

THE FOOD AND AGRICULTURAL RESEARCH AND EXTENSION INSTITUTE BILL
(No. XXI of 2013)

Explanatory Memorandum

The object of this Bill is to provide for the establishment of the Food and Agricultural Research and Extension Institute.

2. The Institute shall –

- (a) take over the functions and powers of the Food and Agricultural Research Council, including its Agricultural Research and Extension Unit;
- (b) perform such other functions as may be imposed, and exercise such other powers as may be conferred on it, under this Act.

3. The Institute shall be mainly responsible for –

- (a) introducing, developing and promoting novel technologies in the food and non-sugar agricultural sector;
- (b) conducting research in non-sugar agriculture, food production and forestry;
- (c) conducting extension and advisory activities in non-sugar crops, livestock, food production and agribusiness;
- (d) co-ordinating, monitoring and evaluating research programmes and projects of different institutions engaged in non-sugar agriculture, forestry and food production;
- (e) setting research priorities in line with the needs of the food and non-sugar agricultural sector;
- (f) promoting dissemination and practical application of the results of any research;
- (g) setting up and managing research stations, model farms, greenhouses, hydroponic centres and other infrastructure for the purposes of promoting food and non-sugar agricultural technologies; and

- (h) promoting and encouraging non-sugar agricultural and agribusiness development.

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*Minister of Agro-Industry and Food
Security, Attorney-General*

18 October 2013

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ARRANGEMENT OF CLAUSES

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A BILL

**To provide for the establishment of the Food and Agricultural
Research and Extension Institute**

ENACTED by the Parliament of Mauritius, as follows –

PART I – PRELIMINARY

1. Short title

This Act may be cited as the Food and Agricultural Research and Extension Institute Act 2013.

2. Interpretation

In this Act –

"Board" means the Board referred to in section 7;

"Chairperson" means the Chairperson of the Board;

"Chief Executive Officer" means the person appointed as such under section 10;

"employee" –

(a) means an employee appointed under section 11;

(b) includes the Chief Executive Officer;

"financial year" has the same meaning as in the Finance and Audit Act;

"Institute" means the Food and Agricultural Research and Extension Institute established under section 3;

"member" –

(a) means a member of the Board; and

(b) includes the Chairperson;

"Minister" means the Minister to whom responsibility for the subject of agriculture is assigned.

PART II – THE INSTITUTE

3. Establishment of Institute

(1) There is established for the purposes of this Act the Food and Agricultural Research and Extension Institute.

(2) The Institute shall be a body corporate.

4. Objects of Institute

The objects of the Institute shall be to –

- (a) introduce, develop and promote such novel technologies in the food and non-sugar agricultural sector as may be approved by the Minister;
- (b) co-ordinate, promote and harmonise research activities in non-sugar agriculture, food production and forestry;
- (c) promote and encourage agricultural and agribusiness development through the setting up of agricultural youth clubs and agricultural entrepreneur clubs; and
- (d) promote dissemination and practical application of the results of any research undertaken under this Act.

5. Functions of Institute

The Institute shall have such functions as are necessary to further its objects most effectively and may, in particular –

- (a) conduct research in non-sugar agriculture, food production and forestry, and maximise the benefits of such research;
- (b) conduct extension and advisory activities in non-sugar crops, livestock, food production and agribusiness;
- (c) set research priorities in line with the needs of the food and non-sugar agricultural sector;
- (d) co-ordinate, monitor and evaluate research programmes and projects of different institutions engaged in non-sugar agriculture, forestry and food production without any prejudice to existing legislation concerning those institutions;
- (e) set up and manage research stations, model farms, greenhouses, hydroponic centres and other infrastructure for the purpose of promoting food and non-sugar agricultural technologies;
- (f) carry out, subject to the approval of the Minister, such other research and related activities in non-sugar agriculture, food production and forestry; and

- (g) advise the Minister generally on national policies and other matters related to research in non-sugar agriculture, food production and forestry.

