

The Licensed Animal Trainers Association

St Ledger Farm, Lion Park Rd, Camperdown, KZN
POSTAL: PO Box 36, Umlaas Road 3730
Board Member Contact: 082 449 1130 (Jim Stockley)
082 925 3023 (Shannon Hoffman) 082 825 0380 (Jenny Brooker)
Mobile: 082 881 3870 (Luke Cornell) Fax: 086 617 3372
General email: jim@stockley.co.za

for the attention of the Mr Desmond Golding,
Head of Department, Dept of Economic Development,
Tourism and Environmental Affairs
270 Jabu Ndlovu Street
PIETERMARITZBURG, 3201

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to: ndlovuz@kznded.gov.za
cc: nseles@kznded.gov.za
cc: Jeremy Ridl <jaridl55@gmail.com>
cc: Carol Coetzee (CEO, KZN Film Commission) <CarolC@kwazulunatafilm.co.za>
cc: Antoinette Monty (Durban Film Office) <Antoinette.Monty@durban.gov.za>
cc: Bobby Amm (Commercial Producers Association) <bobby@cpasa.tv>

Dear Sir,

KWAZULU-NATAL, ENVIRONMENTAL, BIODIVERSITY, AND PROTECTED AREAS MANAGEMENT BILL, 2014

The Licensed Animal Trainers Association (LATA) has a membership of 75 individual licenced animal trainers and 36 corporate members whose activities are licences under the Performing Animals Protection Act (1935).

LATA was recognised as having standing as an intervening party in the Constitutional Court Case NSPCA vs Minister Of Agriculture, Forestry & Fisheries [Case CCT 120/12 [2013] ZACC 26]
LATA is an association not for gain, formed to represent the business and legal interests of South African animal trainers and their animals.

I have had a chance to read through the draft KWAZULU-NATAL, ENVIRONMENTAL, BIODIVERSITY AND PROTECTED AREAS MANAGEMENT BILL, 2014 and am disturbed by one particular paragraph that would have devastating consequences for the keeping and use of trained animals in KZN, by anyone, ever again.

It is at 44(d) under 'General Prohibition' which reads:

"No person may use as a working animal any animal other than an animal from a species exempted in Schedule 9"

The only animals listed in schedule 9 are horse, dog, cat, goat, pig, rabbit, cattle, llama etc. Ezemvelo has no mandate to regulate these animals and they shouldn't even be mentioned in this Bill. This clause is aimed at every animal EXCEPT domestic livestock.

"working animal" is not defined in the KZN ENVIRONMENTAL, BIODIVERSITY & PROTECTED AREAS MANAGEMENT BILL, 2014 but I recall the Ezemvelo document that started all the trouble back in August 2006 - MANAGEMENT OF "EX SITU" WILD ANIMALS IN KWAZULU-NATAL .

That infamous document had a definition of 'working animal' :

"Working animals – animals that are domesticated, tamed and trained and put to work in the tourism industry (e.g. elephant safaris), to perform in the film/advertising industry or in a circus, or to do physical labour and/or are put on display for entertainment."

Is this what the drafters had in mind when they wrote their 'General Prohibition' at 44 (d) ? That paragraph would seem to rule out the use of any other animal (lion, tiger, cheetah, elephant, rhino, giraffe, zebra, antelope, primate etc) for film or circus and cost the province of KZN dearly.

Unlike other restricted activities, 44(d) is a general prohibition with no hope of a permit.

Working Animals in the Film Industry:

The Film Industry in South Africa is estimated to be valued at R6 billion with an average growth rate of 15% per annum. The National and Provincial development plans have identified the arts sectors (of which the film sector is a sub-sector) as an important sector requiring specific support and interventions not only because of its economic benefits but also because of the social cohesion the sector brings about in our country.

Research shows that for every Rand spent by a filmmaker in a production, the local economy benefits 2.9 times for every Rand due to the nature of a production where there are many underlying services and companies that benefit from productions.

A 2008 study commissioned by the Durban Film Office and the Department of Economic Development KwaZulu-Natal, called 'KZN Film Industry Review' presented data that underpinned the economic value of using trained animals in films in KZN. An economic impact assessment of the local production services industry calculated the gross turnover of KZN service productions in 2006 at R237m, with total added value estimated at R334m. It was estimated that 32% of this turnover was generated as a direct result of international and local productions that required trained animals, domestic and wild as part of the storyline.

From 2008 to 2014 that number dropped down to ZERO. If you look at the attached file, (1 attached.pdf), it illustrates the number of days animals from Stockley Trained Animals/Boswell Circus were used on film in KZN.

In nearly all of these projects, whilst animals might have only been called for 1 or 2 called days, the pre-production, total film shoot and post-production may have spanned many more days or weeks. You can see that by 2014 no major projects using trained animals were filmed in KZN, all went to either Cape Town or Gauteng because of permit issues and Ezemvelo policies.

