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Department:  
Trade, Industry and Competition  
REPUBLIC OF SOUTH AFRICA

## THE NATIONAL ASSEMBLY

### QUESTION FOR WRITTEN REPLY

**QUESTION NO. 1824**

**DATE PUBLISHED: 13 MAY 2022**

**Mr M Tshwaku (EFF) to ask the Minister of Trade, Industry and Competition:**

In light of the fact that record companies take intellectual property rights away from the creator by means of deeds of assignment and the rights remain with the company 25 years after the creator is deceased, what measures have been put in place by his department to ensure that the copyright tribunal is accessible to poor and disadvantaged creators? [NW2157E]

#### **REPLY:**

The Copyright Review Commission set up by the Department, considered the matter and its report recommended as follows:

“The Copyright Act must be amended to include a section modelled on that in the US Copyright Act providing for the reversion of assigned rights 25 years after the copyright came into existence. Such an amendment will go far to relieve the plight of composers whose works still earn large sums of money that are going to the assignees of the composers’ rights long after the assignees (or their predecessors) have recouped their initial investment and made substantial profits, in excess of those anticipated when the original assignment was taken”, page 102.

The Copyright Amendment Bill, 2017 and the Performers’ Protection Amendment Bill, 2016 Bills addresses the challenges of musicians in terms of the Copyright Review Commission report.

One of the amendments to the Copyright Act (Act No. 98 of 1978) is limiting the period of assignment to 25 years in order to aid musicians and creators to reclaim the rights to their copyright which was assigned to a producer or publisher, because they can exploit those works after 25 years when it reverts to the musician and creator.

One of the challenges musicians face is unfair contracts signed on a work that continues to make significant returns over time including after those assigned have recouped initial investment. In many cases, the musicians have signed the rights away in assignments and earn no royalties or income to those works and are locked in those contracts without economic benefits accruing to them. The Department advises that in a number of cases, musicians would have been paid a very small initial once off amount for their original work. This provision in section 22 of the Bill ensures that the musicians can have access to the copyright in musical or literary works after 25 years of such assignment.

The Copyright Tribunal under the Act has limited scope and jurisdiction. The scope of matters the Tribunal may hear has been extended to all Copyright matters in the Bill, therefore addressing issues of access. Regulations will further empower how the Tribunal will operate once the legislation has been finalised. The Department and the Companies and Intellectual Property Commission will embark on education and awareness programmes on the amendments to educate citizens on the changes.

On 16 June 2020, the President referred the Copyright Amendment Bill, 2017 and the Performers' Protection Amendment Bill, 2016 back to the National Assembly to address constitutional issues. The remitted Bills are currently before the Portfolio Committee on Trade, Industry and Competition, and will be referred to the National Council of Provinces for consideration thereafter.

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