



EASTERN CAPE PROVINCIAL LEGISLATURE

OFFICE OF THE CHAIRPERSON: PORTFOLIO COMMITTEE ON RURAL
DEVELOPMENT AND AGRARIAN REFORM

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Date: 05 October 2017

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Reference:



NEGOTIATING MANDATE

To: The Chairperson:
Select Committee on Agriculture & Rural Development

Name of Bill: Plant Improvement Bill

Number of Bill: → [B8B-2015]

Date of Deliberation: 05 October 2017

Vote of the Legislature

The province rejects the Bill and mandates the Eastern Cape delegate to the NCOP to vote against the Bill based on the following reasons.

1. *Terms of reference*

The terms of reference of the Committee were to conduct public hearings within the Eastern Cape Province on the Plant Improvement [B8B-2015] and Plant Breeders Rights [B11B-2015] Bills so as to obtain public inputs and formulate negotiating and final mandates.

2. *Method of work*

On receipt of the two Bills, the Committee was briefed by the Permanent Delegate, Hon. Ncitha Z and the Department of Agriculture officials on 28 February 2017. The Committee conducted public hearings in the following places Raymond Mhlaba Chamber, Eastern Cape Provincial Legislature on 08 May 2017, Nelson Mandela Metro, Chris Hani District and OR Tambo District on 22 September 2017 in order to solicit inputs from the public before the amendments are implemented. The Committee also invited written submissions for comments on the two Bills.

3. *Plant Improvement Bill*

- Section 33 of the Bill should be modified, change 'denomination' to 'description'.
- The registration costs are not stipulated in the Bill.
- The indigenous knowledge rights of communities must be protected in terms of royalties and associated beneficiation, following the development and release of new varieties.
- Independent researcher's findings on the effect of the GMO's to small farmers and rural communities in general must be considered

4. General Submissions

- The word 'description' must be used in the place of 'denomination' throughout the two Bills as it is a scientifically used word by plant breeders and geneticists when describing the important and relevant attributes of plant varieties.
- The language used in the Bills is difficult and cannot be easily understood by an ordinary farmer.
- The words 'sell' and 'new' are not properly defined in the Bills and are confusing.
- Misgivings regarding the use of genetically modified varieties should be addressed by national government, such that GMO products are not promoted to the detriment of open pollinated varieties, traditional varieties and the environment at large.
- Ensure that the Bills where appropriate are well aligned with the provisions of the national policy and regulation on intellectual property and indigenous knowledge property rights as per the **Intellectual Property Laws Amendment Act, 2013(Act No.28 of 2013) and the Biodiversity Act 10 of 2004.**
- The Bill unfairly requires the payment of money for all aspects related to plant improvement processes.
- The Bill is drafted using jargon and the language used is not simple enough to be understood by ordinary citizens; it is impossible to understand the Bill unless one is in fact a trained professional in the subject matter addressed by the Bill.
- The definition of "sell" in **clause 1** is too wide; the small scale farmers, who have been bartering; trading and sharing seeds for decades will now have to exchange money to procure their seeds to enable them to feed their families.
- The administration related to inspection of premises by the Registrar should not unnecessarily inconvenience small scale farmers.
- It appears that the Bill is driven by commercialization to the exclusion of small-sale farmers.
- People must be given an opportunity to object and have GMO's removed from the list i.e. national variety list.
- Indigenous plants are at risk of being owned.
- Protected varieties should have no tie or ownership after the first sale. This will allow people to re-use, sell, give, share seeds collected from the protected varieties.
- There are too many regulations of people wanting to sell seeds or plants at a cost. This does not help the poor or starting up small businesses.
- New section should be added in which protection of subsistence farmers and small entrepreneurs is guaranteed. For example, a clause must be added which states clearly that if a farmer generates less than a certain amount of money from farming is exempted from the regulations of the Act.

- The fact that farmers are to register and be in possession of certificates is limiting people's potential and is contrary to the 'Vukuzenzele' call.
- A clause which specifies that if a farmer swaps or exchange the seeds they will not be prosecuted or penalized should be added.
- There is a concern about the fact that the certificate is not transferable.

5. *General Submissions*

- It appears that there has been a participative approach from the beginning on both Bills.
- The Bills are written in jargon, complicated language.
- The financial gain for a chosen few beneficiaries appears to be a primary objective of these new bills.

The two Bills were rejected by the community of Port Elizabeth.

- The language (English) in which the Bills are written, especially that they are Section 76 Bills is a problem to some of the farmers; they should have all other official languages translations.
- There is a concern that the Bill is intending to benefit commercial farmers only.
- The community suggests that the registration fee should be reasonable and be affordable to emerging and small scale farmers.
- There is a concern that the Bill is silent on indigenous plants.
- There is a cooperation which has registered land; however its major concern is lack of resources such as water and seeds.
- The communities advise that the Traditional Leaders, as owners of the land must be consulted in the process.
- There is a concern about the consequences of obtaining a plant from another country.
- Concerns were raised about the prescriptive nature of the Bill with respect to the establishment of nurseries.
- The requirement for individuals and cooperatives to hold licenses needs to be made clear.
- The proposed laws aren't equitable because the cost of licensing appears to cater for established agricultural corporations and the Bill seeks to advance commercial farming interests over that of substantial farmers. The registration fees are seen as a tax that will limit the growth of small scale agricultural enterprises.
- The right to farm and distribute seeds is important. Farmers must be able to share their seeds as they see fit without restrictions that are foreign to communal and traditional farming practices. Restrictions on seeds distribution will entrench commercial farming entities at the expense of small scale farmers.

- Registration fees are expensive, meant for multinational companies and rural people can't afford to have seed patents. This means seed rights seed rights. Fees must be affordable.
- Sustainable organic farming system must be encouraged instead of the industrial chemicals based agriculture. The Bill only caters for industrial farming. Organic farming must be catered for because the law limits organic farming in rural areas.
- Plant breeding requires special apparatus and will be expensive. The government must provide facilities that will assist farmers with plant breeding and introduce means of protecting people's intellectual property from theft.
- The bills aren't acceptable as there is no socio- economic impact assessment that has been done on how they will affect rural farming communities.
- On behalf the farmers present, farmers and farmer organisations under its ambit; O R Tambo Farmers Association (ORTAFA) rejected the two bills based on the following:
 - The Bill limits seeds sharing and reduced the rights of seed owners.
 - The threat of fines, arrests and related penalties associated with the bills will create an inequitable farming system where commercial farmers and industry will pay the standardized industry penalties while individual small scale farmers and cooperatives won't be able to pay the fines.
 - ORTAFAs rejects the proposed laws as they seek to over regulate indigenous farming practices and will bring agricultural practices that entrench commercial farmers at the expense of small scale rural farming communities.
 - Government agricultural policy promotes inorganic farming, increases the scale of mono cropping, works against the strengths of subsistence farmers and creates dependence on commercial farming systems which rely heavily on industrial chemicals and fertilizers.



HON. N. QIBA (MPL)
CHAIRPERSON: PORTFOLIO COMMITTEE ON RURAL DEVELOPMENT &
AGRARIAN REFORM

2017-10-05
 DATE

**EASTERN CAPE
PROVINCIAL
LEGISLATURE**



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**MINUTE: PORTFOLIO COMMITTEE ON AGRICULTURE & RURAL
DEVELOPMENT MEETING:**

Date: 28 February 2017
Time: 14h00- 16h30
Venue: Magdeline Resha

1. Present

- Hon. Gqiba N (Chairperson)
- Hon. Mvana N (Whip)
- Hon. Mtitshana N
- Hon. Komose D
- Hon. Nyusile M
- Hon. Ngcolomba T
- Hon. Mvenya V
- Hon. Tsengwa DT
- Hon. Sharpley LK

2. Apologies

Hon. Tunyiswa N

3. Without Apology

Hon Zibula L

4. NCOP Delegation

- Hon. Ncitha Z
- Nkoana N
- Ramashala T

5. Committee Support Staff Present

- Mr. Mafuya Q
- Mr. Makeleni M
- Mr. Mahobe S
- Miss Sturman N

- Mr. Filtane LS

6. Opening & Welcome

The Chairperson opened the meeting and welcomed the delegation from the NCOP led by Hon. Ncitha Z, the Hon. Members and officials.

7. Apologies

Apologies were read and accepted. Members and officials were requested to introduce themselves. The presence of the communication and Public Participation and Petitions section was acknowledged and the purpose for their presence was explained.

8. Adoption of the Agenda

The agenda was read and adopted.

The Chairperson explained the purpose of the meeting which basically was to get briefing on the Plant Improvement Bill and the Plant Breeder's Rights Bill from the NCOP in preparation for the public hearings.

9. Briefing by the NCOP

The issue of the public hearings was emphasized and reflections were made to the Bill that was turned down due to the public hearings that were not properly conducted. It was stated that the two Bills were developed together because they are inter-related and they were tabled to the select committee of the NCOP and it was agreed that they must be presented in all the provinces.

9.1 The Plant Breeder's Bill

It was stated that the Plant Breeder's Right Bill is not that popular. The purpose of the plant breeding was explained which among others is for good yield and due to the high demand. This variety is evident in the apples, grapes potatoes etc. The differences between modern varieties and traditional varieties were explained and how this Bill seeks to address them. It was clearly stated that when one wants to present a new variety, he/she must apply and provide the name for the new variety and if it's a new breed, it must be distinct.

9.2 The Plant Improvement Bill

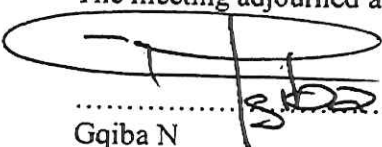
The purpose of this Bill is to regulate the quality of plants; basically it is about the protection of varieties. The Bills are rather technical and need advocacy so as to be understood by the ordinary farmers. There were some concerns about the applications which will be considered in Pretoria which will be too far for ordinary small farmers. It was also stated that the NCOP will inform the province with regard to the public hearings. The Committee was told that costs have been kept very low and they cannot be the limiting factor to those interested. The need for awareness programmes for these Bills was emphasized. It was suggested that

farmers can come together as cooperatives to plant seed and produce certified seed. These two Bills seek to replace the Act that was passed in 1976. It was emphasized that public hearings be properly conducted and must be publicized in the newspapers and radio stations and an allowance of 7 days should be given in between. It was also requested that supporting details should be attached to the submission to the NCOP. The submissions to the NCOP be done on the 24 May 2017 and the final mandate would be 30 May 2017. The communication section was tasked to publicize the Bills.

10. Closure

The Chairperson thanked the delegation from the NCOP for the briefing, the Hon. Members for their inputs and the support staff.

The meeting adjourned at 16h30.


.....
Gqiba N

Date

2017-02-28

Chairperson: Portfolio Committee on Agriculture & Rural Development



FREE STATE LEGISLATURE

PORTFOLIO COMMITTEE ON ECONOMIC DEVELOPMENT NEGOTIATING MANDATE

TO: Chairperson of the Select Committee on Land and Mineral Resources

NAME OF BILL: Plant Improvement Bill

NUMBER OF BILL: [B8B-2015]

DATE OF DELIBERATION: 14 September 2017

VOTE OF THE LEGISLATURE:

The Portfolio Committee on Economic Development as designated by the Free State Legislature:

In the definition of "**business**" should provide for explicit exemption of small farmers. The provision for an exemption from the application of the Act as referred to in clause 9(1) read with clause 19(1) is inadequate as it would only occur when and as determined by the Minister by notice in the *Gazette*.

In the definition of "**Sell**" to omit "*(b) to exchange or to otherwise dispose of to any person in any manner*" The Bill criminalizes the exchange of unregistered and uncertified seed in clause 59.

It is proposed that "**Non-commercial**" be defined to as "a person not making or attempting to make profit from the activity contemplated in section 19(1), "**commercial**" has a corresponding meaning.

