

Att: **Dr M. Molefe**
Director: Veterinary Public Health
Department of Agriculture, Land Reform and Rural Development
Via email: VPH@daff.gov.za

With a Copy to: **Minister of the Department of Environment, Forestry and Fisheries**
For information purposes Honourable Barbara Creecy
fshaik@environment.gov.za; minister@ensfoundation.org.za;
PDaphne@environment.gov.za; nleontsinis@environment.gov.za

30 June 2020

Dear Honourable Representative

RE: PROPOSED AMENDMENTS TO THE MEAT SAFETY ACT

We, Animal Law Reform South Africa (“**ALRSA**”) and the EMS Foundation (“**EMS Foundation**”), welcome the opportunity to provide our comments and hereby do so in relation to the Proposed Amendments to the Meat Safety Act gazetted for public consultation on the 28th February 2020¹ (“**Proposed Amendments**”), as read with the:

1. Meat Safety Act 2000 Act;² (hereinafter the “**Act**”, the “**MSA**” or “**Meat Safety Act**”)
2. Extension of the Commenting Period and Clarification of the Purpose of the Amendment to Schedule 1 of the Meat Safety Act, 2000 issued by National Executive Officer: Meat Safety Act on 30 April 2020³ (hereinafter the “**Clarificatory Notice**”)
3. and various other documents / information included in this Submission.

Kindly confirm receipt of this Submission (“**Submission**”) and address further correspondence to the email addresses: michele@emsfoundation.org.za and amywilson@animallawreform.org.

We look forward to receiving a response to the requests made herein and are available to engage on any queries, comments, concerns which you may have in respect of the Submission.

¹ GN201 in GG 43050 of 28 February 2020:

https://www.gov.za/sites/default/files/gcis_document/202002/43050gon201.pdf

² Meat Safety Act, Act 4 of 2002: <https://www.nda.agric.za/doiDev/sideMenu/APIS/doc/MEATSAFETY.pdf> (

³ Clarificatory Notice: [http://www.daff.gov.za/docs/media/Clarificatory%20notice%20-](http://www.daff.gov.za/docs/media/Clarificatory%20notice%20-%20Amendment%20to%20Schedule%201%20-%20Meat%20Safety%20Act%20-%2030%20April%202020.pdf)

[%20Amendment%20to%20Schedule%201%20-%20Meat%20Safety%20Act%20-%2030%20April%202020.pdf](http://www.daff.gov.za/docs/media/Clarificatory%20notice%20-%20Amendment%20to%20Schedule%201%20-%20Meat%20Safety%20Act%20-%2030%20April%202020.pdf)



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EXECUTIVE SUMMARY

While we appreciate that the Department of Agriculture, Land Reform and Rural Development (hereinafter the “**Department**” or “**DALRRD**”) may want as an urgent step to try and regulate the matters provided for in the MSA given the current regulatory loopholes, we are of the view that these should not be promulgated unless there are sufficient safeguards in place or in the alternative that specific exclusions are made and/or that certain actions be taken prior to this.

We have set out the reasons for this in Our Submission as well as a list of Requests and Proposals in Part III (Page 32 onwards) hereof.

While many jurisdictions around the world are moving away from animal consumption more generally, as well as the consumption of wild life more specifically, South Africa is seen to be doing the opposite. The more we increase our consumption and utilisation of additional animals, and promote their consumption, farming and other factors, the more we promote these harms and issues.

In summary, our requests and proposals range from (See Part III for more complete list):

1. IMMEDIATE PROPOSED PROHIBITIONS

As a matter of urgency issue a formal ban/prohibition on the consumption of:⁴

- a. the species which form the subject matter of the HLP set up by DEFF (namely, elephants, lions, rhinos and leopards)
- b. all threatened and protected species – including those in the TOPS Regulations;⁵
- c. animals on the IUCN Red List;⁶
- d. species that are listed on CITES Appendices I, II and III;⁷ and
- e. Others that are relevant / of importance/ endangered in other countries around the world (for example, such as in New Zealand, where the Kiwi is considered a taonga species).⁸

⁴ Notably, if the MSA is not the appropriate legislation in terms of which to issue such a ban; that this be done in terms of the authority granted to the relevant Department in terms of the Constitution and other enabling legislation

⁵ For terrestrial as well as aquatic animals, as amended.

⁶ International Union for Conservation of Nature: <https://www.iucnredlist.org/>. This is specifically because the TOPS Regulations have not been amended to reflect the latest and most relevant information of species

⁷ Convention on International Trade in Endangered Species of Fauna and Flora (hereinafter “**CITES**”): <https://cites.org/eng/app/index.php>

⁸ See for example: <https://www.newsroom.co.nz/2020/05/20/1179181/kiwi-included-in-proposed-south-african-meat-legislation>.



2. IMMEDIATE ENGAGEMENT

A transparent process be initiated with the relevant Government Departments (including DALRRD; DEFF and the provinces with public observers and reporting and which conclude in a Policy Report thereafter for further actioning relating to:

- a. Consumption of wildlife;
- b. Welfare of wildlife utilized for consumption and other purposes (specifically but also other issues arising from their use);
- c. Engagement with relevant stakeholders, not simply a call for comments;
- d. Other pertinent matters as raised in this Submission and others; and
- e. Specifically, information as to engagements already between these Departments (such as the aforementioned Ministers (of DALRRD and DEFF) was and how they intend to deal with this overlap).

3. ALTERNATIVE PROPOSALS

- a. In the alternative (or in addition to the above), that certain safeguards from a regulatory perspective must, out of necessity be included in order to ensure that there is no abuse.
 - i. Designation of additional officials to conduct inspections;
 - ii. Clear enforcement mechanisms including oversight;
 - iii. Protection of whistleblowers;
 - iv. Clear regulations as they pertain to the species which at a minimum include some of the welfare provisions that are contained in the regulations;
 - v. Removal of threatened or protected species from the list above (both terrestrial and aquatic);
 - vi. Strict requirements relating to the approval of a slaughter facility;
 - vii. Clear indication of how the MSA operates with the relevant environmental legislation, policy and frameworks and explicit recognition that animals covered by existing legislation (at a national and/or provincial level) as well as any specific requirements (such as by notice, permit or licenses) must be complied with;
 - viii. Exemptions need to be amended and clarified; and
 - ix. Strict labeling, marketing and distribution requirements be introduced in terms of meat and animal products.

4. TRANSPARENCY REQUIREMENTS

- a. See Part III for more details.
- b. These relate to the process, negotiation, origin and other factors of the Proposed Amendments and the MSA; the submissions received and the consideration thereof by the Department; stakeholder sessions; and other issues.



5. CLARIFICATION REQUESTS

- a. See Part III for more details.
- b. These relate to the Proposed Amendments, including the inclusion of certain animals; how the Act will operate with other legislation (particularly environmental) Why certain non-endemic species have been included in the ambit of this Act; welfare requirements and animal agriculture more generally.

6. DISCLAIMERS

Please note that this Submission is non-exhaustive and does not represent all the responses to the issues and matters raised herein. We reserve the right to provide any further or additional information on aspects raised herein. There are a number of important issues and consequences relevant to the Proposed Amendments, the Meat Safety Act generally, and other related matters.

We are submitting this to the **Department** so as to be able to record our initial high-level views, however, our Submission is by no means a complete one in relation to the topics, objections or matters that may be raised.

Our Submission does not constitute a waiver of any rights we jointly or individually may have, including but not limited to challenging the Act, the Proposed Amendments nor other relevant legislation and regulation, DALRRD, the Department of Environment, Forestry and Fisheries (“**DEFF**”), other relevant provincial or national departments or agencies, or otherwise, or take any other action we deem fit in respect thereof.

The views expressed herein are those of the two organisations and do not necessarily represent those of every individual director, member, employee, representative, volunteer, affiliate or others of either EMS and/or ALRSA.

We have further attempted to reference as footnotes or hyperlink the resources relied upon for this submission. Should you require any further information in respect of these or the Submission more generally, we are happy to provide these.

We do thank the Department for extending the period for the public participation process as per our individual requests (together with other organisations), however we still wish to note that much of the time during which the call for public comments has been done during a declared National State of Disaster and lockdown of the country. During this time, particularly as NGOs, we have experienced major strain on our resources and capacity to deal with matters.

We reserve any and all rights, remedies and actions available to us.



7. ORGANISATIONAL BACKGROUND AND DECLARATION OF INTEREST

This Submission comes from two registered South African non-profit organisations which have a substantial interest in animal protection, human protection, social justice as well as issues which are impacted by the Proposed Amendments, the Meat Safety Act and related matters.

We have, for years, consistently expressed interest in issues pertaining to animal protection, wildlife, biodiversity, as well as matters relating to agriculture. Our submissions have been to DALRRD, to DEFF, other government departments, NGOs, the South African public and other stakeholders – both privately and within the public domain.

We have furthermore requested engagement with and feedback from the relevant authorities in respect thereof. We have provided various formal submissions, sent letters, emails, and other correspondence, attended presentations and meetings, and otherwise engaged on these matters (where such engagement has been possible). While we have not included these here, we are happy to provide further information.

Both organisations are interested stakeholders and representatives of vulnerable populations within South Africa, including human as well as nonhuman animals. Both organisations have, within their core focus, concepts of social justice and appreciate the need for intersectionality in their approaches.

*We wish to note that by calling out certain animals here and for purposes of our comments, proposals and requests, etc. we in no way attempt to be speciesist, nor exclusionary of or otherwise preferential to other species. We believe all animals are worthy of legal protection and have utilised this platform as an initial opportunity to point out and engage with certain discrepancies. This does not illustrate our organizational views that certain animals are more worthy of protection than others.

Additionally, we wish to note here that we have not dealt in detail in this Submission with aspects pertaining to animal welfare more generally, as well as specific issues, gaps and loopholes and other shortfalls with the MSA and/or Animals Protection Act⁹ (hereinafter the APA) and its enforcement. We are of the view that this is absolutely critical in the context of the MSA, the Proposed Amendments and the broader context. The MSA itself already acknowledges the need for animal welfare of those animals utilised for consumption and provides in detail for at least some aspects of welfare in its regulations.¹⁰ As the APA is the predominant piece of legislation regulating the welfare of animals in South Africa, and considering expanding the scope of animals to which the MSA applies will directly and greatly impact on our treatment and use of them, this is of critical importance. Given that this process for public comments pertains specifically to the MSA, , we have attempted to limit engaging

⁹ Animal Protection Act 71 of 1962 as amended. Animal Law Info Website: <https://www.animallaw.info/sites/default/files/AnimalsProtectionAct71-62.pdf>

¹⁰ For example, the MSA Red Meat Regulations sets out in Part V, “Humane treatment of animals and slaughter processes” which include aspects relating to rest periods for animals; transportation; offloading; stunning and other matters.



our concerns for animal welfare but these are important and they are extensive. We are happy to provide further details on these.

