

No. 16 of 1996.

***National Agricultural Research Institute Act 1996.***

Certified on: / /20 .



INDEPENDENT STATE OF PAPUA NEW GUINEA.



No. 16 of 1996.

*National Agricultural Research Institute Act 1996.*

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INDEPENDENT STATE OF PAPUA NEW GUINEA.



AN ACT

entitled

*National Agricultural Research Institute Act 1996,*

Being an Act to provide for and give effect to the National Goals and Directive Principles and in particular:—

- (a) to identify, adapt and transfer agricultural technologies and information and the provision of technical services to improve the welfare of rural families and communities who depend wholly or partly on agriculture for their livelihood and to enhance the productivity, efficiency, stability and sustainability of the smallholder agriculture sector; and
- (b) to establish the National Agricultural Research Institute and to define its objectives, functions and powers,

and for related purposes,

MADE by the National Parliament to come into operation in accordance with a notice in the National Gazette by the Head of State, acting with, and in accordance with, the advice of the Minister.

**PART I. – PRELIMINARY.**

**1. INTERPRETATION.**

In this Act, unless the contrary intention appears—

“**Chairman**” means the Chairman appointed under Section 8;

“**Council**” means the National Agricultural Research Institute Council established by Section 6;

“**Committee**” means a Committee of the Council established under Section 15;

“**Deputy Chairman**” means the Deputy Chairman appointed under Section 8;

s. 1.

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**“Deputy Director-General”** means the Deputy Director-General appointed under Section 21;

**“Director-General”** means the Director-General appointed under Section 21;

**“Fund”** means the Fund established by Section 32;

**“Institute”** means the National Agricultural Research Institute of Papua New Guinea established by Section 2;

**“member”** means a member of the Council appointed under Section 7;

**“this Act ”** includes the Regulations and the by-laws.

## **PART II. – THE INSTITUTE.**

### **2. ESTABLISHMENT OF THE INSTITUTE.**

(1) The National Agriculture Research Institute of Papua New Guinea is hereby established.

(2) The Institute—

(a) is a body corporate with perpetual succession; and

(b) shall have a common seal; and

(c) may acquire, hold and dispose of property; and

(d) may sue and be sued in its corporate name and style.

(3) All courts, Judges and persons acting judicially shall take judicial notice of the common seal of the Institute affixed to a document and shall presume that it was duly affixed.

### **3. OBJECTS OF THE INSTITUTE.**

(1) The objects of the Institute are the conduct and fostering of research into—

(a) any branch of biological, physical and natural sciences related to agriculture; and

(b) cultural and socioeconomic aspects of the agricultural sector, especially of the smallholder agriculture; and

(c) matters relating to rural development,

of relevance to Papua New Guinea.

(2) On the recommendation of the Council and with the approval of the Minister, and on such terms and conditions as the Minister thinks proper, the Institute may enter into and carry out arrangements, within the functions of the Institute, with other scientific institutions and such other bodies as the Institute determines for the purposes of the Institute.

### **4. FUNCTIONS OF THE INSTITUTE.**

For the purposes of the attainment of its objects, the Institute has the following functions:—

(a) to generate and adapt agricultural technologies and resource management practices appropriate to the needs, circumstances and goals of smallholders;

(b) to promote and facilitate applied and adaptive research in food crops, livestock, alternative cash crops, and resource management;

(c) to promote the use of appropriate agricultural technologies and provide essential technical services to improve the productivity, income,

nutritional status and food security, resource base and quality of life of rural households and communities;

- (d) to develop and promote ways of improving the output, quality, harvesting, post-harvesting, handling and processing and marketing of food crops, livestock produce and alternative crops;
- (e) to maintain and conserve the diversity of genetic resources for food and agriculture, act as custodian for these resources, and promote the effective utilization of these resources in the country;
- (f) to update and maintain the national inventory on soil resources;
- (g) to develop, promote and maintain sustainable practices in agriculture;
- (h) to provide agricultural information services, extension service support and other such assistance packages to the agricultural sector;
- (i) to provide liaison and access to international agencies that promote agricultural development;
- (j) to perform such other functions as are given to it under this Act or any other law;
- (k) to formulate national agricultural research policies, define sectoral research priorities and allocate funds and advise the Minister and the National Executive Council on these matters;
- (l) generally, to do all such things as may be incidental or consequential upon the exercise of its powers and the performance of its functions.

