REPUBLIC OF SOUTH AFRICA

IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA

Case Number: **2023-054014**

(1) REPORTABLE: YES / NO
(2) OF INTEREST TO OTHER JUDGES: YES / NO
(3) REVISED: YES / NO

17 April 2026_ [redacted]
DATE SIGNATURE

In the matter between:

GTG FOURIES PIGGERY (PTY) LTD	Applicant
and	
MPHO MAJA	First Respondent
MOOKETSA RAMASODI	Second Respondent
ANGELA THOKOZILE DIDIZA	Third Respondent
DEPARTMENT OF AGRICULTURE, LAND REFORM AND RURAL DEVELOPMENT	Fourth Respondent

***Delivered**: This judgement was prepared and authored by the Acting Judge whose name is reflected and is handed down electronically by circulation to the Parties / their legal representatives by email and by uploading it to the electronic file of this matter on CaseLines. The date of the judgment is deemed to be 17 April 2026.*

JUDGMENT

RAUBENHEIMER, AJ

Introduction

[1] The applicant seeks to review the decision of the first respondent not to compensate it for the loss of its entire heard of pigs due to African Swine Fever in terms of section 19(1) of the Animal Diseases Act 35 of 1984 (the ADA), and seeks the substitution of the decision by the first respondent with an order that it be compensated in the amount of R 29 493 302, excluding VAT.

The parties

[2] The applicant is a private company conducting a commercial pig farming operation in the district of Potchefstroom. It trades in all aspects of pig farming and hosted in excess of 17 000 pigs in the operation at the time of this application.

[3] The first respondent is the director of Animal Health in the Department of Agriculture, Land Reform and Rural Development.

[4] The second respondent is the Director-General of the Department of Agriculture, Land Reform and Rural Development.

[5] The third respondent is the Minister of the Department of Agriculture, Land Reform and Rural Development.

[6] The fourth respondent is the Department of Agriculture, Land Reform and Rural Development.

Background

[7] On 6 March 2021, the applicant received a report that a number of pigs had died. It was furthermore reported that the animals presented with symptoms consistent with African Swine Fever (ASF).

[8] As a consequence of the symptoms of ASF having been noticed, the applicant immediately reported it to its private veterinarian and on 7 March 2021, a state veterinarian, a representative of the fourth respondent and a representative of the South African Pork Producers Organisation (SAPPO), attended the applicant's premises to conduct post - mortems and to collect representative samples of two dead sows, which resulted in the entire piggery being placed under quarantine as part of the control measure by the state veterinarian, pending further investigation.

[9] The incidence of ASF was confirmed and at the time of this confirmation, the total number of pigs owned by the applicant and present on the premises amounted to more than 17 000 pigs, all of which were regarded as either contact or infected animals, as envisaged in the ADA.

[10] In accordance with the direction in the veterinary quarantine notice, the applicant prepared a contingency protocol plan as part of the control measure, which was submitted to the first respondent on 21 March 2021. The aim of the plan was to contain the outbreak, prevent the spread of ASF and to preserve as many of the clinically healthy pigs as possible.

[11] At the time of the compiling of the plan, the vast majority of the pigs were clinically healthy as confirmed by regular testing and did not display any signs suggestive of ASF.

[12] The plan envisioned, *inter alia*, the salvage slaughter of the clinically healthy animals for human consumption, which, at that stage, amounted to approximately 15 600 animals to the value of approximately R 28 000 000.

[13] The first respondent rejected the plan on 22 March 2021 and proposed alternative options, which entailed that the farm remain under quarantine for 30 days after the last pig mortality and that the salvage slaughter of clinically healthy pigs could only be conducted on the premises to limit the potential spread of the virus. The applicant was requested to revise the action plan in accordance with the proposed options.

[14] On 1 April 2021, positive test results indicated that the virus had started to spread, placing the entire herd at risk due to the entire herd being placed in insolation

as part of the prescribed control measure. This resulted in all the pigs becoming contact or infected animals and therefore necessitating the isolation and destruction of the animals as prescribed in the ADA.

[15] On 7 April 2021, the applicant informed the first respondent that the entire herd was contact or infected animals and requested the first respondent to order the destruction of the contact and infected animals in terms of the regulations to the ADA.

[16] The same day, the director of veterinary services responded and informed the applicant that no order to destroy the entire herd will be issued.

