

BOARD NOTICE 66 OF 2004

CONSTITUTION INCLUDING ALL THE ADDITIONS AND AMENDMENTS FROM BOARD NOTICE 14 OF 1995 UP TO THE DATE OF THIS GOVERNMENT GAZETTE**CONSTITUTION OF THE NATIONAL COUNCIL OF SOCIETIES FOR THE PREVENTION OF CRUELTY TO ANIMALS****1. INTERPRETATION**

(1) In this Constitution, unless the context otherwise indicates -

- "**Act**" means the Societies for the Prevention of Cruelty to Animals Act, No.169 of 1993;
- "**advisory director**" means a person appointed by the Council as an advisory director of the Council in terms of article 9 (7) (a);
- "**article**" means the articles of this Constitution;
- "**associate members**" means an associate member of the Council admitted by the Council in terms of article 5 (4);
- "**contribution**" means all amounts payable by a Society to the Council in terms of the Act;
- "**Council**" means the National Council of Societies for the Prevention of Cruelty to Animals established by and in terms of the Act;
- "**delegate**" means a natural person appointed by a Society in good standing as its delegate for the purposes and in accordance with the provisions of article 6 (1);
- "**member**" means a Society registered or deemed to be registered in terms of section 8 of the Act;
- "**in good standing**" means, in relation to a Society, that such Society has paid all contributions due by it timeously and submitted all documents required by it timeously and is not in breach of any of its other obligations in terms of the Act without just cause;
- "**month**" means a calendar month;
- "**Regional Council**" means a regional council established in terms of article 4 (2);
- "**Chief Executive Officer**" means the person appointed in terms of article 10 (14) and includes any person appointed to perform the duties of the Chief Executive Officer;

(2) The words defined in section 1 of the Act will have the same meanings in this Constitution as those attributed to them in section 1 of the Act.

(3) In this Constitution, unless the context otherwise requires-

- (a)** words signifying the singular will include the plural and *vice versa*;
- (b)** words signifying one gender will include the other genders;
- (c)** references to natural persons shall include artificial persons and *vice versa*.

2. SPECIFIC POWERS OF THE COUNCIL

(1) For the furtherance of its objects, the enforcement of its powers and rights in terms of the Act, and the fulfilment of its duties in terms of the Act the Council shall have the following specific powers:

- (a)** generally to utilise the funds of the Council in any manner calculated to further and advance the objects of the Council, enforce its powers and rights in terms of the Act and fulfil its duties, in terms of the Act;
- (b)** to take over, purchase, take on lease or otherwise acquire, hold, develop, improve, manage, let, sell, transfer, exchange, mortgage, pledge, grant servitude, licences, or other rights over, or otherwise dispose of, or charge or encumber any property or interest therein, whether moveable or immovable, real or personal, corporeal or incorporeal, and in any part of the

world, and to accept (with or without condition) subsidies, grants, legacies, donations, gifts, devices and bequests (including subscriptions and donations of cash and investments) and to erect and construct, maintain, enlarge, alter, demolish, or remove any buildings, fences or other erections or works on any immovable property;

- (c) to enter into any contract whatsoever with reference to the whole or any part of the property or rights of the Council;
- (d) to invest the moneys of the Council in such manner as the Council may from time to time deem expedient;
- (e) to borrow money for any purpose of the Council on such terms as may seem expedient and if necessary to secure the same by mortgage, pledge, charge, debentures, debenture stock or other security charged on all or any of the property of the Council, to enter into any guarantee, suretyship or undertaking, and to assume liability for or undertake the debts and engagement of others;
- (f) to open and operate accounts with banks and draw, make, accept, endorse, discount, execute and issue promissory notes, bills of exchange, debentures and other negotiable or transferable instruments or securities;
- (g) to establish, subsidise, promote, co-operate or affiliate with or act as trustees or agents for, or manage or grant or lend money or other assistance to any Society or association corporate or incorporate, whose objects are similar to those of the Council or the Societies and which prohibits the distribution of its income or property to its members save by way of remuneration for services rendered to it or reimbursement of expenses incurred for its benefit;
- (h) to investigate, institute and defend proceedings in any court of law, congress, Parliament, council or other forum in any part of the world, and to oppose whether by means of litigation, use of the media or any other lawful means, any proceedings or applications which may seem calculated directly or indirectly to endanger or prejudice the interests or objects of the Council;
- (i) to enter into any contract of employment or service with any person and to remunerate any person rendering service to the Council either by cash payments or otherwise as may be though expedient;
- (j) to establish and support, financially or otherwise, or to aid in the establishment and support, financially or otherwise, of Societies, associations; funds and trusts calculated to benefit persons who are or have been directors, officials or employees of, or otherwise connected with the Council, or the dependants or the connections of any such persons, and to grant pensions and allowances to any such persons or their aforesaid relatives, dependants, or connections and generally to embark on any scheme or undertaking calculated to benefit any such persons, or their aforesaid relatives, dependants or connections;
- (k) to do all such other lawful acts and things as may be incidental or conducive to the powers aforesaid;

(2) The provisions of article 2 (1) are not exhaustive and shall not in any way limit the Council's powers or rights in terms of the Act.