EMS Foundation¹¹

The EMS Foundation (South Africa) was established in November 2016. As our Foundation was established for public benefit purposes we are a Not for Profit Organisation (NPO) (registration number: 168-304 NPO) and Public Benefit Organisation (PBO) with section 18(a) status. (PBO Reference Number: 9300 53286).

Our key purpose is to alleviate and end suffering, raise public awareness and lobby and empower, provide dignity and promote the rights and interests of vulnerable groups, particularly children, the elderly and wild animals.

The EMS Foundation is a South African based social justice NGO with the purpose of achieving lasting solutions, alleviating and ending suffering, raising public awareness and providing dignity through supporting and sustaining humane solutions, interventions and research for the protection of children, the Aged and wildlife.

Animal Law Reform South Africa¹²

Animal Law Reform South Africa (“**ALRSA**”) is a non-profit company and a registered NPO (Number 238-234 NPO).

ALRSA is composed of compassionate legal professionals and envisages a society and legal system that adequately protects both humans and nonhuman animals.

We work on connecting three core focus areas: Animal well-being, Social Justice and Law. We focus on a few key areas that we believe will bring about the most change. These focus areas include: Legislative and Policy Reform; Litigation and Legal Services and Education and Research.

Networks, Fora and Involvements

Particularly in relation to wildlife, which we wish to highlight for purposes of this Submission, due to the major increase of wild animals proposed to be included in Schedule 1, in addition to our individual organisational work, each of EMS Foundation and ALRSA are founding members of the following relevant bodies:

1. Wildlife Animal Protection Forum South Africa¹³

¹¹ EMS Foundation Website: <https://emsfoundation.org.za/>

¹² Animal Law Reform South Africa Website: <https://www.animallawreform.org/>

¹³ WAPFSA Website: <http://wapfsa.org/>



2. Pro- Elephant Network¹⁴
3. ALRSA is a member of the Lion Coalition¹⁵

Our individual members, founders and directors of our organisations have collectively decades of experience working on matters relating to law; animal protection; human rights; animal welfare; conservation; international and foreign relations and various other relevant experience. This is relevant as all animals are now included in the scope of the Proposed Amendments.

We are thus extremely well placed to not only make this Submission but to engage on matters in respect of the Proposed Amendments; the MSA and related matters.

We note that the EMS Foundation had submitted comments in terms of a letter from their attorneys, Cullinan & Associates, via Ms. Sarah Kvalsvig, dated 27 April 2020 (the “**Initial EMS Submission**”). This was done due to concern around the extension not originally being granted. We have incorporated certain of these comments for purposes of this Submission, however the Initial EMS Submission it is to be read in conjunction with this Submission.

We look forward to engaging further on the issues contained herein.

Yours sincerely,

Michele Pickover

Director

EMS Foundation

michele@emsfoundation.org.za

Amy P. Wilson

Director

Animal Law Reform South Africa

amywilson@animallawreform.org

¹⁴ PREN Website: <http://www.proelephantnetwork.org/>

¹⁵ The Coalition to Stop the Captive Breeding and Keeping of Lions and Other Big Cats for Commercial Purposes (aka Lion Coalition) Website: <https://lioncoalition.org/>



PART I: OVERARCHING ISSUES

1. INTRODUCTION

- a. We take this opportunity to acknowledge and note that:
 - i. there are currently gaps and problems¹⁶ in the regulation as it pertains to (*inter alia*) the slaughter and consumption of animals (either meat or animal products), both for human as well as animal consumption (and additional matters that are regulated in the MSA and regulations). These gaps are problematic for various reasons and must be rectified;
 - ii. we understand the importance of food safety generally (including meat and animal products), and the need to regulate these issues; as well as the overarching purposes of the MSA;
 - iii. we are aware that DALRRD does/may not necessarily have jurisdiction or authority to deal with some of the issues raised in our Submission. However, we are of the view that it is critical that we raise these in our comments, specifically as jurisdictional issues and the enforcement and knock on effects of the Proposed Amendments are a major concern for us and the broader South African public;
 - iv. as per the Clarificatory Notice, we are aware for the rationale provided for expanding Schedule 1 is predominantly due to providing regulation as well as providing powers in terms of inspection, oversight, other enforcement and matters specifically covered by the MSA. Thus, while we appreciate that these amendments may aim to cure some of the existing gaps and loopholes (which does have benefits) we are of the view that the amendment spurs broader issues and these must be acknowledged and properly dealt with. Until such time as this has been done, they shouldn't be promulgated in current form, without these safeguards;
 - v. there are some benefits and potentially useful provisions which exist within the MSA and its regulations, including in relation to certain animal welfare matters;¹⁷ worker safety; establishment of standards; restrictions; inspections and various other important issues. This Submission does not dispute these to the extent that these provisions and enforcement achieve the aims for which they were included; and
 - vi. there are misconceptions and misinformation within the public domain and media about the Proposed Amendments, the impacts of these, and other matters pertaining to this Submission.

¹⁶ We have set out some of the issues in Paragraph 5 of this Part I as well as elsewhere in this Submission, however these are non-exhaustive and can be elaborated on further, if required.

¹⁷ *Supra* note 10.



- b. **It is against this background that we provide our comments on the Proposed Amendments as well as the matters we believe are important to consider in the context of these (although as aforementioned, these are non-exhaustive).**
- c. Clarificatory Notice
 - i. In the Clarificatory Notice, it states that “anyone can slaughter any such animal without conformity to any standards”. We wish to note that this is simply not the case. There are in fact laws that provide for issues relating to cruelty towards animals as well as the killing of (at least certain) animals, which would apply. In addition, there are environmental laws, that would find relevance and application.
 - ii. While these may be insufficient as to their content and enforcement, this sweeping statement would make it appear as if anyone may kill any animal as they please. This statement is thus misleading.
 - iii. In addition, the Clarificatory Notice states that: “Legislation under the Department of Environment, Forestry and Fisheries, stipulate which wildlife animals are protected and endangered and therefore there is a regulatory framework on how to handle them, including their disposal and slaughter if that becomes a necessity”
 - iv. Here we note that it is not only legislation by DEFF that governs these aspects. There is also provincial legislation, and other regulation that is relevant to these species. This must be specifically acknowledged in any final regulations and the relevant laws and regulations set out for transparency and clarity. Unfortunately, without this, the Proposed Amendments

2. ENGAGEMENT WITH DEFF / PROVINCES / ENVIRONMENTAL LEGISLATION / AUTHORITIES

- a. While we appreciate that the Act itself may fall under the Department of Agriculture, Land Reform and Rural Development (“**DALRRD**”), a number of animals impacted by the Act, and more specifically, the Proposed Amendments. Issues pertaining to environment and conservation, fall under other governmental departments and agencies (including but not limited to DEFF and the provincial departments).
- b. While we do not attempt to launch into a detailed explanation herein of the various jurisdictional matters that may be problematic from wildlife; conservation; biodiversity; Constitutional or other perspectives, we believe it is critical that there is at least a formal process of inclusion and engagement with these relevant bodies/agencies and departments (as the case may be).
- c. In this regard, we refer to the recent Joint Submission (of ALRSA and EMS) in respect of the Advisory Committee (hereinafter the “**HLP**”) to Review Policies, Legislation and Practices on Matters Related to the Management, Breeding, Hunting, Trade and Handling of Elephant, Lion, Leopard and Rhinoceros and Related Matters set up by



DEFF¹⁸ (hereinafter the “**HLP Submission**”). Our HLP Submission is more inclusive of some of the aforementioned issues, and broadly sets out some of the very relevant threats, legal concerns and additional considerations, which we believe are critical in relation to the four subject species. We have included a copy of our HLP Submission in our covering email wherein we provide this Submission for your records.

- d. As the Proposed Amendments essentially endeavor now to include **ALL** animals under the ambit of the Act, this inevitably impacts on these HLP subject species specifically, wild animals more generally, as well as the departments who regulate them in the wild context, and more generally wildlife – and then specifically the issues related to their breeding, management, killing, hunting and other consumption of these animals.
- e. Notably, due to historic, Constitutional and other factors – these issues already straddle various governmental departments – both at a national level and a provincial level, and then as between the provinces themselves. There is already a huge amount of confusion and problems with this existing framework as it pertains to various issues, but just one example is permitting.¹⁹
- f. Then adding an additional level, many of these animals (and accordingly those now encompassed under the new Proposed Amendments) receive protection under other laws²⁰ – due to a special status, and there are very specific permitting (and other) requirements and restrictions that apply.
- g. Additionally, as the ambit of the Act relates to the exportation of meat as well as animal products, it is unclear to what extent and how internationally permitting and legal requirements (such as CITES²¹ - fit into this context).
- h. We are thus of the view, that against this scattered, unclear and inconsistent regulation, including these animals in yet another piece of legislation, under yet another Government Department without clearly ascertaining how all of it will work in practice, is hugely problematic.
- i. Precedence of legislation

¹⁸ Our Full Submission in respect of the HLP can be accessed here: EMS Foundation Website:

<https://emsfoundation.org.za/submission-in-respect-of-deff-high-level-panel-the-ems-foundation-and-animal-law-reform-south-africa/>

¹⁹ For a full analysis from 2018 of some of the regulatory matters pertaining to wildlife see: Centre for Environmental Rights & Endangered Wildlife Trust: Fair Game. CER Website: <https://cer.org.za/wp-content/uploads/2018/06/CER-EWT-Regulation-of-Wildlife-Welfare-Report25-June-2018.pdf>. (Hereinafter “**Fair Game Report**”). In this regard, we also refer to our HLP Submission as aforementioned.

²⁰ Including but not limited to the TOPS regulations – for both terrestrial and aquatic animals as well as species-specific regulations, biodiversity management plans, and other policy and regulatory decisions and documentation.

