

REPUBLIC OF SOUTH AFRICA

PERFORMING ANIMALS PROTECTION AMENDMENT BILL

*(As introduced in the National Assembly (proposed section 76); explanatory summary of
Bill and prior notice of its introduction published in Government Gazette No. 48790 of 15
June 2023)*

(The English text is the official text of the Bill)

(Ms WR ALEXANDER, MP)

GENERAL EXPLANATORY NOTE:

[] Words in bold type in square brackets indicate omissions from existing enactments.

_____ Words underlined with a solid line indicate insertions in existing enactments.

BILL

To amend the Performing Animals Protection Act, 1935, so as to regulate the access to private or public areas, buildings, facilities or transport systems of assistance animals accompanying a person with a disability; to provide that a National Licensing Officer may also be a specialist in training of assistance animals; to provide that a person with a disability who intends to have an assistance animal accompany him or her into a private or public space, building, facility or transport system must apply for a licence to do so; to provide for the inclusion of the details of the assistance animal accompanying a person with a disability in an application for a licence; to further regulate the visitation and assessing of the premise that will be the living quarters of an assistance animal; to amend the criteria for granting a licence; to amend the criteria for a valid licence; to also regulate instances where an assistance animal may be refused access to a premises; to provide for the Minister to make regulations regarding further licensing conditions; to ensure that a person with a disability is granted access, on an equal basis with others, to the physical environment, transportation, and all other facilities open or provided to the public, both in urban and rural areas; to insert new definitions; and to provide for matters connected therewith.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

Insertion of section 1A in Act 24 of 1935

1. The following section is hereby inserted into the Performing Animals Protection Act, 1935 (Act No. 24 of 1935) (hereinafter referred to as the “principal Act”), after section 1: 5

“1A. Protection afforded to person holding licence for assistance animal

- (1) No person, directly or indirectly, may—
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| <p>(a) unreasonably deny any person with a disability, entrance or access to any public or private area, building, facility or transport system; or</p> <p>(b) unfairly discriminate against any person with a disability with respect to any term or condition of entry or access to a public or private area, building, facility or transport,</p> | <p>solely based on the presence of an accompanying assistance animal.</p> <p>(2) No person may intentionally interfere with an assistance animal in order to prevent it from performing its core function as an assistance animal.</p> <p>(3) A person in control of a public or private area, building, facility or transport system, may request a person with a disability accompanied by a assistance animal,</p> | <p>10</p> <p>15</p> |
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to present a licence contemplated in section 3I, before that person with a disability enters or accesses a public or private area, building, facility or transport system.

(4) If a person with a disability is unable to tender a licence after a request contemplated in subsection (3), but can demonstrate—

- (a) the need for the accompaniment of an assistance animal; and
- (b) that the animal in question is generally recognised or trained as an assistance animal;

the person in control, or any other person duly authorised by them, of a public or private area, building, facility or transport system, must allow that person with a disability access or entry while being accompanied by the assistance animal.

(5) Any person who—

- (a) contravenes subsection (1) read with subsection (4);
- (b) subsection (2); or
- (c) refuses entry or access to a person with a disability as contemplated in subsection (3),

is guilty of an offence and is liable, upon conviction, to a fine or to imprisonment, for a period not exceeding three years.

(6) When a court considers an offence contemplated in subsection (5)(a), it would constitute a valid defence that the complainant was unable to demonstrate a disability that requires the assistance of an assistance animal, or that the animal accompanying the complainant was not generally used as an assistance animal.”

Amendment of section 3B of Act 24 of 1935, as inserted by section 3 of Act 4 of 2016

2. The following section is hereby substituted for section 3B of the principal Act:

“3B. Qualification of National Licensing Officer

The officer designated in terms of section 3A must be—

- (a) an Animal Scientist; [or]
- (b) a Veterinarian[.]; or
- (c) a specialist in the training of assistance animals.”.