It is proposed to omit "**must**" and to substitute "**may**" in clause 19(2). The amendment would also allow the Minister to exempt types of business from the application of sections 9(1) or 10 without an application for exemption.

Clause 23(1)(b) provides for "**private and non-commercial**". Clause 23(1)(b) in its current form only exempt the activity of cleaning and conditioning of propagating material from the application of

the Act for private purposes if it is done for non-commercial purposes. It is proposed that after "private" to omit "and" and to substitute "or" to allow "private" use of seeds.

The requirement for seed in clause 27 should include "variety" to promote genetically uniform seeds for industrial farming systems and to allow farmers' varieties.

The Department must create market for emerging farmers so that they can compete with the commercial farmers.

The Department must consider providing emerging farmers with products inspectors for quality of their products before they can be taken to the market.

The Department must allow the emerging farmers to package their own products for job creation, poverty alleviation and create a stable economic development in rural areas.

The Department must make sure that immediately after the implementation of the Bill emerging farmer that specializes on planting of crops are provided with training that will assist them to comply with the regulations.

The Department must make sure that imported plants are checked and tested before they can be distributed to the farmers and the public.

The Bill must provide a regulation that will prohibit individuals to cutting or cultivate registered plants.

The Bill must also regulate import and export pricing on plants.

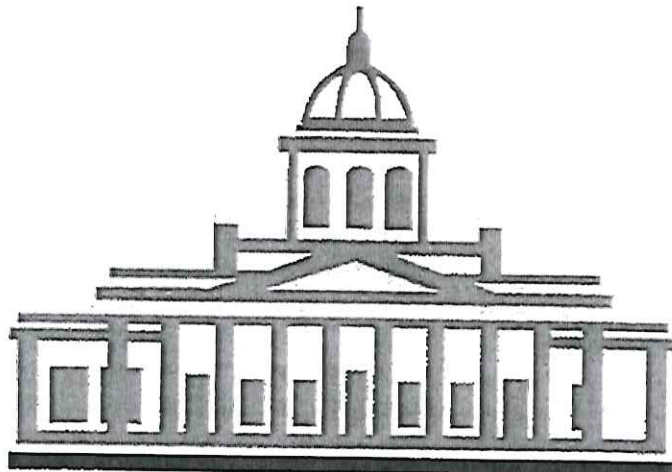
The Portfolio Committee votes in favour of the Bill.



HON. T.P. MEEKO
CHAIRPERSON OF PORTFOLIO COMMITTEE ON ECONOMIC DEVELOPMENT
FREE STATE LEGISLATURE

14 September 2017

FREE STATE PROVINCIAL LEGISLATURE



Free State Legislature

**REPORT OF THE PORTFOLIO COMMITTEE ON AGRICULTURE, RURAL,
ECONOMIC DEVELOPMENT, SMALL BUSINESS, SPORT, ARTS AND CULTURE
WITH REGARD TO THE PUBLIC HEARINGS CONDUCTED ON PLANT
IMPROVEMENT BILL [B8B-2015]**

DRAFT REPORT

REPORT PROFILE

Title of Report: Report of the Portfolio Committee on Agriculture and Rural Development, Economic Development, Small Business, Sports, Arts and Culture with regard to public hearings conducted on Plant Improvement bill.

Status of Report: For submission to the Office of the Speaker and tabling in the Free State Legislature.

Responsible Committee: Portfolio Committee on Agriculture and Rural Development, Economic Development, Small Business, Sports, Arts and Culture.

Chairperson and Members of the Portfolio Committee:

MEEKO, T.P.
(COMMITTEE CHAIRPERSON)

BUTI, M.P.

MAPENA, L.N.

MOLELEKI, M.S.

MORAPELA, K.Z .

JANKIELSOHN, R.

WESSELS, W.W.

VAN ROOYEN, C.J.

TO THE HONOURABLE SPEAKER AND HONOURABLE MEMBERS OF THE FREE STATE LEGISLATURE

The Portfolio Committee on Agriculture and Rural Development, Economic Development, Small Business, Sports Arts and Culture herewith submits the report and recommendations with regard to Plant Improvement Bill [B8B-2015] to the Free State Legislature.

Public hearings were conducted in compliance and commitment to section 118 of the Constitution of the Republic of South Africa, which enjoins the Legislature to facilitate public involvement in the legislative and other processes if the legislature and its committees as well as to conduct its business in an open manner and hold its sittings and those of its committees in public.

The Portfolio Committee extends its acknowledgement to the following stakeholders: Hon. Members for their active participation during the process of consideration of the Bill, Officials from Department of Agriculture and Rural Development for their insight and assistance during consideration of the Bill, Officials from the Free State Legislature for their sterling work during consideration of the Bill. All stakeholders for their inputs and effective participation during consideration of the Bill.

Report Compiled by: Kgathatso Nkeane and Sebetlela Mokhesi

Report checked and edited by: Sylvester Thahane

Report for tabling in the Legislature on: 2017

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1. INTRODUCTION

Plant Improvement Bill [B8B-2015] was referred to the Portfolio Committee on Agriculture, Rural Development, Economic Development, Small Business, Sport, Arts and Culture Portfolio Committee for consideration and report back.

2. MEMBERS OF THE PORTFOLIO COMMITTEE

The Portfolio Committee comprises the following Members:

Buti, M.P.	(Member)
Jankielsohn, R.	(Member)
Morapela, K.Z.	(Member)
Mapena, L.N.	(Member)
Meeko, T.P.	(Chairperson)
Moleleki, M.S.	(Member)
Van Rooyen, C.J.	(Member)
Wessels, W.W.	(Member)

3. PROCEDURE OF THE PORTFOLIO COMMITTEE

To provide for— the registration of certain types of business relating to plants and propagating material intended for cultivation and sale and the registration of premises on or from which that business is conducted; quality standards for plants and propagating material intended for cultivation and sale and conditions of sale of plants and propagating material; a system for national listing of plant varieties; the evaluation of plant varieties in order to ensure value if there is doubt in respect of the value for cultivation and use of plant varieties intended for cultivation and sale; import and export control of plants and propagating material; and a system for different types of schemes for plants and propagating material; and to provide for matters connected therewith.

Adverts of public hearings in the newspapers (copies thereof are attached)

NAME OF THE NEWSPAPER	DATE OF THE ADVERT
1. THE WEEKLY	17 – 23 February 2017
2. DUMELANG NEWS	17 February 2017
3. CUORANT NEWS	23 February 2017
4. THE MAIL	17 – 23 February 2017
5. ZOOM	17 February 2017
6. NEW AGE	24 February 2017

The oversight Public Hearing were conducted as follows:

Date	Name of Venue	Name of the Area
06 March 2017	Bothaville Town Hall	Nala Municipality
08 March 2017	Ficksburg Town Hall	Setsoto Municipality
09 March 2017	Hielbron Town Hall	Ngwathe Municipality
10 March 2017	Springfontein Town Hall	Kopanong Municipality

4. OVERVIEW OF THE PUBLIC HEARINGS

The following inputs were submitted by stakeholders:

- The Department must create market for emerging farmers so that they can compete with the commercial farmers.
- The Department must consider providing emerging farmers with products inspectors for quality of their products before they can be taken to the market.
- The Department must allow the emerging farmers to package their own products for job creation, poverty alleviation and create a stable economic development in rural areas.
- The Department must make sure that immediately after the implementation of the Bill emerging farmer that specializes on planting of crops are provided with training that will assist them to comply with the regulations.
- The Department must make sure that imported plants are checked and tested before they can be distributed to the farmers and the public.
- The Bill must provide a regulation that will prohibit individuals to cutting or cultivate registered plants.
- The Bill must also regulate import and export pricing on plants.

5. RECOMMENDATIONS

The Committee recommends that:

5.1. The Committee support the Bill

5.2. The department must take note of the issues raised during the public Hearings.



NEGOTIATING MANDATE

TO: The Chairperson of the Select Committee on Land and Mineral Resources

Hon. O Sefako

NAME OF BILL: Plant Improvement Bill

NUMBER OF BILL: [B8B-2015]

DATE OF DELIBERATION: 26 October 2017

VOTE OF THE LEGISLATURE:

The Gauteng Provincial Legislature supports the principle and the detail of the bill with the proposed amendments.

- Plant Improvement Bill

HON. E Magerman

Chairperson of Economic Development, Environment, Agriculture and Rural Development Portfolio Committee

GAUTENG PROVINCIAL LEGISLATURE

Date: 27 October 2017

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GAUTENG
LEGISLATURE
Your View ~ Our Vision

**ECONOMIC DEVELOPMENT, ENVIRONMENT, AGRICULTURE AND RURAL
DEVELOPMENT PORTFOLIO COMMITTEE**

**COMMITTEE REPORT ON THE NEGOTIATING MANDATE
ON THE:
PLANT IMPROVEMENT BILL [B 8B-2015]**

26th October 2017

1. INTRODUCTION

The Chairperson of the Economic Development, Environment, Agriculture and Rural Development Portfolio Committee, Mr. Errol Magerman, tabled the Committee's report on the Negotiating Mandate on the Plant Improvement Bill [B 8B-2015].

2. PROCESS FOLLOWED

The Speaker, on 29 November 2016, formally referred the Plant Improvement Bill [B 8B-2015] Section 76, to the Portfolio Committee on Economic Development, Environment, Agriculture and Rural Development referred to as the Committee, for consideration in terms of Rule 248 (1)(a) read with 250 (1) and 251.

On the 28th February 2017, the Permanent Delegate from the National Council of Provinces (NCOP), Honourable R M Mlambo gave a briefing to the Committee on the Bill. This was followed by a presentation by the National Department of Agriculture, Forestry and Fisheries on the detail of the Plant Improvement Bill [B 8B-2015]. Subsequent to that, the Gauteng Department of Agriculture and Rural Development (GDARD) made a presentation on the views of the Executive on matters related to the Plant Improvement Bill [B 8B-2015].

On the 19th October 2017, a legal opinion on the Bill was presented by the NCOP and Legal Unit from the Gauteng Provincial Legislature. In fulfilling its constitutional mandate, the Committee published adverts in the following newspapers;

- City press - Sunday 6th August 2017;
- Sowetan - Thursday 3rd August 2017; and
- Beeld - Friday 4th August 2017.

This was to enable the Committee to request members of the public and stakeholders to make comments on the Bill. Following that, the Committee convened three public hearings in the following areas:

- Friday, 26th May 2017 - Mogale City Municipality at the Nelson Mandela Community Hall
- Saturday, 27th May 2017 – Midvaal Local Municipality at the Sicelo Community Hall
- Saturday, 12th August 2017 - Ekurhuleni Metropolitan at the Bronkhorstspruit Sports Centre

The Portfolio Committee deliberated and adopted the draft report on the Negotiating Mandate of the Plant Improvement Bill [B 8B-2015] in a meeting that convened on Thursday, 26th October 2017.

3. PRINCIPLES AND DETAILS OF THE BILL

The Bill seeks to repeal the 1976 Act in its entirety and usher in a new legislative and regulatory framework that conforms with the relevant constitutional and legislative norms.

The stated purpose of the Bill as reflected in its preamble is make to provision for—

- “the registration of certain types of business relating to plants and propagating material intended for cultivation and sale and the registration of premises on or from which that business is conducted;
- quality standards for plants and propagating material intended for cultivation and sale and conditions of sale of plants and propagating material;
- a system for national listing of plant varieties;
- the evaluation of plant varieties in order to ensure value if there is doubt in respect of the value for cultivation and use of plant varieties intended for cultivation and sale; import and export control of plants and propagating material;
- and a system for different types of schemes for plants and propagating material; and to provide for matters connected therewith.”

