

SUBMISSION

*DRAFT GENERAL PUBLIC PROCUREMENT
REGULATIONS IN TERMS OF SECTION 63(1)
OF THE PUBLIC PROCUREMENT ACT 28 OF
2024*



18 JULY 2026

ANIMAL LAW REFORM
SOUTH AFRICA

TO: National Treasury (“**Treasury**”)
ATT: Minister of Finance Enoch Godongwana; and
Members of the National Treasury/the Public Procurement Office
Per e-mail: DraftGeneralProcurementRegulations@treasury.gov.za

18 July 2026

Dear Honourable Representatives,

RE: ALRSA’S SUBMISSION IN RESPECT OF THE DRAFT GENERAL PUBLIC PROCUREMENT REGULATIONS 2026 (NOTICE NO. 54528 OF 16 APRIL 2026)

Please find herewith the initial and non-exhaustive submission (“**Submission**”) by Animal Law Reform South Africa (“**ALRSA**”)¹ in respect of the draft General Public Procurement Regulations 2026 (“**Draft Regulations**”) to be made in terms of section 63(1) of the Public Procurement Act 28 of 2024 (the “**Act**”), published in Government Gazette No. 54528 on 16 April 2026² for public consultation.

ALRSA commends the National Treasury for taking steps to strengthen transparency, accountability and ethical governance in public procurement. It is our understanding that the Draft Regulations are intended to operationalise the Act, which was assented to by the President on 18 July 2024 and published in the Government Gazette on 23 July 2024, and aims to repeal several existing frameworks through a phased-in approach by the National Treasury, under Section 63 of the Act. As such, the Draft Regulations (and the Act) aim to further standardise and simplify public procurement across all organs of state by consolidating them under a unified framework. In addition, the Draft Regulations are intended to provide legal clarity regarding aligning public procurement with public interests, following the Constitutional Court’s ruling regarding the Preferential Procurement Regulations of 2017.³

We also note that, while the Draft Regulations apply primarily within the public procurement framework, they must operate consistently with the Constitution of the Republic of South Africa,

¹ ALRSA Website: <https://www.animallawreform.org/>.

² National Treasury: [https://www.treasury.gov.za/public%20comments/ProcReg/Draft%20General%20Public%20Procurement%20Regulations%202026%20for%20consultation%20to%20section%2063\(3\)%20of%20Act.pdf](https://www.treasury.gov.za/public%20comments/ProcReg/Draft%20General%20Public%20Procurement%20Regulations%202026%20for%20consultation%20to%20section%2063(3)%20of%20Act.pdf).

³ Constitutional Court of South Africa: <https://www.concourt.org.za/index.php/judgement/455-minister-of-finance-v-afribusiness-ncp-cct279-20>.



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1996 (“**Constitution**”),⁴ including the transformative aims of the Bill of Rights (“**BoR**”), and with South Africa’s broader public interest obligations.

This Submission makes recommendations in respect of the Draft Regulations by strengthening ethical considerations, environmental compliance, and sustainability within supply chains, and identifying how public procurement can be used as a strategic tool to reform food systems.

The Draft Regulations provide a framework to move beyond narrow economic objectives toward a “**rights-based economy**” which aims to guarantee the conditions necessary for *all* (including nonhuman animals) to live with dignity on a flourishing planet.⁵ Thus, this Submission advances the idea that public procurement must be built upon **legal obligations and social values**, in addition to economic objectives.⁶ While we acknowledge that the Draft Regulations are not intended to replace food-governance or animal-protection laws, we submit that procurement frameworks should provide clear guidance and guardrails where public purchasing affects food systems.

Public procurement is a useful vehicle to drive broader social development objectives.⁷ For instance, by embedding more ethical and sustainable production standards and practices into public food procurement, the state and National Treasury can directly influence broader agricultural practices and markets toward much-needed food systems reform. We wish to emphasise that **the continued expansion and increased industrialisation of South Africa’s food system, including through public procurement, particularly of animal-sourced foods (“ASFs”), have far-reaching consequences on human rights, environmental sustainability, and animal protection**. While recognising and supporting the right to food as enshrined in the Constitution, ALRSA advocates for incremental shifts toward more ethical and sustainable food systems, including toward plant-based and agroecological production that prioritise human and animal well-being and flourishing, ecological resilience, and more compassionate, just and inclusive governance.⁸

⁴ Section 39 of the Constitution of the Republic of South Africa, 1996. Also included in Annexures 3 and 4 of the Draft Regulations.

⁵ Center for Economic and Social Rights (CESR) and Christian Aid, “A Rights-Based Economy: Putting People and Planet First” (2020). Available at: <https://www.cesr.org/sites/default/files/Rights%20Based%20Economy%20briefing.pdf>.

⁶ Knipe P and Durojaye E “Public Food Procurement as a Policy Tool: Exploring Local Government Opportunities for Non-Communicable Disease Prevention in South Africa” (2025) Public Procurement Law Review, 34 (3) at 219-220.

⁷ De Schutter O, “The power of procurement: Public purchasing in the service of realising the right to food’ Report (2014) Available at http://www.srfood.org/images/stories/pdf/otherdocuments/20140514_procurement_en.pdf.

⁸ ALRSA: <https://www.animallawreform.org/wp-content/uploads/2026/03/ALRSA-SAHRC-Submission-February-2026.pdf> at 4.



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Public procurement represents a substantial portion of the national economy and therefore offers a significant opportunity to advance public-interest objectives. It accounts for roughly 22% of South Africa’s gross domestic product (“GDP”), roughly **ZAR 1 trillion** annually.⁹ However, public procurement has historically prioritised narrow economic criteria such as short-term “**value for money**”. Given the country’s high rates of inequality (among the highest in the world), malnutrition, and extreme poverty, the proposed framework represents a significant opportunity to direct public purchasing power toward a wide range of public-interest objectives, including food systems reform, animal protection, and public health.¹⁰

Notably, the Constitution provides a dual mandate for procurement, as Section 217(1) establishes primary objectives that procurement must be “**fair, equitable, transparent, competitive, and cost-effective**”, and in Section 217(2), establishes secondary objectives that procurement must promote “**categories of preference in the allocation of contracts**” for historically disadvantaged individuals or groups.¹¹ This provides a clear constitutional mandate to incorporate broader social, economic, and environmental objectives into public procurement frameworks. In particular, we wish to emphasise “**equity**” as a criterion for public procurement. While the Draft Regulations in their current form mention “**equitability**” as a strategic procurement objective, it does not appear to be a central or foundational principle embedded within all public procurement processes.¹²

The National Treasury is mandated to manage South Africa’s national government finances. Rooted in Chapter 13 of the Constitution,¹³ and further clarified in the Public Finance Management Act (“**PFMA**”),¹⁴ we understand National Treasury’s obligations to include fiscal and macroeconomic policy development, budget preparation, financial oversight, financial stability, and intergovernmental relations.¹⁵ Therefore, while it does not have the mandate to directly draft animal protection or agricultural regulations, it does “**hold the power of the public purse**”, thus shaping

⁹ Parliamentary Monitoring Group, ‘Public Procurement Bill: National Treasury Briefing’ (2024) Available at <https://pmg.org.za/committee-meeting/38294/>.

