



agriculture, land reform & rural development

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Agriculture, Land Reform and Rural Development
REPUBLIC OF SOUTH AFRICA

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RESPONSE TO QUESTIONS: PORTFOLIO COMMITTEE ON ENVIRONMENT, FORESTRY AND FISERIES MEETING HELD ON 23 NOVEMBER 2021: BRIEFING ON THE REVIEW OF THE ANIMAL WELFARE ACT

No	Question raised	Response
1	<p>(a) What criteria were applied in determining the composition of the Working Group tasked with drafting the Bill?</p> <p>(b) Why were the NSPCA (current enforcers of the APA), DFFE (Charged under NEMBA with the wellbeing of wild animals) and other animal welfare organizations excluded from the working group?</p>	<p>(a) The Animal Welfare Working Group is a subcommittee of the Ministerial Technical Committee Veterinary Working Group (Mintech - VWG), which is headed by the Department of Agriculture, Land Reform and Rural Development (DALRRD) and consists of members of all nine Provincial Departments of Agriculture. The working group is responsible for advising the Mintech – VWG on animal welfare and matter related thereto.</p> <p>The working group is headed by the Director of Veterinary Public Health in the DALRRD as the responsible official for the implementation of the animal welfare legislation. Provincial representatives are nominated by Provincial Directors of Veterinary Services. There is no limitation to the term of officer for members of the working group and their continued participation is at the discretion of the Provincial Director of Veterinary Services.</p> <p>The working group was not composed specifically to draft the Animal Welfare Bill, but the drafting of the Bill was logically assigned to the working group as it relates to animal welfare.</p> <p>(b) As indicated above, the Animal Welfare Working Group is a Mintech – VWG subcommittee, which is an internal Department(s) of Agriculture subcommittee and therefore cannot include non-officials from the NSPCA. The DFFE has only recently been included in the composition of the working group and have not yet participated in the drafting of the Bill. Any further processing of the document will include the DFFE representative(s).</p>

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	(c) why was DFFE as well as other relevant government departments excluded from the working group?	<p>Honourable member will note from the attached presentation that the NSPCA and other animal welfare organisations will be consulted at an appropriate time to comment on the Bill.</p> <p>(c) The answers provided in (a) and (b) respond to the question.</p>
2	<p>Noting that public participation hearings will be held prior to the final drafting of the AWA for presentation to cabinet Please detail the full process that will be followed in the drafting and implementation of this Act, including when public participation will commence and what form it will take. When is it anticipated that a final AWA will be presented to cabinet?</p> <p>(b) When will a draft of the AWA be made available stakeholders and the public?</p> <p>(c) noting DALRRD's agreement to the holding of an Animal Welfare</p>	<p>The draft will be published in the government gazette and on the Departmental website for comments for a period of 60 days. The working group will consolidate the responses and work together with the legislative unit in the Department to finalise the draft. The need for physical consultations will be determined based on the responses received. Should there be particular issues of concern in the consultations, these issues will be incorporated into the bill.</p> <p>DALRRD has not yet set a timeframe within which each step is to be completed due to various factors such as the covid19 pandemic disruptions and inadequate capacity within the Department to focus on the Bill. It has also been clarified in the presentation that the delays in the drafting of the Bill will not negatively affect the enforcement of animal welfare legislation as the current Acts provide for the making of regulations to deal with any animal welfare matter that the Minister may deem necessary. It is therefore much more logical to focus on drafting the regulations to deal with urgent matters as identified by various platforms, including the High Level Panel, rather than spend much longer to create a new Act, which will ultimately also need regulations to be promulgated thereunder to deal with specific matters.</p> <p>(b) The response above addresses the question raised.</p> <p>(c)The idea of an animal welfare colloquium was only proposed this week by an honourable member of the committee and the DALRRD is still going to prepare</p>