6. Powers of Institute

The Institute shall have such powers as are necessary to attain its objects and discharge its functions most effectively and may, in particular –

- (a) with the approval of the Minister to whom responsibility for the subject of finance is assigned, raise such loan as may be required to finance the setting up of greenhouses, hydroponic centres and other infrastructure;
- (b) rent out greenhouses, hydroponic centres and other infrastructure on such terms and conditions as it may determine;
- (c) levy fees in respect of services in connection with greenhouses, hydroponic centres and other infrastructure and of transfer of any other food and non-sugar agricultural technologies;
- (d) set up research advisory committees;
- (e) enter into any contract in accordance with the Public Procurement Act;
- (f) sell or exchange any property;
- (g) receive grants and donations, and raise funds; and
- (h) do such acts and things as may be necessary for the purposes of this Act.

PART III – ADMINISTRATION OF INSTITUTE

7. The Board

(1) The Institute shall be administered by a Board which shall consist of –

- (a) a Chairperson, to be appointed by the Minister;
- (b) a representative of the Ministry;
- (c) a representative of the Mauritius Chamber of Agriculture;

- (d) a representative of the Mauritius Agricultural Marketing Cooperative Federation;
- (e) a representative of the University of Mauritius;
- (f) 4 persons with wide experience in food and non-sugar agricultural sector, to be appointed by the Minister.

(2) The Chairperson and the persons appointed under subsection (1)(f) shall –

- (a) hold office for 2 years; and
- (b) be eligible for reappointment.

(3) Every member shall be paid by the Board such allowance as the Minister may determine.

(4) Where any person appointed under subsection (1) ceases to hold office, the vacancy shall be filled by a person appointed by the Minister, who shall hold office for the remainder of the term of office of that member.

(5) (a) The Board may co-opt any other person who may be of assistance in relation to any matter before it.

(b) A person co-opted under paragraph (a) shall –

- (i) not have the right to vote at a meeting of the Board; and
- (ii) be paid such allowance as the Board may determine.

(6) The Board shall designate an employee to act as Secretary to the Board who shall –

- (a) prepare and attend every meeting of the Board;
- (b) keep minutes of proceedings of every meeting of the Board; and
- (c) have such other duties as may be conferred on him by the Board.

8. Meetings of Board

(1) Subject to subsections (2) and (3), the Board shall regulate its meetings and proceedings in such manner as it may determine.

(2) The Board shall meet at the request of the Chairperson or of at least 5 members.

(3) At a meeting of the Board, 5 members shall constitute a quorum.

(4) At a meeting of the Board, each member shall have one vote on a matter in issue and in the event of an equality of votes, the person presiding shall have a casting vote.

(5) The Chief Executive Officer shall, unless otherwise directed by the Board, attend every meeting of the Board and may take part in its deliberations, but shall not have the right to vote.

(6) Where a member or a person related to him by blood or marriage has a pecuniary or other material interest in relation to any matter before the Board, the member shall –

(a) disclose the nature of the interest before or at the meeting convened to discuss that matter; and

(b) not take part in any deliberations of the Board relating to that matter.

9. Committees

(1) The Board may set up such committees as may be necessary to assist it in the discharge of its functions.

(2) A committee shall consist of not less than 3 members and such other persons as may be co-opted by the Board.

(3) A committee shall –

(a) meet as often as is necessary and at such time and place as the chairperson of the committee thinks fit;

(b) meet as and when required by the Board; and

(c) regulate its meetings and proceedings in such manner as it may determine.

(4) A committee shall submit its report within such time as the Board may determine.

(5) The report referred to in subsection (4) shall contain the committee's observations, comments, recommendations or findings, if any, on any matter referred to it.

10. Chief Executive Officer

(1) There shall be a Chief Executive Officer of the Institute who shall be appointed, subject to the approval of the Minister, by the Board on a fixed term performance contract and on such terms and conditions as it may determine.