¹⁰ FAO, Alliance of Bioversity International and CIAT and Editora da UFRGS, ‘Public food procurement for sustainable food systems and healthy diets – Volume 2’ 1 (2021) Available at <https://openknowledge.fao.org/server/api/core/bitstreams/a8b27ad3-5dca-4e85-bf40-f571865f872b/content>.

¹¹ Section 217 of the Constitution.

¹² Regulation 4(1)(b)(ii) of the Draft Regulations.

¹³ Chapter 13 of the Constitution.

¹⁴ Public Finance Management Act 1 of 1999.

¹⁵ National Treasury Strategic Plan 2025-2030. Available at: [https://www.treasury.gov.za/publications/strategic%20plan/National%20enforcement of animal protection laws%20Treasury%20Strategic%20Plan%202025-2030.pdf](https://www.treasury.gov.za/publications/strategic%20plan/National%20enforcement%20of%20animal%20protection%20laws%20Treasury%20Strategic%20Plan%202025-2030.pdf)



food systems (which include the “use” of animals) by allocating budgets, managing government spending through public procurement, and funding regulatory frameworks. Accordingly, the Draft Regulations present an important opportunity for National Treasury to use its procurement mandate in a manner that advances constitutional values and the public interest.

ORGANISATIONAL BACKGROUND AND DECLARATION OF INTEREST

This Submission is made by ALRSA, a registered non-profit company and NPO (**Number 238-234 NPO**) acting in the public interest. ALRSA operates through three key Pillars: **Animal Flourishing, Social Justice, and the Law**.

ALRSA undertakes its work through three main mechanisms, namely: Legislative & Policy Reform; Litigation & Legal Services; and Education & Research. Through these mechanisms, ALRSA aims to contribute to the development of a robust animal law ecosystem in South Africa which recognises the intrinsic value of animals as sentient beings.

We have a substantial interest in the issues to be considered by the National Treasury, including strengthening transparent, accountable, and ethical governance across South Africa’s public procurement processes. We have, for years, consistently expressed interest in issues involving animals, humans and the environment to government departments, NGOs, the South African public, and other stakeholders - both privately and within the public domain. We have provided various formal submissions, sent letters, emails, and other correspondence, attended presentations, hearings, stakeholder engagements and meetings, and otherwise engaged on these matters (where such engagement has been possible). Please refer to the section below, which lists relevant work and submissions we encourage the National Treasury to review in addition to this submission.

Among other associations, ALRSA is a founding member of the Wildlife Well-Being Forum (“**WWBF**”) initiated by former Department of Forestry, Fisheries and the Environment (“**DFFE**”) Minister (and current Department of Transport Minister) Barbara Creecy and is part of the established task teams. Additionally, the Executive Director of ALRSA, has been appointed Chair of the Law and Policy and the Aquaculture & Fisheries task teams, respectively, for the WWBF. We are also co-initiators of the Animal Law Project (“**ALP**”),¹⁶ a collaborative project aimed at transforming animal protection legislation in South Africa as a constitutional imperative.

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

¹⁶ The Animal Law Project (“**ALP**”): <https://animallawproject.org.za/>.

ALRSA'S RELEVANT PREVIOUS SUBMISSIONS AND WORK (NON-EXHAUSTIVE)

ALRSA has previously provided detailed commentary and raised concerns related to some of the issues considered in this Submission, including the importance of intergovernmental co-operation, institutional conflicts of interest, and ethical governance, which find direct application here. We draw the National Treasury's attention in particular to the following submissions and work by ALRSA:

1. **ALRSA's Submission to the South African Human Rights Commission's National Investigative Hearing into South African Food Systems and Violations of the Right to Food:** Initial Submission (February 2026); Oral Representations (March 2026); Supplementary Submission (April 2026).¹⁷
2. Department of Forestry, Fisheries, and the Environment: Flexible Environmental Impact Assessment Multistakeholder Consultation (11 March 2026-23 April 2026) & Draft Discussion Document on the Implementation of a Flexible EIA Process for South Africa (May 2026);¹⁸
3. Joint Committee on Ethics and Members' Interests: Notice Regarding Possible Amendments to the Code of Ethical Conduct and Disclosure of Members' Interests for Assembly and Permanent Council Members (March 2026);¹⁹
4. The ALP's Written Submission to the Joint Constitutional Review Committee re Proposal to Include Animal Protection Aspects in the Constitution (May 2025).²⁰
5. The ALP's *Manifesto for Transforming Animal Protection in South Africa: A Constitutional Imperative* (2024),²¹ which proposes (among others) that animal protection legislation be aligned with constitutional values and recent jurisprudence recognising and promoting the interests of animals, specifically 'PART II: Status Quo & High-Level Problem Statement', and in particular, pages 12-20.
6. ALRSA's Food Systems research:
 - a. **Working Paper** titled *Barriers to the Transformation of South Africa's Food*

¹⁷ ALRSA: <https://www.animallawreform.org/wp-content/uploads/2026/03/ALRSA-SAHRC-Submission-February-2026.pdf> (Initial Submission); YouTube: <https://www.youtube.com/watch?v=8judQzv3wQs&t=1s> (Oral Representations); ALRSA: <https://www.animallawreform.org/wp-content/uploads/2026/04/ALRSA-SAHRC-Supplementary-Submission-10-April-2026.pdf> (Supplementary Submission).

¹⁸ ALRSA: <https://www.animallawreform.org/wp-content/uploads/2026/06/ALRSA-Submission-Flexible-EIA-System.pdf>.

¹⁹ ALRSA: <https://www.animallawreform.org/our-work/>.

²⁰ ALRSA: <https://www.animallawreform.org/wp-content/uploads/2025/06/ALP-Joint-Constitutional-Review->

²¹ ALP: https://animallawproject.org.za/wp-content/uploads/2024/09/Animal-Law-Project_Manifesto_2024.pdf.



