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**NATIONAL ASSEMBLY BILLS, 2024**

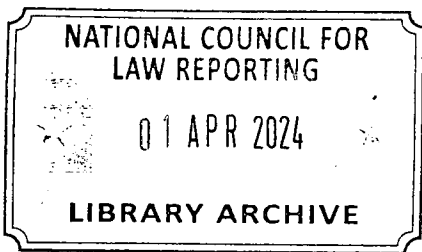
**NAIROBI, 14th March, 2024**

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## **THE AGRICULTURAL PROFESSIONALS REGISTRATION AND LICENSING BILL, 2024**

### **A BILL for**

**AN ACT of Parliament to make provision for the registration and licensing of agricultural professionals, to provide for the regulation of the standards and practice of the profession, to provide for the establishment, powers and functions of the Agricultural Professionals Registration and Licensing Board and for connected purposes**

**ENACTED** by the Parliament of Kenya, as follows —

### **PART I — PRELIMINARY**

**1.** This Act may be cited as the Agricultural Professionals Registration and Licensing Act, 2024.

Short title.

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

Interpretation.

“agriculture” has the meaning assigned to it by the Agriculture and Food Authority Act, 2013;

No.13 of 2013.

“agriculture professional” means a holder of a degree, diploma or certificate in an agricultural specialty from a university or institution that is recognized by the Board and duly registered under this Act and “Agricultural organizations and institutions” when used in the context of registration shall be construed, be registration under this Act accordingly;

“agricultural specialty” include training or specialization in crop production, horticulture, plant breeding, seed technology, agronomy, botany, crop science, crop protection, home economics, food science, farm management, animal production, range management agricultural economics, agribusiness, agricultural extension, agricultural education, agricultural marketing, agricultural policy and law, floriculture, biotechnology, agricultural engineering, soil and water engineering, soil science, agro-forestry, and natural resources management;

“agricultural practitioner” means a person registered under this Act as an agricultural professional who is also licensed under section 26 to practice agriculture, for a fee or in kind;

“Board” means Agricultural Professionals Registration and Licensing Board established by Section 3;

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

“Ministry” means the ministry for the time being responsible for matters relating to agriculture;

“private practice” means the practice of an agricultural professional in a person’s own behalf, for a fee or in kind;

“register” means the register of agricultural professionals maintained under section 17; and

“Registrar” means the Registrar of the Board appointed under section 11.

## **PART II—THE AGRICULTURAL PROFESSIONALS REGISTRATION AND LICENSING BOARD**

**3.** (1) There is established a Board known as Agricultural Professionals Registration and Licensing Board.

Establishment of  
the Agricultural  
Professionals  
Registration and  
Licensing Board.

(2) The Board 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 or disposing of both movable and immovable property;
- (c) borrowing money;
- (d) entering into contracts;
- (e) doing or performing all such other acts necessary for the proper performance of its functions under this Act, which may be lawfully done or performed by a body corporate.

**4.** (1) The Board shall consist of—

- (a) the Principal Secretary in the ministry for the time being responsible for matters relating to agriculture or a representative;

Composition of  
the Board.

- (b) the Principal Secretary in the ministry for the time being responsible for matters relating to livestock or a representative;
  - (c) five members nominated by Kenya Society for Agricultural Professionals organization from among membership in agricultural training colleges/universities, agricultural research, agricultural extension services, natural resource management and agricultural marketing services;
  - (d) Chairperson of the Kenya Society for Agricultural Professionals;
  - (e) One person appointed by the Cabinet Secretary from the agro industry.
  - (f) the Registrar who shall be an *ex-officio* member;
- (2) All members nominated under paragraphs (c), (d) (e) and (f) shall be appointed by the Cabinet Secretary by a notice in the Gazette.

(3) A person shall not be appointed as a member of the Board under subsection (1) unless the person-

- (a) is a citizen of Kenya; and
  - (b) is an agriculture professional of any specialty and of good character and standing.
- (4) The Board shall elect a Chairperson from among its members.

(6) The members of the Board, except *ex-officio* members, shall hold office for a term of three years and shall be eligible for appointment for a further term of three years.

**5.** A member, other than *ex-officio* member, of the Board may—

Vacation of office.