²¹ Convention on International Trade in Endangered Species of Wild Fauna and Flora



- i. We note that the Minister of DEFF, Ms. Barbara Creecy²² has indicated that (our emphasis): *“There were broader issues related to the amendment of the Meat Safety Act which she had raised with Ms Thoko Didiza, the Minister of Agriculture. She had taken personal independent legal advice, and **had been assured that the environmental legislation that protected these species took precedence over the regulations relating to the trade of these threatened species.** Prior to the lockdown, the two departments had been scheduled to meet to discuss the matter, but other issues had come to the forefront. However, this matter remained very important and had to be resolved.”*
- ii. Firstly, we note that this answer is problematic for various reasons, but one example is how the Minister only mentions one aspect – which is trade – in her answer – while the MSA regulates consumption and various other issues.
- iii. Secondly, the answer does not actually speak to how the MSA interacts with the conservation regulation – rather the answer states that protective legislation takes precedence over the regulation of trade. This is confusing, and it is unclear what the Minister is referring to. While we appreciate that this answer was not provided by the DALRRD nor Minister Thoko Didiza, these matters are of critical importance to understand.
- iv. Following from this then, with regard to the MSA and the environmental legislation, which one takes preference? Further, which environmental legislation and regulations? Adding an additional layer, how does this all interact within the broader context of animal welfare, and protective legislation, not simply at a species-level?
- v. Thirdly, and notably, it still appears confusing exactly how the MSA and the Proposed Amendments will interact with other legislation.
 1. For example: in respect of protected and threatened species, these are, regulated by environmental legislation such as NEMA²³, NEMBA²⁴ and the TOPS²⁵ regulations (this is non-exhaustive – for example there are other regulations that impact on these animals too, as well as provincial regulation).
 2. We note here that NEMBA provides in Section 8:
“(1) In the event of any conflict between a section of this Act and (a) other national legislation in force immediately prior to the date of

²² Parliamentary Committee Meeting: https://pms.org.za/committee-meeting/30158/?utm_source=transactional&utm_medium=email&utm_campaign=searchalert

²³ National Environmental Management Act, 107 of 1998 (NEMA). Ecolex Website: <https://www.ecolex.org/details/legislation/national-environmental-management-act-1998-no-107-of-1998-lex-faoc018752/>.

²⁴ National Environmental Management: Biodiversity Act, 10 of 2004 (NEMBA). National Department of Agriculture Website: <https://www.nda.agric.za/docs/NPPOZA/NEMBA.pdf>

²⁵ Threatened or Protected Species Regulations, 2007. Department of Environmental Affairs Website: https://www.environment.gov.za/sites/default/files/legislations/nemba_threatenedspecies_regulations_g29657rg8638gon152.pdf



commencement of this Act, the section of this Act prevails if the conflict specifically concerns the management of biodiversity or indigenous biological resources;

(2) In the event of any conflict between subordinate legislation issued in terms of this Act and (a) an Act of Parliament, the Act of Parliament prevails...

3. Regulations such as TOPS are considered within this definition of “subordinate legislation”.²⁶
- vi. Thus, one critical matter to confirm and understand upfront, would be whether the relevant environmental legislation, particular the regulation as it pertains to certain threatened and protected species, will in fact prevail over the Meat Safety Act, the Proposed Amendments and any amendments regulations thereto, or how these will all interact with one another. More specifically when there may be a conflict in respect of these.

3. AGRICULTURALISATION OF WILDLIFE

- a. We note that the Department itself, as well as other parties (ranging from the public to the private section), have been systematically moving towards the “agriculturalisation” of South African wildlife.²⁷
- b. While various actions (policy; legislative; and others) and statements are illustrative of this, one pertinent example is the amendments to the Animal Improvement Act²⁸(hereinafter the “AIA”). Again, while regulatory arguments may be made in favour of such a move (including animals within the ambit); these actions essentially have the effect of legitimising and facilitating the slaughter and consumption of wild animals and therefore the development of captive breeding industries. We further understand that this was done without any public comment and due to pressure received from the wildlife ranching and utilisation industries within South Africa.
- a. While we appreciate the statements from the Department, including in the Clarificatory Notice that the MSA does/may not specifically authorise which animals may be slaughtered for food,) but rather attempts to regulate issues around their regulation) - including animals within the ambit of the Act and extended the Schedule inevitably has the effect of enshrining the status of these animals and slaughter for consumption of their meat and products.

²⁶ As per NEMBA: “subordinate legislation”, in relation to this Act, means- (a) any regulation in a terms of section or 25 (b) any notice published in terms of section 9, 33, 34, 40(1), 42(2), 43(3), 46(2), 52(1), 53(1), 55,56(1), 57(2), 58, 66(1), 67(1), 68,70(1), 72, 86(1) or 100(1)”

²⁷ By this term, we broadly mean actions that effectively domesticate wild animals; confine them in captivity; promote their usage through breeding; rearing; trade; and consumption. This includes but is not limited to utilization of wildlife where they are unable to exhibit their natural behaviours, in their natural environment and where they have been commercialised for various uses, in the same way that has been done with traditional farmed animals – including (but not limited to) cattle; sheep; pigs; chickens and other similarly utilised animals.

²⁸ Animal Improvement Act, Act 62 of 1998 [<https://www.gov.za/documents/animal-improvement-act>]



- b. In addition, if the MSA is not the correct legislation to deal with issues around which animals may be slaughtered for consumption, we seek clarity as to what legislation, if any, exists around this. **We are of the view that certain prohibitions must, out of necessity, be included in law to this effect, and if this is not done in the MSA, then it must be done through another piece of legislation.**
- c. Notably, the timing of the Proposed Amendments, is concerning on a number of fronts. Particularly as other governments around the world, including China, are currently moving towards bans, at least relating to the consumption of certain wild animals. This is due to increasing evidence that this practice is not justified from a health point of view and may cause future pandemics. In addition, there are other moves from other countries away from the consumption of animals more generally, towards alternatives, that also achieve the aims of food security, economic and health benefits – but with less of the harmful impacts of traditional animal agriculture (more on this below).
- d. These moves to agriculturalise wild animals have many issues,²⁹ including but not limited to the entrenchment of the notion of animals as commodities; welfare issues which have not been considered (especially those relating to slaughterhouses); biodiversity concerns; issues relating to the use of land; sacred sites and animals; biodiversity impacts; major resource and the effects on wild populations of intensive breeding operations.

4. SCOPE OF ANIMALS INCLUDED³⁰

- a. **We are of the view that certain prohibitions must, out of necessity, be included in law prohibiting the consumption of at least certain animals. If this is not done in the MSA, then it must be done through another piece of legislation/ executive action or other legal means.**
- b. There are a number of countries worldwide that, within their legal systems and specifically their statutes; legislate certain species of animals that may not be consumed. One example, includes in the USA where federal legislation has been enacted regarding the prohibition of the consumption of certain companion animals. In terms of the “Dog and Cat Meat Trade Prohibition Act of 2018”³¹ these animals cannot (inter alia) be killed for human consumption.
- c. General Comments
 - i. The current Schedule 1 to the MSA differentiates between “Domesticated Animals” and then “Wild Game”.

²⁹ Please refer to our HLP Submission setting out more generally these issues. Here we wish to highlight that indigenous leaders from around the world are speaking out against these issues [See for example: The Alliance for the Sacred Sites of Earth Gaia – Declaration of the World Indigenous Leaders: <https://naturaljustice.org/publication/declaration-for-the-protection-of-sacred-natural-sites/>]

³⁰ Please see comment on Page 3 relating to speciesism disclaimers.

³¹ HR 6720 [See: <https://www.congress.gov/bill/115th-congress/house-bill/6720/text>]



- ii. The Proposed Amendments removes this distinction and includes specific animals in one consolidated table and now applies to all animals.
 - iii. It then states (emphasis added): “*This Act also applies to **all other species of animals not mentioned above** including birds, fish and reptiles that may be slaughtered as food for human and animal consumptions.*” (hereinafter the “**catch all**”).
 - iv. While the rationale for the catch all is understandable given the stated purposes of the Department, it is problematic and we argue potentially unenforceable. While note covering enforceability in detail, we note that the enforcement of the Act already is not without its issues. If **ALL** animal species are now included, it will require much more man-power to ensure the MSA is enforced, as well as to determine where/how it is not being enforced.
- d. Threatened Species and other Species requiring protection
- i. The Proposed Amendments state: “*This schedule includes animals that may be listed as threatened species in accordance with conservation provisions and therefore their slaughter for human and animal consumption must be in line with the relevant conservation provisions*”
 - ii. Thus “threatened” species are included, however notably not “protected” species. We also note that there are other relevant categories here based on conservation status such as “vulnerable” and “near threatened”, etc.
 - iii. We also point out here that the TOPS Regulations are out of date in terms of the animals included. They do not, as just one example, take into account animals on the IUCN Red List; nor do they take into account CITES Appendices Listed species. Both of these are relevant internationally accepted tools for assessing an animals’ need for special protections in law and otherwise. This must be considered.
 - iv. Please also see “Precedence” section of this Submission above and concerns relating thereto.
- e. Notable Exceptions/ Species (Non-exhaustive)³²
- i. Lions
 - 1. It is curious that lion are not specifically mentioned in the proposed new Schedule given the current extent of the lion bone trade.
 - 2. We note that where lions are being slaughtered for their bones and those bones will be consumed by people or animals, they will fall within the ambit of new Schedule by virtue of the new catch-all provision.
 - 3. Furthermore, we also wish to draw attention to the recent release of Lord Ashcroft’s Report on lion hunting in South Africa – “**Unfair Game**”³³ and

³² *Ibid.*

³³ Video Expose: <https://www.youtube.com/watch?v=hPFwirF71OQ>; <https://www.dailymail.co.uk/news/article-8418361/Trade-Lion-bones-Chinese-medicines-spark-new-pandemic.html> and the Book: <https://www.lordashcroft.com/2020/03/unfair-game/>



“Operation Chastise”. Given the time constraints, we have not had an opportunity to include this and relevant factors in our Submission but reserve the right to do so and update accordingly.

ii. Dogs/ Cats (i.e. traditional companion animals)

1. Again, these animals are generally kept as companions among South Africans and are not specifically included but would be covered by the catch all provision.
2. There are some cultures that consume dogs and cats, and there currently (as far as we are aware) is no prohibition against the consumption of these animals in South Africa.
3. A number of countries around the world, have taken legislative action in order to prohibit the consumption of dogs and cats in particular.³⁴

iii. Donkeys

1. This has also been a major issue for which South Africa has been in the international news.
2. It is also a major issue in Africa. We note for example, that Kenya³⁵ has made moves to shut down donkey slaughterhouses given the plethora of issues associated with them (including but not limited to human health risks; human and women rights’ abuses; reputational issues; and others).
3. While donkeys are not a new addition to Schedule 1; the reliance by many people and communities on these animals as work animals needs to be considered and promoting the slaughter of them, particularly where there is such a huge demand in other countries, should not be done.
4. For example, donkey hide is used in China as part of traditional medicine (“ejiao”). This has meant increasingly that animals are stolen from poor rural communities to keep up with this demand.³⁶

iv. Fish and other Aquatic Animals³⁷

³⁴ See USA: *Supra* note 31.