Ezemvelo policy has been challenged, changed, blocked, re-instated and morphed many times but the core aim of Ezemvelo hasn't changed since Dr Harris issued the MANAGEMENT OF "EX SITU" WILD ANIMALS IN KWAZULU-NATAL in 2006 when she wrote:

" The use of and keeping in captivity of wild animals for pets or entertainment or as performing or working animals will be prevented. Any live capture of wild animals for these purposes will be prohibited. Legitimate historical situations will be phased out over a reasonable period."

"Working animals - animals that are domesticated, tamed and trained and put to work in the tourism industry (e.g. elephant safaris), to perform in the film/advertising industry or in a circus, or to do physical labour and/or are put on display for entertainment."

The attitude of Ezemvelo has been outright hostile to the keeping, breeding and training of any animals for commercial purposes since 2006. All policy documents issued by Ezemvelo since that time have either tried to prohibit these practices or to make them so complicated and expensive as to be impractical. The provisions of this new Biodiversity Bill and the implementation of registered 'commercial exhibition facilities' offered great hope and might still rectify that problem, provided reasonable conditions are enforced and Ezemvelo's anti-business, animal-rights based policies are dropped. The massive investment required of animal owners cannot be jeopardised annually by registration and permit renewals being issued at the whim of some Ezemvelo DCO following a personal agenda.

I would argue that most Ezemvelo DCOs joined that service to work in conservation with wild animals in their free-roaming natural habitat and that many of Ezemvelo's employees are totally opposed to the very idea of keeping animals in captivity, breeding them and the commercial use of animals. They bring this bias with them when considering our permits. We should be regulated by Agriculture not Conservation Services?

Permits:

Current Ezemvelo permit procedures take up to six weeks and are aimed towards those who want to introduce, catch, move wild game animals onto a property. If we want to take one of our trained circus elephants to Durban for 5 hours to walk down Smith St for a TV commercial or feature film, our application seems to be treated as though we want to introduce wild elephants to live permanently in Durban.

Six weeks is far too long in the film industry. Many advertising commercials are bid between 3 different production companies, each proposing a different location. Often the job is not awarded until 10 days before shooting, often the exact final location won't be known until an International Director has arrived in the Province. Under current procedures I'm expected to apply for a permit to take a specific animal (one that we own and is already on permit) to a specific location. If that location changes, even if it changes to the field across the road, we are expected to apply for a new permit for the new location but wait another six weeks?? Impossible.

Gauteng, W.Cape and North-West all issue permits for animals used for exhibition (films and circus) within one week. Some actually issue same day. In W.Cape one can pay an extra fee to have a permit expedited and issued/declined within 3 days guaranteed.

These are working animals we're talking about. They are already on permit in their own home provinces. In these days of cellphone, sms, whatsapp, email etc it should be of little concern to Ezemvelo if I'm working in this field or the one across the road?

The working lions from Johannesburg Lion Park have an open permit, valid for 12 months, allowing multiple exits/re-entry as long as they have a permit from the Province they are going to. So to film in Cape Town the Johannesburg Lion Park can sort documentation within 3 days (usually same day) BUT to bring the same lion to KZN takes six weeks or more. Bringing a primate of any kind is so difficult that we no longer are able to keep trained primates and outside suppliers won't even bother to apply to come to KZN. This has cost KZN a great deal of money and driven several feature films (and the employment and revenue they create) to re-locate to W Cape or Gauteng.

Animal trainers have to hold a trainers/exhibitors licence under the Performing Animal Protection Act. That Act is currently being amended but I don't see why PAPA Licenced trainers should need very complicated paperwork to take an animal (which they already have on permit) to a film location for 1 or 2 days. In America working animals typically don't need a permit as long as they are not away from their registered home for more than 3 days.

Conditions on current Ezemvelo permits are onerous and sometimes there are as many as 60 conditions on a permit (Designed to macro-manage the animal owner and prohibit the use of trained animals by making their use difficult and complicated?)

Compare the conditions on the W Cape permit issued to Luke Cornell, same day while he waited for it (2 attached.pdf) to the document that took Ezemvelo more than six weeks to issue and almost cost a production company an entire movie (3 attached.pdf)

I also attach an example of a Free State Circus permit (4 attached.pdf) that was issued within a week and allows Boswell's Circus to travel around the Free State without giving very specific details of their exact location as would be required by Ezemvelo. In the past few years, North-West, Mpumalanga and Limpopo have all issued permits same day by return of fax (with original following by post).

The keeping, breeding and training of animals (including primates) for film/exhibition should be allowed at registered KZN commercial exhibition centres. Also the temporary import and re-export of working animals from facilities and commercial exhibition centres in other provinces. All commercial exhibition centres need to comply with animal welfare legislation but not with onerous and ever changing 'norms & standards' conceived by biased Ezemvelo employees who are fundamentally opposed to the commercial use of animals, as has been the case in the recent past.

