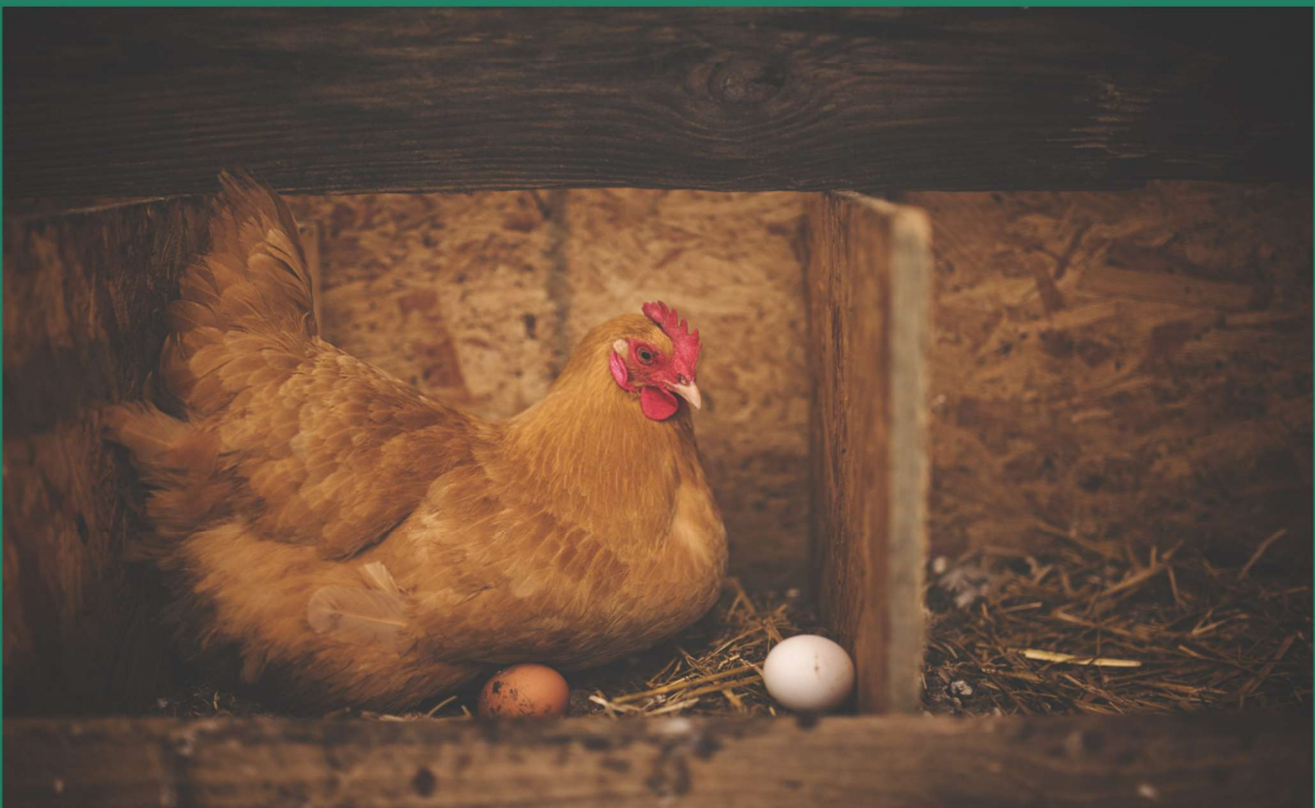


LAYING DOWN THE FACTS **V3**

ANIMAL WELFARE STANDARDS
OF THE COMPANIES
PROVIDING YOUR FAVOURITE FOODS



CORPORATE ACCOUNTABILITY
AND THE EGG INDUSTRY IN
SOUTH AFRICA

***NOTE:** This is Version 3 of the report titled “*Laying Down the Facts: Animal Welfare Standards of the Companies Providing Your Favourite Foods*,” originally published in August 2023 (“**Version 1 of the Initial Report**”). Version 2 was published in September 2024, with revisions relating to one of our Selected Stakeholders, Bidcorp, indicated throughout in red font, with red asterisks and/or yellow highlighting. As of November 2024, further amendments have been made that relate specifically to the Regulations Regarding the Grading, Packing, and Marking of Eggs Intended for Sale in the Republic of South Africa (the “**Egg Labelling Regulations**”) indicated throughout in red font, with red asterisks. For a record of all changes, please see **Revision Note I of September 2024** on pages 281–283 and **Revision Note II of November 2024** on page 284 below. Any reference to the Initial Report or “this report” throughout this document should be regarded as a reference to Version 3, rather than Versions 1 or 2 of the Initial Report.

ANIMAL LAW REFORM SOUTH AFRICA

Animal Law Reform South Africa (“**ALRSA**”) is South Africa’s first and only dedicated animal law non-profit organisation. ALRSA envisages a society whose laws, courts, enforcement agencies and private entities advance the protection and flourishing of humans, non-human animals and the environment, and are held accountable.

ALRSA operates through three key Pillars being: **Animal Flourishing; Social Justice; the Law.**

ALRSA undertakes its work through three main “Mechanisms”, namely:

Education & Research; Legislative & Policy Reform; Litigation & Legal services.

Through these Mechanisms, ALRSA aims to contribute to the development of a robust animal law ecosystem in South Africa **which recognises the intrinsic worth of non-human animals as sentient beings.** Our work is grounded in our understanding that it is critical for a context-sensitive approach to be taken to the furtherance of animal protection in South Africa, and that the impact of our work is enhanced through an intersectional understanding of animal flourishing, social justice and environmental protection.

ALRSA is a civil society organisation and registered non-profit company and NPO acting in the public interest.

ACKNOWLEDGEMENTS

FUNDING

Our work is in part funded by a grant from the Open Wing Alliance (“**OWA**”). Read more on their website: <https://openwingalliance.org/>.

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***PLEASE READ OUR LEGAL AND DISCLAIMERS SECTION.**

PLEASE CONSULT OUR GLOSSARY FOR A LIST OF DEFINED TERMS. Unless the context otherwise requires, capitalised terms have the meanings ascribed to them in the Glossary.