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System: Can the Law be a Lever for Change? (July 2022),²² specifically the Initial Recommendations at page 219 onwards, and in particular Recommendation D on Governmental Action, which proposes the separation of animal use promotion from animal welfare regulation across departments, and calls for governmental co-operation and the avoidance of conflicts of interest (among others);

- b. **White Paper** titled *Sowing the Seeds of Change: Towards a More Just and Inclusive Food System in South Africa* (October 2022),²³ specifically the 7 Pillars at pages 47-48 and the Summary of Recommendations at page 53 onwards. ‘Pillar 7: The Food System Must Be Properly and Fairly Governed and Regulated’ articulates a set of governance principles relevant to this Submission, including the avoidance of conflicts of interest, accountability and transparency of government and industry, recognition of the intrinsic worth of humans, nonhuman animals and nature, and good governance and fairness in regulation;
7. ALRSA’s comprehensive reports on the egg industry of South Africa, which reveal, among various others, tensions between departmental mandates, and the effect of corporate and government non-transparency and accountability on people, animals and the environment, namely:
- a. **Initial Report “Laying Down the Facts”** (2023, updated 2025): This comprehensive report provides an in-depth analysis of the South African egg and poultry industry, identifying systemic gaps in animal welfare standards and corporate transparency.²⁴ It highlights how the proliferation of voluntary standards, largely produced by industry bodies, fails to provide enforceable legal protections for sentient beings.²⁵
 - b. **Supplementary Report, “Scrambling for the Truth”** (2024, updated 2025): This report explores corporate hypocrisy and non-transparency regarding environmental

²² Makonese M, Muchadeyi F, and Wilson AP, Working Paper: Barriers to the Transformation of South Africa’s Food System: Can the Law be a Lever for Change?, Animal Law Reform South Africa, (2022) Available at: <https://www.animallawreform.org/wp-content/uploads/2022/07/Working-Paper-Food-Systems.pdf>. (“**Working Paper**”).

²³ ALRSA, White Paper: Sowing the Seeds of Change: Towards a More Just and Inclusive Food System in South Africa. Makonese, Makanatsa*, Muchadeyi, Farai*, and Wilson, Amy P*. (2022). Available at: <https://www.animallawreform.org/wp-content/uploads/2022/10/White-Paper-FoodSystems.pdf>. (“**White Paper**”).

²⁴ ALRSA, Laying Down the Facts (August 2023 (v1) updated September 2024 (v2) and February 2025 (v3)). Available at: <https://www.animallawreform.org/wp-content/uploads/2025/02/Laying-Down-The-Facts-Report-V3.pdf> at 15.

²⁵ Ibid at 10.



and consumer rights, specifically investigating the efficacy of voluntary labelling.²⁶ It identifies a significant “transparency gap” where consumers are misled by carefully crafted corporate narratives that conceal the true impacts of production on animals and the environment.²⁷

STRUCTURE OF THE SUBMISSION

- **Part A:** (Selected) Issues for the National Treasury’s Consideration
- **Part B:** Expanding Public Procurement Criteria Through an Animal Protection Lens

Below contains our selected, non-exhaustive submissions in respect of the Draft Regulations generally, as well as specific regulations contained within the Draft Regulations. Please note that due to limited resources and time constraints, we have sought to highlight only a few key aspects which warrant further research and explanation.

We urge the National Treasury to carefully consider the submissions received in respect of the potential amendments to the Draft Regulations, given the implications of this document, which will provide cross-sectoral guidance to all sectors involved in animal “use” (among others), in relation to guaranteed constitutional rights and the protection of nonhuman animals included therein.

We look forward to receiving a response to our Submission and are available to engage on any queries, comments, or concerns which you may have in respect of this document. **Kindly confirm receipt of this Submission and address further correspondence to the email addresses:** paulaknipe@animallawreform.org, michaelatafani@animallawreform.org, and amywilson@animallawreform.org.

Yours sincerely,

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²⁶ ALRSA, Scrambling for the Truth: Corporate Hypocrisy and Non-Transparency Relating to Environmental and Consumer Rights in the Egg Industry in South Africa (September 2024, updated in February 2025). Available at: <https://www.animallawreform.org/wp-content/uploads/2025/02/Scrambling-for-the-Truth-V2.pdf> at 13.

²⁷ Ibid at 14.



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SELECTED) NON-EXHAUSTIVE SUBMISSIONS IN RESPECT OF THE DRAFT GENERAL PUBLIC PROCUREMENT REGULATIONS

PART A: (SELECTED) ISSUES FOR THE NATIONAL TREASURY'S CONSIDERATION

I. JURISPRUDENTIAL DEVELOPMENTS: THE INTRINSIC VALUE OF ANIMALS, ANIMAL SENTIENCE, THE ENVIRONMENTAL RIGHTS AND ANIMALS

In recent years, there have been notable judicial rulings by South African Courts related to animals, highlighting the need to advance animal protection through tangible legal and policy actions that promote their well-being and flourishing and align with the transformative nature of our Constitution.

These pronouncements signal **an important ethical and legal shift away from a purely instrumental view of animals towards one that recognises their sentience, their intrinsic value, and the interconnection between animal protection, welfare, well-being and environmental protection.** The Draft Regulations are directly implicated by this jurisprudence because they will shape public food procurement and other state purchasing that materially affects billions of animals across supply chains. Regulations that ignore sentience, welfare, well-being and related harms would therefore risk falling short of the standards of ethical governance required by the Constitution. For these reasons, National Treasury, when framing and issuing procurement rules, must ensure that the Draft Regulations incorporate and reflect the constitutional and judicially-recognised obligation to consider animal welfare, biodiversity and ecological impacts as part of lawful, rational and proportionate procurement decision-making.

As the decisions outlined below establish, **animal welfare is a fundamental constitutional principle** connected to the environmental rights enshrined in section 24 of the Constitution and to constitutional values including **dignity, equality, and *Ubuntu***. Therefore, national authorities are legally obliged to consider animal interests in their decision-making, and failure to do so risks producing regulations, legislation, and policies that are unlawful and constitutionally invalid.

In the 2016 judgment of *National Society for the Prevention of Cruelty to Animals v Minister of Justice, Constitutional Development, and Another* (“NSPCA 2016”), the Constitutional Court, as the highest court in South Africa, found that animal welfare is a fundamental principle of



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the and linked it to the constitutional right to **environmental protection**.²⁸ The Court explicitly recognised the sentience of animals and stated that “*the rationale behind protecting animal welfare has shifted from merely safeguarding the moral status of humans to placing intrinsic value on animals as individuals*” (our emphasis).²⁹ The Court further stated that “*our courts now afford increasingly robust protection to animal welfare*.”³⁰ Notably, the Court held that **animal welfare and animal conservation together reflect intertwined values and further related animal welfare to the constitutionally protected environmental right** (in Section 24 of the Constitution).³¹ When referencing the Supreme Court of Appeal (“SCA”) judgment in *S v Lemthongthai*,³² the Constitutional Court noted that “*constitutional values dictate a more caring attitude towards fellow humans, animals and the environment in general*,” and concluded that this obligation is especially pertinent given our country’s history. When referencing the “**integrative approach**” (as coined by Professor David Bilchitz, one of ALRSA’s co-founders and directors), the Court noted that such an approach “*correctly links the suffering of individual animals to conservation and illustrates the extent to which showing respect and concern for individual animals reinforces broader environmental protection efforts*.”³³

These sentiments have been echoed in other court rulings since then (in the Constitutional Court, SCA, High Courts and otherwise), in which our judiciary has reiterated the importance of considering animal interests in the context of the Constitution and BoR, further grounding the interconnection among human, animal, and environmental protection.

