

REPUBLIC OF SOUTH AFRICA

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**PORTFOLIO COMMITTEE AMENDMENTS  
TO  
PLANT IMPROVEMENT BILL**

**[B 8—2015]**

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*(As agreed to by the Portfolio Committee on Agriculture, Forestry and Fisheries)*

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**[B 8A—2015]**

ISBN 978-1-4850-0334-2

No. of copies printed ..... 400

## **AMENDMENTS AGREED TO**

### **PLANT IMPROVEMENT BILL**

**[B 8—2015]**

#### **CLAUSE 1**

1. On page 6, in line 13, to omit “55” and to substitute “58”.

#### **CLAUSE 3**

1. On page 6, in line 44, to omit “certification”.

#### **CLAUSE 4**

1. On page 7, in line 19, after “may” to insert “not”.

#### **CLAUSE 5**

1. On page 7, in line 30, after “register” to insert “within seven days”.

#### **CLAUSE 6**

1. On page 7, in line 36, after “register” to insert “within seven days”.

#### **CLAUSE 8**

1. On page 7, in line 50, after “subsection” to insert “within seven days”.

#### **CLAUSE 11**

1. On page 9, after line 22, to add the following subsections:

(6) The Registrar must notify the applicant of any outstanding documentation or information within 21 days of receiving an application in terms of this section.

(7) The applicant must furnish the Registrar with the documentation or information required by the Registrar within three months of the notification contemplated in subsection (6), failure of which may result in the application being returned to the applicant.

#### **CLAUSE 12**

1. On page 9, in line 32, after “thereof” to insert “within 21 days”.

#### **CLAUSE 13**

1. On page 9, in line 52, to omit “14 days” and to substitute “21 days”.

CLAUSE 17

1. On page 10, in line 34, to omit “14 days” and to substitute “21 days”.

CLAUSE 18

1. On page 10, in line 47, to omit “14 days” and to substitute “21 days”.

CLAUSE 20

1. On page 11, in line 33, to omit “14 days” and to substitute “21 days”.

CLAUSE 24

1. On page 12, from line 55, to omit paragraph (*b*).

CLAUSE 26

1. On page 13, in line 35, after “in” to insert “the”.
2. On page 13, in line 37, after “in” to insert “the”.
3. On page 14, in line 11, to omit “board contemplated in section 47” and to substitute “Minister in terms of section 50”.

CLAUSE 28

1. On page 15, from line 1, to omit paragraph (*b*).

CLAUSE 32

1. On page 15, in line 30, to omit “seven days” and to substitute “14 days”.
2. On page 15, in line 34, to omit “30 days” and to substitute “60 days”.

CLAUSE 33

1. On page 15, from line 38, to omit subsection (1) and to substitute:  

(1) An applicant for national listing must, subject to the approval of the Registrar, propose a denomination that complies with the prescribed requirements.

CLAUSE 34

1. On page 16, in line 16, after “writing” to insert “within 21 days”.
2. On page 16, in line 26, to omit “14 days” and to substitute “21 days”.
3. On page 16, from line 29, to omit subsection (6).

## CHAPTER 8

1. On page 16, in line 34, to omit “EVALUATION” and to substitute “EXAMINATION”

## CLAUSE 37

1. On page 17, in line 24, after “writing” to insert “within 90 days”.

## CLAUSE 38

1. On page 17, in line 33, to omit “investigate” and to substitute “evaluate”.
2. On page 17, in line 48, to omit “14 days” and to substitute “21 days”.
3. On page 18, from line 1, to omit subsection (8).

## CLAUSE 39

1. On page 18, in line 10, after “place” to insert “within 30 days prior to the hearing”.
2. On page 18, from line 11, to omit subsection (3) and to substitute:
 

(3) The Registrar when considering a matter at the hearing may utilise one or more of the persons contemplated in section 49 who have experience in the administration of justice or skill in any matter which may be considered at the hearing, to assist and advise the Registrar with regard to the hearing of the objection.
3. On page 18, in line 32, to omit “seven days” and to substitute “21 days”.

## CLAUSE 42

1. On page 19, in line 34, after “document” to insert “relating to the investigation”.

## CLAUSE 47

Clause rejected.

## NEW CLAUSES

1. That the following be new clauses:

**Right to appeal**

**47.** A person who feels aggrieved by any decision or action taken by the Registrar or designated authority may appeal in the prescribed manner to the Minister against such decision or action.

**Appeal Board, composition and membership**

**48.** (1) The Minister may constitute a board known as the Appeal Board to investigate and consider any appeal referred to it in terms of section 47.

(2) The Board must consist of at least three members appointed by the Minister, of whom—

- (a) one person must be appointed on account of his or her knowledge in the relevant fields of the law; and
- (b) two or more persons must have expert knowledge of the subject of the appeal.

(3) The Minister must designate the person referred to in subsection (2)(a) as the chairperson.

(4) The remuneration of a member of the Board must be prescribed after consultation with the Minister of Finance.

(5) Any person appointed in terms of subsection (2) must recuse himself or herself as a member of the Board if he or she has any direct or indirect personal interest in the outcome of the appeal.

