

PARLIAMENT OF THE REPUBLIC OF SOUTH AFRICA
NOTICE 497 OF 2020
STEVEN SWART, MP

**NOTICE OF INTENTION TO INTRODUCE A PRIVATE MEMBER'S BILL
AND INVITATION FOR COMMENT ON THE DRAFT, NAMELY THE
ANIMALS PROTECTION AMENDMENT BILL, 2020**

Mr. Steven Swart, MP acting in accordance with section 73(2) of the Constitution of the Republic of South Africa, 1996, intends to introduce the Animals Protection Amendment Bill, 2020, in Parliament. An explanatory summary of the Bill is hereby published in accordance with Rule 276(1)(c) of the Rules of the National Assembly (9th Edition).

Our Courts have recognised that although the Animals Protection Act, 1962, may not be conferring rights on animals, it is designed to promote their welfare and it recognises that animals are sentient beings that are capable of suffering and of experiencing pain. The Constitutional Court specifically concluded that the “rationale behind protecting animal welfare has shifted from merely safeguarding the moral status of humans to placing intrinsic value on animals as individuals”. A culture of caring for and protecting non-human animals has significant benefits for the wellbeing of a society. Indeed, studies have shown that efforts to reduce cruelty to animals are likely to reduce the tolerance that communities have for interpersonal violence.

Driven by regulatory change around the world, research into technologies to replace animal testing in the cosmetics industry means that there are now non-animal methods for the most commonly required safety tests, many of which are internationally recognised. It is now common practice not to test these ingredients on animals. Although there are no known laboratories in South Africa where animal testing for cosmetics is currently taking place, an amendment to this effect will send an important message that the testing of ingredients for cosmetics on animals is unacceptable to South Africans. This was indeed the argument of New Zealand in 2015 when they passed legislation banning the testing of cosmetics on animals. Similar prohibitions have also resulted in economic growth in the European Union and United Kingdom, where local cosmetic businesses and entrepreneurs thrived once the prohibition came into effect and created spin-off jobs in various sectors.

It is necessary for the South African government to step in and not only give effect to the recognition of sentience of animals by our judiciary, but also to improve the level of protection that animals are

afforded in South Africa. South Africa, a country that is on the forefront when it comes to the recognition and protection of human rights, was scored an “E” by World Animal Protection. This international NGO found South Africa lacking in respect of its commitment to improve and allocate resources to animal welfare, as well as in respect of developing laws to provide for sufficient protection of animals.

One of South Africa’s BRICS partners (India), already has legislation in place to ban the testing of cosmetics on animals, and another (Brazil) has legislation in six of its states and a bill in progress. In China, a new Cosmetic Supervision and Administration Regulation (CSAR) is being put in place. South Africa should lead Africa by passing legislation to ban the testing of cosmetics on animals.

The Animals Protection Amendment Bill, 2020 (“draft Bill”) therefore seeks to amend two Acts, namely the Animals Protection Act, 1962, (Act No. 71 of 1962) (“Animals Protection Act”), and the Foodstuffs, Cosmetics and Disinfectants Act, 1972 (Act No. 54 of 1972) (“Foodstuffs and Cosmetics Act”). The amendment intends to prohibit the sale and manufacturing of cosmetics that were tested on an animal in the Republic and to criminalise the testing of cosmetics on animals.

The draft Bill proposes to insert a definition for “cosmetic” into the Animals Protection Act. It further provides for a new offence to be included in the Animals Protection Act related to the testing of a cosmetic or part of, or ingredient of, a cosmetic on an animal. The Bill provides for an exception in respect of parts or ingredients that were tested on an animal for a purpose that was not related to the inclusion of that part or ingredient in a cosmetic, as parts or ingredients of cosmetics may also be used in medicines and disinfectants.

In a schedule to the Bill, amendments are proposed to the Foodstuffs and Cosmetics Act. The creation of an offence for the selling or manufacturing of a cosmetic that has been tested on an animal in the Republic is proposed. It is also proposed to exclude the special defence created by section 6 of that Act from applying to the offence of selling or manufacturing any cosmetic, which has been tested on an animal in the Republic. A similar exception related to tests on parts or ingredients not intended for use in a cosmetic will also be included in this Act.

Interested parties and institutions are invited to submit written representations on the proposed content of the draft Bill to the Speaker of the National Assembly within 30 days of the publication of this notice. Representations can be delivered to the Speaker, New Assembly Building, Parliament Street, Cape Town; mailed to the Speaker, P O Box 15 Cape Town 8000, or emailed to speaker@parliament.gov.za and copied to sswart@parliament.gov.za and abouwer@parliament.gov.za.

Copies of the Animals Protection Amendment Bill, 2020 may, after introduction, be obtained from:

The African Christian Democratic Party

PO Box 15, Cape Town, 8000

Attention: Mr Steven Swart, MP

Telephone: 0832856290

E-mail: sswart@parliament.gov.za and copy abouwer@parliament.gov.za