The integrative approach was applied directly by the High Court in the context of the setting of annual quotas for the export of lion bone in the 2019 case of the *National Council of the Society for Prevention of Cruelty to Animals v Minister of Environmental Affairs and Others*,³⁴ (the “**Lion Bone Case**”) in which the Court set aside the quotas set on the ground that, among other factors, constitutional and legal obligations that arise from Section 24 of the Constitution and

²⁸ *National Society for the Prevention of Cruelty to Animals v Minister of Justice and Constitutional Development* [2016] ZACC 46 at para 57. Available at: <https://www.saflii.org/za/cases/ZACC/2016/46.html>.

²⁹ Ibid.

³⁰ Ibid at para 67.

³¹ *National Society for the Prevention of Cruelty to Animals v Minister of Justice and Constitutional Development* [2016] ZACC 46 at para 67. Available at: <https://www.saflii.org/za/cases/ZACC/2016/46.html>.

³² *Lemthongthai v S* [2014] ZASCA 131, available at: <https://www.saflii.org/za/cases/ZASCA/2014/131.html>.

³³ *National Society for the Prevention of Cruelty to Animals v Minister of Justice and Constitutional Development* [2016] ZACC 46 at para 58. Available at: <https://www.saflii.org/za/cases/ZACC/2016/46.html>.

³⁴ *National Council of the Society for Prevention of Cruelty to Animals v Minister of Environmental Affairs and Others* (86515/2017) [2019] ZAGPPHC 337; 2020 (1) SA 249 (GP) (6 August 2019). Available at: <https://www.saflii.org/za/cases/ZAGPPHC/2019/337.html>



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legislation require the consideration of animal welfare issues.³⁵ Prioritising certain economic considerations (i.e. the potential and limited economic benefits from setting export quotas for lion bone) over other economic benefits (i.e. boosting South Africa's reputation as a country that cares about animal interests) is a **reductionist** (and **aggregative**) approach that is misaligned with case law and the integrative approach to environmental protection.

Notably, in the High Court judgment of *Sustaining the Wild Coast NPC and Others v Minister of Mineral Resources and Energy and Others*,³⁶ the court set aside Shell's exploration rights related to conducting seismic surveys off the Wild Coast, finding that both Shell and the Minister failed to properly consider the harm to marine life in particular, including migrating humpback whales, as well as the rights of local communities and broader environmental impacts.³⁷ **This judgment demonstrates that the interests of nonhuman animals (as well as human animals) must be taken into account when making decisions that affect them/ could potentially affect them.**

In *South African Predator Breeders Association v Minister of Environmental Affairs and Tourism*,³⁸ the validity of regulations published by the Minister designed to regulate the practice of canned lion hunting was challenged before the High Court. Despite not declaring the practice of canned lion hunting unlawful, Justice Rampai acknowledged that the practice is **"abhorrent and repulsive" due to the suffering of animals, based on the notion of sentience**.³⁹ Rampai J further emphasised the importance of protecting animals from the cruel practices humans subject them to.

In *Trustees for the time being of the Humane Society International - Africa Trust and Others v Minister of Forestry, Fisheries and the Environment and Another*,⁴⁰ ("HSI Trust case") the applicants challenged the Minister's decision to set hunting and export quotas for leopards, elephants, and black rhinoceroses' trophies. The applicants argued (among others) that animal welfare was not taken into account when setting the quotas, as required by law and thus sought to interdict

³⁵ Ibid.

³⁶ *Sustaining the Wild Coast NPC and Others v Minister of Mineral Resources and Energy and Others* (3491/2021) [2022] ZAECKMHC 55. Available at: <https://www.saflii.org/za/cases/ZAECKMHC/2022/55.html>.

³⁷ Ibid.

³⁸ *South African Predator Breeders Association and Others v Minister of Environmental Affairs and Tourism* (1900/2007) [2009] ZAFSHC 68. Available at: <https://www.saflii.org/za/cases/ZAFSHC/2009/68.html>.

³⁹ Ibid at para 72.

⁴⁰ *Trustees for the time being of the Humane Society International - Africa Trust and Others v Minister of Forestry, Fisheries and the Environment and Another* (6939/2022) [2022] ZAWCHC 55; [2022] 3 All SA 616 (WCC) (21 April 2022), available at: <https://www.saflii.org/za/cases/ZAWCHC/2022/55.html>.

the Minister's decision.⁴¹ The High Court was tasked with determining whether the potential economic harm which would result from the interdict being granted outweighs the interests of the animals implicated. In his judgment, Justice Gamble made the following statements: "*If the interdict is granted, those animals will be spared death at the hands of the hunters. The irreparable harm is thus the difference between life and death.*"⁴² [emphasis added]. **Therefore, the judgment reinforces the principle that the welfare and lives of animals are not subordinate to economic considerations and must be given substantial weight in administrative decision-making, including in public procurement.**

Taken together, these judgments establish that the National Treasury has a constitutional and judicially determined obligation to consider animal welfare, protection, well-being, and biodiversity, and/or environmental sustainability considerations in exercising its mandate.

II. (SELECTED) OVERVIEW OF GOVERNMENTAL OBLIGATIONS IN RESPECT OF ANIMALS AND THE FRAGMENTATION OF GOVERNMENT RESPONSIBILITY⁴³

Animals and humans have a "*storied relationship*";⁴⁴ and animals exist in and permeate nearly every aspect of human lives and our environment. **All levels of government: national, provincial, and local - and various departments - carry out functions that directly and/or indirectly impact animals.** Yet, there is a general lack of meaningful consideration of animal interests and a misunderstanding and misinterpretation of mandates and responsibilities, both in the public and private sectors, regarding animal protection within South Africa's regulatory framework.

As a result of these chasms, there is a systemic failure of accountability, and millions of animals suffer the consequences daily - through cruelty, neglect and other forms of harm. A clear example is the failure by government to consider animal interests - including their welfare and well-being, for instance, in the issuing of certain quotas, permitting and licensing (which can span across governmental levels) and other decision-making such as the public procurement of food.