- (a) at any time resign from office by notice in writing to the Board Chairperson;
- (b) be removed from office by the Cabinet Secretary on recommendation of the Board if the member—
  - (i) has been absent for three consecutive meetings of the Board without the Board's permission;

- (ii) is convicted of a criminal offence and imprisoned for a period of six months without an option of a fine;
- (iii) is certified by a registered medical officer to be incapacitated by prolonged physical or mental illness;
- (iv) ceases to be a registered person under this Act; or
- (v) is otherwise unable or unfit to discharge their functions.

**6.** (1) The conduct and regulation of the business and affairs of the Board shall be as provided in the First Schedule.

Conduct of business and affairs of the Board.

(2) Except as provided in the First Schedule, the Board may regulate its own procedure.

**7.** (1) The functions of the Board shall be to—

Functions of the Board.

- (a) register and issue certificates of practice to qualified agricultural professionals, organizations and institutions;
- (b) arbitrate professional disputes and constitute an independent tribunal to solve disputes where necessary;
- (c) order deregistration and withdrawal of registration certificate and licenses of practice from persons, organizations or institutions involved in unprofessional practices;
- (d) vet and authenticate professional certificates obtained from institutions operating outside this Act and in foreign countries;
- (e) collaborate with the Kenya National Qualifications Authority to verify professional qualifications; and
- (f) set annual levies and uphold code of conduct, standards and ethics of practice in the agricultural profession.

**8.** The board shall have all powers necessary for the proper performance of its functions under this Act and in particular, but without prejudice to the generality of this section, shall have power to—

Powers of the Board.



- (a) control, supervise and administer the assets of the Board in a manner and for a purpose that best promotes the purpose for which the Board is established;
- (b) determine the provisions to be made for capital and recurrent expenditure and for the reserves of the Board;
- (c) receive any gifts, grants, donations or endowments on behalf of the Board;
- (d) open a banking account or banking accounts for the funds of the Board;
- (f) invest any funds of the Board not immediately required for its purposes as provided under section 37; and
- (g) undertake any activity necessary for fulfillment of its functions.

**9.** The Board may delegate to any committee of the Board or to any member, officer, employee or an 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.

Delegation by the Board.

**10.** (1) The Board may establish committees as it may consider appropriate to perform such functions and responsibilities as it may determine.

Committees of the Board.

(2) The Board shall appoint the chairperson of a committee from amongst its members.

(3) The Board may where it considers appropriate, co-opt any person to attend the deliberations of any of its committees.

(4) All decisions by committees shall be ratified by the Board.

(5) Without prejudice to this section, the Board shall establish the committees set out in the Second Schedule

**11.** (1) There shall be a Registrar of the Board who shall be competitively recruited by the Board.

Appointment of the Registrar.

(2) The Registrar shall hold and vacate the office in accordance with the terms of the instrument of appointment to that office.

(3) The Registrar shall—

- (a) be the chief executive officer and secretary to the Board;
- (b) subject to the direction of the Board, be responsible for the day to day management of the Board; and
- (c) perform any other duties as may be prescribed under this Act.

(4) The terms and conditions of service of the Registrar shall be determined by the Board in the instrument of appointment or otherwise in writing from time to time.

**12. The Registrar shall—**

Functions of the Registrar.

- (a) maintain the Register of persons registered in accordance with this Act;
- (b) sign, issue, renew and cancel certificates of registration and licences as may be directed by the Board;
- (c) keep all documents and records including records of all assets of the Board;
- (d) prepare all documents due for gazettelement as directed by the Board;
- (e) take and keep minutes of the Board meetings;
- (f) enforce decisions of the Board;
- (g) keep the seal of the Board in such custody as the Board may direct;
- (h) in consultation with the Board, be responsible for the direction of the affairs and transactions of the Board, the exercise, discharge and performance of its objectives, functions and duties;
- (i) ensure the maintenance of efficiency and discipline by all staff of the Board;
- (j) manage the budget of the Board to ensure that its funds are properly expended and accounted for; and
- (k) exercise and perform any other functions which the Board may determine from time to time.

**13.** The Board may appoint other officers and other staff or hire experts as may be necessary for the proper discharge of its functions under this Act, upon such terms and conditions of service as the Board may determine in consultation with the Public Service Commission.

Staff of the Board.

**14.** (1) A member of the Board shall not be personally liable for any act or omission done in good faith in the course of carrying on the functions of, or exercising of powers conferred upon the Board under this Act.

Limitation of Liability.

(2) Despite subsection (1), the Board shall not be relieved of its liability to pay compensation to a person for any injury to the person, property or interest caused by the exercise of any power conferred by this Act.