3. SOURCE AND APPLICATION OF COUNCIL'S FUNDS

(1) The Council shall derive its income from -

- (a) Contributions: Contributions by Societies shall be determined by the Council in general meeting from time to time. These are currently -

(A) 10% of all benefits received by a Society from bequests, legacies, other testamentary dispositions and otherwise acting as a direct or indirect consequence of death of a person.

(B) In determining, the contribution due pursuant to (A) above -

(i) if an *inter vivos* trust or other *inter vivos* facility is created for the benefit of a Society and the creator, donor, or other benefactor dies with the consequence that the benefits from the trust or other facility continue to accrue to the Society after such death, from the date of such death, such benefits will be deemed to be benefits received and subject to the contribution referred to in (A) above; and

(ii) for so long as the benefit derived by the Society is in the form of income the contribution will be calculated on the income and if subsequently a capital benefit is paid to the Society then the contribution will be calculated on the capital benefit received, as well. Once the capital benefit has been received by the Society and the contribution thereon has been paid then subsequent income derived by the Society from the investment of the capital benefit will not constitute a benefit for the purpose of calculating the contribution envisaged in (A) above;

All members' contributions shall be paid annually in arrears by not later than 10 clear days preceding the date of each annual general meeting of the Council and shall be accompanied by a typed reconciliation as to how the amount paid is calculated.

- (b) contributions of associate members shall be determined by the Council from time to time;
- (c) funds raised by whatever means available to the Council in its discretion in terms of the Nonprofit Organisations Act, 1997 (No 71 of 1997);
- (d) interest, rental, dividends, profits and all other returns on investments made by the Council or the employment of its property;
- (e) fees, charges or any other consideration payable to the Council for services rendered, advice given or property sold by the Council;
- (f) donations, gifts, annuities, legacies, bequests and any other form of testamentary or other disposition, award or benefit made in favour of the Council;
- (g) any other source available to the Council.

(2) The Council shall be entitled to compound, waive, abandon, or vary its right to receive contributions.

(3) The income and property of the Council whencesoever derived shall be applied solely towards the promotion of the objects of the Council, the enforcement of its powers and rights in terms of the Act and no portion thereof shall be paid or transferred directly or indirectly by way of dividend, bonus, or otherwise howsoever by way of profit to the members: Provided however that nothing herein contained shall prevent the payment in good faith or remuneration to any director, officer or servant of the Council or to any member for return for any services rendered to the Council or of expenses incurred and disbursed in carrying out the business or attending to the affairs of the Council.

(4) Subject to the Act, if upon the winding up or the dissolution of the Council there remains, after the satisfaction of all its debts and liabilities, any property whatsoever, the same shall not be paid to or distributed among the members but shall vest in a trust created on dissolution by the members then present, or failing them, by the Chief Master of the Supreme Court or his successor in title, which trust shall be responsible for the utilisation of the said property for the benefit of the Societies or such other institution or institutions having similar objects as may be determined by the members at or before the time of dissolution or, in default thereof, by the Chief Master of the Supreme Court of the Republic of South Africa, or his successor in title.

(5) (a) If any income or other benefit is received by or accrued to the Council as the result of the application of section 5 (2) of the Act, the Board will, within 30 days of receipt of such benefit or accrual, notify in writing any Society that may reasonably be believed to have some claim, of the details thereof including the last known address of the donor and the value or estimated value of the benefit or accrual.

(b) If in relation to any dispute in respect of any income or other benefit received by or accrued to the Council by virtue of the application of section 5 (2) of the Act any Society has delivered within 30 days of the date of notice from the Board, to the Council a written statement of claim setting forth the basis and extent to which a Society claims that but for the provisions of section 5 (2) of the Act, such Society would have been entitled to receive all or any of the benefits received by or accrued to the Council by virtue of the application of section 5 (2) of the Act, then the Council shall in consultation with the disputing party or parties establish a committee including a civil servant with a legal training.

(c) Should any Society receive any bequest not specifying the recipient Society it shall advise the Board within 30 days.

(6) A committee established in terms of article 3 (5) shall -

(a) determine in its absolute discretion whether any payment should be made over to or other benefit made over to or other compensation should be given to a Society or Societies which has/have delivered a statement of claim in accordance with article 3 (5) and if so the committee shall determine in its discretion the amount, nature, extent and timing thereof;

(b) in its absolute discretion, require or permit any Society to present documentary or oral evidence before the committee in order to assist the committee in exercising its discretion;

(c) in its absolute discretion, determine the procedures which shall apply in connection with the exercise of the committee's discretion;

(d) in its absolute discretion appoint any one of its members and/or any third party to undertake such investigations as the committee may determine and as the committee may consider to be relevant to the exercise of its discretion;

(e) exercise its discretion in good faith towards the interests of the Council and the Societies but shall be deemed not to be arbitrators;

(f) not direct the Council to pay or make over to any Society any amount or benefit received by or accrued to the Council unless the statement of claim has been submitted within the prescribed period;

(g) subsist until such committee has exercised its discretion in terms hereof and notified all interested parties in writing of the decision taken by it without being obliged to give reasons therefore whereupon it will automatically cease.