Amendment of section 3F of Act 24 of 1935, as inserted by section 3 of Act 4 of 2016

3. The following section is hereby substituted for section 3F of the principal Act:

“3F. Application for licence

(1) Any person who—

- (a) intends to exhibit an animal;
- (b) trains an animal to be exhibited; [or]
- (c) uses an animal for safeguarding[.]; or
- (d) is a person with a disability and intends to—

- (i) have an assistance animal accompany them into a public or private area, building, facility or transport system to which that person with a disability would otherwise have legal access to; and

- (ii) invoke the protection under section 1A of this Act,

must apply for a licence to the National Licensing Officer for the district in which the permanent address of the applicant is situated and must pay the prescribed fee.

(2) An application for a licence in terms of this Act must be in writing and must include the following information:

- (a) A detailed description of the animal that the applicant intends to exhibit or train for exhibition [or], use for safeguarding or accompany them as an assistance animal;
- (b) a detailed description of the general nature of the performances in which the animal is intended to be exhibited or trained to be exhibited, should the animal be used for, or trained to be, in an exhibition;
- (c) a detailed description of the general nature of the safeguarding in which the animal is intended to be used;
- (d) a detailed description of the type of living quarters that will be provided to the animal when performing or not performing, being exhibited or trained to be exhibited [or], for safeguarding or being used as an assistance animal;
- (e) meal plans and general practices that the applicant will follow to maintain and ensure the health and wellbeing of the animal;

- (f) the number of hours per day that the animal will be required to perform, be exhibited, trained to be exhibited or safeguarded;
- (fA) in the case of animals being used as assistance animals—
- (i) the nature of the disability of the applicant, the assistance that the assistance animal will be supporting the applicant with and the nature of the private or public area, building, facility or transport system envisaged to be accessed by that applicant in the company of the assistance animal; and
 - (ii) the training received by the assistance animal and the details of the organisation that provided the training;
- (g) written motivation for the granting of the licence;
- (h) information as to whether the applicant has ever held or been refused a certificate or licence in the past; and
- (i) proof of payment of the prescribed fee.
- (2A) In the case of animals being used as assistance animals, a trainer of, or specialist in assistance animals may apply for the licence on behalf of the applicant who is applying for the licence.
- (3) The National Licensing Officer may, with the consent of the applicant, visit the premises under the lawful control of the applicant to assess the suitability thereof for the intended exhibition, training or safeguarding of animals, or the living quarters of the assistance animal.”.

Amendment of section 3G of Act 24 of 1935, as inserted by section 3 of Act 4 of 2016

4. Section 3G of the principal Act is hereby amended by substitution for subsection (1) of the following subsection:
- “(1) The National Licensing Officer may grant an application for any licence if he or she is satisfied—
- (a) with the information furnished by the applicant as contemplated by section 3F(2); **[and]**
 - (b) that for an application for a licence to exhibit an animal, train to exhibit an animal or use an animal for safeguarding, the premises, accommodation, equipment and facilities that are utilised for the training, exhibition or performance of the animal are safe and will not cause harm to the animal[.]; and
 - (c) that for an application for a licence in respect of assistance animals—
 - (i) the assistance animal will be able to support the nature of the disability of the applicant in relation to the nature of the private or public area, building, facility or transport system to be accessed by the applicant in the company of the assistance animal; and
 - (ii) the assistance animal has been trained by a prescribed organisation.”.

Amendment of section 3J of Act 24 of 1935, as inserted by section 3 of Act 4 of 2016

5. The following section is hereby substituted for section 3J of the principal Act:

“3J. Duration of licence

A licence is valid **[for a period of 12 calendar months from the date of issue thereof.]—**

- (a) when applying for a licence to exhibit an animal, train an animal to be exhibited or use an animal for safeguarding, for a period of 12 calendar months from the date of issue thereof; or
- (b) when applying for a licence to have an animal accompany a person with a disability as an assistance animal, for a period of 48 calendar months from the date of issue thereof.”.