### **PART III — REGISTRATION OF AGRICULTURAL PROFESSIONALS**

**15.** (1) A person shall be eligible for registration under this Act as an agricultural professional if that person—

Qualifications for registration.

- (a) is a holder of a degree, a diploma or a certificate which is recognized by the Board as making that person eligible for registration;
- (b) has applied for membership and paid the prescribed subscription fee;
- (c) has undergone a certificate, diploma, degree or research course of training and passed any examination in Kenya or elsewhere which the Board recognizes as an equivalent to the qualifications referred to in paragraph (a);
- (d) satisfies the Board that he or she is professionally competent, a person of good character and fit to be registered under this Act; and
- (e) is a member of a professional body recognized by the Board

(2) A person who holds a certificate, a diploma or a degree from an accredited institution outside Kenya shall be eligible for registration under this Act as an agricultural professional if the person—

- (a) is a holder of a certificate, a diploma or a degree obtained from an institution that is accredited and recognized by—

- (i) the regulating authority responsible for the registration of agricultural professionals in the country where the person studied; or
  - (ii) by an international regulatory body recognized by the Board;
  - (a) has applied for membership and paid the prescribed subscription fee;
  - (b) has engaged as an agricultural professional under the supervision of an agricultural professional registered by the Board for a period, being not less than twelve months, as the Board may approve; and
  - (c) satisfies the Board that the qualifications obtained by the person meet the requirements for a course leading to a qualification as an agricultural professional as the Board shall from time to time prescribe pursuant to the provisions of this Act;
- (3) Where the Board does not recognize degree, diploma or certificate or doubts the professional experience of a person applying for registration the Board shall require that person to—
- (a) attend an interview;
  - (b) undergo an oral or written examination; and
  - (c) undertakes a course in an approved institution prior to engaging in supervised practice.
- (4) The Board shall not authorize the registration of a person unless it is satisfied—
- (a) that the requirements of subsection (1) or (2) have been fulfilled; or
  - (b) in the case of a person referred to in subsection (3) that the requirements of subsection (3) have been fulfilled and that the person has undergone any further period of training or passed any examination specified by the Board.
- (5) The Board may, where it considers it expedient so to do, delegate the assessment of suitability for registration under subsection (3) to a committee of the Board which shall, after making the assessment, make recommendations to the Board accordingly.

(6) The Board shall register every qualified person by entering the name, address, professional qualifications and such other particulars as the Board may prescribe, in the register kept for that purpose pursuant to section 17.

**16. (1)** A person wishing to be registered under this Act shall apply for registration to the Board.

Application for registration.

(2) An applicant for registration who is a graduate of a foreign school offering training as an agricultural professional shall, furnish satisfactory evidence to the Board confirming that the applicant has satisfied the provisions of section 15(2) and (3).

(3) An application for registration under sub-section (1) and (2) shall be in the prescribed form and shall be accompanied by the prescribed fee.

**17. (1)** The Registrar shall maintain in such form as the Board may prescribe a register of agricultural professionals registered under this Act.

Register.

(2) The Registrar shall—

(a) not later than the last day of March in every year, publish in the Kenya Gazette, names, addresses and qualifications of all agricultural professional registered in the previous year; and

(b) subject to the directions of the Board, cause to be published any amendments or deletion from the registers.

(3) Every agricultural professional shall notify the Registrar of any change in their registered address within thirty days.

(4) The Registrar may, with the written consent of the person concerned remove from the register, the name of a person who has ceased to practice.

(5) The name of persons removed from the register under subsection (4) may, at the written request of the person concerned, on the approval of the Board and on payment of the prescribed fee, be reinstated by the Registrar.

(6) Any person may inspect the register and any documents relating to any entry during official working

hours, and may obtain from the Registrar, a copy of, or an extract from the registers on payment of the prescribed fee.

**18.** (1) A certificate of registration under the seal of the Board shall be conclusive evidence of the facts stated.

Certificate of registration.

(2) Any certificate under the seal of the Board shall remain the property of the Board.

(3) A person whose name is removed from the register shall, within thirty days of the publication of such removal, surrender the certificate of registration to the Board.

(4) A person who—

(a) without reasonable excuse, is in possession of a certificate of registration not issued them; or

(b) fails to surrender a certificate of registration under subsection (3) and (4) commits an offence and shall, upon conviction, be liable to a fine not exceeding thirty thousand shillings, or to imprisonment for a term not exceeding three months, or both.

