

REPUBLIC OF SOUTH AFRICA

ANIMALS PROTECTION AMENDMENT BILL

*(As introduced in the National Assembly (proposed section 76); explanatory summary of
Bill published in Government Gazette No. 41289 of 30 November 2017)
(The English text is the official text of the Bill)*

(MRS C DUDLEY, MP)

[B 4—2018]

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GENERAL EXPLANATORY NOTE:

[] Words in bold type in square brackets indicate omissions from existing enactments.

 Words underlined with a solid line indicate insertions in existing enactments.

BILL

To amend the Animals Protection Act, 1962, so as to—

- substitute the definition of “animal” and insert definitions for “cosmetic” and “premises”;
- correct the listing of definitions;
- provide for new offences related to the testing of a cosmetic, or ingredient of a cosmetic, on an animal; and for the failure to make sufficient space in an appropriate environment available to an animal;
- increase the penalty applicable to an offence and to provide for liability where an offence is committed by a company;
- provide for a court to make an order regarding the welfare of an animal prior to conviction where a person is charged with an offence in terms of this Act;
- remove the limit placed on an award for damages after conviction;
- provide for the recovery of reasonable expenses in relation to an animal prior to conviction where a person is charged with an offence in terms of this Act;
- provide for the qualification requirements of an officer contemplated in section 8(1) of this Act; and
- empower the Minister to make regulations setting standards for the testing of any matter, other than a cosmetic, on an animal and to increase the maximum penalties that the Minister may set by regulation, and to provide for matters connected therewith.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

Amendment of section 1 of Act 71 of 1962, as amended by section 12 of Act 7 of 1991

1. Section 1 of the Animals Protection Act, 1962 (hereinafter referred to as the principal Act), is hereby amended—

(a) by the deletion of the Roman Numerals “(i)”, “(ii)”, “(iii)”, “(iv)” and “(v)”, wherever they appear in section 1;

(b) by the substitution for the definition of “animal” of the following definition:
“**animal**” means any [equine, bovine, sheep, goat, pig, fowl, ostrich, dog, cat or other domestic animal or bird, or any wild animal, wild bird or reptile which is in captivity or under the control of any person]—

(a) live, non-human vertebrate such as a fish, amphibian, reptile, bird or mammal, and includes—

(i) indigenous and nonindigenous animals;

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- (ii) domestic, domesticated, feral and wild animals;
- (iii) a purpose-bred animal; and
- (iv) an animal bred for use in farming activities;
- (b) higher invertebrate such as the advanced members from the *Cephalopoda* and *Decapoda*; or
- (c) a fertilised egg, foetus or embryo of a vertebrate referred to in paragraph (a) or an invertebrate referred to in paragraph (b);”;
- (c) by the insertion after the definition of “animal” of the following definition:
 - “ ‘**cosmetic**’ means any article, preparation or substance, except a medicine as defined in the Medicines and Related Substances Act, 1965 (Act No. 101 of 1965), intended to be rubbed, poured, sprinkled, injected or sprayed on or otherwise applied to the human body, including the epidermis, hair, teeth, mucous membranes of the oral cavity, lips and external genital organs, for purposes of cleansing, perfuming, correcting body odours, conditioning, beautifying, protecting, promoting attractiveness or improving or altering the appearance, and includes any part or ingredient of any such article, preparation or substance;”;
- (d) by the insertion after the definition of “police officer” of the following definition:
 - “ ‘**premises**’ includes land, any building or structure, any vehicle, conveyance, ship, boat or aircraft;”.

Amendment of section 2 of Act 71 of 1962, as amended by section 21 of Act 102 of 1972, section 3 of Act 54 of 1983, section 5 of Act 20 of 1985, section 13 of Act 7 of 1991, section 2 of Act 42 of 1993 and section 2 of Act 33 of 1997

2. Section 2 of the principal Act is hereby amended—
- (a) by the insertion in subsection (1) after paragraph (p) of the following paragraphs:
 - “(pA) tests a cosmetic on an animal; or
 - (pB) fails to make available to an animal owned by him, or under his control, sufficient space in an environment that adequately corresponds to the physiological and ethological needs of the animal; or”;
 - (b) by the substitution in subsection (1) for the words following paragraph (s) of the following words:
 - “shall, subject to the provisions of sub-section (1A) in respect of a company and subject to the provisions of this Act and any other law, be guilty of an offence and liable on conviction to a fine not exceeding R40 000, or to imprisonment for a period not exceeding [twelve months] 10 years or to such imprisonment without the option of a fine.”; and
 - (c) by the insertion after subsection (1) of the following subsection:
 - “(1A) For the purposes of sub-section (1), where the person is a company, every director or prescribed officer of the company who knowingly was a party to the contravention, shall, subject to the provisions of this Act and any other law, be guilty of an offence and liable on conviction to a fine not exceeding R40 000, or to imprisonment for a period not exceeding 10 years or to such imprisonment without the option of a fine.”.

