

Our Reference: N [REDACTED] Your Reference: ALRSA
Direct Line: 011 669 9602 / 011 669 9506 Date: 9 June 2024
Email Address: nadine.mather@bowmanslaw.com / pascale.towers@bowmanslaw.com

ANIMAL LAW REFORM SOUTH [REDACTED]

BY EMAIL

Dear Sir

RE: NATIONAL COUNCIL OF SOCIETIES FOR THE PREVENTION OF CRUELTY TO ANIMALS // ANIMAL LAW REFORM SOUTH AFRICA – REQUEST FOR ACCESS TO INFORMATION IN TERMS OF THE PROMOTION OF ACCESS TO INFORMATION ACT 2 OF 2000

1. We refer to the above matter and confirm that we act for and on behalf of the National Council of Societies for the Prevention of Cruelty to Animals (**our client** / the **NSPCA**).
2. Our client has furnished us with a copy of the request for access to information made by Mr. Cheslyn Chester on behalf of Animal Law Reform South Africa (**ALRSA**) in terms of section 18 of the Promotion of Access to Information Act, 2000 (**PAIA**), on 10 April 2024 (the **PAIA Request**), as well as a copy of your letter dated 10 April 2024 (**your Letter**).
3. Without in any way acknowledging or confirming ALRSA's compliance with the provisions of PAIA, we confirm that we address this letter to you on behalf of our client in response to the PAIA Request and your Letter.

THE PAIA REQUEST

4. In this regard, and in accordance with section 25 of PAIA, our client has determined that access will be refused to ALRSA in respect of most, but not all, of the items set out in the PAIA Request, as read with your Letter.
5. We set out below each item of the PAIA Request to which our client will not grant access (along with our client's reasons therefore), and the documents relevant to any item of the PAIA Request for which our client will grant access:

5.1 Records to which access is refused in terms of section 23 of PAIA

- "7.1 A list of facilities which the NSPCA ... know to be corporations in the poultry and egg industry (broadly defined);

Bowman Gilfillan Inc. Reg. No. 1998/021409/21 **Attorneys Notaries Conveyancers**

Directors MEC Davids (Chairman & Senior Partner) | AJ Keep (Managing Partner) | AG Anderson | DP Anderson | LJ Anderson | JS Andropoulos | M Angumuthoo | J Augustyn | L Avivi | J Barnes | AM Barnes-Webb | TL Beira | JM Bellew | KJ Beretta | RJ Bryce | K Chisaka | J Choate | ML Cogger | CN Cunningham | L Dahms-Jansen | RA Davey | O Deckers | JM de Hutton | D de Klerk | TC Dini | CR Douglas | SB Dube | HD Duffey | S Ellary | KA Fulton | BJ Garven | TM Gcabashe | E Geldenhuys | DJ Gera | TJ Gordon-Grant | AR Graham | S Grimwood-Norley | A Hale | N Hassan | VJ Herholdt | PA Hirsch | NA Hlophe | JB Howard | HPM Irvine | V Jacklin-Levin | CS Jackson | P Jani | JR Janks | T Jordaan | JR Kaapu | M Keep | CP Kennedy | KM Kern | ID Kirkman | RDW Kitcat | JG Kruger | JP Kruger | N Kwinana | R la Grange | R Labuschagne | T Laubscher | AB Leuta | LA Lewin | DA Lotter | L Ludick | J Lurie | KS Makapane | M Makola | HW Mandlana | HL Manson | NR Mather | TP McDougall | JM McKinnell | AKV Mfuphi | MC Mkiva | L Mongie | ZNR Motoba | K Naicker | UEBU Naumann | KT Nkaiseng | X Nyali | NT Nzima | MAJ Oppenheim | KJ Paterson | KA Peter | DM Phillips | B Pillay | JD Prain | DM Pretorius | JL Power | LV Raphulu | CL Reidy | CP Robinson | CDS Rodrigues | S Saffy | JW Sahli | MA Saib | MY Sass | CG Schafer | RZ Shein | BT Sibiya | AJ Simpson | A Siwisa | EC Steyn | LR Stockton | ML Swartland | L Thahane | BF Tibane | CFN Todd | FJ Trichardt | CE Tucker | CL van Heerden | MR van Velden | MG Vermaak | IH Vorster | DS Webb | REE Webster | DCJ Wessels | RS Wessels | JWL Westgate | K Weyers | HJ Wilsenach | KS Wright | DD Yull