³⁵ See: Reuters: <https://www.reuters.com/article/us-kenya-wildlife-labor/kenya-shuts-slaughterhouses-over-loss-of-donkeys-to-china-idUSKBN20J2H5>

³⁶ See: New York Times: <https://www.nytimes.com/2018/01/02/science/donkeys-africa-china-ejiao.html>

³⁷ In this regard see: Internationally: World Organisation for Animal Health, Aquatic Animal Health Code, <https://www.oie.int/en/standardsetting/aquatic-code/access-online/>, Chapter 7.3. See also, Aquatic Animals, Welfare of Farmed Fish, <https://www.oie.int/en/standard-setting/specialists-commissions-working-ad-hoc-groups/aquatic-animalscommission-reports/welfare-of-farmed-fish/>. European Union: Report From The Commission To The European Parliament And The Council on the possibility of introducing certain requirements regarding the protection of fish at the time of killing (Text with EEA relevance), COM/2018/087 final, <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52018DC0087&from=EN>; EU Council Regulation (EC) No. 1099/2009 on the protection of animals at the time of killing, OJ L 303, 18.11.2009, p. 1 and Art. 3(1). Norway: Slaughter of Farmed



1. Fish are one of the most (if not the most) consumed and overutilized and exploited category of animals on the planet.
2. They are not listed specifically in the Schedule list, but are specifically mentioned in the catch all provision.
3. Thus, assumedly, all the relevant provisions of the Act apply to them including for example the slaughter requirements.
4. With the increased reliance on wild-caught fishing as well as aquaculture in the country (particularly through initiatives by DEFF such as “Operation Phakisa”)³⁸ it is **absolutely critical** that there be regulatory oversight into their farming, breeding, consumption, slaughter and related issues.
5. Due to the unique requirements of aquatic animals over other animals, specific regulations pertaining to them, must out of necessity be promulgated. These should take into account the growing bodies of evidence relating to the fact that certain aquatic animals can in fact feel pain, are sentient, and regulation needs to reflect this.

v. Insects

1. Again, these are not specifically covered as a category, but are included in the catch all.
2. Thus, assumedly, all the relevant provisions and requirements of the Act would apply to them.
3. While this example may seem unusual, it is included here to illustrate some of the problems with the catch all, without any explanation, exemption or further regulation (and to be forward looking) - as there is in fact a large movement to utilise insects as food around the world.³⁹

vi. Non-endemic species / Exotic Species

1. A large number of non-endemic and exotic species are listed in the schedule. While some of these are currently listed in the Schedule, it is unclear why they have been, and furthermore, why more species are now included. Is the intention to now farm these species? Or consume them?
2. These include animals such as kangaroo (previously included); but new ones such as American Bison; Wallaby; Emu; Kiwi and others.
3. This has even raised concern with other countries and their authorities, such as New Zealand, where Kiwi has cultural significance.⁴⁰

Salmon, SALMON FACTS (updated May 26, 2016), <https://salmonfacts.com/fish-farming-in-norway/slaughter-of-farmed-salmon/>.

³⁸ <https://www.operationphakisa.gov.za/Pages/Home.aspx>

³⁹ UN Food & Agriculture Organisation: <http://www.fao.org/edible-insects/en/>

⁴⁰ *Supra* note 8.



4. Another issue sparked by the inclusion specifically of non-endemic species but also the catch-all is the fact that, in general, the environmental legislation does not protect animals that are not indigenous to South Africa. In fact, these animals are often specifically excluded. This all needs to be considered in the broader context of the Proposed Amendments.

vii. HLP Subject Species⁴¹

1. Notably, and as aforementioned, in relation to the subject species of the High Level Panel appointed by the Minister of DEFF, we have set out additional and relevant issues to those species (and some which apply more broadly to wildlife).
2. While we have not repeated these herein, there are general and well as very unique and specific matters which apply in each of the contexts which need to be considered.
3. For example, there are specific issues relating to the subject species:
 - a. Elephants; (While elephants are not a new addition to Schedule 1), it is practically concerning as to why and how they are included in this act. In addition to environmental legislation, elephants are also regulated in terms of the Norms & Standards. These Norms & Standards recognise their sentience, among other positive and notable attributes. It is unclear now why they can and must be slaughtered in an abattoir and in accordance with the other provisions of the MSA.
 - b. Rhinos; (New addition and interestingly the domestic trade and other issues pertaining to rhinos in South Africa have just received formal regulation through the promulgation of new regulations by Minister Creecy);
 - c. Leopards; and
 - d. Lions (see above and throughout specific references to lions and problems with the lion bone trade and captive lion breeding).

viii. Other animals - not specifically mentioned

1. The overarching inclusion of all animals, would thus, in addition to those species mentioned, include animals who are:
 - a. listed in the TOPS Regulations (terrestrial and aquatic);
 - b. listed on the IUCN Red List;

⁴¹ In this regard, we reiterate that our Full Submission in respect of the HLP should and can be accessed here: EMS Foundation Website: <https://emsfoundation.org.za/submission-in-respect-of-deff-high-level-panel-the-ems-foundation-and-animal-law-reform-south-africa/>



- c. listed on the CITES Appendices (I; II and III);
- d. notably important to other countries in terms of their cultural heritage.

5. ISSUES WITH THE ACT AND REGULATIONS (NON-EXHAUSTIVE)

- a. While again we understand the fundamental and undeniable need for the MSA as well as the matters regulating therein, the MSA itself is problematic from various perspectives – in terms of its content and enforcement.
- b. Notably, it is not, in its current form (and read with the regulations) suited to regulate all animals – particularly wild animals.
- c. We appreciate that the MSA itself is not up for public comment and debate for purposes of the Schedule 1 amendment, these issues must be considered given the breadth of animals to be included and the knock-on impacts of this in practice.
- d. Here we reiterate that we have **not been exhaustive** in some of the issues we wish to highlight, but believe it is important to raise these in the context of the Proposed Amendments. Of critical importance should be:
 - i. The promotion of transparency;
 - ii. Clear enforcement measures;
 - iii. Protection of those;
 - iv. Animal welfare and wellbeing;
 - v. Species-specific regulations pertaining to the needs; uses; practices and other issues relevant to those animals.
- e. Thus, in relation to inspections, additional persons must be designated to carry out these inspections (with the necessary registrations; training; permits and other requirements – including reporting):
 - i. Animal Welfare Organisations (as one example) should be able to apply for these licenses and particularly to ensure that the animal welfare provisions are complied with (they should be registered with the Department of Social Services (“**DSD**”) as an NPO (or other appropriate governmental regulatory body) and otherwise having received necessary training).
 - ii. Public Interest Organisations (they should be registered with the DSD as an NPO (or other appropriate governmental regulatory body) and otherwise having received necessary training).
 - iii. Importantly, this should not be limited to the NSPCA or the individual SPCAs⁴² given their capacity difficulties and other restraints - but allow for other registered organisations who apply for the relevant licensing and inspection procedures to do this. This is a matter of public concern, and thus inspection and enforcement of the Act should not be limited.

⁴² The National Society for the Prevention of Cruelty to Animals and individuals Societies for the Prevention of Cruelty to Animals.



f. Regulations

- i. We note that certain regulations have been promulgated in terms of the Act, more specifically:
 1. Red Meat Regulations⁴³
 2. Poultry Regulations⁴⁴
 3. Ostrich Regulations⁴⁵
- ii. We are curious as to whether the intention is to promulgate specific species regulations? Or to include the new proposed animals among these existing regulations (i.e. Red Meat; Poultry; or Ostrich)?
- iii. We note specifically that there are efforts to promulgate regulations pertaining to “Game” meat– but again, these would and are not suitable for “all” animals as currently contemplated.
- iv. We thus suggest that until such time as there are specific regulations specifically relating to those species that take into account all relevant factors unique to them, and their needs (among other factors), that they not be included within the ambit of the Act, and a prohibition issued in respect of their consumption.⁴⁶
- v. If animals are to be included in the MSA, then **out of necessity there needs to be specific regulations promulgated for such species, based on their unique circumstances.** These unique circumstances range from their welfare requirements; to specific ways and practices in relation to them (such as the way they are slaughtered; transported; cared for; etc.); among other relevant factors.
- vi. We are of the view that applying an Act broadly to so many different animals; species and contexts is potentially irrational; unless there are specific and enforceable provisions taking into account their unique circumstances.

g. Specific provisions (non-exhaustive)

i. Definition

1. The definition of “slaughter” itself is confusing and unclear. It refers to “10 actions”.
 - a. What are these actions?
 - b. Does this mean that it is not slaughter without these (unlisted?) ten actions?
 - c. The word “and” would appear to indicate so.

ii. Exemptions

⁴³ https://www.gov.za/sites/default/files/gcis_document/201409/26779rg8056gon1072.pdf

⁴⁴ <http://extwprlegs1.fao.org/docs/pdf/saf73631.pdf>

⁴⁵ <https://www.nda.agric.za/vetweb/Legislation/Meat%20safety/OstrichRegulations.pdf>

⁴⁶ If the MSA is not the correct place to regulate which animals may be consumed, as set out in the Clarificatory Notice, then this must be done in terms of the correct enabling legislation.



1. Given that there are exemptions provided for in section 7 of the Act for (*inter alia*) slaughter for own purposes; as well as cultural or religious purposes.
 2. This creates a **major** gap. For example, if ones culture” or religion dictates that they can and should consume a specific type of animal, they need not comply with any of the relevant provisions in the Act or regulations. Moreover, even though there are different methods of slaughter, no culture or religion should be entitled to engage in wanton cruelty towards animals and certain standards should still have to be met.
 3. While there may be some exemptions granted to them, arguably the entire act should not be excluded and animal welfare should still matter in cultural and religious contexts.
 4. This is an issue which needs to be carefully and thoughtfully discussed as a blanket exemption is not desirable, either in terms of fulfilling the overall purposes of the Act, but with other issues in the broader public interest.
- i. Confidentiality Provisions
1. We are of the view that the current Confidentiality provisions, contained in Section 17 of the MSA do not allow for adequate transparency and do not protect potential whistleblowers or other persons; in the pursuit of broader public interests. One example is that confidentiality of potentially harmful information is required of persons performing in the Act, unless a few very specific circumstances are met. While we appreciate the need for discretion and some confidentiality, it is critical that of these issues which are very much in the public interest, there is sufficient protection for those in other circumstances, not currently provided for in the Act.
 2. The Confidentiality provisions, should thus be amended to include exemptions for:
 - a. Non-compliance/ potential breach with other laws, including but not limited to:
 - i. The Constitution;⁴⁷
 - ii. The Animals Protection Act;
 - iii. The Protected Disclosures Act;⁴⁸
 - iv. Environmental Legislation including NEMA; NEMBA; TOPS and provincial;
 - b. Other Animal Welfare provisions;

⁴⁷ Constitution of the Republic of South Africa, 1996 (referred to as the Constitution). Government Website: <http://www.justice.gov.za/legislation/constitution/SACConstitution-web-eng.pdf>

⁴⁸ Protected Disclosures Act: <https://www.justice.gov.za/legislation/acts/2000-026.pdf>



- c. Objectives in the pursuit of a publicly protected constitutional or legal right; and
 - d. Other relevant laws.
 - ii. “Meat” and “Animal Products”
 - 1. While the ambit of the Act notably distinguishes between “meat” as well as “animal products” given the fact that a number of the species now proposed to be included have their “products” – i.e. outside of their “meat” for consumption – it is of absolute necessity that wherever the word “meat” is mentioned throughout the Act, regulations, etc. that “animal products” also be included.
 - 2. Without closing these regulatory loops, it leaves gaps pertaining to the non-meat of animals.
 - 3. It also creates issues in terms of environmental legislation; international treaty obligations; to name but a few.
 - iii. COVID-19
 - 1. Please see additional sections in this regard.
 - 2. Will there be an overall review process in terms of the MSA to see and confirm that it is sufficient in light of the COVID-19 pandemic.