4. OBJECTIVES OF THE BILL

The purpose of plant improvement legislation is to regulate the quality of plants and propagation material intended for cultivation and sale by means of:

- Registration of types of business and premises involved in cultivation and sale of plants and propagation material.
- National listing of plant varieties (registration of varieties).
- Conditions of sale, physical quality standards and labelling requirements for plants and propagation material.
- Import and export control of plants and propagation material.
- Improvement schemes.

5. OVERVIEW OF THE PUBLIC HEARINGS

Public hearings were attended by stakeholders and members of the public who engaged on all matters related to the Bill. Various sentiments were echoed by all who attended and a summary of all inputs are highlighted below.

6. SUMMARY OF STAKEHOLDERS SUBMISSIONS MADE DURING THE PUBLIC HEARING

As part of its functions and obligation in line with the Constitution, the Committee held public hearings where written and oral submissions were made for possible consideration. The Committee received oral and written submissions from the following Institutions: African Centre for Biodiversity and various individuals supporting its submissions; South African National Seed Organisation; and iZindaba Zokudla & Anthropology and Development Studies – University of Johannesburg.

The summary of the proposals states that:

- a) Paragraph (b) of the proposed definition of “sell” must be deleted in its entirety and that paragraph (a) is sufficient on its own. The reasoning for this assertion is that “there is no good purpose to widen the definition of sell beyond clearly defined commercial boundaries” and further, that this goes against long-held practices of sharing and exchanging materials in one’s possession with others. Inclusion of any kind of exchange in the definition of sell goes against long held practices of sharing and exchange of plant and seeds between farmers especially smaller and less commercial producers from the definition.
- b) The Bill promotes only one system of agriculture. In particular, the requirement for seed to be Distinct, Uniform and Stable promotes genetically uniform seeds for industrial farming systems and does not allow farmers’ varieties that are inherently heterogenous to be a part of South Africa’s seed markets/sectors. Further, the costs and procedures for certifying seed and the testing requirements are too onerous for smallholder farmers. This discriminates against them because they are excluded from certifying, distributing and trading their seed.
- c) There is a need for clear definitions of “commercial”, non-commercial” and “business” in the Bill, in order to facilitate exemption of smallholder farmers and their seed systems from the ambit of the Bill and to ensure that such farmers are able to freely cultivate, distribute, exchange propagate and trade in all seed under their control and in their seed systems.
- d) The penalties provided for in clause 60 for offences under clause 59 are too excessive.

7. POSITION BY THE GAUTENG DEPARTMENT OF AGRICULTURE AND RURAL DEVELOPMENT

In line with the GPL Rule 248 (1) (b) the Committee sought the views of the relevant Member of the Executive on the Bill. The Gauteng Department of Agriculture and Rural Development supports the Plant Improvement Bill [B 8B-2015] Section 76.

- The Department supports the promulgation of the Bill;
- GDARD does not interact much or if at all with the Bill as it is entrusted to DAFF;
- DAFF must ensure it has the required capacity to enforce and administer the Bill effectively;
- GDARD will continue to be guided by DAFF

8. SOCIO-ECONOMIC FINANCIAL IMPLICATIONS

The Committee observed that the Bill will have negative socio-economic impact on the farming community. These were viewed as not yielding positive socio-economic impacts for the farming community:

- The Bill caters for multinational corporations and ignores farmer managed seed systems
- The old farming system of seed saving is now being criminalized
- The Bill does not support the gene diversity that the farmer managed systems brought with.
- Gene pool diversity will diminish thus rendering the agricultural sector at risk to various calamities that could impact the sector as a result of gene uniformity.

9. COMMITTEE'S RECOMMENDATIONS

The Portfolio Committee recommends that –

It is recommended that the Bill be passed subject to the following conditions/amendments:

- (a) The definition of "sell" be amended by deleting paragraph (b) thereof.
- (b) The term "agricultural, industrial, and forestry" be defined.
- (c) Clause 15(1)(d) be amended to reflect that the date that must be reflected on the new certificate issued is the date in the initial certificate of registration. Clause 19(1) be amended to give the Minister a guided discretion by introducing a non-exhaustive list that the he/she may take into account when determining whether or not to grant an exemption.
- (d) Clauses 39(4)(b) and 49(4)(b) be amended to make the administration of an oath or affirmation be mandatory rather than discretionary.
- (e) Clause 60 be amended to remove the six-year imprisonment period in respect of offences under section 59(g), (h), (i).
- (f) Clause 64 be amended to include a clause to address the issue of new applications lodged after the commencement of the Act.
- (g) The rectification of the clerical errors.

10. NEGOTIATING POSITION ADOPTED BY THE COMMITTEE

The Portfolio Committee on Economic Development, Environment, Agriculture and Rural Development supports the principle and details of the Plant Improvement Bill [B 8B-2015] Section 76 with the proposed amendments.

**ECONOMIC DEVELOPMENT, ENVIRONMENT, AGRICULTURE AND RURAL
DEVELOPMENT PORTFOLIO COMMITTEE**

PROGRESS REPORT ON THE CONSIDERATION OF THE PLANT BILLS

31st October 2017

1. INTRODUCTION

The Chairperson of the Economic Development, Environment, Agriculture and Rural Development Portfolio Committee, Mr. Errol Magerman, tabled the Committee's report on the Negotiating Mandate on the Plant Improvement Bill [B 8B-2015] and Plant Breeder's Rights Bill [B 11B – 2015].

2. PROCESS FOLLOWED

The Speaker, on 29 November 2016, formally referred the Plant Improvement Bill [B 8B-2015] and Plant Breeder's Rights Bill [B 11B – 2015] Section 76, to the Portfolio Committee on Economic Development, Environment, Agriculture and Rural Development referred to as the Committee, for consideration in terms of Rule 248 (1)(a) read with 250 (1) and 251.

On the 28th February 2017, the Permanent Delegate from the National Council of Provinces (NCOP), Honourable R M Mlambo gave a briefing to the Committee on the Bills. This was followed by a presentation by the National Department of Agriculture, Forestry and Fisheries on the detail of the Plant Improvement Bill [B 8B-2015] and Plant Breeder's Rights Bill [B 11B – 2015]. Subsequent to that, the Gauteng Department of Agriculture and Rural Development (GDARD) made a presentation on the views of the Executive on matters related to the Plant Improvement Bill [B 8B-2015] and Plant Breeder's Rights Bill [B 11B – 2015].

3. LEGAL OPINIONS

On the 19th October 2017, a legal opinion on the Bills was presented by the NCOP and Legal Unit from the Gauteng Provincial Legislature.

4. ADVERTORIAL

In fulfilling its constitutional mandate, the Committee published adverts in the following newspapers; The advert for the Public Hearing held on Saturday, 26th & 27th May 2017 were issued on the following newspapers;

- Sowetan - Friday, 19th May 2017
- Beeld - Friday 19th May 2017
- City Press - Sunday, 21st May 2017
- Business Day - Monday 22nd May 2017

The advert for the Public Hearing held on Saturday, 12th August 2017 were issued on the following newspapers;

- City press - Sunday, 6th August 2017
- Sowetan - Thursday, 3rd August 2017
- Beeld – Friday, 4th August 2017

This was to enable the Committee to request members of the public and stakeholders to make comments on the Bill.

5. PUBLIC HEARINGS

The Committee convened three public hearings in the following areas:

- Friday, 26th May 2017 - Mogale City Municipality at the Nelson Mandela Community Hall
- Saturday, 27th May 2017 – Midvaal Local Municipality at the Sicelo Community Hall
- Saturday, 12th August 2017 - Ekurhuleni Metropolitan at the Bronkhorstspruit Sports Centre

OVERVIEW OF THE PUBLIC HEARINGS

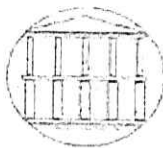
On the public hearings held on the 26 and 27 May 2017, officials from the National Department of Forestry and Fisheries did not attend. This resulted in the Legal Advisor from the Gauteng Provincial Legislature making presentations to the public on the Bills, on behalf of the National Department of Forestry and Fisheries.

Public hearings were attended by stakeholders and members of the public who engaged on all matters related to the Bills. Various sentiments were echoed by all who attended and a summary of all inputs have been captured on the negotiating mandates.

The Committee received oral and written submissions on the **Plant Improvement Bill** from the following Institutions: African Centre for Biodiversity and various individuals supporting its submissions; South African National Seed Organisation; and iZindaba Zokudla & Anthropology and Development Studies – University of Johannesburg

The Committee received oral and written submissions on the **Plant Breeder's Rights Bill** from the following Institutions: African Centre for Biodiversity and various individuals supporting its submissions; South African National Seed Organisation; and iZindaba Zokudla & Anthropology and Development Studies – University of Johannesburg; South African Institute of Intellectual Property Law, Biowatch South Africa.

IPHALAMENDE LAKWAZULU-NATALI



KWAZULU-NATAL PROVINSIALE PARLEMENT

KWAZULU-NATAL PROVINCIAL PARLIAMENT

NEGOTIATING MANDATE

TO: HON OJ SEFAKO, MP
CHAIRPERSON OF SELECT COMMITTEE ON LAND
AND MINERAL RESOURCES

NAME OF BILL: PLANT IMPROVEMENT BILL

NUMBER OF BILL: B8B – 2015

DATE OF DELIBERATION: 27 OCTOBER 2017

VOTE OF THE LEGISLATURE:

The Portfolio Committee on Agriculture and Rural Development met today, Friday the 27th of October 2017, and agreed to mandate the KwaZulu-Natal delegation to *support* the Plant Improvement Bill [B8B-2015]; with the following proposed amendments as outlined in the Committee Report, attached hereto.

.....
HON N SIMELANE-ZULU, MPL
CHAIRPERSON: PORTFOLIO COMMITTEE
ON AGRICULTURE AND RURAL DEVELOPMENT

27/10/2017
.....
DATE



MEMORANDUM**RE: AGRICULTURE AND RURAL DEVELOPMENT PORTFOLIO COMMITTEE
REPORT ON PUBLIC HEARINGS ON THE PLANT BREEDERS' RIGHTS AND
PLANT IMPROVEMENT BILLS**

Background

1.

The Plant Breeders' Rights and Plant Improvement Bills were allocated on the Agriculture and Rural Development Portfolio Committee and in terms of the constitution of the Republic are described as the section 76 bills. A special meeting of the Agriculture and Rural Development Portfolio Committee was convened and after deliberations resolved to conduct Public Hearings on three districts namely Harry Gwala, UMzinyathi and King Cetshwayo. There was a need for a Portfolio committee to conduct an education workshop due to the technical nature of the bills. The Public hearings were advertised on the local newspapers such as The Mercury, Isolezwe and ilanga inviting the relevant stakeholders and the public to attend the hearings. The Public hearings were reasonably attended by the relevant stakeholders and members of the public, the copies of the attendance registers are attached herewith for ease of reference. The stakeholders who were present during the Public Hearings made comments and questions of clarities which were responded to by the officials of the provincial Department of Agriculture and Rural Development and the legal advisor who was the presenter of the bills. The stakeholders present during the public hearings were afforded an opportunity to submit their written submissions not later than the 15th of May 2017 as advertised on the local newspapers. The deadline for written submissions to be submitted was further extended up until the 13th September 2017.

