

NATIONAL AGRICULTURAL DEVELOPMENT AGENCY ACT, 2006

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National Agricultural Development Agency Act, 2006



THE GAMBIA

NO. 11 OF 2006.

Assented to by The President,

this _____ day of _____, 2006

YAHYA A. J. J. JAMMEH
President

AN ACT to provide for the establishment of the National Agricultural Development Agency to facilitate and regulate the development and commercialisation of agriculture in The Gambia and for matters connected therewith.

[See section 1]

ENACTED by the President and the National Assembly.

PART I – PRELIMINARY

Short title and commencement

1. This Act may be cited as the National Agricultural Development Agency Act, 2006 and comes into force on such date as the Secretary of State may, by order published in the Gazette, determine.

Interpretation

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

"Agency" means the National Agricultural Development Agency established under section 3;

"agricultural produce" means all crops, vegetables, flowers, honey, and includes any other produce which the Secretary of State may, by notice published in the Gazette, declare to be agricultural produce under this Act;

"Board" means the Board of Directors established for the Agency under section 4;

"Department of State" means the Department of State responsible for agriculture;

"Development Fund" means the Agricultural Development Fund established under section 27;

"Secretary of State" means the Secretary of State responsible for agriculture; and

"vulnerable groups" includes the elderly, the infirm, children, nursing mothers and communities affected by natural disaster, floods, drought and crop failure.

PART II - ESTABLISHMENT OF THE NATIONAL AGRICULTURAL DEVELOPMENT AGENCY AND ITS BOARD OF DIRECTORS

3. (1) There is hereby established the National Agricultural Development Agency, which shall, under the direction of the Secretary of State and in collaboration with the Department of State, enforce the provisions of this Act.

Establishment of the National Agricultural Development Agency

(2) The Agency is a body corporate with perpetual succession and a common seal and may -

- (a) sue or be sued in its corporate name;
- (b) enter into contracts, and acquire, hold and dispose of property; and
- (c) so far as is possible for a body corporate, exercise the rights, powers and privileges and incur the liabilities and obligations of a natural person of full age and capacity.

(3) The application of the common seal of the Agency shall be authenticated by the signature of the Director-General or such other person as may be authorized by the Agency to sign on its behalf.

(4) A document bearing the imprint of the common seal of the Agency is deemed to be properly sealed, unless the contrary is proved.

4. (1) There is hereby established for the Agency a Board of Directors, which shall, subject to the provisions of this Act, carry out the functions and manage the affairs of the Agency.

(2) The Board consists of-

(a) a Chairperson;

(b) the Permanent Secretary of the Department of State or his or her designated representative;

Establishment and composition of the Board of Directors

- (c) the Permanent Secretary of the Department of State responsible for trade or his or her designated representative;
- (d) the Permanent Secretary of the Department of State responsible for finance and economic affairs or his or her designated representative;
- (e) a representative of farmers organisations;
- (f) a representative of women farmers organisations;
- (g) a representative of the Association of Non-Governmental Organisations;
- (h) the Director-General of the National Agricultural Research Institute; and
- (i) the Director-General of the Agency.
- (3) The members of the Board, other than *ex-officio* members, shall be appointed by the President after consultation with the Public Service Commission.
- (4) The members shall appoint one of their numbers to be the Vice-Chairperson of the Board.
5. (1) The members of the Board, other than *ex-officio* members, shall hold office for a term of three years and may be re-appointed for one further term
- (2) A person is not qualified to be a member or to continue to be a member of the Board if –
- (a) he or she is adjudged to be a person of unsound mind;

Tenure of office
of members of
the Board

- (b) he or she has been convicted of an offence involving dishonesty or fraud and has not been granted a free pardon; or
- (c) in the case of a person who has professional qualifications, he or she is disqualified or suspended otherwise than at his or her request, from practicing his or her profession by the order of a competent authority made in respect of him or her personally.
- (4) A member of the Board may resign his or her office by notice in writing addressed to the President.
6. The Board may give general directions as to the management of the property, business and funds of the Agency and other matters relating to the Agency.
7. For the purpose of discharging its functions under this Act, the Board may delegate to the Director-General, the power to –

General
powers of the
Board

Delegation of
powers of the
Board

- (a) acquire or authorize the acquisition of any movable or immovable property and transfer or allocate any funds of the Agency for that purpose;
- (b) authorize the disposal of securities of any kind belonging to the Agency;
- (c) open and operate current, deposit or credit account on behalf of the Agency at any bank or financial institution; and

Meetings of the Boards

- (d) negotiate and obtain loans on behalf of Agency and determine the nature and conditions of the loans.

