

MEMORANDUM ON THE OBJECTS OF THE PLANT IMPROVEMENT BILL, 2012

1. BACKGROUND

1.1 The Plant Improvement Bill seeks to repeal the Plant Improvement Act, 1976 (Act No. 53 of 1976), hereinafter referred to as “the Act”.

1.2 The Act—

- provides for the registration of certain types of businesses and the premises from where the sale of certain plants or the cleansing, packing and sale of certain propagating material may be undertaken;
- prescribes the conditions subject to which such plants or propagating material may be sold for the purposes of cultivation;
- provides for the recognition of certain varieties of plants;
- provides for a system of certification of plants and propagating material with the object of maintaining the quality of certain plants and propagating material, and ensuring the usefulness of the products for agricultural and industrial purposes;
- provides for the control of the import and export of certain plants and propagating material; and
- provides for incidental matters.

2. OBJECTS OF THE BILL

The Bill seeks to:

- (a) Align the Act with other national legislation.
- (b) Review the definitions for greater clarity.
- (c) Provide for a register of business and premises and register of varieties.
- (d) Amend and improve the registration of types of business in terms of the Act and the premises where the business is conducted, extending the period of registration to three years and remove renewal fee.
- (e) Make provision for the SADC Regional Harmonised Seed Regulations relating to the varietal listing and seed certification.
- (f) Provide for the varietal list regarding specific or all varieties and provision of a denomination by the applicant if the initial denomination is not acceptable.
- (g) Provide for varietal listing regarding distinctness of listed varieties by removing reference to varieties of common knowledge.
- (h) Clarify the effective filing date of an application.
- (i) Clarify variety denominations and amendment thereof.
- (j) Provide for objections to application and approval for varietal listing.
- (k) Distinguish between evaluation of a variety for DUS and for VCU.
- (l) Provide for an official journal publication containing information relating to varietal listing, apart from the varietal list which only contains approved varieties.
- (m) Provide for export requirements that propagating material of all kinds regulated by the Act must comply with the requirements of the Act instead of only a few kinds.
- (n) Clarify establishment of certification schemes and to provide for other certification schemes.
- (o) Establish an advisory body to assist the registrar.

- (p) Strengthen enforcement by providing for offences and stricter penalties.
- (q) Rearrange and group the sections into chapters for ease of reference.

3. CONSULTATION

3.1 A consultation workshop was held with role players in the industry on the first draft of the Bill on 11 - 12 November 2010. Their comments as well as comments from DAFF officials were incorporated into the final draft Bill dated 29 September 2012.

3.2 After review of the draft Bill by the State Law Advisers and approval for publication has been obtained, formal consultation workshops will be held in the regions.

4. FINANCIAL IMPLICATIONS FOR STATE

It is not possible to provide an outline of the exact costs at this stage, but the costs associated with the Bill would include:

- (a) Publication costs; and
- (b) Hosting of consultation workshops.

5. PARLIAMENTARY PROCEDURE

5.1 The State Law Advisers and the Department of Agriculture, Forestry and Fisheries are of the opinion that this Bill must be dealt with in accordance with the procedure prescribed by section 76 of the Constitution, since it falls within the functional area listed in Schedule 4 of the Constitution, namely "Agriculture".

5.2 The State Law Advisers are of the opinion that it is not necessary to refer this Bill to the National House of Traditional Leaders in terms of section 18(1)(a) of the Traditional Leadership and Governance Framework Act, 2003 (Act No. 41 of 2003), since it does not contain any provisions pertaining to customary law or to the customs of traditional communities.