

**DISCUSSION DOCUMENT ON THE  
DRAFT CONTROLLED ANIMALS AND  
ANIMAL PRODUCTS BILL**

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## DRAFT BILL

To regulate the possession and ownership of controlled animals and to control the movement of controlled animals and animal products within and through the borders of the Republic of South Africa in order to combat crimes related to the possession, ownership or movement of controlled animals and animal products; and to provide for matters connected therewith.

**B**e it enacted by the Parliament of the Republic of South Africa, as follows:—

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### CONTROLLED ANIMALS

PART 1: DOMESTICATED ANIMALS

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## SCHEDULE 2

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## CHAPTER 1

### Definitions and application of Act

1. (1) In this Act, unless the context indicates otherwise—

**"acquire"** means import, obtain, purchase, receive, or temporarily receive into possession for any purpose, and includes brokering or any other similar manner of transacting;

**"agent"** means a livestock agent as defined in the Agricultural Produce Agents Act 12 of 1992 acting as such in regard to any controlled animal or animal product;

**"animal"** means any animal as defined in the Animal Diseases Act 35 of 1984;

**"animal product"** means any part or portion of, or product derived from or yielded by

any controlled animal and includes any such product contemplated in Schedule 2;

“**auctioneer**” means a person who sells any controlled animal or animal product at a public auction to the highest bidder, and includes any person in the employ of an auctioneer or any person acting on his or her behalf;

"**Criminal Procedure Act**" means the Criminal Procedure Act 51 of 1977;

“**controlled animal**” means any controlled animal contemplated in Schedule 1;

“**designated person**” means a person who is duly designated in terms of section 10 to issue a removal certificate;

"**dispose**" means barter, deliver, export, give, sell, supply or in any other manner dispose of;

"**document**" means a document prescribed in terms of the Regulations;

“**domesticated animal**” means any animal contemplated in Part 1 of Schedule 1;

"**fence**" means any fence, wall, hedge, obstacle or gate designed to prevent any controlled animal from passing through or across, and includes —

- (a) any excavation made with the purpose to prevent any controlled animal from passing through or across; and
- (b) any natural boundary through or across which any controlled animal would not ordinarily pass;

“**game**” means any animal contemplated in Part 2 of Schedule 1;

“**identity document**” includes a passport or any other document as may be prescribed;

“**identity number**” includes a passport number and, in the case of a company, the company registration number where it is required by the context;

"**lawful occupier**" means an inhabitant, lessee, tenant or resident legally permitted by the land owner to occupy the land or premises;

"**Minister**" means the Minister of Police;

“**person**” includes a juristic person where it is required by the context;

**"police official"** means a member of the South African Police Service as defined in section 1 of the South African Police Service Act 68 of 1995;

**"possess"** includes having

- (a) under control, in custody or under supervision; or
- (b) on premises under a person's control, custody or supervision

and **"possessor"** has a corresponding meaning;

**"premises"** includes land, any building, structure, vehicle, conveyance, ship, boat or aircraft;

**"prescribed"** means prescribed by regulation;

**"transport"** means any means of moving a controlled animal from one locality to another by any means and includes the conveyance, carrying or driving of a controlled animal or animal product;

**"this Act"** includes the regulations.

- (2) Subject to subsection (4), the Minister may by notice in the Gazette —
  - (a) add any animal to and in like manner remove any controlled animal from Schedule 1;
  - (b) add any animal product to and in like manner remove any animal product from Schedule 2;
  - (c) determine that specific sections of this Act do not apply to a certain class or type of controlled animal or animal product;
  - (d) declare that certain provisions of this Act do not apply in any area defined in such notice; and
  - (e) specify a period during which paragraphs (a) to (d) shall apply.

(3) This Act —

- (a) applies in all cases where a person is indicted, summoned or charged in respect of the theft of a controlled animal or animal product, notwithstanding the fact that this Act is not mentioned in the indictment, summons or charge; and
- (b) does not exempt any person from complying with other legislation relating to animals or animal products.

(4) Before amending Part 2 of Schedule 1, the Minister must consult with the Cabinet member responsible for national environmental management as well as the Member of the Executive Council for each province where such Member is

responsible for provincial environmental management.

## **PART I: DOMESTICATED ANIMALS**

### **CHAPTER 2 RECORD KEEPING**

#### **Registers in respect of domesticated animals on premises**

2. (1) An owner or possessor who lawfully possesses any domesticated animal on any premises must keep a register in the prescribed format where the following particulars regarding his or her possession of any domesticated animal on such premises must be recorded:

- (a) a comprehensive description of the geographical location of the premises where any domesticated animal is kept, including the physical address in respect of such premises;
- (b) the date on which the number of domesticated animals were counted and verified;
- (c) the full names of the person or persons who counted and verified the number of domesticated animals;
- (d) a description of every domesticated animal on such premises which must include —
  - (i) the breed or, where such breed cannot be reasonably determined, the species;
  - (ii) gender
  - (iii) the registered identification mark, where such domesticated animal must be marked in accordance with any law requiring the marking of such animal;
  - (iv) an account of the method or manner of acquisition or disposal which must, where applicable, include progeny, slaughter, transferral, death, loss or any found or recovered domesticated animal; and
  - (v) the relevant date or dates pertaining to paragraph (iii).

(2) The person contemplated in subsection (1) must—

- (a) make any entry contemplated in this section within seven days from occurrence of the relevant event in terms of subsection (1);
- (b) ensure that all domesticated animals contemplated in subsection (1)(d) are counted at least every 14 days and that the corresponding entry is made in the register;
- (c) append a consecutive number to every subsequent register pertaining to such

- premises; and
- (d) retain a register for a period of three years after the last domesticated animal described in terms of subsection (1)(d)(iii), was disposed of.

### **Identification document for disposal of domesticated animals**

3. (1) No person, including an auctioneer or agent, may dispose of a domesticated animal unless he or she issues to the person acquiring such domesticated animal an identification document containing the information contemplated in subsection (2) in respect of every such domesticated animal.