Amendment of section 3L of Act 24 of 1935, as inserted by section 3 of Act 4 of 2016

6. Section 3L of the principal Act is hereby amended by the substitution for subsection (3) of the following subsection:

- “(3) If a licence is refused, suspended, cancelled or withdrawn[,]—
- (a) an applicant must cease the training, exhibition, or use of an animal for safeguarding; or
 - (b) in respect of an assistance animal, the access to a private or public area, building, facility or transport system to which the person with a disability otherwise has legal access to, may be refused to an assistance animal accompanying that person with a disability.”. 5

Amendment to section 7 of Act 24 of 1935, as substituted by section 6 of Act 4 of 2016

7. Section 7 of the principal Act is hereby amended— 10
- (a) by the deletion at the end of paragraph (dC) of “and”; and
 - (b) by the insertion after paragraph (e) of the following paragraphs:
 - “(f) the organisations that may train assistance animals for the purposes of applying for a licence and must make such regulations within six months of the Performing Animals Protection Amendment Act, 2025 coming into operation; and
 - (g) any other licensing provision that may assist a person with a disability in applying for a licence.”. 15

Amendment of section 11 of Act 24 of 1935, as amended by section 7 of Act 7 of 1972, section 9 of Act 7 of 1991 and section 8 of Act 4 of 2016 20

8. Section 11 of the principal Act is hereby amended—
- (a) by the insertion after the definition of “Animal Scientist” of the following definition:
 - “‘**assistance animal**’ means any animal that is trained to do work, guide, alert or perform tasks for a person with a disability in order to support his or her movement, senses, or activities;”; and
 - (b) by the insertion after the definition of “officer” of the following definition:
 - “‘**person with a disability**’ means a person who has a physical, intellectual, neurological or sensory impairment that substantially limits such a person and who requires the support of an assistance animal;”. 25

Amendment of Arrangement of Sections of Act 24 of 1935

9. The arrangement of sections of the principal Act is hereby amended by the insertion after the reference to the heading to section 1, of the following item:

“**1A. Protection afforded to person holding licence for assistance animal**”.

Substitution of the long title of Act 24 of 1935, as substituted by section 11 of Act 7 of 1991 35

10. The following long title is hereby substituted for the long title of the principal Act: 40
- “To regulate the exhibition and training of performance animals [and], the use of animals for safeguarding and the access to private or public areas, building, facilities or transport systems of assistance animals accompanying a person with a disability.”

Short title and commencement

11. This Act is called the Performing Animals Protection Amendment Act, 2025, and comes into operation on a date determined by the President by proclamation in the *Gazette*. 45

MEMORANDUM ON THE OBJECTS OF THE PERFORMING ANIMALS PROTECTION AMENDMENT BILL, 2025

1. INTRODUCTION

- 1.1 In the Equality Court judgment of *SA Guide-Dog Association for the Blind and Amanda Bester v The Department of Home Affairs and the Western Cape Department of Home Affairs* Case No. EC 16/2018 (unreported), the Court held that the denial of access to the applicant, Amanda Bester and her assistance animal, Reo, to the premises and offices of the Department of Home Affairs, Western Cape, amounted to unfair discrimination.
- 1.2 Following this judgment, it has become evident that people with disabilities who use assistance animals remain marginalised and are often turned away from public and private spaces as well as from accessing public transport.
- 1.3 Section 9(4) of the Constitution provides that no person may be discriminated directly or indirectly on the ground of that person's disability. Furthermore, section 9 of the Promotion of Equality and Prevention of Unfair Discrimination Act, 2004 (Act No. 4 of 2004), prohibits unfair discrimination of any person on the ground of that person's disability. Included in this prohibition is the failure to eliminate obstacles that unfairly limit or restrict persons with disabilities from enjoying equal opportunities. The lack of legislation preventing assistance animals and their owners from being turned away from private and public areas, buildings and transport systems, has proven to be an obstacle that requires addressing.
- 1.4 It is therefore important that the Performing Animals Protection Act, 1935 (Act No. 24 of 1935) (hereinafter referred to as "the principal Act"), be amended, in order to protect people with disabilities who use assistance animals by creating a licensing procedure for people with disabilities who own and use assistance animals. The licensing of assistance animals will create a regulatory framework in which people with disabilities and their assistance animals can operate within and create a legislative environment that can prevent situations such as what took place with Amanda Bester and her assistance animal, Reo.

2. OBJECTS OF BILL

- 2.1 This Bill seeks to provide a regulatory framework in which assistance animals can be formally licensed, by including assistance animals in the protection and licensing structure afforded to performing animals.
- 2.2 The licensing of assistance animals will provide persons with disabilities with a guarantee that if they are in possession of a licence for their assistance animal, they will be able to enter or access private and public areas, buildings, facilities or transport systems, without their assistance animals being turned away.
- 2.3 The licensing envisaged in this Bill will set assistance animals apart from animals who are acquired for companionship or comfort. This Bill will provide assistance animals with a certain elevated status that will allow them access to buildings that usually do not permit animals.