[17] The applicant consequently approached the Mahikeng High Court on an urgent basis, for an order to compel the first respondent to provide the requisite legislative instruction to destroy the entire herd, which order was granted on 19 April 2021. The first respondent subsequently issued a letter authorising the destruction of all contact and infected animals.

[18] A total of 17 191 animals were consequently destroyed or otherwise disposed of, pursuant to the control measure, under the supervision of the fourth respondent.

[19] On 30 June 2021, the applicant then lodged its application for compensation in terms of the ADA, which claim was rejected by the first respondent on 2 September 2021. The basis for the rejection was that infected and in-contact pigs do not have any value and therefore determined the value of the compensation payable to be zero.

[20] An objection was subsequently lodged with the third respondent, resulting in the second respondent appointing a panel comprising of senior officials of the fourth respondent. The panel conducted a hearing and made recommendations to the second respondent after hearing representations by the applicant and the first respondent.

[21] The second respondent made recommendations on the basis of, *inter alia*, the recommendations of the panel, to the third respondent.

[22] On 23 August 2022, the third respondent set aside the decision of the first respondent and remitted the claim to the Director for reconsideration and ordered the first respondent to consult with the applicant in reconsideration in order to settle at an

acceptable compensation value. The applicant was further required to submit the precise number of pigs destroyed pursuant to the control measure to the first respondent.

[23] On 15 September 2022, a meeting was held in compliance with the direction of the third respondent. During the meeting, the applicant provided the first respondent with information substantiating the claim for compensation.

[24] The first respondent rejected the claim for compensation on 30 January 2023, on the basis that no value above zero was acceptable as compensation for the destroyed animals.

[25] This is the decision sought to be reviewed.

Statutory framework

[26] The control and management of animal diseases is governed by the Animal Diseases Act.[1]

[27] The Act is administered by the Department of Agriculture, Land Reform and Rural Development.

[28] The ADA defines an animal disease as a disease to which animals are liable and whereby the normal functions of any organ or body of an animal is impaired or disturbed by any protozoon, bacterium, virus, fungus, parasite, other organism or agent.[2]

[29] The ADA provides for control measures which are contained in table 2 to the regulations. These control measures are applicable to controlled animal diseases.[3]

[30] The ASF is categorised as a controlled disease and is defined as a highly contagious viral disease transmitted by wild pigs, warthogs, bushpigs and the tampan. Its symptoms are high fever, reddish discolouration of the skin of the abdomen and

[1] Act 35 of 1984.
[2] Id at section 1.
[3] Animal Diseases Regulations GN R2026 GG 10469, 26 September 1986.

hind quarters, in-co-ordination, somnolence, high mortality and haemorrhage of all internal organs, especially in lymph nodes.[4]

[31] Table 2 provides that the veterinary control measures to be implemented are the supervised isolation and destruction of all contact and infected animals.

[32] The minister is, in terms of section 9(1), authorised, in respect of control measures, to prescribe general control measures or particular control measures in respect of particular animal diseases and parasites. According to section 9(1)(b), the control measures can be prescribed for the entire Republic or a particular defined area.

[33] Section 11(1)(a) of the ADA obliges the owner or manager of land containing animals to take all reasonable steps to prevent the infection of animals with any animal disease, or parasite and the spreading thereof from the land or animals. Such owner shall also take steps reasonably necessary for the eradication of animal diseases and parasites on the land or in respect of animals.

[34] Section 11(1)(b)(i) prescribes that where animals have become or can reasonably be suspected of having become infected with any animal disease or parasite, the owner must apply the prescribed treatment or any other treatment deemed suitable and customary in the circumstances.

[35] Further, section 11(1)(b)(ii) prescribes that if animals have become infected or can reasonably be suspected of having become infected with any controlled animal disease, the owner must immediately report such incidence to the director.

[36] Section 11(2) states that a veterinarian or any other person finding incidents or suspected incidents of any controlled animal disease in any animal or progeny or product thereof, also has an obligation to report such incidents to the director.

[37] One of the measures that the first respondent may activate in terms of Table 2 of the Regulations is to order the destruction of the contact and infected animals.

[4] Id at Table 2.

[38] Section 19 of the ADA provides for the payment of compensation in the event of a loss suffered due to control measures implemented as a result of an animal disease.

[39] Regulation 30[5] authorises the director to determine the applicable compensation in terms of section 19.

[40] Section 1 of ADA defines a control measure as any measure prescribed by the Minister under section 9 in relation to any controlled purpose. Controlled purpose, on the other hand, means the prevention of the bringing into the Republic, or the prevention or combatting of or control over an outbreak or the spreading, or the eradication, of any animal disease, or where applicable, of any parasite.