(7) Without in any way limiting the grounds upon which a committee may determine that a bequest is intended for a specific Society (or specific Societies), in its deliberations the committee established in terms of Article 3(5) shall, in the absence of a clear intention to benefit the Council, apply the following criteria in order to determine to whom the bequest is to be allocated :

(a) The following are indications that the bequest was intended, unless the contrary is shown, for a specific Society in its entirety :

- (i)** if the deceased, not having ever been a member of any other Society, was a member of that Society at the time of his or her death;
- (ii)** if the deceased, not having ever been a member of any other Society, was a member of that Society at the time of the execution of the testamentary document establishing the bequest;
- (iii)** if the deceased was ever a member of that Society prior to death and not thereafter a member of another Society;
- (iv)** if the deceased, not being or having been a member of any Society, was ever a donor to that Society;
- (v)** if the deceased, not being or having been a member of any Society, ever participated significantly in the activities of that Society;
- (vi)** if the deceased, not being or having been a member of any Society and not having ever participated in the activities of that Society, whether he or she was resident in the area of the Society or not, ever utilised the services of that Society;
- (vii)** if the deceased, not being or having been a member of any Society and not having ever participated in the activities of that Society, whether he or she was resident in the area of the Society or not, never having utilised the services of that Society, resided at time of making the bequest or at time of death, within the area of that Society.

(b) The following are indications that the bequest was intended, unless the contrary is shown, to be shared between two or more Societies (in a proportion to be determined reasonably by the committee on the evidence before it) -

- (i)** the deceased was a member of two or more Societies at various times of his or her life;
- (ii)** the deceased was a donor to two or more Societies during life;
- (iii)** the deceased participated significantly in the activities of two or more Societies during life;
- (iv)** was resident within two or more Societies' areas during life;

(c) Only where there is no indication that the deceased intended to benefit a Society (or Societies) should the bequest fall to be allocated to the Council.

(8) Any decisions made by a committee established in terms of article 3 (5) (b) shall be final and shall be deemed to constitute a decision by the Board which shall be implemented by the Board.

(9) All costs and expenses incurred in connection with the establishment of a committee pursuant to article 3 (5) including the costs and expenses attendant upon all proceedings undertaken by such committee will be paid by the Council or the Society or Societies which have delivered the statements of claim in terms of article 3 (5), in such proportions as the committee may in its discretion direct. The committee may also direct that interest be paid on the money, governed by the prescribed Interest Rate Act No 55 of 1977, from such date as it may consider appropriate to date of payment.

(10) The committee referred to in terms of Section 3(5) shall meet in the city or town in which the Society contesting the bequest is situate or, if more than one such Society exists, in a city or town determined by such Societies, such city or town to be a city or town in which either the majority of such Societies is situate or, if no such majority exists, a city or town where any one such Society is situate, to be determined by the Societies or (only in the event of their being unable to determine a suitable venue) by the National Council, such venue to be one suitable to ensure the greatest convenience of all parties.

4. REGIONAL COUNCILS

(1) The Council may in its discretion

(a) define regions within the Republic;

(b) repeal or amend the definition of any region in terms of article 4 (1) (a).

(2) Societies which are empowered or obliged to pursue their objects, rights and powers and to fulfil their duties wholly or partly within a region defined by the Council in terms of article 4 (1) (a) may in their discretion establish a Regional Council which shall comprise only Societies which are qualified to establish such Regional Council.

(3) Subject to the provisions of article 4 (4) the members of a Regional Council may in their discretion prescribe rules and duties which shall govern the relationships amongst the members of such Regional Council.

(4) The members of a Regional Council shall not be empowered to prescribe any rules or duties in terms of article 4 (3) which -

(a) directly or indirectly contradict any of the provisions of the Act or this Constitution or directly or indirectly have the effect or potential effect of impairing or restricting the enforcement of the Act, Rules or this Constitution or any of the activities of the Council :

(b) do not have the object or effect of advancing the objects, rights and powers of the Council and the Societies or the fulfilment of their respective duties in terms of the Act and this Constitution;

(c) in any way impair or restrict the rights of the Societies which are members of the Regional Council to pursue and fulfil their individual objects, rights, powers and duties including but not limited to their right to appoint a delegate in terms of article 6 (1);

(d) have not previously been approved by the Council in its discretion.

5. MEMBERS

(1) The members shall comprise-

(a) the Societies; and

(b) the directors.

(2) The Council shall maintain at its principal place of business from time to time a register of members which shall -

- (a) record the names of the members, their addresses chosen by them for the delivery of all notices and the dates of the commencement and termination of their membership;
- (b) be available for inspection in the same way and on the same terms and conditions applicable, *mutatis mutandis*, to the inspection of the register of members of as an association not for gain incorporated under the Companies Act.

(3) The members, directors, committee members and other officers and employees of Societies shall not be members of the Council nor will they enjoy or be entitled to enforce any of the rights or powers of a member all such rights and powers of a Society being exercisable by a Society only through the actions of its delegate at a general meeting.

(4) The Board shall be entitled in its discretion to admit associate members. An associate member shall -

- (a) not be a member;
- (b) enjoy such rights and powers as the Council in general meeting may allow: Provided that an associate member shall not enjoy any voting rights at a general meeting of the Council ;
- (c) be subject to removal as such in the discretion of the Council in general meeting.

