

DEPARTMENT OF AGRICULTURE

PROPOSED AMENDMENTS GENETICALLY MODIFIED ORGANISMS BILL, 2005

[B 34 – 2005]

Clause 1

1. On page 2, in line 18, after "distribution," to omit "contained".
2. On page 2, in line 21, after "the" to omit "avoidance of risk" and to insert "level of safety when risk management measures must be taken to avoid potential risk".
3. On page 3, in line 8 after the second "a" to omit "direct".
4. On page 3, in line 25 after "humans" to omit "and" and to insert ",".
5. On page 3, in line 26 after "on" to insert "humans, animals and".
6. On page 3, in line 26 after "animals" to insert "and the external environment".

7. On page 3, in line 41, after "the" to omit "deliberate introduction" and to insert "release".
8. On page 3, in line 41, after "of" to insert "a".
9. On page 3, in line 42, after "modified" to omit "organisms" and to substitute "organism".
10. On page 3, in line 43, before "after" to omit "organisms" and to substitute "an organism".
11. On page 3, in line 49, after "Convention" to omit "on Biological Diversity".
12. On page 3, in line 50, after "convention" to omit "on Biological Diversity".
13. On page 3, in line 51 after "2003" to omit " and which is attached" and to insert:
"; A copy of the Protocol is attached for information purposes."
14. 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;
13. On page 3, after line 57 to insert the following:

- (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 after "established" to omit "a council" and to insert "a juristic person".
2. On page 4, after line 7, to insert a new 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.

Clause 4

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

"(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, after "paragraph" to omit (g) and to insert (h).".
5. On page 5, in line 23, after "paragraph" 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 the following paragraph:

"(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 the following subsection:

(3A) The Council must 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)."

Clause 6

1. On page 7 from line 5 to omit subparagraph (ii).

Clause 10

1. On page 8, after line 5, to insert a new 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, from line 10, to omit “which may arise from the use of genetically modified organisms.”.
2. On page 8, after line 11, to insert new 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 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.

3. 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".

4. On page 8, after line 21, to insert the following subsection:

"(3) - If a person fails or inadequately implements the measures contemplated in subsection (1A), the Executive Council may take any reasonable measures to remedy the situation."

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 Executive Council may recover all costs incurred as a result of it acting under section 17(3) or section 5(1)(n).

(2) The Executive 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).

(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 14

~~"(6) contemplated in section 19."~~

2. On page 9, in line 32, after "section 5(1)" 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 "paragraph (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 of the long title before "pertaining" to omit "international agreements" and to insert "the Protocol".