



Image: Corlette Wessels

# Fair Game?

## Improving the well-being of South African wildlife

Review of the legal and practical regulation of the welfare of wild animals in South Africa, 2018



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The legal regulation of wild animal welfare in South Africa follows the traditional – but outdated – distinction between animal welfare and biodiversity conservation. **Captive wild animals under the physical control of humans, whether held temporarily or permanently, straddle the divide between inter-departmental and concurrent national and provincial jurisdiction, due to a statutory regime unintended and unsuited to addressing the issue of wild animal welfare.**



## In practice, the current legal regime ultimately provides little protection for wild animals.

There are a fast-growing number of commercial exploits involving wild animals, and increasing public awareness and interest in the welfare of wild animals. This, coupled with growing public concern about violations of general welfare principles, highlights the urgent need for a solid, consistent, and appropriate welfare regime for wild animals.

This report was prompted by shared concern amongst civil society organisations, including the Endangered Wildlife Trust (EWT) and the Centre for Environmental Rights (CER), about the absence of welfare considerations in biodiversity laws, and the inadequacy of existing welfare laws as they apply to wild animals.

The report examines the legal and practical regulation of the welfare of wild animals in South Africa, with a view to constructive engagement with the national and provincial departments of environmental affairs and agriculture, and other relevant stakeholders. It aims to inform the broad consultation and collaboration required in order to reform and improve the legal framework to protect the welfare of wild animals. Importantly, it places the issue of wildlife welfare in a Constitutional context.

In part one, the national, provincial and international law, as well as the norms and standards applicable to wild animals are evaluated. In part two, the practical application of these laws is reviewed through information obtained from media and other reports, articles, studies, interviews with relevant role-players, and responses to access to information requests.

The report concludes with legal and practical recommendations for the improvement and proper regulation, compliance with, and enforcement of appropriate minimum welfare standards for wild animals under the control of humans. These recommendations serve as a catalyst to open discussions with and tender assistance to the relevant government and legislative bodies for the improvement of wildlife welfare laws and practices.

In summary, immediate, medium, and long-term measures to standardise the application and enforcement of conservation welfare laws are required to give adequate effect to the existing provisions.

- 1. As an immediate first step**, clarification of the legal mandate for the welfare of wild animals and the updating of laws and closing of loopholes in the system are necessary.
- 2. Simultaneously**, investment in compliance, monitoring, and enforcement capacity, together with a standardised and transparent permit system are essential.
- 3. Essential** short-term reform of the permit system requires the following:



Nationally prescribed standard permit conditions (with the necessary adjustments for province-endemic species, as well as exotic or non-indigenous animals, as there is no reason why welfare protection should discriminate between species), with the mandatory incorporation of basic welfare provisions in line with standard welfare laws and guidelines.



National standardisation of permit applications, including standard, uniform, and mandatory permit application forms, assessment checklists, and the minimum mandatory information required to appear on a permit.



To promote the quality and appropriateness of permit conditions, publication of permit applications and proposed permits to allow an opportunity for comment and objection by civil society organisations and other affected parties.



Easy and automatic public access to permits, compliance inspection reports, and audit reports.



Strict monitoring and enforcement of permit conditions, particularly those relating to welfare.