## **5. POWERS OF THE INSTITUTE.**

The Institute has power to do, in the country or elsewhere, all things necessary or convenient to be done for or in connection with the attainment of its objects and functions in accordance with the policies set by the Minister and the National Executive Council.

**PART III. – ADMINISTRATION.**

***Division 1.***

***The Council.***

**6. THE COUNCIL.**

(1) There is established a Council of the Institute.

(2) The Council shall be the governing body of the Institute.

(3) The Council shall perform the functions, exercise the powers and direct the affairs of the Institute.

**7. MEMBERSHIP OF THE COUNCIL.**

(1) The Council shall consist of–

(a) the Departmental Head of the Department responsible for agricultural and livestock matters, or his nominee, *ex officio*; and

(b) the Departmental Head of the Department responsible for finance matters, or his nominee, *ex officio*; and

(c) the Director-General, *ex officio*; and

(d) one member representing the Papua New Guinea University of Technology nominated by that University; and

(e) one member representing the University of Papua New Guinea nominated by that University; and

(f) three members, all of whom shall be smallholder farmers and at least one of whom shall be a woman, nominated by the Minister; and

(g) one member representing growers' associations, nominated by a legally recognised growers' association.

(2) The members referred to in Subsection (1)(d), (e), (f) and (g)–

(a)<sup>1</sup> shall be appointed in accordance with the *Regulatory Statutory Authorities (Appointment to Certain Offices) Act 2004*; and

(b) shall hold office for a term not exceeding three years; and

(c) shall hold office on such terms and conditions as are determined under the *Boards (Fee and Allowances) Act 1955*; and

(d) are eligible for reappointment; and

(e) shall be ordinarily resident in the country.

(3) Subject to Section 11, where the body concerned referred to in Subsection (1)(d), (e), (f) or (g) fails to submit to the Minister a nominee for a vacant office, the

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<sup>1</sup> Section 7 Subsection (2) amended by No. 97 of 2006, Sched. 1.

Minister may appoint any person he considers suitable to represent that body without further reference to that body.

#### **8. CHAIRMAN AND DEPUTY CHAIRMAN.**

(1) The Minister may appoint a member of the Council to be the Chairman of the Council and another member to be the Deputy Chairman of the Council.

(2) In the event of the absence or the inability for any reason to act of the Chairman, the Deputy Chairman has all the powers and functions of the Chairman under this Act and the by-laws.

(3) The Chairman and Deputy Chairman shall hold office as Chairman and Deputy Chairman respectively until the expiration of the period of their respective appointments or until they cease to be members, whichever first occurs.

#### **9. LEAVE OF ABSENCE.**

The Minister may grant leave of absence to a member on such terms and conditions, consistent with this Act, as the Minister determines.

#### **10. VACATION OF OFFICE.**

(1) A member, other than an *ex officio* member, may resign his office by writing signed by him and delivered to the Minister.

(2) If a member, other than an *ex officio* member,—

- (a) becomes permanently incapable of performing his duties; or
- (b) resigns his office in accordance with Subsection (1); or
- (c) is absent, except with the written consent of the Minister, for three consecutive meetings of the Council; or
- (d) fails to comply with Section 14; or
- (e) becomes bankrupt, or applies to take the benefit of any law for the benefit of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment for their benefit; or
- (f) is convicted of an offence punishable under a law by a term of imprisonment of one year or longer or by death, and, as a result of that conviction, is sentenced to imprisonment or death; or
- (g) ceases to be ordinarily resident in the country,

the Minister shall terminate his appointment.

(3) The Head of State, acting on advice, may, at any time, by written notice, advise a member that he intends to terminate his appointment on the grounds of inefficiency, incapacity or misbehaviour.

(4) Within 14 days of the receipt of a notice under Subsection (3), the member may reply in writing to the National Executive Council who shall consider the reply and, where appropriate, terminate the appointment.

(5) Where the member does not reply in accordance with Subsection (4), his appointment is terminated.

