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**REPUBLIC OF  
CISKEI**

**GOVERNMENT  
GAZETTE**

DIMBAZA PRINTERS — 36713

Price 30c

**Umq. 19**

**eBISHO  
10/05/91**

**No. 37**

**Vol. 19**

**BISHO  
10/05/91**

**No. 37**

**DEPARTMENT OF THE COUNCIL OF STATE**

**GOVERNMENT NOTICE No. 33 OF 1991**

It is hereby notified that the Chairman of the Council of State has assented to the following decree which is hereby published for general information: -

**FORT COX COLLEGE DECREE, 1991**

**Decree No. 5 of 1991**

# COUNCIL OF STATE — REPUBLIC OF CISKEI

## FORT COX COLLEGE DECREE, 1991

### DECREE

To grant recognition to Fort Cox College as an autonomous institution and to provide for the administration and control of the affairs of such institution, and the regulation of its activities and to provide for incidental matters.

[English text signed by the Chairman of the Council of State. Assented to on 26 April 1991.]

*BE IT DECREED by the Council of State of the Republic of Ciskei, as follows: -*

**1. Definitions.** - In this decree, unless the context indicates otherwise -

"academic council" means the academic council of the College constituted in terms of section 7;

"Ciskei" means the Republic of Ciskei;

"Minister" means the Minister for Agriculture, Forestry and Rural Development;

"Department" means the Department of the Minister;

"Director-General" means the Director-General of the Department;

"principal" means the principal of the College referred to in section 5(1) and includes an acting principal;

"regulation" means a regulation made and in force under section 27;

"the Board" means the board of governors of the College established by, and constituted in accordance with, section 6;

"the existing institution" means the Fort Cox Agricultural College in the district of Middledrift;

"the fixed date" means the date of commencement of this Decree;

"the University" means the University of Fort Hare;

"Treasury" means the Minister for Finance and Economic Development and includes any officer of his department acting under his authority.

**2. Establishment, name and functions of the College.** - (1) With effect from the fixed date -

(a) the existing institution shall be and become a college to be known as the Fort Cox College of Agriculture and Forestry;

(b) the assets and liabilities of the existing institution shall, except to the extent determined by the Minister with the concurrence of the Treasury, become the assets and liabilities of the College; and

(c) the State property, moveable and immovable, then in the possession of the existing institution shall vest in the College without payment of transfer duty, stamp duty or any other fee or charge.

(2) The Registrar of Deeds shall, upon the production to him of the title deed of any immovable property referred to in subsection (1)(c), endorse the same to the effect that the immovable property therein described is vested in the College and make the necessary entries in his registers and thereupon the said title deed shall serve and avail for all purposes as the title deed of the College to the said property but subject to the provisions of section 3(2).

(3) The functions of the College shall be to provide -

(a) advanced education in agriculture and forestry and related disciplines, that is to say education in agriculture and forestry which is of a standard higher than that which is or would ordinarily be prescribed for standard 10; and

(b) such other education, whether on a full-time or part-time basis, as the Board may determine on the recommendation of the University and with the approval of the Minister.

**3. Status and proprietary capacity of the College.** - (1) The College shall be a body corporate capable of suing or being sued in its own name and, subject to the provisions of subsection (2), of purchasing or otherwise acquiring, holding, letting, selling, exchanging or alienating in any other manner any property, movable or immovable, of granting to any person any real right in or servitude over its property and of investing, lending or borrowing money: Provided that the College shall not borrow money except with the prior approval of the Treasury.

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(2) The College shall not, without the approval of the Minister (acting with the consent by resolution of the Council of State) let, sell, exchange or otherwise alienate its immovable property or grant to any person any real right therein or servitude thereover.

(3) The College may receive money or property by way of donation or bequest in trust and may control, use or administer it or deal with it in any manner subject to the conditions, if any, of any such donation, bequest or trust as are consistent with the aims and objects of the College.

(4) The College may with the approval of the Minister (acting with the concurrence of the Minister for Education) enter into any agreement with the University or other institution or body or any department of State, regarding -

(a) the exercise, development or extension of the activities of the College, including farm management and any research;

(b) the provision of teaching or training personnel, whether on secondment or otherwise;

(c) the procedure to be adopted for the identification and selection of students;

(d) the educational and training methods to be followed, and the maintenance, improvement and monitoring of such training generally;

(e) the curriculum to be followed in respect of any course;

(f) staff and student evaluation procedures;

(g) the norms to be prescribed and the standards to be set for the attainment of any qualifications of the College; and

(h) generally any other matter concerning the promotion and maintenance of the quality of education and training offered by the College and the enhancement of its status.

