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GENERAL NOTICE

NOTICE 880 OF 2014

DEPARTMENT OF AGRICULTURE, FORESTRY & FISHERIES

PUBLICATION FOR COMMENTS: GREEN PAPER ON NATIONAL AGRICULTURAL TRAINING INSTITUTES

The above Green Paper is hereby published for public comments. Interested persons are invited to submit written comments on the draft by not later than 30 days after publication in the Government Gazette. Submissions should be posted or faxed to the Director- General Department of Agriculture, Forestry & Fisheries for the attention of:

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REPUBLIC OF SOUTH AFRICA

**GREEN PAPER ON THE PROPOSED NATIONAL AGRICULTURAL TRAINING INSTITUTES
BILL**

*(As to be introduced in the National Assembly (proposed section 76); explanatory summary of Bill
published in Government Gazette No. 38081 of 13 October 2014)
(The English text is the official text of the Bill)*

(MINISTER OF AGRICULTURE, FORESTRY AND FISHERIES)

To provide for the regulation of Agricultural education and training at Agricultural Training Institutes; to provide for the establishment, governance and funding of Agricultural Training Institutes, to provide for the employment of staff at Agricultural Training Institutes and; to provide for the registration of Agricultural Training Institutes; to provide for the promotion of education and training quality in Agricultural Training Institutes; to provide for transitional arrangements and the repeal or amendment of laws; and to provide for matters connected therewith.

PREAMBLE

WHEREAS it is desirable to –

ESTABLISH a national coordinated Agricultural education and training system which promotes co-operative governance and provides for programme-based vocational and occupational training;

RESTRUCTURE AND TRANSFORM Agricultural Colleges and programmes into Agricultural Training Institutes and programmes to respond better to the human resources, economic and development needs of the Republic;

REDRESS past discrimination and ensure representivity and equal and adequate access to resources;

ENSURE access to Agricultural education and training and the workplace by persons who have been marginalised in the past, such as women, the disabled and the disadvantaged;

PROVIDE optimal opportunities for learning, the creation of knowledge and the development of intermediate to high level Agricultural skills in keeping with international standards of academic and technical quality;

PROMOTE the values which underlie an open and democratic society based on human dignity, equality and freedom;

ADVANCE strategic priorities determined by national policy objectives at all levels of governance and management within the Agricultural education and training sector;

RESPECT and encourage democracy and foster a collegial culture which promotes fundamental human rights and creates an appropriate environment for teaching and learning;

PURSUE excellence, and promote the full realisation of the potential of every student and member of staff, tolerance of ideas and appreciation of diversity;

RESPOND to the needs of the Republic, the labour market and the communities served; by the Agricultural Training Institutes; and

COMPLEMENT the Agricultural Education and Training Strategy in co-operation with the Department of Agriculture Forestry and Fisheries;

AND WHEREAS it is desirable for Agricultural Training Institutes to perform specific functions within the context of public accountability and the national need for intermediate to high level agricultural skills and knowledge and to provide access to work and higher education

TO BE IT THEREFORE ENACTED by the Parliament of the Republic of South Africa, as follows:-

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SCHEDULE 1**CHAPTER 1
DEFINITIONS, PURPOSE AND APPLICATION OF ACT****Definitions**

1. In this Act, unless the context indicates otherwise-

“**AET**” means Agriculture Education and Training

“**Academic board**” means the body contemplated in section 14

“**ATI**” means Agricultural Training Institute

“**ATI Council**” means the governing body of an ATI contemplated in this Act also known as the Council.

“**Auditor**” means a person registered in terms of the Auditing Profession Act, 2005 (Act No. 26 of 2005);

“**Agricultural Training Institute**” means an Agricultural education and training institution that is established, declared or registered under this Act, but does not include-

(a) a school offering Agricultural further education and training programmes under the South African Schools Act, 1996 (Act No 84 of 1996); or

(b) an Agricultural Training Institution under the authority of a government department other than the Department of Agriculture, Forestry and Fisheries;

(c) any Institute that provides Agricultural education and training on a full-time, part-time or distance basis and which is established or regarded as having been established as an Agricultural Training Institute under this Act;

“**Agricultural Training Institute statute**” means policy, code of conduct and any other rules developed by an ATI Council in accordance with this Act;

“**Basic Conditions of Employment Act**” means the Basic Conditions of Employment Act, 1997 (Act No. 75 of 1997);

“**Council**” means the governing body of an Agricultural Training Institute;

“**CHE**” means Council for Higher Education;

“**Department**” means the Department of Agriculture, Forestry and Fisheries;

“**Director-General**” means the Director-General of the Department;

“**Employment Equity Act**” means the Employment Equity Act, 1998 (Act NO. 55 of 1998);

“**Financial year**” in respect of an **Agricultural Training Institute** means a year commencing on the first day of January and ending on the 31st day of December of the same year;

“**Foreign juristic person**” means a person that is-

(a) registered or established as a juristic person in terms of a law of a foreign country;

(b) recognised or registered as an external company in terms of the Companies Act, 2008 (Act No. 71 of 2008);

“**Further Education and Training**” means all learning and training programmes leading to qualifications at levels 1 to 4 of the National Qualifications Framework or such further education and training levels determined by SAQA and contemplated in the National Qualifications Framework Act, 2008, (Act No 67 of 2008) which levels are above general education but below higher education;

“**General education**” means the compulsory school attendance phase contemplated in section 3 of the South African Schools Act, 1996 (Act No 84 of 1996);

“**HEQC**” means the Higher Education Quality Committee established in terms of the Higher Education Act, 1997 (Act No.101 of 1997);

“**HEQF**” means the Higher Education Qualifications Framework established in terms of the Higher Education Act, 1997 (Act No.101 of 1997)

“**Head of Provincial Department**” means the head of a provincial department of Agriculture;

“**Head of Department**” means the Head of an ATI department or unit;

“**Higher education**” means higher education as defined in the Higher Education Act, 1997 (Act No.101 of 1997);

“**Juristic Person**” means the bearer of judicial capacities and subjective rights;

“**Labour Relations Act**” means the Labour Relations Act, 1995 (Act No. 66 of 1995);

“**Lecturer**” means any person who teaches, educates or trains other persons or who provides professional educational services at any Agricultural Training Institute, and who is appointed in a post of any lecturer establishment under this Act;

“**Management staff**” means the Principal, Vice-Principal and Registrar of an Agricultural Training Institute;

“**Minister**” means the Minister of Agriculture, Forestry and Fisheries;

“**National Council of Agricultural Training Institutes**” means the Council referred to in section 10(1);

“**National Qualifications Framework**” means the National Qualifications Framework as defined in the National Qualifications Framework Act, 2008, (Act No 67 of 2008)

“**NAETF**” means the National Agricultural Education and Training Forum

“**Organ of state**” means an organ of state as defined in section 239 of the Constitution of the Republic of South Africa, 1996 (Act No 108 of 1996);

“**Policy**” means rules and regulations determined by the ATI Council with the approval of the Minister,

“**Prescribed**” means prescribed by regulation made in terms of section 44;

“**Principal**” means the chief executive and accounting officer of an **Agricultural Training Institute**,

“**Private Agricultural Training Institute**” means any Agricultural Training Institute that provides higher and/or further education and training on a full-time, part-time or distance basis and which is registered or provisionally registered as a private Agricultural Training Institute under this Act;

“**PSCBC**” means the Public Service Coordinating Bargaining Council established in terms of the Labour Relations Act;

“**Public Service Act**” means the Public Service Act, 1994 (Proclamation No. 103 of 1994);

“**QCTO**” means the Quality Council for Trades and Occupations established by section 4 of the General and Further Education and Training Quality Assurance Act, 2009 (Act No. 58 of 2001);

“**Registrar**” means the position responsible for administration of the Agricultural Training Institute;

“**SAQA**” means the South African Qualifications Authority, established in terms of the National Qualifications Framework Act, 2008, (Act No 67 of 2008);

“**School**” means a school as defined in the South African Schools Act, 1996 (Act No 84 of 1996);

“South African Schools Act” means the South African Schools Act, 1996 (Act No. 84 of 1996);

“Staff” means persons employed at an Agricultural Training Institute

“Student” means any person registered as a student at an Agricultural Training Institute;

“Support staff” includes staff who render-

- (a) academic support services;
- (b) student support services;
- (c) human resource management;
- (d) financial management;
- (e) administration;
- (f) maintenance of the buildings and gardens;
- (g) catering services;
- (h) security services; and
- (i) farm services.

“This Act” includes any regulation made in terms of section 44;

“To provide Agricultural education and training” means-

- (a) to register students for all learning and training programmes leading to qualifications at NQF levels 1 to 7 of the National Qualifications Framework or such Agricultural education and training levels determined by SAQA and contemplated in the National Qualifications Framework Act, 2008, (Act No 67 of 2008), which levels are above general education; and
- (b) to take responsibility for the registration of students, the provision and delivery of the curriculum and the assessment of students;

“Umalusi” means the Council established by section 4 of the General and Further Education and Training Quality Assurance Act, 2001 (Act No. 58 of 2001);

“Vice-principal” means the assistant chief executive officer.