#### **11. FILLING OF VACANCIES.**

Where there is a vacancy in the membership of the Council (other than a vacancy in the offices referred to in Section (7)(1)(a), (b) and (c)–

- (a) the appointment to fill that vacancy shall, subject to Paragraphs (b) and (c), be made as soon as practicable and in any case not later than three months after the date on which the vacancy occurs; and
- (b) the appointment shall be made in accordance with Section 7 and the person so appointed shall hold office, subject to this act, for the residue of his predecessor's term of office; and
- (c) where the vacancy occurs within three months before the expiration of the term of office, the vacancy shall remain unfilled for the remainder of the term.

#### **12. VACANCY NOT TO AFFECT POWERS OR FUNCTIONS.**

The exercise of a power or the performance of a function of the Council is not invalidated by reason only of a vacancy in the membership of the Council.

#### **13. MEETINGS OF THE COUNCIL.**

(1) The Council shall meet as often as the business of the Institute requires, and at such times and places as the Chairman directs, but in any event not less frequently than three times in every year.

(2) At a meeting of the Council–

- (a) half of the total number of members for the time being constitute a quorum; and
- (b) the Chairman, or in his absence the Deputy Chairman, shall preside, and if both Chairman and Deputy Chairman are absent, the members present shall appoint, from their own number, a Chairman for that meeting; and
- (c) matters arising shall be decided by majority of the votes of the members present and voting; and
- (d) the Chairman presiding has a deliberative, and in the event of an equality of votes on any matter, also a casting vote.

(3) Subject to this Act, the procedures of the meetings of the Council are as determined by the Council.

**14. DISCLOSURE OF INTEREST.**

(1) A member who has a direct or indirect interest in a matter being considered or about to be considered by the Council shall, as soon as possible after the relevant facts have come to his knowledge, disclose the nature of his interest at a meeting of the Council.

(2) A disclosure under Subsection (1) shall be recorded in the minutes of the meeting of the Council and the member—

- (a) shall not take part, after disclosure, in any deliberation or decision of the Council in relation to the matter; and
- (b) shall be disregarded for the purpose of constituting a quorum of the Council for any such deliberation or decision.

**15. COMMITTEES OF THE COUNCIL.**

(1) The Council may, from time to time, establish Committees of the Council to advise the Council on such matters as the Council considers necessary.

(2) In establishing a Committee under Subsection (1), the Council may—

- (a) appoint such persons (including members) as it considers necessary; and
- (b) specify the functions and procedures of the Committee.

(3) A member of a Committee, who is not a member of the Council, may receive fees and allowances under the *Boards (Fees and allowances) Act 1955*.

**16. DIRECTIONS BY THE MINISTER.**

(1) The Minister may, after consultation with the Council or otherwise, give to the Council such directions consistent with Government policies and programmes and not inconsistent with the provisions of this Act, as he considers fit, as to the exercise and performance by the Council of its powers, duties and functions under this Act, and the Council shall give effect to all such directions.

(2) The Council shall furnish the Minister with such information with respect to its activities as he may from time to time require.

**17. DELEGATION OF POWERS.**

The Council may, by written instrument, delegate all or any of its powers and functions, other than—

- (a) this power of delegation; and
- (b) the power to borrow money or raise loans or give loans or advances or to subscribe to or underwrite the issue of stocks, debentures of business enterprises; and
- (c) the powers in relation to the making of by-laws.

**18. PROTECTION FROM PERSONAL LIABILITY.**

A member of the Council or of a Committee, or an officer, employee or agent of the Institute, is not personally liable for any act or default of himself or the Institute done or omitted to be done in good faith in the operations of the Institute, or for the purposes of the Institute.

**19. CORPORATE PLAN.**

(1) The Council shall prepare a corporate plan describing goals, objectives, policies, strategies, activities, resource needs and targets for the Institute for each period of five years.

(2) The Council shall submit to the Minister for his approval each corporate plan prepared under Subsection (1).

(3) The Council shall, in respect of each calendar year, prepare an annual work plan for the Institute.

(4) The Council shall, by 31 December each year, submit to the Minister for his approval the annual work plan for the Institute for the year commencing 1 January following.

