



Information letter for the South African Film & Production Industry and Interested Parties

Amended PERFORMING ANIMAL PROTECTION ACT (Act No. 4 of 2016) (hereafter called PAPA)

A major amendment of the Performing Animals Protection Act (Act 24 of 1935) was passed in January 2017 and implemented in August 2017.

Previously, licences for performing animals were issued by the district magistrates under the Department of Justice. As veterinarians have expertise and a vested interest to better safeguard the welfare of animals, it is now state veterinarians, who, as delegated PAPA licencing officers, are responsible for the issuing of licences under the auspices of the national Department of Agriculture (DOA).

A document called the Veterinary Procedural Notice (VPN) 49/17-07 was developed as a guideline for inspections to assist the licencing officers and applicant with the amended PAPA application process.

The VPN lays out requirements which facilities or individuals must comply with before a licence can be issued. For example, the facility veterinarian must visit these facilities, approve various aspects and ensure compliance with acceptable standards for each species, including health and dietary plans, enrichment activities, as well as equipment and methods used for training.

This letter is aimed at explaining some aspects of the VPN which are pertinent or specific to the film 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 supported 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*".
- 1.3 Wildlife species that are maintained in a camp where they cannot hunt or survive without being fed by humans are seen as under the control of humans and therefore included if people can view them, 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 facility would be required to have a PAPA licence.

- 1.4 If, however, free-roaming animals are fed (baited) with the purpose of close encounters with humans for film purposes, a PAPA licenced animal trainer, licenced for that particular animal species, and animal welfare monitoring must be present during such filming in South Africa.
- 1.5 Recent legal advice confirmed that invertebrates also fall within the definition of "*any wild animal*" and is, therefore, also included under PAPA.

2. Role Players

2.1 Licencing Officer (LO)

The LO is delegated by the national Department of Agriculture (DOA). A LO is usually the local state veterinarian that may issue or amend a licence or suspend or withdraw a licence if the licence holder no longer complies with the conditions subject to which the licence was issued or when the welfare of the animals is compromised.

2.2 Animal Trainer (AT) (also 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 expertise in humane training methods for the specific species, as well as experience in working with these animals on film sets. The AT have to assess every animal for suitability (appropriately habituated) and fitness to perform as required within specified environments, without undue stress. They also have to proof that they are able to provide for these species on set. This becomes even more pertinent when something goes wrong, and the welfare or life of the animal may be at risk. The LO may use evidence from experts and monitors to assess their expertise and capabilities before licencing an AT.

Their licence will state which species of animal the AT can work with, based on their skills set and experience. They may sometimes be licenced to coordinate the performances of additional species, subject to the presence of a PAPA licenced AT for that species. This usually include protected and apex wildlife species like lion and raptors, subject to permit control (specifically exhibition permits) by provincial environmental authorities such as CapeNature in the Western Cape province.

2.3 Animal welfare inspector (AWI)

Although not all animal welfare organisations (AWO) may actively be working in the film industry, the names of all AWOs with authorised AWIs¹ are listed on the PAPA licences of ATs. These are:

- i. Animal Anti-Cruelty League (AACL)
- ii. Animal Issues Matter (AIM) (based in Cape Town)
- iii. Societies for the Prevention of Cruelty to Animals (NSPCA and local SPCAs)
- iv. Animal Welfare Societies, for example Philippi and Stellenbosch

AWIs act as independent film shoot 'monitors' and work according to general animal welfare principles and ideally also consulting international guidelines for the safe use of animals in the film 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.

2.4 Film Producer

It is the responsibility of the film company to ensure that they employ an appropriately licenced AT. It is imperative to instil a culture that only people who are legally compliant and most qualified are contracted to source the animals to be used in filming. As such, film producers should liaise with PAPA licenced AT, who would then be responsible for ethically sourcing animals with the required appearance, behavioural traits and are appropriately trained and habituated for the specified set of circumstances.

It is also the responsibility of the film company to ensure that they have an AWI present that can monitor the use of the animals and report to the LO.

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

Film industry codes are superseded by national legislation. This means that film companies must abide by PAPA. The Code of the Advertising Regulatory Board, for example, 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"*², but it does not specifically state that a licenced AT or AWI must be present when filming animals. A PAPA licenced AT should, however, 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 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.

¹ An AWO can request a Magistrate to authorise (in that magisterial district) an appropriately trained AWI, in their employ, in terms of Section 8 of the Animal Protection Act (APA).

² <https://www.arb.org.za/assets/12.-section-ii-general-principles-v2021.2rev.doc.pdf>



- 3.2 Sourcing of animals by the Art Department of a Film Producer or by an unlicensed person is a contravention in terms of the PAPA. The Film Producer is liable and can be fined in such instances.
- 3.3 Animals may only be used in the filming industry under the care of an appropriate PAPA-licensed AT.
- 3.4 The facility where animals are kept and trained is referred to as the primary facility.
- i. The animal collections maintained at these facilities are valuable resources for the film and other industries. Several licensed ATs can work from the same animal facility.
 - ii. the AT can also source privately-owned animals (from private persons) that are listed on the AT's business register. The LO has the right to inspect the register and audit any holding on the register at their discretion.
- 3.5 The film set is usually regarded as a temporary facility and not listed on the licence.
- 3.6 Movement of animals have to be recorded and the LO have to be notified thereof. A provincial online movement notification portal is available in the Western Cape and the automated movement reference number can be used to link movements recorded in the register to movements for film purposes and movement for other reasons, such as veterinary visits, etc.
- 3.7 It is a regulated requirement in South Africa that there must be an animal welfare monitor present when animals are on set. This can either be:
- i. the LO, or
 - ii. an authorised AWI who monitors on behalf of the LO and has to report to the LO.

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

Please contact your local State Veterinary Office or our PAPA administration papa.els@westerncape.gov.za for any further queries.

You can get more information on PAPA on our website at:
<https://www.elsenburg.com/performing-animals-protection-act-licensing/>



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