

**RISK MANAGEMENT AND LIABILITY FOR ENVIRONMENTAL HARM CAUSED BY
GMOS – THE SOUTH AFRICAN REGULATORY FRAMEWORK**

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Abstract

Biotechnology is still relatively new and as with any new technology, it carries some level of risk. This necessitates appropriate risk assessments and appropriate risk management. One element of risk management however, is taking into account that during the production, development, transport or release of a GMO it may cause injury to person, property or the environment, regardless of risk management procedures. This calls for the existence of a liability regime that will place some legal responsibility on the party responsible for the harm.

This paper assesses the South African regulatory framework of relevance to GMOs, which is composed of a fragmented set of laws that deals with risk assessment, risk management and liability for damage to the environment. It discusses the GMO Act as the principle legislation regulation GMOs and also the recent amendment thereof and also consider other legislation such as the ECA, NEMA and NEMA Biodiversity Act in an attempt to determine whether the regulatory framework addresses risk management and liability in an effective and adequate manner. It comes to the conclusion that South Africa does not as yet have a satisfactory legal regime that provides for risk management and liability in the context of GMOs.

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