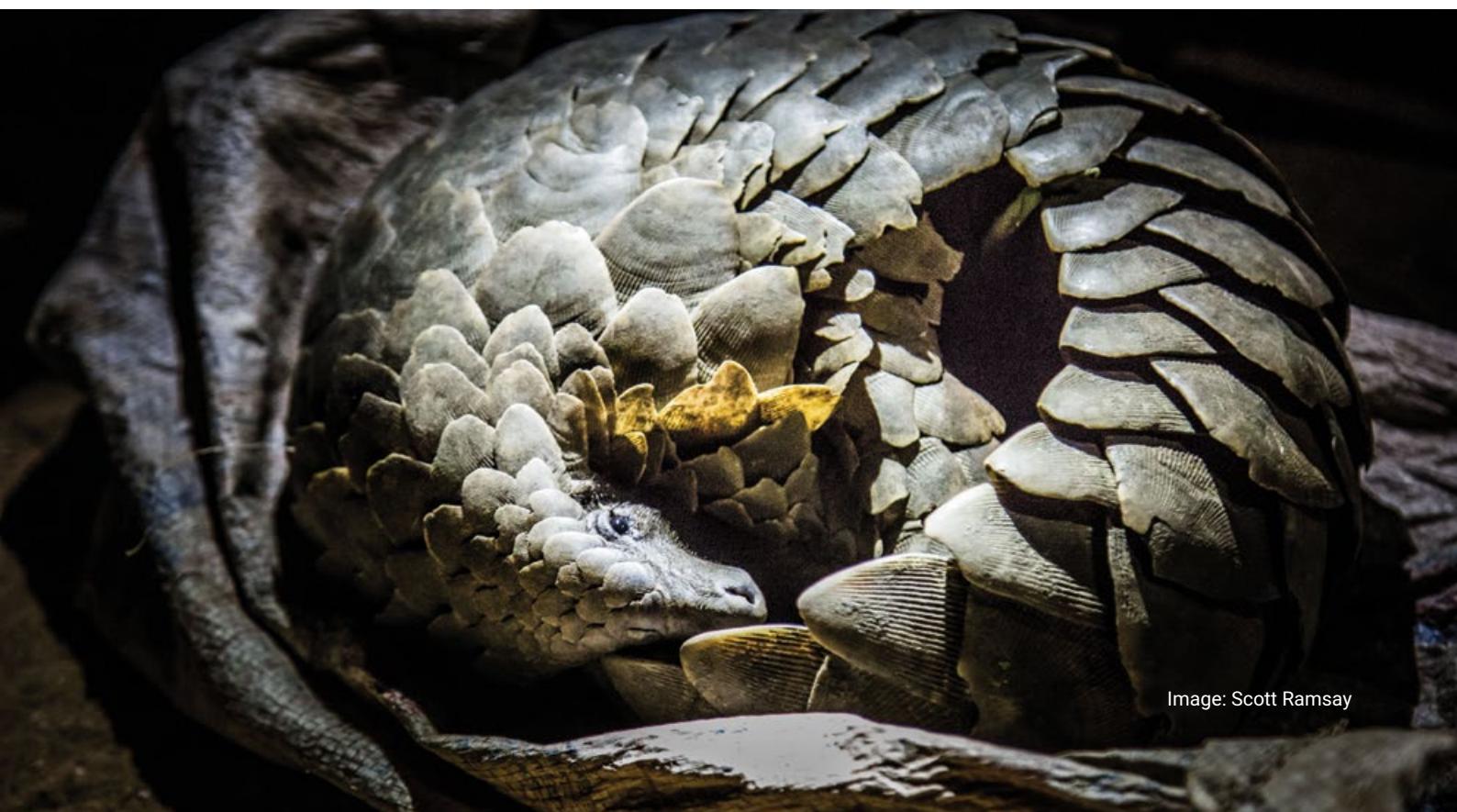


Image: Scott Ramsay



4. **Long-term reform** of the permit system requires an integrated electronic national permit database, including permits, compliance inspection reports, and audit reports. This is critical as the lack of any cross-referencing across provinces has, for example, allowed for the dubious practice of obtaining permits in one province where these have been refused in another. All provinces should have real-time access to the nationwide details of all applications, approvals, and denials.

5. **In addition**, significantly-increased capacity for an adequate number of trained officials, regular welfare inspections and consistent enforcement - including through funding from increased permit application fees and fines, and in addition to government funding to the NSPCA in its performance of its crucial public function - is required.

To receive this report in full, contact [aagjee@cer.org.za](mailto:aagjee@cer.org.za), 021 447 1647 or visit [www.cer.org.za](http://www.cer.org.za).

**The improvement of animal welfare laws and their consistent implementation, compliance, monitoring, and enforcement is an urgent Constitutional imperative.**

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