2) The Council shall provide an inspector with a certificate of appointment which shall be *prima facie* evidence of the inspector's appointment as such.

(3) An inspector shall, in performing any duties under this Act—

(a) be in possession of the certificate of appointment referred to in subsection (2); and

(b) show the certificate of appointment to a person who requests to see it or is subject to an investigation under this Act.

(4) An inspector may, for the purpose of enforcing the provisions of this Act, at any reasonable time, with prior notice, and on the authority of a warrant, enter any premises that the inspector has reasonable grounds to believe is used by an agricultural professional or agricultural facility for the commission of an offence or contrary to the provisions of this Act and—

(a) search the premises;

(b) search a person on the premises if there are reasonable grounds to believe that the person has possession of an article, document or record that has a bearing on an investigation, except that a person shall only be searched by a person of the same sex;

(c) take extracts from, or make copies of, a book, document or record that is on the premises and that has a bearing on an investigation;

(d) demand the production of, and inspect, relevant certificates of registration and practising certificates; and

(e) make such enquiries as may be necessary to ascertain whether the provisions of this Act or other law on which an investigation is based have been complied with.

(5) A person shall not—

(a) delay or obstruct an inspector in the performance of the inspector's functions under this Act;

(b) refuse to give an inspector such reasonable assistance as the inspector may require for the purpose of exercising the inspector's functions; or

(c) give an inspector false or misleading information in answer to an inquiry made by the inspector.

(6) A person who contravenes subsection (5) commits an offence and is liable, upon conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a period not exceeding two years, or to both.

(7) An inspector shall furnish the Council with a written report and any other information relating to an inspection.

PART IV

THE AGRICULTURAL REGISTRATION BOARD

Establishment
of
Agricultural
Registration
Board

13. There is established the Board of the Institute which consists of the following part-time members appointed by the Minister:

- (a) a person experienced in agricultural matters, as the chairperson;
- (b) a representative each of the Ministries responsible for—
 - (i) agriculture;
 - (ii) livestock and fisheries;
 - (iii) finance;
 - (iv) development planning;
 - (v) higher education; and
 - (vi) forestry
- (c) a representative of the Attorney-General;
- (d) a representative of a farmers' body;
- (e) a representative of a body representing research institutions;
- (f) a representative of an agricultural policy research institute;
- (g) a representative of the agricultural sector;
- (h) a representative of the Zambia Congress of Trade Unions; and
- (i) a representative of the Federation of Free Trade Unions of Zambia.

Functions of
Board

14. Except as otherwise provided in this Act, the function of the Board is to perform all the registration functions of the Institute.

Committees

15. (1) The Board may, for purposes of performing its functions under this Act, establish such committees as it may determine and may delegate to the committees any of its functions as it considers necessary for purposes of this Act.

(2) Subject to any specific or general direction of the Board, a committee established under this section may regulate its own procedure.

PART V

REGISTRATION OF AGRICULTURAL PROFESSIONALS

16. (1) There shall be such classes of membership with such rights and privileges as the Minister may by statutory instrument prescribe.

Classes of membership

(2) A person may apply to the Institute for registration as a Member in accordance with the provisions of the constitution.

17. (1) A person shall not practise as an agricultural professional without registering under this Act.

Prohibition of person practising without registration

(2) A person who contravenes subsection (1) commits an offence and is liable, upon conviction, to a fine not exceeding seven hundred thousand penalty units or to imprisonment for a period not exceeding seven years, or to both.

18. (1) A person shall apply to the Board for registration as an agricultural professional in the prescribed manner and form upon payment of the prescribed fee.

Application for registration as agricultural professional

(2) The Board may determine different fees for different classes of agricultural professionals.

(3) The Board may, within thirty days of receipt of an application under subsection (1), grant or reject the application.

(4) The Board shall, where it rejects an application under subsection (3), inform the applicant accordingly and give the reasons for the decision.

19. (1) The Board shall, within fourteen days of the approval of an application under section 18, issue the applicant with a certificate of registration if the applicant—

Registration of agricultural professionals

(a) is registered as a Member in accordance with the provisions of the constitution;

(b) possesses such knowledge, training and experience as may be prescribed;

(c) holds a qualification from a training institution recognised by the Institute;

(d) is resident in Zambia or has an established office or appointment in Zambia in the agricultural sector;

(e) is of good character and good professional standing; and

(f) meets such other requirements as the Institute may determine.

