NATIONAL ASSEMBLY

QUESTION NO. 4092-2022

FOR WRITTEN REPLY

**DATE OF PUBLICATION IN THE INTERNAL QUESTION PAPER: 4 NOVEMBER 2022: INTERNAL QUESTION PAPER NO. 44 – 2022**

**“Mr. S Tambo (EFF) To ask the Minister of Sport, Arts and Culture:**

1. Whether he has developed any mechanism to ensure that television actors are remunerated for the appearances in a programme which continue to be aired but is no longer in production; if not, why not, if so, what are the relevant details?

**NW5104E**

**REPLY**

The protection of actors in South Africa is governed in terms of the Copyright Act 98 of 1978 (the “Copyright Act”). This legislation and matters related to it thereof, are under the horizon or mandate of the Department of Trade, Industry and Competition **(DTIC).** However, my department does work with the DTIC on matters related to the protection of all artists including actors. The common practice that has been for a very long time allowed by the current Act is that ‘he who pays owns the work’. In terms of this practice, those who commissioned the work would remain the property owners – this to the exclusion of many of the actors who participated. Copyright law grants the copyright owners bundle of exclusive rights, including the public performance right. This then vests the copyright owners with the authority to control how the work is publicly performed and that is the reason you see these works being aired, as and when the owners wish. This happens in many instances at the exclusion of the performers who participated in the production.

The Copyright Amendment Bill and the Performers Protection Amendment Bill which both Bills were recently endorsed by the National Assembly tell us that ownership of any copyright subsisting in the work (in commissioned work) shall be governed by standard contract/written agreement between the parties. In the main, proposed legislation provides for the payment of royalties or equitable remuneration, whichever is applicable, due, and payable to the performer for any use of the fixation of the performance.

The agreement may limit the ownership strictly for the purpose of the Commission and if the work is used other than for the purpose of the commission, payment to the author shall be ordered. When there is a dispute between the parties, the matter shall be referred to a Copyright Tribunal. Amendment of the copyright regime is part of the government's drive to advance a balanced and coordinated approach to intellectual property (IP) that regulates IP rights in line with our Constitution. The key objective is to ensure that all individuals who seek to take advantage of the IP system are empowered and protected.

Work is being finalised regarding the proposed Bills and the NCOP has recently hosted workshops to understand how these proposed legislations would work.