Recommended citation: Animal Law Reform South Africa, *Laying Down the Facts* (August 2023 updated September 2024 and November 2024). Available at: www.animallawreformsouthafrica.org

This Initial Report and other information relating to the Project are accessible at: www.animallawreformsouthafrica.org

We welcome comments, corrections, suggestions on and proposed amendments to this Initial Report including by the Selected Stakeholders.

We remain committed to engaging in an open and transparent manner in respect of this Initial Report. We reserve the right to amend this Initial Report.

Please email: outreach@animallawreform.org

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SECTION III

REVEALING THE CRACKS: RESEARCH COMPONENT



ANIMAL LAW REFORM
SOUTH AFRICA

“From the ancient Khoisan reverence of the eland
to the contemporary conception of the dog
as “man’s best friend”,
humans and animals have a storied relationship,
one that is a part of the fabric of our society,
homes and lives.

Animals have shifted from being
“mere brutes or beasts”
to “fellow beasts, fellow mortals or fellow creatures”
and finally to “companions, friends and brothers.”

To protect these voiceless companions,
individuals have time and again
stepped in when animals are mistreated.”

– Justice Khampepe
Constitutional Court Judge

National Society for the Prevention of Cruelty to Animals
v Minister of Justice and Constitutional Development
and Another [2016] ZACC 46

SECTION III: REVEALING THE CRACKS: RESEARCH COMPONENT

INTRODUCTION

This Section III contains the Research Component of this Initial Report and provides context about the Egg Supply Chain in practice including its impacts and its regulation. Research conducted for this component assisted with the identification of the Pillars, and informed the Stakeholder Component as further set out in Section IV. Specifically, the Pillars and matters identified within them, informed the PAIA Requests sent to the Selected Stakeholders as well as the rating Criteria and Indicators, with a focus on animal welfare.

The Egg Industry in South Africa impacts on various areas of importance and relevance to the South African public and their rights. After researching these impacts, they were categorised into six main Pillars being: Animal Welfare; Environment; Food Safety and Health; Social Issues and Rights, Consumer Protection, and Corporate and Business. Each of these Pillars is expanded on in further detail in this Section III below, with the Animal Welfare Pillar being the focus for purposes of this Initial Report. Each Pillar introduces the relevant issue in broad terms, explores some ways in which the issue intersects with the Egg Industry, and sets out at a high level the regulatory framework applicable to the issue in South Africa. Some Pillars also contain examples of the issue in practice.

One of the aims of the Project is to foster public interest in the South African regulatory regime as it pertains to the Egg Industry. This benefits the public generally as well as other animal advocacy organisations, who conduct important work in areas outside of the law. Many such organisations are not fully aware of the legal framework including all of the relevant laws, policies, standards, etc.) and are therefore not able to draw on relevant legal materials in their engagements whether it be with government, Corporations, or the public more generally. Governance measures, including the law, are important tools to understand and can assist in important animal advocacy efforts.

Accordingly, by laying the foundations, laying out the facts, and laying down the law in respect of each of the aforementioned Pillars, members of the public, animal advocacy groups, and others may begin to understand their rights and interests as well as the areas in which they can pursue Corporate Accountability.

CRACKING OPEN THE MYTHS OF HEALTH EGGSPOUSING THE TRUTH ABOUT EGGS & CHICKENS


ANIMAL LAW REFORM
SOUTH AFRICA


OPEN WING
ALLIANCE™



**WHILE WE MAY HAVE BEEN TAUGHT THAT EGGS ARE HEALTHY...
RESEARCH SHOWS THAT EATING EGGS CAN BE HAZARDOUS
TO YOUR HEALTH.**



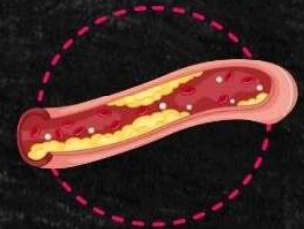
SALMONELLA, E-COLI, ANTIMICROBIAL RESIDUES, ANTI-RESISTENT BACTERIA

A 2020 study on South African eggs showed the prevalence of Salmonella species and Escherichia coli, antimicrobial residues, and antimicrobial resistant bacteria.¹



CHOLESTEROL

Cholesterol found in eggs can harm heart health and lead to diabetes, as well as prostate and colorectal cancers.²



SAME AS SMOKING?

Eating egg yolks accelerates atherosclerosis in a manner similar to smoking cigarettes.³



HEART DISEASE

Eating eggs increases the risk of dying from heart disease.⁴



CARDIOVASCULAR PROBLEMS

Those who eat the most eggs have a 19% higher risk for cardiovascular problems.⁵



DIABETES

Consuming one or more eggs per day may increase the risk of diabetes by 60%.⁶



CANCERS

Colon, rectal and prostate cancers have all been linked to egg consumption.⁷

AND ITS NOT JUST BAD FOR HUMANS...

ANIMAL HEALTH

Laying hens can suffer from many ailments, and diseases including Egg Drop Syndrome, Caged Layer Fatigue, Rickets, Egg Peritonitis, Fatty Liver Syndrome,⁸ Fowl Cholera, Coccidiosis, Fowl Pox, Newcastle Disease, Salmonellosis Avian Influenza, Ovarian Cancer and more!