Senior Consultants CM Bouwer | IL Brink | RM Carr | PM Carter | RA Cohen | GH Damant | AS Harris | P Hart-Davies | MR Kyle | PM Maduna | A McAllister | AJ Pike | MS Rusa | GI Rushton | JH Schlosberg | RJ van Voore | PE Whelan

Group COO RJ Smith | **Group CFO** HI Harding | **Company Secretary** NL van Vuuren

KENYA MAURITIUS NAMIBIA **SOUTH AFRICA** TANZANIA ZAMBIA
ALLIANCE FIRMS: ETHIOPIA | NIGERIA

- 7.3 *A list of facilities inspected during the above mentioned second period which are corporations in the poultry and egg industry;*
- 7.8 *Enforcement reports, including lists, tables, spreadsheets and other information concerning any corporation in the poultry and egg industry;*
- 7.12 *Correspondence with the National Prosecuting Authority ("NPA") regarding charges they have sought to pursue against any corporations in the poultry and egg industry;*
- 7.16 *Records demonstrating NSPCA's justification for not pursuing enforcement action in terms of the Animals Protection Act 71 of 1962 ("APA") or other relevant legislation in respect of the use of cages in the egg supply chain and poultry industry more generally; ... "*

(collectively, the **section 23 requests**).

- 5.1.1 Our client has instructed us that it is entitled to refuse the section 23 requests in terms of section 23 of PAIA on the basis that the requested records cannot be found and/or do not exist.
- 5.1.2 In this regard, and in accordance with section 23 of PAIA, we enclose with this letter an affidavit deposed to by the information officer of our client on 7 June 2024 (the **NSPCA Affidavit**) confirming *inter alia* that: (i) the NSPCA is not, and has never been, in possession of the records referred to in the section 23 requests, and/or that such records do not exist; (ii) our client has exercised all reasonable efforts to locate the records referred to in the section 23 requests; and (iii) it is not possible for our client to provide ALRSA with the records requested in the section 23 requests as such records are not in the NSPCA's possession and/or do not exist.

5.2 Requests to which access is refused on the basis of non-compliance with PAIA

- "7.9 *Details of charges laid by the NSPCA against corporations in the poultry and egg industry;*
- 7.10 *Details of court proceedings relating to the corporations in the poultry and egg industry which the NSPCA ... has been involved with to any extent including but not limited to through the provision of evidence, providing testimony or otherwise which may include pleadings, notices, affidavits, orders, judgments, or any other court records;*
- 7.11 *Details of any successful or unsuccessful prosecutions in respect of the Animal Protection Act 61 of 1962 (as amended) in respect of corporations in the poultry and egg industry;*
- 7.13 *Details of nolle prosequi certificates issued by the NPA to the NSPCA in respect of cases related to any corporations in the poultry and egg industry;*
- 7.15 *Details of the existence of any non-disclosure agreements that have been entered to between NSPCA and/or any corporations in the egg industry;*
- 7.17 *We note that the NSPCA has indicated that it has instituted several criminal cases against individuals in respect of caged confinement of dogs by breeders and unnecessary suffering in respect of land farmed animals, including dairy calves. The NSPCA has also taken criminal action against corporations. For instance, NSPCA laid criminal charges against Al Mawashi, a livestock supplier, in terms of the APA. The charges related to the horrendous conditions that live sheep being exported from South Africa to Kuwait were subjected to. We request the rationale behind the NSPCA's decision to pursue these matters in terms of the APA, while seemingly not indicating that they have similarly taken action against the cruel use of cages within the egg supply chain including inspections, which present similarly horrific cruelty and conditions for chickens (including layer hens and male chicks). If the NSPCA considers the use of cages in the egg supply chain to*

be an offence in terms of the APA, we request records illustrating the rationale behind its decision-making process in the pursuit of such matters",

(collectively, the **non-compliant requests**).