6. CONSTITUTIONAL CONCERNS AND CONSIDERATIONS

- a. We are of the view that promoting or supporting intensive breeding of wild animals for non-conservation purposes is fundamentally inconsistent with the requirement in the Constitution that use of wild animals must be ecologically sustainable and additionally, the other elements provided for in Section 24, and the remainder of the Constitution.
- b. **Please see more on specific Constitutional concerns in Paragraph 3 of Part II below. In particular, statements made by the Constitutional Court in relation to Section 24, animal welfare and the intrinsic value of animals as individuals.**
- c. There are further Constitutional concerns set out in this Submission.



PART II: ADDITIONAL CONSIDERATIONS

These are issues which should be considered in the broader context of the Proposed Amendments, MSA and related areas and are non-exhaustive. We are happy to elaborate and/or provide further resources in respect of these matters.

1. COVID-19

- a. We wish to note that **thousands** of workers around the world in “processing plants” i.e. slaughterhouses and other animal agricultural organisations have been some of the **worst impacted by the pandemic**. These include **in countries around the world** such as (but not limited to):
 - i. The United States of America;⁴⁹
 - ii. Germany;⁵⁰ and
 - iii. Brazil⁵¹
- b. Are there provisions in place to protect workers in South Africa against COVID-19 specifically? Is the MSA sufficient against protecting workers against the pandemic as well as other worker safety issues?
- c. We note that it can be argued that the intention of including more animals within the ambit of the MSA is, in fact, to prevent zoonotic diseases. For example, given the unregulated nature of slaughtering animals without hygienic and safety requirements, this increases the risk of zoonotic diseases.
- d. However, if this is one of the objectives, it is not clear that this will be achieved and may create unintended and potentially worse consequences.

2. SERIOUS PUBLIC HEALTH RISKS OF PROMOTING TRADE IN WILD ANIMALS

- a. The EMS Foundation has previously attempted to raise the issues of public health risks with DEFF⁵² in 2018 and since June 2019; the Department itself as well as the Department of Health, in regards to the risk of TB transmission from lion bones to humans. We note that these attempts to engagement have been ignored.

⁴⁹ Some examples (non-exhaustive) of this include: <https://www.cdc.gov/mmwr/volumes/69/wr/mm6918e3.htm> and <https://www.theatlantic.com/ideas/archive/2020/05/essentials-meatpacking-coronavirus/611437/> and <https://www.foodpolitics.com/2020/05/the-meat-problem-1-coronavirus-in-slaughterhouses-and-packing-plants/>

⁵⁰ One example (non-exhaustive) of this includes: <https://www.globalmeatnews.com/Article/2020/06/23/Number-of-workers-tested-for-COVID-19-rises-at-meat-processing-plant-in-Germany>

⁵¹ One example (non-exhaustive) of this includes: <https://www.poultryworld.net/Meat/Articles/2020/5/Brazil-Covid-19-cases-spike-among-processing-plant-workers-589566E/>

⁵² Colloquium on the Captive Lion Breeding for Hunting in South Africa 21-22 August – Parliament Portfolio Committee on Environmental Affairs



- b. As with the recent amendments to the Animal Improvement Act, the amendments to the MSA will have the effect of legitimising and facilitating the slaughter and consumption of wild animals, and therefore the development of captive breeding/wildlife farming industries.
- c. Presumably the draft amendments to the MSA were formulated prior to much information being available about the current COVID-19 pandemic. However, this proposed amendment now comes at a time when other governments worldwide are moving to ban the consumption of wild animals because there is increasing evidence that this practice is not justified from a health point of view and is likely to cause future pandemics. Given the global impact of pandemics such as COVID-19, the immediate priority now should be to protect people from this virus and prevent its spread.
- d. The legitimising and facilitating of a trade in wild animal products will inevitably increase the number of wild animals in captive breeding facilities of one kind or another.
- e. While much is unknown, there is consensus among infectious disease experts that increased contact between wild animals and humans has increased the risk of dangerous viruses spilling over from animals to human. According to the World Health Organization, almost three-quarters of all epidemics in recent decades have spilled over from animals. Zoonotic diseases are particularly dangerous to humans because humans lack immunity to them. According to an infectious disease expert and member of the EU Animal Welfare Intergroup, Professor Thijs Kuiken,⁵³ the most likely cause of the increase in zoonotic disease outbreaks over the last 30 years is the increase in farmed animals (including wild animals), increased trade and transport of wild and domestic animals and increased movement into uninhabited areas.⁵⁴
- f. Many countries are actively taking steps to try and reduce these harms and risks – including in relation to the consumption of wildlife; wet markets; zoonotic diseases; and other related matters. Below are a few examples of actions happening at governmental level. This does not begin to include various organisational efforts that are happening across the globe:
 - i. China is imposing progressive restrictions on the consumption of wild animals.⁵⁵

⁵³ Professor of Comparative Pathology at the Department of Viroscience of the Erasmus University Medical Centre in Rotterdam, The Netherlands.

⁵⁴<https://www.animalwelfareintergroup.eu/news/we-can-no-longer-consider-health-humans-separately-health-planet>

⁵⁵<https://tribune.com.pk/story/2207339/3-beijing-shuts-door-eating-wild-animals/&fbclid=IwAR22hipBCeHodwmi-8LRZhi0wXaBhQfmCRbKH2-ysqNPolkxIy5EQ2Wo2sE/>



- ii. It is also reported that Vietnam's prime minister has asked the country's agriculture ministry to draft a directive to stop illegal trading and consumption of wildlife over fears it spreads disease.
 - iii. We understand that the EU Animal Welfare Intergroup is currently drafting a proposal to the EU Parliament to ban consumption of wildlife products and live trade in wild animals.
 - iv. The USA is looking at legislation in relation to wildlife markets.⁵⁶
 - v. The Australian government is calling for the G20 countries to take action on wildlife wet markets, calling them a "biosecurity and human health risk".⁵⁷
- g. Proposals to further develop the industry in South Africa based on products deriving from wild animals constitute a serious public health risk. The risk includes not only the danger to consumers of wildlife products in South Africa and globally but the danger to abattoir workers in South Africa who will come into close contact with wild animals alive and dead. For example, the legal trade in lion bones for consumption in Asian traditional medicines potentially exposes abattoir workers to the risk of contracting TB. While much is unknown about the risk from lion bones, the current evidence is clear that the wildlife trade poses huge risks to public health.
- h. The rise in transmission of zoonotic infections has not necessarily happened because people are consuming any particular species. The fundamental cause is the whole 'commercialization process', from the transfer of the animal from its natural habitat to the point of commercialization: transportation (land, aerial, inland or maritime); the arrival to sale points in urban areas (animal markets); the conditions of confinement, generally in unhealthy places (small cages); the coexistence of different wildlife species with different domestic animals; among others. All of these factors cause wildlife species to become stressed and immunosuppressed, a situation that allows viruses and coronaviruses to be transmitted to other species.
- i. We understand that it is not only wild animals in captive breeding facilities but even wild animals in more extensive systems such as game farms can pose a threat to domestic animals and potentially humans. EMS Foundation has, for example, been informed that wildebeest on game farms are known to infect cattle with fatal malignant catarrhal fever.

⁵⁶ American Veterinary Medicine Association: <https://www.avma.org/javma-news/2020-07-01/united-states-seeks-ban-chinas-wildlife-wet-markets>

⁵⁷ BBC News: <https://www.bbc.com/news/world-australia-52391783>



- j. A precautionary approach therefore requires that, instead of promoting this industry, South Africa must take urgent steps to restrict it at least temporarily while further research is conducted.

3. ANIMAL WELFARE

a. Welfare Generally

- i. Although we have not dealt with all of the welfare considerations herein, we wish to state that these are critical in the context of the MSA, the Proposed Amendments and very specifically towards the objectives thereof – such as food safety.
- ii. Poor welfare essentially leads to poor animal health as well as harms to humans. The link has been well-acknowledged internationally, through organisations such as the World Animal Health Organisation, or OIE.⁵⁸
- iii. If the purpose of the MSA is in fact to regulate the safety of foods for consumption, it should provide for the keeping, rearing and “farming” of the animals utilised for human and animal consumption. The conditions in which animals are kept, transported, and ultimately slaughtered therefore undeniably impact on the safety of the ultimate products and must therefore be regulated. The current South African legal landscape does not set measurable and enforceable standards for raising animals in captivity at all, nor standards specific to species that should apply.
- iv. There are severe problems with disregarding animal welfare in animal agriculture. Some examples of these include stress; anti-biotic use (due to risks of disease and other ailments); to name a few.
- v. Furthermore, the highest court in South Africa (the Constitutional Court) has emphasised the critical importance of animal welfare and indicated that the rationale behind protecting animal welfare had shifted from merely safeguarding the moral status of humans to placing intrinsic value on animals as individuals.⁵⁹

⁵⁸ World Animal Health Organisation: <https://www.oie.int/>

⁵⁹ National Society for the Prevention of Cruelty to Animals v Minister of Justice and Constitutional Development and Another (CCT1/16) [2016] ZACC 46; 2017 (1) SACR 284 (CC); 2017 (4) BCLR 517 (CC) (8 December 2016). Saflii Website: http://www.saflii.org/za/cases/ZACC/2016/46.html#_ftn91



- vi. In our view, this is a tremendous oversight and should be dealt with by the Department as the body regulated to oversee these issues. These can potentially be included in specific regulations.
 - vii. For purposes of this section, we have set out some high-level examples of some of the ways that animal welfare considerations impact on food safety and thus the MSA and Proposed Amendments.
- b. Specific Example: Stress
- i. Stress has been alleged to be a major component in the spread of dangerous pathogens. While we as a global community are trying to prevent human-to-human contagion from COVID-19 through various means (such as: social distancing, by observing hygiene rules, boosting our immune systems with a healthy diet and exercise, trying to breath clean air and sit in the sun daily, by reducing stress and rest more, among other things); animals utilised for consumptive purposes – such as those in intensive farming operations - receive the exact opposite treatment, despite there being similarities in their physiological requirements.
 - ii. We thus increase their vulnerability to infectious diseases and create the very system that is ideal for fostering new diseases able to threaten human life. In traditional animal agriculture it is commonplace for animals:
 - i. to be forced to live in small, unnatural spaces;
 - ii. separated family members (specifically young, and sometimes unweaned);
 - iii. to be forcibly inseminated;
 - iv. mutilated (often times with no anesthesia);
 - v. in conditions that are harmful – such as in feces or even in parasitic conditions;
 - vi. to be force fed;
 - vii. deprived of sleep;
 - viii. unnaturally grown to tremendous size;
 - ix. and various other physical, psychological and other actions and omissions which cause stress. This stress then has knock on impacts, such as the release of specific hormones.
 - iii. Farming wildlife is particularly problematic. As non-domesticated animals (regardless of whether they were born in captivity or not), wild animals are forced in conditions which are particularly unnatural for them and which will take them to high level of stress. We have seen how the lion industry and poor legislation and enforcement has opened the way to horrific cruelty and neglect, at least on certain “farms”.