[41] Control measures entail movement restrictions and permits, mandatory reporting, quarantine and isolation, compulsory destruction and biosecurity protocols.[6]

[42] In terms of section 2 of ADA, the person responsible for the exercising of the powers and the performing of the duties conferred or imposed under the Act is the director of the Directorate of Animal Health of the department, who shall be a veterinary and who shall exercise the powers and perform the functions with due regard to any instructions issued by the Minister.

Grounds for review

[43] The review application relies on the following provisions of PAJA[7] for the review:

a. Section 6(2)(a)(iii) in that the first respondent was biased or reasonably suspected of bias.

b. Section 6(2)(b) in that a mandatory and material procedure or condition prescribed by an empowering provision (i.e. the Act, the regulations thereto and an internal memorandum) was not complied with.

---

[5] Above n 3.
[6] Section 9(2) of ADA.
[7] Promotion of Administrative Justice Act 3 of 2000.

c. Section 6(2)(c) in that the decision was procedurally unfair.

d. Section 6(2)(d) in that the action/decision was materially influenced by an error of law.

e. Section 6(2)(e)(i) in that the action/decision was taken for a reason not authorised by the empowering provision (i.e. the Act, the regulations thereto and an internal memorandum).

f. Section 6(2)(e)(ii) in that the action/decision was taken for an ulterior purpose or motive.

g. Section 6(2)(e)(iii) in that the action/decision was taken because irrelevant considerations were taken into account and relevant considerations were not considered.

h. Section 6(2)(e)(vi) in that the action/decision was taken arbitrarily or capriciously.

i. Section 6(2)(f)(ii)(aa) in that the action/decision itself is not rationally connected to the purpose for which it was taken

j. Section 6(2)(f)(ii)(bb) in that the action/decision itself is not rationally connected to the purpose of the empowering provision (i.e. the Act, the regulations thereto and an internal memorandum).

k. Section 6(2)(f)(ii)(cc) in that the decision/action itself is not rationally connected to the information before the first respondent.

l. Section 6(2)(f)(ii)(dd) in that the action/decision itself is not rationally connected to the reasons given for it by the first respondent.

m. Section 6(2)(h) in that the first respondent in the exercise of the power and the performance of the function authorised by the empowering provision (i.e. Section 19 of the Act) in pursuance of which the decision was purportedly taken, is so unreasonable that no reasonable person could have so exercised the power or performed the function in the way and manner the first respondent had.

n. Section 5(3) in that the reasons furnished by the first respondent are patently inadequate, irrational and non-sensical and that, on this basis, there exists a legal presumption that the decision by the first respondent was taken without good reason.

o. Section 8(1)(c)(ii)(aa) for the substitution or replacing the decision with an order that the first and third respondents compensate the applicant in the amount of R 29 493 302 (excl VAT).

Discussion

[44] The legal framework dealing with compensation is found in the statutory framework as set out in section 19 of the ADA and regulation 30 of the Regulations to the ADA, the policy pronouncements of the fourth respondent as contained in the internal memorandum dated 25 May 2009.

[45] Section 19 reads as follows:

> "(1) The owner of any animal or other thing which has been destroyed or otherwise disposed of pursuant to any control measure, or any provision of section 17 (3) or (5), or any other provision of this Act, by the director or on his authority, may submit an application for compensation for the loss of the animal or thing to the director.
>
> (2) The director may, taking into consideration –
>
>> (a) the applicable compensation, based on a fair market value of the animal or thing, which has been prescribed for purposes of this section or, where no compensation has been so prescribed, any amount fixed by him in accordance with any criterion deemed applicable by him;
>>
>> (b) the value of anything which has in connection with the animal or thing been returned to the owner;
>>
>> (c) any amount which is due by the owner pursuant to any provision of this Act in respect of the animal or thing to the State; and

(d) any amount which may accrue to the owner from any insurance thereof, fix a fair amount as compensation.

(3) Notwithstanding the provisions of subsection (2), the director shall, in the case where a carcass has been disposed of in terms of section 17 (5), fix the nett income accruing from such disposal, against which any amount payable by the owner concerned by virtue of any provision of this Act in respect of the carcass to the State is to be set off, as compensation in respect of the carcass, if –

(a) the owner is otherwise entitled in terms of this section to compensation; and

(b) that nett income exceeds the amount prescribed in respect of any such carcass.

