

**BOTSWANA UNIVERSITY OF AGRICULTURE AND
NATURAL RESOURCES ACT, 2015**

No. 12



of 2015

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An Act to provide for the establishment of the Botswana University of Agriculture and Natural Resources and to provide for its powers and functions and for the governance structures of the University, and for matters connected or incidental thereto.

Date of Assent: 29.09.2015

Date of commencement: ON NOTICE

ENACTED by the Parliament of Botswana.

PART I – Preliminary

1. This Act may be cited as the Botswana University of Agriculture and Natural Resources Act, 2015, and shall come into operation on such date as the Minister may, by Order published in the *Gazette*, appoint.

Short title and commencement

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

Interpretation

“Council” means the University Council established under section 11;

“member” means a member of the Council;

“repealed Act” means the Botswana College of Agriculture Act;

Cap. 57:02

“Statutes” means the Statutes of the University enacted under section 26; and

“University” means the Botswana University of Agriculture and Natural Resources.

PART II – Establishment and Functions of Botswana University of Agriculture and Natural Resources

3. (1) The Botswana College of Agriculture established under section 2 of the repealed Act, is hereby continued under the new name of the Botswana University of Agriculture and Natural Resources and shall continue to exist as if established under this Act.

Establishment of University

(2) The University shall be a body corporate with perpetual succession and a common seal, capable of suing and being sued under its own name, and subject to the provisions of this Act, performing such acts as bodies corporate, may by law perform.

4. (1) The objectives of the University shall be to provide higher education and training in the field of agriculture and natural resources or related sciences and such other allied and related subjects as the Council may, from time to time determine.

Objectives of University

(2) Without derogating from the generality of subsection (1), the University shall —

(a) undertake, promote and facilitate research and scholarly investigations in the field of agriculture and natural resources or related sciences;

- (b) advance and disseminate knowledge and skills through teaching, learning and practical skills training in the field of agriculture and natural resources or related sciences;
- (c) contribute to national and international scientific and technological development in the field of agriculture and natural resources or related sciences;
- (d) support and contribute to the realisations of national economic and social development in the field of agriculture and natural resources or related sciences;
- (e) contribute to the cultural and social life of the community in the field of agriculture and natural resources or related sciences; and
- (f) advance the intellectual and human resource capacity of the nation of Botswana and the international community in the field of agriculture and natural resources or related sciences.

5. (1) Subject to this Act and the Statutes, the University shall have the power to do all things necessary and expedient for the exercise and discharge of its functions.

(2) Without derogating from the generality of subsection (1), the University shall have the power to —

- (a) establish faculties, institutions, schools, departments or other academic units, whether in Botswana or elsewhere, as the Council may from time to time consider necessary;
- (b) establish professorships, lectureships and other posts whether academic or administrative, and fellowships, bursaries, exhibitions, scholarships, prizes and certificates as the Council may from time to time consider necessary;
- (c) conduct research on its own or in collaboration with other national or international organisations in the field of agriculture and natural resources or related sciences;
- (d) arrange and conduct symposia, workshops, seminars, conferences or similar activities in the field of agriculture and natural resources or related sciences and take whatever steps the Council considers appropriate to stimulate and promote interest in agricultural and economic development;
- (e) provide advisory consultancy and other services for the benefit of the Government, organisations, and individuals in the field of agriculture and natural resources or related sciences;
- (f) provide programmes and courses of study, conduct examinations and other methods of assessment and award degrees and other qualifications;
- (g) establish or participate in the establishment of such commercial, trading, research or other co-operations as may be deemed necessary in the discharge of its functions;
- (h) collaborate with such business, professional, cultural, social or other interests within and outside Botswana, as may be deemed necessary in the discharge of its functions;
- (i) collaborate with alumni and associations of alumni and graduates of the University;

- (j) procure contributions to the funds of the University and raise funds in such manner as the University may deem fit;
 - (k) receive and accept donations of money or property, on such terms and conditions as shall not be inconsistent with this Act and the functions of the University; and
 - (l) do all such things and perform all such functions as may be necessary for, or incidental to the attainment of the objectives of the University.
6. (1) The seal of the University shall be such device as may be prescribed by or under the Statutes.
- (2) The affixing of the seal shall be authenticated by the Vice-Chancellor as the chief executive officer of the University or any person authorised in that behalf by the Council.

Seal of
University

PART III – *Governance of University*

7. The principal officers of the University shall be the —
- (a) Chancellor;
 - (b) Chairperson of the Council;
 - (c) Vice-Chairperson of the Council;
 - (d) Vice-Chancellor; and
 - (e) Deputy Vice-Chancellors as may be appointed under section 9 (3) of this Act.