#### **4. Constitution of the College.** - The College shall consist of -

(a) the principal;

(b) a board of governors;

(c) an academic council; and

(d) the staff and students of the College.

**5. Principal of the College.** - (1) The principal shall be the chief executive officer of the college and shall be appointed by the Board subject to the approval of the Minister: Provided that, unless the Minister otherwise directs, the person holding office as principal on the date of promulgation of this Decree shall, subject to its provisions, continue in office as principal of the College.

(2) (a) Whenever the post of principal becomes vacant or the principal is for any reason incapable of carrying out his duties, the Board may designate a member of the staff of the College to act as principal.

(b) Any acting principal shall hold office as such at the pleasure of the Board and of the Minister until the permanent incumbent returns to duty or his successor is appointed, as the case may be.

**6. Board of governors of the College.** - (1) Subject to the provisions of this Decree, the government and control of and over the College vests in a board of governors consisting of -

(a) the principal *ex officio*;

(b) one member nominated and appointed by the Board of Directors of the Ciskei Agricultural Corporation Limited established by Government Notice 66 of August 1983;

(c) one member nominated and appointed by the Board of Directors of the Ciskeian Agricultural Bank Limited established by Government Notice 33 of 29 June 1984;

(d) one member nominated and appointed by the organization known as the Ciskeian Agricultural Union;

## FORT COX COLLEGE DECREE, 1991

(e) one member appointed by the Minister from amongst persons who are prominent in commerce and industry; and

(f) seven other members who shall be persons who are experts, or have special training, knowledge or experience, in agriculture or forestry and of whom -

- (i) three shall be members of the teaching staff of the University in its faculty of agriculture, nominated and appointed by the council of the University;
- (ii) three shall be appointed by the Minister from amongst officers of the Department; and
- (iii) one shall be co-opted by the remaining members of the Board at their first meeting after the constitution or reconstitution of the Board, as the case may be, or as soon as possible thereafter.

(2) (a) Subject to the provisions of this Decree, a member of the Board, other than the principal shall hold office for a period of four years unless he has earlier resigned from the Board or has otherwise vacated his office.

(b) Any member whose term of office has expired shall be eligible for reappointment.

(c) The body or person by whom any member was appointed to the Board may at any time terminate such appointment.

(3) A member of the Board shall vacate his office -

(a) if he has absented himself from two consecutive ordinary meetings of the Board without its leave;

(b) if he becomes mentally ill;

(c) if his estate is sequestrated; or

(d) if he is convicted of an offence and sentenced to imprisonment without the option of a fine.

(4) Any vacancy on the Board shall be filled for the unexpired portion of the term of office of the member whose seat has become vacant in accordance with the relevant provisions of subsection (1).

(5) The Board shall elect from amongst its members a chairman and a vice-chairman and, if neither the chairman nor the vice-chairman is present at a meeting of the Board, the members present shall elect one of their number to preside at that meeting.

(6) The meetings of the Board shall be held at such times and places as the Board may determine and the conduct of the business and the quorum and procedure at any such meeting shall be determined by rules made by the Board.

(7) The Board shall administer the property of the College and shall, subject to the provisions of this Decree, have control of the College and of all its affairs and activities.

(8) The Board may from time to time establish such committees, consisting of members of the Board or of members of the Board and other persons, as it may deem necessary.

(9) The Board may authorize any such committee to exercise or perform, in general or in a particular case or in cases of a particular nature, any power or duty conferred or imposed on the Board by or in terms of this Decree, but may amend or withdraw any decision of any such committee at the first meeting of the Board after that decision was made.

(10) The Board may at any time revoke any authorization made under subsection (9) and no such authorization shall prevent the exercise or performance of the relevant power or duty by the Board itself.

(11) The allowances which may be paid to any member of the Board or of a committee of the Board, who is not in the full-time employment of the State, when occupied with the affairs of the Board shall be determined by the Minister with the concurrence of the Treasury.