(2) An identification document must be in the prescribed format and contain the following particulars:

- (a) the full names, identity number, physical address and, where available, telephone number of—
- (i) the owner and the person disposing of such domesticated animal if the animal was disposed of on behalf of the owner;
  - (ii) the person acquiring such domesticated animal and if the domesticated animal was acquired on behalf on another person, such person;
  - (iii) where applicable, any agent acting on behalf of the owner, person authorised by the owner or person acquiring the domesticated animal;
- (b) the breed or, where such breed cannot be reasonably determined, the species;
- (c) the registered identification mark, where such domesticated animal must be marked in accordance with any law requiring the marking of such animal;
- (d) any other identification mark or distinguishing feature;
- (e) predominant colour or combination of colours;
- (f) gender;
- (g) the date on which the domesticated animal was disposed of;
- (h) a certificate signed by the person issuing the identification document, certifying that such domesticated animal is his or her property or that he or she is duly authorised by the owner thereof to dispose of it;
- (i) the date on which the identification document was issued; and
- (j) any other information as may be prescribed.

(3) A person contemplated in subsection (1) who disposes of more than one domesticated animal whose particulars are identical in respect of every requirement of paragraphs (b) to (h) of subsection (2), may combine the total number of each such group of domesticated animals to be recorded on the identification document contemplated in subsection (1).

(4) A person contemplated in subsection (1) disposing of any domesticated animal must—

- (a) take reasonable steps to verify the information in terms of subsection (2)(a) that is presented by the person acquiring the domesticated animal in question, and ensure that such information is correctly entered on the identification certificate;

and

- (b) in the case of a person acquiring a domesticated animal on behalf of another person, inspect the proof presented to him or her that such person is duly authorised to acquire such domesticated animal.

(5) Any person who delivers any domesticated animal to an auctioneer or agent for the purpose of disposal shall, for the purposes of this section, be deemed to have disposed of such domesticated animal to such auctioneer or agent.

(6) The owner of a domesticated animal that was disposed of must ensure that a copy of the identification document issued in respect of the domesticated animal in question is retained for a period of three years.

### **Duties of persons when acquiring any domesticated animal**

4. (1) A person, including an auctioneer or agent, acquiring any domesticated animal may not take possession of that domesticated animal, unless he or she has—

- (a) taken reasonable steps to verify the information in terms of section 3(2)(a) that is presented by the person disposing of the domesticated animal in question, and ensure that such information is correctly entered on the identification certificate;
- (b) inspected proof that the person disposing of a domesticated animal on behalf of another person, is duly authorised to dispose of such domesticated animal;
- (c) verified that such domesticated animal is marked in accordance with any law requiring the marking of such animal; and
- (d) received the identification document relating to that domesticated animal.

(2) Any owner of an acquired domesticated animal in respect of which an identification document was issued in terms of this section, must ensure that such identification document is retained as long as the domesticated animal is owned by that person, or for a period of three years, whichever is the longest.

### **Warrant of execution**

5. Sections 2 and 4 shall not apply to a person authorised by a warrant of execution under a judgment or order of a court of law.

## **CHAPTER 3 TRANSPORT OF DOMESTICATED ANIMALS AND DOMESTICATED ANIMALS' PRODUCTS**

### **Transport by owner or designated person**

6. (1) An owner or an designated person who transports any domesticated

animal or domesticated animal's product must, for the duration of the transport, be in possession of his or her identity document and, where such a domesticated animal must be marked in terms of any law, a certified copy of the registered identification mark certificate of that owner, which relates to such domesticated animal.

(2) A designated person must, in addition to the documents required in subsection (1), be in possession of proof that he or she is duly designated in terms of section 10.

### **Transport by a person other than the owner or designated person**

7. (1) Subject to the provisions of subsection (3), no person other than the owner or an designated person may transport a domesticated animal or domesticated animal's product unless he or she is in possession of his or her identity document as well as the duly issued removal certificate contemplated in subsection (2).

(2) A removal certificate must be issued by the owner or designated person and must contain the following particulars:

- (a) the full names, identity number, physical address and telephone number of the owner and the designated person if the removal certificate was issued by that person on behalf of the owner;
- (b) the full names and identity number of the person transporting any domesticated animal or domesticated animal's product and, in the case of a person who carries on a business of transporting domesticated animals or domesticated animals' products, the physical address from which such person operates;
- (c) where transport is effected by means of a vehicle, the make, model, colour and registration number of any such vehicle used to transport the domesticated animal or domesticated animal's product referred to in the removal certificate;
- (d) a comprehensive description of the geographical location of the premises from where any domesticated animal or domesticated animal's product is transported, including the physical address in respect of such premises;
- (e) a comprehensive description of the geographical location of the premises to where any domesticated animal or domesticated animal's product is transported, including the physical address in respect of such premises;
- (f) the date and estimated duration of the transport;
- (g) in respect of any domesticated animal—
  - (i) the breed or, where such breed cannot be reasonably determined, the species;
  - (ii) the registered identification mark where such domesticated animal must be marked in accordance with any law requiring the marking of such animal;
  - (iii) any other identification mark or distinguishing feature;
  - (iv) the predominant colour or combination of colours;
  - (v) gender;

- (h) in respect of any domesticated animal's product—
  - (i) a description of the domesticated animal's product, including the kind of product;
  - (ii) the number, quantity or weight;
  - (iii) where applicable, any identification mark, number, or distinguishing mark or feature;
  - (iv) if packed in a container or containers—
    - (aa) the number of containers; and
    - (bb) where applicable, any identification mark and number of any container;
- (i) the date on which the removal certificate was issued;
- (j) a certificate signed by the person issuing the removal certificate, certifying that he or she is the owner or designated by the owner to issue such removal certificate; and
- (k) any other information as may be prescribed.

(3) Where a person transports more than one domesticated animal or domesticated animal's product whose particulars are identical, a removal certificate may be issued which combines the total number of such domesticated animals or the total number, quantity or weight of any domesticated animal's product so transported.