(4) No compensation shall be payable in respect of any animal or thing which has been in connection with the commission of an offence in terms of this Act or in respect of which such offence has been committed, as the case may be, and which has been destroyed or otherwise disposed of by the director or by his order pursuant to the provisions of this Act."

[46] Regulation 30 reads as follows:

"When compensation is payable to a responsible person in terms of section 19 of the Act, the applicable compensation shall be determined by the director."

[47] The internal memorandum dealing with compensation states that:

"In a disease outbreak, however it is very important for the director to engender maximum support of the effected farmers for the control measures, by determining a mutually agreeable compensation value. This requires the director to liaise with the affected parties as an ad hoc rapid response to determine the most appropriate and acceptable compensation value. The amended Animal Diseases regulations on compensation empowers the director to determine the applicable compensation in consultation with relevant industry organisations and enable government to persist with the current policy of generous but realistic compensation for animals destroyed in disease control campaigns."

[48] The third respondent, as the political and administrative head of the Department and the designated internal appeal authority, has the power of direction and has the final word of the Department on the validity of the particular administrative act.[8]

[49] Internal appeals are the primary mechanism for hierarchical accountability, allowing the superior functionary to ensure that the decision is correct and in accordance with departmental policy.[9]

[50] After considering the report and recommendations submitted to her in terms of section 23(3)(a) of the ADA, the third respondent set the decision by the first respondent aside in terms of section 23(4)(a) and referred the matter back to the first respondent, together with directives in terms of section 23(4)(a).

[51] The effect of the setting aside of the initial decision was that that decision was regarded as an invalid decision.

[52] As the decision was an invalid decision, the third respondent issued corrective measures in the form of directives to the first respondent.

[53] The directives issued to the first respondent dictate the future conduct of the first respondent as the designated functionary and forms the legal basis for the subsequent administrative action.[10]

[54] In the directive, the third respondent referred to the process contained in the memorandum of 25 May 2009 and instructed the first respondent to follow the process as prescribed in the said memorandum.

[55] The first respondent did not have the power to consider the matter *de novo*. She was not permitted to start the process from scratch with an unfettered or wide discretion.[11]

---

[8] *Ntshangase v MEC: Finance, Kwa-Zulu Natal, and Another* 2010 (3) SA 201 (SCA) at para 18.

[9] *Koyabe and Others v Minister for Home Affairs and Others* 2009 (12) BCLR 1192 (CC) at para 35; *Dengetenge Holdings (Pty) Ltd v Southern Sphere Mining And Development Company Ltd and Others* 2014 (3) BCLR 265 (CC) at para 122.

[10] *Minister of Defence and Military Veterans v Motau and Others* 2014 (8) BCLR 930 (CC) at para 41; *Ahmed and Others v Minister of Home Affairs and Another* 2018 (12) BCLR 1451 (CC) at para 41.

[11] *Intertrade Two (Pty) Ltd v MEC for Roads and Public Works, Eastern Cape, and Another* 2007 (6) SA 442 (Ck) at para 47.

[56] The directives issued by the third respondent constitutes the new authorising provision[12] or the governing law for subsequent proceedings.[13] As such, the directives constitute the jurisdictional facts, being the preconditions that must exist or be complied with before an administrator can validly exercise a statutory power.[14]

[57] The directives of the third respondent amounts to an objective jurisdictional fact in the sense that the administrator either engaged in the settlement process or not.[15]

[58] In the directive, the third respondent stipulates that a new compensation award had to be issued. She, however, went further and prescribed a specific process to be followed to arrive at the substantive goal. The process to be followed is the preliminary step and serves as a condition precedent and as such, constitutes the procedural jurisdictional fact[16] in terms of which the substantive goal cannot be arrived at without following the prescribed procedure.[17]

[59] The remittal of the determination of the compensation by the third respondent is a delegation of limited authority to perform a specific corrective task, and the jurisdiction of the first respondent is revived only for the purpose of seeking a settlement.[18]

[60] An administrator, delegated as such, has to comply with the prescript to achieve the purpose of the provision as contained in the remittal itself.[19]

[61] Where a matter is referred back to an administrator with specific instructions from a higher administrative authority, especially an appeal authority, the instruction