Amendment of section 3 of Act 71 of 1962

3. Section 3 of the principal Act is hereby amended—
- (a) by the insertion after subsection (1) of the following subsection:
 - “(1A) Whenever a person is charged with an offence in terms of this Act in respect of an animal, the court considering the matter may, upon an application by the person conducting the prosecution made at any time before conviction—
 - (a) where the animal was not seized at the time of arrest, order that the animal be handed over to any society for the prevention of cruelty to animals within such time as the court directs;
 - (b) order that the person charged may not directly or indirectly gain control of, or access to, or be in charge of any animal, or of any

- animal of a specific kind, until the court has made a finding on the charge;
- (c) order that the animal undergo non-essential veterinary attention or treatment, such as sterilisation, if in the opinion of the court it would be in the best interest of the animal to do so;
- (d) order that the animal be euthanased if in the opinion of the court it would be cruel to keep such animal alive; or
- (e) make any order with regard to such animal as it deems fit to give effect to any order made under any of the preceding paragraphs.”; and
- (b) by the substitution for subsection (2) of the following subsection:
- “(2) Any person who is found directly or indirectly in control of, in possession or in charge of any animal in contravention of a declaration made in terms of paragraph (c) of subsection (1), or paragraph (b) of sub-section (1A), shall be guilty of an offence and liable on conviction to the penalties prescribed in sub-section (1) of section two.”

Amendment of section 4 of Act 71 of 1962, as amended by section 9 of Act 7 of 1972 and section 6 of Act 20 of 1985

4. Section 4 of the principal Act is hereby amended—

- (a) by the substitution for subsection (1) of the following subsection:
- “(1) Whenever any person is convicted by a magistrate’s court of an offence under this Act and it is proved that such person has by the commission of that offence caused loss to any other person or that any other person has as the result of such offence incurred expense in providing necessary veterinary attention or treatment, food or accommodation for any animal in respect of which the offence was committed or in caring for such animal pending the making of an order by the court for the **[disposal]** euthanasing thereof, the court may, on application by such other person or by the person conducting the prosecution acting on the instructions of such other person, summarily enquire into and determine the amount of the loss so caused or reasonable expense so incurred per animal and give judgment against the person convicted and in favour of such other person for the amount so determined[, **but not exceeding an amount of R5 000**].”;
- (b) by the insertion after subsection (1) of the following subsection:
- “(1A) Whenever an animal was handed over to, or seized by, any society for the prevention of cruelty to animals, a court may at any stage prior to conviction of the person charged with an offence in terms of this Act, on application by that society for the prevention of cruelty to animals, or the person conducting the prosecution acting on the instructions of such society for the prevention of cruelty to animals, enquire into and determine the amount of reasonable expenses incurred or reasonably to be incurred for necessary veterinary attention or treatment, food or accommodation for that animal and give judgment against the person so charged with an offence in terms of this Act, in favour of that society for the prevention of cruelty to animals for the amount so determined per animal.”; and
- (c) by the substitution for subsections (2) and (3) of the following subsections respectively:
- “(2) Any **[such]** judgment given under sub-section (1) or (1A) shall have effect as if it has been given in a civil action duly instituted before such court.
- (3) The provisions of sub-sections (1), (1A) and (2) shall *mutatis mutandis* apply in respect of—
- (a) any costs incurred in connection with the custody of an animal seized in terms of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), for the purposes of a prosecution in terms of this Act; and
- (b) any costs incurred in connection with the **[destruction]** euthanasing of an animal in terms of an order under paragraph (a) of sub-section (1), or paragraph (c) or (d) of sub-section (1A), of section three and the removal and burial or destruction of the carcass.”