(4) The provisions of this section do not apply to—

- (a) a person who acquires any domesticated animal's product for consumption or direct use;
- (b) a person who transports any domesticated animal or domesticated animal's product or causes such domesticated animal or domesticated animal's product to be transported on land under the control of the owner or designated person in the course and scope of normal farming activities; or
- (c) a person who transports any domesticated animal or domesticated animal's product or causes such domesticated animal or domesticated animal's product to be transported on or along such portion of any public road as traverses land under the control of the owner in the course and scope of normal farming activities.

(5) An owner or designated person contemplated in subsection (2) may not cause or permit any domesticated animal or domesticated animal's product to be transported by any other person without a removal certificate.

(6) A person transporting any domesticated animal or domesticated animal's product in terms of this section must take all reasonable steps to ensure that the information pertaining to such domesticated animal or domesticated animal's product which is entered on the removal certificate corresponds with the domesticated animal or domesticated animal's product to be transported.

### **Period of validity of removal certificate and endorsement or destruction**

- 8.** (1) The validity of a removal certificate terminates —
- (a) upon the expiry of the period referred to in section 7(2)(f);
  - (b) upon the domesticated animal or domesticated animal's product reaching the destination contemplated in section 7(2)(e); or
  - (c) when the need for such removal certificate lapses or expires, whichever occurs first.

(2) The person to whom a removal certificate is issued in terms of this section must ensure that the removal certificate is endorsed in the prescribed manner when the period of validity terminates as contemplated in subsection (1).

(3) An endorsed removal certificate must be retained for a period of one year by —

- (a) the person to whom that removal certificate is issued; or
- (b) where applicable, the person on whose behalf the domesticated animal or domesticated animal's product in question, was transported.

## **CHAPTER 4**

### **CONSENT OF LAND OWNER TO REMOVE DOMESTICATED ANIMAL**

#### **Consent of land owner to remove domesticated animal**

**9.** (1) A person who is the owner of any domesticated animal present on land not owned or lawfully occupied by him or her, may not remove or cause the removal of, any such domesticated animal from such land, unless he or she is in possession of written consent furnished by such land owner or lawful occupier or a person authorised by the land owner or lawful occupier.

(2) The owner of the domesticated animal contemplated in subsection (1), must effect removal of any such domesticated animal within seven days from the date of the written consent.

(3) The written consent contemplated in subsection (1) must contain —

- (a) the full names, identity number, physical address and telephone number of the land owner or lawful occupier and the authorised person if the written consent is furnished by that person on behalf of the owner or lawful occupier;
- (b) the full names, identity number, physical address and telephone number of the owner of the domesticated animal in question and, where applicable, the person authorised by him or her to remove such domesticated animal;
- (c) a comprehensive description of the geographical location of the premises from where any domesticated animal is removed, including the physical address in respect of such premises;
- (d) the date on which the consent is furnished;
- (e) a description of every domesticated animal which is to be removed, including —
  - (i) the breed or, where such breed cannot be reasonably determined, the

- species;
- (ii) the registered identification mark where such animal must be marked in accordance with any law requiring the marking of such animal;
- (iii) any other identification mark or distinguishing feature;
- (iv) the predominant colour or combination of colours;
- (v) gender; and
- (f) any other information as may be prescribed.

(4) Where a person removes more than one domesticated animal with identical particulars, the land owner, lawful occupier or designated person may combine on such written consent the particulars required by this section, reflecting the total number of such domesticated animals.

(5) Any person competent to consent in terms of this section, must, when requested to do so, furnish the owner of any domesticated animal in question with such written consent, unless there are reasonable grounds upon which such person may refuse that consent.

(6) The written consent contemplated in subsection (1) must, where applicable, accompany the removal certificate contemplated in section 7(2).

## **CHAPTER 5 DESIGNATED PERSON AND AGENT**

### **Designated person**

**10.** (1) An owner may designate any person to issue a removal certificate on his or her behalf.

(2) Designation in terms of this section must be in writing and contain the following—

- (a) the full names, identity number, physical address and telephone number of the person issuing the designation;
- (b) the full names, identity number and physical address of the designated person;
- (c) the period for which the designation is valid, which may not exceed twelve calendar months;
- (d) the date on which the designation was issued; and
- (e) any other information as may be prescribed.

(3) A designated person must keep the designation in question for a period of six months after expiration of the validity thereof.

(4) The designation of a person does not absolve an owner of the duty to ensure that this Act is complied with in respect of any identification document or removal certificate.

### **Agent**

**11.** (1) No person may act as an agent unless he or she is appointed in writing by the owner or other person authorised by the owner.

(2) The appointment contemplated in subsection (1) must at least contain the following—

- (a) the full names, identity number, physical address and telephone number of—
  - (i) the owner of the domesticated animal in question;
  - (ii) the person authorised by the owner, where applicable; and
  - (iii) the agent;
- (b) where any domesticated animal in question is not received physically by the agent, a description of the breed or, where such breed cannot be reasonably determined, the species and the number of domesticated animals;
- (c) a certificate signed by the person issuing the appointment document, certifying that such domesticated animal is his or her property or that he or she is duly authorised by the owner thereof to dispose of it;
- (d) the period for which the appointment document is valid, which may not exceed twelve calendar months;
- (e) the date on which the appointment document was issued; and
- (f) any other information as may be prescribed.

(6) An agent must keep a copy of the appointment document issued to him or her for a period of six calendar months after expiration of the validity thereof.

(7) The appointment of an agent does not absolve an owner of the duty to ensure that this Act is complied with in respect of any identification document or removal certificate.