6. VOTES OF MEMBERS

(1) Every Society in good standing desirous of representation at a general meeting of the Council, shall not less than 96 hours before the time appointed for such meeting, lodge with such person and at such place as determined by the directors (who shall cause these particulars to be stated in the notice of the meeting) a written instrument in a format prescribed by the Board, signed on its behalf by no fewer than two duly authorised persons appointing its delegate.

(2) It shall not be competent for a Society to vote at any general meeting of the Council other than through its delegate and the Council shall be entitled to ignore any other purported vote by a Society.

(3) For the purpose of all decisions taken by the Council at a general meeting -

- (a) each delegate shall have one vote;
- (b) on a show of hands each delegate shall have only one vote irrespective of the number of Societies which he represents;
- (c) on a poll each delegate shall have as many votes as the number of Societies which he represents.

(4) At any general meeting a motion put to the vote of the meeting shall be decided on a show of hands unless a poll is (before or on declaration of the result) demanded. In the event of an equality of votes, whether on a show or hands or on a poll, the chairman shall be entitled to a second or casting vote in addition to his deliberative vote.

7. GENERAL MEETINGS

(1) All meetings of the members shall be called general meetings.

(2) A general meeting of the Council known as the annual general meeting shall be held once in every calendar year at a time and place determined by the Board.

(3) The Board may at any time and shall, within 14 days of the receipt of a written requisition by no fewer than 15 members in good standing, give notice to convene a general meeting to be held within 60 days of receipt of such requisition, at such time and place as the Board may determine.

(4) No fewer than 28 days written notice specifying the place, the day and the hour fixed for general meetings, and in the case of ordinary or special resolutions to be considered thereat, the full text of such resolutions or in the case of special business to be dealt with thereat, the general nature of such business, shall be given to the members in good standing but the non receipt of such notice by any member shall not invalidate the proceedings at any general meeting.

8. PROCEEDINGS AT GENERAL MEETINGS

(1) The annual general meeting shall deal with all matters prescribed by the Companies Act to be dealt with by an association not for gain at its annual general meeting, including the consideration of the annual financial statements, announcement of directors, and appointment of an auditor, and may deal with other business laid before it which shall be deemed to be special business. All business laid before any other general meeting shall be deemed to be special business.

(2) At an annual general meeting 10 delegates shall be a quorum. If within half an hour after the time appointed for the meeting a quorum is not present, the meeting shall stand adjourned for one hour and if at such an adjourned meeting a quorum is not present the delegates present shall be a quorum.

(3) At a general meeting convened upon a requisition of members in terms of article 7 (3), the fifteen members who requisitioned such general meeting shall be personally present and shall form a quorum. If this number is not present within half an hour of the time appointed for the meeting, the meeting shall be dissolved.

(4) The chairman of the Board shall preside as chairman at general meetings of the Council.

(5) If there is no such chairman, or if at any meeting he is not present within 15 minutes after the time appointed for holding the meeting or is unwilling to act as chairman, the delegates present shall choose one of their number to be chairman of the meeting.

(6) The chairman may, with the consent of any meeting at which a quorum is present (and shall if so directed by the meeting), adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

9. MANAGEMENT

(1) Unless otherwise expressly provided for in the Act or this Constitution all decisions of the Council shall be enacted, managed, controlled and administered by the Board.

(2) The Board shall comprise -

(a) three directors each of whom shall be the chairman for the time being or failing him a nominee of each of the primary Societies (as hereinafter determined);

(b) two directors nominated by a simple majority of the votes of the delegates of all the Societies whose activities are primarily undertaken in the Provinces of Mpumalanga, Northern, North-West and Gauteng;

- (c) two directors nominated by a simple majority of the votes of the delegates of all the Societies whose activities are primarily undertaken in the Provinces of Eastern Cape, Northern Cape and Western Cape. One director shall be responsible for the Eastern Cape and the other to be responsible for the Western and Northern Cape;
- (d) one director nominated by a simple majority of the votes of the delegates of all the Societies whose activities are primarily undertaken in the Province of KwaZulu/Natal;
- (e) one director nominated by a simple majority of the votes of the delegates of all the Societies whose activities are primarily undertaken within the Province of the Free State;
- (f) one director nominated by the Board at its first meeting;
- (g) one director nominated by the Minister of Agriculture;

Note : Provincial directors may not be members of an entrenched Society.

- (h) the executive officer of the Council, who may at the discretion of the Board, be a director with full voting rights and entitled: "Executive Director".
- (3) (a) Save for the Chief Executive Officer, and any director nominated by the minister only persons who are members in good standing of a Society in good standing and who are permanently resident in South Africa, shall be eligible for appointment as directors;
- (b) The Chief Executive Officer shall, at least 4 weeks prior to the nomination date, send a notice to all Societies requesting the nomination of candidates for election to the Board;
 - (c) The notice shall specify the number of vacancies on the Board for which nominations are required, and shall specify the date by which all nominations are to be received.;
 - (d) Each Society shall be entitled to nominate as many candidates as there are vacancies;
 - (e) The nomination form shall be in the form set out as *Annexure "A"* hereto, and a separate form shall be used for each candidate. The form shall be signed by both the candidate and the two Societies by whom he is nominated;
 - (f) In the event that the total number of persons so nominated does not exceed the number of vacancies available, they shall be deemed to have been duly elected as directors of the Board;
 - (g) If on the nomination day the number of nominated candidates exceeds the number of vacancies, the Chief Executive Officer shall call for an election, and shall cause ballot papers to be sent to all Societies, by registered post, at least 6 weeks prior to the election day;
 - (h) At any given time there shall be no less than 12 directors serving on the Board of the Council.
- (4) (a) Ballot papers shall be in the form set out as *Annexure "B"* hereto, and shall -
- (i) be sent no later than 30 days after the nomination day;
 - (ii) contain the full names of each candidate;