Amendment of section 8 of Act 71 of 1962, as amended by section 7 of Act 20 of 1985

5. Section 8 of the principal Act is hereby amended by the addition after subsection (4) of the following subsection:

“(5) An officer contemplated in sub-section (1) shall have an inspector’s qualification recognised by the National Council of Societies for the Prevention of Cruelty to Animals established by section 2(1) of the Societies for the Prevention of Cruelty to Animals Act, 1993 (Act No. 169 of 1993).” 5

Amendment of section 10 of Act 71 of 1962, as amended by section 4 of Act 54 of 1983, section 8 of Act 20 of 1985, section 1 of Act 84 of 1985 and section 15 of Act 7 of 1991 10

6. Section 10 of the principal Act is hereby amended—

- (a) by the deletion in subsection (1) after paragraph (c) of the word “and”;
- (b) by the insertion in subsection (1) after paragraph (c) of the following paragraph:

“(cA) the testing of, subject to section 2(1)(pA), any compound, chemical, foodstuff, disinfectant or other matter on an animal and minimum standards related thereto; and” 15

- (c) by the substitution for subsection (2) of the following subsection:

“(2) Such regulations may prescribe penalties for contravention thereof or failure to comply therewith not exceeding a fine of [R4 000] 20 R40 000 or imprisonment for a period of [twelve months] 10 years.”.

Amendment of certain expressions in Act 71 of 1962

7. The principal Act is hereby amended—

- (a) by the substitution for the expressions “destroy”, “destroyed” and “destroying”, wherever they occur in the Act, of the expressions “euthanase”, “euthanased” and “euthanasing”, respectively; 25
- (b) by the substitution for the expression “destruction”, wherever it occurs in section 2(1)(j), 5 and 10 of the principal Act, of the expression “euthanasing”; and
- (c) by the substitution for the expression “disposal”, wherever it occurs in the Act, of the expression “euthanasing”. 30

Amendment of law

8. The law mentioned in the Schedule is hereby amended to the extent indicated in the third column thereof.

Short title 35

9. This Act is called the Animals Protection Amendment Act, 2017.

Schedule

Law amended

No. and year of Act	Short title	Extent of repeal or amendment
54 of 1972	Foodstuffs, Cosmetics and Disinfectants Act, 1972	<p>1. The amendment of section 1—</p> <p>(a) by the deletion of the Roman Numerals “(i)”, “(ii)”, “(iii)”, “(iv)”, “(v)”, “(vi)”, “(vii)”, “(viii)”, “(ix)”, “(x)”, “(xi)”, “(xii)”, “(xiii)”, “(xiv)”, “(xv)”, “(xvi)”, “(xvii)”, “(xviii)”, “(xix)”, “(xx)”, “(xxi)”, “(xxii)”, “(xxiii)”, “(xxiv)” and “(xxv)” wherever they appear in section 1; and</p> <p>(b) by the substitution for the definition of “prohibited article” of the following definition:</p> <p>“‘prohibited article’ means any foodstuff, cosmetic or disinfectant, which may in terms of this Act not be sold or manufactured or imported for sale or which does not comply with the provisions of this Act in [all respects] <u>any respect;</u>”</p> <p>2. The amendment of section 2—</p> <p>(a) by the deletion in subsection (1)(c) of the full stop at the end of subparagraph (iv) and substituting “; or”; and</p> <p>(b) by the addition in subsection (1), after paragraph (c) of the following paragraph:</p> <p>“(d) <u>if he sells, or manufactures any cosmetic, which has been tested on an animal in the Republic.</u>”.</p> <p>3. The amendment of section 6—</p> <p>(a) by the substitution for the words preceding paragraph (a) of the following words:</p> <p>“(1) No person shall be convicted—”; and</p> <p>(b) by the addition after paragraph (c) of the following subsection:</p> <p>“(2) <u>The special defence referred to in subsection (1)(a) does not apply to the offence of selling or manufacturing any cosmetic, which has been tested on an animal in the Republic referred to in section 2(1)(d).</u>”.</p> <p>4. The amendment of section 10—</p> <p>(a) by the deletion in subsection (3) of the full stop at the end of paragraph (e) and substituting “; or”; and</p> <p>(b) by the addition in subsection (3), after paragraph (e) of the following paragraph:</p> <p>“(f) <u>in respect of the testing of any cosmetic on an animal in the</u></p>