## **PART 2: GAME**

### **CHAPTER 6 OWNERSHIP OF GAME**

#### **Ownership of game**

**12.** (1) Notwithstanding the provisions of any other law or the common law-

- (a) a person who keeps or holds any game or on behalf of whom such game is kept or held on land that is sufficiently enclosed as contemplated in subsection (2), or who keeps such game in a pen or kraal or in or on a vehicle, shall not lose ownership of any such game if—
  - (i) that game escapes from such enclosed land or from such pen, kraal or vehicle; and

- (ii) the game in question is of a species that is listed on the certificate contemplated in subsection (2)(a).
- (b) the ownership of game shall not vest in any person who, contrary to the provisions of any law or on the land of another person without the consent of the owner or lawful occupier of that land, lures away, hunts, catches or takes possession of that game, but remains vested in the owner referred to in paragraph (a) or vests in the owner of the land on or from which it has been so lured away, hunted, caught or taken into possession, as the case may be.
  - (2)(a) For the purposes of subsection (1)(a) land shall be deemed to be sufficiently enclosed if the Member of the Executive Council responsible for environmental affairs of the province in which the land is situated, or a person designated by him or her, issues the prescribed certificate which must contain a full description of the land and the species of game that may be kept on such land.
  - (b) A certificate referred to in paragraph (a) shall be valid for a period of five years.

### **PART 3 PROVISIONS RELATING TO CONTROLLED ANIMALS**

#### **CHAPTER 7 POWERS OF POLICE, ENTRY, SEARCH AND SEIZURE**

##### **Identification by police official**

**13.** A police official, prior to exercising any power in terms of this Chapter, must identify himself or herself to the owner, employee or any other person in charge of the premises in question, and must produce his or her appointment certificate issued in terms of the South African Police Service Act 68 of 1995.

##### **Entry for purposes of routine inspections**

**14.** A police official may, during times when normal business activity in respect of any controlled animal or animal product is taking place and in order to investigate compliance with this Act, enter upon any premises of any person whom he or she reasonably suspects to be a person involved with the possession, acquisition, disposal, transport or removal of any controlled animal or animal product.

##### **Routine inspections**

**15.** (1) A police official conducting a routine inspection may require any person whom he or she reasonably suspects to be a person involved with the possession, acquisition, disposal, transport or removal of any controlled animal or animal product, to—

- (a) produce for examination or for the purposes of obtaining copies thereof or extracts therefrom any—
  - (i) controlled animal or animal product found during the inspection; or
  - (ii) register, record, authorisation, designation, certificate, consent or other document which must be kept or retained in terms of the Act;
  - (iii) document, certificate, licence or permit required in terms of any other Act regulating any aspects regarding any controlled animal or animal product; and
- (b) explain any—
  - (i) mark or absence of any mark on such controlled animal or animal product;
  - (ii) entry or absence of any entry in any register, record, authorisation, designation, certificate, consent or other document which relates to any controlled animal or animal product; or
  - (iii) presence or absence of a controlled animal or animal product on or from such premises.

(3) If, upon an inspection, a police official discovers that the method of keeping, recording, completion, or issuing as the case may be, of any register, record, authorisation, certificate, consent or other document which relates to any controlled animal or animal product that is being used is in contravention of this Act, the police official may—

- (a) demand immediate discontinuation of the method; and
- (b) afford the person in question a period of no more than seven days to rectify such method in order to ensure compliance with the Act.

(4) Any person who is involved with the possession, acquisition, disposal, transport or removal of any controlled animal or animal product, including the owner, employee or person in charge of the premises, vehicle or conveyance contemplated in subsection (1), must assist the police official in the performance of his or her functions under this Act.

### **Entry, search and seizure**

**16.** (1) A police official, on the authority of a warrant issued in terms of this Act, may—

- (a) enter any premises specified in that warrant;
- (b) search such premises or any person found in or upon such premises;
- (c) direct the person in control of or any person employed at the premises to—
  - (i) disclose any register, record, authorisation, designation, certificate, consent or other document which must be kept or retained in terms of the Act or any other information that pertains to the investigation and is or ought to be in the possession or under the control of that person; and
  - (ii) render such assistance as the police official requires to enable such police official to perform his or her functions under this Act;

- (d) examine any controlled animal and animal product or any register, record, authorisation, designation, certificate, consent or other document which must be kept or retained in terms of the Act and take photographs or make a recording or copy thereof or excerpts therefrom;
- (e) examine any premises or controlled animal, animal product or other article contemplated in section 20 of the Criminal Procedure Act 51 of 1977 found on the premises;
- (f) collect, or cause to collect, any physical evidence from a controlled animal or animal product, which may include nose or other prints as well as any other sample or scraping; and
- (g) against the issue of a written receipt, seize any article contemplated in section 20 of the Criminal Procedure Act 51 of 1977, including any—
  - (i) controlled animal or animal product;
  - (ii) register, record, authorisation, designation, certificate, consent, electronic data-storing device and make copies thereof or take excerpts therefrom; or
  - (iii) other document or article which may be used as evidence of a contravention of any provision of this Act.

(2) A police official may not enter upon or search any premises without audibly demanding admission to the premises and giving notice of the purpose of the entry, unless such police official is, on reasonable grounds, of the opinion that such demand and notification will defeat the purpose of the search.

(3) A police official contemplated in subsection (1) may use such force as may reasonably be necessary to overcome resistance to the entry or search.

(4) A police official may without a warrant enter upon any premises and search for, seize and remove anything contemplated in subsection (1) if—

- (a) the person who is competent to do so consents to such entry, search, seizure and removal; or
- (b) there are reasonable grounds to believe that—
  - (i) a warrant would be issued to the police official if he or she applied for such warrant; and
  - (ii) the delay in obtaining such warrant would defeat the purpose of the search.

(5) A person from whom any register, record, authorisation, designation, certificate, consent or other document has been taken may, at his or her own expense and under supervision of the police official, make copies thereof or take excerpts therefrom.

(6) The provisions of Chapters 2 and 3 shall not apply to the acquisition, possession, disposal and transportation of controlled animals or animal products seized in terms of this Chapter.

## Warrant

**17.** (1) A magistrate, judge of the High Court or justice of the peace, who has jurisdiction in the area in which any premises is situated may, if it appears from information on oath or affirmation that there are reasonable grounds to believe that a provision of this Act has been or is being contravened or any related offence has been or is being committed in or upon such premises, issue a warrant to enter such premises to —

- (a) investigate such an offence;
- (b) search for and seize any article contemplated in section 16 which is in the possession or under the control of or upon any person or upon or at any such premises and make copies thereof or take excerpts therefrom; or
- (c) search any person identified in the warrant, or to search any person found in, on or at such premises.