(2) The Chief Executive Officer shall be responsible for the execution of the policy of the Board and for the control and management of the day-to-day business of the Institute.

(3) The Chief Executive Officer shall, in the exercise of his functions, act in accordance with such directions as he may receive from the Board.

(4) (a) The Board may, subject to such instructions as it may give, delegate to the Chief Executive Officer such of its powers and functions as may be necessary for the effective management of the day-to-day business and activities of the Institute, other than the power to —

- (i) sell or exchange any property, or make any donation;
- (ii) borrow money; or
- (iii) enter into a contract.

(b) The Chief Executive Officer may, with the approval of the Board, delegate his powers and functions to such employee as he may determine.

11. Appointment of employees

(1) The Board may, subject to the approval of the Minister, appoint such number of employees as may be necessary for the proper discharge of its functions under this Act on such terms and conditions as it may determine.

(2) Every employee referred to in subsection (1) shall be under the administrative control of the Chief Executive Officer.

(3) The Institute may make provision, in such form as it may determine, to govern the conditions of service of employees and, in particular, to deal with —

- (a) the appointment, discipline, pay and leave of, and the security to be given by, employees;

- (b) appeals by employees against dismissal or other disciplinary measures; and
- (c) the establishment and maintenance of provident and pension fund schemes and the contributions payable to, and the benefits recoverable from, such schemes.

12. Powers of Minister

(1) The Minister may give such directions of a general character to the Board, not inconsistent with this Act, as he considers necessary in the public interest, and the Board shall comply with those directions.

(2) The Minister may require the Board to furnish such information in such manner and at such time as he thinks necessary in respect of its activities, and the Board shall supply that information.

PART IV – FINANCIAL PROVISIONS AND ACCOUNTS

13. General Fund

- (1) The Institute shall set up a General Fund –
 - (a) into which shall be paid all the revenue of the Institute; and
 - (b) out of which shall be paid all the expenses incurred by the Institute.
- (2) The revenue of the Institute shall consist of –
 - (a) Government grants;
 - (b) special government funding for specific projects;
 - (c) external aid funding for specific projects;
 - (d) such levy on non-sugar agricultural production as may be prescribed from time to time by the Minister;
 - (e) rental for greenhouses, hydroponic centres and other infrastructure and fees in respect of services in connection therewith and for the transfer of any other food and non-sugar agricultural technologies;
 - (f) income from any other source approved by the Minister.

14. Estimates

(1) The Institute shall, not later than 30 September in every year, submit to the Minister an estimate of the expenditure and income of the Institute for the next financial year for his approval.

(2) Subject to subsection (3), the Minister shall, before the beginning of every financial year, signify in writing his approval of the estimates.

(3) Where the Minister gives his approval under subsection (1), he may direct the Institute to amend the estimate in respect of any item in such manner as he thinks fit.

(4) Subsection (1) shall not apply to the first financial year of the Institute.

15. Annual report

(1) The Board shall prepare and submit, in accordance with the Statutory Bodies (Accounts and Audit) Act, an annual report to the Minister together with an audited statement of accounts on the operations of the Institute in respect of every financial year.

(2) The auditor to be appointed under section 5(1) of the Statutory Bodies (Accounts and Audit) Act shall be the Director of Audit.

16. Donations and exemptions

(1) Article 910 of the Code Civil Mauricien shall not apply to the Institute.

(2) Notwithstanding any other enactment, the Institute shall be exempt from payment of any registration duty, fee or charge in respect of any document under which the Institute is the sole beneficiary.

PART V – MISCELLANEOUS

17. Execution of documents

(1) Subject to subsection (2), no deed or other document shall be executed by or on behalf of the Institute unless it is signed by –

- (a) the Chairperson or, in his absence, a member designated by the Board; and
- (b) the Chief Executive Officer, or, in his absence, an employee designated by the Board.

(2) All cheques shall be signed by the Chairperson and the Chief Executive Officer.