(2) The Board shall register an agricultural professional in accordance with the prescribed categories and classes of membership.

(3) A certificate of registration shall have an unlimited period of validity, unless suspended or cancelled under the provisions of this Act.

Disqualification
from
registration

20. A person shall not qualify for registration as an agricultural professional under this Act if the person has been—

- (a) convicted of an offence involving fraud or dishonesty under this Act or any other written law;
- (b) adjudged bankrupt under any written law; or
- (c) found guilty of professional misconduct by the Disciplinary Committee.

Title for
registered
agricultural
professionals

21. A registered agricultural professional shall use the title or designation as prescribed in the constitution.

Changes in
detail

22. A person registered under this Act shall notify the Registrar of any change in the particulars relating to the registration within seven days of the change.

Suspension
and
cancellation
of registration

23. (1) Subject to other provisions of this Act, the Board may suspend or cancel the registration of an agricultural professional where—

- (a) the Board has reasonable grounds to believe that the registration was obtained through fraud, misrepresentation or concealment of a material fact;
- (b) the agricultural professional is found guilty of professional misconduct under this Act or the Code of Ethics;
- (c) the practising certificate of the agricultural professional is cancelled;
- (d) the agricultural professional is convicted of an offence under this Act or any written law and sentenced to imprisonment for a period exceeding six months without the option of a fine; or
- (e) since the registration, circumstances have arisen disqualifying the agricultural professional from registration.

(2) The Board shall, before cancelling the registration under subsection (1), give the agricultural professional an opportunity to be heard.

(3) The Board may, before cancelling the registration of an agricultural professional suspend the agricultural professional for such period and on such terms and conditions as the Board may determine.

(4) Where the Board cancels a certificate of registration of an agricultural professional under this section, the name of the agricultural professional shall not be restored except on such conditions as may be prescribed and upon payment of the prescribed fee.

24. Where a certificate of registration is cancelled or suspended under section 23, the holder of the certificate of registration may apply to the Board for re-registration, subject to the terms and conditions that the Board may determine.

Re-
registration

25. (1) An agricultural professional shall apply to the Board for a practising certificate in the prescribed manner and form upon payment of the prescribed fee.

Practising
certificate

(2) The Board shall, within fourteen days of the receipt of an application under subsection (1), and if the application meets the requirements of this Act, issue the applicant with a practising certificate.

(3) The Minister may, by statutory instrument, on the recommendation of the Institute, make regulations to provide for—

(a) the terms and conditions for the issuance of practising certificates;

(b) the type of continuous professional development and training and any other information required for the issuance of a practising certificate; and

(c) any other matter necessary for purposes of this Act.

26. (1) A person shall not practise as an agricultural professional without a practising certificate issued to that person by the Board under this Act.

Prohibition
of practise
without
practising
certificate

(2) A person who contravenes subsection (1) commits an offence and is liable, upon conviction, to a fine not exceeding seven hundred thousand penalty units or to imprisonment for a period not exceeding seven years, or to both.

27. (1) A person shall not, unless the person is registered as an agricultural professional under this Act—

Holding out
as
agricultural
professional

(a) practise as, be employed as, offer services related to agriculture, be engaged as an agent of, or hold out to be, an agricultural professional;

(b) adopt, use or exhibit the titles or designations prescribed in the constitution; or

(c) do anything likely to lead persons to infer that the person is a registered agricultural professional.

(2) A person, organisation or institution shall not offer employment to a person requiring registration under this Act.

(3) A person who contravenes subsection (1) or (2) commits an offence and is liable, upon conviction, to a fine not exceeding one million penalty units or to imprisonment for a period not exceeding ten years, or to both.

(4) An agricultural professional shall not permit the agricultural professional's name to be used by a person that is not a registered agricultural professional.

(5) A person who contravenes subsection (4) commits an offence and is liable, upon conviction, to a fine not exceeding one million penalty units or to imprisonment for a period not exceeding ten years, or to both.

Offences
regarding
registered
agricultural
professional

28. (1) A person shall not—

(a) make or cause to be made an unauthorised entry, alteration or erasure in the Register or a certified copy of an entry in the Register, a certificate of registration or practising certificate issued under this Act;

(b) impersonate or use the title of a registered agricultural professional while not registered as such under this Act;

(c) procure, or attempt to procure, registration under this Act, by fraud, false representation or the concealment of a material fact;

(d) forge a certificate of registration, practising certificate or other document issued under this Act; or

(e) undertake to provide professional services in excess of the scope of the practice permitted for the agricultural profession.