(2) A warrant issued under this section must specify—

- (a) the premises which may be entered;
- (b) which of the acts mentioned in section 16(1) may be performed by the police official;
- (c) which persons may be searched; and
- (d) whether the warrant authorises execution by night.

(3) A warrant contemplated in this section remains in force until—

- (a) it has been executed;
- (b) it is cancelled by the person who issued it, or if such person is not available, by any other person with similar authority;
- (c) one month from the date of its issue; or
- (d) the purpose for which the warrant was issued no longer exists, whichever occurs first.

### **Search, seizure and arrest without warrant by a person other than a police official**

**18.** (1) An owner or lawful occupier on premises where a controlled animal or animal product is present or any person in lawful control of such controlled animal or animal product may, without a warrant, arrest any other person on such premises upon reasonable suspicion that such other person has committed any offence in terms of this Act or with regard to a controlled animal or animal product.

(2) Whenever an owner or lawful occupier on premises where a controlled animal or animal product is present or any person in lawful control of such controlled animal or animal product reasonably suspects that any person has in or upon any vehicle, receptacle or container any controlled animal or animal product in regard to which an offence in terms of this Act or with regard to a controlled animal or animal product has been committed, such person may without warrant search such vehicle, receptacle or container.

(3) When a person authorised to search in terms of this section finds that any offence with regard to a controlled animal or animal product has been committed, he or she may without warrant seize the vehicle, receptacle or container contemplated in subsection (2) and any other article contemplated in section 20 of the Criminal Procedure Act 51 of 1977, including any—

- (a) controlled animal or animal product;
- (b) register, record, authorisation, designation, certificate, consent, electronic data-storing device; or
- (c) other document or article which may be used as evidence of a contravention of any provision of this Act.

(4) A person authorised in terms of this section who arrests any other person or seizes any article contemplated in subsection (3) must—

- (a) hand such person and deliver such article to a police official as soon as possible, and if the manner of handing over or delivery is prescribed, in such manner; and
- (b) where applicable, inform the owner or lawful occupier of the land on which such person was arrested or such article was seized as soon as reasonably possible.

### **Malicious arrest and search**

**19.** (1) Any person who wrongfully and maliciously or without probable cause, arrests any other person or effects any search shall be guilty of an offence.

(2) On any charge under this section the onus of proof that the arrest or search which is the subject of the charge was not wrongful and malicious or without probable cause shall be upon the accused.

(3) Nothing contained in this section shall be construed as taking away or diminishing any civil right or liability in respect of a wrongful or malicious arrest.

### **Ascertainment of the bodily features of an accused**

**20.** The bodily features of any person suspected of having committed an offence under this Act or any other Act regulating any aspects regarding controlled animals and animal product must be ascertained in the manner contemplated in Chapter 3 of the Criminal Procedure Act 51 of 1977, which applies with the changes required by the context.

### **Disposal**

**21.** Subject to a disposal order issued in terms of the Animal Diseases Act 35 of 1984, any article seized in terms of this Act must be disposed of with in the manner contemplated in Chapter 2 of the Criminal Procedure Act 51 of 1977, which applies

with the changes required by the context.

## **CHAPTER 8 OFFENCES, PENALTIES, COMPENSATION AND JURISDICTION**

### **Offences**

**22.** (1) It is an offence to acquire, dispose of or transport any controlled animal or animal product in contravention of the Act.

(2) Any person who, without lawful reason or the permission of the owner, lawful occupier or person in control of a controlled animal or animal product,—

- (a) moves or opens a gate, door or fence;
  - (b) moves, goes or climbs through a fence;
  - (c) climbs or goes over a wall;
  - (d) crawls, goes or walks over, under or through a fence,
- to gain access to land, a kraal, a shed, a stable or other walled or enclosed place where any controlled animal or animal product is present, is guilty of an offence.

(3) Any person who—

- (a) in any manner enters or is present on or upon any land enclosed on all sides with a fence or any kraal, shed, stable or other walled or enclosed place with intent to commit an offence related to any controlled animal or animal product on such land or in such kraal, shed, stable or other walled place; or
  - (b) without entering another person's land, disperses or lures away any controlled animal from another person's land with intent to commit an offence related to any such controlled animal,
- is guilty of an offence.

(4) Any person who is found in possession of any controlled animal or animal product in regard to which there is reasonable suspicion that it has been stolen and is unable to give a satisfactory account of such possession, is guilty of an offence.

- (5)(a) Any person who in any manner acquires from any other person a stolen controlled animal or animal product, without having reasonable cause for believing at the time of such acquisition that the controlled animal or animal product is the property of the person from whom he or she acquires it or that such person has been duly authorised by the owner thereof to dispose of it, is guilty of an offence.
- (b) In the absence of evidence to the contrary which raises a reasonable doubt, proof of such possession is sufficient evidence of the absence of reasonable cause.

(6) Any person who possesses any instrument, implement, substance or object in respect of which there is a reasonable suspicion that it was used or is intended to be used to injure, mark, immobilise, kill, maim or steal a controlled animal or animal product for an unlawful purpose, and who is unable to give a satisfactory account of such possession, is guilty of an offence.

(7) Any person who injures, marks, immobilises, kills or maims a controlled animal with intent to commit an offence related to any controlled animal or animal product, is guilty of an offence, and is liable to the same punishment as if the person had stolen the animal.

(8) It is an offence to contravene or fail to comply with —

- (a) section 2(1) by failing to —
  - (i) keep a register in the prescribed format; or
  - (ii) record any of the particulars provided for in paragraphs (a); (b); (c) or (d)(i); (d)(ii); (d)(iii) or (d)(iv);
- (b) section 2(2)(a) by failing to make the required entry within seven days;
- (c) section 2(2)(b) by failing to ensure that —
  - (i) all domesticated animals are counted at least every 14 days; or
  - (ii) the corresponding entry is made into the register;
- (d) section 2(2)(c) by failing to append a consecutive number to a register; and
- (e) section 2(2)(d) by failing to retain a register for the period provided for.