**7. Academic council of the College.** - (1) The academic council of the College shall consist of -

(a) the principal, who shall be the chairman;

(b) the persons who are members of the Board in terms of section 6(1)(f)(i);

(c) any other member of the Board designated thereto by the Board who shall hold office at its pleasure; and

(d) such members of the staff of the College as the Board may from time to time determine.

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### (2) The academic council -

(a) shall exercise such powers of organization of and control over the instruction, training and discipline of the students of the College as are conferred upon it by the Board;

(b) shall advise the Board in regard to any matter which the Board may refer to it for its advice; and

(c) may make such recommendation to the Board on matters of academic interest as it may deem expedient or necessary.

(3) The academic council may from time to time establish committees consisting of members of the council or members of the council and other persons, as it may deem necessary.

(4) The academic council may authorize any such committee to exercise or to perform, in general or in a particular case or in cases of a particular nature, any power or duty conferred or imposed on the council by or in terms of this Decree but may nevertheless amend or withdraw any decisions of any committee so authorized at any time after that decision was made.

(5) The academic council may at any time revoke any authorization under subsection (4) and no such authorization shall prevent the exercise or performance of the relevant power or duty by the council itself.

(6) The allowances which may be paid to any member of the academic council who is not a full-time employee of the State for attending to the affairs of that committee shall be determined by the Minister with the concurrence of the Treasury.

### **8. Appointment of staff and conditions of service, salaries and leave privileges of members of staff. -** (1) The establishment of the College shall consist of -

(a) the posts established by the Board on a basis to be determined by the Minister from time to time with the concurrence of the Treasury;

(b) the other posts in respect of which the Minister is of the opinion that no basis can be determined and which he may establish from time to time: Provided that the Board may establish such posts as the Minister may designate from time to time.

(2) The power to appoint, promote, transfer, second or discharge members of the teaching, administrative, technical and clerical staff and the other employees of the College shall vest in the Board: Provided that the appointment, promotion, transfer, secondment or discharge of members of the teaching and administrative staff in such posts as the Minister may determine shall be subject to his approval.

(3) No person shall be permanently appointed under the provisions of subsection (2), whether on probation or not, unless he complies with such requirements as may be prescribed by the Board or by regulation.

(4) The conditions of service of the persons employed by the College (including the salary scales, allowances and leave privileges and the conditions and circumstances under which the persons concerned may be required to become and remain members of any medical aid scheme or medical benefit scheme) shall be determined by the Board with the approval of the Minister and the concurrence of the Treasury.

### **9. Pensions rights and obligations, retirement benefits and retirement ages. -**

(1) The pension rights and obligations and the retirement benefits and retirement ages of the persons in the employ of the College shall be governed by the provisions of the Government Service Pensions Act, 1989 (Act 4 of 1989) read with the Education Act, 1985 (Act 27 of 1985) or the Public Service Act, 1981 (Act 2 of 1981), as the case may be, as if -

(a) members of the academic staff appointed in a permanent capacity (whether on probation or otherwise) were teachers on the establishment of a Government school;

(b) members of the administrative, technical or clerical staff appointed in a permanent capacity (whether on probation or otherwise) were the holders of posts on the fixed establishment of the public service; and

(c) the remaining employees (not being employees mentioned in paragraphs (a) and (b) or casual labourers) were such persons as are contemplated in section 3(2)(c) of the said Government Service Pensions Act, 1989.

(2) Nothing in subsection (1) contained shall be construed as affecting the pension rights, retirement benefits and retirement ages of any persons who, by agreement, are seconded or transferred to the service of the College from the service of the State or of any other Government or any educational institution outside Ciskei.



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**10. Misconduct or inefficient staff.** - (1) The procedure to be adopted in the case of a member of the staff of the College who is alleged to be guilty of misconduct or to be inefficient or whose conduct is otherwise unsatisfactory shall be prescribed in the conditions of service referred to in section 8(4).

(2) If, in the opinion of the Minister, any staff member has rendered himself guilty of misconduct or is inefficient and the Board has failed for a period of one month after having been directed in writing by the Minister to institute an enquiry into the matter or, after holding such an enquiry, has failed to take any action on the findings thereof, the Minister may direct the Board -

(a) if no enquiry has been held, to institute such an enquiry forthwith and to submit the record thereof to him without delay, or

(b) if no action has been taken on the findings of an enquiry, to arrange for the matter to be considered by the Board forthwith,

and in either case to report to him what action the Board proposes to take in the matter.