Animals on permit to KZN commercial exhibition centres should be able to leave their premises and travel at short notices for film or exhibition work. Permits should be issued quickly and for specific animals and specific periods but not for specific locations.

Animals on permit in other provinces should be able to enter KZN at short notices for film or exhibition work. Provision should be made to pay a 'fast track' fee for these permits if necessary. Permits should be issued quickly and for specific animals and specific periods but not for specific locations. Permit conditions should be minimal provided it is attended by a PAPA Licensed animal trainer who complies with animal welfare legislation and that the animal leaves KZN and returns to its home province at the end of the film project.

We look forward to the day that Ezemvelo can follow the example of the Northern Cape and put the following at the bottom of every permit they send out

Dear valued client, We strive to increase the satisfaction of our partners by providing friendly, efficient service and recognizing the contributions they make in the conservation and management of protected species. A lasting legacy of wild animals and plants for future generations is only possible through the mutual stewardship that results when partners work together.

Please take a minute of your time and respond to this email indicating your level of satisfaction regarding our service delivery; 5 - Excellent, 4 - Very Good, 3 - Good, 2 - Satisfactory, 1 - Poor

Kind Regards
Northern Cape Permit Section

Regarding various other issues:

At **Definition 72**, I'm very glad to see mention of JURISTIC PERSONS. This is an issue I've fought often with the permit office. For various reasons it is often desirable to have an animal or a facility registered in the name of a company rather than an individual (Angelo Lambiris' problem with leaving his collection to a relative could be solved if the collection was held by a Company?). Sometimes a company spends a fortune buying an animal or building a facility, only to have a permit issued in the name of a natural person (a servant of the company). Registration application forms and permit application forms should reflect this.

At para **"5. General Powers of Ezemvelo KZN Wildlife (1.0)** develop, adopt and implement policies, norms and standards and guidelines in relation to any of its powers or functions" - does that open the door to just rubber-stamp all of Dr Harris' animal rights inspired nonsense again?

At **"CHAPTER 7: REGISTRATION, PERMITS AND AUTHORISATIONS"** there is a contradiction at item 47 1(e) has "Private keeping facility;" as being for "commercial purposes" (which I think is correct?) but the definitions (78) says "non-commercial purposes" (which I think is wrong as most private keeping facilities have some element of commercialism in them from time to time?). If commercialism is such an issue for them, the drafters might borrow from CITES and define "a Private keeping facility" as being not PRIMARILY for commercial purposes?

At **44 (e)** "No person may intentionally inflict cruelty on any animal by any means, method or device whatsoever". Why is it even necessary to have this clause other than to reveal the biased attitude of the drafters of this document and Ezemvelo against keepers and trainers of captive animals? The document presumes that cruelty is common place amongst animal trainers and ignores the fact that cruelty is a criminal offence under various other animal welfare statutes? Further, a PAPA licenced trainer, if found guilty of such conduct, would lose their PAPA licence and, with it, their reputation, livelihood and investment. Strike this clause.

At **47.4 (b)** is problematic? "No person may keep or breed any animals in captivity for the purpose of commercial gain through genetic manipulation to create novel traits or to accentuate existing phenotypic traits."

How do they define “any animals”? This has huge economic implications and knocks out all the white lions, white tigers, exotic birds (parrots etc), WRSA and their Golden wildebeest etc etc – It makes no allowances for economic realities. By all means prevent these colour-morphs being released into National or Provincial reserves but, with proper safeguards, what commercial breeders produce for profit should be no business of Ezemvelo

All this instant canceling of permits and withdrawal of registrations on the whim of some DCO is very old school/Jean Harris stuff? No procedure for warning or chance to rectify?

At **52.1(a)** we have an unfortunate typo“ the landowner breaches any of the terms or conditions specified in the registration certificate, game farm **hurting** permit”

At **61 (2a)** our livelihoods and investments (with huge financial ramifications) are again placed at the mercy and good grace of some DCO making arbitrary decisions on a personal whim?

At **63** – provision must be made for juristic persons

At **63(5c)** – an undefined 'interest of conservation' ? Who decides? re-introduces the old “moving goalposts” once again.

Finally, we would like repeat and support the excellent, well considered and very pertinent comments received from our member Mr Arno Naude as they reflect most of the concerns discussed by our membership

Comments on the KWAZULU-NATAL ENVIRONMENTAL, BIODIVERSITY AND PROTECTED AREAS MANAGEMENT BILL, 2014.

The KZN Nature environment conservation bill is supposed to concern itself with the conservation of biodiversity within the province of KwaZulu Natal in conjunction with the conservation of our national heritage.

The proposed bill is far too complicated to be effective, concerns itself with issues which have nothing to do with conservation and indirectly is either going to cause many job losses and loss of income or general discord. This will be coupled with decreased taxes and increased subsidies sought by these same affected people, or create an underground animal trade which will rival the drug trade, a possible mass release of hundreds of thousands of alien species, and all while making the citizens so antagonistic towards conservation authorities that the whole idea of a partnership with the public will have gone down the drain.