(9) It is an offence to —

- (a) contravene or fail to comply with section 3(1) by —
  - (i) failing to issue an identification document when disposing of a domesticated animal; or
  - (ii) failing to enter the information in respect of every domesticated animal;
- (b) contravene or fail to comply with section 3(2) by failing to record any of the particulars provided for in paragraphs (a)(i); (a)(ii); (a)(iii); (b); (c); (d); (e); (f); (g); (h); (i) or (j);
- (c) contravene or fail to comply with section 3(4) by disposing of any domesticated animal while failing to —
  - (i) verify information required in section 3(2)(a);
  - (ii) ensure that information is correctly entered on an identification certificate; or
  - (iii) inspect proof required in section 3(2)(b);
- (d) contravene or fail to comply with section 3(6) by failing to retain a register for a period of three years.

(10) It is an offence to contravene or fail to comply with —

- (a) section 4(1) by being in possession of a domesticated animal without receiving the identification document contemplated in section 4(1)(d);
- (b) section 4(1)(a) by failing to take reasonable steps to verify information;
- (c) section 4(1)(a) by failing to ensure that information is correctly entered on an identification document;
- (d) section 4(1)(b) by failing to inspect proof;
- (e) section 4(1)(c) by failing to verify that a domesticated animal is marked; and
- (f) section 4(1)(d) by failing to receive the identification document relating to a domesticated animal;
- (g) section 4(2) by failing to retain an identification document for the period contemplated in that section.

(11) It is an offence for an owner of a domesticated animal or a designated person to—

- (a) contravene or fail to comply with section 6(1) by failing to—
  - (i) be in possession of an identity document;
  - (ii) be in possession of an identity document for the duration of the transport; or
  - (iii) be in possession of the registered identification mark certificate of the owner;
- (b) contravene or fail to comply with section 6(2) by failing to be in possession of proof of designation, where a person is a designated person.

(12) It is an offence to —

- (a) contravene or fail to comply with section 7(1) by failing to be in possession of —
  - (i) an identity document; or
  - (ii) a valid removal certificate;
- (b) contravene or fail to comply with section 7(2) by issuing a removal certificate where the particulars provided for in paragraphs (a); (b); (c); (d); (e); (f); (g)(i); (g)(ii); (g)(iii); (g)(iv); (g)(v); (h)(i); (h)(ii); (h)(iii); (h)(iv)(aa); (h)(iv)(bb); (i); (j); or (k) are incomplete or incorrect;
- (c) contravene or fail to comply with section 7(5) where an owner or designated person causes or permits any other person to transport any domesticated animal or domesticated animal's product without a removal certificate;
- (d) contravene or fail to comply with section 7(6) by failing to take reasonable steps to ensure that the information pertaining to a domesticated animal or domesticated animal's product corresponds with the information entered on the removal certificate;
- (e) contravene or fail to comply with section 8(2) by failing to endorse a removal certificate in the prescribed manner; and
- (f) contravene section 8(3) by failing to retain a removal certificate for a period of one year.

(13) It is an offence to —

- (a) contravene or fail to comply with section 9(1) by removing any domesticated animal without written consent;
- (b) contravene or fail to comply with section 9(2) by failing to remove a domesticated animal to which written consent relates, within the time period provided for;
- (c) contravene or fail to comply with section 9(5) by failing to furnish the owner of any domesticated animal contemplated in that section, with written consent.

(14) It is an offence to contravene or fail to comply with section 10(3) or 11(6) by failing to retain the designation or appointment, as the case may be, for the period provided for.

(15) Where this section provides for an offence in respect of the recording of any particulars on any document, a failure to fully or correctly record such particulars, is deemed to be a failure to record.

## Penalties

**23.** (1) Any person convicted of a contravention of or a failure to comply with any section mentioned in Column 1 of Schedule 3, may be sentenced to a fine or to imprisonment for a period not exceeding the period mentioned in Column 2 of that Schedule opposite the number of that section, or to both a fine and such imprisonment.

(2) A court may in addition to any other penalty imposed upon conviction of a person of any of the offences under this Act—

- (a) in the event of a continuing contravention, impose a further fine or imprisonment for a period of 30 days or both a fine and such imprisonment for each day on which such contravention continued;
- (b) in the event of a contravention of sections 22(1); 22(3)(b); 22(4); 22(5)(a); 22(7); 22(9)(a); 22(9)(b); 22(9)(c); 22(10)(a); 22(10)(e); 22(10)(f); 22(11)(a); 22(12)(a); 22(12)(b); 22(12)(d); 22(12)(e); 22(12)(f); or 22(13)(a) order that a separate penalty be imposed for every controlled animal that formed the subject of the charge against that person;
- (c) order that any controlled animal or animal product that formed the subject of the charge against that person, or other article that was used in the commission of the offence, be forfeited to the State; or
- (d) in the case of—
  - (i) a second offender, in addition to the penalty provided for in Column 2 of the Schedule, to a further fine or further imprisonment for a period not

- exceeding 5 years;
- (ii) a third or subsequent offender, in addition to the penalty provided for in Column 2 of the Schedule, to a further fine or further imprisonment for a period not exceeding 10 years; or
- (iii) any offence relating to any controlled animal listed in Part 3 of Schedule 1, to a further fine or further imprisonment for a period not exceeding 10 years.

### **Conviction on charge of theft of controlled animals or animal products**

**25.** (1) A person charged with the theft of a controlled animal or animal product may be found guilty of—

- (a) the theft of or an attempt to commit the theft of such controlled animal or animal product;
- (b) receiving such controlled animal or animal product knowing the same to have been stolen;
- (c) conspiring with, or inciting, instigating, commanding or procuring another person to—
  - (i) steal such controlled animal or animal product;
  - (ii) receive such controlled animal or animal product;
  - (iii) maim such controlled animal; or
  - (iv) mark such controlled animal in order to conceal the identity thereof;
- (d) knowingly disposing of, or knowingly assisting in the disposal of, a controlled animal or animal product which has been stolen or which has been received with knowledge of it having been stolen;
- (e) an offence in terms of section 22; or
- (f) an applicable offence in terms of any other legislation regulating controlled animals and animal products.