Principal
officers
of University

8. (1) The Chancellor of the University shall be the President of the Republic of Botswana or such eminent person as may be appointed by the President.

Chancellor

(2) A person appointed as a Chancellor by the President under subsection (1) shall hold office for a period of five years, and shall be eligible for re-appointment for a further term of five years.

(3) A Chancellor shall have such powers and privileges and perform such functions as may be conferred on him or her by the Statutes.

(4) In the absence of a Chancellor who is not the President, or during the vacancy in the office of the Chancellor, the Chairperson of the Council shall act as the Chancellor.

9. (1) The Vice-Chancellor shall be appointed by the Minister responsible for agriculture after consultation with the Council and the Senate on such terms and conditions as may be provided for in the Statutes.

Vice-
Chancellor

(2) The Vice-Chancellor shall be the chief executive officer of the University and, under the Council, shall be the academic and administrative head and the chief disciplinary officer of the University.

(3) The Council shall, after consultation with the Senate, appoint such number of Deputy Vice-Chancellors as the Council may, in accordance with Statutes, determine from time to time.

(4) When the post of Vice-Chancellor is vacant, or when the Vice-Chancellor is absent, or for any reason unable to perform the function of Vice-Chancellor, there shall be appointed, in accordance with the Statutes, one of the Deputy Vice-Chancellors to act as Vice-Chancellor, or if no Deputy Vice-Chancellor is available, any other suitable member of the University staff may be appointed to act as Vice-Chancellor.

Chairperson
and Vice-
Chairperson
of Council

10. (1) Subject to subsection (2), the Chairperson of the Council shall be appointed by the President.

(2) Where the Chancellor is not the President, the Chairperson of the Council shall be appointed by the President on the recommendation of the Chancellor made after consultation with the Council.

(3) The Vice-Chairperson of the Council shall be elected at the first meeting of the Council from amongst the members that are not employees or students of the University.

(4) The Chairperson of the Council shall perform such functions as may be conferred on him or her by the Statutes.

(5) The Vice-Chairperson of the Council shall act as Chairperson in the absence of the Chairperson.

University
Council

11. (1) The governing body of the University shall be the University Council which, subject to the provisions of this Act and the Statutes, shall be responsible for the management and administration of the revenue and property of the University and, except as may otherwise be provided in this Act, shall have general control over the University and its affairs, purposes and functions and all such other powers and duties as may be conferred upon it by the Statutes.

(2) The Council shall consist of the following members —

(a) the principal officers of the University;

(b) seven persons, who are public officers —

(i) two of whom shall be appointed by the Minister responsible for agriculture,

(ii) one of whom shall be appointed by the Minister responsible for agriculture on the recommendation of the Minister responsible for education,

(iii) one of whom shall be appointed by the Minister responsible for agriculture on the recommendation of the Minister responsible for finance,

(iv) one of whom shall be appointed by the Minister responsible for agriculture on the recommendation of the Minister responsible for science and technology,

(v) two of whom shall be appointed by the Minister responsible for agriculture on the recommendation of the Minister responsible for environment;

(c) two persons —

(i) one of whom shall have an agriculture and science background or orientation representing the private sector, and

(ii) one from a research oriented institution,

appointed by the Chancellor on the recommendation of the Council in accordance with the Statutes;

(d) one person who is not resident in Botswana, appointed by the Minister responsible for education by reason of their special knowledge and competence in relevant fields or tertiary education;

- (e) two persons elected by the Senate, one of whom shall be a Professor and one a Dean of a Faculty of the University;
- (f) one member of the academic staff who is not on the Senate, elected by members of the academic staff;
- (g) one member of the support staff elected by the support staff of the University; and
- (h) one student elected by the student body of the University.

(3) The procedure for election of members under subsection 2 (c), (e), (g) and (h) shall be as specified in the Statutes.

12. (1) Subject to the provisions of this Act, the Council shall have the power to do or provide for any act or thing in relation to the University which it considers necessary for the performance or exercise of its functions under this Act.

Powers of Council

(2) Without prejudice to the generality of the provisions of subsection (1), the Council may, where it deems it necessary or desirable, or where public interest and security so requires, close the University for such period of time as may be specified after consultation with the Senate and the Minister.

(3) Notwithstanding subsections (1) and (2), the Minister may, where he or she considers it in the public interest or security to do so, cause or direct the Council to close the University for such period as may be specified by the Minister.

