



## **Amended PERFORMING ANIMALS PROTECTION ACT (PAPA; Act 4/2016)**

### **Information Letter for South African Film & Production Industry and Interested Parties**

A major amendment of the Performing Animals Protection Act (Act24/1935) was passed in January 2017, and implemented in July 2017.

Previously, licences were issued by the district magistrates, under the Department of Justice. It is now the state veterinarians, who, as delegated PAPA licencing officers, are responsible for the issuing of licences under the auspices of the Department of Agriculture, Forestry & Fisheries (DAFF).

A document called the Veterinary Procedural Notice (VPN) 48/17-07 was developed as a guideline for inspections to assist the licencing officer and applicant with the amended PAPA application process.

The VPN lays out requirements which facilitators or individuals must comply with before a licence can be issued. For example, the facility veterinarian must approve each primary training facilities comply with certain plans for each species, such as enclosure design, dietary plans, enrichment activities and equipment used for training.

This letter is aimed at explaining some aspects of the VPN which are pertinent or specific to the filming industry.

#### **1. Which animals are included under the Act?**

**1.1.** Section 8(a) of the Act defines an animal as *“any equine, bovine, sheep, goat, pig, fowl, ostrich, dog, cat or other domestic animal or bird, or any wild animal or wild bird which is in captivity or under the control of a person”*. Previously, the Act specifically excluded reptiles under the definition of “animal”. This sentence was omitted from the new Act, which means that reptiles are now covered by the new PAPA legislation.

**1.2.** Fish and other marine animals are also included through the designation of *“any wild animal or wild bird which is in captivity or under the control of a person”*.

Wildlife species that are maintained in a camp where they cannot hunt or survive without human intervention are seen as under the control of humans and are therefore included under PAPA if people can view them (they are ‘exhibited’), even though they should be able to retreat at will to a place where they may not be visible.



However, wild animals which roam freely in their natural habitat and are not under the control of human beings are not covered by the act. For example, self-sustaining lions which are tracked and viewed on a game drive in a game reserve cannot be interpreted as being under the control of a human. However, lions which are trained to walk with people as an 'experience' in the same game reserve would need a PAPA licence.

Similarly, a company would not require a PAPA licence if they advertised boat trips to swim with dolphins or sharks in the ocean. But if people swam with dolphins or sharks in a contained environment such as an aquarium, that company would then be required to have a licence.

However, free-roaming animals that are fed with the intent of close encounters with humans for filming purposes, a PAPA licenced animal trainer, licenced for that particular species and an animal welfare inspector monitoring the use of these animals must be present.

## 2. Role Players

### 2.1. Licencing Officer (LO)

The LO is appointed by the Department of Agriculture, Forestry & Fisheries. A LO is usually the local state veterinarian. The LO may suspend, withdraw or amend a licence if the applicant no longer complies with any conditions subject to which the licence was issued or when the welfare of the animals are compromised.

### 2.2. Production Company

It is the responsibility of the company to ensure that they have employed an appropriately licenced animal trainer and have an animal welfare inspector present that can monitor the use of the animals on behalf of the LO.

Payment of the above personnel is in accordance with standard industry arrangements.

### 2.3. Animal Trainer (AT) (sometimes referred to as animal 'wranglers')

ATs teach animals specific responses to specific conditions/commands/stimuli. In order to receive a PAPA licence, an AT must have applicable experience in the humane training methods of a specific species. The LO may use evidence from experts and monitoring reports to assess this expertise.

The LOs would like to instil a culture that the people who are most qualified are responsible for sourcing the animals to be used in filming. As such, the relevant production department should liaise with the AT, who would then be responsible for ethically sourcing animals with the required appearance and behavioural traits, i.e. to source the most appropriate animals for a specific set of circumstances.



Their licence will state which species of animal the AT may handle, based on their skills set and experience.

#### 2.4. Animal Welfare Inspector (AWI)

The name of animal welfare organisations with appropriately authorised AWI are listed in the PAPA licence.

Currently, the only animal welfare organisations with authorised AWI who would be able to monitor the use of animals in the filming industry are:

- Societies for the Prevention of Cruelty to Animals (SPCA)
- Animal Anti-Cruelty League (AACL) (Johannesburg)
- Animal Issues Matter (AIM) (Cape Town)
- Animal Welfare Society (Phillipi, WC)

AWIs are independent film shoot 'monitors', and work according to a set of guidelines for the safe use on animals in the filming industry. The Animal Protection Act grants authority to the authorised AWI to halt a production until all necessities are met or to remove the animals from set if their welfare is deemed at risk.

As part of the national legislation, the PAPA supersedes the industry regulations. This means that production companies must abide by PAPA (as opposed to the industry standards) where they differ.

For example, the South African Advertising Standards Authority (ASA) codes are unclear and do not state that a licenced AT must be used when filming. However, they also contain a clause denoting that *"no animal is caused pain or distress in the course of making any advertisement and no advertisement may contain anything that might reasonably be thought to encourage or condone cruelty or irresponsible behaviour towards animals"*.

<http://www.asasa.org.za/codes/advertising-code-of-practice/section-ii-general>

For instance, the ASA codes do not state that a licenced AT must be used, but an appropriately licenced AT should be present and animal welfare monitoring must be implemented according to the PAPA regulations for the film industry.

### 3. What is unique to the film production industry in terms of PAPA? (According to Veterinary Procedural Notice 48/17-07)



- 3.1.** Licences are not issued to filming companies. A licence can only be issued to a person with a facility where animals are kept. This person must demonstrate their capability of keeping and training the species in question.
- 3.2.** The business address where animals are kept is considered the primary facility. This may even be the privately owned farm of the animal trainer. It is possible for several ATs to work from the same primary facility, but they can have individual licences.
  - 3.2.1.** The film set is regarded as either the secondary or temporary facility.
- 3.3.** The LO can inspect a register with names and addresses of owners of animals which may be used for filming purposes.
- 3.4.** The AT can use/source privately owned animals (from private residences) listed on the register at the company's business address.
- 3.5.** Animals may only be used in the filming industry under the care of an appropriate PAPA-licenced AT.
- 3.6.** There must be an animal welfare monitor present on set
  - 3.6.1.** Either a licencing officer, or
  - 3.6.2.** An AWI [authorised as a police officer in terms of Section 8 of the Animal Protection Act (APA; Act 71/1962)] to monitor on behalf of the LO and report to the LO.
- 3.7.** A register recording all movements of animals onto and off of the facility must be maintained.
  - 3.7.1.** The register must indicate source and/or destination of each animal movement.
  - 3.7.2.** Notification of all ad hoc movements (i.e. impromptu movements for a specific task, which were not included on the licence) must be submitted to the LO before movement. The provincial online movement notification reference number can be used to link movements recorded in the register to individual movement notifications. New licence holders will be invited to this platform via email.
  - 3.7.3.** If animals are moved from place to place (e.g. multiple filming sites), they are exempt from notifying the LO about these movements (according to Regulation 6), only if the site to which the animals are to be moved is listed as a secondary site on the licence.
- 3.8.** Each animal must have a training/performance/work programme which documents the approximate duration of training and performing sessions



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The PAPA moved from under the authority of the local magistrates to that of the state veterinarians because it is the veterinarians who have the expertise and vested interest to best safeguard the welfare of all animals.

DAFF is committed to the wellbeing of both the performing animals themselves as well as the industries which utilise these performing animals. This legislation does not aim to be an obstacle or to discourage the use of performing animals, but rather to promote educated and responsible animal use on par with international welfare standards.