**20. REPORTS.**

(1) The Council shall, by 31 March each year, furnish to the Minister a report on the progress and performance of the Institute in relation to its functions for the year ending 31 December previously.

(2) As soon as practicable, after he has received a report under Subsection (1), the Minister shall forward the report to the Speaker for presentation to the National Parliament.

***Division 2.***

***Staff of the Institute.***

**21. APPOINTMENT OF DIRECTOR-GENERAL AND DEPUTY DIRECTOR-GENERAL.**

(1)<sup>2</sup> <sup>3</sup>There shall be a Director-General of the Institute whose manner of appointment, suspension and dismissal is as specified in the *Regulatory Statutory Authorities (Appointment to Certain Offices) Act 2004*.

(2) Subject to this Act, the Council may, by notice in the National Gazette, appoint a person to be the Deputy Director of the Institute.

(3) The Director-General and Deputy Director-General of the Institute shall be appointed for such periods and, subject to the *Salaries and Conditions Monitoring Committee Act 1988*, on such terms and conditions as are prescribed in the by-laws.

<sup>2</sup> Section 21 Subsection (1) substituted by No. 97 of 2006, Sched. 1.

<sup>3</sup> Section 21 Subsection (1) substituted by No. 97 of 2006, Sched. 1.

**22. FUNCTIONS ETC., OF THE DIRECTOR-GENERAL AND THE DEPUTY DIRECTOR-GENERAL.**

(1) The Director-General—

- (a) is the chief executive of the Institute; and
- (b) is the head of staff of the Institute; and
- (c) shall manage the Institute in accordance with the policy directions of the Council and shall be subject to the directions of the Council; and
- (d) shall carry out and perform the duties required of him under this Act, and his contract of employment; and
- (e) shall advise the Council on any matter concerning the Institute referred to him by the Council; and
- (f) has such other functions as the Council may, from time to time, determine.

(2) The Deputy Director-General—

- (a) shall assist the Director-General in the discharge of his functions under this Act; and
- (b) shall, in the event of the absence or the inability for any reason to act of the Director-General, act as Director-General and, on his acting as Director-General, shall have all the powers and functions of the Director-General under this Act; and
- (c) shall have such functions and duties as are determined by the Director-General from time to time with the approval of the Council.

**23. APPOINTMENT OF RESEARCH AND OTHER STAFF.**

(1) Subject to this Act and the by-laws, the Council may appoint such research and other staff of the Institute as it considers necessary for the purposes of the Institute.

(2) Subject to the *Salaries and Conditions Monitoring Committee Act 1988*, the tenure of office and the terms and conditions of employment of members of the staff of the Institute are as prescribed in the by-laws.

(3) In making by-laws for the purposes of Subsection (2), the Council shall have regard—

- (a) in the case of professional research staff of the Institute—to the terms and conditions of employment of academic staff of the Papua New Guinea University of Technology and of professional staff of the National Research Institute; and
- (b) in the case of other staff of the Institute—to the terms and conditions of employment of non-academic staff of the Papua New Guinea University of Technology and of non-research staff of the National Research Institute.

**24. ELIGIBILITY FOR RE-APPOINTMENT.**

Nothing in this Act prevents any person from being immediately or at any time, re-appointed to any office or position in the Institute if he is otherwise capable of holding that office or position.

**25. TEMPORARY AND CASUAL EMPLOYEES.**

(1) The Director-General may appoint such temporary and casual employees as are necessary for the purposes of the Institute.

(2) Employees appointed under Subsection (1) shall be employed under such terms and conditions as the Council determines.

**26. CONTRACT OF EMPLOYMENT.**

The Director-General, the Deputy Director-General and all other staff of the Institute (other than employees appointed under Section 25) shall be employed under a contract of employment which—

- (a) in the case of the Director-General, shall be executed by the Head of State, acting on advice, and by the Director-General; and
- (b) in the case of the Deputy Director-General, shall be executed by the Council and by the Deputy Director-General; and
- (c) in the case of other staff of the Institute, shall be executed by the Director-General, on behalf of the Council, and by the staff concerned.