3. PLANT BREEDERS' RIGHTS AND PLANT IMPROVEMENT BILLS, 2017

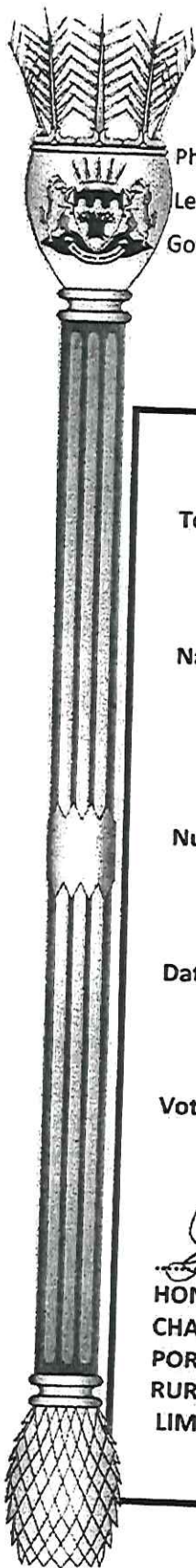
ANALYSIS OF SUBMISSIONS

PARTY MAKING COMMENT	CLAUSE	COMMENT	DEPARTMENT OF AGRICULTURE, FOREST AND FISHERIES RESPONSE, INCLUDING PROPOSED NEW/AMENDMENTS
Bio Watch South Africa	Chapter 1	<p>Plant Improvement Bill</p> <p>Application of the Act</p> <p>The scope of this law in its current form should only apply to seeds produced on large scale and by the formal seed sector.</p>	<p>The Act only applies to the kinds of plants that has been declared by the Minister and will be listed in the Regulations. The kinds of plants currently declared in terms of the Plant Improvement Act, 1976 will be the kinds declared in terms of the Bill, see attached list of plants as published in the Regulations relating to the Application of the Act (PIA, 1976)</p>
Bio Watch South Africa	23 (1)(b)	<p>We object to this provision which limits the saving of seeds to 'own use' as this will criminalise the activities of smallholders that customarily invigorate their seed by selling and exchanging with other farmers</p> <p>The clause (b) is also ambiguous – it appears that by qualifying 'own use' with 'private and non-commercial' that farmers saving and replanting seed cannot sell the produce as food. We object to this as it will again limit small-holders and further exacerbate hunger in communities.</p>	<p>The amounts of seed applicable in selling and exchanging seeds between smallholder farmers will be covered by (d) in the definition of "non-commercial" and will therefore be exempted from the provisions of the Act; if the amounts exceed that, it will be commercial scale and the provisions of the Act will be applicable.</p> <p>Regarding "own use" and "private and non-commercial", if the volume of seeds falls within the definition of "non-commercial", it will not be applicable.</p>
Bio Watch	23(2) (a)	<p>We object to qualifying the use of unprotected varieties to a non-commercial scale, as these are a common heritage developed by thousands of farmers over time and should be freely available to any person wishing to use them for cultivation or exchange.</p>	<p>The term "non-commercial" was used due to the inability to find a better word (intensely discussed especially at the May 2013 workshop in Pretoria), hence the clarification in (2) and the volumes to</p>

3. PLANT-BREEDERS' RIGHTS AND PLANT IMPROVEMENT BILLS, 2017

ANALYSIS OF SUBMISSIONS

PARTY MAKING COMMENT	CLAUSE	COMMENT	DEPARTMENT OF AGRICULTURE, FOREST AND FISHERIES RESPONSE, INCLUDING PROPOSED NEW/AMENDMENTS
		<p>What is considered a non-commercial scale needs definition.</p>	<p>indicate the limitation or border between commercial and non-commercial will be in detail in the Regulations. "Non-commercial" merely refers to the smaller than large scale volumes that is traded in commercial agriculture.</p>
	(b)	<p>Confining exemptions to unprotected varieties is unfairly discriminating against the smallholder practice of seed saving and re-use which may even inadvertently include some protected varieties.</p>	<p>Protected varieties are regulated by the Plant Breeders' Rights legislation and the necessary provisions relating to smallholder farmers are covered there. Those varieties will however be listed in the national list as the breeder will require listing to commercialise the varieties, and therefore they are not part of the unlisted "old" varieties which are provided for under this clause.</p>
<p>Bio Watch South Africa</p>	<p>52 (1) (b)</p>	<p>Advisory Committee Appointment of members One of the two members representing farmers should specifically represent the interests of smallholder farmers. The Advisory Committee should also advise the Minister, particularly in terms of the provisions of regulations.</p>	<p>The Department noted the comment.</p>



LIMPOPO LEGISLATURE

Physical Address:
Lebowakgomo
Government Complex

Postal Address:
Private Bag X 9309
Polokwane
0700

NEGOTIATING MANDATE

To : The Chairperson: SC Land and Mineral Resources

Name of Bill : Plant Improvement Bill

Number of the Bill : [B8B - 2015]

Date of Deliberation : 18 May 2017

Vote of the Legislature : Provincial NCOP Permanent Delegates to consider inputs by stakeholders and to negotiate in favour of the Bill.


.....
HON. MASEKOAMENG M.I.
CHAIRPERSON
PORTFOLIO COMMITTEE ON AGRICULTURE AND
RURAL DEVELOPMENT
LIMPOPO LEGISLATURE

18/05/2017
.....
DATE

**NEGOTIATING MANDATE OF THE LIMPOPO LEGISLATURE
PORTFOLIO COMMITTEE ON AGRICULTURE AND RURAL
DEVELOPMENT ON THE PLANT IMPROVEMENT BILL [B 8B – 2015]**

1. INTRODUCTION

The Plant Improvement Bill [B 8B – 2015] was referred to the Limpopo Legislature by the National Council of Provinces (NCOP) and the Limpopo Legislature in turn referred the Bill to the Portfolio Committee on Agriculture and Rural Development for consideration and report back to the House for conferral of mandate to the NCOP.

2. PURPOSE OF THE BILL

The Bill seeks to provide for the registration of certain types of relating to plants and propagating material intended for cultivation and sale and the registration of premises on or from which that business is conducted; quality standards for plants and propagating material intended for cultivation and sale and conditions of sale of plants and propagating material; a system for national listing of plant varieties; the evaluation of plant varieties in order to ensure value if there is doubt in respect of the value for cultivation and use a plant varieties intended for cultivation and sale; import and export control of plants and propagating material; and a system for different types of schemes for plants and propagating material, and to provide for matters connected therewith.

3. CONSIDERATION OF THE BILL

The NCOP Member, Honourable Smith F. B, and the National Department of Agriculture, Forestry and Fisheries briefed the Limpopo Portfolio Committee on Agriculture and Rural Development on the principles, objectives and provisions of the Plant Improvement Bill on Friday, 10 March 2017 at Parliamentary Village.

After the briefing session, the Portfolio Committee resolved to embark on one central public hearing in which all stakeholders throughout all the four districts and all local municipalities in the Limpopo Province will converge and deliberate on the Bill. The public hearing was held at Protea Land Mark Lodge on Friday, 07 April 2017. Over 200 relevant and affected stakeholders were invited.

The Portfolio Committee on Agriculture and Rural Development further met on 18 May 2017 for consideration and scrutinizing of the input made by the stakeholders. The Portfolio Committee having considered the input by the stakeholders, adopted this report.

4. STAKEHOLDERS INVITED

Stakeholders invited included amongst others the provincial departments dealing with plant improvement matters, nurseries and nurseries organizations, legal and academic institutions, districts and local municipalities, farmers, interested communities and individuals, organized structures interested in plant improvement matters, prospective plant improvement stakeholders; etc.

Limpopo Legislature

OFFICE OF THE SECRETARY

Physical Address:
Lebowakgomo
Government Complex

Postal Address
Private Bag X9309
Polokwane
0700

AGENDA

MEETING : **PORTFOLIO COMMITTEE ON AGRICULTURE**
DATE : **FRIDAY, 10 MARCH 2017**
TIME : **10:00**
VENUE : **PARLIAMENTARY VILLAGE**

1. OPENING AND CHAIRPERSON REMARKS
2. ROLL-CALL AND APOLOGIES
3. INTRODUCTIONS
4. BUSINESS OF THE DAY
 - 4.1 Briefing by the National Council of Provinces (NCOP) Permanent Delegate on the following Bills:
 - 5.1.1 Plant Improvement Bill [B8B-215]
 - 5.1.2 Plant Breeder's rights Bill [B11B-2015]
5. ANNOUNCEMENTS
6. CLOSURE

Tel.: (015) 633 8150 / 082 413 1007– Fax: (086 699 0444) 633 8046 / (015) 633 8119

The Limpopo Legislature provided transport for all interested and affected parties that wanted to attend the public hearing. Transport arrangements were made from all the districts and local municipalities.

5. SUBMISSIONS AND INPUTS BY THE STAKEHOLDERS DURING THE PUBLIC HEARING

1. INPUTS DURING PUBLIC HEARING

The stakeholders also submitted that:-

Clause 2 subsection 1

Application of the act should ensure that all crops are covered for certification including traditional crops and varieties and these crops should be listed in clause 24(2).

Clause 36

The Registrar must call for the applicants to motivate for their plant improvement varieties registration before they are rejected for national listing;

Clause 45

The Bill must make provision, encourage and support plant improvement schemes by local communities especially on traditional crops;

Clause 60 subsection 1

Clause (1) (a) and (b) must quantify the rand value of fine or indicate how the fine will be determined for adequate enforcement of penalties;

In conclusion, all the stakeholders appreciated the principles and objectives of the Plant Improvement Bill and, agreed that the Bill be processed into law.

6. NEGOTIATING MANDATE

The Committee, having considered the Bill and proposed amendments therefore recommends to the NCOP Permanent Delegates to vote in favour of the Bill as amended.


.....
HON. MASEKOAMENG M. I
CHAIRPERSON: PORTFOLIO COMMITTEE ON AGRICULTURE AND
RURAL DEVELOPMENT

18/05/2017
DATE



Limpopo Legislature

OFFICE OF THE SECRETARY

THE MINUTES OF THE MEETING OF THE PORTFOLIO COMMITTEE ON AGRICULTURE AND LAND REFORM HELD AT PARLIAMENTARY VILLAGE ON 10 MARCH 2017: 10H00.

1. OPENING AND WELCOME

The Chairperson welcomed the attendees and declared the meeting officially opened at 10H00. Introductions were made. He remarked that the meeting was about the briefing by the National Council of Provinces (NCOP) Permanent Delegate on Plant Improvement Bill [B8B-2015] and Plant Breeder's rights Bill [B11B-2015].

2. ROLL CALL AND APOLOGIES

Attendees :- Hon. M.I. Masekoameng; Hon. T.E. Ndlovu; Hon. M.L. Ngwenya; Hon. M.S. Chego; Hon. S.V. Mathye; Hon. M.E. Machaka; Hon.J.F. Smalle, and Hon. Smit

Apologies:- Hon. M.J. Aphiri; Hon. N.D. Masemola; and Hon. P. Sikhutshi

3. CONFIRMATION OF THE AGENDA

The agenda was confirmed without alterations.

4. BUSINESS OF THE DAY

4.1. BRIEFING BY THE NATIONAL COUNCIL OF PROVINCES (NCOP) PERMANENT DELEGATE ON THE FOLLOWING BILLS:

4.1.1 Plant Improvement Bill [B8B-2015].

4.1.2 Plant Breeder's rights Bill [B11B-2015].

The NCOP Permanent Delegate briefed the Committee on both Plant Improvement Bill [B8B-2015] and Plant Breeder's rights Bill [B11B-2015]. The committee sought clarity and the NCOP Permanent Delegate responded accordingly.

After the briefing the Committee resolved that a public hearing for the above-mentioned bills be held in a central venue. Furthermore, the secretariat should deal with logistic arrangements.

5. CORRESPONDENCES

None.

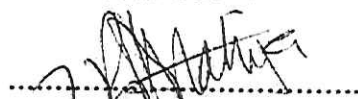
6. ANNOUNCEMENTS

None.

7. CLOSURE

The Chairperson declared the meeting closed at 12H45.