(5) A person who, without reasonable excuse, is in possession of a certificate of registration not rightfully issued, or fails to surrender a certificate under sub-section (4) commits an offence and shall, upon conviction, be liable to a fine not exceeding thirty thousand shillings, or to imprisonment for a term not exceeding three months, or both.

**19.** A person aggrieved by a decision of the Board on any matter under this Act may appeal to the Cabinet Secretary within sixty days of being notified of the decision.

Appeals.

**20.** (1) The Registrar shall remove from the register—

Removal of names from the register.

(a) the names of all deceased persons;

(b) the names of all persons removed from the register under section 25(3) and section 31(1)(d); or

(c) any entries fraudulently or erroneously made.

(2) The Registrar shall, as soon as is reasonably practicable, cause the name and address of every person whose name is removed from the Register under this section, to be published in the Gazette.

## **PART IV — LICENSING OF AGRICULTURAL PROFESSIONALS**

**21.(1)** A person shall not engage in private practice as an agricultural professional unless that person—

Qualifications for private practice.

- (a) is registered under this Act;
- (b) holds a valid practicing certificate and an annual license issued under this Act; and
- (c) holds a degree, a diploma or a certificate recognized by the Board under this Act.

(2) A person shall be considered to engage in private practice if the person practices as an agricultural professional—

- (a) on his or her own account and is entitled to receive the entire amount of all fees and charges earned for his own financial benefit; or
- (b) in partnership with other persons and is entitled to receive a share of the profits earned by such partnership and is liable to bear a share of any losses incurred by such partnership.

(3) A person shall not be considered to engage in private practice where the person—

Cap. 446

- (a) is employed by the Government or any other public body;
- (b) is employed by a state corporation as defined by the State Corporations Act; or
- (c) is employed as an agricultural professional by any person or partnership engaged in their profession where all fees and charges earned by them are to the benefit of his employer.

**22.** The Board shall issue, in accordance with the provision of this Act and any rules made under this Act, a practicing certificate and an annual license to an agricultural professional named to engage in private practice.

Board to issue practicing certificates and annual licenses.

**23. (1)** An application for a practicing certificate shall be made to the registrar in triplicate, signed by the applicant, specifying the name and place of practice, the

Application for practicing certificate.

registration number and the date of registration as an agricultural professional.

(2) Every application under this section shall be accompanied by the prescribed fee.

(3) The Board shall, where an agricultural professional is duly registered under this Act and is not for the time being suspended from practice, within sixty days of receipt by the Board of the application, issue to the applicant a practicing certificate in the prescribed form.

(4) The Registrar shall keep one copy of every application delivered under this section.

**24.** (1) Every practicing certificate shall bear the date on which it is issued and shall have effect from that day.

Validity of practicing certificate.

(2) A practicing certificate issued under this section shall be valid from the date of issue and shall expire on the last day of December in the year it is issued.

(3) The Registrar shall enter in the register the date of issue of every practicing certificate.

(4) Where the name of the agricultural professional is removed or struck off the register, the practicing certificate, if any, shall expire forthwith.

**25.** (1) An agricultural professional issued with a practicing certificate may apply for renewal of the certificate in the prescribed form at least thirty days before the date of expiry thereof.

Renewal, cancellation and suspension of practicing certificate.

(2) An agricultural professional who fails to renew their practicing certificate within the prescribed period shall, when applying for a renewal, be required to pay late application fee, as shall be prescribed by the Board.

(3) The Board shall have the power to renew any practicing certificate and may, refuse to renew, cancel, withdraw or suspend a practicing certificate for a period not exceeding twelve months, if satisfied that the agricultural professional is guilty of professional misconduct or is in breach of any provisions of this Act or any regulations made under this Act.



(4) An agricultural professional aggrieved by the decision of the Board in the exercise of its powers under subsection (3) may appeal to the Cabinet Secretary within thirty days of the receipt of the decision and the decision of the Cabinet Secretary.

(5) The Registrar shall publish a list of licences cancelled, revoked or withdrawn under this section in the *gazette*.

**26.** A person registered under this Act who engages in private practice shall apply for an annual license in the prescribed form and pay the prescribed fee.

Application for  
annual license.

## **PART V — DISCIPLINE**

**27.** (1) There is established a Disciplinary Committee of the Board which shall consist of—

Disciplinary  
committee.