- 5.2.1 The provisions of PAIA apply to the records in the possession, or under the control, of public and private bodies. In this regard:
- 5.2.1.1 section 11 of PAIA provides that a requester must be given access to a record of a public body (if the procedural requirements contained in PAIA are complied with and provided that access to the record is not refused in terms of any ground of refusal permitted in terms of PAIA); and
- 5.2.1.2 a record is defined in PAIA as any "recorded information – (a) regardless of form or medium; (b) in the possession or under the control of that public or private body, respectively; and (c) whether or not it was created by that public or private body, respectively".
- 5.2.2 The non-compliant requests are self-evidently requests for information and, in the absence of constituting valid requests for "records" as contemplated in PAIA, fall outside of the scope of PAIA.
- 5.2.3 Accordingly, our client refuses the non-compliant requests on the basis that it is not required to provide any information or "details" or to explain its "rationale" to ALRSA in terms of sections 11 and 18 of PAIA.
- 5.2.4 Further, and for completeness, our client has instructed us that it is entitled to refuse a request for access to:
- 5.2.4.1 *"pleadings, notices, affidavits, orders, judgments, or any other court records" (as contemplated in request 7.10 above), and*
- 5.2.4.2 *"records illustrating the rationale behind its decision-making process in the pursuit of such matters" (as contemplated in request 7.17 above),*
- on the basis that such records do not exist.
- 5.2.5 In this regard, and without in any way derogating from our client's position regarding the validity of the non-compliant requests, in so far as may be necessary and solely for purposes of ensuring compliance with section 23 of PAIA, our client has dealt with the specific aspects of the requests made in paragraphs 7.10 and 7.17 of your letter which may constitute a request for access to records in the NSPCA Affidavit.
- 5.3 Records to which access is refused in terms of the grounds for refusal of access contemplated in Chapter 4 of PAIA
- 5.3.1 *"7.4 Reports, lists, tables, spreadsheets and other information relating to any non-compliance in the poultry and egg industry".*
- "7.6 Reports, lists, tables, spreadsheets and other information relating to any non-compliance, warnings and citations or other actions in respect of any corporation, in respect of violations of animal welfare legislation and standards regarding chicks including ill-treatment, abuse, neglect and death of chicks".*
- 5.3.1.1 In terms of section 44(1)(a) of PAIA, our client is entitled to refuse a request for access to a record if the record contains (i) an opinion, advice, report or recommendation obtained or prepared, or (ii) an account of a consultation, discussion or deliberation that has occurred, for the purpose of, amongst others, taking a decision in the exercise of a power or performance of a duty conferred or imposed by law.
- 5.3.1.2 In this regard, our client has instructed us that "reports ... and other information" relating to non-compliance are prepared for purposes of determining the outcome to be taken

pursuant to an investigation and, accordingly, constitutes records prepared for the purpose of the NSPCA *"taking a decision in the exercise of a power or performance of a duty conferred or imposed by law"*.

5.3.1.3 Accordingly, our client is entitled to refuse access to the request for "reports and other information" in the requests made at paragraphs 7.4 and 7.6 of your letter.

5.3.1.4 In addition, our client has instructed us that it is entitled to refuse the above requests in terms of section 23 of PAIA on the basis that other than reports, no "lists, tables or spreadsheets" are in our client's possession or exist. In this regard, and in accordance with section 23 of PAIA, we refer to the NSPCA Affidavit enclosed herewith.

5.3.1.5 Finally, and in so far as the request made at paragraph 7.6 of your letter contemplates that ALRSA be provided with "warnings and citations", please see our response at paragraph 5.4.2 below.