---

[12] Hoexter, *Administrative Law in South Africa* 2 ed (Juta, Cape Town 2012) at 248.
[13] Burns and Beukes, *Administrative Law under the 1996 Constitution* 4 ed (LexisNexis, Butterworths 2013) at 207.
[14] *Kimberley Junior School and Another v Head, Northern Cape Department of Education and Others* 2010 (1) SA 217 (SCA) at para 11.
[15] *South African Defence and Aid Fund and Another v Minister of Justice* 1967(1) SA 31 (C) at 34H-35D.
[16] *AllPay Consolidated Investment Holdings (Pty) Ltd and Others v Chief Executive Officer, South African Social Security Agency and Others* 2014 (1) SA 604 (CC) at paras 28 & 30; *MEC for Health, Eastern Cape and Another v Kirland Investments (Pty) Ltd t/a Eye and Lazer Institute* 2014 (3) SA 481 (CC) at para 98.
[17] *Walele v City of Cape Town and Others* 2008 (6) SA 129 (CC) at para 71-72; *Paola v Jeeva NO and Others* 2004 (1) SA 396 (SCA) at para 16.
[18] *Retail Motor Industry Organisation and Another v Minister of Water and Environmental Affairs and Another* 2014 (3) SA 251 (SCA) at para 24.
[19] *Weenen Transitional Local Council v Van Dyk* 2002 (4) SA 653 (SCA) at para 13; *African Christian Democratic Party v Electoral Commission and Others* 2006 (3) SA 305 (CC) at paras 24-26.

restricts and focuses the discretion of the administrator[20] and is now a bound discretion.[21]

[62] Subordinate officials are bound by the decisions and directives of the superiors and have no discretion to ignore the directives or decide whether the jurisdictional fact is necessary.[22] If such fact is absent, the power has not been conferred by law, irrespective of the opinion of the administrator.[23]

[63] Where reconsideration is ordered, the administrator must do so with an open mind and cannot simply adopt the previous stance[24] or repackage the decision simply to avoid the instructions of the superior administrative authority.

[64] The directive of the third respondent referred the first respondent back to the process and policy contained in the internal memorandum, which the first respondent was in the first place, obliged to follow.

[65] The administrator to whom a decision has been remitted is legally barred from insisting on the same outcome. The reason for the remission was that the initial decision was set aside.

[66] The referral directive to the first respondent contained a clear and unambiguous instruction to settle.

[67] The directive to settle creates a new procedural landscape, which precludes the administrator from reverting to a previous unilateral approach.[25]

[68] Where a settlement framework has been established, as in the internal memorandum, the administrator is obliged to implement it faithfully.

---

[20] *Tikly and Others v Johannes NO and Others* 1963 (2) SA 588 (T) at 590F-H; *Ntshangase v MEC: Finance, KZN and Another* above n 8 at para 17.

[21] *Kemp and Others v Wyk and Others* 2005 (6) SA 519 (SCA) at para 10; *Dawood and Another v Minister of Home Affairs and Others* 2000 (3) SA 936 (CC) at para 54-55.

[22] *SA Defence and Aid Fund* above n 15 at 35A-B.

[23] *Paola v Jeeva NO and Others* above n 17 at para 16.

[24] *MEC for Agriculture, Conservation, Environment and Land Affairs v SASOL Oil (Pty) Ltd* 2006 (5) SA 483 (SCA) at para 19.

[25] *Hayes and Another v Minister of Finance and Development Planning, Western Cape, and Others* 2003 (4) SA 598 (C) at 623I – 624A.

[69] An instruction to settle converts the discretion from a unilateral power to a duty to negotiate bone fide.[26] Such instruction removes the power to act without the applicant's input and presupposes a bilateral process.

[70] An administrator involved in such process must be prepared to be persuaded that the position taken when the initial decision was made was incorrect,[27] and must enter the negotiations with the bona fide intention to arrive at an agreement.[28]

[71] The instruction to settle amounts to an instruction to fulfil the constitutional duty of fairness that rests on the state.[29]

[72] An instruction to settle is effectively an instruction to the first respondent to apply her discretion to reach a compromise.

[73] The directive to settle on an acceptable compensation involves an objective standard that must be justifiable to a reasonable person in the position of the claimant, and sustainable within the legal and policy framework.[30]

[74] The acceptability requirement imposes a consensus seeking obligation on the state, which implies mutuality of interests. In terms of this mutuality, neither party has an absolute right to dictate the price. The state must offer a figure that is reasonably defensible as fair.