- iv. Despite these unbearable conditions, it has been indicated that the most stressful moment in the life of any farmed animal is the transport to slaughter⁶⁰.
- v. Reports and investigations from around the globe indicate that it is not uncommon for animals to be beaten; separated; drugged; loaded; forced to travel cramped in small cages or enclosures; in cold or hot conditions exposed to elements and unfamiliar noise and vibrations; kept for long in own fluids and feces with no food and water (among other conditions).
- vi. Furthermore, once at the slaughterhouse pathogens cross contaminate the hides, passing from one carcass to another during the slaughtering process.
- vii. The lack of specific wildlife slaughterhouses and strict regulation is particularly concerning. Diseases can cross from animals to humans and vice versa. COVID-19 has infected big cats in the Bronx Zoo in New York and thousands of minks in the Netherlands, a fact which led to the order of killing more than 10.000 minks. In fact, once there is an outbreak, animals are often killed in large quantities. Animals are legally “depopulated”⁶¹ in the most inhumane ways, from suffocation to being cooked to death or buried alive.
- viii. While these examples relate to domesticated and traditionally farmed animals (such as pigs, cows and chickens), in the context of expanding the MSA to for example, wild animals, what would be the impact of such “depopulations” if the animals to cull happen to also be our African wildlife icons, as for example, the lion?
- ix. As we noted in Part I, the Proposed Amendments to the MSA open the trade for human consumption to **ALL** possible wild endemic and alien animals - from insects to birds, to worms, to sea or fresh water fish animals, to amphibians (which, according to research, are the animals carrying the largest number of pathogens⁶²).
- x. These factors do not take into account potential new pathogens or diseases, for animals not potentially consumed previously (regardless of the manner in which this may be done).

c. Specific Issue: Wild Animal Welfare

- i. The Department has a mandate in terms of the Animals Protection Act (APA) to protect the welfare of all animals. We, together with various other organisations, have amassed ample evidence that the captive breeding of wild

⁶⁰ Dr Aysha Akhtar, MPH Virologist, Webinar “Stress and Pandemics” ALD – 23 June 2020

⁶¹ See for example: <https://www.aspc.org/about-us/press-releases/statement-covid-19-related-depopulation-farm-animals>

⁶² Professor Frank Pasmans, Veterinary Bacteriology and Mycology in Reptiles and Amphibians Diseases - University of Ghent in Belgium – Webinar on Pathogen Pollution and Wildlife Trade, EU Intergroup on Welfare and Conservation of Animals



animals can never be achieved humanely and that grossly cruel practices are common in the lion breeding industry in particular.

- ii. The amendments to the AIA further entrench and legitimise the idea that wild animals are merely commodities with no inherent right to live in the ecosystems and social systems in which they belong and in which they play an essential role. This is a misunderstanding of the constitutional imperative that the environment must be protected through reasonable legislative and other measures that secure ecologically sustainable use of natural resources (as contained in Section 24 of the Constitution, and various other legislation).
- iii. The animal welfare implications of the proposed amendments are deeply concerning. The amendments completely fail to take into account the fact that the welfare implications of keeping wild animals in captivity for intensive breeding purposes are vastly different from the welfare implications of intensive breeding of domesticated animals.
- iv. The welfare of wild animals has historically been very inadequately protected. This is because environmental authorities within all spheres of government have consistently denied that they have a mandate to deal with welfare. On the other hand, agricultural authorities continue to devote few or no resources to wild animal welfare. The Animals Protection Act is seriously outdated and is entirely inadequate to deal with the welfare consequences of expanding and promoting the wildlife breeding and trading industry.⁶³
- v. As far as we know, no standards have been put in place to regulate the welfare of wild animals in commercial breeding operations. We know that there is some “self-regulation” in this regard, as well as a proposed MoU with the NSPCA and others as it pertains to certain species, in the making. However, self-regulation is neither law, nor is it sufficient.⁶⁴

⁶³ In addition to other problems with the Act itself and the regulation of the welfare of wild animals more generally, which we have touched on in this Submission.

⁶⁴ We note for example in relation to captive lions (which are, in some instances sold and utilised for consumption by humans, such as in the lion bone trade), the South African Predators Association (“SAPA”) have set their own Norms and Standards which they believe are adequate. For example, their “Norms and Standards for the Hunting of Captive Lions in South Africa” [See <https://sapredators.co.za/images/photos/SAPA-Final-Norms-and-Standards-For-Hunting-Oct2017.pdf>] and “Norms and Standards for the Management (Welfare, Breeding and Keeping) of Captive Lions in South Africa Ranch & Working lions” [See: <https://sapredators.co.za/images/photos/SAPA-Final-NS-for-BREEDING-and-KEEPING-Ranch-and-Working-lions-Okt2017.pdf>] It is worth noting that SAPA members have been implicated in animal cruelty and egregious practices. ⁶⁴A prominent example includes Walter Slippers – who not only once, but on various occasions had problems with his lions – including “evidence of shocking animal neglect and cruelty”. <https://www.sapeople.com/2020/05/13/breaking-starving-emaciated-lions-found-at-slippers-limpopo-breeding-farm-again/>



- vi. Amendments to the National Environmental Management Act, 107, of 1998 proposed in Bill 14/2017 to deal with the welfare of wild animals are wholly inadequate. In the first place, they refer to “well-being” which is defined to include only an individual animal’s “health”. This term is at best extremely vague. The amendments fail to take into account the fact that the welfare or wellbeing of a wild animal is also dependent on it living in the conditions for which it has evolved including family and social systems and structures. In any event, there is no indication as to when the amendments might come into force.
- vii. In comparison, “animal welfare” is much more encompassing. Although there are varying definitions, the OIE⁶⁵ defines animal welfare as “the physical and mental state of an animal in relation to the conditions in which it lives and dies” and further looks to incorporate the Five Freedoms.
- viii. As aforementioned, , in the landmark 2016 Constitutional Court case brought by the NSPCA,⁶⁶ the Constitutional Court referred with approval to the earlier statements of the Supreme Court of appeal in the *Lemthongthai* case⁶⁷ that “[c]onstitutional values dictate a more caring attitude towards fellow humans, animals and the environment in general”. It held that “[a]nimal welfare and animal conservation together reflect two intertwined values.”
- ix. This case was referred to with approval in a new case brought by the NSPCA in the North Gauteng High Court this year in which the Court, referring to captive lions stated that “[e]ven if they are ultimately bred for trophy hunting and for commercial purposes, their suffering, the conditions under which they are kept and the like **remain a matter of public concern** and are inextricably linked to how we instill respect for animals and the environment of which lions in captivity are an integral part of.”⁶⁸ [emphasis added]

4. EFFECT ON SOUTH AFRICA’S BIODIVERSITY

- a. The breeding of wild animals as if they were domestic animals can and will affect the survival of these species as a whole including wild populations. There is significant potential for wild animals illegally obtained to be “laundered” through the captive breeding industry as well as potential for the genetic integrity of wild populations to be compromised by intensive breeding practices and hybridisation.

⁶⁵ OIE: “Animal Welfare” <https://www.oie.int/en/animal-welfare/animal-welfare-at-a-glance/>

⁶⁶ National Society for the Prevention of Cruelty to Animals v Minister of Justice and Constitutional Development and Another (CCT1/2017).

⁶⁷ S v Lemthongthai [2014] ZASCA 131; 2015 (1) SACR 353 (SCA).

⁶⁸ National Council of the Society for Prevention of Cruelty to Animals v Minister of Environmental Affairs and Others [2019] ZAGPPHC 337.



- b. The amendments are likely to endanger the genetic health of wild populations since weak enforcement of laws means that there is a high possibility of genetically manipulated specimens coming into contact with wild populations.
- c. We are happy to provide further information as to the points specified above, as well as to how and why South Africa's biodiversity will be impacted by the Proposed Amendments to the MSA.

5. REPUTATIONAL CONCERNS

- a. There has been a large amount of negative publicity on the Proposed Amendments to the MSA specifically, as well as other matters on the use of (particularly wild) animals in South Africa.
These are not limited to the South African Media⁶⁹ but include international media and news outlets.⁷⁰
- b. While again, we note that there are some misconceptions and misinformation, given the huge reliance on the country on matters pertaining to our wildlife and tourism, it is critical that these are cleared up on sufficiently dealt with in the messaging.
- c. While we note that the Clarificatory Notice aimed at dealing with some of these misconceptions and issues, until such time as the overall concerns about the agriculturalization of our wildlife, regulation and related matters are dealt with, moves such as this will continue to have a hugely negative reputational impact on the country. This impacts all citizens and is thus relevant.
- d. As one example in relation to the lion bone trade specifically (which falls directly within the issues and scope of consideration by the Proposed Amendments), on the economic side, the industry is having a major negative impact on the country's tourism, with a study indicating that as much as ZAR 56 billion in revenue could be lost if "business as usual continues".⁷¹

⁶⁹ Some examples (non-exhaustive) of this include: <https://www.iol.co.za/saturday-star/news/govt-proposal-to-add-rhino-elephants-to-list-of-animals-that-can-be-slaughtered-for-consumption-50011976> and <https://conservationaction.co.za/media-articles/living-with-wild-animals-part-two-eat-them-like-theres-no-tomorrow/> and <https://www.sapeople.com/2020/06/15/south-african-proposal-to-breed-wildlife-for-slaughter-courts-disaster/> and <https://citizen.co.za/news/south-africa/environment/2295992/fancy-a-slice-of-elephant-or-rhino-meat/> and <https://www.groundup.org.za/article/alarm-over-proposed-changes-meat-safety-act-despite-warnings/> and <https://theconversation.com/south-african-proposal-to-breed-wildlife-for-slaughter-courts-disaster-140399?fbclid=IwAR31V6x47POYchM74q0QRwkftbTAj-Vi8qsAiKdrFeZ2zTN2s4Lyn8zmpFs>

⁷⁰ Some examples (non-exhaustive) of this include: <https://qz.com/africa/1868783/south-africa-plan-to-allow-the-breeding-of-wildlife-for-slaughter/> and <https://www.newsroom.co.nz/2020/05/20/1179181/kiwi-included-in-proposed-south-african-meat-legislation> (*Supra* note 8).