18. Legal proceedings

(1) The Institute shall act, sue and be sued in its corporate name.

(2) Service of process by or on the Institute shall be sufficient if made on behalf of or on the Chief Executive Officer.

(3) No liability, civil or criminal, shall be incurred by the Institute, a member or an employee in respect of any act done or omitted in good faith in the performance of its or his functions or exercise of its or his powers under this Act.

19. Confidentiality

(1) No member or employee shall, during or after his relationship with the Institute, use or disclose any matter which comes to his knowledge in the performance of his functions or use any material of the Institute, except for the purposes of administering this Act.

(2) Any person who contravenes subsection (1) shall commit an offence and shall, on conviction, be liable to a fine not exceeding 10,000 rupees and to imprisonment for a term not exceeding one year.

20. Regulations

(1) The Minister may make such regulations as he considers necessary for the purposes of this Act.

(2) Any regulations made under subsection (1) may provide –

(a) a levy on agricultural production;

(b) for the levying of fees and charges;

(c) that any person who contravenes them shall commit an offence and shall, on conviction, be liable to a fine not exceeding 5,000 rupees.

21. Repeal

The Food and Agricultural Research Council Act is repealed.

22. Consequential amendments

(1) The Agricultural Chemists Act is amended, in section 3(3), by repealing paragraph (d) and replacing it by the following paragraph –

- (d) one representative of the Food and Agricultural Research and Extension Institute;

(2) The Dangerous Chemicals Control Act is amended, in section 6(1)(n), by deleting the words “Agricultural Research and Extension Unit” and replacing them by the words “Food and Agricultural Research and Extension Institute”.

(3) The Genetically Modified Organisms Act is amended, in section 4(1)(h), by deleting the words “Food and Agricultural Research Council” and replacing them by the words “Food and Agricultural Research and Extension Institute”.

(4) The Income Tax Act is amended, in the Second Schedule, in Part I, by deleting item 18 and replacing it by the following item –

18. The Food and Agricultural Research and Extension Institute

(5) The Public Procurement Act is amended, in the Schedule, in Part II, by inserting, in the appropriate alphabetical order, the following new item –

Food and Agricultural Research and Extension Institute

(6) The Statutory Bodies (Accounts and Audit) Act is amended –

(a) in the First Schedule, in Part I –

(i) by deleting the following item and its corresponding entry –

Food and Agricultural Research Council	Food and Agricultural Research Council Act
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(ii) by inserting, in the appropriate alphabetical order, the following new item and its corresponding entry –

Food and Agricultural Research and Extension Institute	Food and Agricultural Research and Extension Institute Act 2013
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(b) in the Second Schedule, in Part I –

- (i) by deleting the following item and its corresponding entry –

Food and Agricultural Research Council	Food and Agricultural Research Council Act
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- (ii) by inserting, in the appropriate alphabetical order, the following new item and its corresponding entry –

Food and Agricultural Research and Extension Institute	Food and Agricultural Research and Extension Institute Act 2013
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(7) The Statutory Bodies Pension Funds Act is amended, in the First Schedule –

- (a) by deleting the following item and its corresponding entry –

Food and Agricultural Research Council

- (b) by inserting, in the appropriate alphabetical order, the following new item –

Food and Agricultural Research and Extension Institute

(8) The Seeds Act 2013 is amended –

- (a) in section 6(3)(a) –

- (i) by repealing subparagraph (iv) and replacing it by the following subparagraph –

- (iv) the Chief Executive Officer of the Food and Agricultural Research and Extension Institute or his representative;

- (ii) by repealing subparagraph (v);

- (b) in section 34(1)(a), by inserting, after the words “Food and Agricultural Research Council, including the Agricultural Research and Extension Unit,”, the words “or the Food and Agricultural Research and Extension Institute”.

23. Savings and transitional provisions

(1) (a) For the purposes of the Statutory Bodies (Accounts and Audit) Act, the period extending from the commencement of this Act to 31 December next following shall be deemed to be the first financial year of the Institute.