5.3.2 *"7.14 Reports, lists, tables, spreadsheets and other information relating to any donations that NSPCA ... receive[s] from any corporations in the egg industry through fundraising initiatives or otherwise"*.

5.3.2.1 In terms of section 42(3)(b) of PAIA, our client is entitled to refuse a request for access to a record if it contains financial, commercial, scientific or technical information, other than trade secrets, the disclosure of which would be likely to cause harm to the commercial or financial interests of a public body.

5.3.2.2 In this regard, we have been instructed by our client that "reports, lists, tables, spreadsheets and other information relating to any donations that" it receives contain the financial and/or commercial information of the NSPCA, the disclosure of which could prevent the NSPCA from, or limit or restrict the NSPCA's ability to, receiving funding in the future. Accordingly, our client is entitled to refuse this request for access in so far as it *"would be likely to cause harm to the commercial or financial interests"* of the NSPCA.

5.4 Records to which access will be granted

5.4.1 *"7.2 A list of each SPCA that the NSPCA oversees, including their contact details"*.

5.4.1.1 Our client grants this request and has made available a list of each SPCA that the NSPCA oversees, together with their contact details, which list is accurate as at June 2024.

5.4.2 *"7.5 Warnings, citations issued to or other actions in respect of any corporation in the poultry and egg industry, in respect of violations of animals protection and welfare legislation and standards, including among others, instances of ill-treatment, abuse, neglect and death of chickens"*.

5.4.2.1 Our client has instructed us that it issued 13 warnings relating to instances of *"ill-treatment, abuse, neglect and death of chickens"* during the period 1 December 2022 to 30 November 2023. Our client grants access to these warnings subject to the proviso that the personal and confidential information of any third parties has been redacted.

5.4.2.2 In addition, our client has instructed us that it is entitled to refuse the request for access to "citations" in terms of section 23 of PAIA on the basis that other than the warnings provided, no such citations are in our client's possession or exist. In this regard, and in accordance with section 23 of PAIA, we refer to the NSPCA Affidavit enclosed herewith.

5.4.2.3 Finally, the request for "other actions" is self-evidently a request for information and, in the absence of constituting a valid request for a "record" as contemplated in PAIA, clearly falls outside of the scope of PAIA. Accordingly, our client refuses the request for information relating to "other actions" on the basis that it is not required to provide this information in terms of sections 11 and 18 of PAIA.

5.4.3 “7.7 Internal NSPCA guidelines, manuals, and any operational procedure documents for SPCAs or units of the NSPCA in relation to chicken welfare practices and compliance and enforcement efforts, particularly those relating to any corporations”.

5.4.3.1 Our client grants this request and has made available the following records:

5.4.3.1.1 the NSPCA’s position statement;

5.4.3.1.2 the NSPCA’s pamphlet on the transporting of chickens;

5.4.3.1.3 the NSPCA’s pamphlet on chicken care; and

5.4.3.1.4 the NSPCA’s cruelty complaint form and inspector’s report.

THE ADDITIONAL REQUESTS MADE IN TERMS OF YOUR LETTER

6. In addition to the PAIA Request, our client notes the request for additional information made at paragraph 8 of your letter (the **Paragraph 8 Requests**). On ALRSA’s own version, the Paragraph 8 Requests are “*follow up requests and clarifications*”. Accordingly, and taking into account the PAIA Request, which specifically refers only to paragraph 7 of your letter (and not the Paragraph 8 Requests), our client regards the Paragraph 8 Requests as: (i) not having been made in compliance with the procedural requirements contained in PAIA; and (ii) in any event, and on ALRSA’s own version, failing outside of the scope of the PAIA Request.

7. The above notwithstanding, and without in any way acknowledging the correctness or validity of the Paragraph 8 Requests under PAIA, the purpose of this letter is also to set out our client’s response to the Paragraph 8 Requests.

8. In this regard, and in accordance with section 25 of PAIA, our client has determined that access will be refused to ALRSA in respect of all of the items set out in the Paragraph 8 Requests.