COMPILED BY:



ELLEN NDOU

COMMITTEE COORDINATOR

CERTIFIED CORRECT BY



HON. M.I. MASEKOAMENG

CHAIRPERSON: PORTFOLIO COMMITTEE ON AGRICULTURE AND LAND REFORM

18/05/2017

DATE

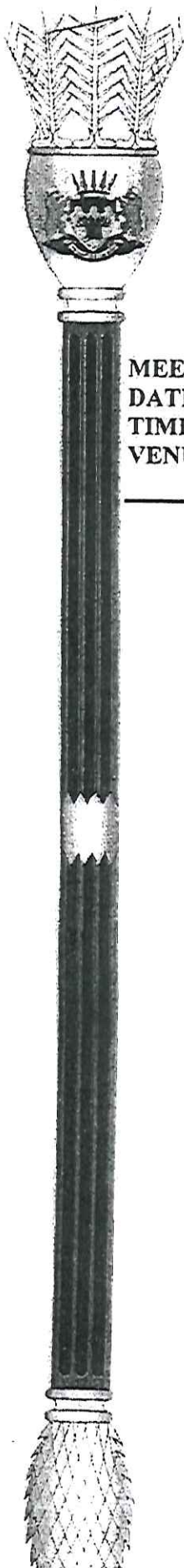
AGENDA

PUBLIC HEARINGS ON THE PLANT IMPROVEMENT BILL AND PLANT BREEDER'S RIGHTS BILL

DATE : 07 APRIL2017
TIME : 09H00
VENUE : LAND MARK LODGE

AGENDA

1. Opening and Welcoming remarks
2. Roll Call and Apologies
3. Purpose of the Public Hearing
4. Briefing on Plant Improvement Bill
Questions and inputs by the stakeholders
5. Briefing on Plant Breeder's Rights Bill
Questions and inputs by the stakeholders
6. Way forward
7. Vote of thanks
8. Announcements
9. Closure



Limpopo Legislature

OFFICE OF THE SECRETARY

Physical Address:
Lebowakgomo
Government Complex

Postal Address
Private Bag X9309
Polokwane
0700

AGENDA

MEETING : PORTFOLIO COMMITTEE ON AGRICULTURE
DATE : THURSDAY, 18 MAY 2017
TIME : 09:00
VENUE : LEBOWAKGOMO COMMITTEES BOARDROOM

1. OPENING AND CHAIRPERSON REMARKS
2. ROLL-CALL AND APOLOGIES
3. MINUTES
 - 3.1 Consideration and Adoption of the Previous Minutes
 - 3.2 Matters arising from the previous Minutes
4. Committee Resolutions from the Previous meeting
5. BUSINESS OF THE DAY
 - 5.1 Consideration and adoption of the 2016/ 17 Second Quarter Report;
 - 5.2 Consideration and adoption of the 2016/ 17 Third Quarter Report;
 - 5.3 Consideration and adoption of the Negotiating Mandate on Plant Improvement Bill;
 - 5.4 Consideration and adoption of the Negotiating Mandate on Plant Breeders' Rights Bill;
6. RESEARCH ANALYSIS ON:-
 - 6.1 2016/17 Fourth Quarter Financial and Performance Report; and
 - 6.2 2017/18 Annual Performance Plan (APP) and Budget
7. BRIEFING BY THE AUDITOR GENERAL ON INTERIM AUDIT RESULTS

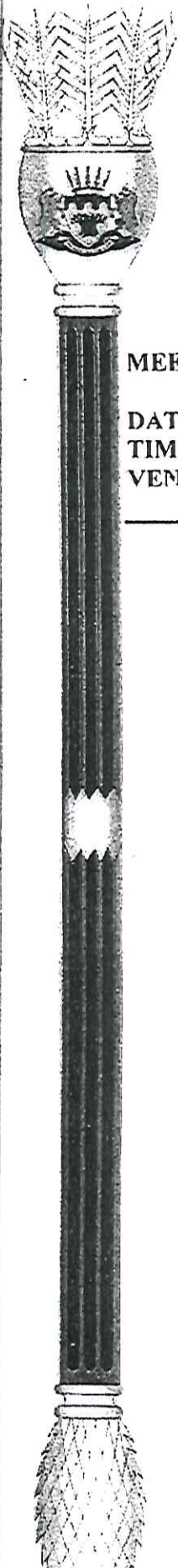
8. ANY OTHER BUSINESS

8.1

8.2

9. ANNOUNCEMENTS

10. CLOSURE



Limpopo Legislature

OFFICE OF THE SECRETARY

Physical Address:
Lebowakgomo
Government Complex

Postal Address
Private Bag X9309
Polokwane
0700

MINUTES

MEETING : PORTFOLIO COMMITTEE ON AGRICULTURE AND RURAL DEVELOPMENT
DATE : THURSDAY, 18 MAY 2017
TIME : 09:00
VENUE : PARLIAMENTARY VILLAGE

1. OPENING AND CHAIRPERSON REMARKS

The Chairperson, Honourable Masekoameng M.I officially opened the meeting at 09:00 and welcomed Honourable Members for availing themselves for the meeting. He encouraged members to feel free to deliberate on all matters before the Committee.

2. ROLL-CALL AND APOLOGIES

Present:

Honourables Masekoameng M.I; Masemola N.D; Aphiri M. J; Ngwenya M. L.; Mathye S. V and Smalle J. F.

Apologies:

Honourables Sikhutshi P and Chego S.

An apology was received from the MEC of the Department of Agriculture and Rural Development, Honourable Mapula Mokaba-Phukwana. The Portfolio Committee noted with regret the continued unavailability of the MEC and the department for accounting before the Committee.

The Portfolio Committee resolve that a letter must be written to the Speaker detailing postponed meetings due to unavailability of the MEC and the department. This unavailability was seen as hindrance for the Portfolio Committee to perform its obligations and constitutional mandate.

3. MINUTES

3.1 Consideration and Adoption of the Previous Minutes

Previous minutes were considered and adopted by the Portfolio Committee

3.2 Matters arising from the previous Minutes

The Portfolio Committee deliberated on the matters arising from the previous minutes

4. COMMITTEE RESOLUTIONS FROM THE PREVIOUS MEETING

Committee resolutions remains a standing item whenever the Portfolio Committee meet with the department.

5. BUSINESS OF THE DAY

5.1 **Consideration and adoption of the 2016/ 17 Second Quarter Report;**

The Portfolio Committee considered the Committee Report on 2016/17 Second Quarter Financial and Performance Report of the Department of Agriculture and Rural Development. Having considered the Committee Report Honourable Masemola N. D moved for the adoption of the Committee Report and was seconded by Honourable Smalle F. J.

5.2 **Consideration and adoption of the 2016/ 17 Third Quarter Report;**

The Portfolio Committee considered the Committee Report on 2016/17 Third Quarter Financial and Performance Report of the Department of Agriculture and Rural Development. Having considered the Committee Report, Honourable Masekoameng M. I moved for the adoption of the Committee Report and was seconded by Honourable Mathye S. V.

5.3 **Consideration and adoption of the Negotiating Mandate on Plant Improvement Bill;**

The Portfolio Committee on Agriculture and Rural Development considered the input and submissions by the stakeholders and the Negotiating Mandate on Plant Improvement Bill item by item. After consideration of the Negotiating Mandate Honourable Smalle F. J moved for the adoption of the negotiating mandate and was seconded by Honourable Masemola N.D. There was no object recorded from the Committee Members.

5.4 **Consideration and adoption of the Negotiating Mandate on Plant Breeders' Rights Bill;**

The Portfolio Committee on Agriculture and Rural Development considered the input and submissions by the stakeholders and the Negotiating Mandate on Plant Breeders' Rights Bill item by item. After consideration of the Negotiating Mandate, Honourable Smalle F. J moved

for the adoption of the negotiating mandate and was seconded by Honourable Masemola N.D. There was no object recorded from the Committee Members.

6. RESEARCH ANALYSIS ON:-

6.1 2016/17 Fourth Quarter Financial and Performance Report

This item was postponed to the next meeting with the department.

6.2 2017/18 Annual Performance Plan (APP) and Budget

This item was postponed to the next meeting with the department.

7. BRIEFING BY THE AUDITOR GENERAL ON INTERIM AUDIT RESULTS

The Auditor General was offered an opportunity to brief the Portfolio Committee on interim audit opinion on the 2017/18 Annual Performance Plan and Budget of the Department of Agriculture and Rural Development.

After briefing by the Auditor General Committee Members made some input, clarity seeking questions, observations and remarks.

8. ANY OTHER BUSINESS

8.1 Oversight Visits

The Portfolio Committee deliberated on the agricultural fence and bridges projects. The Committee was concerned about different charges for the same quality of job on fence projects and the competency of the department in building bridges. The Committee was further concerned about vandalism of fence and other agricultural projects.

After deliberations on the matters, the Portfolio Committee resolved to embark on oversight visits to these projects. The Committee further to start preparation and to determine who such oversight visits will take place.

9. ANNOUNCEMENTS

It was announced that the Committee will meet again on Wednesday, 24 May 2017 at Parliamentary Village at 09:00.

10. CLOSURE

The Chairperson thanked all honourable members for robust but constructive desideration during the meeting and officially closed the meeting at 13:00.

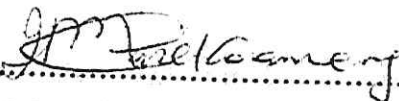
COMPILED BY:


.....

MABIJA R. P

COMMITTEE COORDINATOR

CERTIFIED CORRECT BY


.....

HON. M.I. MASEKOAMENG

CHAIRPERSON: PORTFOLIO COMMITTEE ON AGRICULTURE AND RURAL
DEVELOPMENT

24/05/2017

DATE



Rendani Phanel Mabija <mabijarp@gmail.com>

On the proposed revisions to the Plant Improvement and Plant Breeders' Rights Bills.

1 message

Martijn Smeets Photography <martijnsmeetsphotography@gmail.com>

Sat, Jun 3, 2017 at
12:34 PM

To: mtyiwani@ecleg.gov.za, kgathatson@fsl.gov.za, Dimbad@kznleg.gov.za, mabijarp@limpopoleg.gov.za, mabijarp@gmail.com, prettyma@mpuleg.gov.za, nborchard@ncpg.gov.za, karabo@nwpl.org.za, Karaborn1@gmail.com, NMayambela@wcpp.gov.za
Cc: seedhavens@gmail.com, sibusiso@acbio.org, Seed@saoso.org

Dear Sir / Madam,

I object to any revisions if they are against the public interest. The revisions as they are proposed are putting further regulations and restrictions on our farmers, and in a country where we have over 55 million mouths to feed I don't see any sensemaking in this proposal.

Although I understand the complexity of the international trade, and that one has to comply with regulations in the global market, I still think the government's priority should be the people of South Africa. In other words, the government should not embrace regulations which will have a negative impact on the population. In this case regulations are proposed that benefit mainly foreign companies while they have a negative effect on the people of South Africa.

How will these changes have a negative impact? First of all, people need food. As long as it is not for a valid reason like health risks I don't see why a government would want to regulate food production. As a matter of fact, in essential markets like food and healthcare there should not be anything like a patent or breeder's right. These practices only lead to higher prices, which consequently leads to people are going to have limited access to essential resources. I hope the government realizes that they effectively depriving their own people from food by embracing this proposal.

Another point that completely puzzles me is that in the stage wherein we really start realizing the importance of varieties and diversity the government wants to bring in restrictions. It almost looks like plain sabotage. Again we can raise the question who government is actually serving, their people or other parties? I was hoping that after the Gupta debacle government would be more aware of the influence of commercial non-political parties in their decision making. Like I mentioned above, as long as it is not for a valid reason like health risks I don't see why.....

We are still talking food here in a country full of hungry people or people with a non nutritious diet. The fact that government wants to go as far as to criminalize (yes, getting the police involved) breaching these regulations is ridiculous. In a nutshell, government is planning to knowingly deprive their own people from food and damage the eco-system, all under the watchful eye of the SAPS while the farmers are held at gunpoint by the seed supplying industry. There is a word for that, "structural violence", and it is violating human rights.