This bill is also legally flawed to the point that so many future court cases will be thrown out and claims for compensation will quite possibly bankrupt the department. However hope is not lost and we can make this work.

Our biggest problem is the schedules and the portions of the act that regulate them. To try and recreate national legislation is not possible and not binding. To make an act workable and just, the law should tell each citizen what they are NOT allowed to do. They do not need permission to do anything as we are all free and equal under the constitution. It is up to the state to guide us and tell us what is not acceptable. This can vary from not killing others to not driving too fast right down to not catching fish under a certain size. There are scientific, moral or legal reasons for these decisions and these can be defended in a court of law. Everybody accepts that. This proposed bill goes overboard in trying to regulate the lives of people who are supposed to be free and equal. The Biodiversity act clearly states that “In the event of any conflict between

a section of this Act and- (b) provincial legislation, the conflict must be resolved in terms of section 146 of the Constitution”. If one reads section 146 you see that getting this act passed in its current form without public participation will thus take a long time which we do not have.

The Minister of Environmental Affairs spent 8 years with the best scientific minds available and with many hours and days of public participation drawing up a list of alien species which are considered dangerous to biodiversity in South Africa. Members of the KZN conservation community were invited and contributed to these discussions. Consensus was reached and the regulations to the Biodiversity act were published in August 2014. Excluding these listed species, why then should the citizens of KZN be told which pets they can own, where in other provinces they are free to own what they like? This would be seen as discriminatory by its citizens as if they are subject to laws other South Africans are not concerned with and they cannot have the same jobs or earn the same incomes.

By implication citizens of South Africa all have to abide by the same laws. Why should this bill now suddenly tell the citizens of KZN that they are inferior to the rest of the country and may only keep certain pets and other pets which they have been keeping and breeding for decades are now prohibited? If there was a scientific reason for this surely the Minister of Environmental Affairs should have been informed and these species added to a national list a few months ago. If that was not done then it would have meant that the KZN scientists did not do their job and are incompetent or withheld a potential danger for the country! Either way heads should roll if this is the truth. Why are they now listing species which they should have been concerned about when given the opportunity? The national list gets reviewed every six months so these could be added at any time. We do however have a very novel and workable solution for this problem further down.

A glaring example of what will be considered as discrimination is the listing of all exotic tarantulas and scorpions as “invasive”. This was discussed at national level and it was agreed that without scientific proof in the form of environmental risk assessments the listing of all these arachnids could not be scientifically justified and would be investigated.

A term which is thrown around with gay abandon in these cases is the “precautionary principle” as if this is the excuse which can be used when no reason can be found to prohibit a species. Now the international definition is “The Precautionary Principle is a strategy to cope with possible risks where scientific understanding is yet incomplete”.

The Precautionary Principle is defined as follows:

When human activities may lead to morally unacceptable harm that is scientifically plausible but uncertain, actions shall be taken to avoid or diminish that harm. Morally unacceptable harm refers to harm to humans or the environment that is;

threatening to human life or health, or

serious and effectively irreversible, or

inequitable to present or future generations, or

imposed without adequate consideration of the human rights of those affected.

The judgement of plausibility should be grounded in scientific analysis. Analysis should be ongoing so that chosen actions are subject to review. Uncertainty may apply to, but need not be limited to, causality or the bounds of the possible harm. Actions are interventions that are undertaken before harm occurs that seek to avoid or diminish the harm. Actions should be chosen that are proportional to the seriousness of the potential harm, with consideration of their positive and negative consequences, and with an assessment of the moral implications of both action and inaction. The choice of action should be the result of a participatory process.

This does not seem to be applicable in the proposed legislation or its path directly after publication as no research or public participation is envisaged. To say “ we just don’t know and cannot take the chance” is an excuse which has no moral, legislative or scientific basis and incompetence should not be embraced as a reason for any decisions taken which could seriously detrimentally affect the lives of law abiding citizens.

Tarantulas for example are a popular pet worldwide and millions are kept around the world. Only one species has ever escaped and become established and the area they are living in has not expanded in size (a single orange grove in Florida) in over 20 years. To list them all as invasive and destroy a number of livelihoods is not justified but will kill the livelihood of a number of people.

Certain animals have been declared as Threatened or Protected Species (TOPS) by the same minister and included in the Biodiversity act so that the country’s resources can be regulated for the benefit of all its citizens. Why then are these species listed and regulated in the proposed provincial legislation? Rhino for example are protected internationally by the Convention In the Trade in Endangered Species (CITES) of which South Africa is a signatory. They are also protected by TOPS regulations nationally. What extra protection can KZN give them which has not already been agreed upon the national and international experts? Why are they listed in the proposed act if that power to make any changes to TOPS regulations has not been conferred on the province? The law is fairly clear about which species provincial legislation can be enacted.