(2) A person who contravenes subsection (1) commits an offence and is liable, upon conviction, to a fine not exceeding one million penalty units or to imprisonment for a period not exceeding ten years, or to both.

Display of
practising
certificate

29. A holder of a practising certificate shall display the practising certificate in a conspicuous place at the place of practice.

Fees for
Agricultural
Services and
Works

30. A holder of a practising certificate shall, for professional services rendered, charge such fees as the Minister may prescribe, by statutory instrument, on the recommendation of the Council.

Renewal of
practising
certificate

31. (1) A practising certificate shall be renewed annually in the prescribed manner and form upon payment of the prescribed fee.

(2) A practising certificate that is not renewed in accordance with subsection (1) is void.

32. (1) The Board may suspend or cancel a practising certificate if the holder—

Suspension and cancellation of practising certificate

- (a) has a mental disability that makes the holder incapable of performing duties as an agricultural professional;
- (b) is adjudged bankrupt under a written law;
- (c) obtained the practising certificate through fraud, misrepresentation or concealment of a material fact; or
- (d) commits an offence under this Act or contravenes the Code of Ethics.

(2) Where a certificate of registration is cancelled under this Act, the practising certificate of the holder of the certificate of registration shall be void and shall be surrendered to the Board.

(3) The Board shall, before cancelling a practising certificate under this section, give the holder of the practising certificate an opportunity to be heard.

(4) The Board may, before cancelling a practising certificate, suspend the holder of the practising certificate for such period and on such terms and conditions as the Board may determine.

(5) The Board shall, where it suspends or cancels a practising certificate under subsection (1), publish the cancellation in a daily newspaper of general circulation in Zambia.

33. A certificate of registration or practising certificate issued under this Act shall not be transferred to a third party.

Prohibition of transfer of certificate of registration or practising certificate

34. (1) A person whose certificate of registration or practising certificate is destroyed or lost may apply to the Registrar for a duplicate certificate in the prescribed manner and form upon payment of the prescribed fee.

Duplicate certificate of registration or practising certificate

(2) The Registrar may, within seven days of receipt of an application under subsection (1), issue a duplicate certificate of registration or practicing certificate to the applicant.

35. (1) A person may apply to the Registrar for a certificate of status containing particulars relating to the registration of an agricultural professional in the prescribed manner and form upon payment of the prescribed fee.

Certificate of status

(2) The Registrar may, upon receipt of an application under subsection (1), issue a certificate of status to the applicant in the prescribed form.

Register

36. (1) The Registrar shall keep and maintain a Register of all persons registered under this Act in which the Registrar shall enter the details and particulars relating to—

- (a) registered agricultural professionals;
- (b) the holders of practising certificates and persons whose certificates have been cancelled;
- (c) the applications rejected and the reasons for the rejection; and
- (d) any other information that the Institute may determine.

(2) The Register shall be kept in the custody of the Registrar at the offices of the Institute and shall be open for inspection by members of the public during normal office hours upon payment of such fee as the Board may determine.

(3) The Registrar may, upon application by any person, issue to the person a certified extract from the Register of a copy of a certificate of registration or practising certificate, upon payment of such fee as the Board may determine.

Removal and restoration of name on Register

37. (1) The Minister may, on the recommendation of the Council, make regulations prescribing the circumstances and manner in which an agricultural professional —

- (a) may be removed from the Register; and
- (b) who is removed from the Register may be restored on the Register and the fee to be paid for the restoration.

(2) Subject to subsection (1), an agricultural professional who is removed from the Register ceases to be registered as an agricultural professional.

(3) The Board may, where a holder of a practising certificate does not intend to practise for a specified period of time, maintain the name of the holder of the practising certificate on the register, in a non-practising category, for that period of time.

Publication of copies of Register

38. (1) The Registrar shall, on the direction of the Board, cause copies of the Register and any alterations of, or additions to, the Register to be printed and published in a manner and form that the Board may direct.

(2) Subject to this Act, a copy of the last published and printed Register shall be *prima facie* evidence of what is contained in that Register and the absence of the name of an agricultural professional from that copy shall be *prima facie* evidence that the agricultural professional is not registered.