Purpose and application of the Act

2(1) The purpose of this Act is to-

- (a) enable students to acquire-
 - (i) the necessary Agricultural knowledge;
 - (ii) practical agricultural skills; and
 - (iii) applied vocational, occupational and trade competence; and
 - (b) provide students with the necessary attributes required for-
 - (i) agricultural employment;
 - (ii) entry to agricultural vocation, occupation or trade; or
 - (iii) entry into other higher education institutions;
 - (iv) mobility, transferability and articulation within the AET fields and the National Qualifications Framework
- (2) This Act applies to each Agricultural Training Institute which has been established or declared as an Agricultural Training Institute in terms of this Act.

CHAPTER 2 AGRICULTURAL TRAINING INSTITUTES

Establishment of an Agricultural Training Institute

- 3(1) The Minister may, by notice in the *Gazette*, and from money appropriated for this purpose by parliament, establish an Agricultural Training Institute.
- (2) Every Agricultural Training Institute is a juristic person.
- (3) Despite subsection (2) but subject to subsection (4), an Agricultural Training Institute may not, without the concurrence of the Minister, dispose of or alienate in any manner any movable or immovable property acquired with the financial assistance of the State or grant to any person any real right therein or servitude thereon.
- (4) The Minister:
 - (a) may determine that certain categories of movable assets below a certain value may be alienated without his or her concurrence; and
 - (b) must publish the value Contemplated in paragraph (a) by notice in the *Gazette*.
- (5) The Department may inspect, and must have an inventory compiled of all the Assets of an Agricultural Training Institute.

Declaration of an institution as an Agricultural Training Institute

- 4(1) The Minister may, by notice in the *Gazette*, declare any institution providing Agricultural education and training, other than Universities established by the Higher Education Act, as an Agricultural Training Institute.
- (2) The notice contemplated in subsection (1) must determine:
- (a) the date on which the institution becomes an Agricultural Training Institute;
 - (b) the name of the Agricultural Training Institute; and
 - (c) the physical location and the official address of the Agricultural Training Institute.
- (3) The Minister may act in terms of subsection (1) only:
- (a) after consulting the National Council on Agricultural Training Institutes and the Council of the institution, if it is an Agricultural Training Institute;
 - (b) with the concurrence of the authority of the institution, if the institution is administered, controlled or funded by an organ of State other than the Department; or
 - (c) with the concurrence of the owner of the relevant Agricultural Training Institute; and after having:
 - (i) published a notice in one or more newspapers circulating in the area in which the institution provides Agricultural education and training, containing the reasons for the declaration referred to in subsection (1);
 - (ii) given any interested person an opportunity to make representations; and
 - (iii) considered such representations.

Consequences of declaration as an Agricultural Training Institute

- 5(1) From the date determined in terms of section 4(2) (a):
- (a) the institution in question is regarded as being an Agricultural Training Institute established under this Act;
 - (b) the assets, liabilities, rights and obligations of the institution vest in the Agricultural Training Institute; and
 - (c) any agreement lawfully entered into by or on behalf of the institution must be regarded as having been concluded by the Agricultural Training Institute.
- (2) (a) Immovable property vesting in the Agricultural Training Institute in terms of subsection (1)(b) must, subject to the concurrence of the Minister of Finance, be transferred into its name without payment by it of any transfer duty, stamp duty or other duty or costs

due to the State, but subject to any existing right, encumbrance or trust on or over that property.

- (b) Any fees charged by the Registrar of Deeds resulting from a transfer contemplated in paragraph (a) must be paid in full or in part from funds appropriated by the Department for that purpose.
- (3) The officer in charge of a deeds office or other office where the immovable property contemplated in subsection (2) is registered must, on submission of the title deed and on application by the Agricultural Training Institute, make such endorsements on that title deed and such entries in the registers as may be required to register the transfer in question.
- (4) The declaration of an institution as an Agricultural Training Institute in terms of section 4(1) does not affect anything lawfully done by the institution before the declaration.
- (5) All funds which, immediately before the date determined in terms of section 4(2)(a), were vested in the institution by virtue of a trust, donation or bequest must be applied by the Agricultural Training Institute in accordance with the trust, donation or bequest, as the case may be.
- (6) The Minister will in the notice contemplated in section 4, establish an interim Council for the Agricultural Training Institute for a period not exceeding six months to perform the functions relating to the governance of the Agricultural Training Institute until a Council is established in terms of section 9(1).
- (7) The Minister may extend the period referred to in subsection (6) once for a further period not exceeding six months.
- (8) The composition of the interim Council must be in accordance with section (4) and (5).
- (9) The interim Council must co-opt three members of the interim management contemplated in subsection (10)(a) and these co-opted members have no voting powers.
- (10) Apart from the functions contemplated in subsection (6), the Minister must
In particular-
- (a) appoint an interim body to manage the day-to-day activities of the Agricultural Training Institute; and
- (b) ensure that such other structures as may be determined in terms of this Act are constituted.

- (11) Any decision of the interim Council which may affect the right of any structure of the Agricultural Training Institute may only be taken after consultation with such structure.
- (12) Despite sections 197 and 197A of the Labour Relations Act, contracts of employment between the institution and its employees are transferred automatically on declaration of an institution as an Agricultural Training Institute as from the date of the declaration contemplated in section 4, but any redeployment of an employee as a consequence of the declaration is subject to applicable labour legislation.

Merger of Agricultural Training Institutes

- 6(1) Subject to subsection (2), the Minister may, in consultation with the National Council and by notice in the **Gazette**, merge two or more Agricultural Training Institutes into a single Agricultural Training Institute.
- (2) Before merging two or more Agricultural Training Institutes the Minister must:
 - (a) give written notice to the Agricultural Training Institutes in question of the intention to merge them;
 - (b) publish a notice giving the reasons for the proposed merger in one or two newspapers circulating in the area in which the Agricultural Training Institutes in question are situated;
 - (c) give the Councils of the Agricultural Training Institutes in question and any other interested persons an opportunity to make representations within at least 90 days from the date of the notice referred to in paragraph (b); and
 - (d) consider such representations.
- (3) The single Agricultural Training Institute contemplated in subsection (1) is regarded as an Agricultural Training Institute established under this Act.
- (4) Section 5 (1) (b), (2), (3), (4) and (5) apply with the necessary changes required by the context to a merger contemplated in subsection (1).
- (5) The Minister must, after consultation with the Councils of the Agricultural Training Institutes that are to be merged, determine by notice contemplated in subsection (1)-
 - (a) the date of establishment of the Agricultural Training Institute;
 - (b) the name of the Agricultural Training Institute; and
 - (c) the physical location and official address of the Agricultural Training Institute.

- (6) The Councils of the Agricultural Training Institutes that are merged must have a meeting before the merger to constitute a single interim Council comprising of all members of the Councils concerned for a period not exceeding six months.
- (7) The Minister may extend the period referred to in subsection (6) once for a further period not exceeding six months.
- (8) Despite sections 197 and 197A of the Labour Relations Act, the contracts of employment between the institution and its employees are transferred automatically to the merged single Agricultural Training Institute as from the date of the merger contemplated in subsection (1), but any redeployment of an employee as a consequence of the merger is subject to applicable labour legislation.
- (9) If two or more Agricultural Training Institutes are merged into a single Agricultural Institute as contemplated in subsection (1), all the rights and obligations between the former employers and each employee at the time of the merger continue in force as if they were rights and obligations between the new employer and each employee and anything done before the merger by or in relation to the former employers is considered to have been done by or in relation to the new employer.
- (10) A merger referred to in subsection (1) does not-
 - (a) interrupt the employee's continuity of employment; and
 - (b) affect the liability of any person to be disciplined for, prosecuted for, convicted of or sentenced for any misconduct, crime or offence.
- (11) An employee or a student is subject to the code of conduct and rules applicable to the new single Agricultural Training Institute as from the date of the merger contemplated in subsection (1), but if any enquiry into incapacity or any proceedings in respect of a charge of misconduct had been instituted or commenced against any employee or student before the date of the merger, such enquiry or proceedings must continue in terms of the codes and rules applicable to the relevant Agricultural Training Institutes immediately before the merger.
- (12) Until the new single Agricultural Training Institute has made a code of conduct or rules, the disciplinary codes and rules of the respective old Agricultural Training Institutes are applicable to the respective employees and students.

- (13) If two or more Agricultural Training Institutes are merged into a single Agricultural Training Institute in terms of subsection (1), the new single Agricultural Training Institute continues with all academic programmes offered by the former Agricultural Training Institutes under the rules applicable to the respective Agricultural Training Institutes immediately before the date of the merger, until such programmes and rules are amended or restructured by the new Council.

Single Council for two or more Agricultural Training Institutes

- 7(1) The Minister may determine that the governance of two or more Agricultural Training Institutes must vest in a single Council if-
- (a) it is in the best interests of education and the Agricultural Training Institutes;
 - (b) it is in the public interest; or
 - (c) he or she was so requested by the Councils of those Agricultural Training Institutes.
- (2) The Minister may not act in terms of subsection (1) above, unless he/she has:
- (a) given written notice to the Agricultural Training Institutes in question of the intention to merge their Councils;
 - (b) given notice in the *Gazette* of his or her intention so to act;
 - (c) given the Councils of the Agricultural Training Institutes in question and interested parties an opportunity to make written submissions to him or her within a period of not less than 90 days; and unless he or she has;
 - (d) considered all such submissions.
- (3) The Minister must, by notice in the *Gazette*, determine the composition of the single Council in a manner that ensures that-
- (a) each Agricultural Training Institute is equitably represented; and
 - (b) it complies with section 11(23) and (18).
- (4) Any Council that is the subject of a notice in terms of subsection (2) continues to exist until the first meeting of the single Council constituted in terms of this section.