⁷¹ Harvey, Ross. 2018. "The Economics of Captive Predator Breeding in South Africa." SAIHA. Retrieved August 22, 2019 (<https://saiaa.org.za/research/picking-a-bonewith-captive-predator-breeding-in-south-africa/>).



6. PUBLIC OPINION

- a. It is notable that a large portion of the South African public largely seems to be against the proposed amendment with close to **30,000** members of the public having commented on this, on one site alone.⁷²
- b. Other parliamentary correspondence confirms these numbers.⁷³
- c. While we do note that the general public does not understand the intricacies of including animals within the scope of the Act and the potential benefits of regulating issues pertaining to issues regulated by the MSA, the fact that so many members of the public are participating in this issue should be called out, recognised and adequately responded to.
- d. This is particularly relevant as a number of the animals included are included within the scope of the Constitutional Right to Environment, Section 24, Chapter 2 of the Bill of Rights.
- e. We also note that all of these are happening in the context of and at the same time as a global pandemic largely believed to have originated from the consumption of wild animals; as well as the Minister of DEFF's recent HLP; the release of rhino horn regulations in respect of the Domestic Trade; the release of Unfair Game; the release of the Report by EMS Foundation and Ban Animal Trading⁷⁴ and various other related matters. Each of these individually have caused massive public concern.

7. INFORMAL SELLERS AND WET MARKETS

- a. While this is an issue which warrants more and in-depth research and comment, we wish to note that it is unclear to us how this will specifically impact on the country's "informal markets" in terms of the sale of animals and food for consumption.
- b. We note that there are a number of informal sellers of animal products in the country. While we do not have the exact numbers, we do know the Proposed Amendments could have a profound impact on such persons and broader communities.
- c. In distinction to informal markets, but in relation to wet markets specifically, we note that as per a recent question posed to DEFF (Minister Creecy):⁷⁵

"(1) what (a) is the total number of informal wet markets in the Republic and (b) steps will her department in association with other relevant departments take to avoid that such markets become incubators for dangerous pathogens and viruses as most recently seen regarding the circumstances for the suspected outbreak of the COVID-19 pandemic at a fish market in Wuhan, China;

⁷² Dear South Africa: <https://dearsouthafrica.co.za/draft-meat-safety-act/>

⁷³ Parliamentary Committee: <https://pmg.org.za/committee-question/13834/>

⁷⁴ EMS Foundation & Ban Animal Trading: *The Breaking Point*: <https://emsfoundation.org.za/the-breaking-point-uncovering-south-africas-shameful-live-wildlife-trade-with-china/>

⁷⁵ <https://pmg.org.za/committee-question/13622/>



(2) whether she intends closing wet markets in the Republic; if not, what preventative measures will she put in place; if so, what are the full details of the effect that this will have on general food security generated by these markets?”

- d. To which the response received was (our emphasis):
*“1(a). According to the Department of Environment, Forestry and Fisheries, **there are no known formal or informal wet markets in the republic.** However, in accordance with the Constitution of the Republic of South Africa, section 162, Municipalities are responsible for the publication of relevant bylaws in their respective provinces, which would regulate activities associated with such markets. It should further be noted that the Meat Safety Act (Act No. 40 of 2000), enforced by the Department of Agriculture, Land Reform and Rural Development (DALRRD) regulates the meat product. Therefore, please refer further questions in this regard to municipalities and/or the DALRRD”*
- e. While the Department and Minister of DEFF indicate in this response that there are no wet markets, it is unclear if this is the case, and we would seek clarity from the Department on this issue for confirmation.

8. ZONOTIC DISEASES, INFECTION, INFESTATIONS AND HUMAN HEALTH IMPLICATIONS

- a. While we have drawn attention above to zoonotic diseases in the context of wild animals specifically, , there is notably a major issue with zoonotic diseases in South Africa, pertaining to animals currently farmed for food and otherwise consumed.
- b. On the OIE Website,⁷⁶ for 2020 alone, the OIE list includes **one hundred and seventeen** animal diseases, infections and infestations.
- c. These appear to be on the increase, with countless examples from 2020 and 2019 – and many more before this.⁷⁷
- d. The above furthermore does not take into account diseases or other health conditions that are associated with, related to or impacted by the consumption of animals.
- e. Examples include but are not limited to: the rise of antibiotic resistance development,⁷⁸ and increased obesity rates.⁷⁹

⁷⁶ OIE Listed diseases, infections and infestations in force in 2020: <https://www.oie.int/en/animal-health-in-the-world/oie-listed-diseases-2020/>

⁷⁷ Some examples include (non-exhaustive): [from 1993 to 2020 = <http://webapps.daff.gov.za/VetWeb/diseaseDatabase.do;jsessionid=85752ed101514abc90ec9b699871>] and <https://www.oatext.com/zoonotic-viral-infections-in-south-africa-an-overview.php#gsc.tab=0>

⁷⁸ VAN DEN HONERT, M. S.; GOUWS, P. A. and HOFFMAN, L. C. Importance and implications of antibiotic resistance development in livestock and wildlife farming in South Africa: A Review. South African Journal of Animal Science 48 (2018) 401412 (<http://dx.doi.org/10.4314/sajas.v48i3.1>)

⁷⁹ RONQUEST-ROSS L-C, VINK N, SIGGE GO. Food consumption changes in South Africa since 1994. South African Journal of Science (2015) 111 (<http://dx.doi.org/10.17159/sajs.2015/20140354>)



9. WORKER SAFETY RIGHTS AND OTHER ISSUES

- a. In addition to those worker safety issues already raised above, while this issue warrants a huge amount of consideration and attention, we wish to point out the extreme and undeniable negative impacts which animal agriculture more broadly has on the environment.
- b. Workers in animal agriculture (specifically in slaughterhouses) suffer from ailments including both physical and emotional ones such as post-traumatic stress disorder due to the work of slaughtering sentient animals repeatedly, day in and day out.⁸⁰
- c. In addition to the animal agriculture industry, we note that there are dangers to marginalised and exploited ‘game farm’ workers involved in the slaughter for meat or bones.⁸¹
- d. As Brandt⁸² has pointed out, generally, the wildlife industry violates the rights of black people and farm workers are disproportionately exposed to risks while living and working with dangerous animals like lions. In addition, generally these workers do not receive employment benefits, such as medical insurance nor do they have the means to protect themselves from harm, disability or death.⁸³ In addition to all of this, the consumption of the bones in Asian markets or for *muti* use in African markets may expose consumers to the same risks.
- e. The law already does little to protect these members of society. **Increasing the animals which may be impacted by the Meat Safety Act may cause even further harmful negative consequences for workers and their safety. Additionally, it may impact on fundamental and guaranteed Constitutional Rights.**

10. ENVIRONMENTAL IMPACTS

- a. While this issue warrants a huge amount of consideration and attention, we wish to point out the extreme and undeniable negative environmental impacts which animal agriculture more broadly has on the environment.⁸⁴

⁸⁰ Victor, Karen and Antoni Barnard. 2016. “Slaughtering for a living: A hermeneutic phenomenological perspective on the well-being of slaughterhouse employees.” *International Journal of Qualitative Studies on Health and Well-being* 11: 30266. DOI:10.3402/qhw.v11.30266

⁸¹ Peet Van Der Merwe et al., “The Economic Significance of Lion Breeding Operations in the South African Wildlife Industry,” *International Journal of Biodiversity and Conservation* 9, no. 11 (2017): 314–22, <https://doi.org/10.5897/IJBC2017.1103>.

⁸² Femke Brandt *Trophy Hunting in South Africa: Risky Business for Whom?* DAILY MAVERICK (17 Nov 2015) http://www.dailymaverick.co.za/opinionista/2015-11-17-trophy-hunting-in-south-africa-risky-business-for-whom/?utm_source=Daily+Maverick+Mailer#.VqCRDLZ97IV

⁸³ *Ibid.*

⁸⁴ Some examples (non-exhaustive) of this include:

<https://www.sciencedirect.com/science/article/pii/B9780128052471000253> and <https://www.humanesociety.org/sites/default/files/docs/hsus-report-agriculture-global-warming-and-climate-change.pdf> and <https://www.nationalgeographic.com/environment/2019/01/commission-report-great-food-transformation-plant-diet-climate-change/>.



- b. These have been well document and include but are not limited to huge amounts of resources required (including water and land); soil pollution, reduction in quality and contamination; water pollution and contamination; air pollution and contamination; greenhouse gas emissions; environmental justice issues; harmful chemicals and antibiotics; and various others.
- c. While other countries in the world are looking at reducing their reliance on animal agriculture; and investing in alternatives – including plant-based agriculture, South Africa appears to be looking at increasing it.
- d. Section 27 of the Bill of Rights states that everyone has the right to have access to (inter alia) sufficient food and water; and furthermore, that the state must “take reasonable legislative and other measures, within its available resources, to achieve the progressive realisation of each of these rights”. Studies show (among other things) that animal products have a particularly large water requirement per unit of nutritional energy compared to food of plant origin, and that the production of meat requires and pollutes large amounts of water.⁸⁵
- e. Section 24: Right to Environment (Examples)
 - i. Reports that indicate that “meat, aquaculture, eggs, and dairy use ~83% of the world’s farmland and contribute 56-58% of food’s different emissions, despite providing only 37% of our protein and 18% of our calories”.⁸⁶
 - ii. Current animal agricultural farming systems have a major and harsh impact on the environment.⁸⁷
 - iii. Studies show that a further consequence of the intensive farming of animals is the huge amount of greenhouse gas emissions associated therewith.⁸⁸
 - iv. As the association of increased greenhouse gas emissions impacts climate change and environment
- f. **Increasing the animals which may be impacted by the Meat Safety Act may cause even further harmful negative environmental consequences. Additionally, it may impact on fundamental and guaranteed Constitutional Rights.**

⁸⁵ Gerbens-Leenes, P. Winnie and Mesfin M. Mekonnen and Arjen Y. Hoekstra. 2013. “The Water Footprint of Poultry, Pork and Beef: A Comparative Study in Different Countries and Production Systems.” *Water Resources and Industry* 1–2: 2536. <https://doi.org/10.1016/j.wri.2013.03.001>.