8. (1) The Board shall meet for the discharge of its business at least once in every three months at such time and place as the Chairperson shall appoint.

(2) The Chairperson shall, at the written request of the Director-General or not less than five members of the Board, convene a special meeting of the Board to transact any extraordinary business on a date specified in the request.

(3) A written notice of a special meeting of the Board shall -

- (a) be sent to each member not later than forty-eight hours before the meeting; and
- (b) specify the business for which the meeting is being convened.

(4) The quorum of the Board at any meeting shall be five, including the Chairperson or the Director-General.

(5) The Board shall take decisions by a simple majority of the votes of members present and, where there is an equality of votes, the person presiding shall have a casting vote.

(6) The Chairperson shall preside at every meeting of the Board at which he or she is present, and in his or her absence, the Vice-Chairperson shall preside and where both the Chairperson and Vice-Chairperson are absent, the members of the Board present shall appoint one of their number to preside at the meeting.

(7) The minutes of every meeting of the Board shall be recorded by the Secretary, and signed by the Chairperson or the person who presided at the meeting, after confirmation by the Board.

(8) The Board may at any time co-opt a person to be an adviser at any of its meetings, but a person so co-opted shall not be entitled to vote at any meeting of the Board.

(9) The Board may appoint such committees as it deems necessary to carry out, on its behalf, such of its functions as it may determine, but a decision of a committee so appointed has no effect unless it is confirmed by the Board.

(10) The validity of the proceeding of the Board shall not be affected by -

- (a) a vacancy in its membership;
- (b) a defect in the appointment of any of its members; or
- (c) reason that a person not entitled to do so, took part in the proceedings.

(11) Subject to this section, the Board may regulate its own procedure.

Absence of the Director-General from meetings

9. If the office of Director-General is vacant or the Director-General is for any reason unable to attend a meeting of the Board, the person for the time being carrying out the duties of the Director-General shall attend the meeting and may participate in its deliberations.

Disclosure of interest

10. (1) A member of the Board who has an interest in a company or an undertaking with which the Agency proposes to enter into a contract shall -

- (a) disclose to the Board the nature of his or her interest; and
- (b) not participate in any deliberation and voting of the Board in respect of the contract.

(2) The President may, on the recommendation of the Secretary of State, remove from the Board a member who contravenes the provisions of subsection (1).

Transaction of business without meeting

11. A resolution is a valid resolution of the Board if-

- (a) it is signed or assented to by a majority of the members; and
- (b) notice of the proposed resolution was given to each member and to the Director-General,

notwithstanding that it was not passed at a meeting of the Board.

Protection of members

12. No action, suit, prosecution or other proceeding shall be brought or instituted against a member of the Board personally in respect of any thing done in good faith in pursuance, execution or intended execution of any of the provisions of this Act.

Allowances to members

13. A member of the Board and a person co-opted to the Board shall be paid such allowances as the Secretary of State may approve.

PART III - FUNCTIONS

Functions of the Agency

14. The Agency shall -

- (a) provide advisory and strategic support to the Department of State;
- (b) facilitate the development of cooperative and financial services programmes for farmers;
- (c) formulate and implement a policy framework for farmer support programmes;
- (d) facilitate the acquisition of land for agricultural development;
- (e) monitor and evaluate the performance of the agricultural sector;
- (f) establish an early warning and rapid reaction systems for farmers;
- (g) promote international trade initiatives, in collaboration with the Department of State responsible for trade;

- (h) provide and distribute agricultural inputs to farmers;
- (i) establish an effective food security and pest control network for the country;
- (j) establish an agricultural disaster preparedness plan and provision of relief assistance to vulnerable groups;
- (k) network with other relevant institutions to enhance the development of the agricultural sector;
- (l) provide agricultural extension services; and
- (m) perform such other functions as may be assigned to it in any legislation.