⁴¹ Ibid.

⁴² Ibid at para 83.

⁴³ Please note that many aspects of this section have been taken from the Animal Law Project's Written Submission to the Joint Constitutional Review Committee: Proposal to Include Animal Protection Aspects in the Constitution, submitted on 30 May 2025, available at: <https://www.animallawreform.org/wp-content/uploads/2025/06/ALP-Joint-Constitutional-Review-Committee-Constitutional-Submission-30-May-2025.pdf>.

⁴⁴ *National Society for the Prevention of Cruelty to Animals v Minister of Justice and Constitutional Development* [2016] ZACC 46 at para 1. Available at: <https://www.saflii.org/za/cases/ZACC/2016/46.html>.



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Each year, over 1 billion animals are used and killed for human consumption in the country, including more than 1.1 billion land farmed animals,⁴⁵ and millions of other animals exploited in various ways, both legally and illegally, often without sufficient oversight and accountability.

The current animal protection governance framework is fragmented and inconsistent. Animals directly under human care and control, including farmed, companion, entertainment, and wild animals in captivity, fall under the Animals Protection Act 71 of 1962 (“**APA**”) and the Performing Animals Protection Act 24 of 1935 (“**PAPA**”), administered at a national level by the Department of Agriculture (“**DoA**”). Free-roaming and captive wild animals (and their well-being) are further regulated under environmental laws, including the National Environmental Management Biodiversity Act 10 of 2004 (“**NEMBA**”), which is overseen by the national DFFE and provincial authorities. Other animals, including companion animals (in homes, shelters, on the streets, and in communities), largely fall under municipal jurisdiction and are regulated in part by inconsistent by-laws. Various other government departments and entities have mandates, functions and responsibilities that intersect with animal use and harm at various levels, including the National Treasury, as well as the Department of Justice and Constitutional Development (“**DOJCD**”), the Department of Health (“**DOH**”), the Department of Transport (“**DOT**”), and the Department of Trade, Industry and Competition (“**DTIC**”), among numerous others. These divisions cause overlaps, legal incoherence, and regulatory vacuums in which no authority takes full (or sometimes any) responsibility for the consideration of animal interests and protection – whether it be welfare, well-being or otherwise.

Previously, government entities have denied responsibility for considering issues like animal welfare and protection in their decision-making despite their clear importance and relevance.⁴⁶ While specific government functions relating to animals – including but not limited to agriculture, environment, nature conservation, and animal “control” – are listed in Schedules 4 and 5 of the Constitution, the consideration of animal interests and animal protection is notably absent as an explicit function and/or requirement.⁴⁷ Furthermore, legislation does not consistently clarify the mandates of specific

⁴⁵ DoA: https://www.dalrrd.gov.za/phocadownloadpap/Statistics_and_Economic_Analysis/Statistical; and The Department of Trade, Industry and Competition: https://www.thedtic.gov.za/wp-content/uploads/Poultry_Sector_Master_Plan.pdf.

⁴⁶ *National Council of the Society for Prevention of Cruelty to Animals v Minister of Environmental Affairs and Others* (86515/2017) [2019] ZAGPPHC 337; 2020 (1) SA 249 (GP) (6 August 2019). Available at: <https://www.saflii.org/za/cases/ZAGPPHC/2019/337.html>.

⁴⁷ Schedules 4 and 5 of the Constitution of the Republic of South Africa, 1996 (“Constitution”), set out the functional areas of legislative competence for national, provincial, and local government. Part A of Schedule 4 includes areas of concurrent national and provincial legislative competence, such as agriculture, animal control and diseases, environment, nature conservation (excluding national parks and marine resources), and industrial promotion. Part B, read with sections 155(6)(a) and (7), provides for local government’s exclusive competence in areas like air pollution. Schedule 5 outlines



departments with respect to animals. These omissions are problematic, as they undermine the ability of government entities to perform their functions, which cannot be properly carried out without due consideration of animal interests.

A common but flawed assumption across all levels of government is that animal protection falls solely under the mandate of the DoA. This perception leads to the exclusion of animal protection considerations in areas where they are clearly relevant, such as the public procurement of food. This is not only legally and morally untenable but also administratively unsustainable and misaligned with constitutional values and principles. Therefore, it is imperative that government departments and entities take it upon themselves to ensure that the protection of animals and the environment is meaningfully considered in decisions that affect them, whether directly or indirectly. The proposed amendments to the Draft Regulations in this Submission are a necessary step in that direction.

As ALRSA has argued in previous submissions to government, and our work, the structural conflict of interest inherent in the DoA's dual mandate of simultaneously promoting animal production, and ensuring animal welfare and protection, is a foundational problem in South Africa's animal protection governance architecture. Since 1997, when the responsibility for animal welfare was transferred from the DOJCD, the DoA has been simultaneously tasked with promoting animal agriculture and regulating animal welfare - a combination that creates an inherent tension between economic promotion and protection obligations and creates conditions for regulatory capture.

ALRSA (including as part of the ALP) has proposed that separating animal use and promotion from animal welfare, protection and well-being regulatory functions is essential for ensuring appropriate, cooperative and non-conflicted institutional and structural arrangements. This includes the transfer of custodianship of the mandate of animal protection to the DOJCD and appointment of the high court as upper guardian of all animals. The DOJCD originally had authority over the APA, including because it was a criminal statute. This proposal (among numerous others) warrant further exploration, and are discussed in greater detail in the ALP Manifesto.

areas of exclusive provincial competence, including abattoirs and veterinary services (excluding regulation of the profession), while Part B of Schedule 5 extends local government's responsibilities to functions such as public nuisance control, animal care facilities, licensing of dogs, municipal abattoirs, and pounds. Moreover, while not traditionally associated with animal protection, functions such as firefighting and stormwater management in urban areas may also impact wild animals, particularly in built-up or ecologically sensitive regions. Planning and response strategies in these areas could benefit from explicitly considering animal welfare, in line with a broader interpretation of state obligations where animal interests are affected.



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Any government body that performs functions and activities that impact on animals must have the competencies and obligations to consider and adequately provide for animal protection, particularly in light of case law and constitutional imperatives. The ALP has made submissions to the Joint Constitutional Review Committee advocating for constitutional amendments to explicitly require that, wherever a government function and competency impacts animals, whether directly and/or indirectly, there is a corresponding obligation and duty to adequately consider and provide for their protection.⁴⁸ This clarity is urgently needed to prevent the continued marginalisation of animal protection in public decision-making and to ensure accountability (for animals, humans and the environment).

However, until such time as that constitutional reform is achieved, it is imperative that government authorities take it upon themselves to ensure that the protection of animals and the environment is meaningfully considered in decisions that affect animals and the environment, whether directly or indirectly. The Draft Regulations are an opportunity for a step in that direction.