No. and year of Act	Short title	Extent of repeal or amendment
		<p><u>Republic, by any person appointed under section 6(2)(c) of the Societies for the Prevention of Cruelty to Animals Act, 1993 (Act No. 169 of 1993), as an inspector for the purposes of that Act.”.</u></p> <p>5. The amendment of section 11—</p> <p>(a) by the deletion in subsection (1) of the full stop at the end of paragraph (h) and substituting “; or”; and</p> <p>(b) by the addition in subsection (1), after paragraph (h) of the following paragraph:</p> <p>“(i) <u>execute any powers to which such inspector may be authorised under another law, in so far as those powers are relevant to perform the functions or duties imposed by this Act.”.</u></p> <p>6. The amendment of section 18—</p> <p>(a) by the deletion in subsection (1) of the full stop at the end of paragraph (c) and substituting “; or”; and</p> <p>(b) by the addition in subsection (1), after paragraph (c) of the following paragraph:</p> <p>“(d) <u>notwithstanding paragraphs (a), (b), and (c), on conviction for the testing of any cosmetic on an animal in the Republic, to a fine or imprisonment referred to in section 2 of the Animals Protection Act, 1962 (Act No. 71 of 1962).”.</u></p> <p>7. The amendment of section 20 by the addition after subsection (2) of the following subsection:</p> <p>“(3) <u>Any animal seized shall be dealt with as provided by the Animals Protection Act, 1962 (Act No. 71 of 1962).”.</u></p>

MEMORANDUM ON THE OBJECTS OF THE ANIMALS PROTECTION AMENDMENT BILL, 2017

1. INTRODUCTION

Cameron JA in a minority judgment in the case of *NCSPCA v Openshaw [2008] ZASCA 78* noted that the Animals Protection Act, 1962, may not be conferring rights on animals, but it is designed to promote their welfare and it recognises that animals are sentient beings that are capable of suffering and of experiencing pain. In the case of *Lemthongthai v S [2014] ZASCA 131*, Navsa ADP (as he then was) reminded us that “the duty resting on us to protect and conserve our biodiversity is owed to present and future generations. In so doing, we will also be redressing past neglect. Constitutional values dictate a more caring attitude towards fellow humans, animals and the environment in general.” A culture of caring for and protecting non-human animals has significant benefits for the wellbeing of a society. Indeed, studies have shown that efforts to reduce cruelty to animals, are likely to reduce the tolerance that communities have for interpersonal violence (Regan Jules-Macquet BA). The above court cases were mentioned with approval by the Constitutional Court in the matter of *National Society for the Prevention of Cruelty to Animals v Minister of Justice and Constitutional Development and Another [2016] ZACC 46*.

It is necessary for the South African government to step in and not only give effect to the recognition of sentience of animals by our judiciary, but also to improve the level of protection that animals are afforded in South Africa. South Africa, a country that is on the forefront when it comes to the recognition and protection of human rights, was scored a “D” by the World Animal Protection. This international NGO has done a comparison of the animal welfare laws of 50 countries and found South Africa lacking in respect of its commitment to improve and allocate resources to animal welfare, as well as in respect of developing laws to provide for sufficient protection of animals.

Although the people of South Africa, and indeed our highest courts, recognise the plight of animals and the need to protect them from abuses by humans, some practices persist: Testing on animals is kept strictly secret because of the highly competitive industries involved and includes processes like forced inhalation of chemicals; exposure to chemicals at levels that cause illness or death; electric shock or forced swimming. Although it is accepted that there are not sufficient alternatives yet to justify a total ban of testing on animals, measures should be put in place to ensure that such testing is only done when no other alternative exists. Furthermore, animals kept in laboratories are at times kept in small spaces that do not make sufficient provision for the animals’ physiological and ethological needs, causing their whole existence to be one of suffering. Where no alternative for testing on animals exists, provision should at least be made for these animals to be kept in appropriate enclosures. There are currently no known laboratories in South Africa that test cosmetics on animals. The European Union (28 States), India, Israel, Guatemala and Norway have already formally banned the testing of cosmetics on animals as well as the sale of cosmetics that have been tested on animals outside of their borders; New Zealand, Canada, Argentina, Brazil, Korea, USA and Taiwan are in the process of passing laws to ban the testing of cosmetics on animals. This means that 1 of the BRICS partners (India) already has legislation in place to ban the testing of cosmetics on animals and one (Brazil) is following suit. South Africa should lead Africa in this area.