**PART IV. – THE BY-LAWS OF THE INSTITUTE.****27. BY-LAWS.**

(1) The Council may make by-laws with respect to–

- (a) the management, good government and discipline of the Institute; and
- (b) the use and custody of the seal of the Institute; and
- (c) subject to Section 23, the tenure and terms and conditions of employment of research and other staff of the Institute; and
- (d) subject to Sections 21 and 22 the tenure of office, the qualifications for employment, the conditions of employment, and the functions, powers and duties, of the Director-General and the Deputy Director-General; and
- (e) the number, stipends, manner of appointment and dismissal of members of the research and other staff of the Institute; and
- (f) the control and investment of the property of the Institute; and
- (g) generally, all other matters that are authorized by this Act or that are necessary or convenient for giving effect to this Act.

(2) The by-laws may provide for empowering any authority (including the Council) or member of the staff of the Institute to make rules or orders (consistent with this Act or with any by-laws) for–

- (a) regulating, or providing for the regulation of, any specified matter or class of matters (being a matter or class of matters with respect to which by-laws may be made); or
- (b) carrying out or giving effect to the by-laws, and such rules or orders that have the same force and effect as by-laws.

**28. APPROVAL AND PUBLICATION.**

(1) All by-laws shall be–

- (a) sealed with the seal of the Institute; and
- (b) approved by the Head of State, acting on advice; and
- (c) notified in the National Gazette.

(2) A by-law shall not be expressed to take effect from a date before the date of notification in a case where, if it so took effect–

- (a) the rights of a person (other than the Institute) existing at the date of notification would be affected in a manner prejudicial to him; or
- (b) liabilities would be imposed on a person (other than the Institute) in respect of anything done or omitted to be done before the date of notification.

(3) Where, in a by-law, provision is made in contravention of Subsection (2), the provision is of no effect.

(4) The production of—

(a) a copy of a by-law under the seal of the Institute; or

(b) a document purporting to be a copy of a by-law and to have been printed by the Government Printer,

is, in all proceedings, sufficient evidence of the by-law.

(5) The by-laws made in each secular year shall be numbered in regular arithmetical series beginning with the number 1, in the order in which they appear in the National Gazette and a notice in the National Gazette of the fact that a by-law has been made, specifying the number of the by-law, is sufficient compliance with the requirement of Subsection (1) that the by-law be notified in the National Gazette.

**PART V. – FINANCE, ETC., OF THE INSTITUTE.**

**29. APPLICATION OF THE *PUBLIC FINANCES (MANAGEMENT) ACT 1995.***

(1) Part VIII of the *Public Finances (Management) Act 1995* applies to and in relation to the Institute.

(2) The Institute is a trading enterprise for the purposes of Section 62 of the *Public Finances (Management) Act 1995*.

**30. APPLICATION OF *AUDIT ACT 1989.***

The accounts of the Institute shall be audited in accordance with Part III of the *Audit Act 1989*.

**31. EXEMPTION FROM TAXATION.**

The income, property and operations of the Institute are not subject to income tax under the *Income Tax Act 1959*.

**32. THE FUND.**

(1) The Institute shall maintain a fund to be known as the National Agricultural Research Institute Fund.

(2) The Fund shall consist of–

- (a) all monies as are appropriated for the purposes of carrying out and giving effect to this Act; and
- (b) all monies as may be appropriated annually by Parliament for the purposes of this Act; and
- (c) all monies received by the Institute by way of grants, subscriptions, gifts, bequests or devises given or made for the purposes of the Institute; and
- (d) all monies received by the Institute for goods and services provided by the Institute; and
- (e) all other monies received by the Institute in the exercise or performance of its powers, functions, duties and responsibilities; and
- (f) all monies transferred in accordance with Section 41.

(3) All monies standing to the credit of the Fund may be expended only–

- (a) in payment of discharge of expenses, obligations and liabilities of the Institute; and
- (b) in payment of remuneration and allowances of members of the Council and the staff of the Institute; and

- (c) for such other purposes that are consistent with the functions of the Institute and are approved by the Council.