### **Investigation and consideration by Board**

**49.** (1) The Minister may refer an appeal to the Board.

(2) An appeal must be heard on the date and at the time and place determined by the chairperson.

(3) The chairperson must inform the appellant and any other party that has an interest in the appeal in writing of the date, time and place of the hearing 30 days prior to the hearing.

(4) The chairperson may, for the purposes of the hearing of an appeal—

- (a) summon any person who may have material information concerning the subject of the hearing or who has in his or her possession or custody or under his or her control any document which has any bearing upon the subject of the hearing, to appear before the Board at a date, time and place specified in the summons, to be questioned or to produce that document, and the chairperson may retain for examination any document so produced; and
- (b) administer an oath to or accept an affirmation from any person called as a witness at the hearing.

(5) A person who appeals in terms of section 47, the Registrar and the designated authority may be represented at the appeal.

(6) If a member of the Board—

- (a) dies during the investigation or proceedings of the appeal or so soon before the commencement of the investigation that the vacancy cannot be filled in time;
- (b) is unable to act and another person cannot be appointed in time; or
- (c) is, after the investigation has commenced, unable to continue therewith,

the parties may agree that the investigation be continued by the remaining members of the Board.

(7) Where the member of the Board who has died or has become incapacitated as envisaged in subsection (6) was or is the chairperson of the Board, the Minister must designate one of the remaining members of the Board to act as chairperson.

### **Consideration of appeal by Minister**

**50.** (1) Where the Minister has referred an appeal to the Board in terms of section 49(1), he or she may—

- (a) confirm or set aside the recommendations of the Board; and
- (b) order the Registrar or the designated authority to execute the decision in connection therewith.

(2) Where the Minister considers an appeal, he or she may—

- (a) confirm, set aside or vary the decision of the Registrar or designated authority; and
- (b) order the Registrar or designated authority to execute the decision in connection therewith.

(3) The decision of the Minister must be in writing and a copy thereof must be furnished to the Registrar or designated authority, appellant and any other party to whom the decision must be conveyed within 90 days.

(4) If the Minister—

- (a) sets aside any decision or action by the Registrar or designated authority, the prescribed fee paid by the appellant in respect of the appeal must be refunded to the appellant; or
- (b) varies any decision or action by the Registrar or designated authority, the Minister may direct that the whole or any part of such fee, be refunded to the appellant.

#### CLAUSE 48

1. On page 24, from line 58, after “Committee” to omit “is hereby” and substitute “may be”.

#### CLAUSE 49

1. On page 25, in line 6, after “Minister” to omit “must” and substitute “may”.
2. On page 25, in line 50, to omit subsection (10) and to substitute:

(10) A member of the Advisory Committee must receive such subsistence and travelling allowances as may be prescribed by the Minister after consultation with the Minister of Finance.

#### CLAUSE 55

1. On page 27, in line 4, to omit “may” and to substitute “must”.

#### CLAUSE 56

1. On page 27, from line 56, to omit subparagraph (b)(i).
2. On page 28, in line 15, to omit “section 10 or 11” and to substitute “this Act”.
3. On page 28, in line 28, to omit “53” and substitute “56”.
4. On page 28, in line 31, to omit “54” and substitute “57”.

#### CLAUSE 57

1. On page 28, in line 41, to omit “56” and to substitute “59”.
2. On page 28, in line 42, to omit “56” and to substitute “59”.
3. On page 28, in line 45, to omit “56” and to substitute “59”.

#### CLAUSE 60

1. On page 29, in line 21, to omit “55” and to substitute “58”.

# CLAUSE 63

1. On page 30, in line 5, to omit “2015” and to substitute “2016”.

# SCHEDULE

1. On page 31, in the second line, to omit “62” and to substitute “65”.

# ARRANGEMENT OF SECTIONS

1. On page 4, in line 21, to omit “47. Appeal against decision or action of registrar or designated authority” and to substitute:

47. Right to appeal
48. Appeal Board, composition and membership
49. Investigation and consideration by Board
50. Consideration of appeal by Minister

2. On page 4, in line 24, to omit “48” and to substitute “51”.
3. On page 4, in line 25, to omit “49” and to substitute “52”.
4. On page 4, in line 27, to omit “50” and to substitute “53”.
5. On page 4, in line 28, to omit “51” and to substitute “54”.
6. On page 4, in line 31, to omit “52” and to substitute “55”.
7. On page 4, in line 32, to omit “53” and to substitute “56”.
8. On page 4, in line 33, to omit “54” and to substitute “57”.
9. On page 4, in line 34, to omit “55” and to substitute “58”.
10. On page 4, in line 35, to omit “56” and to substitute “59”.
11. On page 4, in line 36, to omit “57” and to substitute “60”.
12. On page 4, in line 37, to omit “58” and to substitute “61”.
13. On page 4, in line 38, to omit “59” and to substitute “62”.
14. On page 4, in line 39, to omit “60” and to substitute “63”.
15. On page 4, in line 40, to omit “61” and to substitute “64”.
16. On page 5, in line 1, to omit “62” and to substitute “65”.
17. On page 5, in line 2, to omit “63” and to substitute “66”.

Printed by Creda Communications

ISBN 978-1-4850-0334-2