(3) On receipt of the record and report referred to in subsection (2), the Minister may approve the action contemplated by the Board or direct the Board to take such other action as the Board may lawfully take against the staff member concerned in terms of the conditions governing his appointment.

**11. Transfer of employees.** - (1) The Board may at the request of any other State or State-aided institution transfer any employee in its service to the service of such other institution if both such employee and the Minister consent thereto.

(2) Any person transferred as contemplated in subsection (1) shall as from the date of his transfer be appointed to a post established at such other institution on the conditions prescribed and at the remuneration determined for such post: Provided that -

(a) unless the person concerned has agreed thereto in writing, the said conditions and remuneration shall not be less favourable than the conditions and remuneration applicable to him as an employee of the College, and

(b) any sick or accumulative vacation leave which stood to the credit of such person immediately prior to his transfer shall be deemed to be leave earned by him in the service of the institution to which he is transferred.

**12. Secondment of employees of the College.** - (1) The Board may with the approval of the Minister and on such conditions as the Minister may determine with the concurrence of the Treasury second any employee for any particular period for the performance of any particular work to the service of any other State institution or body or to any person: Provided that no such employee shall be seconded to any department of State otherwise than on the recommendation of the administrative authority as defined in section 1 of the Public Service Act, 1981.

(2) Any employee seconded as contemplated in subsection (1) shall remain subject to the laws applicable to him as an employee of the College.

**13. Registration as student of College.** - (1) No person shall be registered as a student of the College unless -

(a) he has obtained the standard 10 certificate issued by the Department of Education or any other certificate deemed by the Board after consultation with the University to be at least equivalent to the said standard 10 certificate; or

(b) he has obtained any qualification, whether of an academic or practical nature, recognized by the Board as adequate for the purpose of registration for any particular course of study; and

(c) he complies with such general requirements for admission as may be prescribed by the Minister or by regulation; and

(d) he complies with such other requirements as the Board may in his case determine; and

(e) he pays the fees determined under section 17.

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(2) The Board may, for registration for any specific course of study at the College, require that a specific grade in any specific subject shall have been attained at the standard 10 examination or its equivalent.

(3) A person shall be registered as a student of the College for one semester of study unless the Board has determined otherwise and after the expiry of that semester of study that person shall, if he desires to remain a student of the College, renew his registration.

(4) The Board may, after consultation with the academic council, determine the minimum requirements in respect of study with which any particular person shall comply before he shall be permitted to renew his registration as a student of the College in terms of subsection (3).

(5) The Board may, after consultation with the academic council and with the prior approval of the Minister, limit the number of persons to be permitted to register for any course, in which case the academic council may select the persons who shall be permitted to register for such course.

(6) The Board may, on the recommendation of the academic council, recognize as equivalent to an examination required as a necessary qualification by the Board an examination which has been passed by any person at any other educational institution regarded by the Board as the equal of the College, for the purpose of such person's obtaining a certificate or diploma at the College: Provided such person shall at least have been successful in the examinations of the two semesters of the final year of study at the College.

**14. Refusal of registration as student.** - The Board may without advancing any reasons refuse to register any person as a student of the College if the Board considers it to be in the interests of the College to do so.

**15. Discipline and places of residence of students.** - (1) A student of the College shall be subject to such disciplinary measures as may be prescribed by rules made by the Board.

(2) The Board may require a student to reside at a place or residence approved by the Board for the duration of his stay at the College.

**16. Financial assistance to students.** - The Minister may, out of moneys lawfully appropriated for the purpose and subject to such conditions as he may determine with the concurrence of the Treasury, grant to a student of the College such financial assistance as the Minister may deem appropriate.

**17. Fees payable by student.** - The fees payable by a student or a prospective student of the College shall be determined by the Board with the approval of the Minister granted with the concurrence of the Treasury.

**18. Course of study and departments.** - The Board shall not, without the prior approval of the Minister, establish or abolish any department or course of study at the College.

**19. Syllabi.** - The syllabus of any course of study established under section 18 shall be determined by the Board after consultation with the academic council.