(2) A person charged with the theft of a controlled animal or animal product that belongs to a particular person may be found guilty of any of the offences referred to in subsection (1), notwithstanding the fact that the prosecution has failed to prove that such controlled animal or animal product actually did belong to such particular person.

### **Compensation for damage**

**26.** Whenever any court convicts any person of an offence in terms of this Act where damage to or loss of property or any controlled animal or animal product was caused, the court must direct the attention of the owner thereof, if present in court, or an innocent purchaser, as the case may be, to the provisions of sections 300 and 301 of the Criminal Procedure Act 51 of 1977.

**Jurisdiction of magistrate's courts**

- 27.** Notwithstanding any law to the contrary, a magistrates' court may —
- (a) impose any penalty provided for in this Act; and
  - (b) make any award or order contemplated in section 26 which is just and equitable, notwithstanding the fact that such amount exceeds the amount determined by the Minister of Justice under paragraph (a) of the proviso to subsection (1) of section 300 of the Criminal Procedure Act 51 of 1977.

**CHAPTER 9  
GENERAL PROVISIONS**

**Regulations**

- 28.** (1) The Minister may make regulations regarding —
- (a) anything that may or must be prescribed in terms of this Act;
  - (b) any matter pertaining to record keeping when domesticated animals and domesticated animals' products are present on premises, including —
    - (i) the format and content of registers and documents; and
    - (ii) electronic record keeping;
  - (c) any matter pertaining to —
    - (i) the format and content of identification documents; and
    - (ii) the manner of identification of domesticated animals contemplated in sections 3 and 4;
  - (d) any matter pertaining to the transport of domesticated animals and domesticated animals' products, including —
    - (i) the manner in which loading may take place; and
    - (ii) times during which loading, transport or related activities of domesticated animals and domesticated animals' products may be limited;
  - (e) any matter pertaining to —
    - (i) the format and content of a removal certificate or related document;
    - (ii) the manner of endorsement or destruction of a removal certificate or related document; and
    - (iii) the format and content of any written consent contemplated in section 9;
  - (f) any matter pertaining to possession, acquisition and disposal of imported controlled animals and animal products;
  - (g) the format and content of —
    - (i) written designation of any person; and
    - (ii) appointment of an agent;
  - (h) the manner of —
    - (i) handing over an arrested person; and
    - (ii) delivering any seized article;

- (i) any matter pertaining to the application procedure for, and the format and content of, a certificate contemplated in section 12(2); and
- (j) any ancillary or incidental, administrative or procedural matter that it is necessary to prescribe for the proper implementation or administration of this Act.

(2) The Minister may make different regulations for different controlled animals or animal products or categories or classes of controlled animals or animal products.

### **Transitional provisions**

**29.** (1) Any document issued, made, given or granted under any provision of the Stock Theft Act 57 of 1959 or Game Theft Act 105 of 1991 which corresponds to any register, record, authorisation, designation, certificate, consent or other document provided for in this Act shall be valid for a period of three months after coming into operation of this Act.

(2) No person may be prosecuted for an offence under the provisions of sections 2, 10 and 11 until the expiry of a period of three months after coming into operation of this Act.

(3) Any register, record, authorisation, designation, certificate, consent or other document that needs to be retained under any provision of the Stock Theft Act 57 of 1959 or Game Theft Act 105 of 1991 and which corresponds to any register, record, authorisation, designation, certificate, consent or other document provided for in this Act, must be retained for the corresponding period provided for in this Act.

### **Repeal of laws**

**30.** The laws listed in Schedule 4 are hereby repealed.

### **Short title and commencement**

**31.** This Act is called the Controlled Animals and Animal Products Act, 2015, and comes into operation on a date fixed by the President by proclamation in the Gazette.

|                                       |
|---------------------------------------|
| <b>SCHEDULE 1: CONTROLLED ANIMALS</b> |
| <b>PART 1: DOMESTICATED ANIMALS</b>   |

|                           |                                    |
|---------------------------|------------------------------------|
| Cattle                    |                                    |
| Goat                      |                                    |
| Sheep                     |                                    |
| Pig                       |                                    |
| Horse                     |                                    |
| Ass                       |                                    |
| Mule                      |                                    |
| Ostrich                   |                                    |
| Domesticated game         |                                    |
|                           |                                    |
| <b>PART 2: GAME</b>       |                                    |
| <i>Common name</i>        | <i>Scientific name</i>             |
| Cheetah                   | <i>Acinonyx jubatus</i>            |
| Addax                     | <i>Addax nasomaculatus</i>         |
| Impala                    | <i>Aepyceros melampus</i>          |
| Impala – Black-faced      | <i>Aepyros melampus petersi</i>    |
| Red Hartebeest            | <i>Alcelaphus buselaphus caama</i> |
| Lichtenstein’s Hartebeest | <i>Alcelaphus lichtensteinii</i>   |
| Springbok                 | <i>Antidorcas marsupialis</i>      |
| Indian Blackbuck          | <i>Antilope cervicapra</i>         |
| South African Hedgehog    | <i>Atelerix frontalis</i>          |
| Nilgai                    | <i>Boselaphus tragocamelus</i>     |
| Side-striped Jackal       | <i>Canis adustus</i>               |
| Black-backed Jackal       | <i>Canis mesomelas</i>             |
| <i>Caracal</i>            | <i>Caracal caracal</i>             |
| <i>Red Duiker</i>         | <i>Cephalophus natalensis</i>      |
| White Rhinoceros          | <i>Ceratotherium simum</i>         |
| African Civet             | <i>Civettictis civetta</i>         |