PART B: EXPANDING PUBLIC PROCUREMENT CRITERIA THROUGH AN ANIMAL PROTECTION LENS

I. EXPANDING THE DEFINITION OF “VALUE FOR MONEY”

In the General Provisions of Chapter One of the Draft Regulations, the definition of “**value for money**” is defined as *“the optimal use of public resources to achieve intended procurement outcomes across the full lifecycle of goods, services, infrastructure or capital assets to be procured, taking into account the following factors –*

- a. their economical acquisition at the lowest possible price, which is consistent with the required standards of **quality**, functionality, and **sustainability**;*
- b. their efficient use to maximise outcome with minimal waste or duplication; and*
- c. their effectiveness in achieving their intended objectives, including service delivery and **transformation imperatives, sustainable development goals, and infrastructure performance targets.**”⁴⁹ (our emphasis)*

⁴⁸ ALRSA: <https://www.animallawreform.org/wp-content/uploads/2025/06/ALP-Joint-Constitutional-ReviewCommittee-Constitutional-Submission-30-May-2025.pdf>.

⁴⁹ Draft Regulations, Chapter One, General Provisions, page 7.



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This definition could be amended to explicitly include ethical and animal-welfare related standards as core components of sustainability, ensuring that the treatment of animals across supply chains is a factor in determining “**value**”. Or, at the very least, the Draft Regulations could recognise that the treatment of animals in the supply chain is a matter of public interest that must be taken into consideration when determining the optimal use of public resources.

II. “DISPOSAL” OF “ASSETS”

According to Regulation 4(5)(f) of the Draft Regulations, when identifying assets for disposal, institutions must take into account “***public interest, impact to the community and the cultural, historical or environmental significance of the asset.***”⁵⁰ We submit that live animals be explicitly excluded from the definition of “assets” for the purposes of “disposal”, so they may not be treated as property to be “disposed” of. Alternatively, the Draft Regulations should define “disposal” for purposes of this provision, and that, where live animals are regarded as “assets” in any circumstances, any disposal process must not cause them harm or death. At a minimum, the Regulations should require a protection-focused approach that prioritises the animals’ interests, well-being and welfare and prevents any outcome that would foreseeably result in suffering, injury, or death. This exclusion would prevent decisions that prioritise financial recovery over animal protection and would better align procurement practice with constitutional and ethical obligations.

In addition, to combat the 10 million tonnes of food waste annually in South Africa, “disposal” protocols should include mechanisms to redistribute surplus food, particularly fresh produce and other plant-based foods, to public institutions such as schools, hospitals, and prisons.⁵¹ In addition, the “disposal” or redirection of (food) waste, which could be incorporated into the Draft Regulations or related frameworks, could support animal feed. This typically happens through three primary models, including direct sourcing of agricultural by-products for animal feed, industrial upcycling into feed pellets, and insect farming.⁵² Here, we wish to highlight that while the Draft Regulations

⁵⁰ Regulation 4(5)(f) of the Draft Regulations.

⁵¹ Department of Forestry, Fisheries, and the Environment & the Council for Scientific and Industrial Research “Food Waste Prevention & Management: a guideline for South Africa”. Available at: https://www.csir.co.za/sites/default/files/Documents/Food%20waste%20prevention_LANDSCAPE%28EDMS%29

⁵² Greenswitch Hubs: “Pelletising unspoiled, dry food waste into animal feed” (2025). Available at: <https://greenswitch.co.za/2025/04/30/pelletising-unspoiled-dry-food-waste-into-animal-feed/>. See also Ngocobo N “KwaNdaba farmer transforms food waste into farmer wealth” (2025). Available at: <https://www.foodformzansi.co.za/circular-bioeconomy-in-action-in-kwandaba-from-waste-to-wealth/>.

themselves are not intended to provide guidance on these specific issues, they are expected to provide regulatory guidance on the use of public resources across sectors.

III. ENHANCING EVALUATION CRITERIA

Currently, under Chapter Two's General Procurement Requirements, which provides various criteria for evaluation of bids, section 24 states that (1) *subject to subregulations*, (2) *evaluation criteria must include:*

- (i) *cost-effectiveness, taking into account lifecycle costs, value for money, and affordability;*
- (ii) *capability and capacity to deliver, taking into account organisational experience, resources, and performance record;*
- (iii) *functionality and technical requirements, taking into account responsiveness to specifications, innovation, and operational performance;*
- (iv) *criteria prescribed under sections 17(5), 18(6), 19(6) of the Act;*
- (v) *any other qualification criteria included in any code of good practice issued in terms of section 9(1)(b) of the Broad-Based Black Economic Empowerment Act;⁵³ and*
- (vi) *local production and content criteria contemplated in section 20(8) of the Act; and*
 - (b) *may include criteria based on measures –*
 - (i) *pursuant to the institution's development objectives; or*
 - (ii) *contemplated in sections 21 and 22 of the Act. (our emphasis)*

We recommend that, for specific sectors and categories of procurement involving animal “use”, such as public food procurement, the **regulations should mandate higher-welfare standards, procedures and certifications** as evaluation criteria under section 24 (b)(i) “functionality and technical requirements.”⁵⁴ For instance, this could require suppliers to meet minimum (and higher) welfare standards for production methods, such as cage-free eggs and the elimination of sow stalls (among others) from product sourcing, particularly for public food procurement in public facilities. Moreover, the Draft Regulations could incentivise procuring institutions to abide by the highest scientific animal welfare standards where applicable. Given the volume of public food procurement for public institutions, which reaches millions of people in South Africa every day, encouraging higher welfare standards would shift food supply, demand, and consumption patterns to positively support access to food. The criterion should further be weighted and subject to any minimum threshold as

⁵³ Broad-Based Black Economic Empowerment Act 53 of 2003.

⁵⁴ Regulation 24(b)(i) of the Draft Regulations.



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prescribed in the Draft Regulations, including capability and capacity to deliver; functionality and technical; preference, and price, among others.⁵⁵ Suppliers could be further required to meet specific nutritional standards, such as for plant-based foods. We are willing to provide further guidance and examples in respect of these issues should it be useful to the National Treasury.