⁸⁶ Poore, Joseph and Thomas Nemecek. 2018. “Reducing food’s environmental impacts through producers and consumers” *Science* 360 (6392): 987-992. DOI: [10.1126/science.aaq0216](https://doi.org/10.1126/science.aaq0216).

⁸⁷ Clark, Michael and David Tilman. 2017. “Comparative analysis of environmental impacts of agricultural production systems, agricultural input efficiency, and food choice.” *Environmental Research Letters* 12(6): 1-11. Retrieved July 20, 2019 (<https://iopscience.iop.org/article/10.1088/1748-9326/aa6cd5/meta>).

⁸⁸ Poore, Joseph and Thomas Nemecek. 2018. “Reducing food’s environmental impacts through producers and consumers” *Science* 360 (6392): 987-992. DOI: [doi: 10.1126/science.aaq021](https://doi.org/10.1126/science.aaq021)



11. ENVIRONMENTAL/ SOCIAL JUSTICE ISSUES (INEQUALITY, ETC.)

- a. It has been well-documented that the effects of global warming (a major driver of which, is animal agriculture) will be felt by poorer members of society:⁸⁹ “While wealth and excess of the planet’s rich drive the pollution responsible for global warming, it is the economically marginal that will be hardest hit by the environmental shocks that are the inevitable fallout of that pollution”.⁹⁰
- b. From a human health perspective, the poorer members of society often rely on lower grade meat as a source of protein. In 2017, South Africa had the largest outbreak of listeriosis ever recorded in history with over 1000 people being infected and 216 deaths.⁹¹
- c. **Increasing the animals which may be impacted by the Meat Safety Act may cause even further harmful negative consequences in the context of inequality and increase in poor health issues – particularly for vulnerable populations. Additionally, it may impact on fundamental and guaranteed Constitutional Rights.**

12. ANIMAL AGRICULTURE (HARMS AND ISSUES – BROADLY)

- a. We further note that there is a plethora of harms and issues generally (not mentioned herein) pertaining to animal agriculture more generally.
- b. While we appreciate that the MSA may not be and is not intended to regulate and deal with all of these issues, inevitably, through the inclusion of additional animals as well as the agriculturalisation of wildlife as aforementioned, these harms and issues are multiplied.
- c. The more we increase our consumption and utilisation of additional animals, and promote their consumption, farming and other factors, the more we promote these harms and issues.
- d. Without effectively being able to manage and mitigate the harms and issues within the existing confines of the MSA, adding additional animals and expanding the scope seems incautious.

13. WIDER REGULATORY ISSUES

- a. We refer to the 2018 Report entitled “Fair Game”⁹² in which a number of gaps, shortfalls and issues were identified with the current regulation of wildlife and suggestions for reform were proposed. More specifically, as this pertains to welfare issues of wild animals. The Report does however highlight a number of issues that fall

⁸⁹ Goldenberg, Suzanne. 2014. “Climate change: the poor will suffer most.” The Guardian, March 30, 2014. Retrieved July 20, 2019 (<https://www.theguardian.com/environment/2014/mar/31/climate-change-poor-suffer-most-un-report>).

⁹⁰ *Ibid* Goldenberg.

⁹¹ <https://listeriaclassaction.co.za/>

⁹² *Supra* note 19.



within the ambit of the Department and which are relevant to the Proposed Amendments.

- b. We have not included these herein, but believe these regulatory matters **must** be considered in this context.

14. SLAUGHTER FOR NONHUMAN CONSUMPTION

- a. The Schedule notably refers to animals that may be slaughtered as food for nonhuman **animal** consumption (in addition to human consumption).
- b. Accordingly, this would effectively mean that any animal intended for consumption by another animal, would fall under the ambit of the act and need to comply with the relevant provisions.
- c. It is curious why this has been done and how practically this will be enforced.
- d. For example, in addition to food specifically intended for animals such as companion animals; it is common practice to feed animals to other animals, which are intended for use for human consumption. Or, animals that are fed to carnivorous animals in captive facilities (regardless of their use).
- e. In their current form, the Proposed Amendments thus have dramatic knock on effects to various other industries, including but not limited to: aquaculture; zoos; game farms; circuses; etc.

15. LIVE EXPORT

- a. We further note that, although the Act does not per se regulate the transportation of live animals, it does regulate the export of meat and animal products.
- b. There has recently been a major public outcry in relation to the live transportation of animals, particularly sheep. This is apparent through the issue featuring on public television, various online petitions and actions, as well as court cases that are happening.
- c. In addition to the public concerns, there is insufficient domestic legislation as it pertains to live export – including issues of animal welfare as well as animal and human diseases.
- d. These issues are thus relevant to the MSA itself and the Proposed Amendments, now broadening the scope of the Act. Live transportation of animals has been proven to be inconsistent with animal welfare and should be banned.



PART III: RECOMMENDATIONS AND PROPOSALS

MINIMUM REQUIREMENTS

Accordingly, in light of the above and other factors, until such time as (at a minimum):

1. There has been proper engagement on these issues, including information relating to the HLP; DEFF; the relevant provincial departments and agencies and other relevant bodies;
2. The MSA has been properly amended (after following all relevant processes in terms of law as well as public participation processes):
 - a. to deal with the issues in respect thereof (including but not limited to those we have raised in this Submission, but other matters in terms of content and enforcement);
 - b. as well as additional issues that arise through the inclusion of additional (and all animals).
3. Regulations are promulgated (after following all relevant processes in terms of law as well as public participation):
 - a. that properly set out relevant issues in respect of the species' individual and unique considerations if they are to be included (for example based on their specific welfare requirements; in line with the regulation that applies to them; in line with scientific evidence; and otherwise);
 - b. that set out proper enforcement of these issues – including in whose powers they fall and how they will interact with the other relevant legislation and regulation);
4. The outcome of legislation relating to the Animals Improvement Act inclusion of animals; and
5. A proper analysis by independent experts in respect of these issues.

REQUESTS

We hereby formally request that:

1. As a matter of urgency issue a formal ban/prohibition on the consumption of:⁹³
 - a. the species which form the subject matter of the HLP set up by DEFF (namely, elephants, lions, rhinos and leopards)
 - b. all threatened and protected species – including those in the TOPS Regulations;⁹⁴
 - c. animals on the IUCN Red List;
 - d. species that are listed on CITES Appendices I, II and III;
 - e. Others that are relevant / of importance/ endangered in other countries around the world (for example, such as in New Zealand, where the Kiwi is considered a taonga species).

⁹³ Notably, if the MSA is not the appropriate legislation in terms of which to issue such a ban; that this be done in terms of the authority granted to the relevant Department in terms of the Constitution and other enabling legislation

⁹⁴ For terrestrial as well as aquatic animals



2. A transparent process be initiated with the relevant Government Departments (including DALLRD; DEFF and the provinces with public observers and reporting and which conclude in a Policy Report thereafter for further actioning relating to:
 - a. Consumption of wildlife;
 - b. Welfare of wildlife utilized for consumption and other purposes (specifically but also other issues arising from their use);
 - c. Engagement with relevant stakeholders, not simply a call for comments;
 - d. Other pertinent matters as raised in this Submission and others; and
 - e. Specifically, information as to engagements already between these Departments (such as the aforementioned Ministers (of DALRRD and DEFF) was and how they intend to deal with this overlap).

PROPOSALS

In the alternative (or in addition to the above), if these amendments are going to be made in their current format, we are of the view that certain safeguards from a regulatory perspective must, out of necessity be included in order to ensure that there is no abuse – these include:

1. Designation of additional officials to conduct inspections;
2. Clear enforcement mechanisms including oversight;
3. Protection of whistleblowers;
4. Clear regulations as they pertain to the species which at a minimum include some of the welfare provisions that are contained in the regulations;
5. Removal of threatened or protected species from the list above (both terrestrial and aquatic);
6. Strict requirements relating to the approval of a slaughter facility;
7. Clear indication of how the MSA operates with the relevant environmental legislation, policy and frameworks and explicit recognition that animals covered by existing legislation (at a national and/or provincial level) as well as any specific requirements (such as by notice, permit or licenses) must be complied with;
8. Exemptions need to be amended and clarified; and
9. Strict labeling, marketing and distribution requirements be introduced in terms of mean and animal products.

CLARIFICATION

In relation to the MSA specifically, we seek clarification as to (among other issues):

1. Why certain non-endemic species have been included in the ambit of this Act;⁹⁵
2. Specifically in relation to the inclusion of animals included for “animal” consumption (i.e. presumably not just human consumption). Additionally, how this may operate in the context of pet food and other food that is fed to agricultural animals.

⁹⁵ Notably, as it appears that DEFF is focused on efforts at least for certain species, to eradicate these, while the Department is promoting the consumption (and potential ranching/breeding/trading) of them.



3. How exactly this Act operates with other relevant legislation including but not limited to:
 - a. the relevant environmental legislation (in the context of wild animals). This would very specifically also include information as to threatened and protected species and other animals that are regulated under other legislation;
 - b. the Animals Protection Act.
4. How sufficient animal welfare protections will be included for each of the species as relevant; and
5. How these Proposed Amendments operate more broadly within the harms associated with animal agriculture, including those we have set out in this Submission and others; and how these will be dealt with.

TRANSPARENCY

In addition to the above requests and proposals, in the interest of transparency we hereby request the following:

1. That **all** submissions on the Proposed Amendments be made public (personal information can be redacted as appropriate);
2. Various (as needed) public stakeholder session/s be called on the issue;
3. Responses be provided to the submissions received (and reasons for their inclusion/rejection or amendment in the final regulations);
4. Clarity be provided as to what prompted the Proposed Amendments by the DALRRD – namely what specifically was the rationale for adding these animals and what parties if any, requested these proposals;
5. Clarity be provided as to how DEFF, the provincial departments and other relevant government departments and agencies have been and will be involved in this process specifically and its enforcement and oversight (and the aforementioned Ministerial meeting);
6. Other issues specifically raised in this Submission.

Please note that we are happy to provide further information on any of these. Kindly acknowledge receipt of our submission to both of ALRSA and the EMS Foundation. We are happy to liaise further on any of the matter raised herein.

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