(4) The Council shall, among other things —

- (a) determine the persons who are authorised to sign contracts, cheques, and other documents on behalf of the University, and otherwise regulate procedure in relation to transactions entered into by the University;
- (b) provide for the safe custody and proper use of the seal of the University as provided for in section 6; and
- (c) approve terms and conditions of service for employees of the University.

13. (1) The Chairperson and the Vice-Chairperson of the Council shall hold office for a period not exceeding three years and shall be eligible for re-appointment or re-election, as the case may be, for two further terms.

Tenure of office for Council members

(2) All appointed or elected members other than the member elected by the student body of the University shall hold office for a period not exceeding three years as may be specified in the notification of appointment, and shall be eligible for re-appointment or re-election for two further terms.

(3) The member elected by the student body shall hold office for a period not exceeding one year and shall be eligible for re-election for one further term.

Disqualification,
suspension and
removal from
office

14. (1) A person shall not be appointed or elected as a member or be qualified to continue to hold office where he or she —

- (a) has, in terms of any law in force in any country —
 - (i) been adjudged or otherwise declared bankrupt or insolvent, and has not been rehabilitated or discharged, or
 - (ii) made an assignment to, or arrangement or composition with his or her creditors, which has not been rescinded or set aside; or
- (b) has, within a period of 10 years immediately preceding the date of his or her appointment, been convicted —
 - (i) in Botswana, of a criminal offence, or
 - (ii) outside Botswana, of an offence which, if committed in Botswana would have been a criminal offence,

and sentenced by a court of competent jurisdiction to imprisonment for six months or more without an option of a fine, whether that sentence has been suspended or not, and for which he or she has not received a free pardon.

(2) The Council may, in writing, suspend from office, a member against whom criminal proceedings are instituted for an offence in respect of which a sentence of imprisonment without an option of a fine may be imposed, and whilst that member is so suspended, he or she shall not carry out any duties under this Act or be entitled to any remuneration or allowances as a member of the Council.

(3) The Council may remove a member from office, after consultation with the appointing authority, if the member —

- (a) is absent without reasonable cause from three consecutive meetings of the Council of which he or she has had notice;
- (b) has been found to be physically or mentally unable to perform his or her duties efficiently, and a medical doctor has issued a certificate to that effect;
- (c) contravenes this Act, the Statutes or other instruments stipulating the duties and responsibilities of members or otherwise misconducts himself or herself to the detriment of the objectives of the Council; or
- (d) has been convicted of an offence for which he or she is sentenced to imprisonment for a term of six months or more without an option of a fine.

- 15.** (1) The office of a member shall become vacant —
- (a) if he or she becomes disqualified in terms of section 14 to hold office as a member;
 - (b) if he or she is absent from three consecutive meetings of the Council without a reasonable excuse;
 - (c) upon his or her death;
 - (d) upon the expiry of 30 days' notice, in writing, to the Secretary of the Council, of his or her intention to resign from office;
 - (e) after a period of 30 days from the date the member is convicted of a criminal offence and sentenced to at least six months imprisonment term without an option of a fine and the member does not appeal;
 - (f) after a period of 30 days from the date a ruling is made against a member on appeal, where a member appeals a conviction;
 - (g) after a period of 30 days has elapsed from the date a member is given notice, in writing, by the Council of his or her removal from office; or
 - (h) where a member is summarily dismissed by the Council on the grounds of the member contravening this Act or the Statutes or for misconduct detrimental to the objectives of the Council.
- (2) Where the office of the member becomes vacant before the expiry of the member's term of office, the vacancy shall be filled in the same way as the original appointment or election, and any person so appointed or elected shall hold office for a full term.

Vacation of
office and
filling of
vacancies

16. (1) Subject to this Act and the Statutes, the Council shall regulate its own proceedings.

Meetings of
Council

(2) The Council shall meet at least every three months on dates to be determined by the Council.

(3) The Chairperson may, upon giving written notice of not less than 14 days, and upon a written request of not less than half of the members call a meeting of the Council.

(4) If the urgency of any particular matter does not permit the giving of such notice referred to in subsection (3), a special meeting of the Council may be called upon the giving of a shorter notice period.

(5) There shall preside at all meetings of the Council —

- (a) the Chairperson;
- (b) in the absence of the Chairperson, the Vice-Chairperson; or
- (c) in the absence of the Chairperson and the Vice-Chairperson, such member as the members present may elect from amongst themselves, not being an employee or student of the University, to preside at that meeting.

(6) The quorum at all meetings shall be formed by at least 50 per cent of the members.