(b) Section 7(1) of the Statutory Bodies (Accounts and Audit) Act shall not apply to the first financial year of the Institute.

(2) (a) In this subsection –

“FARC” means the Food and Agricultural Research Council established under the repealed Food and Agricultural Research Council Act.

(b) Notwithstanding any other enactment, every person employed by FARC at the commencement of this Act shall be dealt with in accordance with this section.

(c) Subject to paragraph (g), every person who, at the commencement of this Act, is employed on the permanent and pensionable establishment of FARC shall be entitled to be transferred to the permanent and pensionable establishment of the Institute on terms and conditions which shall be not less favourable than those of his previous employment.

(d) The period of service of every person employed on the permanent and pensionable establishment of FARC who is transferred to the Institute under paragraph (c) shall be considered to be an unbroken period of service with the Institute.

(e) Where a person employed on the permanent and pensionable establishment of FARC is transferred to the Institute under paragraph (c), his service with the Institute shall be approved service for the purposes of the Statutory Bodies Pension Funds Act.

(f) No person employed on the permanent and pensionable establishment of FARC shall, on account of his transfer to the Institute or any resulting change in his job title, be entitled to claim that his employment has been terminated or adversely affected in breach of any enactment.

(g) Any person employed on the permanent and pensionable establishment of FARC may, within 30 days of the commencement of this Act, instead of a transfer under paragraph (c), be offered the option to –

- (i) be redeployed, so far as is practicable, to a Ministry, a Government department or a statutory corporation, where a vacancy in a similar position is available; or
- (ii) retire on the ground of abolition of office and be paid his pension benefits in accordance with the Pensions Act, the Statutory Bodies Pension Funds Act or such other pension scheme as may be applicable to FARC.

(h) (i) Subject to paragraph (i), any person employed on the permanent and pensionable establishment of FARC against whom a disciplinary inquiry or other proceedings are pending at the commencement of this Act—

(A) who is not interdicted, shall be transferred to the permanent and pensionable establishment of the Institute on terms and conditions which shall be not less favourable than those of his previous employment;

(B) who is interdicted, may opt to —

(I) be transferred to the permanent and pensionable establishment of the Institute on terms and conditions which shall be not less favourable than those of his previous employment; or

(II) retire on the ground of abolition of office and be paid pension benefits in accordance with the Pensions Act, the Statutory Bodies Pension Funds Act or such other pension scheme as may be applicable to FARC,

where no disciplinary charge is subsequently found proved against him.

(ii) For the purposes of paragraph (g) and of this paragraph, the date of a person's retirement on the ground of abolition of office shall be the date of commencement of this Act.

(i) Any disciplinary inquiry or proceedings pending at the commencement of this Act against a person employed on the permanent and pensionable establishment of FARC shall be taken up, continued or completed by the supervising officer of the Ministry, and any resulting order or decision shall have the same force and effect as if made by FARC.

(j) Any proceedings, whether judicial or extra-judicial, started by or against FARC and pending at the commencement of this Act shall be deemed to have been started by or against the Institute.

(k) The Director-General of FARC shall at the commencement of this Act be deemed to be the Chief Executive Officer of the Institute and his contract shall remain governed by its existing terms and conditions.

(l) The assets and funds of FARC shall at the commencement of this Act vest in the Institute.

(m) Subject to paragraphs (c) to (g), all rights, obligations and liabilities subsisting in favour of or against FARC at the commencement of this Act continue to exist under the same terms and conditions in favour of or against the Institute.

(n) Any act or thing done by FARC shall be deemed to have been done by the Institute.

(3) Where this Act does not make provision for any transition, the Minister may make such regulations as may be necessary for such transition.

24. Commencement

(1) Subject to subsection (2), this Act shall come into operation on a date to be fixed by Proclamation.

(2) Different dates may be fixed for the coming into operation of different sections of this Act.