**20. Inspection of College.** - The Minister may at any time cause an inspection to be made of the College in relation to any matter affecting -

- (a) administration and discipline;
- (b) the registration of students;
- (c) the instruction and training being provided;
- (d) the fixed establishment of the College;
- (e) stores, equipment and finances

and generally any other matter which in the opinion of the Minister ought to be inspected.

**21. Recognition and registration of certificates and diplomas.** - (1) Subject to the provisions of any other law, the College shall not issue any certificate or diploma indicating that a person has passed an examination or completed a course at the College, unless such certificate or diploma has been recognized by the Minister and registered with the principal and the Department as a recognized certificate or diploma.

(2) The provisions of section 22A of the Technikon Act, 1984 (Act 15 of 1984) shall apply *mutatis mutandis* in respect of the certificates or diplomas of the College.

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**22. Assistance by local authorities to the College.** - Notwithstanding anything to the contrary in any law contained, any local authority may, with the approval of the Council of State make grants of land, money or other movable property to the College.

**23. Financing of College.** - The Minister may, with the concurrence of the Treasury and out of moneys lawfully appropriated for the purpose grant amounts to the College for such purposes and on such basis and subject to such conditions as he may determine with due regard to the requirements of the College.

**24. Accounts and records to be kept and information to be furnished by Board.** -

(1) The Board shall cause full and true accounts and records to be kept of all moneys received or expended by or on behalf of the College and of all its assets and liabilities and of all relevant financial transactions and shall each year present to the Minister a balance sheet and a full statement of the income and expenditure of the College for the preceding financial year, together with a report on the work of the Board during that year.

(2) The Board shall cause the accounts, records and balance sheet of the College to be audited annually by an accountant in public practice.

(3) The Board shall submit to the Minister returns and statistics at such time and in such manner as he may request.

**25. Action and failure of Board to comply with certain conditions.** - (1) If the Board fails to comply with any condition subject to which any amount has been granted to the College out of public moneys the Minister may call upon the Board to comply with that condition within a specified period.

(2) If the Board fails to comply with the said condition the Minister may, notwithstanding anything to the contrary contained in any law, withhold payment of the whole or any part of the amount appropriated by competent authority in respect of the College: Provided that where the whole or any portion of the amount so appropriated has been withheld by the Minister, he shall forthwith report the matter to the Council of State and give his reasons for so withholding payment.

**26. Delegation of powers and duties.** - (1) The Minister may authorize any officer of the Department to exercise or to perform any power or duty conferred or imposed on him by this Decree, other than the power referred to in this subsection or in section 23, 25 or 27.

(2) No such authorization shall prevent the exercise or performance of the relevant power or duty by the Minister himself.

(3) The Minister may amend or withdraw any decision of any officer to whom powers or duties have been delegated under subsection (1).

**27. Regulations.** - The Board may with the approval of the Minister make regulations as to any matter required or permitted by this Decree to be prescribed by regulation and generally for the achievement of the aims and objects of this Decree.

**28. Powers of College protected.** - No vacancy in the office of principal or deficiency in the number of members of the Board or the academic council shall prejudice or affect the corporate existence of the College or the exercise of any power, right or privilege conferred by this decree upon the College or the Board.

**29. Offences and penalties.** - Any person who, without the authority of the College -

(a) in any way publicises or represents to any other person that he or some other person can offer any course of study or part thereof the content or standard of which is similar to the content or standard of a course of study offered at the College, or which shall entitle a person who has followed such a course or part thereof to the granting of any certificates or diploma which may be granted by the College, or

(b) confers a certificate or diploma purporting to be a certificate or diploma granted by the College, or

(c) performs any act which purports to have been performed by or on behalf of the College, or

(d) establishes or conducts an institution which is not the College under a name which includes or resembles the name of the College,

shall be guilty of an offence and liable on conviction to a fine not exceeding one thousand rand or to imprisonment for a period not exceeding six months.

**30. Short title and commencement.** - This Decree shall be called the Fort Cox College Decree, 1991 and shall be deemed to have come into operation on 1 April 1990.



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*The price of publication is:*

1972-1981.....R10,50

1982.....7,50

1983.....7,50

1984.....7,50

1984/85.....30,00

1986.....25,00

1987.....36,00

plus G.S.T., postage and handling charges

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