1. <https://onlinelibrary.wiley.com/doi/abs/10.1111/jfs.12783>

2. <https://www.pcrm.org/good-nutrition/nutrition-information/health-concerns-with-eggs>

3. <https://www.sciencedaily.com/releases/2012/08/120813155640.htm>

4. Zhao B, Gan L, Graubard BI, Männistö S, Albanes D, Huang J. Associations of dietary cholesterol, serum cholesterol, and egg consumption with overall and cause-specific mortality, and systematic review and updated meta-analysis. *Circulation*. Published online April 1, 2022

doi:10.1161/CIRCULATIONAHA.121.057642

5. <https://pubmed.ncbi.nlm.nih.gov/21076725/>

6. <https://www.pcrm.org/news/health-nutrition/egg-consumption-increases-risk-diabetes>

7. <https://www.pcrm.org/good-nutrition/nutrition-information/health-concerns-with-eggs>

8. <https://www.royalfarm.com/common-diseases-in-laying-hens/>

PILLAR 3: AS SICK AS A CHICKEN: FOOD SAFETY AND HEALTH: *THE AFFLICTED AND DISEASED*

PART A: LAYING THE FOUNDATIONS

This “Food Health and Safety Pillar” contains a high-level summary of some of the food health and safety issues applicable to the Egg Industry in South Africa, as well as the regulation thereof, more specifically how these issues intersect with animal welfare and well-being. It is intended to provide an overview of selected matters only and is non-exhaustive of all of the relevant food safety and health considerations and law and policy relevant to the industry.⁵⁶⁵ This Part A sets out the rationale for the selection of this Pillar; the main national government departments with mandates in respect thereof and connects it with information from our Stakeholder Report in Section IV; Part B sets out background information as to how the Pillar connects with the Egg Supply Chain; and Part C provides an overview of selected governance issues associated with this Pillar in the context of the Egg Supply Chain in South Africa.

Matters already dealt with in detail in other Pillars or sections of this Initial Report and have not been repeated.

This Pillar has been selected for purposes of this Project because as a supplier of a foodstuff (eggs) to the public and consumers, Corporations in the Egg Industry have various duties and responsibilities – including to ensure that food is safe. Additional duties arise to limit the spread of animal diseases and others in respect of public health. The methods of production in industrialised animal agriculture including the intensive farming of chickens raise not only serious animal welfare concerns but have major implications on food safety and human (and animal) health.⁵⁶⁶

For purposes of our requests to our Selected Stakeholders, we requested reports, licenses, permits, warnings, citations, notices directives and similar enforcement and compliance records, both internal and external, specifically in relation to compliance and/or non-compliance with Relevant Legislation as well as records related to Adverse Findings in respect of such legislation. Of relevance for this Pillar is legislation regulating issues of food health and safety including the MSA and the Animal Diseases Act. Records received from Selected Stakeholders in this respect would provide insight into

⁵⁶⁵ For a more detailed analysis of Food Safety and Health matters applicable to animal agriculture in South Africa, please refer to ALRSA’s Food System Working Paper <https://www.animallawreform.org/wp-content/uploads/2022/07/Working-Paper-Food-Systems.pdf> and White Paper (October 2022) <https://www.animallawreform.org/wp-content/uploads/2022/10/White-Paper-Food-Systems.pdf> respectively.

⁵⁶⁶ These will be discussed in subsequent components of this study.

compliance by the respective Selected Stakeholder with legislation related to ensuring food safety although no specific ratings have been made in respect of this Pillar for purposes of this Initial Report.

PART B: LAYING DOWN THE FACTS

Eggs are served directly to consumers by stakeholders in the form of raw eggs on their shelves, cooked eggs at their restaurant or hotel tables, and included as ingredients of well-known brands and in products consumed daily (including baked goods in mayonnaise). It is essential therefore that in the provision of these products to the public, that there is proper compliance with the law and regulations in respect of food safety as well as health. A failure to adequately consider these has dire consequences, including through the spread of zoonotic diseases;⁵⁶⁷ and other short- and long-term impacts on individuals and public health more broadly.

DISEASES

There are several types of diseases which impact the Egg Industry. The most notable of which is called avian influenza, most commonly known as ‘bird flu’, and which has been reported on widely in international news, particularly in recent years. As at the date of this Initial Report, there is ongoing outbreaks and the World Health Organisation has stated that:

*“The current outbreaks of avian influenza (also called “bird flu”) have caused devastation in animal populations, including poultry, wild birds, and some mammals, and harmed farmers’ livelihoods and the food trade. Although largely affecting animals, these outbreaks pose ongoing risks to humans”.*⁵⁶⁸

Once an outbreak occurs, it is often policy to kill (or “cull”) all of the animals – whether or not they are infected – in order to contain the spread of the disease. Avian influenza does not only affect the animals who are infected or killed, it can affect wild birds as well as public health more generally. One does not need to search far to find various records of and reports on outbreaks of bird flu in South Africa.

The national layer flock contracted by 7.1% in 2021 due to culling on HPAI-infected farms. An estimated 801 000 broilers and breeders were culled during 2021.⁵⁶⁹

In April 2021, it was reported that around 300 birds died of avian flu at the commercial chicken-layer farm in Ekurhuleni, east of Johannesburg. The same farm had also been affected by the 2017 outbreak

⁵⁶⁷ For a detailed list of recent outbreaks and epidemiological events in Africa by the World Organisation for Animal Health see <https://rr-africa.woah.org/en/immediate-notifications-in-africa/>.

⁵⁶⁸ <https://www.who.int/news/item/12-07-2023-ongoing-avian-influenza-outbreaks-in-animals-pose-risk-to-humans>.

⁵⁶⁹ SAPA 2021 Industry Profile.

of the highly pathogenic H5N8 strain of avian flu, which saw poultry farmers culling millions of birds and prompted neighbouring countries including Zimbabwe, Namibia and Botswana to ban poultry imports from South Africa.⁵⁷⁰ In June 2022, it was reported that South Africa reported 145 outbreaks of avian flu and culled **3.7 million birds** in 12 months.⁵⁷¹

On 9 May 2023, it was reported that South Africa’s largest egg producer, Quantum Foods, has advised shareholders that HPAI was detected at its Lemoenkloof layer farm outside Paarl in the second half of April 2023. The article notes that at the time of the HPAI outbreak, the farm housed about **420,000 Layer Hens, all of whom had to be culled**. Quantum, owner of the Nulaid brand, has estimated that the direct loss resulting from this outbreak of bird flu is about R34-million (which includes the cost of the Layer Hens, feed and eggs that had to be destroyed).⁵⁷² The outbreak has also affected other farmers in the area and is expected to result in a reduction in egg production and costs in the province.