8.1 Records to which access is refused in terms of section 23 of PAIA

“8.1 As such, we request any additional records in respect of the “welfare concerns found” in the NSPCA Spreadsheet that could explain or provide greater detail on the following terms [i.e., the terms set out in paragraphs 8.1.1 to 8.1.27 of your letter] used in the NSPCA Spreadsheet as they relate to inspections conducted, including in relation to any further actions taken (such as warnings, citations, charges, or otherwise that were issued by the SPCA and NSPCA and any subsequent follow ups, correspondence and related documentation)....

8.4 In some instances, the NSPCA Spreadsheet, records “welfare concerns found” using only the word “yes”. Is it possible to obtain details as to the types of welfare concerns found in such instances, such as how many animals were experiencing such issues, which actions were taken in response, **including documentation relating to warnings, citations, numbers of animals, etc.?**

8.5 The NSPCA Spreadsheet records that in some instances entry to properties was refused. Could you provide records that indicate: 8.5.1 What actions are typically taken upon such refusal in order to gain entry to these premises in order to conduct inspections? 8.5.2 On what basis do facilities tend to refuse entry? ...”,

(collectively, the **Paragraph 8 section 23 requests**).

8.1.1 Our client has instructed us that it is entitled to refuse the Paragraph 8 section 23 requests in terms of section 23 of PAIA on the basis that the requested records cannot be found and/or do not exist.

8.1.2 In this regard, and in accordance with section 23 of PAIA, we enclose with this letter the NSPCA Affidavit confirming *inter alia* that: (i) the NSPCA is not, and has never been, in possession of the records referred to in the Paragraph 8 section 23 requests, and/or that such records do not exist; (ii) our client has exercised all reasonable efforts to locate the records

referred to in the Paragraph 8 section 23 requests; and (iii) it is not possible for our client to provide ALRSA with the records requested in the Paragraph 8 section 23 requests as such records are not in the NSPCA's possession and/or do not exist.

8.1.3 In relation to the request for "warnings, citations" made in terms of paragraph 8.4 of your letter, our client refers to the response it provided to ALRSA in relation to the PAIA request made by ALRSA to the NSPCA on or about 16 November 2022.

8.1.4 Further, and in so far as the request made at paragraph 8.4 of your letter is a request for information, our client refers to what is stated in paragraph 8.2 below.

8.2 Requests to which access is refused on the basis of non-compliance with PAIA

"8.2 Please also confirm which "welfare concerns found" the NSPCA considers to be offences or violations in terms of the Animals Protection Act, and which provisions of the Animals Protection Act the NSPCA believes have been triggered.

8.3 We further wish to understand whether the recordal by the NSPCA ... of "none" and/or "no welfare concern", and/or "good" or blank (i.e. no wording) indicates that there were no welfare concerns found in relation to any of the animals at the facilities inspected?

8.4 In some instances, the NSPCA Spreadsheet, records "welfare concerns found" using only the word "yes". **Is it possible to obtain details as to the types of welfare concerns found in such instances, such as how many animals were experiencing such issues, which actions were taken in response**, including documentation relating to warnings, citations, numbers of animals, etc.?

8.6 What is the total number of animals on each of the properties inspected or number of animals impacted by the welfare concerns found during such inspections? Does FAPU inspectors need to report the total number of animals affected by welfare issues during inspections, or just note the presence of issues without specifying numbers? Are there criteria for quantifying the number of animals affected? What circumstances would be regarded as "necessary" in order to quantify the number of animals upon discovery of a welfare concern?

8.7 In relation to the criteria against which FAPU Inspectors inspect facilities, is there a policy, standard operating procedure or other document indicating when a concern becomes reportable and/or actionable? Further, does this policy, standard, operating procedure or other document contain steps required to be taken by Inspectors against facilities where welfare concerns are identified and monitoring and compliance measures? Is there a document outlining when FAPU Inspectors must report and act on concerns during facility inspections? If so, please provide the relevant document, including the steps inspectors must take for facilities with welfare issues?