Taking this all in consideration I truly hope the government takes the right and rational decision to not implement further regulations and restrictions on our agricultural (food producing) industry.

Kind regards,

Martijn Smeets.

6/6/2017

Personal Portal

 Compose

 the Plant Im...

 Compose

Reply



the Plant Improvement and Plant Breeders' Rights Bills

andre dewet

02/06/2017 at 13:28:59

To: <mtyiwani@ecleg.gov.za> and 7 others [Details](#)

Dear sir/madam,

I am strongly opposed to these proposed new bills, as it is unconstitutional and takes away the rights of all farmers and growers.

The bills will also degrade the bio-diversity of plants and will result in fewer and fewer varieties of crops. This is a very unwise move as diversity in crops guarantee that all crops are not wiped out by some disease of pest, leaving the country in starvation.

The bills also takes away the power of the people and puts it in the hands of a few rich corporations, which sounds a heck of a lot to me like slavery! Never in the land of the free - South Africa.

Please, do not let these bills get signed into law.

Kind regards,
Andre de Wet.

Mr Mabija RP

From: Nadia Scapin <nadia.scapin@ymail.com>
Sent: Monday, June 19, 2017 10:51 PM
To: Dimbad@kznleg.gov.za; Karabom1@gmail.com; NMayambela@wcpp.gov.za; karabo@nwpl.org.za; kgathatson@fsl.gov.za; Imampe@gpl.gov.za; Mr Mabija RP; mabijarp@gmail.com; mtyiwani@ecleg.gov.za; nborcharwd@ncpg.gov.za; seedhavens@gmail.com; sibusiso@acbio.org.za
Subject: Plant Breeders and Plant Improvement bills

Good day,

Not being entirely sure who to send this email to, I decided to send to all listed email addresses available.

While I understand that you may or may not be a decision-maker in passing this legislation, I am writing this email to you as a fellow human being.

We all understand that society, as it stands, revolves around money, greed and power. This legislation that plans to be passed ticks all 3 boxes.

As a living, breathing human being, I was born into freedom. Freedom to choose, to breathe, to be fed and to fend for myself. This legislation takes away my right to choose, my right to be fed and my right to fend for myself. You may not see it that way but as soon as you legislate the growing of food, you do exactly that.

The government may have succumb to a promise of profits and taxes, but at what cost? If I am stopped from saving or giving away seeds then I am stopped from fending for myself and become reliant on a corporation to provide for me.

This has never been and will never be a way for humans to live.

I implore you to please think this through, do what is right and halt this process before it is too late.

We need seeds to feed our future generations and ourselves, by taking our right as human beings to keep and trade seeds you will be taking our human rights.

What will we as a society gain by restricting our access to seeds and prohibiting us from keeping seeds? You will not add any benefit to society but taking away from us.

The only thing necessary for the triumph of evil is for good men to do nothing. Edmund Burke

Kind regards
Nadia Scapin
0720737898

Mr Mabija RP

From: Haydn Edwards <haydne@gmail.com>
Sent: Monday, June 19, 2017 8:59 PM
To: Dimbad@kznleg.gov.za; Karabom1@gmail.com; NMayambela@wcpp.gov.za; karabo@nwpl.org.za; kgathatson@fsl.gov.za; Imampe@gpl.gov.za; Mr Mabija RP; mabijarp@gmail.com; mtyiwani@ecleg.gov.za; nborcharwd@ncpg.gov.za
Cc: seedhavens@gmail.com; sibusiso@acbio.org.za
Subject: RE: Plant Breeders and Plant Improvement bills

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While I understand that you may or may not be a decision-maker in passing this legislation, I am writing this email to you as a fellow human being.

We all understand that society, as it stands, revolves around money, greed and power. This legislation that plans to be passed ticks all 3 boxes.

As a living, breathing human being, I was born into freedom. Freedom to choose, to breathe, to be fed and to fend for myself. This legislation takes away my right to choose, my right to be fed and my right to fend for myself. You may not see it that way but as soon as you legislate the growing of food, you do exactly that.

The government may have succumb to a promise of profits and taxes, but at what cost? If I am stopped from saving or giving away seeds then I am stopped from fending for myself and become reliant on a corporation to provide for me.

This has never been and will never be a way for humans to live.

I implore you to please think this through, do what is right and halt this process before it is too late.

The only thing necessary for the triumph of evil is for good men to do nothing. Edmund Burke

ATTENDANCE REGISTER 2014/2019

PORTFOLIO COMMITTEE ON AGRICULTURE AND LAND REFORM

DATE	TIME	VENUE	CELL NUMBERS	E-MAIL ADDRESS	APOLOGIES	SIGNATURE
18/05/2017	09:00	Parliamentary Village				
1.	HON. M. I MASEKOAMENG	Legislature	082 463 2624			
2.	HON. N. D MASEMOLA	Legislature	082 857 5607			
3.	HON. M. L NGWENYA	Legislature	082 253 0339			
4.	HON. T. E NDLOVU	Legislature	082 463 2673			
5.	HON. M. S CHEGO	Legislature	072 749 6339			
6.	HON. M. J APHIRI	Legislature	082 463 2654		AP	
7.	HON. S. V MATHYE	Legislature	073 693 6094			
8.	HON. M. E MACHAKA	Legislature	082 598 6707			
9.	HON. J. F SMALLE	Legislature	083 392 3334			
10.	HON. P. SIKHUTSHI	Legislature	076 512 3497	patrickshutshi70@gmail.com	AP	

Purpose of the meeting

Consideration and Adoption of Committee Minutes and 2016/17 2nd and 3rd Quarterly Committee Report and Negotiation Mandate for Plant and Animal Breeding Rights Bill.

ATTENDANCE REGISTER FOR PLANT BREEDERS' RIGHTS AND PLANT IMPROVEMENT BILLS PUBLIC HEARING

DATE : 07 APRIL 2017 2017

TIME : 09HRS

VENUE : POLOKWANE LAND MARK HOTEL

NAME & SURNAME	ORGANISATION	CONTACT	EMAIL ADDRESS	SIGNATURE
Matombe Titi	LBARD	0793652097	titmatombe@gmail.com	
Ramulawuli AM	FARMER	0791552834	-	Ambamulawuli
NGOBENI MDP	GREATER TZANEEN MUNICIPALITY	072194266	-	MPPact
MARCUS HOKWANE	FARMER	0828698907	marcus.hokwane@gmail.com	
Hlongwane Letho	GTIM CUR	0833719366	motgael@hlongwane.com	
PETRUS M. SEKHA	FARM	0822197316	Ansekha	Peking
LINDA A. NASILELA	FARM.	0791695505	nagegandob@gmail.com	Masibhe
Malesela Masana	Nkhayika Farm	0721692838	masanab@nkhayika.com	
Maesela MO	FARM	0793016140	-	
McKegeli NCOGANA	Greater Tzaneen Municipality	0836382100	mojagachinkoana@tzaneen.gov.za	
Tiba SANE	Greater Tzaneen Municipality	076311741	munisavisi@tzaneen.gov.za	Shil
Pelikahekwa Lucy	PR CUR GTM Chairperson PEO	0789633123	lucy.pelikahekwa@gmail.com	

ATTENDANCE REGISTER FOR PLANT BREEDERS' RIGHTS AND PLANT IMPROVEMENT BILLS PUBLIC HEARING

DATE : 07 APRIL 2017

TIME : 09HRS

VENUE : POLOKWANE LAND MARK HOTEL

NAME & SURNAME	ORGANISATION	CONTACT	EMAIL ADDRESS	SIGNATURE
Jacoline Meyer	ZZZ	0822132432	Jacoline@zzzonline.com jacoline.meyer@gmail.com	
Johan van Dyk	ZZZ	0834421677	johand@zzzonline.com	
Sally	Sterkloop Expro	0729965618	Stock@sterkloop.co.za	
Maggie Tseba	Sterkloop Exp	0723112185	Yematsimelina@gmail.com	
Lina Nphantere	Lepelle Nkumpi	0714987661	Moko-Clucose@lephalale.gov.za	
Bernet Chokoe	Lephalale Local Municipality	0839577833	emdy.egross@gmail.com	
Endy Janyatsi	Tekare Okavango	0840121587	mamaosi@tzeonecni.gov.za	
Sanie Tuba	Greater Tzameen Municipality	0163717476		
Artemere Seefa	Botsalomeny	0837660636		
Dr T.S. Kusgudi	Kenya University of Agriculture and Veterinary	0734844497	Joseph.Asiwe@u.ac.zw	
ASIWE J.A.M	University of Limpopo	0738324692	mtgardi-nitiner@kumbea.gov.zw	
Mtengadi Nkwanq	Greater Tzameen Municipality	0836382100	Vusani65@gmail.com	
Vusani Nkwetshili	Limpopo Dept of Agri	0760120607		



Office of the Chairperson

PORTFOLIO COMMITTEE ON AGRICULTURE, RURAL DEVELOPMENT, LAND AND ENVIRONMENTAL AFFAIRS

Enquiries: Hon BD Dube/Adv T Mosoetsa Email: ddube@mpuleg.gov.za Tel. No.: 013 766 1009/ 1140

NEGOTIATING MANDATE

To : The Chairperson: Select Committee on Land and Mineral Resources

Name of the Bill : Plant Improvement Bill

Number of the Bill : [B 8B-2015]

Date of Deliberation : 1 August 2017

Mandate of the Legislature : The Portfolio Committee On Agriculture, Rural Development, Land And Environmental Affairs, after considering the Plant Improvement Bill, B 8B-2015 ("the Bill"), confers on the permanent delegate representing the Mpumalanga Provincial Legislature in the NCOP, the mandate to negotiate in favour of the Bill taking into consideration the views of the community members and stakeholders as contained in the attached report.

The following proposed amendments are submitted to the Select Committee:

CLAUSE 1: Definitions

- On the definition of the “Registrar” to read as follows: “Registrar” means the person contemplated in Section 3(1) and must have regional offices in the provinces.
- The definition of “sell” to read as follows: “Sell” includes —
“(a) agree to sell or to offer, keep, expose, send, convey or deliver for sale; [and
(b) to exchange or to otherwise dispose of to any person in any manner”]

Kind regards,



**HON BD DUBE
CHAIRPERSON: PORTFOLIO COMMITTEE
ON AGRICULTURE, RURAL DEVELOPMENT,
LAND AND ENVIRONMENTAL AFFAIRS**

01/08/17
DATE

REPORT OF THE PORTFOLIO COMMITTEE ON AGRICULTURE, RURAL DEVELOPMENT, LAND AND ENVIRONMENTAL AFFAIRS ON THE PLANT IMPROVEMENT BILL, [B 8B-2015]

1. INTRODUCTION

The Speaker referred the Plant Improvement Bill [B 8B-2015], (the Bill) to the Portfolio Committee on Agriculture, Rural Development, Land and Environmental Affairs (the Committee) for consideration and report back to the House in accordance with the Rules and Orders of the Mpumalanga Provincial Legislature.

In terms of Section 114 of the Constitution of the Republic of South Africa, 1996, (the Constitution) the Legislature is mandated to consider, pass, amend or reject any Bill referred to it. In considering a Bill, the Legislature is also mandated to facilitate public involvement in the legislative and other processes of the Legislature as per Section 118(1) of the Constitution. It is against this background that the Committee conducted public hearings to solicit inputs and views from members of the public on the above-mentioned Bill.

2. OBJECTIVES OF THE BILL

The purpose of plant improvement legislation is to regulate the quality of plants and propagation material intended for cultivation and sale by means of:

- Registration of types of business and premises involved in cultivation and sale of plants and propagation material.
- National listing of plant varieties (registration of varieties).
- Conditions of sale, physical quality standards and labelling requirements for plants and propagation material.
- Import and export control of plants and propagation material.
- Improvement schemes.