At the end of May, DALRRD issued a notice alerting the public that five HPAI outbreaks have been confirmed at commercial chicken farms in the province to date.⁵⁷³

According to the SAPA 2021 Industry Profile (emphasis added):

*“Tighter biosecurity measures worked through the 2019 and 2020 winter seasons to safeguard South African flocks from highly pathogenic avian influenza (HPAI) infections, but it was almost inevitable that migrating birds would eventually bring the disease into the country from infected European nations. In March, an outbreak of H5N1 HPAI on a farm in Gauteng quickly spread to other provinces. By the end of the year, 134 cases in South Africa had been reported and **almost 2.39 million laying hens and 801 000 broilers and breeders had been culled**. Egg producers in the Western Cape were hardest hit, losing an estimated 21.5 % of their laying flock, with little expectation of receiving compensation from government”.*⁵⁷⁴

POTENTIALLY NEGATIVE HEALTH IMPLICATIONS

While eggs are often advertised as a “health” food, the truth is that there are potentially several harmful consequences linked with the consumption of eggs. The Physician’s Committee for Responsible Medicine has compiled various studies illustrating some of the not so positive health implications for consuming eggs.⁵⁷⁵ These include heart disease; diabetes; cancer.

⁵⁷⁰ <https://www.reuters.com/article/us-safrica-avian-flu/south-african-commercial-poultry-farm-hit-by-avian-flu-outbreak-idUSKBN2C019V>.

⁵⁷¹ <https://www.news24.com/news24/bi-archive/south-africa-has-145-avian-influenza-cases-between-april-2021-and-march-2022-37-million-birds-killed-2022-6>.

⁵⁷² <https://www.dailymaverick.co.za/article/2023-05-09-its-make-or-break-for-western-cape-egg-producers-after-bird-flu-lays-waste-to-top-supplier/>.

⁵⁷³ <https://www.dalrrd.gov.za/index.php/component/content/article/204-outbreaks-and-diseases>.

⁵⁷⁴ SAPA 2021 Industry Profile.

⁵⁷⁵ <https://www.pcrm.org/good-nutrition/nutrition-information/health-concerns-with-eggs>.

SALMONELLA, ANTIMICROBIAL RESIDUES, AND ANTIMICROBIAL RESISTANT BACTERIA:

A 2020 study on South African eggs showed the prevalence of Salmonella species and Escherichia coli, antimicrobial residues, and antimicrobial resistant bacteria.⁵⁷⁶

CHOLESTEROL:

Cholesterol found in eggs can harm heart health and lead to diabetes, as well as prostate and colorectal cancers.⁵⁷⁷

SAME AS SMOKING?:

Eating egg yolks accelerates atherosclerosis in a manner similar to smoking cigarettes.⁵⁷⁸

HEART DISEASE:

Eating eggs increases the risk of dying from heart disease.⁵⁷⁹

CARDIOVASCULAR PROBLEMS:

Those who eat the most eggs have a 19% higher risk for cardiovascular problems.⁵⁸⁰

DIABETES:

Consuming one or more eggs per day may increase the risk of diabetes by 60%.⁵⁸¹ A review of 14 studies published in the journal *Atherosclerosis* showed that those who consumed the most eggs increased their risk for diabetes by 68%.⁵⁸² Another review found similar results: a 39% higher risk of diabetes in people who eat three or more eggs per week in the United States.⁵⁸³

CANCERS:

Colon, rectal and prostate cancers have all been linked to egg consumption⁵⁸⁴

⁵⁷⁶ <https://onlinelibrary.wiley.com/doi/abs/10.1111/jfs.12783>.

⁵⁷⁷ <https://www.pcrm.org/good-nutrition/nutrition-information/health-concerns-with-eggs>.

⁵⁷⁸ <https://www.sciencedaily.com/releases/2012/08/120813155640.htm>.

⁵⁷⁹ Zhao B, Gan L, Graubard BI, Männistö S, Albanes D, Huang J. Associations of dietary cholesterol, serum cholesterol, and egg consumption with overall and cause-specific mortality, and systematic review and updated meta-analysis. *Circulation*. Published online April 1, 2022. doi:10.1161/CIRCULATIONAHA.121.057642.

⁵⁸⁰ <https://pubmed.ncbi.nlm.nih.gov/21076725/>.

⁵⁸¹ <https://www.pcrm.org/news/health-nutrition/egg-consumption-increases-risk-diabetes>.

⁵⁸² Li Y, Zhou C, Zhou X, Li L. Egg consumption and risk of cardiovascular diseases and diabetes: a meta-analysis. *Atherosclerosis*. 2013;229(2):524-530. doi:10.1016/j.atherosclerosis.2013.04.003.

⁵⁸³ Djoussé L, Khawaja OA, Gaziano JM. Egg consumption and risk of type 2 diabetes: a meta-analysis of prospective studies. *Am J Clin Nutr*. 2016;103(2):474-480. doi:10.3945/ajcn.115.119933.

⁵⁸⁴ <https://www.pcrm.org/good-nutrition/nutrition-information/health-concerns-with-eggs>.

ANIMAL HEALTH / DISEASES:

Laying hens can suffer from many ailments, and diseases including Egg Drop Syndrome, Caged Layer Fatigue, Ricketts, Egg Peritonitis, Fatty Liver Syndrome⁵⁸⁵, Fowl Cholera, Coccidiosis, Fowl Pox, Newcastle Disease, Salmonellosis Avian Influenza, Ovarian Cancer and more!

ANTIBIOTICS:

In many parts of the world, food-producing animals are given antibiotics daily to make them grow faster and prevent diseases. When antibiotics are used for the purposes of growth promotion a small amount is often administered as compared to therapeutic use. Therefore, this may cause bacteria to develop resistance to antibiotics.⁵⁸⁶

PART C: LAYING DOWN THE LAW

REGULATION OF THE EGG INDUSTRY: THROUGH FOOD SAFETY AND HEALTH LENS

Food safety and health is regulated by various legislation, a few of which will be highlighted here. Some of this legislation is implemented by the Department of Agriculture Land Reform and Rural Development (“**DALRRD**”) at a national level. Other pieces of legislation are the responsibility of the Department of Health (“**DoH**”).