Closure of an Agricultural Training Institute

- 8(1) The Minister may, by notice in the *Gazette*, close an Agricultural Training Institute
- (2) The Minister may act in terms of subsection (1) after he or she has:-

- (a) consulted with the National Council;
 - (b) given written notice to the Agricultural Training Institute in question of the intention to close it;
 - (c) given notice in the *Gazette* of his or her intention so to act;
 - (d) given the Council of the Agricultural Training Institute in question and interested parties an opportunity to make written representations within a period of not less than 90 days; and
 - (e) considered those representations.
- (3) If an Agricultural Training Institute is closed under subsection (1)-
- (a) all assets and liabilities of such Agricultural Training Institute must, after such closure, be dealt with according to law by the Minister; and
 - (b) any assets remaining after payment of all liabilities vest in the Minister.
- (4) Subsections (2) to (5) of section 5 and section 6(2) apply with the necessary changes required by the context to a closure referred to in subsection (1).

CHAPTER 3

GOVERNANCE OF AGRICULTURAL TRAINING INSTITUTES

Agricultural Training Institute Governance structures

- 9(1) Governance of the ATIs is a central issue in the transformation of former Colleges of Agriculture. Geo-political limitations contributed significantly to the historical disparities still existing among the colleges.
- (2) Therefore the ATIs will henceforth operate with a national mandate.
 - (3) However they need to reflect regional diversity by responding to unique agricultural production imperatives by offering specialisations.
 - (4) The ATIs will serve the whole country and be guided by a shared vision, mission and mandate and common governance while retaining individual autonomy and day-to-day management and retaining their unique character.
 - (5) Governance is thus framed on three levels:
 - (a) National-level Governance;
 - (b) National level consultation (National Council); and

(c) ATI-level governance

- (6) The primary concept for national governance is to put the ATIs under common stewardship so that the policies, practices and programmes of each of the ATIs are harmonised. This is a fundamental principle of the AET strategy.
- (7) Every Agricultural Training Institute must establish an ATI Council, an academic board and a student representative Council
- (8) Every Agricultural Training Institute may establish such other structures as may be determined in the Agricultural Training Institute statute.
- (9) The structures referred to in subsection (8) must elect a chairperson, vice chairperson and other office-bearers from among its members in accordance with the Agricultural Training Institute statute.
- (10) A member of a structure contemplated in this section may hold office for a period of five years, provided that such a member remains eligible to be a member of that structure and may not serve for more than two consecutive terms of office.
- (11) The procedures for the disqualification, removal and filling of vacancies must be determined in the Agricultural Training Institute statute.
- (12) The Council may not establish or create any juristic person in terms of any other legislation or common law.

National Council

- 10(1) Agricultural Training Institutes will be governed in terms of the rules and prescriptions of a National Council known as the National Council of Agricultural Training Institutes of South Africa.
- (2) The National Council is attached to the National Department of Agriculture, Forestry and Fisheries.
- (3) It is a fully state-funded institution operating and funded at the level of a Programme in the budget of the National Department of Agriculture, Forestry and Fisheries.
- (4) The primary purpose of the National Council is to provide oversight over all registered Agricultural Training Institutes.
- (5) Its primary function is to ensure equity and quality across all registered Agricultural Training Institutes.

- (6) The National Council of Agricultural Training Institutes will be responsible for establishing the franchise / partnerships with universities in the accreditation of qualifications, provided that the National Council is provided with the relevant information from the institutions.
- (7) The primary instrument for achieving this will be the Norms and Standards for Agricultural Training Institutes and a committee for quality assurance of the National Council.
- (7)(a) Quality promotion and quality assurance functions of the National ATI Council
 - (1) The National ATI Council must establish a sub-committee as a permanent -committee to perform the quality promotion and quality assurance functions of the National ATI Council in terms of this Act.
 - (1a) The NATI Quality Committee is deemed to be accredited by SAQA as an Education and Training Quality Assurance body primarily responsible for ATIs and their programmes.
 - (2) The National ATI Council and the NATI Quality Committee must comply with the policies and criteria formulated by SAQA in terms of section 5 (1) of the National Qualifications Framework Act, 2008 (Act No 67 of 2008).
 - (3) The NATI Quality Committee may, with the concurrence of the National ATI Council, delegate any quality promotion and quality assurance functions to other appropriate bodies capable of performing such functions.
 - (4) The delegation under subsection (3)-
 - (a) must be in writing and published by notice in the Gazette;
 - (b) is subject to such conditions as the NATI Quality Committee may determine; and
 - (c) does not prevent the performance of such functions by the NATI Quality Committee.
 - (5) The National ATI Council may charge fees for any service rendered by the NATI Quality Committee to any person, institution or organ of state.
 - (6) The Minister must make regulations to give effect to quality promotion and quality assurance in terms of this Act.
 - (7) The terms of reference for the National Council include *inter alia*:
 - (a) Recommend Registration/De-registration of ATIs;
 - (b) Facilitate the establishment and adoption of a statute to be adopted by all ATIs;

- (c) Ensure that ATIs are adequately and equitably resourced (staffing, facilities, budgets, etc.);
 - (d) Establish guidelines within which ATIs will develop strategic plans for their AET offerings;
 - (e) Review budgets of ATIs to ensure that they are equitable and in line with the Norms and Standards;
 - (f) Establish and ensure the implementation of academic policy including academic offerings, learner admissions, recognition of prior learning, quality assurance;
 - (g) Establish and ensure the implementation of the operational policy governing the ATIs;
 - (h) Harmonise practices at the ATIs regarding the academic offerings, budgets, salaries, job and task descriptions, quality assurance, and related academic and operational issues;
 - (i) Establish national and international co-operation/linkages; and
 - (j) When conditions demand, withdraw or suspend the powers of an ATI Council and close an ATI.
- (8) To fulfill its terms of reference, the National Council will have the power to establish sub-committees as required to carry out its work and to raise funds from external sources.
- (9) The National Council will not have authority over the day-to-day running of individual ATIs.
- (10) The means by which the National Council carries out its work– particularly with the individual ATI – will be consultative rather than dictatorial.
- (11) In practice, the National Council will be a lean organisation with minimal staff.
- (12) All academic policy must comply with the relevant legal and policy frameworks such as SAQA, CHE, UMALUSI, AgriSETA, FOODBEV, QCTO and FIETA.
- (13) All operational policies must comply with the standards set by the PFMA and other relevant policies.
- (14) Ultimately the National Council is accountable to the Minister.
- (15) The National Council will have 15 voting members and will comply with prevailing policy governing issues of gender and demographic representation.

- (16) The National Minister of Agriculture, Forestry and Fisheries appoints these members after broad consultations with and input from relevant role-players and stakeholders in AET and the agricultural sector.
- (17) The following agencies will nominate potential Council members for consideration for appointment by the Minister:
- (a) National Department of Agriculture, Forestry and Fisheries (1 member)
 - (b) National Department of Higher Education and vocational training (1 member)
 - (c) NAET Exco (1 member)
 - (d) UMALUSI (1 member)
 - (e) AgriSETA (1 member)
 - (f) Organized Agriculture (1 member)
 - (g) SAQA (1 member)
 - (h) Council on Higher Education (1 member)
 - (i) YARD (1 member)
 - (j) WARD (1 member)
 - (k) APATI (2 members) (formerly APAC)
 - (l) Deans of Agriculture Faculties rep (1 member)
 - (m) DAFF will also deliver the secretariat service to the Council.
- (18) The process of nominating, selecting and appointing members of the National Council must be consultative and transparent.
- (19) Appointments will be subject to clearly identified criteria and terms of office which will be defined in future policy.
- (20) The members of the National Council must be persons with knowledge and experience relevant to the objectives and governance of AET at HET and/or FET level.
- (21) They must be willing to participate in the deliberations of the Council in the best interest of the National Council and ATIs.
- (22) The nomination and appointment of the members of the National Council must be undertaken in such a manner as to ensure, so far as it is practicably possible, that:
- (a) The functions of the National Council are performed according to the highest professional standards;

- (b) The National Council is broadly representative of the AET system and the agricultural sector;
- (c) The National Council is broadly representative of the community served by the AET sector in general and the ATIs in particular;
- (d) The members have a thorough knowledge and understanding of the AET sector; and
- (e) The members understand and appreciate the role of ATIs in transformation of the agricultural sector.

Agricultural Training Institute Council

11(1) The ATI Council is accountable to the Minister.

