**6. Report of the** **Portfolio Committee on Trade and Industry on the Performers’ Protection Amendment Bill [B 24 – 2016] (National Assembly – sec 75), dated 15 November 2018:**

The Portfolio Committee on Trade and Industry, having considered the subject of the *Performers’ Protection Amendment Bill*[B 24 – 2016] (National Assembly – sec 75), referred to it and classified by the Joint Tagging Mechanism (JTM) as a section 75 Bill, presents a redraft of the Bill [B 24B – 2016].

**A. Process followed by the Committee on the Performers’ Protection Amendment Bill**

1. The Bill was introduced to Parliament and referred to the Committee on 2 December 2016.
2. The Committee held a workshop with the Department of Trade and Industry (DTI) on intellectual property and the key concepts related to the Performers’ Protection Amendment Bill on 7 February 2017. It also received a briefing on the Performers' Protection Amendment Bill on 21 February 2017.
3. The Committee advertised and called for written submissions in national, provincial and regional newspapers in all official languages from 19 January until 6 February 2017. The Committee received 22 submissions.
4. Due to the cross-references with the Copyright Amendment Bill, which had not yet been tabled, the Committee resolved to await the tabling of the Copyright Amendment Bill to ensure alignment between the two Bills. The Copyright Amendment Bill was subsequently introduced on 16 May 2017.
5. On 5 September 2018, the Committee was briefed by the DTI on the linkages between the Copyright Amendment Bill and Performers’ Protection Amendment Bill.
6. The Committee resolved to call for supplementary submissions related to the cross-references to the Copyright Amendment Bill. A communication was sent to stakeholders on 28 June 2018 with the closing date on 20 July 2018.
7. On 13 and 14 September 2018, the Committee held public hearings on the Bill.
8. On 9 and 17 October 2018, the Committee proceeded to deliberate on the Bill and, informed by these deliberations, resolved to call for written submissions on additional clauses on 17 October 2018, namely:
* Deletion of the definition of broadcast (Clause 1(b));
* The deletion of the definition of “cinematograph film” (Clause 1(c));
* The deletion of the definition of “fixation” (Clause 1(e));
* The substitution of the definition of “performance” (Clause 1(f));
* The new definition of “producer” (Clause 1(h));
* The new definition of “sound recording” (Clause 1(j)).;
* The provision for royalties or equitable remuneration (Clause 2 – Section 3(4)(a) and (g));
* The distribution right (Clause 2 – Section 3(4)(h) and Clause 4 – section 5*(a)*(vii));
* The requirement for the agreement to be subject to standard terms and conditions in (a), and minimum content in (b) (Clause 3 – Section 3A(3)(a) and (b));
* Making the equal remuneration subject to a contract (Clause 3 – Section 3B(2));
* New process regarding recording and reporting and providing for an offence in this regard (Clause 4(c) – Section 5(1)(1A) and (1B));
* Regulations (Clause 6 – Section 8D(3) and (4));
* Prohibited conduct and exceptions in respect of technological protection measures and copyright management information (Clause 7 – Section 8E to 8H);
* Offences (Clause 8 – Section 9);
* Amendment to certain expressions in Act 11 of 1967 (Clause 9); and
* Transitional provisions (Clause 10).
1. The deadline for additional submissions was 1 November 2018, and the Committee received eight submissions.
2. Consequently, this decision also included clauses that required permission from the National Assembly to go beyond amending the sections in the Act, as envisaged in the Performers’ Protection Amendment Bill [B 24-2016].

The additional sections were as follows:

* Section 8D of Act 11 of 1967 as inserted by section 2 of Act 28 of 2013 (Clause 6);
* Section 9 of Act 11 of 1967 as amended by section 23 of Act 38 of 1997 (Clause 8);
* Expressions amended (Clause 9); and
* Transitional provisions (Clause 10).
1. On Tuesday, 30 October 2018, the National Assembly granted permission to the Portfolio Committee on Trade and Industry to inquire into amending these other provisions of the Performers’ Protection Act (No. 11 of 1967) in terms of Rule 286(4)(c).
2. On 8 November 2018, the technical drafting team, consisting of the senior parliamentary legal advisor and the Department of Trade and Industry, submitted a redrafted Bill based on public comments received, as well as deliberations conducted by the Committee, for the Committee’s consideration.
3. The Committee spent four days deliberating on the Bill and formally considered and adopted it on Thursday, 15 November 2018.
4. No consensus was reached on a number of clauses. The Democratic Alliance objected to the following:
* Clause 3 – Section 3A(3)(a): They objected to the inclusion of the words “compulsory and standard contractual terms” and proposed that this read as “recommended terms”.
* Clause 6 – Section 8D(3): They objected to the Minister being able to prescribe compulsory and standard contractual terms.
1. However, the majority agreed to all clauses in the Bill.

**B. Minority views were expressed on the following aspects contained in this report**

The Democratic Alliance objected to the report.

**C. Recommendation**

The Portfolio Committee on Trade and Industry recommends that the House adopts this report and approves the second reading of the redrafted Bill.

Report to be considered.