MEAT SAFETY ACT 40 OF 2000 (“**MSA**”)

The MSA includes measures to promote meat safety and the safety of animal products. The Minister may make regulations generally with regard to any matter which is necessary towards the achievement or promotion of the act.⁵⁸⁷ In regard to the Poultry Industry, the Minister has enacted the Poultry Regulations.⁵⁸⁸ However, the MSA and its regulations apply to meat and to animal products that are by-products from the carcasses of animals, other than the meat thereof. As such, this legislation does not regulate Layer Hens.

⁵⁸⁵ <https://www.roysfarm.com/common-diseases-in-laying-hens/>.

⁵⁸⁶ Andrew Selaledi, L.; Mohammed Hassan, Z.; Manyelo, T.G.; Mabelebele, M. The Current Status of the Alternative Use to Antibiotics in Poultry Production: An African Perspective. *Antibiotics* 2020, *9*, 594. <https://doi.org/10.3390/antibiotics9090594>.

⁵⁸⁷ Section 22 of the Meat Safety Act 40 of 2000.

⁵⁸⁸ Regulation Gazette No. 8402 No R.153 Meat Safety Act 40 of 2000: Poultry Regulations.

Nevertheless, the inclusion of specific welfare requirements for chickens who are utilised as broilers in the Poultry Regulations illustrates a precedent of positive legal standards in South African law in respect of chickens, at least as it relates to their transportation, slaughter and other welfare matters. A similar approach, namely the inclusion of positive welfare standards for chickens, could be adopted in relation to Layer Hens or male Chicks utilised in the Egg Industry, in terms of other suitable legislation.

ANIMAL DISEASES ACT (“ADA”)

The purpose of the ADA is to provide for the control of animal diseases and parasites, for measures to promote animal health, and for matters connected therewith. “Animal” is defined as “any mammal, **bird**, fish, reptile or amphibian which is a member of the phylum vertebrates, including the carcass of any such animal”. Animal diseases in terms of the ADA are either classified as controlled or as notifiable animal diseases.

Examples of controlled diseases include Foot and Mouth disease, Brucellosis, Anthrax, African Horse Sickness, Tuberculosis and Rabies. Examples of notifiable animal diseases: Blue Tongue, Lumpy Skin Disease and Bovine Malignant Catarrhal Fever. In South Africa, avian influenza of any subtype is a controlled animal disease in terms of the Animal Diseases Act. Any suspect or confirmed case of avian influenza of any subtype must be reported immediately to the responsible state veterinarian in terms of the ADA. Both passive and active surveillance for avian influenza are conducted across the country in order to detect any incursion of avian influenza.⁵⁸⁹

Other provisions of the ADA regulate matters such as the importation of animals; quarantine stations; powers; control measures; straying of animals; duties of owners and managers to make reports about diseases and suspected diseases. It provides very broad powers of director (including in relation to entering, seizure and others).

⁵⁸⁹ <http://www.daff.gov.za/images/outbreaks/Avian%20Influenza/Reports/h5-and-h7-update-report-4-may-2023.pdf>.

2. Highly pathogenic avian influenza (HPAI)

There has been a sudden upsurge in H5 PCR positive samples. Pathotyping, N typing and sequencing is currently under way. The majority of H5 PCR positive samples are samples collected under an environmental research project for wild bird surveillance and originated from Gauteng, KwaZulu Natal and Mpumalanga Provinces. Samples from shorebirds from the Western Cape Province from three different locations were confirmed to be HPAI H5 PCR positive. Three commercial chicken facilities in the Western Cape were confirmed to be HPAI H5. Two further commercial chicken facilities in the Western Cape Province in the City of Cape Town Local Municipality have tested H5 PCR positive – pathotyping is underway.

All HPAI suspect farms are immediately placed under quarantine and no movement of birds, eggs or products are allowed on, off or through these farms. Samples are collected for verification of the suspicion and back and forward tracing is implemented to detect any possible spread of disease. So far most of the affected properties have culled out the chickens and carcasses were disposed of by dumping at an approved hazardous dump site, incineration, rendering or composting on farm; or on farm burial where allowed by the Environmental Affairs Department. Eggs are either taken under veterinary supervision for pasteurisation, or moved after double fumigation or fogging.

NATIONAL HEALTH ACT 61 OF 2003 (“NHA”)

The NHA has the overarching purpose of providing a framework for a structured uniform health system within the Republic considering the obligations imposed by the Constitution and other laws on the national, provincial, and local governments with regard to health services; and related matters.⁵⁹⁰ In terms of the NHA, the minister may make regulations regarding communicable diseases, non-communicable diseases; health technology; health research and generally in respect to any matter which is necessary to prescribe in order to implement or administer this act.⁵⁹¹

FERTILISERS, FARM FEEDS, AGRICULTURAL REMEDIES AND STOCK REMEDIES, 1947

This Act provides for the registration of fertilisers, farm feeds, agricultural remedies, stock remedies, sterilising plants and pest control operators with the aim of regulating or prohibiting the importation, sale, acquisition, disposal or use of fertilisers, farm feeds, agricultural remedies, and stock remedies. Furthermore, it governs the use of antimicrobials for growth promotion and prophylaxis/metaphylaxis and the purchase of over-the-counter (OTC) antimicrobials by the lay public (chiefly farmers).⁵⁹² This Act becomes relevant in considering the feed fed to chickens in the Egg Industry as well as the use of substances such as antimicrobials.

⁵⁹⁰ Purpose of the National Health Act 61 of 2003 (National Health Act).

⁵⁹¹ Section 90 of the NHA.

⁵⁹² <https://www.sahpra.org.za/document/fertilisers-farm-feeds-agricultural-remedies-and-stock-remedies-act-1947-act-no-36-of-1947/>.

Feed is an important component within the Egg Industry which warrants further research, particularly around the sustainability thereof, but also in terms of the food health and safety aspects.

The Poultry Industry and Egg Industry, including ostrich farming, is the biggest consumer of animal feed in South Africa (consuming 64% of supply according to the Animal Feed Manufacturing Association (AFMA)). SAPA estimates that 75% of the national flock is supplied to the broiler industry, making it the single largest destination for animal feed supply.