- (iii) stipulate –

that it is a ballot paper for the election of directors of the Board; and the number of directors of the Board to be elected during that election;
- (iv) be accompanied by voting directions, which shall indicate how a Society shall proceed to cast its vote and return its ballot paper to the Chief Executive Officer;
- (v) specify the number of vacancies which are required to be filled;
- (vi) specify the date by which the ballot paper is to be received by the Chief Executive Officer;
- (vii) contain the details of the voting Society.
- (b) If the Chief Executive Officer, after consideration of a written application by the Society concerned, is satisfied that the ballot paper has been lost, he shall issue a fresh ballot paper to that Society;
- (c) Each Society shall be entitled to vote for as many candidates as specified on the ballot form;
- (d) The number of directors of the Board to be elected, both provincial and other, is as stated on the ballot paper;
- (e) A Society may cast only one vote in favour of their chosen candidates and may only vote in respect of their provincial director who will represent their own province;
- (f) Other than the completion of the information required at the top of the form, no marks other than a cross (X) may be made in the voting area of the ballot paper next to each chosen candidate;
- (g) The ballot paper shall be sent by registered post or delivered so as to ensure that it shall reach the Chief Executive Officer before 16h00 on the polling day;
- (h) The Chief Executive Officer shall as soon as possible after the date of issue of the ballot forms, prepare a ballot box for the election;
- (i) The ballot box shall be prepared by having it sealed, while it is empty, by a Commissioner of Oaths in such manner as to ensure that any envelope placed therein can be removed therefrom only by breaking the seal concerned;
- (j) Such Commissioner of Oaths shall provide the Chief Executive Officer with a written statement regarding the sealing of the ballot box;
- (k) The ballot box which has been thus sealed, shall, until it is opened in terms of these regulations, be kept by the Chief Executive Officer in such a manner as to ensure that access thereto can be gained only with a view to placing envelopes for the election concerned therein;
- (l) A ballot paper shall be rejected by the Chief Executive Officer if –

 - (i) the envelope in which it is contained has not been marked clearly with the words "BALLOT PAPER" and the name of the Society by whom it was sent;

- (ii) it is not contained in a sealed envelope when it is received by the Chief Executive Officer;
 - (iii) the Society from whom the ballot has been received :-
 - (a) is not a Society in good standing; or
 - (b) has already cast a vote.
 - (iv) a cross which has been made thereon extends beyond the outline of a square on that ballot paper to such an extent that it is not possible for the Chief Executive Officer to determine without reasonable doubt in favour of which candidate the vote concerned has been cast;
 - (v) it contains any marks in the voting area other than the crosses referred to in regulation 4(f); or
 - (vi) the number of candidates opposite whose names crosses have been made exceeds the number of directors of the Board to be elected.
- (m) If a ballot paper is received by the Chief Executive Officer after 16h00 on the polling day of the election, the envelope shall remain unopened and kept only for verification purposes;
- (n) The Chief Executive Officer shall -
- (i) examine each envelope in order to determine whether the words "BALLOT PAPER" have been clearly written thereon, and record the date and time of receipt thereof on the envelope concerned;
 - (ii) record on a suitable list kept by him for this purpose, the fact that the Society has cast its vote; and
 - (iii) thereafter place such envelope in the ballot box.
- (o) If the Chief Executive Officer is satisfied that a ballot paper has to be rejected on any of the grounds referred to in regulation 4 (l) and (m), he shall endorse the envelope in which that ballot paper is contained, with the words "Spoilt" and record the number of the regulation in terms whereof it is rejected thereon;
- (p) The Chief Executive Officer shall as soon as possible after 08h30 on the first working day following the election day, break the seal on the ballot box and remove the contents of that ballot box therefrom in a room;
- (i) in which no unused ballot papers for the election concerned are present; and
 - (ii) to which only himself and a representative nominated by the organisation's auditors have access.
- (q) After the seal on a ballot box has been broken, no person shall -
- (i) bring any unused ballot paper for the election concerned, or a ballot paper which has been received by the Chief Executive Officer after the closing time on the polling day, into the room; or