(7) All questions before the Council shall be decided by a majority of votes of the members present at the meeting at which the relevant question being considered, and in the event of an equal number of votes being cast, the Chairperson, or the person presiding at that meeting, shall have a casting vote in addition to that person's deliberative vote.

(8) The Council may invite any person whose presence it considers necessary to attend and participate in the deliberations of a meeting of the Council, but such person shall have no right to vote.

Disclosure
of interest

17. (1) If a member is present at any meeting of the Council, or Committee of the Council at which any matter in which the member or immediate family member of the member is directly or indirectly interested in a private capacity is the subject of consideration, the member shall, as soon as practicable after the commencement of the meeting, disclose to the Council his or her interest in the matter and shall not, unless the Council otherwise directs, take part in any discussion of, or vote on any question relating to the matter.

(2) The provisions of subsection (1) shall *mutatis mutandis* apply to a person co-opted in terms of section 16 (8).

(3) A disclosure of interest under subsection (1) shall be recorded in the minutes of the meeting at which it was made.

(4) A person who contravenes subsection (1) commits an offence and is liable to a fine not exceeding P2 000 or to imprisonment for a term not exceeding six months, or to both.

Confidentiality

18. (1) A member shall observe and preserve the confidentiality of all matters coming before the Council and such confidentiality shall subsist even after the termination of their terms of office or mandates.

(2) Any person to whom confidential information is revealed through working with the Council shall not disclose that information to any other person unless he or she is required to do so in terms of any written law or for purposes of any judicial proceedings.

(3) A person who contravenes the provisions of this section commits an offence and is liable to a fine not exceeding P2 000 or to imprisonment for a term not exceeding six months, or to both.

Remuneration
and
allowances

19. A member or a person co-opted in terms of section 16 (8) may be paid remuneration and allowances, if any, as the Minister may from time to time determine.

Secretary of
Council

20. (1) There shall be a Secretary to the Council who shall be appointed by the Council.

(2) The Secretary of the Council shall attend all meetings of the Council but shall have no right to vote, and shall be responsible for the recording of the Council's proceedings and decisions.

21. (1) There shall be a Senate of the University which, subject to the provisions of this Act, the Statutes and the general control and approval of the Council, shall be responsible for the academic work of the University, both in teaching and in research, and the superintendence of the education and discipline of the students of the University.

Senate

(2) Without derogating from the provisions of subsection (1), the Senate shall be responsible for —

- (a) formulating and carrying out the academic policy of the University;
- (b) devising and regulating courses of instruction and study and supervising research;
- (c) regulating the conduct of examinations and the award of degrees, diplomas and certificates;
- (d) advising the Council on the admission of students and the award of scholarships; and
- (e) reporting on such matter as may be referred to it by the Council.

(3) The Senate may make representations to the Council on any matter connected with the University, and shall have such additional functions as may be conferred on the Senate by the Statutes.

(4) The Senate shall establish committees of its members, and may appoint, as additional members of such committees, persons who are not members of the Senate, and may delegate to any such committee, any powers and functions which it is itself competent to perform.

(5) The Senate shall consist of the Vice-Chancellor and at least nine other persons drawn from the academic staff in accordance with the Statutes.

PART IV — *Miscellaneous Provisions*

22. (1) Subject to the provisions of this Act, the Council may make arrangements as it thinks fit, regarding the internal organisation of the University, including the establishment, variation and supervision of

Internal
organisation
of University

- (a) halls of residence, faculties, institutes, schools, departments and other bodies;
- (b) professorships, lectureships and other posts, whether academic, administrative or otherwise; and
- (c) fellowships, bursaries, exhibitions, scholarships, prizes, honorary degrees and other awards.

(2) In so far as they relate to matters which in the opinion of the Council are academic matters, the Council shall exercise the powers referred to in subsection (1) only after consultation with the Senate.

Property and contracts

23. (1) The University shall have power, for any purpose which in the opinion of the Council is necessary or expedient for, or in connection with the exercise of the functions of the University, to acquire and hold any movable or immovable property, to sell, lease, mortgage or otherwise alienate or dispose of any such property and to enter into any other transaction.

Cap. 32:10

(2) Where the Council has resolved that it is necessary or expedient to acquire any property under the provisions of subsection (1), the property may be treated as property required for public purposes and the Acquisition of Property Act shall apply accordingly with such modifications as are necessary to provide for the vesting of property acquired thereunder in the University and for the cost of acquisition to be defrayed by the University.

Accounts and audit

24. (1) The Council shall cause the accounts of the University to be drawn up, audited and published annually at such times and in such manner as the Minister may direct.

(2) The Council shall, within 30 days of receiving a copy of the audited accounts and the report required under section 25, give such copy of the accounts and the report to the Minister.