If Gaboon vipers which only occur in a small area of Zululand and are endemic to KZN, can be on the TOPS list why should green mambas and dwarf chameleons which occur along almost the entire KZN coast and are also endemic to KZN, not be listed there but listed as protected provincially if they are that rare or need extra special protection. Did someone not do their job again? There are numerous examples of this phenomenon.

Just to show how much of a cut and paste job was done if you hover over the fish list with your mouse on the pdf “schedule” it tells you that this was just copied from <http://www.fishbase.org>. Can this really be justified as ‘applying their minds’ to a situation.

Listing all the species of an entire genus looks like an attempt to confuse and justify their work. Why not just list the genus and reduce the confusion?

Scientific and common names in the schedules do not correspond in numerous cases which shows a lack of knowledge by the authors. This will be pointed out specifically later on again.

Conservation does not have jurisdiction over domestic agricultural animals. Why are cats, dogs, cattle and goats even listed in the proposed act?

Expecting every person who has a bird aviary in the garden or a fishpond with fish in it to register as a “private facility” just because they keep and breed animals is beyond comprehension. If they intend to sell the Brown house snake which they bred they now have to register as a “wildlife trader”. I know it will bring in money for the province and create jobs for people to do inspections and issue permits but this is bordering on becoming a farce. Just like SARS have minimum levels which they care about, possibly the province should look at businesses that turn over R1 Million or more being subject to these laws, as well as any other businesses that have a smaller turnover but have registered for VAT. Some school kid trying to make pocket money should not have to register.

The pet industry in KZN is worth many millions of Rands and expecting each pet shop to register directly with KZN wildlife is not going to achieve much. The enforcement officials do inspections and prosecute where alien invasive or protected species are involved but for them to care about welfare of puppies and hamsters is not really conservation by any stretch of the imagination. There is a national body called the South African Pet Traders Association (SAPTA) which has a code of conduct and ethic rules which can take over that portion of the administration.

If pet shops belong to this association and want to trade in indigenous fish, birds, reptiles etc as well as listed pet species then this body can co-ordinate the applications and forward these annually to ensure that all standards have been met and consistency is achieved. Shops which (rightly) do not wish to join this association can send their permit applications directly as well, although this might take longer to have their details vetted etc.

Any shop that breaks the law can be suspended and if their membership of SAPTA is denied because of repeated infringements then KZN will have to withdraw their permit to trade in animals and they can only sell products but no livestock. This will make administration so much easier for the province whilst still getting the money for the permits.

Animal welfare is already covered by other laws (Performing Animals Protection Act, Animal Protection Act etc) and need not be duplicated in this act.

The part that says “General prohibitions, No person may use as a working animal any animal other than an animal from a species exempted in Schedule 9” needs to be removed for people who have a license in accordance with the Performing Animal Protection Act which is issued by a magistrate for animals used in the film industry. Film makers like Anant Singh use KZN as a base and recently even Sean Penn and Charleze Theron filmed in KZN using wildlife. Animals are routinely used as “working animals” for this industry which have their own rules and regulations. To throw away the millions of Rands generated by this industry would not make any fiscal sense if these same film makers just move to Gauteng and the Western Cape where these animals would be legal to use. In fact possibly even KZN animals will be trucked across the border to “work” in another province. Everyone being equal in the eyes of the law springs to mind again.

The enforcement officials should be able to identify every plant and animal listed in the act and are now being expected to know about the husbandry of every exotic pet animal as well. They will also be expected to identify every pet fish, pet bird and pet reptile that they need to inspect? This is not possible and people will pull the wool over their eyes. If the law cannot be enforced then why bother enacting it?

Recently conservation officials were photographed either releasing or attempting to release listed alien invasive species after incorrectly identifying them as Natal rock pythons. Proof of this can be forwarded however these comments are not intended to humiliate officials from the department. We do understand that they cannot be expected to know every plant and animal in the province to now burden them with the exotic species as well is just looking for trouble.

To list “acceptable pets” is actually contrary to national legislation. If the animal, fish bird etc is not listed as potentially invasive then why should it not be allowed to be traded with. The proposed list suggests that permits are required for species not specifically listed. This would thus include hamsters, gerbils, ferrets, sugar gliders etc which are common household pets. The list is so poorly drawn up that Golden hamsters scientific name is attributed to the Alpaca which a animal the size of a small camel and the scientific name for Cattle is the name for a Guinea pig which is not quite the same thing. Expecting someone to pay for a permit (R100) to keep a Dwarf hamster worth R30 will never make sense. In future this could lead to either non-compliance or the animals will be released to die a slow death in the wild. If many thousands are released that could become an ecological disaster.

The question is also raised what is going to happen to the hundreds of thousands of proposed “prohibited” animals which are currently legally owned and loved by thousands of people in the province. If they are going to be euthanased then no sane person is going to hand over their pet parrot or lizard to have it killed. Not only is there going to be a massive backlash but a vet is not allowed to kill an animal unless it is in the best interest of that animal or they can get struck off the roll. This legislation will never be considered “in the best interest of the animal”. Who will be killing all these animals? Just a few minutes on a show like Carte Blanche of a little girl crying while her pet which she obtained legally as a Christmas present is being killed for no proper reason and the backlash will not be preventable. E-toll defiance will become a distant memory by comparison.