- (2) They have mandates providing for provincial agricultural geography, but operated with the national norms, serving the whole of South Africa.
- (3) Within this national context, the primary concept for institute-level governance of the ATI is that they each should be governed individually by a governing body: an ATI Council appointed in terms of this Act.
- (4) This will afford them the autonomy they need to deliver AET efficiently and effectively.
- (5) Similar to the National Council, each ATI and its Council will be a fully state funded institution, with due regard to other ATI income.
- (6) It operates at the level of a Programme in the budget of the National Department of Agriculture, Forestry and Fisheries.
- (7) Each ATI (being a transformed College of Agriculture) will have a substantial staff complement and facilities.
- (8) The primary role of the ATI Council is to provide support to the Principal and staff of the ATI and to ensure that the ATI is properly run.
- (9) The ATI Council will be subordinated to the policies of the National Council.
- (10) The ATI Councils will not be managed by the National Council.
- (11) This will ensure equity across all ATIs while providing the ATIs with sufficient autonomy.
- (12) The ATI Council must adhere to the ATI Act which will be endorsed by the National Council, which has the authority to recommend the withdrawal of the powers of the ATI Council to the Minister.

- (13) While the relationship is hierarchical, the primary mode of operation is not dictatorial authority, but structured consultation.
- (14) The ATI Council will have 8 voting members and will comply with prevailing policy governing issues of gender and demographic representation.
- (15) Members are appointed by the Minister of Agriculture, Forestry and Fisheries.
- (16) Appointments are made after broad consultations with and input from relevant role-players and stakeholders in AET and the agricultural sector.
- (17) The process of nominating, selecting and appointing members of the ATI Council must be consultative and transparent.
- (18) Appointments will be subject to clearly identified criteria and terms of office which will be defined in future policy.
- (19) The members of the ATI Council must be persons with knowledge and experience relevant to the objects and governance of AET at HET and/or FET level.
- (20) They must be willing to participate in the deliberations of the Council in the best interest of the ATI.
- (21) The ultimate membership of each ATI Council should reflect the unique mission of each ATI.
- (22) The ATI Council shall consist of a maximum of 8 race and gender balanced members with knowledge of, keen and vested interest in the AET, with the Principal serving as an ex officio member and the principal's secretary or Registrar if existing, will execute the secretarial duties of the ATI Council.
- (23) The members could be attracted from, but not limited to the following:
 - (a) The Principal (ex officio)
 - (b) Education
 - (c) Commodity organizations
 - (d) PDAs
 - (e) Business/Agribusiness
 - (f) Organized Labour
 - (g) Student Representative
- (24) The nomination and appointment of the members of the ATI Council must be undertaken in such a manner as to ensure, so far as it is practicably possible, that:

- (a) The functions of the ATI Council are performed according to the highest professional standards and policies prescribed by the National Council;
 - (b) The ATI Council is broadly representative of the AET system and related interests;
 - (c) The ATI Council is broadly representative of the community served by the AET sector in general and the ATI in particular;
 - (d) The members have a thorough knowledge and understanding of the agricultural and AET sectors; and
 - (e) The members understand and appreciate the role of the ATI in transformation of the agricultural sector.
- (25) The Council of an Agricultural Training Institute must perform all the functions, including the development of an Agricultural Training Institute statute derived from the Standard Institutional Statute, which is necessary to govern the Agricultural Training Institute, subject to this Act, governance and finance framework for ATIs and any applicable national or provincial law.
- (26) The Council must, with the concurrence of the academic board-
- (a) develop a strategic plan for the Agricultural Training Institute, contemplated with section 30, which must-
 - (i) incorporate the mission, vision, goals and planning for funding of the Agricultural Training Institute;
 - (ii) address past imbalances and gender and disability matters;
 - (iii) include safety measures for a safe learning environment for students, lecturers and support staff; and
 - (iv) be approved by the Minister;
 - (b) determine the language policy of the Agricultural Training Institute, subject to the approval of the Minister; and
 - (c) ensure that the Agricultural Training Institute complies with accreditation requirements necessary to provide learning programmes in terms of standards and qualifications as registered on the National Qualifications Framework and the HEQF.
- (27) The ATI Council must
- (a) Promote the best interests of the ATI;
 - (b) Ensure the provision of quality AET at the ATI;

- (c) Adopt the ATI constitution, develop a mission statement and establish a code of conduct for students and staff;
 - (d) Ensure the sound management of the ATI and support the principal and staff of the ATI in carrying out their work;
 - (e) Ensure that policies and processes are in place at ATIs for the administration of all the ATI's infrastructure, facilities, grounds and properties;
 - (f) Recommend to the Minister, a suitable candidate for appointment as a Principal of an ATI;
 - (g) Enforce the policies of the National Council;
 - (h) Review and approve budgets of the ATI and oversee all financial prescriptions of the Department and the Treasury;
 - (i) Review and approve the ATI's academic programmes and related matters;
 - (j) Adjudicate on academic issues that cannot be resolved by ATI management; and
 - (k) Raise and retain funds through registration fees, farming operations carried out within its own institute, contract work, and fundraising, etc.
- (28) The Council, after consultation with the student representative Council, must provide for a suitable structure to advise on policy for student support services within the Agricultural Training Institute.
- (29) The chairperson, vice-chairperson or other office-bearers of the Council may not be students or members of the staff of the Agricultural Training Institute, but the secretary may be a member of Staff.
- (30) The Council must, in consultation with the Minister, appoint four additional external persons with financial, human resources and legal skills as members of the Council.
- (31) The manner in which the members of the Council contemplated in subsection (23)(c) to (g) are to be elected, must, where applicable, be determined by the Minister by notice in the **Gazette** or in terms of a provincial law and must, in so far as it is practically possible, ensure that-
- (a) the functions of the Council or interim Council are performed according to the highest professional standards;
 - (b) the Council or interim Council is broadly representative of the Agricultural education and training system and related interests;

- (c) the members have a thorough knowledge and understanding of the Agricultural education and training sector;
 - (d) the members appreciate the role of Agricultural education and training in reconstruction and development; and
 - (e) the Council is broadly representative of the community served by the public in respect of race, gender and disability.
- (32) At least 60 per cent of the members of a Council must be external persons who are not-
- (a) students or support staff of the Agricultural Training Institute;
 - (b) employed by the Minister;
 - (c) employed by the Agricultural Training Institute.
- (33) The members of a Council or an interim Council-
- (a) must be persons with knowledge and experience relevant to the objects and governance of the Agricultural Training Institute in question; and
 - (b) must participate in the deliberations of the Council or interim Council in the best interest of the Agricultural Training Institute in question.
- (34) The Minister must-
- (a) by notice in the **Gazette**, or by any other reasonably practicable means, invite nominations for the appointment of the members contemplated in subsection (4)(b); and
 - (b) consider the nominations and appoint the members with due regard to the criteria contemplated in this section.

Day – to –day Management

- 12 The day-to-day management of the ATI is vested in the Principal of the ATI
- (a) The Principal is effectively the Chief Executive Officer of the ATI.
 - (b) The principal operates within the framework of the terms of reference of the ATI Council, and is charged with the overall responsibility for delivering on the mandate of the ATI and ensuring compliance with the relevant Norms and Standards and policies governing ATIs.
 - (c) The primary functions of the principal of an ATI include the following:
 - (i) Manage the affairs of the ATI;

- (ii) Recommend the appointment of ATI staff to the ATI Council within policy and guidelines
 - (iii) Develop and submit the annual ATI budget for approval by the ATI Council and further submission to the National Council and National Department of Agriculture; Forestry and Fisheries
 - (iv) Be the Chief User in terms of the budget;
 - (v) Be ultimately accountable for all aspects of the AET programmes offered by the ATI;
 - (vi) Approve specific expenditure within an approved budget;
 - (vii) Manage (through delegated authority) all the staff of the ATI; and
 - (viii) Manage (through delegated authority) the facilities and infrastructure controlled by the ATI.
- (d) In addition to a Principal, each ATI has an entrenched Management Committee which consists of the Principal, the Deputy Principal(s) (if appointed), Registrar (if appointed), Heads of Academic Units, Heads of Administrative Units and a student representative.
- (e) The primary role of the Management Committee is to ensure the smooth day-to-day management of the ATI and to ensure consistent application of policy.
- (f) It is also responsible for resolving ATI-level issues.
- (g) The Principal is accountable to the ATI Council. The staff of the ATI is accountable to the Principal.

Employees within the ATI system

- 13 All staff within the ATI system will remain public servants until such time that an appropriate legislation is promulgated.
- a. The conditions of service are to be investigated and finalised through a negotiated process.
 - b. It is anticipated that eventually all staff of the ATIs will be employed under a mechanism similar to the Employment of Educators Act of 1994.
 - c. The notable exception is that all staff within the ATI will be employed under the same legislative framework.
 - d. Staff are key to the successful delivery of AET.