- (b) one agricultural professional in the public service of the national government nominated by the Cabinet Secretary who shall not be a member of the Board;
- (c) one agricultural professional in the public service of a county government nominated by the Cabinet Secretary who shall not be a member of the Board;
- (d) three agricultural professionals, one of whom shall be from private practice nominated by the Association, and who shall not be members of the Board; and
- (e) the Registrar who shall be the secretary to the Committee and shall be responsible for taking records of the proceedings but shall not have a right to vote on any matter.

(2) The quorum of the Disciplinary Committee shall be three voting members.

**28.** The Board may refer a matter to the Disciplinary Committee if it has reason to believe that a person registered under this Act, either before or after registration has—

Reference of  
matters to  
Disciplinary  
Committee.

- (a) committed any acts of negligence or professional misconduct in respect of the profession; or

- (b) committed any acts of impropriety or misconduct in respect of the profession.

**29.** The Disciplinary Committee shall inquire into any matter referred to it by the Board.

Inquiry by the Disciplinary Committee.

**30.** (1) Upon an inquiry under section 29, the agricultural professional subject to the inquiry shall be afforded an opportunity to be heard either in person or through an advocate.

Procedure of the Disciplinary committee.

(2) For the purpose of proceedings at any inquiry by the Disciplinary Committee, the Committee may administer oaths or affirmations and may, subject to any regulations made under this Act, enforce the attendance of persons as witnesses and the production of any books or other documents relevant to the inquiry.

No. 4 of 2015.

(3) The Disciplinary Committee shall operate, subject to the Fair Administrative Action Act and any regulations made under this Act.

**31.** (1) Where on the recommendations of the Disciplinary Committee, the Board is satisfied that an agricultural professional is in breach of any of the terms or conditions prescribed by the Board under this Act, the Board may—

- (a) impose a fine which the Board considers appropriate in the circumstances;
- (b) issue the an agricultural professional with a letter of admonishment;
- (c) suspend the registration certificate of the agricultural professional for a specified period not less than three months but not exceeding twelve months;
- (d) withdraw or cancel the practicing certificate of the agricultural professional for a period not less than twelve months but not exceeding three years; or
- (e) remove the name of the agricultural professional from the register.

(2) Where, after the hearing in a disciplinary proceedings under this Act the Disciplinary Committee recommends to the Board that an agricultural professional is unfit to practice, the Board may, if satisfied with the

Disciplinary measures.

Disciplinary Committee's recommendations, withdraw the certificate of registration or practicing certificate of the an agricultural professional.

(3) An agricultural professional who has been suspended from practice or whose license to practice has been withdrawn or cancelled shall, from the date of the suspension, withdrawal or cancellation, surrender the registration and practicing certificates and annual license if in private practice to the Registrar.

(4) An agricultural professional who refuses or fails to surrender his badges, licenses or certificates to the Registrar on request shall be guilty of professional misconduct and liable to a fine not exceeding twenty thousand shillings by the Board.

(5) An agricultural professional who is aggrieved by the decision of the Board in the exercise of its powers under this section may appeal to the High Court.

**32. (1)** An agricultural professional who has been suspended from practicing, may appeal to the Board for the lifting of the suspension at any time before the expiry of the suspension period.

Lifting of  
suspension.

(2) Where the Board is satisfied that the suspension of an agricultural professional should be lifted, the Board may, upon the receipt of the prescribed fee, lift the suspension and restore to the agricultural professional their registration and practicing certificates and annual license if in private practice.

**33. (1)** An agricultural professional whose name has been removed from the register may, after the expiry of a period of three years from the date of such removal, appeal to the Board for restoration to the register.

Restoration of  
name in register.

(2) The Board may, after considering the appeal made under subsection (1), cause the name of the applicant to be restored in the appropriate register, upon payment of the prescribed fee.

## **PART VI — FINANCIAL PROVISIONS**

**34. (1)** The funds of the Board shall comprise of—

Funds of the  
Board.

(a) such monies as may accrue to or vest in the Board in the course of the exercise of its powers or the performance of its functions under this Act;

- (b) such sums as may in any manner become payable to or vested in the Board under the provisions of this Act or any other written law subject to the approval of the cabinet secretary for the time being responsible for matters relating to finance.

(2) There shall be paid out of the funds of the Board any expenditure incurred by the Board in the exercise of its powers or the performance of its functions under this Act.

**35.** The financial year of the Board shall be the period of twelve months ending on the thirtieth day of June in every year.

Financial year.