- (ii) remove any envelope or ballot paper which has been removed from the ballot box, from the room, before the result of the election has been determined.
- (r) The Chief Executive Officer shall divide the envelopes which have been removed from the ballot box into those which have been endorsed "Spoilt", and those which have not been thus endorsed, and shall thereafter open the latter envelopes and examine the ballot papers contained therein;
- (s) If the Chief Executive Officer is satisfied that a ballot paper has to be rejected on any of the grounds referred to in regulation 4 (n) and (o), he shall -
 - (i) endorse the ballot paper concerned and the envelope in which it was contained, with the words "Spoilt" and record the number of the regulation in terms whereof it is rejected thereon; and
 - (ii) replace the ballot paper concerned in the envelope concerned and thereafter keep it with the other envelopes which have been previously endorsed in terms of regulation 4 (o).
- (t) As soon as the Chief Executive Officer had determined the validity of the ballot papers, he shall use the ballot papers which have not been rejected to determine the number of votes which have been recorded in favour of each candidate during the election;
- (u) Those candidates which have been nominated for election as regional directors, if unsuccessful, shall be considered for election as ordinary directors, and the votes in their favour counted as such;
- (v) Subject to the provisions of regulation 9 2(b) - (c), the vacancies of the Board for which directors have to be elected shall be filled by those candidates in favour of whom, in numeric order, the largest number of votes have been recorded;
- (w) If the Chief Executive Officer determines that an equal number of votes have been recorded for two or more candidates during an election, and in consequence it is not possible to determine the outcome of the election, he shall forthwith determine by lot which of those candidates are deemed to be elected;
- (x) The Chief Executive Officer shall as soon as possible after the counting of the votes, send to all Societies the full names of the persons who have thus been elected directors of the Board;
- (y) The Chief Executive Officer shall notify each person so elected in writing of his election as a director of the Board;
- (z) The Chief Executive Officer shall as soon as possible after a vacancy for an elected director of the Board has been filled in terms of these regulations, bind all documents relating to the election concerned in separate packages which are suitably marked, and thereafter seal them together in a package which is marked with the words "Election documents" and the dates of the nomination day and polling day concerned.
- (4)
 - (aa) This package shall be preserved by the Chief Executive Officer in an unopened condition for a period of at least three years after the polling unless he is otherwise directed by a competent court;
 - (bb) The Chief Executive Officer shall, as soon as possible after an election has been held, report to the Board on -

- (i) the number of persons who were nominated as candidates for the election concerned;
 - (ii) the number of nominations which he refused to accept and the grounds for each such refusal; and
 - (iii) the number of ballot papers -
 - (a) which were issued by him for the election concerned;
 - (b) which were submitted to him;
 - (c) which were rejected on each of the grounds referred to in regulation 4.
 - (cc) No person shall disclose any particulars other than those referred to in regulations 4 (x) and 4 (bb) with regard to the result of an election, except under law, or unless he is directed thereto by a competent court.
- (5) Unless removed from office at a general meeting convened upon a requisition of members in terms of article 7 (3) the directors shall hold office from the close of the general meeting at which they have been appointed until the close of the next annual general meeting.
- (6) The directors shall be eligible for re-appointment.
- (7) The Board may in its discretion -
- (a) appoint advisory directors to fulfil such duties as the Board may direct;
 - (b) invite to its meetings any person who it deems fit to attend and speak thereat in an advisory or other capacity but such person will not be a director;
 - (c) at any time by power of attorney appoint any person whomsoever to be the attorney and agent of the Council for such purposes and with such powers, authorities and discretion (not exceeding those vested in or exercisable by the directors) and for such period and subject to such conditions as they may think fit, and with the right to delegate to any other person all or any of the powers, authorities and discretion vested in him.
- (8) At its first meeting the Board shall elect from amongst the directors a chairman of the Board who shall remain as such for the duration of his term of office as a director. No director shall be eligible for election as chairman if he has served as such consecutively for the four preceding years.
- (9) The directors appointed in terms of article 9 (4) above shall select and appoint from amongst themselves, by majority vote (2) two directors as joint vice-chairman if necessary, and a financial director of the Board.
- (10) A management committee of no fewer than five in number shall be appointed by the Board and shall include the chairman, the vice-chairmen and the financial director and the Chief Executive Officer. Should the Chief Executive Officer not be a director he shall not have a vote.
- (11) The management committee shall be responsible for the affairs of the Council and shall have vested in it all of the rights and powers which are necessary or incidental to enable it to fulfil its said responsibility and the management committee may co-opt as additional members of the management committee any other director who shall hold such office from the date of cooption until the close of the next succeeding annual general meeting.

(12) An advisory director shall -

- (a)** not be a director;
- (b)** enjoy such rights and powers as the Board may allow; provided that an advisory director shall not enjoy any voting rights at a meeting of the Board ;
- (c)** be subject to removal as such in the discretion of the Board.

(13) The primary Societies shall comprise each of the five Societies whose individual annual audited expenditure properly incurred and paid in respect of salaries and wages is greater than the like expenditure and payment by the remaining Societies for the equivalent period: Provided that -

- (a)** if there is a dispute in the calculation of such expenditure or as to whether or not it is properly incurred or paid or any other dispute regarding the qualification of identification of the primary Societies, a determination in that regard by the auditors for the time being of the Council shall be final and binding and in making such determination they will act as experts, not arbitrators; and
- (b)** subject to (a) above the primary Societies will be identified annually by the Board at the commencement of each annual general meeting of the Council and such determination shall prevail until the following annual general meeting of the Council; and
- (c)** the determination by the Board in terms of (b) above shall be based upon the last audited financial statements of the Societies delivered by the Societies to the Council; and
- (d)** if the latest audited financial statements of a Society which are relied upon by the Board in terms of (c) above relate only to a part of a year then the Board may, having regard to the reasons for such partial audit, extrapolate the contents of such financial statements as though they applied to the complete year under consideration. The Board may make such appropriate provision or qualification relevant to the unaudited period; and
- (e)** the primary Societies will be determined by the Board in the order of their expenditure and if there is an equality of expenditure the Board will use its absolute discretion in determining which of the Societies having equal expenditure shall be primary Societies.