- e. It is essential that the academic staff is suitably and adequately qualified in terms of education policy, in particular for the qualifications offered by the ATI in accordance with the Norms and Standards for ATIs document.
- f. In addition to the post of the Principal, the ATI's organisational structure should make provision for the following at a managerial level:
 - (i) Further Education and Training
 - (ii) Higher Education and Training
 - (iii) Farm Services
 - (iv) Supply Chain and Financial Management
 - (v) Human Resources & Administration
 - (vi) Quality Assurance
- g. The appointment of employees within the Agricultural Training Institute will be adherent to, but not limited to the following Acts:
 - (i) Further Education and Training College Act 2006
 - (ii) Educations Law Act
 - (iii) Public Service Act
 - (iv) Labour Relations Act
 - (v) Higher Education Act

Academic Board of the Agricultural Training Institute

14(1) The academic board, established in terms of this section, of an Agricultural Training Institute is accountable to the ATI Council for-

- (a) the academic functions of the Agricultural Training Institute and the promotion of the participation of women and the disabled in the learning programmes;
- (b) establishing internal academic monitoring and quality promotion mechanisms;
- (c) ensuring that the requirements of accreditation to provide learning against standards and qualifications registered on the National Qualifications Framework and HEQF are met; and
- (d) performing such other functions as may be delegated or assigned to it by the Council.

- (2) Subject to the approval of the Council and to any applicable policy, the academic board must recommend the learning programmes that will be offered at the Agricultural Training Institute.
- (3) The academic board of an Agricultural Training Institute consists of-
 - (a) the principal;
 - (b) the vice-principal or vice-principals;
 - (c) lecturers;
 - (d) two members of the Council;
 - (e) two members of the student representative Council; and
 - (f) such additional persons as may be determined by the Council.
- (4) The number of persons contemplated in subsection (3) above, and the manner in which they are appointed or elected, as the case may be, must be determined by the Council in accordance with the Agricultural Training Institute statute.
- (5) The majority of the members of the academic board must be lecturers.

Committees of Council and Academic Board

15(1) The Council may-

- (a) establish an executive committee to assist it in the performance of its functions; and
 - (b) appoint a person who is not a member of the Council as member of the executive committee.
- (2) The chairperson of a Committee must be a member of the Council.
 - (3) The Council is not divested of the responsibility for the performance of any of the functions delegated to a committee.
 - (4) The Council must determine
 - (a) composition of a committee;
 - (b) functions of a committee;
 - (c) procedure at meetings; and
 - (d) dissolution of a committee.
 - (5) Subsections (1) to (4) apply with the necessary changes to the Academic Board.
 - (6) The Council and the Academic Board may jointly establish a committee to assist them in the performance of functions that are common to the Council and the Academic Board.

- (7) Subsections (1) to (4) apply with the necessary changes to a joint committee established in terms of subsection (6).

Principal of an Agricultural Training Institute

- 16 The Principal of an Agricultural Training Institute is responsible for the management and administration of the Agricultural Training Institute.

Student Representative Council

- 17 The establishment, composition, manner of election, term of office, functions and privileges of the Student Representative Council of an Agricultural Training Institute must be determined by the ATI Council after consultation with the students of the Agricultural Training Institute, subject to policy determined by the Minister.

Disciplinary measures

- 18(1) Every student at an Agricultural Training Institute is subject to a code of conduct, disciplinary measures and procedures which are determined by the Council.
- (2) The code of conduct, disciplinary measures and procedures may only be determined after consultation with the Academic Board and the Student Representative Council of the Agricultural Training Institute in question.
- (3) The policy contemplated in subsection (1) must include measures to curb racism and any form of unfair discrimination, violence and harassment, especially sexual violence and sexual harassment.

Prohibition of corporal punishment and initiation practices

- 19(1) No person may administer corporal punishment to a student at an Agricultural Training Institute.
- (2) Any person who contravenes subsection (1) is guilty of an offence and liable on conviction to a sentence which may be imposed for assault.
- (3) No person may conduct or participate in initiation practices at an Agricultural Training Institute.

- (4) Any person who contravenes subsection (3) is guilty of misconduct and disciplinary action must be instituted against such a person.
- (5) Despite subsection (4), a person may institute civil action against any person or group of persons who manipulated or forced the first-mentioned person to conduct or participate in initiation practices.
- (6) For the purposes of this section, "initiation practice" means any act that in the process of initiation, admission into or affiliation with, or as condition for continued membership of, an Agricultural Training Institute, a group, intramural or extramural activities, a sports team or an organisation
 - (a) endangers the mental or physical health or safety of a person;
 - (b) undermines the intrinsic worth of human beings by treating some as inferior to others;
 - (c) subjects individuals to humiliating or violent acts that undermine the constitutional guarantee to dignity in the Bill of Rights;
 - (d) undermines the fundamental rights and values that underpin the Constitution;
 - (e) impedes the development of a culture that entitles an individual to be treated as worthy of respect and concern; or
 - (f) destroys public or private property.
- (7) In considering whether conduct or participation of a person in any initiation practice falls within the definition of "initiation practice", the relevant disciplinary authority must take into account the right of the student not to be subjected to such practice.

Admission policy of Agricultural Training Institute

- 20(1) Subject to applicable policy determined by the Minister, the Council of an Agricultural Training Institute determines the admission policy of the Agricultural Training Institute, after consulting the Academic Board and with the approval of the Minister.
- (2) The admission policy of an Agricultural Training Institute may not unfairly discriminate in any way and must provide appropriate measures for the redress of past inequalities and must be in line with the criteria of the quality assurance bodies, prescribed by SAQA and QCTO
- (3) The Council may, subject to applicable policy, the approval of the Minister and after consultation with the Academic Board-

- (a) determine admission requirements in respect of particular higher education and training programmes;
 - (b) determine the number of students who may be admitted for a particular higher education and training programme and the manner of their selection;
 - (c) determine the minimum requirements for re-admission to study at the public Agricultural Training Institute in question; and
 - (d) refuse the re-admission of a student who fails to satisfy the minimum requirements for re-admission.
- (4) The Council of an Agricultural Training Institute must take the necessary steps within its available resources to ensure that the Agricultural Training Institute is accessible to disabled students.

Standard Agricultural Training Institute statute

- 21 An Agricultural Training Institute that has not developed an Agricultural Training Institute statute in terms of section 10(1) must make use of the standard Agricultural Training Institute statute set out in the Regulations to this Bill.

CHAPTER 4

APPOINTMENT OF MANAGEMENT STAFF, LECTURERS AND SUPPORT STAFF IN AGRICULTURAL TRAINING INSTITUTES

Appointment of management staff

- 22(1) The Minister must appoint the members of the management staff of the ATI's in terms of the Public Service Act and on recommendation by the ATI Council.
- (2) The management staff must report to and are accountable to the ATI Council in respect of matters and functions allocated to them by the ATI Council in terms of the Norms and standards for Agricultural Training Institutes.
 - (3) The Principal must report to the Council and the Department in terms of his or her performance agreement.

Appointment of lecturers and support staff

- 23(1) The ATI is the employer of all lecturers and support staff, subject to the Higher Education Act (101 of 1997), the Labour Relations Act, the Basic Conditions of Employment Act, the Employment Equity Act, this Act and any other applicable law.
- (2) The ATI Council must establish posts for lecturers and support staff.
 - (3) The ATI Council must appoint and remunerate staff from the funds allocated in accordance with the norms and standards contemplated in the Norms and standards for Agricultural Training Institutes and other income received by the ATI from other sources.
 - (4) Despite anything to the contrary in any other law but subject to this section, the Labour Relations Act or any other collective agreement concluded by a bargaining Council that has jurisdiction in respect of employees of a public college, the ATI Council must determine the functions, conditions of service and privileges of lecturers and support staff, contemplated in the Norms and standards for ATI's
 - (5) The lecturers and support staff are accountable to the Principal.
 - (6) When presenting the annual budget contemplated, the ATI Council must provide sufficient details of any posts envisaged in the established posts, including the estimated cost relating to the employment of lecturers and support staff in such posts and the manner in which it is proposed that such costs will be met.
 - (7) The lecturers and support staff must be employed in compliance with the basic values and principles referred to in section 195 of the Constitution of the Republic of South Africa, 1996, and factors to be taken into account when making appointments include, but are not limited to:
 - (a) The ability of the candidates;
 - (b) The principle of equity;
 - (c) The need to redress past injustices; and
 - (d) The need for representivity.
 - (8) The ATI Council must adopt a Disciplinary Code for lecturers, support staff and students in accordance with the ATI statute.

Dispute resolution between Agricultural Training Institute, lecturers and support staff

- 24(1) If a dispute arises about the payment or employment conditions of a lecturer or a member of the support staff, any party to the dispute may refer the dispute in writing to:

- (a) A bargaining Council established in terms of the Labour Relations Act, if the employer or employee parties to the dispute fall within the registered scope of a bargaining Council; or
 - (b) The Commission for Conciliation, Mediation and Arbitration established by section of the Labour Relations Act, if no bargaining Council has jurisdiction.
- (2) The party referring the dispute must satisfy the bargaining Council or the Commission for Conciliation, Mediation and Arbitration that a copy of the referral has been served on the other party.
- (3) The bargaining Council or the Commission for Conciliation, Mediation and Arbitration must attempt to resolve the dispute through conciliation.
- (4) If the bargaining Council or the Commission for Conciliation, Mediation and Arbitration is satisfied that the dispute remains unresolved, a party may refer the dispute for adjudication to the Labour Court established in terms of section 151 of the Labour Relations Act.