Currently permits can take from six weeks up to a year to be issued (personal observation) and to now expect just the exotic reptiles to be permitted would entail issuing in excess of one hundred thousand permits per year. The increase in officers required to issue permits will be mind blowing. Taking into consideration that there are only 110 working days per year that means that the permit office would have to issue 125 permits per hour each and every day just for reptiles and that does not include all the mammals, birds, fish, insects, amphibians along with normal hunting, import and export permits. Somehow I cannot see this working. How are they supposed to check details and do inspections and get scientific advice etc in that short time just to ensure the permits are issued before the expiry date has passed?

The current “Ezemvelo/Parks Board” legislation (as it is known colloquially) provides for permits for every exotic mammal, excluding a chinchilla and domesticated mammals. Not a SINGLE permit has been issued since that act was passed and not a single prosecution has taken place because the officials have admitted that they do not have the capacity so they just ignore that legislation. This act could end up going the same way.

The big question is “in what way does issuing permits for pet animals which are not invasive assist in achieving the mandate of nature conservation?”

Each year a reptile and exotic pet expo is held in Durban. This draws people from other provinces and it has over a thousand people coming to the expo over one weekend who buy pets and products to take home. With the proposed legislation this will no longer be possible and the accommodation, food and beverages and other expenses will be lost to the province.

The money the vendors make with which they buy goods and products in their home province of KZN will also be lost so besides the loss in taxable income they have less to spend which affects the KZN economy. That is just one example of the many losses KZN will face without any improvement to environmental conservation being achieved.

Not being able to breed “morphs” because the act states that “No person may keep or breed any animals in captivity for the purpose of commercial gain through genetic manipulation to create novel traits or to accentuate existing phenotypic traits” makes no sense. Mutations are what drives many of the pet species and that is where the big money lies. For example a standard wild type ball python will sell for R500. A specific colour and pattern mutation can cost in excess of R100 000-00 each. The same applies to birds, fish and mammals. As long as that animal is not going to be released in pristine conservation areas why should this matter? Whether there is a white blesbuck or an Nguni cow on the property why should the one species be considered a conservation threat and the other not? Both are bred for specific traits. Any mutation should theoretically have less chance of survival if it escapes into a pristine natural area as the predators or disease will take it out first. Legislating against an entire industry for no sound ecological, conservation reason makes no sense. Even breeding a white laboratory mouse would not be possible.

The release of these animals into pristine conservation areas should however still be a crime and in the case of exotics is already covered.

We would like to suggest a new concept in South African Nature Conservation legislation. This is based on legislation from Europe and the USA and should be acceptable here too.

We acknowledge that some animals which are not on the alien invasive list because they don't have that potential are still undesirable as household pets. This includes inter alia tigers, bears, large primates, deadly venomous snakes etc. A permitted tiger will kill the neighbour's dog (or the neighbour) just as easily as one without a permit. A permit system will thus not work. However to justify any restrictions on these we have found a solution. The **owner** needs to be addressed and regulated.

We would thus like to suggest the following. Persons are **licensed** to be able to keep certain species or classes of “Alien animal species” listed in the act. Obviously any potentially invasive species listed in terms of section 56 of the National Environmental Management: Biodiversity Act, 2004 will be excluded. This would mean that the individual has to be held accountable for looking after the animals in his care and non-compliance would mean the loss of this privilege. This also reduces the burden on the Department. Outside organisations can also be seconded to assist with initial vetting and recommendations. In this way NGO's would be tasked with the day to day running of this system and allow the Department to focus on far more pressing and conservation orientated matters.

To qualify for a license the person would have to undergo specialised training and be taught amongst other the husbandry, environmental enrichment, nutrition and medical supervision of the said class of animals besides the legal ramifications of this act and also the license system. On successful completion of the training the person may then use this certificate to apply for a license which is renewable every 3 or even 5 years. The certificate issued would have to be valid for a prescribed period to still be determined.

The training will have to be presented by the various recognised associations (ARK, HAA, AIA etc) in the province or even from outside the province as well as possibly PAZZAB or a university veterinary faculty.

Those wanting to present these courses would have to be vetted in some way or another to obtain accreditation through the Board.

The facility of the license holder would have to conform to certain minimum standards which can be discussed and agreed upon after consultation. For example a dedicated locked room for the snakes or a steel cage with double doors and electric fencing for a large cat or bird of prey will be required.

The problem is what to do with the members of the public who already legally own the species that are going to be restricted? Euthanasia is not an option even if provision is made for monetary compensation which will definitely bankrupt the board.

