



GAUTENG
LEGISLATURE
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OFFICE OF THE SPEAKER

FINAL VOTING MANDATE

TO: The Chairperson of the National Council of Provinces.

Hon T Modise

NAME OF BILL: Plant Improvement Bill

NUMBER OF BILL: [B8D-2015]

DATE OF DELIBERATION: 04 May 2018

VOTE OF THE LEGISLATURE:

The Gauteng Provincial Legislature supports the principle and detail of the bill and therefore votes in favour of-

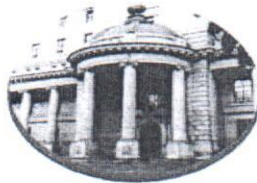
- Plant Improvement Bill

HON NTOMBI MEKGWE

SPEAKER

GAUTENG PROVINCIAL LEGISLATURE

Date: 04/05/2018



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

**FINAL MANDATE
ON THE:
PLANT IMPROVEMENT BILL [B 8D-2015]**

4th May 2018

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 Final Voting Mandate on the Plant Improvement Bill [B 8D-2015].

2. PROCESS FOLLOWED

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

At the meeting held on Thursday, 3rd May 2018, the committee having considered the Minutes of the NCOP Select Committee on Economic and Business Development, deliberated and adopted the Final Voting Mandates on the Plant Improvement Bill [B 8D-2015].

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. 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.

6. FINAL POSITION ADOPTED BY THE COMMITTEE

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

In terms of the Section 65 of Constitution, the Portfolio Committee on Economic Development, Environment, Agriculture and Rural Development confer authority on the Gauteng Provincial Delegate/s to National Council of Provinces to **vote in favour** on the Plant Improvement Bill [B 8D-2015].



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FINAL VOTING MANDATE

TO: The Chairperson of the National Council of Provinces.

Hon T Modise

NAME OF BILL: Plant Breeder's Rights Bill

NUMBER OF BILL: [B11D-2015]

DATE OF DELIBERATION: 04 May 2018

VOTE OF THE LEGISLATURE:

The Gauteng Provincial Legislature supports the principle and detail of the bill and therefore votes in favour of-

- Plant Breeder's Rights Bill

HON NTOMBI MEKGWE

SPEAKER

GAUTENG PROVINCIAL LEGISLATURE

Date: 04/05/2018



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

FINAL MANDATE

ON THE:

PLANT BREEDER'S RIGHTS BILL [B11D-2015]

4th May 2018

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 Final Voting Mandate on the Plant Breeder's Rights Bill [B11D-2015].

2. PROCESS FOLLOWED

The Speaker, Hon. Ntombi Mekgwe formally referred the Plant Breeder's Rights Bill [B11D-2015], a Section 76 Bill on the 29th November 2016 to the Portfolio Committee on Economic Development, Environment, Agriculture and Rural Development, in terms of GPL Rules 248 (1) read with 250 (1) and 251 for consideration and reporting.

At the meeting held on Thursday, 3rd May 2018, the committee having considered the Minutes of the NCOP Select Committee on Economic and Business Development, deliberated and adopted the Final Voting Mandates on the Plant Breeder's Rights Bill [B11D-2015].

3. PRINCIPLES AND DETAILS OF THE BILL

The principle of the Bill is to provide for a system where under plant breeders' rights relating to varieties of certain kinds of plants may be granted; for the requirements that have to be complied with for the grant of such rights; for the scope and protection of such rights; and for the grant of licenses in respect of the exercise of such rights; and to provide for matters connected therewith.

4. OBJECTIVES OF THE BILL

The Bill seeks to give protection to the holder of a plant breeder's right by requiring prior authorisation for the duration of the plant breeder's right from that holder, by way of a licence granted or issued in terms of clause 34 or clause 36, by any person intending to undertake—

- The production or reproduction (multiplication) of the protected variety;
- The conditioning for the purposes of propagation of the protected variety;
- The sale or any other form of marketing of the protected variety;
- The exporting of the protected variety;
- The importing of the protected variety; or
- The stocking of the protected variety for any of the purposes referred to above.

The Bill also provides that a plant breeder's right in respect of a variety obtained in a legitimate manner does not extend to a farmer who uses the protected variety under certain circumstances as regulated under the Bill (the farmers' privilege provision). "Agriculture" and "Trade" are functional areas of concurrent national and provincial legislative competence listed in Schedule 4 to the Constitution. Since the provisions of the Bill in substantial measure fall within concurrent provincial legislative competences, the Department and the Office of the Chief State Law Adviser are therefore of the opinion that the Bill must be dealt with in accordance with the procedure established by section 76(1) or (2) of the Constitution.

5. 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 does not acknowledge the seed systems that farmers have used for generations and seems to infringe on an inalienable right for farmers to plant and exchange seed
- The Bill seeks to transfer the rights of farmers to save and exchange seeds to multinationals yet this practice has been going on for centuries
- The Bill does not balance the rights of the farmers against those that have been conferred to breeding companies.

6. FINAL POSITION ADOPTED BY THE COMMITTEE

The Portfolio Committee Economic Development, Environment, Agriculture and Rural Development supports the principle and details of the Plant Breeder's Rights Bill [B11D -2015] Section 76 with the proposed amendments.

In terms of the Section 65 of Constitution, the Portfolio Committee on Economic Development, Environment, Agriculture and Rural Development confer authority on the Gauteng Provincial Delegate/s to National Council of Provinces to **vote in favour** on the Plant Breeder's Rights Bill [B11D -2015].