**36. (1)** The Board shall, at least three months before the commencement of each financial year, cause to be prepared estimates of revenue and expenditure of the Board for that financial year.

Annual estimates.

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

- (a) payment of salaries, allowances and other charges in respect of the members of staff or agents of the Board;
- (b) payment of pensions, gratuities and other charges in respect of members and other staff of the Board;
- (c) proper maintenance of buildings and grounds of the Board;
- (d) acquisition, maintenance, repair and replacement of the equipment and other movable property of the Board; and
- (e) funds to meet future or contingent liabilities in respect of retirement benefits, insurance or replacement of buildings or equipment, or in respect of such other matter as the Board may consider appropriate.

(3) The annual estimates shall be approved by the Board before the commencement of the financial year and shall be submitted to the Cabinet Secretary for approval and after approval, the Board shall not increase annual estimates without the consent of the Cabinet Secretary.

(4) No expenditure shall be incurred for the purposes of the Board except in accordance with the annual

estimates approved under subsection (3), or in pursuance of an authorization by the Cabinet Secretary.

**37.** The Board may, subject to the approval of the Cabinet Secretary for the time being responsible for matters relating to finance invest any of the funds of the Board in securities in which, for the time being, trustees may by law invest funds or in any other securities which the Treasury may, from time to time, approve for that purpose.

Investment of funds.

**38.** (1) The Board shall cause to be kept all proper books and records of accounts of the income, expenditure, assets and liabilities of the Board.

Accounts and audit.

(2) The accounts of the Board shall be audited and reported upon in accordance with the provisions of the Public Audit Act, 2015.

No. 34 of 2015.

(3) The Board shall, within three months from the end of the financial year to which the accounts relate, submit to the Auditor-General the accounts of the Board together with—

- (a) a statement of income and expenditure during the year;
- (b) a statement of the assets and liabilities of the Board as of the last day of that year;
- (c) a cash flow statement for the financial year; and
- (d) any other statements and accounts that may be necessary to fully disclose the financial position of the Board.

**39.** (1) The Board shall, within three months after the end of each financial year, prepare and submit to the Cabinet Secretary responsible for matters related to finance a report of the operations of the Board for the immediate preceding year.

Annual report.

(2) The Cabinet Secretary shall lay the annual report before the National Assembly within three months of the day the National Assembly next sits after receipt of the report.

## **PART VII — MISCELLANEOUS PROVISIONS**

**40.** (1) A person shall not practice as an agricultural professional in Kenya unless that person is registered under this Act.

Offences and penalties relating to registration.

(2) A person who contravenes the provisions of subsection (1) commits an offence and shall, upon conviction, be liable to a fine not less than one million shillings, or to imprisonment for a term not exceeding three years, or both.

(3) A person shall not while in charge of an agricultural institution or any other agricultural organization in Kenya, employ a person who is not registered under this Act as an agricultural professional.

(4) A person who contravenes the provisions of subsection (3) commits an offence and shall, upon conviction, be liable to a fine not less than one million shillings, or imprisonment for a term not exceeding five years, or both.

(5) A person who, in an application for registration, willfully makes a false or misleading statement or presents a false certificate, commits an offence and shall, upon conviction, be liable to a fine not less than one million shillings, or imprisonment for a term not exceeding three years or both.

**41.** (1) Any person who willingly procures or attempts to procure registration or licensing under any of provision of this Act, by making or producing or causing to be made or produced any false or fraudulent representation or declaration, either orally or in writing, shall be liable to a fine not exceeding fifty thousand shilling or to imprisonment for a term not exceeding twelve months, or both.

False registration  
or licensing.

(2) If a person convicted of an offense under this section is registered or licensed under this Act, the Registrar shall forthwith remove such person's name from the register and cancel the licence.

**42.** (1) A person who is licensed as an agricultural professional shall be guilty of professional conduct if such person—

Professional  
misconduct.

- (a) deliberately fails to follow the laid down standards of conduct and practice of agricultural profession as laid down by the Board;
- (b) commits gross negligence in the conduct of his professional duties;

- (c) allows another person to practice in their name where such person—
  - (i) is not holder of a practicing certificate issued under this Act; and
  - (ii) is not in partnership with them;
- (d) takes advantage of a client by abusing a position of trust, expertise or authority;
- (e) is insensitive to clients through a lack of regard or concern for clients' needs, feeling, rights or welfare of others;
- (f) shows incompetence or inability to render services, for reasons ranging from inadequate training or inexperience, to personal unfitness, such as a character defect or an emotional disturbance;
- (g) evidences irresponsibility including lack or reliable or dependable execution of professional duties attempts to blames others for one's mistakes, shoddy or superficial professional work, or excessive delays in delivering necessary feedback, assessments, reports or services; or
- (h) is guilty of abandonment through failure to follow through with the duties or responsibilities thereby causing clients to become vulnerable or feel discarded or rejected.