39. (1) A person aggrieved with a decision of the Board may, within thirty days of receiving the decision, appeal to the Minister. Appeals

(2) A person aggrieved with a decision of the Minister may, appeal to the High Court.

PART VI

DISCIPLINE AND ETHICS

40. The Institute shall adopt and publish a code of ethics for agricultural professionals, which shall bind all agricultural professionals regulated under this Act. Code of ethics

41. An agricultural professional commits professional misconduct if the agricultural professional— Professional misconduct

(a) contravenes the provisions of this Act;

(b) unlawfully discloses or uses to the advantage of the agricultural professional any information acquired in the practice of the agricultural professional;

(c) engages in conduct that is dishonest, fraudulent or deceitful; or

(d) breaches the code of ethics or encourages another agricultural professional to breach or disregard the principles of the code of ethics.

42. (1) A person who alleges that an agricultural professional has contravened the code of ethics or a provision of this Act may lodge a complaint with the Disciplinary Committee against the agricultural professional. Initiation of complaint

(2) The Institute may initiate disciplinary action under this section where it has reasonable grounds to believe that an agricultural professional has contravened the code of ethics or a provision of this Act.

(3) A complaint or allegation under subsection (1) shall be made to the Registrar in the prescribed manner and form.

43. (1) There is established a Disciplinary Committee which consists of the following members who shall be appointed by the Council: Disciplinary Committee

(a) the Chairperson;

(b) the Vice-Chairperson;

(c) five registered Members who are not members of the Council, elected at a general meeting of the Institute; and

(d) a legal practitioner nominated by the Law Association of Zambia.

(2) The Registrar shall be the Secretary to the Disciplinary Committee but shall not have voting rights.

(3) A person qualifies to be appointed as Chairperson or Vice-Chairperson of the Disciplinary Committee if that person is registered as a Fellow or Member in accordance with the constitution and registered under this Act.

(4) A person shall not be appointed as a member of the Disciplinary Committee if the person—

(a) is facing an allegation of, or has been disciplined for professional misconduct;

(b) is in lawful custody or the person's freedom of movement is restricted under any law in force within or outside Zambia;

(c) has been convicted of an offence under any written law and sentenced to a term of imprisonment exceeding six months without the option of a fine; or

(d) has a mental disability that would make that person incapable of carrying out the functions of office of a member.

(5) A member of the Disciplinary Committee shall hold office for three years and may be re-appointed for a further and final term of three years.

(6) A member shall, upon the expiration of the term for which the member is elected or nominated, continue to hold office until another member is elected or nominated, but in no case shall an extension of the period exceed three months.

(7) The office of a member becomes vacant if the member—

(a) dies;

(b) is adjudged bankrupt under any law;

(c) is absent from three consecutive meetings of the Disciplinary Committee of which the member had notice, without the prior approval of the Disciplinary Committee;

(d) resigns, by notice in writing, to Council;

(e) becomes mentally and physically incapable of performing duties as a member of the Disciplinary Committee;

(f) is found guilty of professional misconduct;

(g) is de-registered under this Act: or

(h) is convicted of an offence under this Act or any other law and sentenced to imprisonment for a period exceeding six months without the option of a fine.

(8) The Council shall, where there is a vacancy in the membership of the Disciplinary Committee before the expiry of the term of office, appoint another person to replace the member who vacates office, but that person shall only hold office for the remainder of the term.

44. The functions of the Disciplinary Committee are to hear and determine—

Functions of
Disciplinary
Committee

(a) a disciplinary action initiated by the Institute against an agricultural professional that has contravened a provision of the code of ethics or a provision of this Act; or

(b) a complaint or allegation of professional misconduct made by a person against an agricultural professional.

45. (1) Five members of the Disciplinary Committee shall form a quorum.

Proceedings
of
Disciplinary
Committee

(2) The Chairperson, or in the absence of the Chairperson, the Vice-Chairperson, shall preside at a meeting or sitting of the Disciplinary Committee.

(3) A question at a sitting or meeting of the Disciplinary Committee shall be decided by a majority of the votes of the members of the Disciplinary Committee at the sitting or meeting and in the event of an equality of votes, the person presiding at the sitting or meeting shall have a casting vote in addition to that person's deliberative vote.