CHAPTER 5

FUNDING OF AGRICULTURAL TRAINING INSTITUTES

Schedule 3 Public entity

- 25 The ATI's will operate as Schedule 3 entities (semi autonomous, and enjoy lesser degrees of autonomy) as it is described in Chapter 6, Section 48 of the PFMA Act, 1999, (Act No 1 of 1999).

Responsibility of State

- 26(1) Subject to the Constitution and this Act, the Minister must, after consultation with the National ATI Council, Ministers of Education and the Minister of Finance, determine minimum norms and standards for the funding of Agricultural Training Institutes.

Funds of Agricultural Training Institutes

- 27(1)(a) Agricultural Training Institutes must be adequately funded to fulfill their mandates,

however ATIs will be expected to raise funds through contracts for training programmes that fall outside the NQF system and income from the sale of farm produce.

- (b) Funding of ATIs in the main should be provided for within the budget of the Department in terms of section 26 (1), above and should cover compensation of employees, goods and services, capital works including a maintenance budget.
 - (c) The Department is expected to source and administer grant funding in line with the Division of Revenue Act (DoRA). The grants will be for the upgrading of ATIs.
 - (d) The Minister must from money appropriated for this purpose by the legislature, fund Agricultural Training Institutes on a fair, equitable and transparent basis
- (2) The Minister may, subject to the norms and standards determined in terms of section 26 impose:
- (a) any condition in respect of an allocation of funding contemplated in subsection (1); and
 - (b) different conditions in respect of different Agricultural Training Institutes, different further and Higher education and training programmes or different allocations, if there is a reasonable basis for such differentiation.
- (3) Subject to the requirements in the minimum norms and standards determined in terms of section 26, the Minister must determine further appropriate measures for the redress of past inequalities.
- (4) The Minister must, on an annual basis, provide sufficient information to Agricultural Training Institutes regarding the funding referred to in subsection (1) to enable the Agricultural Training Institutes to prepare their budgets for the next financial year.
- (5) The funds of an Agricultural Training Institute consist of-
- (a) funds allocated by the State through the Department;
 - (b) any donations or contributions received by the Agricultural Training Institute;
 - (c) money raised by the Agricultural Training Institute;
 - (d) money raised by means of loans, subject to the approval of the Minister;
 - (e) income derived from investments;
 - (f) money received from services rendered;

- (g) money payable by students for further and higher education and training programmes provided by the Agricultural Training Institute;
 - (h) money received from students or employees of the Agricultural Training Institute for accommodation or other services provided by the Agricultural Training Institute; and
 - (i) funds from any other source.
- (6) An Agricultural Training Institute may not raise money by means of a loan or overdraft without the approval of the Minister.
- (7) If a person lends money or grants an overdraft to an Agricultural Training Institute without the approval of the Minister, the State and the Agricultural Training Institute are not bound by the contract of lending money or an overdraft agreement.

Financial records and statements of Agricultural Training Institutes

28(1) The Council of an Agricultural Training Institute must, in the manner determined by the Minister and in compliance with all the prescriptions of the Public Finance Management Act, 1999 (Act No 1 of 1999)-

- (a) keep records of all its proceedings;
 - (b) keep complete accounting records of all assets, liabilities, income and expenses and any other financial transactions of the Agricultural Training Institute as a whole, of its substructures and of other bodies operating under its auspices; and
 - (c) implement internal audit and risk management systems which are not inferior to the standards contained in the Public Finance Management Act, 1999 (Act No. 1 of 1999).
- (2) The Council of an Agricultural Training Institute must appoint an auditor to audit the records and financial statements referred to in this section.
- (3) The Council of an Agricultural Training Institute must, in respect of the preceding financial year, and by a date or dates and in the manner determined by the Minister, provide the Minister with-
- (a) a report on the overall management and governance of the Agricultural Training Institute;
 - (b) a report on the overall performance of students on the programmes offered by the Agricultural Training Institute;
 - (c) a duly audited statement of income and expenditure; and

- (d) a balance sheet and cash flow statement.
- (4) The Council of an Agricultural Training Institute must provide the Minister with such additional information as the Minister may require.

Failure of Council to comply with Act or certain conditions

- 29(1) If the management staff or Council of an Agricultural Training Institute fails to comply with any provision of this Act under which an allocation from money appropriated by the legislature is paid to the Agricultural Training Institute, or with any condition subject to which any allocation is paid to the Agricultural Training Institute, the Minister may call upon the management staff or Council to comply with the provision or condition within a specified period.
- (2) If the management staff or Council thereafter fails to comply with the provision or condition timeously, the Minister may withhold payment of any portion of any allocation appropriated by the Department in respect of the Agricultural Training Institute concerned.
 - (3) Before taking action under subsection (2), the Minister must-
 - (a) give notice to the management staff or Council of the Agricultural Training Institute concerned of the intention so to act;
 - (b) give such management staff or Council a reasonable opportunity to make representations; and
 - (c) consider such representations.
 - (4) If the Minister acts under subsection (2), a report regarding the action must be tabled in the legislature by the Minister as soon as reasonably practical after the action.

CHAPTER 6

INSTITUTIONAL MECHANISMS FOR CREATION OF EFFECTIVE AGRICULTURAL TRAINING INSTITUTES

- 30 The role of the Department of Agriculture, Forestry and Fisheries, is to:
- (a) Register ATIs.
 - (b) Establish guidelines within which ATIs will develop strategic plans for AET offerings.

- (c) Establish and ensure the implementation of academic policy including academic offerings, student admissions, recognition of prior learning and quality assurance.
- (d) Harmonise practices across all the ATIs related to the academic offerings, budgets, salaries, job and task descriptions, quality assurance, student assistance and other related academic issues.
- (e) Establish national and international cooperation and linkages.
- (f) Ensure sound management of the ATI.
- (g) Source and administer grants funding in terms of Division of Revenue Act and
- (h) Approve centres of excellence at ATIs and support the funding of these centres.

The role of Provincial Departments of Agriculture (PDAs) is to:

31(a) Nominate a representative(s) of the relevant PDA for consideration by the Minister for appointment on the ATI Councils of ATIs in the relevant province.

Role of Agriculture Training Institutes

32 ATI's should:

- (a) Constitute an academic board.
- (b) Ensure establishment of subcommittees like curriculum advisory committees for each National Qualification or learning programme offered.
- (c) Facilitate involvement of the students in the governance and operations of the ATI e.g. Student Representative Council.
- (d) Manage funds and resources, infrastructure allocated to them professionally and in accordance with PFMA.
- (e) Develop strategic, operations and risk management plans.
- (f) Develop and offer academic programmes in line with standards set by different standard setting bodies.
- (h) Keep a database of all registered learners/beneficiaries.
- (i) Register all qualified diplomates and graduates to the National Learners Register of SAQA.
- (j) Ensure traceability of all learners registered or previously registered with the ATI.

Role of Sector Education and Training Authorities or other standard setting bodies

33(1) The main SETAs that should work closely with Agricultural Training Institutes are mainly AgriSETA, Food and Beverage Sector Education and Training Authority (FoodBEV) and Forest Industries and Education and Training Authorities (FIETA).

(2) The role of SETAs and other standard setting bodies are:

- (a) To develop Sector Skills Plans and make them accessible to the ATIs.
- (b) To accredit programmes and offerings of ATIs.
- (c) To establish partnerships with ATIs in the implementation of learnerships and presenting accredited short courses.

Farmer organisations and other private organisations.

34 These structures are expected to:

- (a) Avail skilled personnel to serve in academic boards and curriculum advisory committees of ATIs.
- (b) Assist ATIs in the implementation of experiential training programmes and vocational training programmes.
- (c) Provide industrial/work experience for newly appointed academic staff through provision of mentoring services or work integrated learning programmes.
- (d) Collaborate and establish partnerships with ATIs.

CHAPTER 7 PROMOTION OF QUALITY

Promotion of quality in Agricultural Training Institutes

- 35(1) Subject to the norms and standards set by the Minister in terms of the prescripts of SAQA, the Director-General must-
- (a) promote quality in further and higher education and training at the ATIs; and
 - (b) assess and report on the quality of education and training provided at ATIs.
- (2) An Agricultural Training Institute must, on the request of the Director-General, provide him or her with any relevant information required to comply with subsection (1).
- (3) ATIs are allowed to enter into accreditation agreements with Universities for Degree accreditation purposes.
- (4) ATI Councils must establish quality assurance sub-committees to promote, monitor and report on quality to the Council.

Agriculture education and training programmes

- 36(1) The Minister may prescribe minimum norms and standards for further and higher education and training programmes that are offered at Agricultural Training Institutes.
- (2) Quality assurance must be conducted by the Council quality sub-committees and must be monitored by the quality sub-committee of the National ATI Council.
- (3) An Agricultural Training Institute may only provide higher education programmes at the level of NQF 7, under the authority of a higher education institution, such as a university.
- (4) Agricultural Training Institutes intending to offer the higher education programmes at a NQF 7 level, contemplated in subsection (3):
- (a) must apply to the Minister for permission to offer such programmes after the Commencement of this Act; and
 - (b) may offer such programmes only after the permission contemplated in paragraph (a) is published by the Minister in the *Gazette*.