**43. (1)** A person who, not being eligible to be licenced or registered under this Act—

- (a) willfully and falsely takes or uses any name, title or addition implying a qualifications to practice as an agricultural professional;
- (b) professes to practice as such; or
- (c) manages or dispenses agricultural inputs in form of fertilizers, feeds, agricultural chemicals commits an offence and is liable on conviction to a fine not exceeding two hundred thousand shilling or imprisonment for a term not exceeding two years, or both.

Offences by  
unregistered or  
unlicensed  
persons.

**44.** (1) Any person, being in charge of a training institution which is not approved by the Board as an institution for training of persons seeking registration under this Act, who—

Offences by training persons or institutions.

- (a) admits to the institution under their charge any person for purposes of training in agricultural profession;
- (b) purports to be conducting a course of training or examining persons seeking registration under this Act or rules made thereunder;
- (c) issues any document, statement, certificate or seal implying that—
  - (i) the holder has undergone a course of instruction or has passed an examination recognized by the Board; and
  - (ii) the institution under their charge is approved by the Board as an institution for training of person seeking registration,

commits an offence and is liable on conviction to a fine not exceeding five hundred thousand shilling or imprisonment for a term not exceeding three years, or both.

**45.** A person convicted of an offence under this Act for which no penalty is provided shall, upon conviction, be liable to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding one year, or both.

General penalty.

**46.** A person who immediately before the date of commencement of this Act was engaged in private practice as an agricultural professional shall be entitled to continue in such private practice without a licence—

Transition.

- (a) for a period of six months from the date of commencement of this Act; or
- (b) upto to the period their application for registration under this Act is approved or rejected by the Board.

## **PART VIII — DELEGATED POWERS**

**47.** (1) The Cabinet Secretary may in consultation with Board make regulations for the better carrying out of the provisions of this Act;

Regulations.



(2) Without prejudice to the generality of subsection (1) the regulations may provide for—

- (a) the form and method of keeping registers and other records under this Act;
- (b) the conditions under which training institutions other than those established or accredited under the Universities Act, the Technical Education and Vocational and Training Act or any other written law may be approved;
- (c) the terms and conditions of professional practice of registered agricultural professionals;
- (d) the forms and fees to be prescribed for purposes of this Act;
- (e) the inspection of agricultural professionals' institutions.
- (f) the service to be rendered by an agricultural professional in private practice;
- (g) the employment of an agricultural professional in private institutions; and
- (h) the form and method of conducting any inspection, assessment, evaluation, examination or regulation required under this Act.

No. 42 of 2012

No. 29 of 2013

**FIRST SCHEDULE**

(s. 6)

**PROVISIONS AS TO THE CONDUCT OF BUSINESS AND AFFAIR OF THE BOARD**

Tenure of office.

1. The Chairperson or a member of the Board, other than an *ex officio* member shall, subject to the provisions of this Schedule, hold office for a period of three years, on such terms and conditions as may be specified in the instrument of appointment but shall be eligible for re-appointment for one further one term.

Termination of appointment of chairperson and members.

2. A member of the Board, other than an *ex officio* member, may—

- (a) at any time resign from office by notice to the Cabinet Secretary through the Registrar;
- (b) be removed from office by the Cabinet Secretary responsible for matters related to agriculture on recommendation of the Board if the member—
  - (i) has been absent from three consecutive meetings of the Board without the permission of the chairperson;
  - (ii) is convicted of a criminal offence and sentenced to imprisonment for a term exceeding six months without the option of a fine;
  - (iii) has becomes, for any reason including infirmity, incompetent or incapable of performing the functions of the office;
  - (ii) ceases to be a registered person under this Act; or
  - (v) is otherwise unable or unfit to discharge his functions.

Meetings of the Board.

3. (1) The chairperson of the Board shall convene ordinary meetings of the Board 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 subparagraph (1), the chairperson may, and upon requisition in writing by at least five

members, 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.