(4) The proceedings of the Disciplinary Committee shall be in camera.

(5) A party to a hearing of the Disciplinary Committee may appear in person or be represented by a legal practitioner, or if the party so elects by any other person.

(6) A decision of the Disciplinary Committee shall be in the form of a reasoned judgement and a copy of the decision shall be supplied to each party to the proceedings and every person affected by the decision.

(7) A member who is present at a meeting of the Disciplinary Committee at which a matter is the subject of consideration, and in which matter that person or that person's relative or associate is directly or indirectly interested in a private capacity shall, as soon

as is practicable after the commencement of the meeting, disclose the interest and shall not, unless the Disciplinary Committee otherwise directs, take part in a consideration or discussion of, or vote on, a question relating to that matter.

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

(9) The Disciplinary Committee shall cause to be kept a record of its proceedings.

Powers of
Disciplinary
Committee

46. (1) The Disciplinary Committee may, for the purposes of a hearing, hear and receive evidence and may—

(a) under the hand of the Chairperson of the Disciplinary Committee or the Registrar, summon witnesses and require the production of a book, record, document, electronic record or anything required for the purposes of the proceeding; and

(b) through the Chairperson or Vice-Chairperson of the Disciplinary Committee, administer an oath to a witness.

(2) A person summoned to attend before the Disciplinary Committee shall not—

(a) refuse or fail to attend at the time and place specified in the summons or, having attended, leave without the permission of the Disciplinary Committee;

(b) having attended, refuse to be sworn or to affirm;

(c) refuse, without lawful excuse, to answer fully and satisfactorily to that person's best knowledge and belief, any question lawfully put to that person; or

(d) refuse to produce a book, record, document or thing which that person has been required by summons to produce.

(3) A person who contravenes subsection (2) commits an offence and is liable, upon conviction, for every such refusal or failure, to a fine not exceeding two hundred thousand penalty units.

(4) Despite subsection (2), a person shall not be compelled to answer any question or produce a book, record or document which that person would not be compelled to answer or produce on the trial of an action in the High Court.

(5) A hearing before the Disciplinary Committee shall, for all purposes, and in particular for the purposes of Chapter XI of the Penal Code, be deemed to be a judicial proceeding.

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(6) A finding of fact which is shown to have been made by a court in Zambia shall, in a hearing before the Disciplinary Committee, be conclusive evidence of the fact so found.

(7) Where the Disciplinary Committee, after due inquiry, finds an agricultural professional guilty of professional misconduct, it may impose one or more of the following penalties:

- (a) order the cancellation of a practising certificate or certificate of registration of the agricultural professional or modify the fields of speciality in which the agricultural professional may practise;
- (b) order the suspension of the certificate of registration or practising certificate for a period not exceeding one year and impose any condition for the suspension;
- (c) censure the agricultural professional;
- (d) caution the agricultural professional;
- (e) impose a fine, not exceeding three hundred thousand penalty units, to be paid to the Institute;
- (f) order the agricultural professional to pay to the Institute or a party to the hearing any costs of, or incidental to, the proceedings; or
- (g) order the agricultural professional to pay a party to the hearing or other person, as restitution, the amount of loss caused by that agricultural professional's negligence.

(8) The Disciplinary Committee shall, where it finds, after due inquiry, that an agricultural professional is not guilty of professional misconduct, record a finding that the agricultural professional is not guilty of the conduct to which the charge relates.

(9) The Disciplinary Committee may, for the purpose of any proceedings, use such assessors or experts as it may determine.

47. (1) The Disciplinary Committee shall, where it has reasonable cause to believe that an agricultural professional has a mental disability that makes the continued practising by the agricultural professional prejudicial to public interest, refer the matter for determination by a medical doctor.

Inquiry into
mental
capacity of
agricultural
professional

(2) The Disciplinary Committee shall, where a medical doctor determines that an agricultural professional has a mental disability, suspend the practising certificate of the agricultural professional for such period as it may determine.

48. (1) The Disciplinary Committee shall, as soon as practicable after the completion of a hearing, submit to the Council a report of the proceedings with a copy of the record.

Reports by
Disciplinary
Committee

(2) The Disciplinary Committee may publicise, as it may consider appropriate, the facts relating to an agricultural professional who is found guilty of, and punished for, professional misconduct.