PART IV – MANAGEMENT AND STAFF

15. (1) There shall be for the Agency a Director-General who shall be appointed by the President after consultation with the Board and the Public Service Commission.

(2) The Director-General shall be –

- (a) the chief executive of the Agency; and
- (b) responsible for the execution and implementation of the policy of the Board and the transaction of the day-to-day business of Agency.

Director -
General

(3) The Board may delegate to the Director-General such of its functions as are necessary to enable him or her to transact efficiently the day-to-day business of the Agency, and for that purpose, the Board may, from time to time, issue written instructions.

16. (1) The Board shall appoint an officer from amongst the employees of the Agency to be Secretary to the Board.

(2) The Secretary shall –

- (a) keep the books and records and conduct the correspondence of the Board;
- (b) prepare the agenda and record the minutes of meeting of the Board; and
- (c) perform such other functions as may be assigned to him or her by the Board or Director-General.

(3) The Board shall appoint for the Agency such employees as it thinks necessary for the due discharge of the functions of the Agency, on such terms as to remuneration and otherwise as it may determine.

(4) The Board shall be responsible for the discipline and removal of employees of the Agency.

(5) The Board shall, with the approval of the Secretary of State, make regulations establishing schemes for pensions, gratuities and other retirement benefits in respect of employees of the Agency.

Appointment of
Secretary and
other staff

(6) The Agency shall, for the purpose of achieving maximum efficiency in the discharge of its functions under this Act, institute schemes for training of its employees in administrative, management and other skills, with a view to securing the benefit of their knowledge, experience and expertise in the conduct of the operations of the Agency.

PART V- FINANCIAL PROVISIONS

17. The Agency shall maintain a fund into which shall be paid –

(a) sums appropriated to it, from time to time by the National Assembly;

(b) loans granted to the Agency;

(c) grants and gifts, provided that the terms and conditions attached to any grant or gift are not inconsistent with the functions of the Agency or the Board; and

(d) such other sums as may accrue to the Agency from any other source.

18. The Agency may, from time to time, apply the proceeds of the fund established in pursuance of section 17 to –

(a) the cost of administration of the Agency;

(b) the reimbursement to members of the Board or any committee appointed by the Board for such expenses as may be authorized by the Board, in accordance with the rates approved by the Secretary of State;

Fund of the Agency

Expenses of the Agency

(c) the payments of salaries, fees and other remuneration, allowances, pensions and gratuities payable to members of the Board, employees of the Agency or experts, professionals or agents appointed by the Agency;

(d) the maintenance of any property acquired or vested in the Agency; and

(e) meeting such other expenses as may be approved by the Board.

19. (1) The Agency shall, not later than three months before the end of each financial year, prepare and submit to the Secretary of State for approval, estimates of the income and expenditure of the Agency for the ensuing year.

(2) The Agency shall keep proper records and books of accounts of its income, expenditure and transfers.

(3) The Agency shall prepare, in respect of each financial year a statement of accounts.

(4) The Agency shall, within three months of the end of each financial year, submit its statement of accounts to the Auditor General for audit.

(5) The audited accounts of the Agency and the Auditor General's report on those accounts shall form part of the Auditor General's overall report to the National Assembly.

Estimates
accounts and
audit

Annual report

20. (1) The Board shall, not later than three months after the end of each financial year, submit to the Secretary of State, in respect of the financial year, an annual report on the activities of the Agency.

(2) The report under subsection (1) shall include—

(a) information with regard to the activities and policy of the Agency.

(b) a copy of the audited accounts of the Agency in respect of that year together with the Auditor General's report on the accounts; and

(c) such other information as the Secretary of State may request in writing.

(3) The Secretary of State shall, as soon as possible after receiving the annual report, cause it to be laid before the National Assembly.