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	Colloquium, when is it envisaged this will be held.	accordingly, including the setting of dates and agenda thereto. The most probable time within which the colloquium can be held will be in the first quarter of the next financial year.
3	<p>Which provisions or aspects of the <u>Model Animal Welfare Act</u> developed by World Animal Net for guidance on best practices in animal welfare legislation have been incorporated in the Animal Welfare Bill?</p> <p>(a) What definition of “animal welfare” has been applied in the draft AWA</p> <p>(b) Is animal sentience recognised under the draft AWB in line with improved scientific knowledge of animal suffering?</p>	<p>DALRRD is using guidelines of the World Organisation for Animal Health (OIE) in the drafting of the Animal Welfare Bill. Any positive aspects contained in guidelines from other organisations, including the World Animal Net, will be considered as the drafting process proceeds. The Department and the University of Pretoria participated in an OIE animal welfare legislation development programme under the tutelage of the The Istituto Zooprofilattico Sperimentale dell'Abruzzo e del Molise (IZSAM) in Italy and this has provided the necessary capacity in the development of the Bill.</p> <p>(a) The Animal Welfare Bill is still in its initial stages of development and therefore there is no final definition of animal welfare. Animal welfare is generally based on the 5 freedoms which each animal must enjoy, being:</p> <ul style="list-style-type: none"> • from hunger and thirst; • freedom from discomfort; • freedom from pain, injury, and disease; • freedom to express normal and natural behavior; and • freedom from fear and distress. <p>There is, however, differing opinions as to whether these are the only freedoms or whether these are the correct freedoms under animal welfare and this is being considered in the drafting. Published scientific literature on animal welfare, international guidelines and standards and the current legislation are being used as the basis in the drafting of the final Bill.</p> <p>(b) As indicated in the response provided in (b) above, the 5 freedoms of animal welfare are based on animal sentience and therefore the draft take this into consideration.</p>
4	With which international legislation is the draft AWA most closely aligned	The draft will include aspects of the current animal welfare legislation, especially Section 2 of the Animals Protection Act, which is highly regarded in terms of

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No	Question raised	Response
	and what is that country's rating on the World Animal Protection Index?	<p>protecting the welfare of animals. International guidelines of the OIE will also be included in the Act and/or its regulations.</p> <p>South Africa has been rated an E on the World Animal Protection Index.</p>
5	<p>Noting that the DALRRD working group is cogniscant with the HLP recommendations, and the principles set out in the resultant Draft Policy Position paper, please advise how and to what extent these will be taken into account in the AWA?</p> <p>(b) Noting that DFFE has been invited to join the DALRRD working group, When and how will DALLRD and DFFE coordinate efforts to give effect to the HLP's recommendations and the Draft Policy Position principles across animal welfare, biodiversity and environmental legislation?</p> <p>(c) when will the MOU between DFFE and DALRRD on animal welfare be signed</p>	<p>The HLP recommendations deal with specific categories of animals and it will be best to address these in the regulations promulgate either under the current legislation or the resultant Animal Welfare Act. The Animal Welfare Act will make provision for the development of species specific norms and standards, including those that were the subject of the HLP work.</p> <p>(d) The Animal Welfare Working Group, which now has membership of the DFFE, will have to sit down and consider all recommendations and position papers in determining the way forward on animal welfare. It will be expected that the DFFE members on the Animal Welfare Working Group will table discussions on matters related to animal biodiversity and the environment. The draft MoU will provide a formal basis for the commitment of the 2 Departments to work together.</p> <p>(c) There is no specific MoU on animal welfare between DFFE and DALRRD. The current draft MoU is on all aspects commonalities between the 2 Departments, which includes animal welfare. The draft is still being considered by the legal services of the Departments and therefore it cannot be determined when the process will be concluded.</p>
6	How has the working group applied the principle of " <u>One Health, One Welfare</u> " as emphasized in the Draft Policy Position Paper as a guiding principle in developing the draft text of the Animal Welfare Bill?	One welfare is a concept which considers the interconnections between animal welfare, human welfare and the environment. The draft will consider the One welfare approach in finalizing the draft. The Draft Policy Position Paper is a DFFE document and therefore was not considered as a guiding principle in developing the draft text of the Animal Welfare Bill. The draft Bill, as indicated earlier, is based on the current existing legislation and international guidelines. The Draft Policy Position Paper will be considered as well.