Those members of the public that do not wish to undergo training and become licensed can then still be issued with **permits** for the animals they already own but with certain permit conditions including possibly the sterilisation of the animals, very strict cage requirements, restrictions on the number and possibly the sexes of animals they may own, no trade may take place and all transport is restricted to veterinary care in approved crates or containers. Over time these animals will die off and cannot be replaced and the problem goes away. They can also be offered the opportunity of exporting these animals to another province or out of the country.

Schedule 10 will list the classes of Restricted Alien Animals. Those members of the public who undergo approved training courses will be allowed to keep, breed and trade in these animals with the requirement that they keep a detailed register and only sell to other license holders except where permits have been issued for non license holders for sterilised animals and then only after the permit has been issued. This register must be inspected a minimum of once a year by an official or any delegated person approved by the MEC/ board. Non-compliance regarding the register can lead to the license being revoked.

In the event that the animal cannot be sterilised then only one sex may be kept by non licensed members of the public. If any of these animals warrant special attention then they must (as far as possible) be identified with leg bands, microchips or photographs so that a register of each specific animal can be kept.

Schedule 10 Restricted Alien Animal species.

All exotic mammals, birds, reptiles and amphibians alien to the Republic of South Africa, excluding those listed as pet species (Schedule 9) and those listed in terms of section 67(1) of the National Environmental Management: Biodiversity Act, 2004 and including these listed below.

Alien animal species

All non human primates (Primata) larger than 10 kilogrammes

All Whales and Dolphins (Cetacea)

All Rhino (Genus: Diceros)

All Tapirs (Genus: Tapirus)

All Bears (Ursidae)

Elephants (Elephantidae)

Hippos and pygmy hippos

Bison, Buffalos, Water buffalo (Bos)

Giraffe and okapis (Giraffidae)

Wild cats (Felidae) (over 20 Kilogrammes)

Dugongs and manatees (Sirenia)
Mongoose and Civets (Viverridae)
Seals and walruses (Pinnipeda)
Wild dogs, Hyenas, wolves, foxes and coyotes. (Canidae)
Weasels, mink and ferrets. (Mustelidae)
All rabbits and hares (Lagomorpha)
All bats
All Marsupials larger than 10 Kilogrammes
All Monotremata (platypus spiny anteaters etc)
All Rodentia excluding hamsters, squirrels, chinchillas and other listed pet species.
Sloths (Pilosa)
Shrews and moles (Soricomorpha and Talpidae)
All birds of prey (Falconiformes) excluding owls
Cassowary, Rheas and all ratites excluding emus. (Struthioniformes)
All seabirds, gulls, penguins, petrels, albatrosses etc
All wild pigs excluding pot bellied pigs. (Suidae)
All lethally venomous front fanged snakes (Elapidae, Hydrophidae and Viperidae) excluding those listed as pet species
All crocodylians (Crocodylia) over 3.0 metres in length
All tortoises, turtles and terrapins (Chelonia)
All amphibians

Schedule 9

Unrestricted alien pet species

All species not listed in Schedule 10 including but not restricted to:

Hamsters (including the dwarf hamster)
Chinchilla
Squirrels
Tenrecs
Dwarf African hedgehogs
Sugar gliders
Squirrel monkeys, marmosets and Tamarins (under 10 Kilogrammes)
Armadillos and Anteaters
Camels, alpacas, guanaco, vicunas and lamas.

Exotic Pangolins

Wild horses

Exotic deer, antelope and non domesticated sheep and goats

Kikajous, raccoons and coatis.

Red pandas

Small wild cats under 20 kilogrammes in weight.

etc

Reptiles

All reptiles including but not restricted to

All non-lethal snakes and lizards including the genera Snakes of the genera Atheris, Proatheris, Bothriechis, Sistrurus, Tropidolaemus, Trimeresurus, Cryptelytrops, Parias, Popeia, Viridovipera and Aspidelaps.

African species included are Bitis rhinoceros and Bitis nasicornis as well as Naja nigricinta, Naja nigricollis and Naja pallida.

All small crocodylians (under 3 metres)

All lizards - but excluding those listed as TOPS animals and those listed as Restricted Alien animals under Schedule 10 and those listed in terms of section 67(1) of the National Environmental Management: Biodiversity Act, 2004.

Birds

All birds including but not restricted to

Cage birds,

Parrots,

Song birds

Pigeons and doves and

Exotic fowls, etc

but excluding those listed under Restricted alien animals under Schedule 9 and those listed in terms of section 67(1) of the National Environmental Management: Biodiversity Act, 2004

Fish

All aquatic fauna including but not restricted to

Tropical fish

Marine fish

Cold water fish

Pond fish, and

Corals and aquatic invertebrates, etc

but excluding all fish species and aquatic invertebrates listed in terms of section 56 of the National Environmental Management: Biodiversity Act, 2004.