8.8 Are inspections only conducted at facilities or are transportation / transit methods also monitored and reported upon?..."

(collectively, the **Paragraph 8 non-compliance requests**).

8.2.1 As set out above, the provisions of PAIA apply to the records of public and private bodies. In this regard:

8.2.1.1 section 11 of PAIA provides that a requester must be given access to a record of a public body (if the procedural requirements contained in PAIA are complied with and provided that access to the record is not refused on any ground of refusal permitted in terms of PAIA); and

8.2.1.2 a record is defined in PAIA as any "recorded information – (a) regardless of form or medium; (b) in the possession or under the control of that public or private body,

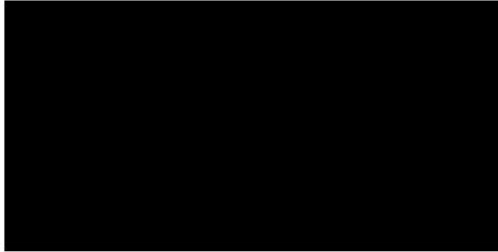
respectively; and (c) whether or not it was created by that public or private body, respectively".

- 8.2.2 The Paragraph 8 non-compliant requests are self-evidently requests for information and, in the absence of constituting valid requests for "records" as contemplated in PAIA, clearly fall outside of the scope of PAIA.
- 8.2.3 Accordingly, our client refuses the Paragraph 8 non-compliant requests on the basis that it is not required to provide any information to ALRSA or respond to any of ALRSA's specific questions in terms of sections 11 and 18 of PAIA.
- 8.3 Records to which access is refused in terms of the grounds for refusal of access contemplated in Chapter 4 of PAIA
 - 8.3.1 *"8.9 Could you provide the records produced following individual inspections that are captured in the spreadsheet requested, which presumably are more detailed? Could you also explain the methodology of each inspection? Do inspectors complete a form? Could you provide an example?"*
 - 8.3.1.1 As stated above, in terms of section 44(1)(a) of PAIA, our client is entitled to refuse a request for access to a record if the record contains (i) an opinion, advice, report or recommendation obtained or prepared, or (ii) an account of a consultation, discussion or deliberation that has occurred, for the purpose of, amongst others, taking a decision in the exercise of a power or performance of a duty conferred or imposed by law.
 - 8.3.1.2 In this regard, our client has instructed us that "records produced following individual inspections" amount to *reports*. Such reports are prepared for purposes of determining the outcome to be taken pursuant to an investigation and, accordingly, constitute records prepared for the purpose of the NSPCA *"taking a decision in the exercise of a power or performance of a duty conferred or imposed by law"*.
 - 8.3.1.3 Accordingly, our client is entitled to refuse access to this request.
 - 8.3.1.4 In addition, our client has instructed us that it is entitled to refuse the above request on the basis that other than the request for "reports", the remainder of the request is self-evidently a request for information and, accordingly and for the reasons stated above, falls outside of the ambit of PAIA.
9. Having regard to the above, we confirm that our client has taken all steps necessary to respond to the PAIA Request and has furnished ALRSA with access with due regard to, and in compliance with, the provisions of PAIA.
10. That being said, our client wishes to record that ALRSA's PAIA Request and the Paragraph 8 Requests: (i) are manifestly frivolous and/or vexatious in so far as they have been made without due regard to the provisions of PAIA and/or the NSPCA's previous response to ALRSA's PAIA request; and (ii) require the NSPCA to undertake an amount of work which substantially and unreasonably diverts its resources. Accordingly, should the NSPCA receive requests in the future which have not been made within the scope and/or ambit of PAIA, are not described with sufficient particulars to enable the NSPCA to easily respond to the request or identify the requested record, and/or do not take into consideration the NSPCA's responses to ALRSA's previous PAIA requests, the NSPCA notes that it may be entitled to refuse such requests on the basis of section 45 of PAIA. Further, and notwithstanding our client's response to the Paragraph 8 Requests as set out above, any further such requests of a similar nature will not be entertained in the future.
11. If ALRSA is aggrieved with our client's decision to refuse part of the PAIA Request and is of the view that the decision made was not in compliance with PAIA, we confirm that it is entitled to:
 - 11.1 lodge a complaint with the Information Regulator within 180 days of our client's decision which complaint must be submitted in writing using the prescribed form (accessible here: <https://info regulator.org.za/wp-content/uploads/2020/07/InfoRegSA-PAIA-Form05-Reg10-1.pdf>); or