**PART VI. – MISCELLANEOUS.****33. PROOF OF CERTAIN MATTERS.**

In any proceedings by or against the Institute, proof is not required, unless evidence is given to the contrary, of–

- (a) the constitution of the Council or of a Committee; or
- (b) a resolution of the Council or of a Committee; or
- (c) the appointment of a member of the Council or a member of a Committee, an employee, servant or agent of the Institute; or
- (d) the presence of a quorum at a meeting at which a determination is made or an act done by the Council or by a Committee.

**34. SERVICE OF PROCESS.**

Any notice, summons, writ or other process requiring to be served on the Institute may be served by being left at the head office of the Institute or, in the case of a notice, by post.

**35. SEAL.**

(1) The Institute shall have the right to the use of any such seal or representation as it may select or devise and thereafter display or exhibit in connection with its activities or affairs.

(2) A person who uses a seal or representation identical with that of the Institute, or which so resembles the seal or representation of the Institute so as to deceive or cause confusion, is guilty of an offence.

Penalty: A fine not exceeding K2,000.00 or imprisonment for a term not exceeding six months, or both.

**36. AUTHENTICATION OF DOCUMENTS.**

A document requiring authentication by the Institute is sufficiently authenticated without the seal of the Institute if signed by the Chairman.

**37. CONFIDENTIALITY.**

(1) Information disclosed under this Act to the Minister, to a member of the Council or a Committee or to any employee of the Institute shall not be disclosed to any person who is not a member of the Council or a Committee or an employee of the Institute without the prior written approval of the person who provided that information, except–

- (a) to the extent that disclosure is authorized or required under this Act or any other law; and

- (b) to the extent that the person providing the information authorized its disclosure at the time of providing the information; or
- (c) to the extent necessary to enable the Director-General to publish statistical information concerning the subject matter of the functions of the Institute; or
- (d) to the extent necessary to enable the Council or the Minister to give advice to the National Executive Council, Departments, or the Central Bank.

(2) A member of the Council or a Committee or an employee of the Institute who uses, for the purpose of his personal gain, any information disclosed under this Act that comes to his knowledge in the course of, or by reason of, his membership of the Council or a Committee or his employment as an employee of the Institute, is guilty of an offence.

Penalty: A fine not exceeding K5,000.00 or imprisonment for a term not exceeding two years, or both.

### **38. ATTORNEY.**

The Council may, by instrument under seal, appoint a person, whether within or outside the country to be its attorney and, subject to the instrument of appointment, a person so appointed may do any act or exercise or perform any power or function which he is authorized by instrument to do, exercise or perform.

### **39. RECOVERY OF MONEYS DUE.**

Any moneys due to the Institute under this Act may be recovered by the Institute as a debt.

### **40. INTELLECTUAL PROPERTY AND PATENT RIGHTS.**

All intellectual properties and patents designed and derived from the work of the Institute are the sole property of the Institute, and the Institute shall have legal and sole right to protect these properties and patents and may take legal action against any person or organization violating this right.

### **41. TRANSFER OF MONIES.**

All monies which were, immediately before the commencement of this Act, allocated to or standing to the credit of the research division of the Department of Agriculture and Livestock shall, on that coming into operation, be transferred to and stand to the credit of the Fund.

### **42. TRANSFER OF ASSETS.**

All assets used for research and research-related functions (other than land held by the State) which, immediately before the coming into operation of this Act,

were held by the Department of Agriculture and Livestock and which, by agreement between the Departmental Head of that Department and the Institute, are necessary to be transferred to the Institute for the purposes of the Institute, are on that coming into operation, transferred to and become assets of the Institute.

#### **43. COMMERCIALIZATION OF RESEARCH RESULTS.**

(1) Subject to this Act, and subject to the approval of the Minister, the Institute may, as it considers necessary, use research results obtained in the performance of its functions under this Act for commercial purposes through business activities with or through joint venture partnerships with any public or private body.

(2) Any revenue generated through any activity referred to in Subsection (1) shall be income of the Institute and shall become part of the Fund under Section 32.

#### **44. REGULATIONS.**

The Head of State, acting on advice, may make regulations not inconsistent with this Act, prescribing all matters and things that by this Act are required or permitted to be prescribed for carrying out or giving effect to this Act, and in particular, may prescribe fees and charges payable in respect of services rendered or goods supplied by the Institute.

Office of Legislative Counsel, PNG