According to DALRRD: RCL Foods’ subsidiary Epol, agricultural services company, Afgri, and Astral’s subsidiary, Meadow Feeds, supply 75% of animal feed to South Africa’s poultry producers.

There are several environmental implications of the use of feed for the Egg Industry and Poultry Industry more broadly and has led to several countries exploring options as to how to reduce harmful environmental implications – from the sourcing of such products to the use of circular waste feeding systems. It is apparent that SAPA acknowledges:

*“In a year in which climate change and global warming came under the microscope at the United Nations Climate Change Conference in Glasgow (COP 26), egg producers around the globe are starting to evaluate the sustainability of their businesses. From 2022, supermarket giant Morrisons will begin to sell carbon neutral eggs, produced on free range farms in the UK. These carbon neutral farms make use of a circular waste feeding scheme, with insects (grown on waste product from the company’s fruit and vegetable farms) used as a protein source for the laying hens. This approach reduces reliance on imported and environmentally damaging soybeans. Each insect ‘mini-farm’ will support 32 000 free range hens. Morrisons are not the first UK company to market carbon neutral eggs. Stonegate’s ‘Respectful’ brand was launched through retailer Sainsbury’s in October 2021. Stonegate farmers also eschew soya in the birds’ feed; addressing deforestation and food miles with the use of locally sourced field beans. Farms and packaging plants are powered by renewable energy. In the US, grocery chain Kroger will launch carbon neutral eggs in late 2022. Kroger have partnered with Dutch firm, Kipster, to produce and market the eggs under the Simple Truth brand. The Kipster system makes use of waste products from bakeries and other food producers to remove soybeans from the laying feed, in effect upcycling food waste into eggs, meat and manure”.*⁵⁹³

FOODSTUFFS, COSMETICS AND DISINFECTANTS ACT, 1972 (“FCD ACT”)

The FCD Act has the purpose of controlling the sale, manufacture and importation of foodstuffs, cosmetics, and disinfectants, and provides further provisions related to incidental matters.⁵⁹⁴ “Foodstuff” includes “any article or substance (except a drug as defined in the Drug Control Act, 1965) ordinarily eaten or drunk by man or purporting to be suitable, or manufactured or sold, for human consumption”.⁵⁹⁵ Further, “foodstuffs” include “any part or ingredient of any such article or substance, or any substance used or intended or destined to be used as a part or ingredient or any such

⁵⁹³ SAPA 2021 Industry Profile.

⁵⁹⁴ Purpose of the Foodstuffs, Cosmetics, and Disinfectants Act 54 of 1972 (FCD Act).

⁵⁹⁵ Section 1(vii) of the FCD Act.

article or substance”.⁵⁹⁶ Raw eggs sold at retailers, or those served at fast food chains, restaurants and hotels fall within the definition and thus the ambit of the FCD Act, as do any and all egg products (such as dried egg pulp, powdered eggs, or any other egg by-product) included as ingredients in other manufactured items sold by wholesalers, retailers, and others. Corporations selling these products therefore have an obligation to adhere to the FCD Act, as well as regulations stemming from this Act.

The FCD Act contains several important provisions including but not limited to the use of employment of prohibited process, method, appliance, container or object (section 4); false description of articles (section 5) as well as liability for various parties (from importers, manufacturers or packers to employers or principles (sections 9 and 8 respectively).

The FCD Act provides that the Minister may make regulations prescribing the nature and composition of any foodstuff, or standards for the composition, strength, purity or quality of any other attribute of any foodstuff; prescribing, prohibiting, restricting or otherwise regulating, the use of employment of any substance or any appliance, container or other object or any process or method for, in or in connection with the manufacture, treatment, packing, labelling, storage, conveyance, serving or administering of any foodstuffs or the abstraction or removal of any substance from any foodstuff.

While a full description and analysis of this Act is outside the scope of this Initial Report, this legislation should be further considered in the context of the Egg Industry and, in particular, whether any specific regulations and/or standards are applicable thereto. An additional consideration is the enforcement of this legislation including inspection records and analysis of samples of products, including eggs.

⁵⁹⁶ Ibid.

ACKNOWLEDGMENTS AND LEGAL

ANIMAL LAW REFORM SOUTH AFRICA

Animal Law Reform South Africa ("**ALRSA**") is South Africa's first and only dedicated animal law non-profit organisation. ALRSA envisages a society whose laws, courts, enforcement agencies and private entities advance the protection and flourishing of humans, non-human animals and the environment, and are held accountable.

ALRSA operates through three key Pillars being: **Animal Flourishing; Social Justice; the Law.**

ALRSA undertakes its work through three main "Mechanisms", namely:

Education & Research; Legislative & Policy Reform; Litigation & Legal services.

Through these Mechanisms, ALRSA aims to contribute to the development of a robust animal law ecosystem in South Africa **which recognises the intrinsic worth of non-human animals as sentient beings.** Our work is grounded in our understanding that it is critical for a context-sensitive approach to be taken to the furtherance of animal protection in South Africa, and that the impact of our work is enhanced through an intersectional understanding of animal flourishing, social justice and environmental protection.

ALRSA is a civil society organisation and registered non-profit company and NPO acting in the public interest.

ACKNOWLEDGEMENTS

FUNDING

Our work is in part funded by a grant from the Open Wing Alliance ("**OWA**"). Read more on their website: <https://openwingalliance.org/>.

CO-AUTHORS' DISCLAIMER

The co-authors of this Initial Report are:

Amy P. Wilson is a co-founder and director of ALRSA. She is an attorney who holds a Master of Laws Degree (LL.M) in Animal Law from Lewis and Clark Law School in Portland, Oregon and B.Com and LL.B degrees from the University of Johannesburg, South Africa. Amy is the co-founder and Director of Animal Law Reform South Africa and a Research Associate, Lecturer and LLD Candidate with the University of Johannesburg. *Primary contributions: Lead author: Sections I, II, III, and V of this Initial Report.*

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COMMENTER

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CONTRIBUTOR: RESEARCH ASSISTANCE

Li-Fen Chien is an Independent Consultant with Animal Law Reform South Africa. She holds a Master of Laws Degree (LL.M) in Environmental Law from the University of the Western Cape. Li-Fen is a non-practising legal practitioner with over 10 years of professional experience, mostly focused on environmental and corporate law. *Primary contributions: Animal Welfare Pillar and Environmental Pillar of Section III of this Initial Report.*

*PLEASE READ OUR LEGAL AND DISCLAIMERS SECTION.