11.2 lodge an application with a court within 180 days of our client's decision for appropriate relief.

12. We trust that this is in order.

13. All of our client's rights remain reserved.



AFFIDAVIT



I, the undersigned,



do hereby make oath and state that:

1. I am an adult female and the Executive Director of the National Council of Societies for the Prevention of Cruelty to Animals (the **NSPCA**).
2. The NSPCA is a public body in terms of the Promotion of Access to Information Act, 2000 (**PAIA**). As the Executive Director of the NSPCA, I am designated as the information officer of the NSPCA in terms of PAIA. As such, I am duly authorised to depose to this affidavit in terms of section 23 of PAIA.
3. The contents of this affidavit are within my personal knowledge and belief, save for where the context indicates otherwise, and are both true and correct.

BACKGROUND

4. On or about 10 April 2024, the NSPCA received a request in terms of section 18 of PAIA from   acting on behalf of Animal Law Reform South Africa (**ALRSA**), for access to certain records allegedly held by the NSPCA (the **PAIA Request**). In terms of the PAIA Request, as read with the letter addressed by ALRSA to me in my capacity as the information officer of the NSPCA (the **Letter**), ALRSA requested that it be provided with various documents.
5. The requested documents are set out more fully in the PAIA Request, as read with the Letter, and include, without limitation, the following (collectively referred to in this affidavit as the **Relevant Paragraph 7 Requests**):
 - 5.1 a list of facilities which the NSPCA know to be corporations in the poultry and egg industry (broadly defined);
 - 5.2 a list of facilities inspected during the above mentioned second period (i.e., the period 1 December 2022 to 30 November 2023) which are corporations in the poultry and egg industry;
 - 5.3 lists, tables and spreadsheets relating to any non-compliance in the poultry and egg industry;
 - 5.4 citations issued to any corporation in the poultry and egg industry, in respect of violations of animal protection and welfare legislation and standards, including, among others, instances of ill-treatment, abuse, neglect and death of chickens;
 - 5.5 lists, tables and spreadsheets relating to any non-compliance, warnings and citations or other actions in respect of any corporation, in respect of violations of animal welfare legislation and standards regarding chicks including ill-treatment, abuse, neglect and death of chicks;
 - 5.6 internal NSPCA guidelines, manuals, and any operational procedure documents for SPCAs or units of the NSPCA in relation to chicken welfare practices and compliance and enforcement efforts, particularly those relating to any corporations;
 - 5.7 enforcement reports, lists, tables and spreadsheets concerning any corporation in the poultry and egg industry;