CHAPTER 8 GENERAL

Strategic plan and annual report

- 37(1) An Agricultural Training Institute must prepare a strategic plan contemplated in the norms and standards for each financial year, which must be approved by the Council and submitted to the Minister at least 30 days before the commencement of the financial year.
- (2) An Agricultural Training Institute must prepare and submit to the Minister an annual report in respect of-
- (a) its performance; and
 - (b) its use of available resources.
- (3) The ATI Councils must publish the reports in a manner determined by the Minister.

Duty of Agricultural Training Institutes to provide information

- 38(1) An Agricultural Training Institute must make information available for inspection by any person in so far as such information is required for the exercise and protection of the rights of such person.
- (2) Every Agricultural Training Institute must provide such information about the Agricultural Training Institute as is required by the Director-General.
- (3) The Director-General and any Agricultural Training Institute must provide such information about the Agricultural Training Institute or the quality of higher and further education and training as is required by the National ATI Council.

Investigation at Agricultural Training Institute and appointment of administrator

- 39(1) The Minister may appoint a person to conduct an investigation at an Agricultural Training Institute if the Council of the Agricultural Training Institute requests the appointment of such a person or if-
- (a) circumstances arise at the Agricultural Training Institute that-
 - (i) involve financial or other maladministration of a serious nature; or
 - (ii) seriously undermine the effective functioning of the Agricultural Training Institute;
- and

- (b) the Council of the Agricultural Training Institute has failed to resolve such circumstances; and
 - (c) the appointment is in the interests of further and higher education and training in an open and democratic society.
- (2) The person appointed in terms of subsection (1) must, in terms of the terms of reference specified by the Minister-
- (a) within 30 days of his or her appointment, conduct an investigation at the Agricultural Training Institute in question; and
 - (b) within 60 days after his or her appointment-
 - (i) report in writing to the Minister the findings of his or her investigation; and
 - (ii) suggest appropriate measures to resolve the matter.
- (3) The Minister must as soon as practicable furnish a copy of the report referred to in subsection (2) to the Council concerned.
- (4) If an audit of the financial records of an Agricultural Training Institute, or an investigation by the person as contemplated in subsection (1), reveals financial or other maladministration of a serious nature at an Agricultural Training Institute or the serious undermining of the effective functioning of an Agricultural Training Institute, the Minister after consultation with the Council of the Agricultural Training Institute concerned, if practicable, and despite any other provision of this Act, appoint a person as administrator to take over the authority of the Council or the management of the Agricultural Training Institute and such person may perform all the functions relating to governance or management on behalf of the Agricultural Training Institute for a period determined by the Minister, which period may not exceed two years.
- (5) The Minister may extend the period referred to in subsection (4) once for a further period not exceeding six months.
- (6) If an administrator is appointed in terms of subsection (4), the ATI Council is deemed to have resigned and the administrator must-
- (a) take over the authority of the Council;
 - (b) perform the Council's functions relating to governance; and
 - (c) ensure that a new Council is constituted.

Name change of Agricultural Training Institute

- 40(1) The Council of an Agricultural Training Institute may, after consultation with interested parties and with the approval of the Minister, changes the name of the Agricultural Training Institute.
- (2) The Minister must, by notice in the *Gazette*, publish the change of name of such Agricultural Training Institute.

Offences

- 41(1) No person shall without the authority of an Agricultural Training Institute-
- (a) offer or pretend to offer any further or higher education and training programme deemed to be ATI programmes;
 - (b) confer a further or higher education and training qualification that purports to have been granted by an Agricultural Training Institute or in collaboration with an Agricultural Training Institute; or
 - (c) purport to perform an act on behalf of an Agricultural Training Institute
 - (d) purport to have been awarded a qualification by an ATI whereas in fact no such qualification has been awarded
- (2) Such person shall be guilty of an offence and shall upon conviction be liable to any sentence which may be imposed by a court of law.
- (3) Any person who contravenes section 41 is guilty of an offence and is upon conviction liable to a sentence by a competent court of law.
- (4) Any private Agricultural Training Institute that contravenes or fails to comply with section 32 is guilty of an offence and is liable on conviction to a fine not exceeding R250 000.

Limitation of liability

- 42(1) Neither the State, the ATI nor any person appointed in terms of this Act is liable for any loss or damage suffered by any person as a result of any act performed or omitted in good faith in the course of performing any function for which that person was appointed in terms of this Act.

- (2) The State is not liable for any act or omission by an Agricultural Training Institute relating to its contractual responsibility as the employer in respect of staff employed in terms of section 22 and 23 hereof.
- (3) (a) The State is liable for any damage or loss caused as a result of any act or omission in connection with any educational activity conducted by an Agricultural Training Institute for which such Agricultural Training Institute would have been liable but for the provisions of this section.
- (b) The State Liability Act, 1957 (Act No. 20 of 1957), applies to any claim under subparagraph (a).
- (c) Any claim for damage or loss contemplated in paragraph (a) must be instituted against the Minister concerned.
- (d) Despite paragraph (a), the State is not liable for any damage or loss caused as a result of any act or omission in connection with any enterprise or business operated under the authority of an Agricultural Training Institute for the purposes of supplementing the resources of the Agricultural Training Institute, including the offering of practical educational activities relating to that enterprise or business.
- (e) Any legal proceedings against an Agricultural Training Institute for any damage or loss contemplated in paragraph (d), or in respect of any act or omission relating to its contractual responsibility as employer, may only be instituted after written notice of the intention to institute proceedings against the Agricultural Training Institute has been given to the Department for its information.

Delegation of functions

- 43(1) The Minister may, on such conditions as he or she may determine, delegate the performance of any of his or her functions under this Act, except the power to make regulations, to -
- (a) any employee of the Department; or
- (b) any organ of state.
- (2) The Minister may, on such conditions as he or she may determine, delegate the performance of any of his or her functions under this Act, to-
- (a) any employee in a provincial department responsible for agriculture; or

- (b) any organ of state.
- (3) The Director-General may, on such conditions as he or she may determine, delegate the performance of any of his or her functions under this Act to any employee in the Department.
- (4) The Council of an Agricultural Training Institute may, on such conditions as it may determine, delegate the performance of any of its functions under this Act to any other internal structure, lecturer or support staff of such Agricultural Training Institute.

Regulations

- 44 The Minister, after consultation with the National ATI Council and the Councils of ATIs may make regulations consistent with this Act on-
- (a) any matter which may or must be prescribed;
 - (b) safety measures at public and private Agricultural Training Institutes;
 - (c) a national process and procedures for the assessment of student achievement at public and private Agricultural Training Institutes
 - (d) a national process for the assessment, monitoring and evaluation of the quality of education in Agricultural Training Institutes;
 - (e) initiation practices at public and private Agricultural Training Institutes; and
 - (f) any ancillary or incidental administrative or procedural matter that it is necessary to prescribe for the proper implementation or administration of this Act.

Application of Act when in conflict with other laws

- 45 This Act prevails over any other law dealing with Agricultural Training Institutes other than the Constitution of the Republic of South Africa, 1996.

CHAPTER 9

PRIVATE AGRICULTURAL TRAINING INSTITUTES

Designation of registrar

- 46(1) The Director-General is the registrar of Private Agricultural Training Institutes.

-
- (2) The Minister may designate any other employee of the Department of Agriculture, Forestry and Fisheries to assist the registrar in the performance of his or her functions in terms of this Act.
- (3) The registrar may delegate any of his or her functions in terms of this Act to an employee contemplated in subsection (2).

Registration of Private Agricultural Training Institutes

- 47 No person other than a public higher education institution or an organ of state may provide higher education of an ATI type, unless that person is-
- (a) in the prescribed manner, registered or conditionally registered as a Private Agricultural Training Institute in terms of this Act; and
 - (b) registered or recognised as a juristic person in terms of the Companies Act, 1973 (Act 61 of 1973), before such person is registered or conditionally registered as contemplated in paragraph (a).

Application for registration

48 An application for registration as a Private Agricultural Training Institute must be made to the registrar in the manner determined by the registrar and must be accompanied by the prescribed fee.

Requirements for registration

49(1) The registrar may register an applicant as a Private Agricultural Training Institute if the registrar has reason to believe that the applicant-

- (a) is financially capable of satisfying its obligations to prospective students;
- (b) with regard to all of its higher education programmes-
 - (i) will maintain acceptable standards that are not inferior to standards at a comparable Agricultural Training Institute;
 - (ii) will comply with the requirements of the appropriate quality assurance body accredited by SAQA in terms of the National Qualifications Framework Act, 2008 (Act 67 of 2008); and
- (c) complies with any other reasonable requirement prescribed by the Minister.

(2) The registrar may require further information, particulars and documents in support of any application for registration.

Determination of application for registration

50(1) The registrar-

- (a) must consider any application for registration as a Private Agricultural Training Institute and any further information, particulars or documents provided by the applicant;
- (b) may, when considering the application, differentiate between a foreign juristic person and local juristic person with regard to matters such as its scope and range of operations, its size and its institutional configuration; and
- (c) may register the applicant as a Private Agricultural Training Institute if the requirements for registration contemplated in section 47 are fulfilled.