(4) The Director-General shall also, from time to time, provide the Secretary of State with such information relating to the affairs of the Agency as the Secretary of State may request in writing.

Exemption from duties

21. The Agency shall be exempted from such duties as the Secretary of State responsible for finance may approve.

PART VI – LEGAL PROCEEDING

22. (1) No action may be brought against the Agency unless at least one month's written notice of the intention to bring the action has been served on the Agency by the intending plaintiff or his or her agent.

(2) The notice shall state the cause of action, the name and place of abode of the intending plaintiff and the relief, which he or she claims.

23. The notice referred to in section 22 and any summons, notice or other document required or authorized to be served on the Agency in connection with a suit by or against the Agency, may be served by delivering it or sending it by registered post addressed to the Director-General.

24. In an action or suit against the Agency, no—

(a) execution or attachment or process in the nature of an execution or attachment shall be issued against the Agency; or

(b) sums of money which may by judgment of the court be awarded against the Agency, shall be paid by the Agency from its funds,

before the expiration of at least three months from the date of judgment of the court.

25. In a suit against the Agency, the Agency may be represented in court at any stage of the proceedings by an officer or any other employee of the Agency duly authorized in writing by the Agency in that behalf.

Indemnity

26. An officer of the Agency or any person acting on the direction of an officer of the Agency shall not be personally liable in respect of any act or thing done by him or her in good faith for the purposes of this Act.

PART VII – THE AGRICULTURAL DEVELOPMENT FUND

Establishment of the Agricultural Development Fund

27. There is hereby established a fund to be known as the Agricultural Development Fund, the management and control of which shall, subject to the provisions of this Act, be vested in the Agency.

Composition of the Development Fund

28. The Development Fund shall consist of-

- (a) moneys appropriated by the National Assembly;
- (b) contributions from stakeholder institutions;
- (c) income from the investment of the Development Fund;
- (d) moneys borrowed on behalf of the Development Fund;
- (e) donations to the Development Fund accepted by the Agency;
- (f) other moneys which may vest in or accrue to the Development Fund whether under this Act or otherwise.

29. The Authority may with the approval of the Secretary of State, and the Secretary of State responsible for finance, borrow, for the Development Fund, moneys from the Government and other sources, on such terms and conditions as the Secretary of State responsible for finance may approve, or as may be prescribed by law.

30. The Development Fund shall, subject to the provisions of this Act, be applied to-

- (a) provide agricultural input to farmers; and
- (b) provide re-financing for short, medium and long-term investment to eligible institutions for on-lending to their members for strictly agricultural purposes on commercial basis.

31. (1) No expenditure shall be made from the Development Fund unless the Board approves it.

(2) The Board shall not approve any expenditure for purposes other than those specified in section 30.

32. A report of every exercise of the Agency's power under this Part of this Act shall be included in the annual report which the Agency is required to submit to the Secretary of State.

33. (1) The Agency shall cause proper books of accounts and other records to be kept in connection with the Development Fund.

(2) The Auditor General shall audit the accounts of the Development Fund.

Investment of money

34. The Agency may-

- (a) invest any money of the Development Fund in such manner as the Board may determine; and
- (b) vary and diversify investments as the Board may also determine.

PART VIII- MISCELLANEOUS

Regulations

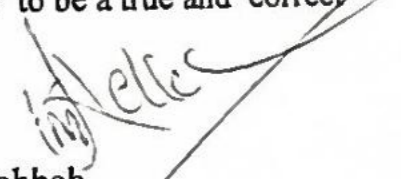
35. The Secretary of State may, on the recommendation of the Agency, make regulations generally for the better carrying out of the purposes of this Act.

PASSED in the National Assembly this Sixteenth day of August the year of Our Lord Two Thousand and Six.



D. C. M. Kebbeh
Clerk of the National Assembly.

THIS PRINTED IMPRESSION has been carefully compared by me with the Bill which has passed in the National Assembly, and found by me to be a true and correct copy of the said Bill.



D. C. M. Kebbeh
Clerk of the National Assembly.