(5) The chairperson shall preside at every meeting of the Board, in his absence the vice chairman shall preside, and shall, with respect to that meeting and the business transacted thereat, have all the powers of the chairperson.

(6) In the event of the absence of both the chairperson and the vice chairperson, the members present shall elect one of their number to preside, the person so elected shall with respect to that meeting and the business transacted thereat, have all the powers of the chairperson.

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

(8) Subject to sub-clause (4), no proceedings of the Board shall be invalid by reason only of a vacancy among the members thereof.

(9) Subject to the provisions of this section, the Board may determine its own procedure and the procedure for any committee of the Board and for the attendance of other persons at its meetings and may make rules in respect thereof.

Committees of the  
Board.

**4.** (1) The Board may establish such committees as it may deem appropriate to perform such functions and responsibilities as it may determine.

(2) The committees under (1) shall appoint the chairperson from amongst its members.

(3) The Committee may where it considers appropriate, co-opt any person from outside the Committee with knowledge and expertise in specific areas to attend the deliberations of any of its committees.

(4) All decisions by the committees established under subsection (1) shall be ratified by the Board.

Disclosure of interest.

5. (1) A member of the Board who has a direct or indirect personal interest in a matter being considered by the Board shall, as soon as possible after the relevant facts concerning the matter have come to his or her knowledge, disclose the nature of his or her interest to the Board.

(2) A disclosure of interest made by a member of the Board under subsection (1) shall be recorded in the minutes of the meeting of the Board and the member shall not, in respect of the matter, be present or take part or vote during any deliberations on the matter by the Board.

Contracts and instruments.

6. 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.

Common Seal.

7. (1) The Board shall have a common seal which shall be kept in such manner as the Board may determine;

(2) The affixing of the common seal of the Board shall be authenticated by the signature of the chairperson and the Registrar and any document not required by law to be made under seal and all decisions of the Board may be authenticated by the signatures of the chairperson and the Registrar:

(3) Provided that the Board shall, in the absence of either the chairman or the Registrar in any particular matter, nominate one member by resolution to authenticate the seal of the Board on behalf of either the chairman or the Registrar

**SECOND SCHEDULE**

(s. 10(5))

**COMMITTEES OF THE BOARD**

Registration and Disciplinary Committee

Agricultural Advisory Services Committee

Agricultural Trade and Marketing Services Committee

Research and Training Committee

## **MEMORANDUM OF OBJECTS AND REASONS**

The main objective of this Bill is to provide a legislative framework for the training, registration and licensing of agricultural professionals. The Bill further seeks to regulate the practice of agricultural professionals and to provide for the establishment, powers and functions of the Agricultural Professionals Registration and Licensing Board which shall regulate the profession.

**PART I** of the Bill contains preliminary provisions such as interpretation of terms.

**PART II** of the Bill provides for the establishment of the Agricultural Professionals Registration and Licensing Board, the composition, functions and powers of the Board. It further provides for the appointment of the Registrar.

**PART III** of the Bill provides for the registration of agricultural professionals, the qualifications for registration, the register of agricultural professionals and certificate of registration.

**PART IV** of the Bill provides for licensing of agricultural professions, the qualifications for private practitioners, validity of practicing certificates and renewal, cancellation and revocation of certificates issued.

**PART V** of the Bill contains provisions for the discipline of agricultural professionals including composition of the disciplinary committee.

**PART VI** of the Bill contains financial provisions of the Board. This includes; the funds of the Board the financial year, audit of accounts, annual estimates and investment of funds of the Board.

**PART VII** of the Bill contains miscellaneous provisions such as offences relating to agricultural professionals, transitional provisions and general penalty.

**PART VIII** of the Bill contains provisions on delegated powers.

### **Statement on the delegation of legislative powers and limitation of fundamental rights and freedoms**

The Bill delegates legislative powers but does not limit any fundamental rights and freedoms.

### **Statement that the Bill does not concern county governments**

The Bill does not concern County Governments in terms of Article 110 (1) (a) of the Constitution. Paragraph 29 of Part 1 of the Fourth

schedule to the Constitution provides that agricultural policy is a National Government function. The Bill seeks to provide a policy framework for the regulation of agricultural professionals and therefore does not affect counties.

**Statement that the Bill is a money Bill within the meaning of Article 114 of the Constitution**

The enactment of this Bill may occasion additional expenditure of public funds to be provided for through the annual estimates.

Dated the 16th November, 2023.

JOHN KANYUITHIA MUTUNGA,  
*Member of Parliament.*