PLEASE CONSULT OUR GLOSSARY FOR A LIST OF DEFINED TERMS. Unless the context otherwise requires, capitalised terms have the meanings ascribed to them in the Glossary.

Recommended citation: Animal Law Reform South Africa, *Laying Down the Facts* (August 2023). Available at: www.animallawreformsouthafrica.org

This Initial Report and other information relating to the Project are accessible at: www.animallawreformsouthafrica.org

We welcome comments, corrections, suggestions on and proposed amendments to this Initial Report including by the Selected Stakeholders.

We remain committed to engaging in an open and transparent manner in respect of this Initial Report. We reserve the right to amend this Initial Report.

Please email: outreach@animallawreform.org

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LEGAL AND DISCLAIMERS

The focus for the Project is on the large scale, industrialised and intensive animal agricultural and production sector, specifically in relation to chickens in the Egg Industry, and where relevant other poultry (including broilers, among others). As such, this Initial Report does not include the informal sector, nor small scale and subsistence farming operations. Where appropriate, examples of other farmed animals, or examples from other jurisdictions have been incorporated, particularly where such information is not readily nor easily available in the South African context.

While government and public bodies have an essential role to play in ensuring the well-being and welfare of animals as well as the protection of the environment and human rights, the focus of this Initial Report is largely on the role of the private sector, specifically Corporations. Aspects of governmental and public body regulation and policies are highlighted and discussed; however, these aspects are not the focal point of this Initial Report.

As an organisation focused primarily on animal law, this is the predominant lens through which this Initial Report has been drafted and should be considered, i.e., the centering of animals, their interests, and their intrinsic worth in the dialogue. While social justice and environmental protection are critical components of the work of ALRSA, more research has been done in these areas as there are already a number of important organisations focusing on these aspects. As such, this Project aims to fill a gap within current research to additionally include animals and their welfare, flourishing and protection into this discussion, and the legal and policy tools which can be used to do this. This Initial Report does not intend to defame or harm the reputation of any company mentioned within.

This Initial Report is as a result of the preliminary research and the review performed by ALRSA and the co-authors and commenter as at the published date. It is published as at 3 August 2023 and is intended to provide only a summary of issues which may be relevant to the topic. It is limited in scope based on various factors. This is a non-exhaustive report intended to stimulate debate, research and law reform in the area of animal law and food systems and requiring further context and information in relation to all of the issues included herein.

ALRSA has focused on selected regulatory aspects and has not considered all legal, economic, political, social, environmental, technological, and other relevant aspects pertinent to some of these issues. All such factors should be considered when pursuing any further work or research.

It is also important to note that the focus of this Initial Report is on industrialised animal agricultural operations and practices occurring therein. Given the various types of systems, these all have different considerations and consequences. Statements, observations and recommendations do not and will not apply to small scale and extensive farming systems nor to other less harmful methods of animal agriculture including egg production and should not be constituted as allegations.

It is explicitly recognised that animal agriculture including egg production is not all conducted in the same manner, and it is dependent on the particular farmer, facility, method of farming, geographic location and various other factors. Therefore, only generalised statements and recommendations are made focusing on harmful potential impacts of industrialised animal agriculture and are representative of what is understood in that context which may not be applicable to or appropriate for all animal agriculture and animal production, nor appropriate to all of the role-players and stakeholders mentioned in this Initial Report. Statements made will not apply to all facilities and stakeholders and should not be construed as such.

This Initial Report does not contain a detailed description of all relevant laws and policies, papers and each document reviewed. Its purpose is to set out those legal issues which ALRSA considers to be material. Reliance should not be

placed solely on any of the summaries contained in this Initial Report, which are not intended to be exhaustive of the provisions of any document or circumstances. ALRSA reserves the right to amend and update this Initial Report including in light of new information and comments received.

Unless otherwise expressly agreed by ALRSA in writing, no person is entitled to rely on this Initial Report and neither ALRSA nor the co-authors or commenter shall have responsibility or liability to any party, whether in contract, delict (including negligence) or otherwise relating hereto.

This Project has been conducted and this Initial Report drafted by a civil society organisation in the public interest. In particular, with regard to the protection of guaranteed constitutional rights in mind and in exercising of ALRSA's freedom of expression as contained in the Constitution of the Republic of South Africa, 1996.

ALRSA is registered and established as a non-profit company and non-profit organisation. It is neither a registered law firm nor a law clinic. This Initial Report does not constitute legal advice.

Any views and opinions expressed in this Initial Report are those of the relevant co-author or commenter and do not necessarily reflect the views or positions of any entities they represent. Such opinions, views, comments, and expressions are protected under the right to freedom of expression as provided for in the Constitution. Neither ALRSA nor the co-authors or commenter accept any liability for any indirect or consequential loss or damage, or for any loss of data, profit, revenue or business (whether direct or indirect) in each case, or reputational damage, however caused, even if foreseeable.

Any resources or referenced materials, sources or sites included in this Initial Report do not constitute endorsement nor do ALRSA and/or the co-authors or commenter accept any responsibility for the content, or the use of same and we shall not be liable for any loss or damage caused or alleged to be caused by or in connection with use of or reliance on any content, goods or services available on or through any other resource.

None of the statements made or information presented in this Initial Report shall be considered as allegations against any person or entity, including the Selected Stakeholders of contravention of or offences in terms of any South African or international law and/or regulation. ALRSA declares that it has no malicious intent to defame, disparage, or harm the reputation of any person or entity, including the Selected Stakeholders, mentioned in this Initial Report. ALRSA aims to promote constructive dialogue and encourage responsible practices concerning animal welfare.