Appeal to
High Court

49. A person aggrieved with a decision of the Disciplinary Committee may, appeal to the High Court.

Rules
relating to
disciplinary
proceedings

50. (1) The Chief Justice may, by statutory instrument, on the recommendation of the Council, make rules relating to—

(a) the manner and form for lodging of complaints under this Part;

(b) the mode of summoning persons before the Disciplinary Committee;

(c) the form and manner of service of summons requiring the attendance of a witness before the Disciplinary Committee and the production of a book, record, document or thing;

(d) the procedure to be followed and rules of evidence to be observed in proceedings before the Disciplinary Committee; and

(e) the functions of the assessors to the Disciplinary Committee.

(2) Rules made under this section may provide—

(a) that before a matter is referred to the Disciplinary Committee it shall, in such manner as may be provided by the rules, have been brought before, and investigated by, the Institute;

(b) for securing notices for the proceedings and specifying the time and manner of proceedings; and

(c) for securing that a party to the proceedings shall, if that person requires, be entitled to be heard by the Disciplinary Committee.

PART VII

GENERAL PROVISIONS

General
penalty

51. A person who contravenes a provision of this Act for which a specific penalty is not provided, is liable, upon conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a period not exceeding two years, or to both.

Guidelines

52. (1) The Institute may, in the exercise of its functions under this Act, issue such guidelines as are necessary for the better carrying out of the provisions of this Act.

(2) The Institute shall publish the guidelines issued under this Act in a daily newspaper of general circulation in Zambia and in the *Gazette*, and the guidelines shall take effect on the date of publication.

(3) The guidelines issued by the Institute under this Act shall bind the persons regulated under this Act.

53. (1) The Minister may, by statutory instrument, on the recommendation of the Council, make regulations for the better carrying out of the provisions of this Act.

Regulations

(2) Despite the generality of subsection (1), regulations under that subsection may make provision for—

- (a) the manner and form for applications and the fees payable;
- (b) the particulars to be entered on the Register;
- (c) the form of the certificate of registration and the conditions of the certificate of registration;
- (d) the qualifications for registration of an agricultural professional;
- (e) the form of the practising certificate and the conditions of the practising certificate;
- (f) the code of ethics to which all members shall subscribe;
- (g) the continuous professional development of agricultural professionals; and
- (h) the fixing of fees for professional services and other fees which are required to be prescribed.

SCHEDULE

(Sections 3 (2) and 8 (5))

THE AGRICULTURAL INSTITUTE OF ZAMBIA

PART I

ADMINISTRATION OF THE COUNCIL

Tenure of
office and
vacancy of
Council

1. (1) A member of the Council shall, subject to the provisions of this Act, hold office for a term of three years and may be re-elected for a further and final term of three years.

(2) A member shall, upon the expiration of the term for which the member is elected or nominated, continue to hold office until another member is elected or nominated, but in no case shall any extension of the period exceed four months.

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

(a) dies;

(b) is adjudged bankrupt under any law;

(c) is absent from three consecutive meetings of the Council of which the member had notice, without the prior approval of the Council;

(d) resigns, by notice in writing, to the Council;

(e) becomes mentally and physically incapable of performing duties as a member;

(f) is found guilty of professional misconduct;

(g) is de-registered under this Act: or

(h) is convicted of an offence under this Act or any other written law and sentenced to imprisonment without the option of a fine.

(4) The Council shall, where there is a vacancy in the membership of the Council before the expiry of the term of office, appoint another person to replace the member who vacates office, but that person shall only hold office for the remainder of the term.

Proceeding of
Council

2. (1) Subject to the other provisions of this Act, the Council may regulate its own procedure.

(2) The Council shall meet for the transaction of business at least once in every three months at such places and times as the Council may determine.

(3) A meeting of the Council may be called by the President upon giving notice of not less than fourteen days, and shall be called if one third of the members so request in writing, except that

if the urgency of a particular matter does not permit the giving of notice, a special meeting may be called upon giving a shorter notice.

(4) Eight members shall constitute a quorum at a meeting of the Council.

(5) There shall preside at a meeting of the Council—

(a) the President;

(b) in the absence of the President, the Vice-President; or

(c) in the absence of the President and Vice-President, such other member as the members present may elect for the purpose of that meeting.

(6) A decision of the Council on any question shall be by a majority of the members present and voting at the meeting and, in the event of an equality of votes, the person presiding at the meeting shall have, in addition to a deliberative vote, a casting vote.

