



## agriculture, land reform & rural development

Department:  
Agriculture, Land Reform and Rural Development  
REPUBLIC OF SOUTH AFRICA

### **PUBLIC NOTICE:**

**11 August 2023**

### **MINISTER'S FINAL DECISION ON THE APPEAL LODGED BY AGRICULTURAL BUSINESS CHAMBER UNDER THE GMO ACT, 1997**

The Minister of Agriculture, Land Reform and Rural Development, acting in terms of Section 19(6) of the Genetically Modified Organisms Act, 1997 (Act No. 15 of 1997), has made a final decision on the appeal lodged by Agricultural Business Chamber against the decision taken by the Executive Council regarding South Africa's regulatory approach for New Breeding Techniques (NBTs).

On 26 November 2021, the Agricultural Business Chamber (AgBiz) lodged an appeal against the Executive Council's decision on the regulation of NBTs. The Executive Council decided that NBTs would be subjected to the same risk assessment framework which exists for GMOs, in line with the definition of a GMO under the GMO Act. The grounds for the AgBiz appeal included the following:

- The Executive Council decision was procedurally unfair;
- The definition of a GMO allows for multiple interpretations and could therefore feasibly be interpreted in a manner whereby some products derived from NBTs do not fall under the ambit of the GMO Act; and
- The Minister should give an interpretation to the definition of a GMO which is in line with international best practices.

The matter was referred to the appeal board appointed by the Minister of Agriculture, Land Reform and Rural in terms of Section 19 of the Genetically Modified Organisms Act, 1997 (Act No. 15 of 1997). The Appeal Board deliberated on the matter and upheld the appeal. The reasons for the appeal board decision included the following:

- It appears that the decision was made without affording the persons affected by the decision any opportunity to make comments inputs into the decision-making process;
- The Executive Council's decision is the result of a process-based approach, in terms of which all organisms subjected to NBTs constitute GMOs. However, some NBTs produce non-GMOs and that most jurisdictions that have pronounced regulations on NBT-derived products have taken the alternative interpretation, that is, a product-based perspective; and

- Since the definition of a GMO in the GMO Act permits both a process-based and a product-based interpretation, which results in all NBTs constituting GMOs is in conflict with international best practice and thus unreasonable.

On 31 July 2023 the Minister made the final decision and upheld the Executive Council decision communicated in a public notice dated 27 October 2021. The Executive Council's decision to regulate NBTs under the Genetically Modified Organisms Act, 1997 provides the appropriate framework to manage any potential risks associated with this technology.

For further information please contact the Registrar of the GMO Act at the following contact details:

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