END.

REVISION NOTE I: SEPTEMBER 2024

This revision note documents the updates made to the report titled *Laying Down the Facts: Animal Welfare Standards of the Companies Providing Your Favourite Foods*, originally published by ALRSA in August 2023 (“**Version 1 of the Initial Report**”) and republished with these amendments in September 2024, regarding Bidcorp, a Selected Stakeholder featured in the report. The revision aims to uphold transparency and accountability throughout the reporting process of ALRSA’s Corporate Accountability Project.

ALRSA’S ENGAGEMENT WITH BIDCORP

On 25 November 2022, ALRSA submitted a request for access to information from Bidcorp under PAIA. On 23 December 2022, Bidcorp requested that ALRSA pay a fee to process the request. In the same correspondence, Bidcorp refused to provide the requested records but stated it would reconsider if additional documents were supplied by ALRSA (“**Bidcorp’s Refusal Letter**”).

On 13 February 2023, ALRSA responded, urging Bidcorp to reconsider its decision, rebutting the grounds for refusal, and stressing the importance of transparency and accountability when engaging with civil society. ALRSA requested a response by 20 February 2023 on an urgent basis. Bidcorp did not respond by this deadline. The Initial Report was therefore prepared based on the correspondence received from Bidcorp as of 20 February 2023.

Following the publication of the Initial Report in August 2023, ALRSA commenced the second phase of its multi-phase Corporate Accountability Project. As part of this phase, ALRSA submitted a request for access to information from Bidcorp on 4 December 2023. Bidcorp responded on 20 December 2023, alleging that certain statements in the Initial Report regarding Bidcorp were inaccurate and requested written confirmation that the inaccuracies had been corrected.

CORRECTIONS REQUESTED BY BIDCORP

Bidcorp claimed that:

1. Version 1 of the Initial Report incorrectly implied that Bidcorp was not entitled to request a PAIA fee, emphasising that no exemption exists for non-profit organisations to pay a request fee under the law.
2. Version 1 of the Initial Report falsely asserted that Bidcorp did not respond to its request for information after receiving payment from ALRSA, as it submitted a response on 13 March 2023.

ALRSA maintains that the statements on page 236 of Version 1 of the Initial Report, regarding Bidcorp's PAIA fee request and being the only stakeholder to do so, are factually accurate. As such, no amendments are required in this regard.

However, we acknowledge Bidcorp's subsequent, belated correspondence received on 13 March 2023 ("**Bidcorp's Belated Response**"), which granted ALRSA partial access to the requested records. In light of this, and in the spirit of constructive stakeholder engagement, we issue this revision note to reflect the impact of Bidcorp's Belated Response on the Initial Report.

CHANGES MADE TO THE INITIAL REPORT IN RESPECT OF BIDCORP

The following amendments have been made in Version 2 of the Initial Report in respect of Bidcorp:

DESCRIPTION OF AMENDMENT	PAGE NUMBER: VERSION 1 OF THE INITIAL REPORT	PAGE NUMBER: VERSION 2 OF THE INITIAL REPORT
Amended the overall rating for Bidcorp: changed from Red to Orange .	12	12
Amended the overall rating for Bidcorp: changed from Red to Orange .	234	234
Removed statement regarding ALRSA's correspondence with Bidcorp post-payment of the PAIA request fee: <i>"[o]nly for Bidcorp, a major Corporation, to then refuse access to any of the records requested on spurious grounds and with limited justification. Upon ALRSA making this payment, and providing further substantiation for our request, Bidcorp acknowledged receipt of the requested payment and undertook to respond to our request but did not do so beyond this acknowledgement."</i>	236 & 237	237
Amended ratings for Indicators 1.1, 1.3, 2.1, 2.3 and 2.5 of Rating Criteria 1 and 2: Internal Policies and Annual Reports changed from Red to Green , Orange , Green , Orange , and Orange respectively.	238	238
Amended ratings for Indicators 3.1–3.2 and 4.1 of Rating Criteria 3 and 4: Compliance with Relevant Legislation and Evidence of Adverse Findings changed from all Red to all Green ratings.	241	241
Amended the colour rating for Indicator 5.3 of Rating Criteria 5 and 6: Evidence of Relevant Commitments and Contents of Public Statement changed from Green to Red . <i>*Note – The Green rating awarded to Bidcorp for</i>	244	244

DESCRIPTION OF AMENDMENT	PAGE NUMBER: VERSION 1 OF THE INITIAL REPORT	PAGE NUMBER: VERSION 2 OF THE INITIAL REPORT
<i>Indicator 5.3 in Version 1 of the Initial Report was incorrectly awarded; it should have been a Red rating.</i>		
Amended the colour rating for Indicator 6.1-6.3 of Rating Criteria 5 and 6: Evidence of Relevant Commitments and Contents of Public Statement changed from Red to Orange .	244	244
Amended the ratings for Indicators 9.4 and 10.1 of Rating Criteria 9 and 10: Transparency and Cooperation Compliance changed from Red to Orange .	249	250

REVISION NOTE II: NOVEMBER 2024

This revision note formally documents updates to the report *Laying Down the Facts: Animal Welfare Standards of the Companies Providing Your Favourite Foods*, published by ALRSA in August 2023 (“**Version 1 of the Initial Report**”), and updated in September 2024 (“**Version 2 of the Initial Report**”). The revision addresses references to the “Egg Labelling Regulations” (“**Version 3 of the Initial Report**”) that previously stated or implied that indicating production methods (such as “caged,” “barn,” or “free-range”) is mandatory. This update clarifies that including egg production methods on labels is, in fact, optional. Amendments specifically addressing these changes are detailed in the table below.

CHANGES MADE TO THE INITIAL REPORT IN RESPECT OF THE EGG LABELLING REGULATIONS

The following amendments have been made in this Version 3 of the Initial Report in respect of the Egg Labelling Regulations:

PAGE NUMBER: VERSION 2 OF THE INITIAL REPORT	PAGE NUMBER: VERSION 3 OF THE INITIAL REPORT
99-100	99-100
185-186	185-186



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