(3) The Minister shall, within 90 days of receiving a copy of the audited accounts and the report, lay the audited accounts and the report before the National Assembly.

Annual report

25. The Council shall cause a report of the activities of the University during each academic year to be drawn up and made available to the public within six months after the end of that academic year.

Statutes

26. (1) The Council shall enact Statutes for carrying into effect the provisions of this Act, and in particular for —

- (a) regulating the appointment, conditions of service, termination of appointment and retirement benefits of the staff of the University and for determining the persons who form part of the academic staff for the purposes of this Act;
 - (b) determining the persons who are authorised to sign contracts, cheques, and other documents on behalf of the University, and otherwise regulating procedure in relation to transactions entered into by the University;
 - (c) fixing the academic year of the University; and
 - (d) ensuring that the seal of the University is kept in proper custody and is used only by authority of the Council.
- (2) A Statute shall be taken to be enacted if —
- (a) a draft of the Statute has been circulated to the members of the Council at least 14 days before the meeting of the Council at which it is to be considered;
 - (b) after consideration by the meeting, the draft has been provisionally approved either without amendments or only with amendments of which notice, in writing, was circulated to the members at least seven days before the meeting;

- (c) the Statute, as provisionally approved by the meeting of the Council, has been circulated to the members of the Council, and where in the opinion of the Council it affects academic matters, to the members of the Senate, at least seven days before the meeting at which it is proposed to confirm the Statute; and
- (d) the Statute is confirmed without amendment at a meeting of the Council held no less than one month nor more than six months after the meeting at which it was provisionally approved.

27. No matter or thing done or omitted to be done by a member shall, if the matter or thing is done or omitted to be done *bona fide* in the course of the operations of the Council, render a member personally liable for any action, claim or demand.

Indemnity

28. (1) The Minister responsible for education, acting upon the recommendation of the Human Resource Development Council established under the Human Resource Development Council Act, may appoint an independent assessor to investigate and report on matters relating to the governance of the University which, in the opinion of the Minister, may require such investigation.

Independent assessor

Act No. 17 of 2013

(2) An independent assessor may be appointed by the Minister responsible for education to investigate matters referred to the Minister by the Council, or matters which in the opinion of the Minister, the Council has failed to resolve satisfactorily.

(3) The Council, employees and students of the University shall cooperate with and assist the independent assessor appointed under subsection (1).

29. The Botswana College of Agriculture Act is hereby repealed.

Repeal
Cap. 57:02

30. (1) Any act lawfully performed by the Botswana College of Agriculture under the repealed Act and before the commencement of this Act shall continue to be valid as if performed under this Act.

Savings and transitional provisions

(2) All Statutes, rules and ordinances made under the repealed Act and in force immediately prior to the coming into operation of this Act shall, to the extent consistent with this Act, continue to be in force as if made under this Act.

(3) Subject to the provisions of this Act, all property which vested in the Botswana College of Agriculture and its Governing Council, or was in any manner held on behalf of, or for the purposes of the Botswana College of Agriculture, shall similarly vest in or be held on behalf of, or for the purposes of the University.

(4) Every contract entered into by the Governing Council of the Botswana College of Agriculture shall have effect as if entered into by the University, and all obligations subsisting against the Governing Council shall continue to subsist against the University.

(5) Any legal proceedings pending immediately before the commencement of this Act, to which the Botswana College of Agriculture was a party shall be continued as if the University has been a party thereto instead of the Botswana College of Agriculture.

(6) Any enquiry or proceedings, whether of a disciplinary nature or otherwise, instituted or pending in respect of any employee of the Botswana College of Agriculture before the commencement of this Act shall be dealt with, inquired into and determined in accordance with the procedures in place before the commencement of this Act concerning such enquiries or proceedings.

(7) The administrative and management structures of the Botswana College of Agriculture in existence under the repealed Act immediately before the commencement of this Act shall, to the extent that their continued existence is not inconsistent with this Act, continue in existence.

(8) All employees of the Botswana College of Agriculture shall become the corresponding employees of the University and shall continue in office for the period which, and subject to the conditions which, they were appointed, as employees of the Botswana College of Agriculture.

(9) The Governing Council under the repealed Act shall operate as a transitional council pending the constitution of the Council in terms of this Act.

(10) The Minister responsible for education may, by Order published in the *Gazette*, make such transitional arrangements as may be necessary for the implementation of this Act.

PASSED by the National Assembly this 16th day of July, 2015.

BARBARA N. DITHAPO,
Clerk of the National Assembly.