Only agronomy, vegetable and fruit crops are regulated. Scope may be extended to cover other crops or just certain aspects of such crops.

3. METHOD OF WORK

The Committee met with the National Council of Provinces (NCOP) Permanent Delegate, Hon AJ Nyambi, MEC, Hon VR Shongwe, and HOD, Ms SP Xulu of the Department of Agriculture, Rural Development, Land and Environmental Affairs and officials from the Department of Agriculture, Forestry and Fisheries on 21 February 2017 for a briefing on the Bill. The public hearings were conducted after publishing an invitation in the print media (Lowvelder, Provincial Media, Thaba Chweu News and Streek Nuus) in order to solicit inputs/comments from interested stakeholders and members of the public. The Public hearings were conducted on Tuesday, 16 May 2017, from 10h00 – 13h00 in the following Districts.

DISTRICT	VENUE
Ehlanzeni	Mashishing Community Hall - Thaba Chweu Local Municipality
Nkangala	Botleng Extension 5 Community Hall – Victor Khanye Local Municipality
Gert Sibande	Thuthukani Community Hall – Msukaligwa Local Municipality

The committee thereafter met on 26 May 2017 and 1 August 2017 to consider the draft report on the Bill, noting that the written submissions on the Bill were extended until 31 July 2017.

4. INTERACTION BY THE COMMITTEE WITH THE PERMANENT DELEGATE AND THE DEPARTMENT OF AGRICULTURE, FORESTRY AND FISHERIES

The Permanent Delegate gave a brief political overview on the Bill and reported that:

- The Bill had been tagged as a Section 76 Bill, which means it affects provinces.
- He raised a concern on the technicality of the Bill and that it might not be well understood by members of the public.
- He reported that plant improvement is an important element of agricultural production, involving the development of improved varieties by means of breeding or selection.
- He reported that legislation regulating propagation material contributes to order in the agricultural production sector, trust in the national systems, leading to international trade and establishment of markets and ultimately to food and job security.

4.1. Briefing by the Department of Agriculture, Forestry and Fisheries

The Department highlighted the background on the Bill as follows:

- The Bill seeks to amend the Plant Improvement Act that was passed in 1976.
- Plant improvement has been practiced for thousands of years. Many of the well-known agricultural crops originated from domesticated varieties taken from the wild to produce food.
- Propagation material is the foundation of agricultural production and the quality thereof impacts significantly on the food security of the country. Propagation material refers to any reproductive or vegetative material that may be used for producing other plants of the same variety, e.g. seed, bulbs, cuttings, tubers.
- Legislation regulating propagation material contributes to order in the agricultural production sector, trust in the national systems, leading to international trade and establishment of markets and ultimately to food and job security.

- The Bill recognized that:
 - ❖ the importance of quality propagating material to support sustainable agricultural production.
 - ❖ the important role quality standards for plants and seed as well as standards for types of business dealing with plants and seed towards food security.
 - ❖ the important contribution of the seed trade to the economy (e.g. global markets require adherence to internationally accepted quality standards for plants and seeds).
 - ❖ the importance of promoting wider participation in the seed sector (other types of businesses, community seed production, etc.).

- Major shortcomings in the principal Act are:
 - ❖ The current Act dates from 1976 and does not cater for recent developments
 - ❖ Penalties, policing and enforcement of the Act are not effective.
 - ❖ Emerging problems threatening the sustainability of the seed industry.
 - ❖ Examples include: farm saved seed or seed retention.
 - ❖ Difficulty in facilitating the participation of small-holder farmers in current certification schemes.
 - ❖ Structure of the current Act is too cumbersome and thus difficult to read.

4.2. Overview of the Plant Improvement Bill

Section 1: Definitions (interpretation of terminology)

Chapter 1 Application of the Bill

Section 2 - types of crops covered, how to extend to more crops

Bill only applicable on crops as declared, Minister may extend upon application.

Chapter 2 Registrar and Administration

Sections 3-8: designation and functions of Registrar, discretionary powers, registers, inspection (viewing) of documents.

Chapter 3 Registration of Business and Premises

Sections 9-21: types of business requiring registration, application and registration procedure, requirements, termination

Chapter 4 Conditions for sale

Sections 22-23: requirements for plants and propagating material, exemptions for certain plants and propagating material; detail to be contained in Regulations.

Chapter 5 National Varietal List

Sections 24-26: content, maintenance and publication of list and removal of varieties

Chapter 6 Application for National Listing

Sections 27-32: varieties eligible for listing, procedure for application, documentation and objection

Chapter 7 Variety Denominations

Sections 33-34: requirements for denominations, related to Chapter 6

Chapter 8 Evaluation for Distinctness, Uniformity, Stability (DUS)

Sections 35-37: requirements for testing and decision making, related to Chapter 6

Chapter 9 Value for Cultivation and Use (VCU)

Section 38: optional evaluation for value and use

Chapter 10 Hearing of Objections

Section 39: procedure for hearings by Registrar

Chapter 11 National Varietal List Journal

Section 40: journal and its content, related to Chapters 6 and 8

Chapter 12 Inspections

Sections 41-42: procedures for inspections and inspection on grounds of warrant

Chapter 13 Import and Export of Plants and Propagating Material

Sections 43-44: requirements and procedures

Chapter 14 Schemes

- ❖ Executive Mayors of Thaba Chweu, Msukaligwa and Victor Khanye Local Municipalities
- ❖ Speakers of the Thaba Chweu, Msukaligwa and Victor Khanye Local Municipalities
- ❖ Ward Committees
- ❖ Community Development Workers

During the public hearings, members of the committee explained the purpose of the Bill thoroughly and in local languages. The Committee also reported that the closing date for written submissions on the Bill will be Monday, 22 May 2017 (which was later extended to 31 July 2017) and also responded to the questions of clarity raised thereafter. The stakeholders who were present at the public hearing raised concerns which were also related to the Bill as follows:

1) Mashishing Community Hall - Thaba Chweu Local Municipality

Members of the Portfolio Committee engaged with the community which was attended by community members from Bushbuckridge, Barberton, Nkomazi, Kabokweni and surrounding areas.

The community raised the following in relation to the Bill:

- a) The Bill should be written in all official languages so it can be easy to understand.
- b) Registration offices should be located near the people so that it can be easy to register and make follow-ups on the registration outcomes.
- c) It seems that it will be difficult for the people to use the Bill to their advantage due to inequalities that exist. The issuing of licenses will make many people to fail the application process.
- d) There is no market for produced crops in the Lydenburg area. One member of the public wanted to improve wheat and potato, but felt that such crops have

already been improved. It was also proposed that at least the new improved crops should be given Nguni/ indigenous names.

- e) Possible exploitation of black farmers which may be caused by the Bill and there must be involvement of all farmers in the processing of the Bill.

2) Botleng Extension 5 Community Hall – Victor Khanye Local Municipality

- a) On the registration of businesses, community members raised a concern that small farmers will suffer because they are still trying to grow and they do not have the money to register their businesses,
- b) Community members wanted to know what will happen to the people who are ploughing their vegetables at home and sell them to the community to make a living, and find out that people are sick because of their product, will they be prosecuted and how can the Bill assist those small farmers.

3) Thuthukani Community Hall – Msukaligwa Local Municipality

- a) The Bill seeks to empower commercial farmers' more than upcoming farmers.
- b) The Bill is too technical to be understood by most farmers that are affected.
- c) Community members requested for more public engagements on the Bill as it affects more un-educated farmers.

8.2. Written submissions

Written submissions were received from members of the public and various stakeholders and they were considered by the Committee. The written inputs included the following:

1. African Center for Biodiversity:

- There is a major problem with the inclusion of any kind of exchange in the definition of 'sell'. This goes against long-held practices of sharing and exchange of plants and seeds between persons.
- The distinction made by Ben Cousins from PLAAS at the University of the Western Cape makes between smallholders (land size measured in area) and small-scale farming (business size measured in turnover) should be followed.
- Farmers, especially smaller and less commercial producers should be removed from the definition.
- There are no clear definitions on 'business' or 'commercial' which makes it difficult to know to whom exemptions will apply. Exemptions from the law are crucial for a diverse range of smallholders and small enterprises to allow local innovation and adaptation to flourish.
- There are questions about what happens to varieties that do not appear on the National Varietal List, i.e. those that are not registered. There are many less commercial crops and varieties, including indigenous, that serve an important role in the circulation of planting material for smallholder farmers and in maintaining agricultural biodiversity. Diversity is essential to diffuse risk and to offer alternative options to reduce dependency.
- The Distinct, Uniform and Stable (DUS) criteria for listing a plant on the national varietal list is too static and is inappropriate for accommodating farmer varieties. The criteria are too inflexible and exclusive in the face of the need to maintain and protect agricultural biodiversity, respond adequately to climate change, and to diffuse risk.

- With regard to the importance of quality control, it was proposed that more flexible and locally negotiated, participatory quality control protocols (e.g. quality declared seed, participatory guarantee schemes) are required to accommodate smallholder farmers and small-scale enterprises for production and exchange of seed, plants and propagating material, variety registration and listing, and cross-border trade.
- A concern was raised that the Bill goes further than the existing Act in penalising farmer to farmer exchange of seed and planting materials. Although there are exemptions, their application needs to be firmly stated. Inclusion of exchange in the definition of sale, as mentioned, suggests a severely restricted space for farmer to farmer exchange and sharing in future.

2. **Golda Deaks**

The stakeholder requested the Legislature not to strip them of the right to produce natural seeds from heirloom stock. Open pollination is a natural process and nature cannot be regulated. An opposition to the Bill was made to the effect that it aims to impoverish and unreasonably diminish the natural abundance of plant life.

3. **Andrew Macgregor - Green Energy and Forensic Consultant**

Government has a **constitutional duty** to support and strengthen **ALL** farmers' seed systems through training of farmers in seed production, cleaning, and storage of their own varieties. Government must create an enabling legal environment that is **just and equitable** and allows small seed enterprises to enter the seed market and trade in Open Pollinated and Farmers' varieties.

4. The following stakeholders also commented on the Bill:

- Stephen Barrow
- Linzi Lewis
- Anthena Mazarakis
- Delia Oosthuizen
- South African Food Sovereignty Campaign
- Zane Lambert
- Lesego Monyai
- Jane Harley
- Lourens Steenkamp
- Alet Van Wyk
- Biodynamic Agricultural Association of South Africa
- Justin Johnson
- Lucia Rodriguez Garcia
- Haydn Edwards
- Andrew Rathbone
- Leon Greef
- Elvorne Palmer
- Kylie Schafer
- Benjamin Pyatt
- Elsie van den Bergh
- Mieke Krynavw
- Katlego Mathibedi
- Polly Anderson
- Anthea Torr
- Helena Paul
- Charl Roux
- Lee Howe
- Andre Shirley

- Daryl Fuchs
- Wendy Stayte
- Louise van Straaten
- Martin Dower
- Johan Blingaut
- Beatriz Tainta

The above-mentioned stakeholders submitted that:

1. The Bill defines selling as “any way in which the material is disposed of including to sell; or to offer, keep, expose, send, convey or deliver for sale; or exchange; or dispose of to any person in any manner.”
2. Although the Bill does exempt Open Pollinated Varieties (OPVs) that are not protected by a plant Breeders’ Right these may only be cultivated and sold (exchanged) on a non-commercial scale – but what non-commercial means will be spelled out in regulations that must still be made. To register on the national varietal list the seed must be tested to prove that it is ‘distinct, uniform and stable’ over generations (DUS) and have value for cultivation and use (VCU). These requirements rule out heritage and farmers’ varieties, which are inherently diverse (and thereby resilient).

Smallholders will struggle to pay the fees and comply with the standards. In practice, therefore, the Bill will limit smallholder farmers to only saving seed for their own use, and limit exchange of seed to very small amounts of certain types of crops that are yet to be defined in regulations. This will weaken heritage and farmer seed systems which rely on exchange for seed vigour and diversity, and will prevent farmers from substantially sharing or selling seed thus making farmers steadily dependent on the corporate sector’s uniform seed varieties and preventing smallholders from progressing beyond subsistence.