2. OBJECTS OF THE BILL

The purpose of the Bill is to amend two Acts with the intention to prohibit the sale and manufacturing of cosmetics that were tested on an animal in the Republic; criminalise the testing of cosmetics on animals; and criminalise the failure to provide an animal with an appropriate environment; and matters related to these objectives. The Bill amends the definitions section in both Acts and furthermore amends—

- the Animals Protection Act, 1962, (Act No. 71 of 1962) (hereinafter referred to as the principal Act), to provide for new offences related to the testing of a cosmetic or ingredient of a cosmetic on an animal; and related to the failure to make sufficient space in an appropriate environment available to an animal and matters related thereto—including penalties, interim orders and an award of damages. The Bill also provides for the qualification requirements of an officer of any society for prevention of cruelty to animals and empowers the Minister to make regulations setting standards for the testing of other substance (other than cosmetics) on an animal; and
- the Foodstuffs, Cosmetics and Disinfectants Act, 1972, to create an offence for the selling or manufacturing of a cosmetic that has been tested on an animal in the Republic, and matters related thereto. The Bill further makes provision for an inspector appointed under the Societies for the Prevention of Cruelty to Animals Act, 1993 (Act No. 169 of 1993), to conduct certain inspections under this Act and for all inspectors authorised by this Act to retain the powers conferred by their appointing laws. The Bill also provides for the process when seizing an animal. This Act is amended by way of inclusion in a Schedule as it is administered by the Department of Health.

3. CONTENTS OF THE BILL

- 3.1 Clause 1 amends section 1 of the principal Act to substitute the definition of “animal”, insert definitions for “cosmetic” and “premises” and to correct the listing of definitions.
- 3.2 Clause 2 amends section 2 of the principal Act to provide for new offences related to the testing of a cosmetic or ingredient of a cosmetic on an animal; and related to the failure to make sufficient space available to an animal in an appropriate environment. Clause 2 further increases the penalty applicable to an offence and to provide for liability where an offence is committed by a company.
- 3.3 Clause 3 amends section 3 of the principal Act and empowers a court to make an order regarding the welfare of an animal prior to conviction where a person is charged with an offence in terms of this Act.
- 3.4 Clause 4 amends section 4 of the principal Act by removing the limit placed on an award for damages after conviction. Clause 4 further adds a subsection that provides for an application to recover reasonable expenses in relation to an animal prior to conviction where a person is charged with an offence in terms of this Act.
- 3.5 Clause 5 amends section 8 of the principal Act by the addition of a subsection to stipulate the qualification requirements for an officer of any society for the prevention of cruelty to animals.
- 3.6 Clause 6 amends section 10 of the principal Act so as to empower the Minister to make regulations setting standards for the testing of any matter, other than a cosmetic, on an animal and to increase the maximum penalties that the Minister may set by regulation.
- 3.7 Clause 7 provides for the words “destroy”, “destruction” and “disposal” and derivatives to be replaced with the word “euthanase”, which is more in keeping with modern veterinary usage.
- 3.8 Clause 8 provides for a schedule that sets out the amendments to the Foodstuffs, Cosmetics and Disinfectants Act, 1972 (Act No. 54 of 1972). These amendments are in respect of:
 - 3.8.1 section 1, by broadening the definition of “prohibited article” and to correct the listing of definitions;

- 3.8.2 section 2, so as to create an offence for the selling or manufacturing of a cosmetic that has been tested on an animal in the Republic;
- 3.8.3 section 6, so that the special defence created in this section does not apply to the offence of selling or manufacturing any cosmetic, which has been tested on an animal in the Republic;
- 3.8.4 section 10, to make provision for an inspector appointed under the Societies for the Prevention of Cruelty to Animals Act, 1993 (Act No. 169 of 1993), to conduct certain inspections under this Act;
- 3.8.5 section 11, to make it clear that any inspector tasked with executing functions under this Act, but appointed under another law, may also exercise the powers conferred by such laws when executing functions under this Act;
- 3.8.6 section 18, so as to determine the appropriate fine upon conviction of the offence of selling or manufacturing any cosmetic, which has been tested on an animal in the Republic; and
- 3.8.7 section 20, so as to provide for the process when seizing an animal under this Act.

