

REPUBLIC OF SOUTH AFRICA

**PORTFOLIO COMMITTEE AMENDMENTS
TO

GENETICALLY MODIFIED
ORGANISMS AMENDMENT
BILL**

[B 34—2005]

*(As agreed to by the Portfolio Committee on Agriculture and Land Affairs
(National Assembly))*

[B 34A—2005]

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AMENDMENTS AGREED TO

GENETICALLY MODIFIED ORGANISMS AMENDMENT BILL
[B 34–2005]

CLAUSE 1

1. On page 2, in line 18, to omit “contained”.
2. On page 2, in line 21, to omit “avoidance of risk” and to substitute “level of safety when risk management measures must be taken to avoid potential risk”.
3. On page 3, in line 8, to omit “direct”.
4. On page 3, in line 25, to omit “and” and to substitute “,”.
5. On page 3, in line 26 after “animals” to insert “and the external environment”.
6. On page 3, in line 26, after “on” to insert “humans, animals and”.
7. On page 3, in line 33, after “of” to insert “an”.
8. On page 3, in line 41, to omit “deliberate” and to substitute “**[introduction]** release”.
9. On page 3, in line 41, after “of” to insert “a”.
10. On page 3, in line 42, to omit “**[organisms]**” and to substitute “organism”.
11. On page 3, in line 43, to omit “**[organisms are]**” and to substitute “organism is”.
12. On page 3, in line 49, to omit “on Biological Diversity”.
13. On page 3, in line 50, to omit “on Biological Diversity”.
14. On page 3, in line 51, to omit “, and which is attached” and to substitute:
“; A copy of the Protocol is attached for information purposes;”.
15. On page 3, from line 56, to omit the definition of “transboundary movement” and to insert:
“**‘transboundary movement’** means the movement of a genetically modified organism from the Republic to another country or from another country to the Republic;”.
16. On page 3, after line 57, to insert:
(m) by the substitution for the definition of “user” of the following definition:
“**‘user’** means a person who conducts an activity with a genetically modified organism;”.

CLAUSE 2

1. On page 4, in line 4, to omit “[**council**]” and to substitute “juristic person”.
2. On page 4, after line 7, to insert:
 - (b) by the insertion of the following subsection:

“(1A) For each member of the Council referred to in subsection (1), the Minister may appoint an alternate, who may attend and vote at the meeting of the Council on behalf of the member if that member is unable to attend.”;
and

CLAUSE 4

1. On page 4, in line 40, after “assessment” to insert “in accordance with the relevant provisions of the National Environmental Management Act, 1998 (Act No. 107 of 1998),”.
2. On page 4, in line 41, after “and” to insert “an assessment of the”.
3. On page 5, after line 2, to insert:

“(e) evaluate whether the user implemented the prescribed notification procedures in accordance with article 8 of the Protocol;”.
4. On page 5, in line 20, to omit “(g)” and to insert “(h);”.
5. On page 5, in line 23, to omit “(g)” and to insert “(h);”.

CLAUSE 5

1. On page 6, in line 29, after “(3)” to insert “(a)”.
2. On page 6, after line 30, to insert:
 - (b) In the event that the Council fails to reach consensus on a decision such decision shall be considered as having been refused.
3. On page 6, after line 30, to insert:
 - (b) by the insertion of the following subsection:

“(3A) The Council shall convene a special meeting at such time and place and on such date as determined by the chairperson—

 - (a) on receipt of a written request by the Minister;
 - (b) on receipt of a written request signed by at least two members;
 - or
 - (c) in the event of an accident contemplated in section 5(1)(f).”;

and

CLAUSE 6

1. On page 7, in line 3, to omit “—(i)’”.
2. On page 7, in line 4, to omit “; and”.
2. On page 7, from line 5, to omit subparagraph (ii).

CLAUSE 10

1. On page 7, in line 52, to omit “and”.
2. On page 8, in line 5, after “notice” to insert “and”.
3. On page 8, after line 5, to insert:
 - (b) by the addition to subsection (4) of the following paragraph:
“(e) to dispose of or repatriate any genetically modified organism used or any material or substance used, affected or potentially affected if such activity has an adverse impact on the environment or human and animal health.”.

CLAUSE 11

1. On page 8, after line 11, to insert:
 - (b) by the insertione of the following subsection:
“(1A) In the event of damage, a user shall immediately inform the registrar of the damage and in consultation with the registrar investigate, assess and evaluate the damage caused by the activity on the environment and human and animal health and implement measures including but not limited to—
 - (a) cease, modify or control any act, activity or process causing the damage;
 - (b) minimise, contain or prevent the movement of any genetically modified organisms causing the damage in the event that an activity cannot reasonably be avoided or stopped;
 - (c) eliminate any source of the damage; or
 - (d) remedy the effects of the damage caused by the activity.”.
2. On page 8, from line 14 to 16, to omit “unless otherwise indicated through a process identified in terms of Article 27 of the Protocol”.
3. On page 8, after line 21, to insert:
 - (3) If a person fails or inadequately implements the measures contemplated in subsection (1A), the Council may take any reasonable measures to remedy the situation..

NEW CLAUSE

1. That the following be a new clause:
12. The following section is hereby inserted in the principal Act after section 17:

“Recovery of costs

17A. (1) Subject to subsection (2), the Council may recover all costs incurred as a result of it acting under section 17(3) or section 5(1)(n).

(2) The Council may in respect of the recovery of costs under subsection (1), claim proportionally from any other person who benefited from the measures undertaken under section 17(3) or section 5(1)(n).

(3) The costs claimed under subsections (1) and (2) must be reasonable and may include, without being limited to, labour, administrative and overhead costs.

(4) If more than one person is liable under subsection (2), the Council must, at the request of any of those persons, and after having given the others an opportunity to be heard, apportion the liability, but such apportionment does not relieve any of them of their joint and several liabilities for the full amount of the costs.

(5) Any order referred to in subsections (1) and (2) shall have the effect of civil judgment in a magistrate’s court.

(6) Any person affected by an order for costs awarded under this section may lodge an appeal to the appeal board in the manner contemplated in section 19.”.

CLAUSE 12

1. On page 8, in line 32, to omit “a” and to substitute “the”.

CLAUSE 13

1. On page 8, in line 48, to omit [a] and to substitute “the”.

CLAUSE 14

1. On page 9, after line 33, to insert:

“(pD) regarding the manner and content of the notification procedures contemplated in section 5(1)(e).”.

2. On page 9, in line 32, to omit “(g)” and to insert “(h)”.

CLAUSE 15

1. On page 9, in line 35, after “substitution” to insert “in subsection (1)”.
2. On page 9, in line 36, to omit “paragraph (c) of subsection (1)” and to insert “paragraphs (a) and (c) of the following paragraphs, respectively:”
3. On page 9, after line 36, to insert:

“(a)contravenes or fails to comply with this Act, any condition,
restriction, prohibition, reservation or directive imposed or
issued in terms of this Act;”

LONG TITLE

On page 2, in the second line, to omit “international agreements” and to insert “the Protocol”.

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