(2) If the registrar decides-

- (a) to grant the application, the registrar must-

- (i) enter the applicant's name in the appropriate register of Private Agricultural Training Institutes;
 - (ii) issue a certificate of registration, stating the terms of such registration;
 - (iii) provide the certificate to the applicant; and
 - (iv) as soon as practicable after the decision, publish the certificate of registration in the Gazette; or
- (b) not to grant the application, the registrar must advise the applicant in writing of the decision and provide the applicant with written reasons for his or her decision.
- (3) Notwithstanding subsection (1), the registrar may provisionally register an applicant, other than a foreign juristic person, who does not fulfill the requirements for registration contemplated in section 47 if the registrar believes that the applicant will be able to fulfill the relevant requirements within a reasonable period.
- (4) If the registrar provisionally registers an applicant under subsection (3), the registrar must-
- (a) determine the period within which the applicant must satisfy the requirements for registration;
 - (b) enter the applicant's name in the appropriate register of Private Agricultural Training Institutes;
 - (c) issue a certificate of provisional registration, stating the terms and the duration of such registration;
 - (d) provide the certificate of provisional registration to the applicant; and
 - (e) as soon as practicable after the decision, publish the certificate of provisional registration in the Gazette.
- (5) The registrar may on good cause shown extend the period referred to in subsection (4) (a).
- (6) If, on the expiry of the period referred to in subsection (4) (a) or any extension thereof, the applicant-
- (a) satisfies the requirements for registration specified by the registrar, the registrar must register the applicant in accordance with subsection (2) (a); or
 - (b) fails to satisfy the requirements for registration specified by the registrar, the applicant's provisional registration lapses.

- (7) No independent school as defined in the South African Schools Act, 1996 (Act 84 of 1996), or other private education institution may call itself an Agricultural Training Institute, unless it is registered as a private Agricultural Training Institute in terms of Chapter 9.

Certificate of registration

51(1) A Private Agricultural Training Institute must conspicuously display-

- (a) its certificate of registration or provisional registration or a certified copy thereof on its premises; and
 - (b) its registration number and an indication that it is registered or provisionally registered on all its official documents.
- (2) If the registrar has cancelled the registration or provisional registration of a Private Agricultural Training Institute under section 55, the Private Agricultural Training Institute must return the original certificate of registration or provisional registration to the registrar within 14 days.

Access to information

52(1) Any person may inspect-

- (a) the register of Private Agricultural Training Institutes; and
 - (b) the auditor's report provided in terms of section 57.
- (2) The registrar must provide a certified copy of, or extract from, any of the documents referred to in subsection (1) to any person who has paid the prescribed fee.

Records and audits

53(1) Every Private Agricultural Training Institute must, in accordance with generally accepted accounting practice, principles and procedures-

- (a) keep books and records of income, expenditure, assets and liabilities;
- (b) prepare financial statements within three months of the end of the year, including at least-
 - (i) a statement of income and expenditure for the previous year;
 - (ii) a balance sheet as at the end of the previous year; and
 - (iii) any other information the registrar may reasonably require.

- (2) Every Private Agricultural Training Institute must, within the period determined by the registrar-
- (a) ensure an annual audit of its books, records of account and financial statements by an auditor, who must conduct the audit in accordance with generally accepted auditing standards;
 - (b) provide to the registrar a certified copy of the auditor's report in respect of the financial statements referred to in subsection (1); and
 - (c) provide to the registrar any additional information, particulars or documents in the manner determined by the registrar.

Amendment of registration

- 54 A Private Agricultural Training Institute may apply to the registrar to amend its registration or provisional registration-
- (a) in the manner determined by the registrar; and
 - (b) by paying the prescribed fee.

Requirements for amendment of registration and determination of application

- 55(1) The registrar may not amend the registration of a Private Agricultural Training Institute unless the registrar is satisfied that such amendment is in the interests of agricultural education and training and complies with the provisions of this Act.
- (2) The registrar may require further information, particulars or documents in support of any application for such amendment.
- (3) If the registrar decides-
- (a) to grant the application, the registrar must-
 - (i) amend the certificate of registration or provisional registration accordingly;
 - (ii) provide a copy of the amended certificate to the applicant; and
 - (iii) as soon as reasonably practicable after the decision, publish the amended certificate in the Gazette; or
 - (b) not to grant the application, the registrar must advise the applicant in writing of the decision and provide the applicant with written reasons for the decision.

Conditions for registration

- 56(1) The registrar may impose any reasonable condition, on a Private Agricultural Training Institute in respect of-
- (a) its registration;
 - (b) its provisional registration; or
 - (c) any amendment of its registration or provisional registration.
- (2) The registrar may impose different conditions under subsection (1) in respect of different institutions, if there is a reasonable basis for such differentiation.

Amendment or cancellation of conditions

- 57 Subject to section 58, the registrar may, on reasonable grounds, amend or cancel any condition imposed under section 59 or impose new conditions under that section.

Cancellation of registration

- 58(1) Subject to section 57, the registrar may, on reasonable grounds, cancel any registration or provisional registration in terms of this Act.
- (2) If the accreditation of any programme offered by a Private Agricultural Training Institute is withdrawn, the registrar must review such institution's registration.

Steps before amendment or cancellation

- 59 The registrar may not act under section 55 or 56 unless the registrar-
- (a) has informed the Private Agricultural Training Institute of the intention so to act and the reasons therefor;
 - (b) has granted the Private Agricultural Training Institute and other interested persons an opportunity to make representations in relation to such action; and
 - (c) has considered such representations.

Appeal to Minister

- 60(1) Any interested person may appeal to the Minister against any decision of the registrar in terms of this Chapter.
- (2) An appeal referred to in subsection (1) must be lodged with the Minister within 60 days of the date of the registrar's decision.
- (3) The Minister, on good cause shown, may extend the period within which an appeal may be noted against the decision of the registrar.

CHAPTER 10
TRANSITIONAL AND OTHER ARRANGEMENTS

Existing agricultural training institutions, structures and bodies

61(1) The ATI's listed in Schedule 2 continue to exist and are deemed to be Agricultural Training Institutes for the purposes of this Act.

(2) Members of the ATI Council, academic board and student representative Council of the institutions referred to in subsection (1) continue to hold office until they are replaced in terms of this Act.

Staff

62(1) The principal, vice-principal, lecturers and support staff employed by the State continue to be so employed until appointed in terms of this Act.

(2) Section 197 of the Labour Relations Act applies to the appointment or transfer as contemplated in sub-clause (1).

(3) The Education Labour Relations Council and the PSCBC continue to be the bargaining Council to determine salaries and conditions of employment until the parties agree to establish a new structure relevant to Agricultural Training Institutes.

Application for registration by private Agricultural Training Institutes

63(1) Application for registration by private Agricultural Training Institutes made in terms of the Further Education and Training Act, 1998 (Act No. 98 of 1998), before the commencement of this Act must be deemed to be applications made in terms of this Act.

(2) Application for registration by new private Agricultural Training Institutes must be made in terms of this Act.

(3) Private ATIs must satisfy the Minister on all matters relating to their viability, programmes offered, assessment procedures and relevance to the advancement of agriculture in the RSA. (Etc.)

Disciplinary measures

- 64 The existing code of conduct, disciplinary measures and procedures of Agricultural Training Institutes referred to in section 41 must continue to operate until new measures are determined in terms of this Act.

Repeal or amendment of laws

- 65 Any regulations made or anything done under any provision of any law repealed by this Act must be regarded as having been made or done under the corresponding provision of this Act.

Short title

- 66 This Green Paper refers to the proposed National Agricultural Training Institutes Act?

SCHEDULE 1
Existing Agricultural Training Institutes

INSTITUTION	TEL. NO	FAX NO	POSTAL ADDRESS
CEDARA	033 355 9304	033 355 9303	P/ Bag X6008 HILTON, 3245
CAPE INSTITUTE FOR AGRICULTURAL TRAINING: ELSENBURG	021 808 5018/9	021 808 7703	P/Bag x54, Elsenburg. 7607
FORT COX	040 653 8033/4	040 653 8036/ 40	P.O. Box 2187 KING WILLIAMS TOWN 5600
GLEN	051 861 8328	051 861 1122	P/Bag X01, Glen, 9360
GROOTFONTEIN	049 8426725	049 842 1477	P/ Bag X529 MIDDELBURG, 5900
LOWVELD	013 753 3064	013 755 1110	P/Bag X11283 NELSPRUIT, 1200
MADZIVHANDILA	015 962 7200	015 962 7239	P/Bag x5024 THOHOYANDOU, 0950
OWEN SITOLE	035 795 1345	035 795 1379	P/Bag x20013 EMPANGENI, 3880
POTCHEFSTROOM	018 299 6556	018 297 0023	P/Bag x804 POTCHEFSTROOM 2520
TAUNG	053 994 9840	053 994 1130	P/ Bag X532, TAUNG,8584
TOMPI SELEKA	013 268 9300/1	013 268 9305	P/ Bag X 9616 MARBLE HALL,0450

INSTITUTION	TEL. NO	FAX NO	POSTAL ADDRESS
TSOLO AGRICULTURE AND RURAL DEVELOPMENT INSTITUTE	047 542 0220/1	047 542 6285	P/bag x1008, TSOLO,4771

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