3. The Bill therefore promotes only one system of agriculture, viz that dependent on agrochemicals and commercialised seed production, at the expense of traditional agriculture practices and modern, regenerative agroecological methods of production.
4. Both gene and crop diversity are essential to productivity and our food sovereignty, underscored by climate change, increasing poverty and the lack of household and thus national food security. The need for diversity is further underscored by the science of Epigenetics, “the study of potentially heritable changes in gene expression (active versus inactive genes) that does not involve changes to the underlying DNA sequence — a change in phenotype without a change in genotype — which in turn affects how cells read the genes” (quoted from <https://www.whatisepigenetics.com/fundamentals/>, accessed on 16 July 2017).
5. Farmers using agroecological methods of farming such as Traditional Agriculture, Low External Input Sustainable Agriculture, Organic Agriculture and Biodynamic Agriculture need access to appropriate, diverse and quality seed.
6. Farmers who have their production certified as organic according to international standards for export purposes stand to lose their certification which requires the use of certified organic plant material which historically is either not generally available or in very short supply in South Africa.
7. DUS-compliant seed is not able to deal with context-specific needs of farmers and the different sectors of the South African farming community, or to ensure that there is a wide diversity of seed available to support diverse farming systems.

8. The historical sharing and exchange of seed, common practices in Traditional, Low External Input, Organic and Biodynamic Agriculture, has resulted in the crop domestication and diversity which humankind relies on today. It has also played a vital role in social cohesion and goodwill. The stakeholder strongly objects to the criminalisation of these practices which are God-given birth rights.

9. Farmers must be freely allowed to cultivate, distribute, exchange, propagate and trade in all seed in their seed systems. This is essential as Agroecology is currently seen as the only viable system for poverty alleviation and long-term ecological sustainability of our food systems. The Bill must give space for this system to also become economically viable. Seed legislation must allow farmers to market their seed in the seed sector. Government must design, in consultation with farmers, appropriate mechanisms for voluntary, farmer-led quality standards for the marketing and trade of farmers' varieties.

10. It is unfair for the Bill to promote only one system of agriculture.

The requirement for seed to be distinct, uniform and stable – DUS compliant – promotes genetically uniform seeds for industrial farming systems and does not allow farmers' varieties that are inherently heterogeneous to be part of South Africa's seed markets/sectors.

11. The costs and procedures for certifying seed and the testing requirements are too onerous for smallholder farmers, thereby discriminating against them, as they are excluded from certifying, distributing and trading their seed; indeed their seed systems are excluded from being part of the South African seed sector.

12. The historical sharing and exchange of seed has resulted in the crop domestication and diversity humankind relies on today. It has also played a vital role in social cohesion and goodwill. It is therefore incorrect for the Bill to criminalise these practices.

Recommendations in response to the points made above are as follows:

- Farmer-managed seed systems and the exchange, distribution and sale of seed grown by small-scale farmers must be exempt from the provisions of the Bill.
- Clause 45(1) enables the Minister to “establish schemes with the object of maintaining the quality of plants and propagating material of those kinds of plants and of ensuring the usefulness for agricultural or industrial purposes of the products”. This gives the government the opportunity to consult with small-scale farmers, in order to set up appropriate and supportive voluntary certification schemes for farmers’ varieties, so that such varieties can be exchanged, distributed and marketed.
- Clear definitions of “commercial”, “non-commercial” and “business” are lacking in the Bill. These are needed in order to unambiguously exempt smallholder farmers and their seed systems from the ambit of the Bill and to ensure that such farmers are able to freely cultivate, distribute, exchange, propagate and trade in all seed under their control and in their seed systems.
- In order to ensure that farmers have the right to freely exchange and sell their varieties, b) must be removed from the definition of “sell” in clause 1 of the Bill to read as follows:
“Sell” includes —
“(a) agree to sell or to offer, keep, expose, send, convey or deliver for sale;
[and

(b) to exchange or to otherwise dispose of to any person in any manner”]

9. FINDING

- a) There has been extensive consultation on the Bill.
- b) Generally, members of the public were in support of the Bill as presented and requested that it be passed into law.
- c) The critical comments and inputs made by the public regarding the Bill were duly considered and should be incorporated in the negotiating mandate to the NCOP. It was also noted that some of the submissions from the public were covered in the Bill and some matters will be covered by means of Regulations after the Bill becomes an Act.
- d) The Plant Improvement Act 53 of 1976 and other related pieces of legislation will be repealed when the Bill is passed into an Act.

10. RECOMMENDATION

The Portfolio Committee on Agriculture, Rural Development, Land and Environmental Affairs, after considering the Bill, supports the Bill as introduced in Parliament by the Department of Agriculture, Forestry and Fisheries. The delegation representing the Province of Mpumalanga in the National Council of Provinces (NCOP) is therefore conferred with authority and mandated to vote in favour of the Plant Improvement Bill [B8B-2015] with proposed amendments, taking into account the inputs and observations noted in this report and the proposed amendments articulated in the Negotiating Mandate, attached hereto.

11. CONCLUSION

The Chairperson wishes to thank the Honourable Members, all members of the public for their worthwhile participation in the public hearings and for the inputs or comments they have made. A word of gratitude to the MEC, Hon VR Shongwe, HOD, Ms. SP Xulu, the Senior Officials of the Department of Agriculture, Rural Development, Land and Environmental Affairs and Department of Agriculture, Forestry and Fisheries, Executive Mayor and Speaker of the Thaba Chweu, Victor Khanye and Msukaligwa local municipalities for their efforts in ensuring that the committee meets its obligation and the support staff who contributed to the success of the public hearings and the production of this report.



HON BD DUBE
CHAIRPERSON: PORTFOLIO COMMITTEE
ON AGRICULTURE, RURAL DEVELOPMENT,
LAND AND ENVIRONMENTAL AFFAIRS

01 / 08 / 17
DATE



**PORTFOLIO COMMITTEE ON
AGRICULTURE, LAND REFORMED,
RURAL DEVELOPMENT,
ENVIRONMENT & CONSERVATION**

Private Bag X5066
Kimberley 8300
Nobengula Extension
Galeshewe
Kimberley 8300

Fax: Admin (053) 839 8094
Tel: (053) 839 8206

Hon MP OJ Sefako (Mr)
Chairperson: Select Committee on Land and Mineral Resources

NEGOTIATING MANDATE

Name of the Bill: **Plant Improvement Bill**

Number of the Bill: **B8B – 2015**

Date of deliberation: **Wednesday, 24 May 2017**

Vote of the Legislature: **The legislature vote in favour of the Bill**

A handwritten signature in black ink, appearing to be "OJ Sefako", written over a horizontal line.

Signature:
Chairperson

2017-05-24

Date:





Northern Cape
Provincial Legislature

Postal Address
Private Bag 5066
Physical Address
kimberley 8300
Fax: Admin (053) 839
8094
Tel: (053) 839 8206

To: Hon MP OJ Sefako
Chairperson of Select Committee on Land and Mineral Resources

From: Hon F Makatong
Chairperson PC on Agriculture, Land Reform, Environment & Conservation

Date: 2017-10-20

RE: NEGOTIATING MANDATE (PLANT IMPROVEMENT BILL & PLANT BREEDERS' RIGHT BILL)

This communicate serves to inform you that the portfolio committee received numerous written submissions via email on the plant improvement bill and plant breeders' right bill after the extension of written submission was granted by NCOP.

The committee on the 20 October 2017 deliberated on these written submissions and took a decision that initial negotiating mandate submitted on May 2017 indicating that the committee received no submissions, should remain unchanged.

The committee took a decision not to include these written submission based on the following:

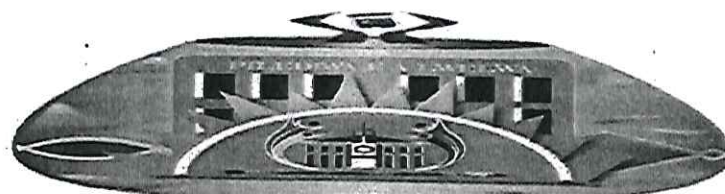
1. There are no submissions from Northern Cape Province amongst submissions received
2. These submissions were sent to all nine legislatures, including Parliament.

Should you require any further information, please do not hesitate to contact Committee Coordinator at ext 8206 / 072 596 3076.

Thank You,

A handwritten signature in black ink, appearing to be 'F Makatong', written over a circular stamp.

HON F MAKATONG
CHAIRPERSON: PORTFOLIO COMMITTEE ON AGRICULTURE, RURAL
DEVELOPMENT, LAND REFORM, ENVIRONMENT & CONSERVATION



NORTH WEST PROVINCIAL LEGISLATURE

NEGOTIATING MANDATE

TO : CHAIRPERSON OF THE SELECT COMMITTEE ON LAND AND MINERAL RESOURCES

NAME OF BILL : PLANT IMPROVEMENT BILL

NUMBER OF BILL : B 8-2015

DATE OF DELIBERATION : 03 MAY 2017

VOTE OF THE LEGISLATURE:

After deliberations, the Portfolio Committee on Tourism & Agriculture, Rural Development & Environment confers the delegation representing the North West Province with the authority and mandate to negotiate in favour of the Plant Improvement Bill [B8 – 2015].

J M Maluleke

HON. J M MALULEKE

03/05/2017

DATE

CHAIRPERSON: Tourism & Agriculture, Rural Development & Environment

4. National Food Security:

It is observed that multinational seed companies dominate the South African seed industry. This implies that South Africa's food security is in the hands of these multinational corporations, which risks South Africa's food and nutritional security. It is further observed that South Africa's economic partners within the BRICS community (i.e. India and Russia) have actively taken steps to protect the sovereignty of their seed supplies in the interest of national security. Therefore, it is submitted that the Bill may compromise the constitutional right to food and nutritional security.

Refer to Section 27 of the Constitution, 1996.

5. Farmer-based seed experimentation:

The Bill does not recognise farmers' ongoing seed reproduction practices, nor does it recognise the role of farmers in maintaining and promoting seed diversity. Farmer-based experimentation, maintenance and reproduction of seed, as well as farmer-to-farmer exchange, are core activities that ensure agricultural biodiversity and adaptation of varieties to local conditions (including drought and climate change). The *Plant Improvement Bill* not only fails to make provision for the protection and promotion of these activities, but may also serve as an attempt to criminalise these activities by including any kind of seed exchange in the ambit of the law, and thus imposing inflexible requirements onto smallholder farmers and informal traders. This, it is submitted, will lead South Africa down the path of eliminating smallholder production of diverse products.

6. The lack of clear definitions for "commercial", "non-commercial" and "business":

Clarity is needed for the above terms in the Bill in order to unambiguously exempt smallholder farmers and their seed systems from the ambit of the Bill and to ensure that such farmers are able to freely cultivate, distribute, exchange, propagate and trade in all seed under their control and in their seed systems.

7. Conflict with health targets as adopted at the United Nations Summit on Sustainable Development:

The Bill does not assist in creating an environment for small-scale farmers' input to help meet the Sustainable Development Goals health targets adopted at the United Nations Summit on Sustainable Development in September 2015. The government needs to look at all possible ways to address the root causes of rising non-communicable diseases in South Africa, malnutrition and food insecurity, while supporting small-scale and subsistence farmers. The United Nations has often called for agro-ecology as the best system for smallholder farmers.

Given the above reasons for not supporting the Bill, the Committee RECOMMENDS that:

- a) The entire contents of the proposed *Plant Improvement Bill* should be revised; and/or
- b) There should be separate legislation that speaks to and addresses the concerns and interests of "informal", small-scale, and part-time farmers.



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