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|                                     |  |
|-------------------------------------|--|
| Black Wildebeest / White-tailed Gnu | Connochaetes gnou  |
| Blue Wildebeest                     | Connochaetes taurinus  |
| Crocodile                           | Crocodylus niloticus   |
| Spotted Hyaena                      | Crocuta crocuta  |
| Fallow Deer                         | Dama dama  |
| Tsessebe                            | Damaliscus lunatus lunatus   |
| Bontebok                            | Damaliscus pygargus  |
| Blesbok                             | Damaliscus pygargus phillipsi  |
| Black Rhinoceros                    | Diceros bicornis bicornis<br>Diceros bicornis michaeli<br>Diceros bicornis minor |
| Plains Zebra / Burchell's Zebra     | Equus burchellii   |
| Hartmann's Mountain Zebra           | Equus zebra hartmannae   |
| Cape Mountain Zebra                 | Equus zebra zebra  |
| Black-footed Cat                    | Felis nigripes   |
| African Wild Cat                    | Felis silvestris   |
| Giraffe                             | Giraffa camelopardalis   |
| Hippopotamus                        | Hippopotamus amphibius   |
| Roan Antelope                       | Hippotragus equinus  |
| Sable Antelope                      | Hippotragus niger niger  |
| Giant Sable                         | Hippotragus niger varianii   |
| Waterbuck                           | Kobus ellipsiprymnus   |
| Red Lechwe                          | Kobus leche  |
| Puku                                | Kobus vardonii   |
| Serval                              | Leptailurus serval   |
| African Elephant                    | Loxodonta africana   |
| African Wild Dog                    | Lycaon pictus  |
| Damara Dik-Dik                      | Madoqua kirkii   |
| Pangolin                            | Manis temminckii   |
| Nutria                              | Mayocastor coypus  |
| Honey Badger                        | Mellivora capensis   |
| Suni                                | Neotragus moschatus zuluensis  |
| Klipspringer                        | Oreotragus oreotragus  |
| Aardvark                            | Orycteropus afer   |
| Scimitar-horned Oryx                | Oryx dammah  |
| Gemsbok                             | Oryx gazella   |
| Bat-eared Fox                       | Otocyon megalotis  |
| Oribi                               | Ourebia ourebi   |
| Lion                                | Panthera leo   |
| Leopard                             | Panthera pardus  |

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|                     |  |
|---------------------|--|
| Brown Hyena         | <i>Parahyaena brunnea</i>                  |
| Grey Rhebok         | <i>Pelea capreolus</i>                     |
| Warthog             | <i>Phacochoerus africanus koiropotamus</i> |
| Blue Duiker         | <i>Philantomba monticola</i>               |
| Bushpig             | <i>Potamochoerus porcus</i>                |
| Rock Hyrax          | <i>Procavia capensis</i>                   |
| Aardwolf            | <i>Proteles cristatus</i>                  |
| Steenbok            | <i>Raphicerus campestris</i>               |
| Cape Grysbok        | <i>Raphicerus melanotis</i>                |
| Sharp's Grysbok     | <i>Raphicerus sharpei</i>                  |
| Common Reedbuck     | <i>Redunca arundinum</i>                   |
| Mountain Reedbuck   | <i>Redunca fulvorufula</i>                 |
| Suricate/Meerkat    | <i>Suricata suricatta</i>                  |
| Common Duiker       | <i>Sylvicapra grimmia</i>                  |
| Cape Buffalo        | <i>Syncerus caffer</i>                     |
| Cape Eland          | <i>Taurotragus oryx</i>                    |
| Livingstone's Eland | <i>Taurotragus oryx livingstonii</i>       |
| Nyala               | <i>Tragelaphus angasii</i>                 |
| Lord Derby Eland    | <i>Tragelaphus derbianus</i>               |
| Bongo               | <i>Tragelaphus euryceros</i>               |
| Lesser Kudu         | <i>Tragelaphus imberbis</i>                |
| Bushbuck            | <i>Tragelaphus scriptus</i>                |
| Sitatunga           | <i>Tragelaphus spekii</i>                  |
| Kudu                | <i>Tragelaphus strepsiceros</i>            |
| Cape Fox            | <i>Vulpes chama</i>                        |

**PART 3: CRITICALLY ENDANGERED, ENDANGERED, VULNERABLE AND PROTECTED ANIMALS**

Any animal listed as critically endangered, endangered, vulnerable and protected under the National Environmental Management Biodiversity Act 10 of 2004.

**SCHEDULE 2: ANIMAL PRODUCTS**

The whole or any part of a carcass

|  |
|--|
| Meat, skin, hide, horn, head, bone, claw |
| intestine, organ                         |
| semen, embryo                            |
| wool, mohair                             |
| ostrich feather or ostrich egg           |

| <b>SCHEDULE 3: PENALTIES</b>   |                 |
|--|-----------------|
| <b>COLUMN 1</b>  | <b>COLUMN 2</b> |
| 22(1); 22(2); 22(3)(a); 22(3)(b); 22(4); 22(5); 22(6);<br>22(7)  | 15 years        |
| 22(8)(a)(i); 22(8)(a)(ii); 22(8)(b); 22(8)(c)(i); 22(8)(c)(ii);<br>22(8)(d); 22(8)(e);<br>22(9)(a)(i); 22(9)(a)(ii); 22(9)(b); 22(9)(c)(i); 22(9)(c)(ii);<br>22(9)(c)(iii); 22(9)(d);<br>22(10)(a); 22(10)(b); 22(10)(c); 22(10)(d); 22(10)(e);<br>22(10)(f)<br>22(11)(a)(i); 22(11)(a)(ii); 22(11)(a)(iii); 22(11)(d);<br>22(12)(a)(i); 22(12)(a)(ii); 22(12)(b); 22(12)(c);<br>22(12)(d); 22(12)(e); 22(12)(f);<br>22(13)(a); 22(13)(b); 22(13)(c);<br>22(14); | 10 years        |

| <b>SCHEDULE 4: LAWS REPEALED</b> |
|----------------------------------|
| Stock Theft Act 57 of 1959       |
| Game Theft Act 105 of 1991       |