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7	<p>(a) Does the AWA make provisions for the NSPCA to continue to be the primary enforcement body under the?</p> <p>(b) If so, what steps will be taken to ensure that the NSPCA will have adequate resources to fulfil this function?</p> <p>(c) If not, who will take over the enforcement of the AWA when it comes into force and where will the necessary resources be provided from?</p> <p>(d) on what basis has DALRRD decided that the existing APA, especially S2 is adequate when the NSPCA has made it clear that enforcement is a problem and was forced to approach the Concourt to confirm their right to private prosecution</p> <p>(e) Did DALRRD consult or survey any other stakeholders for their opinions on the adequacy of the existing APA?</p>	<p>(a) The draft Bill will make provisions for animal welfare organisations (including the NSPCA) to be authorized or assigned to enforce the legislation.</p> <p>(b) The Bill has not yet considered the funding models.</p> <p>(c) Response in (a) and (b) address the question raised.</p> <p>(d) DALRRD considers Section 2 to be sufficient to provide for offenses in terms of the handling of animals. The case in which the NSPCA approached the Concourt has been noted, however, this is a legal matter and the respondent to this question would not be able to comment on the matter.</p> <p>(e) DALRRD has not conducted any survey on the adequacy of the existing APA. The public consultation on the draft Animal Welfare Bill will provide a platform in which such a determination will be made.</p>
8	Does the new bill envisage a ban on animal testing as it pertains to cosmetic products, considering the inherent animal welfare harms	The drafters of the Bill have not yet made a determination on the inclusion of the ban on animal testing for cosmetics in the Bill.

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No	Question raised	Response
	associated with such, and the trend globally to end the practice of testing cosmetics on animals?	
9	As it pertains to sanctions/penalties for contraventions, will these be brought in line with similar penalties/sanctions provisions contemplated under, <i>inter alia</i> , NEMBA (such as having: (i) larger penalties/fines, (ii) having a multiple of the value of the animal concerned being imposed as a fine etc.)?	The levels of the fines and jail terms are being considered to be at a level at which they will be a deterrent to those contemplating to break the provisions of the legislation.
10	The SEAIS study for the new Bill speaks extensively of ensuring animal welfare equivalency with international trading partners. The EU has animal welfare provisions in agriculture and other contexts that are much more comprehensive than standards in South Africa, and that body is already implementing welfare equivalence standards in trade agreements with non-EU states. Is this the standard South Africa is aspiring to, and if not, what is meant by animal welfare equivalency and how is this to be defined?	South Africa aspires to have the highest level of animal welfare standard and as the Bill is being drafted. Animal welfare equivalency refers to an animal welfare standard that is provides the same level of welfare, even though it may not be exactly the same provision as indicated in the standard to which the equivalency is matched against.
11	Will the provisions of the AWA provide greater powers to the NSPCA or any other responsible authority as it pertains to inspections, regarding animal welfare contravention allegations?	The response to question 7 addresses this question as well.

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12	<p>(a) Will all the respective SANS standards (current or future) pertaining to animal welfare be made obligatory to be complied with?</p> <p>(b) Is there another role intended for these standards under the Act?</p> <p>(c) If they are not to be included, why not?</p>	<p>(a) SANS standards are private standards belonging to the South African Bureau of Standards (SABS) and therefore DALRRD cannot make the standards obligatory.</p> <p>(b) References to the standards may be made in the Act where applicable.</p> <p>(c) The responses above address this question.</p>