Invertebrates

All invertebrates including but not restricted to

Tarantulas

Scorpions

Centipedes

Meal worms

Silkworms

Crickets, and

Cockroaches, etc - but excluding all those listed in terms of section 56 of the National Environmental Management: Biodiversity Act, 2004

Members of the public may apply for a permit for any Alien animal species (schedule 10) but may not breed or trade in this species without having been granted a license and the permit will have certain conditions and restrictions

Licenses are issued per group of animals for example Birds, Reptiles, Mammals etc.

Zoos are exempted from the certification process if they are members of PAZZAB due to the code of conduct etc and the permit conditions/register they abide by. They may trade with registered licensed people who qualify for those animals.

Pet shops may own licenses if they qualify and have successfully completed the required courses. The South African Pet Traders can assist in this regard to streamline the process. License owners may only sell these (schedule 10) animals to other license holders unless the animals are confirmed as sterile and identifiable then they may sell them to the public if a valid permit has already been issued.

All alien animals under license may be exported to other provinces without a permit being issued by the Department. This has to be noted in the register. If the other province receiving the animal requires a permit then obtaining a permit is the responsibility of the receiving party.

This way many of the animals which were on the current Schedule 10 list can be regulated in a manner that will be acceptable to all involved.

Implementation can be discussed although a twelve (12) month period does sound feasible.

When we get to the practicality of enforcing this act with just the indigenous species then it all falls flat. Just protecting the rhino which are fairly large and easy to see is already difficult to go and list among other 11 various chafer beetles, 53 species of earthworm and 88 species of millipede just makes us think an entomologist was trying to justify his/her job. I dare a single member of the public to correctly identify the earthworm they are using for bait when confronted by every single earthworm listed in the proposed act as comparison.

Which KZN conservation law enforcement official will be able to distinguish which dwarf chameleon they are confronted with? Scientists have to use DNA just to be sure unless they know exactly where it was found.

The schedules which are currently 465 pages could be reduced to a handful of pages. How can other provinces like Gauteng have similar schedules which number less than 10 pages? Making laws understandable to the public already goes a long way to getting them to accept them and conform to them. If they need protection they should go on the TOPS list. If they do not then they should be listed as game.

For years non protected reptiles, amphibians and mammals have been caught, traded with and kept without permits and not a single species has become threatened as a result of the pet trade. We see no reason why this should not continue. Threats like the traditional healers and habitat destruction should be addressed where applicable for these animals.

Recommendations:

Any exotic pet species which are suspected of potentially becoming invasive need to be researched and the peer reviewed recommendation forwarded to the Department of environmental affairs for the 6 monthly update meeting which have to be held in accordance with the Biodiversity act.

All indigenous species which need special protection be researched and forwarded to the Environmental affairs for inclusion in the TOPS regulations. This will circumvent KZN species being trucked across the border and held legally in other provinces and creating a smuggling incentive. This applies to mammals, birds, fish, tortoises, chameleons etc.

As an interim measure (12 months?) special protection should be afforded to animals and plants for which there is a reasonable indication that they will be included in the TOPS listing. The research for their inclusion must be made a priority.

Game species, mammals, birds, reptiles and fish (fresh water and marine) should have their own regulations regarding hunting methods, times, bag limits etc detailed and published as currently proposed.

The status quo be maintained and all other indigenous non game species like reptiles, amphibians and invertebrates which are **not** listed on TOPS (or in the special listing mentioned above), be treated as they are currently and no permits being required **except** for import and export.

All exotic pet species of birds, fish, reptiles, amphibians, invertebrates and mammals which are not listed as invasive species by the Minister in terms of section 67(1) of the National Environmental Management: Biodiversity Act, 2004 (Act 10 of 2004) be traded with within the province subject to the **proposed** listing in schedule 9 or schedule 10 above and strict controls on imports be enforced.

Pet shops be permitted to sell indigenous and exotic pets which could be co-ordinated via SAPTA. Licences to sell fish and indigenous animals should be renewed through the association on an annual or bi-annual basis. Shops are free to engage with the board privately too.

Vet shops and department stores that sell pet products but do not trade in livestock be exempted from the required registration.

Private breeders who are registered for VAT be licensed through an organisation to be determined. Possibly the AIA could assist in this regard.

All welfare issues be referred to the relevant departments.

Reference to all domestic animals be referred to Agriculture to deal with.

More consultation with stake holders take place where genuine change can be expected after consensus has been reached.

yours sincerely,

A handwritten signature in black ink, appearing to read 'Jim Stockley', written in a cursive style.

Jim Stockley
(Executive Officer)

The Licensed Animal Trainers Association (LATA)
St Ledger Farm, Lion Park Rd, Camperdown, KZN
POSTAL: PO Box 36, Umlaas Road 3730
Mobile: 082 449 1130 (Jim Stockley) 082 800 3730 (Brian Boswell)
082 925 3023 (Shannon Hoffman) 082 825 0380 (Jenny Brooker)
Mobile: 082 881 3870 (Luke Cornell) Fax: 086 617 3372
General email: jim@stockley.co.za