Regulation 9 of the Draft Regulations makes provision for the Request for Proposals method (“**RFP**”), which is suitable where evaluation is not based primarily on price. Likewise, Regulation 10 provides for a Two-Envelope Procedure where multiple evaluation criteria apply. That procedure allows procuring institutions to assess bids first on non-price criteria and then on price, which makes it especially useful where ethical, welfare, technical or nutritional considerations must be evaluated alongside cost.⁵⁶ These mechanisms therefore already provide a regulatory basis for procurement decisions that go beyond price alone and support the inclusion of higher-welfare and other public-interest standards.⁵⁷

IV. RISK MANAGEMENT AND COMPLIANCE

Under Chapter 3, Infrastructure, Capital Assets, and Goods and Services, Related to Maintenance of Infrastructure or Capital Assets, several aspects of the Draft Regulations offer entry points to strengthen animal protection. Regulation 47 on **Risk management and contingency planning for infrastructure procurement**, (4)(c) identifies “*environmental threats to biodiversity, pollution, and non-compliance with environmental legislation*” as a high-priority risk in infrastructure procurement.⁵⁸

We recommend that this risk category be expanded to explicitly include animal welfare and well-being as a high-priority risk and provide subsequent guidance on mitigation plans in place to prevent harm to animals during construction or implementation phases. For instance, the risk register should include the displacement of wildlife habitats caused by projects such as roads or fencing, recognising harm to *all* sentient beings as a high-priority risk. However, in addition to the risks associated with infrastructure, **we urge the National Treasury to consider this Regulation in light of the broader environmental harms of industrial animal agriculture in relation to the public procurement of food, which pose immediate and long-term threats to the environment, including biodiversity, far greater than those of infrastructure development.** This should account for

⁵⁵ Regulation 25 of the Draft Regulations

⁵⁶ Regulation 9 of the Draft Regulations.

⁵⁷ Regulation 2(a)(1-ii) of the Draft Regulations.

⁵⁸ Regulation 47(4)(c) of the Draft Regulations.

the immediate harm to animals themselves, as well as food safety and potential biosecurity risks, such as the current outbreak of Foot-and-Mouth Disease, which is currently causing detrimental harm to animals, people, and the environment.⁵⁹

V. STAKEHOLDER CONSULTATION

ALRSA strongly supports the inclusion of transparent, accountable, and inclusive public stakeholder consultation processes within the Draft Regulations. Building on the need to expand the current public procurement criteria and mitigate the potential risks and harms associated therein, we support the inclusion of **Stakeholder Consultation**, provided for in Regulation 49 of the Draft Regulations.⁶⁰ We are in agreement with the current framing, which states that this must include consultations that are **inclusive** of affected communities and civil society, **comply with any consultation requirements** in **relevant land-use, environmental, or heritage legislation**, and **include mechanisms for public notice** to civil society and the media, community meetings and stakeholder workshops, and addressing stakeholder concerns.

VI. BROADENING ENVIRONMENTAL AND HERITAGE COMPLIANCE

Regulation 50 of the Draft Regulations expands on environmental and heritage compliance by requiring procuring institutions, prior to advertising a bid, to undertake:

- i) an **environmental impact assessment** under the National Environmental Management Act, 1998 (Act No. 107 of 1998),⁶¹*
- ii) a **heritage impact assessment** under the National Heritage Resources Act, 1999 (Act No. 25 of 1999),⁶²*
- (b) obtain any require **environmental authorisations**; and*
- (c) ensure that the project scope and site layout complies with municipal spatial development frameworks and land use schemes under the Spatial Planning and Land Use Management Act, 2013 (Act No. 16 of 2013).⁶³ (our emphasis)*

⁵⁹ National Department of Agriculture “Foot and Mouth Disease Outbreak Report” (2025). Available at: <https://www.nda.gov.za/images/outbreaks/Foot%20and%20Mouth%20Disease%20Outbreak/Reports/2025/2025-08-31-fmd-technical-report.pdf>.

⁶⁰ Regulation 49 of the Draft Regulations.

⁶¹ National Environmental Management Act No 107 of 1998.

⁶² National Heritage Resources Act No 25 of 1999.

⁶³ Spatial Planning and Land Use Management Act Act No 16 of 2013.



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Further, the Regulation affirms that procuring institutions must ensure that bid documents include: any environmental and heritage compliance obligations, an obligation to mitigate measures and environmental management specifications, a requirement to maintain records of compliance, incidents, mitigation measures and preservation measures, including contractual penalties for non-compliance.⁶⁴ ALRSA commends the National Treasury for this inclusion, and recommends that, as part of the environmental impact assessment (“EIA”) compliance, this requirement be expanded upon to include **mandatory animal well-being/welfare impact assessments** for any procuring activity involving animals – including for food.⁶⁵ In addition, assessments should consider the **cumulative environmental harms of industrial animal production**, such as high greenhouse gas emissions (especially methane) and pollution from animal waste.⁶⁶ Notably, the National Treasury already oversees the Socio-Economic Impact Assessment (“SEIAS”) process, and therefore likely has the infrastructure and capacity to consider broader impact assessments.⁶⁷ Notably, it is the same SEIAS that guided deliberations on the development of the Animal Welfare Bill, currently being drafted by the DoA.⁶⁸

VII. PREFERENTIAL PROCUREMENT

As outlined throughout this Submission, the Draft Regulations, in line with the Constitution and the Act, provide guidance on the objectives of preferential procurement. Which, according to section 17(3) of the Act, as referred to in Part 2, Regulation 56, of the Draft Regulations on the “**Thresholds and conditions for set-asides**” mandate set-aside bids for designated population groups, prioritising Black people, youth, women, people with disabilities, and former military personnel, particularly owners of small enterprises and co-operatives, among others.⁶⁹

The Act also permits **pre-qualification criteria** for tenders in section 18(1), allowing procurement entities to select suppliers that meet specific criteria.⁷⁰ Accordingly, the Draft Regulations at 59 provide

⁶⁴ Regulation 50(2) of the Draft Regulations.

⁶⁵ Regulation 50 of the Draft Regulations. See also, ALRSA: <https://www.animallawreform.org/wp-content/uploads/2026/06/ALRSA-Submission-Flexible-EIA-System.pdf> at 21.

⁶⁶ ALRSA: <https://www.animallawreform.org/wp-content/uploads/2026/03/ALRSA-SAHRC-Submission-February-2026.pdf>.

⁶⁷ Parliamentary Monitoring Group: https://static.pmg.org.za/RNW798-2021-03-24-Annexure_A.pdf

⁶⁸ Ibid.

⁶⁹ Section 17(3) of the Public Procurement Act; Regulation 56 of the Draft Regulations and Annexure A.

⁷⁰ Section 18(1) of the Public Procurement Act.

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additional guidance on this matter that, upon interpretation, could include specific criteria for animal welfare and well-being, nutrition, and sustainability, as outlined throughout this Submission.⁷¹

Furthermore, the Draft Regulations at 63 provide guidance on **feasibility assessments**,⁷² and outline several **minimum subcontracting requirements** at Regulation 64, which we recognise as encouraging large suppliers to engage with local and small-scale suppliers, thereby bolstering local production and promoting more ethical and sustainable production systems.⁷³ Therefore, it is clear that the Draft Regulations provide for broader socio-economic objectives through preferential public procurement. However, we wish to highlight that although the Draft Regulations make several references to the Act, they do not reflect the major emphasis placed on local production, procurement, and content, as emphasised in section 20 of the Act.