(14) No person who is a director or committee member or other functionary of any organisation which is in the opinion of the Board an animal welfare organisation, other than a Society, shall be eligible to be a director.

10. PROCEEDINGS OF THE BOARD

(1) The Board shall meet for the despatch of business whenever necessary and may otherwise adjourn or regulate its meetings as it deems fit.

(2) A director who is absent from the Republic shall not be entitled to receive notice of a meeting of the Board.

(3) Decisions of the Board shall be determined by a simple majority of votes. In the case of an equality of votes the chairman shall have a second or casting vote.

(4) On the written requisition of three directors the Chief Executive Officer shall convene a meeting of the Board to be held within 21 days. The notice of such meeting shall state the particular business to be transacted thereat.

- (5) Five directors present shall be a quorum for any business meeting of the Board.
- (6) In the event of a vacancy arising on the Board for whatsoever reason the remaining directors may, having such regard to the composition of the Board, as defined by article 9 (2) and as they deem necessary, invite a person suitably qualified in terms of article 9 (2) to accept office which, if accepted, shall be retained until the close of the next annual general meeting.
- (7) The directors may act notwithstanding any vacancy on their body, but, if and so long as their number is reduced below the number or pursuant to these articles as the necessary required for a quorum of the Board the directors may act for the purpose of increasing the number of directors to that number, or of convening a general meeting of the Council, but for no other purpose.
- (8) If a chairman of the Board has not been elected or if he be not present within 15 minutes of the time appointed for a meeting of the Board the vice-chairmen present shall appoint one of their number to preside at the meeting or, if there be no vice-chairmen present, then the Board shall appoint a chairman for that meeting.
- (9) The Board may delegate any of its powers to committees consisting of such directors as they think fit; any committee so formed shall, in the exercise of powers so delegated, conform to all regulations that may be imposed on it by the Board.
- (10) A committee shall elect a chairman of its meetings; if at any meeting the chairman is not present within five minutes after the time appointed for commencing the meeting, the members of the committee present may choose one of their number to be the chairman of the meeting.
- (11) The committee may meet and adjourn as thought proper. Motions put to any meeting of the committee shall be decided by a simple majority of votes of those present.
- (12) All acts done by the Board or by a committee thereof, or by any director, notwithstanding that it shall be afterwards discovered that there was some defect in the appointment of such Board, committee or director or that they or any of them were disqualified, be as valid as if such Board or committee were properly constituted or such person had been duly appointed and was qualified to be a director or committee member.
- (13) The Board, or any committee appointed by it, may decide any question telephonically or by the submission by registered post, hand delivery or telefax to every director or committee member, as the case may be, of a proposal in writing couched in identical terms, and a written minute of any such telephonic decision verified as such by the signature of the chairman of the Board or the committee, or Chief Executive Officer as the case may be, or the signed acceptance of such proposal by a majority of such directors or committee members shall be deemed to be a decision taken at a duly constituted meeting and shall be recorded as such in the minutes of the next meeting of the Board or of the committee.
- (14) The Board shall be responsible for the appointment of a Chief Executive Officer to the Council and all other paid officers, inspectors, servants; and shall adopt rules regulating their duties and conditions of service, and may in its discretion vary such rules and terminate such appointments.

11. DISQUALIFICATION OF DIRECTORS

The office of a director shall be vacated if such director -

- (a) is disqualified from holding office as a director of a company in terms of section 218 of the Companies Act;

- (b) resigns his office by notice in writing to the Council;
- (c) is absent from three consecutive meetings of the Board without special leave of absence first had and obtained from the Board, provided that such three meetings are not held within a period of one month;
- (d) is the nominee of a Society and such Society withdraws such nomination or ceases to be a Society; or
- (e) not being the nominee of the Minister, or executive director, ceases to be a member in good standing of a Society.

12. RECORDS

- (1) The directors shall cause records to be kept -
 - (a) of the names and addresses of all Societies;
 - (b) of all appointments of officers and inspectors made by the Board;
 - (c) of the directors present at each meeting of the Board, and of any committee of the directors;
 - (d) of all resolutions and proceedings at meetings of the Council, of the Board, and of any committee of the directors.
- (2) Every director attending a meeting of the Board shall sign his name in an attendance register, and if so prescribed by the directors, members of any committee appointed by the Board shall similarly record attendance at meetings of such committee.