3.9 Clause 9 provides the short title of the Act and deals with the date of commencement.

4. FINANCIAL IMPLICATIONS FOR THE STATE

The Bill does not hold any financial implications for the State. There are existing structures already in place that inspect the welfare of animals with various institutions. Although these structures will now also have to consider the new offences created, the Bill makes provision for these structures to recoup reasonable expenses from a person charged or convicted of an offence.

5. DEPARTMENTS, BODIES OR PERSONS CONSULTED

The following stakeholders were consulted:

- Beauty Without Cruelty South Africa—Ms Toni Brockhoven and Ms Beryl Scott;
- Bilchitz, Prof. David (University of Johannesburg; Director of the South African Institute for Advanced Constitutional, Public, Human Rights and International Law (SAIFAC); Secretary-General of the International Association of Constitutional Law);
- Mark Dittke Attorney (Environmental, Health and Safety specialist)—Mark Dittke;
- M van Heerden Attorneys (Animals in law and Animal Rights Specialist)—Ms Michelle van Heerden (Director);
- Naidoo, Prof. Vinny BVMCh (Cum laude) MSc(Vet)(Distinction) PhD, Director: UPBRC, Professor: Veterinary Pharmacology;
- National Council of Societies for the Prevention of Cruelty to Animals—Ms Marcelle Meredith (CEO);
- National Council of Societies for the Prevention of Cruelty to Animals—Ms Erika Veruciel (Animal Ethics Unit);
- National Council of Societies for the Prevention of Cruelty to Animals—Mr Jaco Pieterse (Communications Manager); and

- Ms Wilson, A: Attorney (Senior Associate) - Animal Law Reform South Africa; Ban Animal Trading NPC.

The following papers and documents were considered in the development of this Bill:

- Austria, (2004) Federal Act on the Protection of Animals (Animal Protection Act—TSchG).pdf;
- Bilchitz D, (2010) “Does transformative constitutionalism require the recognition of animal rights?” (2010) SAPL 24;
- Department of Agriculture, Forestry and Fisheries (Oct 2015), “South African Veterinary Strategy (2015-2020)“;
- Department of Agriculture, Forestry and Fisheries (June 2015) “Animal Welfare Strategic Implementation Plan to the Veterinary Strategy”;
- Humane Society International (2004) “About Animal Testing” available at http://www.hsi.org/campaigns/end_animal_testing/qa/about.html—last accessed on 2017.04.06;
- Jules-Macquet, Regan BA (Hons) (UCT) (2014) “Link between animal cruelty and human abuse: A review of the literature”, [2014] DEREBUS 106;
- *Lemthongthai v S (849/2013) [2014] ZASCA 131*;
- *National Society for the Prevention of Cruelty to Animals v Minister of Justice and Constitutional Development and Another [2016] ZACC 46*;
- *NCSPCA v Openshaw (462/07) [2008] ZASCA 78 (RSA)*;
- SABS, “The South African National Standard—The care and use of animals for scientific purposes” (SANS 10386:2008 Edition 1) ISBN 978-0-626-22296-3 available at http://store.sabs.co.za/catalog/product/view/_ignore_category/1/id/220028/s/sans-10386-2008-ed-1-00/;
- Schmitt G, Barrow P, Stephan-Gueldner M (2015) “The Nonhuman Primate in Nonclinical Drug Development and Safety Assessment (Chapter 17)—Alternatives to the Use of Nonhuman Primates in Regulatory Toxicology” available at <http://www.sciencedirect.com/science/article/pii/B9780124171442000172>—last accessed 2017.04.06; and
- World Animal Protection (2014) “Animal Protection Index 2014” <https://www.worldanimalprotection.org/>—last accessed on 2017.03.10.

6. PARLIAMENTARY PROCEDURE

- 6.1 The Member proposes that the Bill must be dealt with in accordance with the procedure established by section 76 of the Constitution as it affects “Animal Control”, “Consumer Protection” and “Trade”.
- 6.2 The Member is of the opinion that it is not necessary to refer this Bill to the National House of Traditional Leaders in terms of section 18(1)(a) of the Traditional Leadership and Governance Framework Act, 2003 (Act No. 41 of 2003), since it does not contain provisions pertaining to customary law or customs of traditional communities.

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