(7) The Council may invite a person whose presence is, in its opinion, desirable to attend and participate in the deliberations of a meeting of the Council, but that person shall have no vote.

(8) The validity of any proceedings, act or decision of the Council shall not be affected by any vacancy in the membership of the Council or any defect in the appointment of any member or by reason that any person not entitled to do so, took part in the proceedings.

(9) The Council shall cause minutes to be kept of the proceedings of every meeting of the Council and any committee established by the Council.

3. (1) The Council may, for the purpose of performing its functions under this Act, constitute a committee and delegate to the committee such functions of the Council as it considers necessary.

Committees

(2) The Council may appoint as members of a committee constituted under sub-paragraph (1), persons who are, or are not, members of the Council, except that at least one member of the Council shall be a member of a committee.

(3) A member of a committee shall hold office for such period as the Council may determine.

(4) Subject to any specific or general direction of the Council, a committee constituted under this paragraph may regulate its own procedure.

Allowances **4.** A member of the Council or a committee of the Council shall be paid allowances that the Council may determine.

Disclosure of interest **5.** (1) A member who is present at a meeting of the Council or a committee of the Council at which a matter is the subject of consideration, and in which matter that person or that person's relative or associate is directly or indirectly interested in a private capacity shall, as soon as is practicable after the commencement of the meeting, disclose the interest and shall not, unless the Council or committee of the Council otherwise directs, take part in any consideration or discussion of, or vote on, any question relating to that matter.

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

Prohibition of publication or disclosure of information to unauthorised persons **6.** (1) A person shall not, without the consent, in writing, given by or on behalf of the Institute, publish or disclose to an unauthorised person, otherwise than in the course of that person's duties, the contents of a document, communication or information which relates to, and which comes to that person's knowledge in the course of that person's duties under this Act.

(2) A person who contravenes subparagraph (1) commits an offence and is liable, upon conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a period not exceeding two years, or to both.

(3) A person who, having information which to the knowledge of that person has been published or disclosed in contravention of subparagraph (1), unlawfully publishes or communicates the information to another person, commits an offence and is liable, upon conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a period not exceeding two years, or to both.

Immunity **7.** An action or other proceeding shall not lie or be instituted against a member of the Council or a committee of the Council, or a member of staff of the Institute, for or in respect of an act or thing done or omitted to be done in good faith in the exercise or performance of any function conferred under this Act.

PART II

FINANCIAL PROVISIONS

Funds of Institute **8.** (1) The funds of the Institute shall consist of such monies as may—

(a) be paid to the Institute by way of fees, grants or donations;
or

(b) vest in or accrue to the Institute.

(2) The Institute may, subject to the approval of the Minister —

(a) accept money by way of grants or donations from any source in or outside Zambia;

(b) raise by way of loans or otherwise, monies that the Institute may require for the discharge of its functions; or

(c) in accordance with the regulations made under this Act, charge and collect fees for services provided by the Institute.

(3) There shall be paid from the funds of the Institute—

(a) the salaries, allowances and loans of members of staff of the Institute;

(b) reasonable travelling, transport and subsistence allowances for members of the Council or any committee when engaged in the business of the Institute at the rates approved by the Council; and

(c) any other expenses incurred by the Council or a committee in the performance of the functions under this Act.

(4) The Council may invest, in such manner as it thinks fit, funds that the Institute does not immediately require for the performance of the Institute's functions.

9. The financial year of the Institute shall be the period of twelve months ending on 31st December in each year.

Financial
year

10. (1) The Institute shall cause to be kept proper books of accounts and other records relating to the Institute's accounts.

Accounts
and audits

(2) The accounts of the Institute for each financial year shall be audited by an Auditor appointed by the Council.

(3) The Auditor's fees shall be paid by the Institute.

11. (1) As soon as practicable, but not later than three months after the expiry of each financial year, the Institute shall submit to the Minister a report concerning its activities during the financial year.

Annual
report

(2) The report of the Institute shall include information on the financial affairs of the Institute and there shall be appended to the report—

(a) an audited statement of financial position;

(b) an audited statement of comprehensive income; and

(c) such other information as the Minister may require.

(3) The Minister shall, not later than thirty days after the first sitting of the National Assembly next after the receipt of the report referred to in subparagraph (1), lay it before the National Assembly.