13. ACCOUNTS

- (1) (a) The directors shall cause true accounts to be kept of all moneys and property received and expended and disposed of by the Council and of the matter in respect of which such receipts, expenditure and disposition takes place and also of the assets and liabilities of the Council;
- (b) In all respects accounting records of the Council shall comply with the relevant provisions of the Nonprofit Organisations Act, 1997 (No 71 of 1997) and the Companies Act as if the Council were an association not for gain;
- (c) The financial year of the Council shall terminate on the 31 March every year.
- (2) The books of account of the Council shall be kept at the principal place of business of the Council or at such other place or places as the directors shall determine and shall be open to inspection by the directors at all reasonable times.
- (3) The directors shall from time to time determine at what times and places and under what conditions or regulations such accounts or books or any of them shall be open to inspection of Societies.
- (4) The signature of the Chief Executive Officer or any other officer of the Council duly authorised by the directors shall be sufficient receipt for all moneys received on behalf of the Council. All cheques, bills of exchange, promissory notes and all contracts, powers and instruments required to be signed in the course of the ordinary business of the Council shall be signed by no fewer than two persons authorised thereto by resolution of the directors or in the absence of such resolution by the chairman and Chief Executive Officer or if there is no Chief Executive Officer, by the chairman and one other director.

(5) At each annual general meeting an auditor or auditors shall be appointed to audit the whole of the accounts of the Council. Each auditor so appointed shall be eligible for re-election. He shall be registered under the Public Accountants and Auditors Act and shall not be a director or hold any office under the Council other than that of auditor. The remuneration of the auditors shall be determined at each annual general meeting in respect of the previous year's audit.

(6) The accounts of the Council shall be examined and passed by the directors before circulation to the members.

(7) An annual report of the operations of the Council, together with the audited balance sheet and statement of accounts, representing the Council's financial position at the close of the preceding year, shall be submitted by the directors at each annual general meeting, and shall be sent by post to members of the Council at least 28 clear days before the meeting.

14. AMENDMENTS

(1) This Constitution may only be amended at a general meeting. The proposed amendments must form part of the notice at the meeting.

(2) The Societies may in general meeting amend this Constitution: Provided that: -

(a) such amendment does not conflict with or limit the provisions at the Act or the implementation thereof; and

(b) at least two thirds of the votes available to the members have been cast in favour at the amendment; and

(c) the amendment will not take effect before the lapse of 60 days after the publication of notice of the proposed amendment in the *Gazette*.

ANNEXURE 'A'

*Nom/Date***NOTICE FOR NOMINATIONS FOR CANDIDATES FOR ELECTION TO THE NATIONAL COUNCIL OF SPCAs BOARD OF DIRECTORS**

In terms of Clause 9 of the Constitution we request nominations for candidates to serve on the Board of the National Council for the _____ year. Nominations are sought for the following :-

Eastern Cape and Southern Cape Provincial	1 Candidate
Western Cape and Northern Cape Provincial	1 Candidate
Free State Provincial	1 Candidate
KwaZulu Natal Provincial	1 Candidate
Mpumalanga, Northern Province, Gauteng, North/West Provincial	2 Candidates

I, the undersigned, being duly authorised by resolution of the committee of :-

Name of Society : _____

Hereby Nominate : _____

Resolution Dated : _____

Name of Proposer : _____

Capacity : _____ Signature : _____

NOTE : Clause 9 of the Constitution provides that -

1. A separate form shall be used for each candidate nominated. The form shall be signed by both the candidate and the Society nominating the candidate.
2. Each candidate requires 2 nominations and acceptance by Societies.
3. The Nomination and Acceptance form shall be lodged with the Chief Executive Officer of the National Council of SPCAs on or before _____ and may be faxed or posted to P O Box 1320 Alberton 1450. Fax : (011) 907-4013.

ACCEPTANCE OF NOMINATION

I, the undersigned, hereby consent to accept nomination as a candidate for election to the Board of Directors of the National Council of SPCAs for the _____ year.

NAME : _____ Signature _____

ADDRESS : _____

TELEPHONE NO : Home _____ Office _____

DATE : _____

**FILL IN NAME OF
NOMINATED
PERSON**

Eastern Cape and Southern Cape Provincial	1 Candidate	_____
Western Cape and Northern Cape Provincial	1 Candidate	_____
Free State Provincial	1 Candidate	_____
KwaZulu Natal Provincial	1 Candidate	_____
Mpumalanga, Northern Province, Gauteng, North/West Provincial	2 Candidates	_____ _____

- 3 Registered post, courier or hand deliver the ballot paper after clearly marking the envelope in capital letters 'BALLOT PAPER' and the name of the Society by whom it was sent, addressed to the **Chief Executive Officer** to reach the Chief Executive Officer by not later than _____ to **P O Box 1320 Alberton 1450 or 6 Clark Road, Florentia, Alberton 1449. NO FAXES WILL BE ACCEPTED.**
- 4 Other than the completion of the information required at the top of the form, no marks other than an (X) may be made in the voting area of the ballot paper next to each chosen candidate.
- 5 If a Society is not in good standing or is in breach of any of its other obligations in terms of the SPCA Act 169 of 1993 their vote will be considered spoilt.

Members are hereby warned in terms of the provisions of the Constitution that, should a member vote for more than the stipulated persons or fail to sign the ballot paper, the ballot paper will be invalid.

I, the undersigned, hereby declare that I have not already voted in this election.

SIGNATURE OF MEMBER

DATE