3. CONTENTS OF BILL

- 3.1 Clause 1 amends section 1 of the principal Act by inserting a new section 1A into the principal Act which provides for the extent of the protection afforded to persons with disabilities when they have been issued a licence for the use of an assistance animal. Section 1A provides that no person may deny any person with a disability from entering or accessing public or private areas, buildings, facilities or transport solely based on the presence of an accompanying

assistance animal, should such a person with a disability hold a licence issued to them in terms of this Act.

- 3.2 Clause 2 amends section 3B by providing that one of the qualifications of a National Licensing Officer include being a specialist in training assistance animals.
- 3.3 Clause 3 amends section 3F of the principal Act by providing that any person with a disability who intends to use an animal as an assistance animal at a private or public space, building, facility or transport system and who wants to make use of the protection afforded by this Act, must apply for a licence to the National Licensing Officer for the district where they are permanently resident. Clause 3 further adds to the list of information needed for such a licence, by adding a requirement that those applicants applying for a licence for their assistance animal must add a detailed description of the general nature of the assistance the assistance animal is intended to be used for and its training. The clause further includes a new paragraph (*fA*) that adds another requirement that a person applying for a licence for their assistance animal must describe the nature of their disability and the nature of the private or public spaces, buildings, facilities or transport to which the person with a disability envisages access. The clause also amends subsection (3) to provide that a national licensing officer, with consent from the applicant may visit the premises of the applicant and inspect the living quarters of the assistance animal.
- 3.4 Clause 4 amends section 3G of the principal Act, to ensure that a National Licensing Officer must satisfy themselves in respect of the need for the use of assistance animal, and that the assistance animal is trained by a prescribed organisation.
- 3.5 Clause 5 amends section 3J of the principal Act to provide for two validity periods for licences, which is 12 calendar months for licences in respect of animals who are being exhibited or trained to be exhibited or used for safeguarding, and 48 calendar months for animals who accompany a person with a disability as an assistance animal.
- 3.6 Clause 6 amends section 3L(3) of the principal Act by providing that similar to animals used for safeguarding, training or exhibition, where an assistance animals' licence is refused, suspended, cancelled or withdrawn, the applicant must cease using that animal as an assistance animal.
- 3.7 Clause 7 amends section 7 of the principal Act to include the Minister making regulations in matters involving licensing provisions to assist persons with disabilities.
- 3.8 Clause 8 amends section 11 of the principal Act to insert two new definitions, "assistance animal" and "person with a disability".
- 3.9 Clause 9 amends the arrangement of sections of the principal Act.
- 3.10 Clause 10 provides for the amendment to the long title of the principal Act.
- 3.11 Clause 11 provides for the short title and commencement.

4. DEPARTMENTS/BODIES CONSULTED

- 4.1 The following stakeholders were consulted—
 - 4.1.1 Guide Dogs Association South Africa;
 - 4.1.2 Honey's Garden for Medical Alert Dogs SA;
 - 4.1.3 Assistance Dogs International; and

4.1.4 International Guide Dogs Federation.

5. FINANCIAL IMPLICATIONS FOR THE STATE

The Bill does not hold any financial implications for the State. There are existing structures already in place that inspect the welfare of animals and the licensing of performing animals, these existing structures could be utilised to incorporate a licence for an assistance animal.

6. PARLIAMENTARY PROCEDURE

- 6.1 The Member is of the opinion that the Bill must be dealt with in accordance with the procedure established by section 76 of the Constitution as its provisions deal, in a substantial manner, with a functional area of concurrent national and provincial legislative competence listed under Schedule 4 to the Constitution, namely “Animal Control”.
- 6.2 The Member is further of the opinion that it is not necessary to refer this Bill to the National House of Traditional and Khoi-San Leaders in terms of section 39(1)(a) of the Traditional and Khoi-San Leadership Act, 2019 (Act No. 3 of 2019), since it does not directly affect traditional or Khoi-San communities or contain any provisions pertaining to customary law or customs of traditional or Khoi-San communities.