Therefore, we recommend that explicit reference be made to the importance of local production, and that the principle of **equity** be central to this section of the Draft Regulations, expanding on the categories of persons to explicitly prioritise local, small-scale, and agroecological farmers and cooperatives, particularly women-led and indigenous producers. Similarly, Regulation 25 of the Draft Regulations is unclear as to whether the various considerations for preferential procurement would form part of both prequalification and evaluation criteria. We submit that greater clarity is needed here to distinguish between prequalification criteria as a mandatory component for submitting bids and/or proposals, or whether this would form part of the evaluation criteria as points for evaluation.⁷⁴

Amending this section to include local production and content as prequalification criteria **would not only facilitate the development of local value chains but also promote the adoption of more ethical and sustainable food production practices** if similar criteria were integrated as prequalification and evaluation criteria where appropriate.⁷⁵

⁷¹ Regulation 59 of the Draft Regulations.

⁷² Regulation 63 of the Draft Regulations.

⁷³ Regulation 64 of the Draft Regulations. See also Leao, Ijatuyi and Goulao, “How Public Procurement Mechanisms Can Be Used as a Tool for Developing Pro-Poor Food Value Chains: From Entry Points to Interventions” (2023) 15(12) 9152 Sustainability 1.

⁷⁴ Regulation 25 of the Draft Regulations.

⁷⁵ FAO, Alliance of Bioversity International and CIAT and Editora da UFRGS, ‘Public food procurement for sustainable food systems and healthy diets—Volume 2’ 1 (2021), p.12. See also Parsons K and Barling D, “What would a transformational approach to food public procurement look like?” (2021) at 6. Available at: <https://researchprofiles.herts.ac.uk/en/publications/what-would-a-transformational-approach-to-food-public-procurement>.

VIII. STRENGTHENING SUSTAINABLE DEVELOPMENT MEASURES

Recognising sustainable development as a component of preferential procurement, Regulation 67 states that “a procuring institution **may** include measures to advance sustainable development that are consistent with nationally and internationally recognised principles and standards -

- (a) prioritising **environmental, social and economic sustainability** in procurement strategy and decisions;
 - (b) **evaluating the environmental and social risks** and opportunities in procurement categories and supplier practices in its procurement strategies;
 - (c) requiring suppliers to meet sustainability standards as evaluation criteria in bids including –
 - (i) **environmental certification**;
 - (ii) **waste prevention or mitigation**;
 - (iii) the use of **renewable resources**;
 - (iv) **carbon reduction and energy efficiency measures**;
 - (v) job creation and fair labour practices;
 - (d) Including sustainability obligations and performance indicators in contracts;
 - (e) Specifying procurement requirements that favour sustainable development goals.⁷⁶
- (our emphasis)

We strongly support the inclusion of this section in the Draft Regulations. However, we recommend the National Treasury change the voluntary requirement from “**may**” to “**must**”. Moreover, this section could be strengthened and improved by **explicitly listing animal protection as a component of environmental sustainability and risks**, in line with South African jurisprudence discussed earlier in this Submission that recognises animal protection as part of environmental rights enshrined under section 24 of the Constitution.⁷⁷ At the very least, it could mandate that procuring institutions give preferential treatment to bidders that favour the Sustainable Development Goals (“SDGs”).

This could **incentivise far-reaching reforms across the food system**, including a just transition to more ethical, sustainable, and compassionate production models.⁷⁸ This would further reduce the

⁷⁶ Regulation 67 of the Draft Regulations.

⁷⁷ *National Society for the Prevention of Cruelty to Animals v Minister of Justice and Constitutional Development and Another* (CCT1/16) [2016] ZACC 46; 2017 (1) SACR 284 (CC); 2017 (4) BCLR 517 (CC) (8 December 2016).

⁷⁸ ALRSA: <https://www.animallawreform.org/wp-content/uploads/2026/03/ALRSA-SAHRC-Submission-February-2026.pdf>.



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environmental footprint of food production, including the massive water and land use required for industrial animal agriculture.⁷⁹ Furthermore, by favouring diversified, agroecological food systems, the state can indirectly reduce the risks of zoonotic diseases and antimicrobial resistance associated with intensive factory farming, thus supporting the realisation of sustainable development objectives at national and global levels.⁸⁰

IX. PROCUREMENT INTEGRITY AND DEBARMENT

The Draft Regulations also include Codes of Conduct at Regulation 76, with reference to several annexures where applicable.⁸¹ These codes require officials and suppliers **to abide by the highest standards of integrity and ethics**. From a rights-based economic perspective, these codes should include an ethical obligation to prevent unnecessary cruelty and promote the well-being of *all* sentient beings in all procurement activities. In particular, Annexure 1 on the **Bid Evaluation Matrix** could be amended to reflect broad-based social, economic, and environmental objectives as indicated throughout this Submission. Similarly, Annexure 2 on the **Minimum Set Aside Thresholds**, which provides guidance on the preferential procurement criteria established in section 17(3) for categories of persons in relation to the percentage of annual procurement budgets for procuring institutions, could put greater emphasis on local production, as outlined above. In its current form, it does not explicitly mention or refer to local content requirements.

Lastly, we wish to echo **Annexures 3, 4, and 5 of the Codes of Conduct**, which rightly emphasise adherence to the Constitution, other laws, and international obligations, including the promotion of **efficient, economical, and effective** use of resources in procurement. Further, they emphasise that any person involved in procurement *must* conduct themselves with the highest standards of **integrity and ethics** in all procurement activities.

CONCLUDING REMARKS

The Draft Regulations in their current form provide a strong foundation for general public procurement processes. However, there is room to ensure higher standards of **equity, inclusivity, transparency, and accountability** across South Africa's food system supply chains. Therefore, while we appreciate that the Draft Regulations would have limited application beyond the public

⁷⁹ Ibid.

⁸⁰ Ibid.

⁸¹ Regulation 76 of the Draft Regulations.



procurement framework, we believe that the National Treasury must take full advantage of the opportunities to advance broader social development objectives as outlined in this Submission. Moreover, consideration must be given to how the state, through its public procurement processes, requirements, and standards, can set examples of more ethical and sustainable practices.

We appreciate the opportunity to contribute to this process and would welcome any further engagement with the National Treasury. We look forward to receiving a response to our Submission and are available to engage on any queries, comments, or concerns in respect of this document.

Thank you for considering our Submission.

Please do not hesitate to reach out should you have any questions.