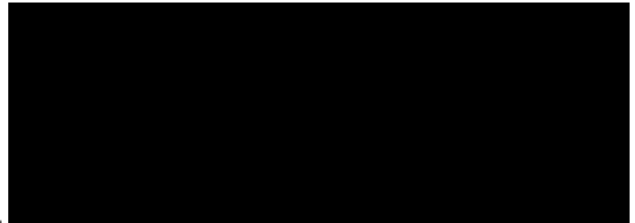
- 5.8 pleadings, notices, affidavits, orders, judgments, or any other court records in respect of any court proceedings relating to the corporations in the poultry and egg industry which the NSPCA has been involved with to any extent;
 - 5.9 correspondence with the National Prosecuting Authority regarding charges they have sought to pursue against any corporations in the poultry and egg industry;
 - 5.10 records demonstrating the NSPCA's justification for not pursuing enforcement action in terms of the Animals Protection Act 71 of 1962 (the **APA**) or other relevant legislation in respect of the use of cages in the egg supply chain and poultry industry more generally; and
 - 5.11 records illustrating the NSPCA's rationale behind its decision-making process in the pursuit of matters relating to the use of cages in the egg supply chain,
6. In addition to the PAIA Request, ALRSA requested that it be provided with further records for purposes of obtaining clarity in respect of certain records previously shared with the ALRSA by the NSPCA in response to a PAIA request made by ALRSA on or about 16 November 2022 (the **Paragraph 8 Requests**).
 7. The requested documents are set out more fully in the Letter and include, without limitation, the following (collectively referred to in this affidavit as the **Relevant Paragraph 8 Requests**):
 - 7.1 any additional records in respect of the "welfare concerns found" in the NSPCA Spreadsheet that could explain or provide greater detail on terms used in the NSPCA Spreadsheet as they relate to inspections conducted;
 - 7.2 documentation relating to number of animals; and
 - 7.3 records that indicate: (i) what actions are typically taken where entry to properties is refused in order to gain entry to these premises in order to conduct inspections, and (ii) on what basis do facilities tend to refuse entry.
 8. A response to the PAIA Request and the Paragraph 8 Requests has been prepared and will be sent to ALRSA (the **PAIA Response**).
 9. Without derogating from what is stated in the PAIA Response, the purpose of this affidavit is to address certain matters relating to the PAIA Request and the Paragraph 8 Requests that have arisen pursuant to the PAIA Response.

THE RELEVANT PARAGRAPH 7 AND PARAGRAPH 8 REQUESTS

10. The NSPCA is not in possession of any of the Relevant Paragraph 7 Requests and/or the Relevant Paragraph 8 Requests.
11. In amplification of the above, I confirm that:
 - 11.1 The NSPCA has exercised all reasonable efforts to locate the records referenced and/or referred to in the Relevant Paragraph 7 Requests and the Relevant Paragraph 8 Requests.
 - 11.2 This entailed *inter alia*:
 - 11.2.1 searches on the NSPCA's systems and/or servers for the relevant documents, including through the use of key words relevant to the Relevant Paragraph 7 Requests and the Relevant Paragraph 8 Requests;
 - 11.2.2 perusing and considering all documents that were located as part of the searches referred to in paragraph 11.2.1 in order to determine which, if any, were relevant for purposes of the Relevant Paragraph 7 Requests and/or the Relevant Paragraph 8 Requests;
 - 11.2.3 making requests to and/or enquiries with current NSPCA employees, including Jacques Peacock, the Public Relations and Legal Liaison, and/or NPSCA departments, including the NSPCA Farm

Animal Protection Unit, who are involved in the NSPCA's day-to-day operations and/or are familiar with the NSPCA's operations in so far as chicken welfare is concerned, on whether they were aware of the existence of any records applicable to the Relevant Paragraph 7 Requests and/or the Relevant Paragraph 8 Requests; and

- 11.2.4 manually searching for any hard copy records relevant to the Relevant Paragraph 7 Requests and/or the Relevant Paragraph 8 Requests.
12. Accordingly, I confirm that it is not possible for the NSPCA to provide ALRSA with the records set out in paragraphs 5.1 to 5.11 above (i.e., the Relevant Paragraph 7 Requests) and paragraphs 7.1 to 7.3 (i.e., the Relevant Paragraph 8 Requests), as such records do not exist and/or are not, and have never been, in the NSPCA's possession.



I certify that the above signature is the true signature of the deponent and that she has acknowledged that she knows and understands the contents of this affidavit which affidavit was signed and sworn to before me in my presence at Alberton on this the 7th day of **JUNE 2024**, in accordance with Government Notice No. R1258 dated 21 July 1972, as amended by Government Notice No R1648 dated 19 August 1977, as further amended by Government Notice No. R1428 dated 11 July 1980, and by Government Notice No R774 of 23 April 1982.

COMMISSIONER OF OATHS