[75] The acceptability threshold is tethered to the market value of healthy animals, and offering an amount significantly lower would be patently unfair and therefore unacceptable.[31]

[76] Any compensation offered by the state has to be objectively and reasonably fair, and the state is required to achieve a just and equitable balance between the public interest and the interests of the affected persons.[32]

---

[26] Hoexter above n 12 at 106-111.
[27] *Logbro Properties CC v Bedderson NO and Others* 2003 (2) SA 460 (SCA) at para 25.
[28] *George Moerasrivier Boerdery (Pty) Ltd v Director of Animal Health, Department of Agriculture, Land Reform and Rural Development and Another* [2024] ZAWCHC 175 at para 13.
[29] *Logbro Properties CC* above n 27 at para 7.
[30] *George Moerasrivier Boerdery* above n 28 at para 24.
[31] Id at para 22.
[32] *Du Toit v Minister of Transport* 2006 (1) SA 297 (CC) at para 8.

[77] Where the state and a private citizen are required to agree on a financial figure, the state is obliged to involve itself in fair play.[33]

[78] The settlement instruction raises the bar from a "take it or leave it approach" to a collaborative approach where the final figure is justified by objective, market value and equitable principles.[34]

[79] The duty to negotiate in good faith has the effect that compensation is not regarded as a unilateral gift, but entails a process of equitable redress, during which the state is obliged to engage in the process, respecting the rights and interests of the claimant.[35]

[80] The state must provide just and equitable compensation, the purpose of which is to prevent the financial ruin of the claimant. An amount, potentially leading to such ruin, is not acceptable.[36]

[81] A remittal with an instruction to settle requires a genuine, thorough and fair investigation and the official cannot simply "rubber stamp" the previous decision that was set aside.[37]

Application

[82] Treating the instruction of the third respondent as a mere suggestion amounts to a breach of the principle of institutional integrity and disregards the principle of administrative hierarchy.

[83] The SCA established the "healthy state" as the criteria for the calculation of the fair market value of the animals.[38]

[33] *Permanent Secretary of the Department of Education of the Government of the Eastern Cape Province and Another v Ed-U-College (PE) (Section21)* 2001 (2) SA 1 (CC) at para 24.
[34] *Du Toit v Minister of Trasport* 2006 (1) SA 297 (CC) at para 34-37; *Minister of Agriculture and Another v Bluelilliebush Diary Farming (Pty) Ltd* [2008] 4 All SA 81 (SCA) at paras 21-23.
[35] *Florence v The Government of the Republic of South Africa* 2014 (6) SA 456 (CC) at para 35 & 45.
[36] *Minister of Agriculture* above n 34 at para 18.
[37] *Mutsila v Municipal Gratuity Fund and Others* 2026 (1) SA 1 (CC) at para 114.
[38] *Minister of Agriculture* above n 34 at para 14.

[84] Her contention in her answering affidavit that the departmental strategy is not prescriptive and that she is consequently not bound by it, is a clear misdirection.

[85] The context of the departmental strategy, as contained in the internal memorandum, is of some significance. The memorandum was compiled as an explanation for the amendments to regulation 30 in terms of which the previous compensation parameters of 100%, 80% and 50% of the fair market value of animals killed for controlled veterinary acts were not practical. The regulation was therefore amended to unshackle the discretion of the particular functionary, leading to the wider discretion in the determination of compensation.

[86] The memorandum specifically states that the determination of compensation is not a unilateral administrative act but requires a mutually agreeable compensation value. The functionary is furthermore required to liaise with affected parties. The purpose of this liaison is to serve as a rapid response to determine compensation that is appropriate and acceptable. This prescript already foreshadows a particular approach and process.

[87] The memorandum furthermore requires the functionary to consult with the applicable industry organisations in determining applicable compensation. This is a further foreshadowing of a particular process and approach.

[88] The overriding purpose of the memorandum is located in the policy of generous but realistic compensation.

[89] When the first respondent made her initial decision that the value of the compensation is nil, because any infected animal has no monetary value, she clearly did not adhere to the purpose of the policy and did not follow the process prescribed in the memorandum.

Substitution

[90] The applicant contends for the existence of exceptional grounds as provided for in section 8(c)(ii) of PAJA and that the court should consequently substitute the impugned decision of the first respondent with one that states that the applicant must

be paid the full amount of the compensation claimed. The applicant furthermore argued that the court is in as good a position as the Director, or 'even better' to make such an order, based on 'the facts and the history' of this matter.

[91] Although the court may have, in its possession, the full record of the evidence before the first respondent, the court does not have access to the required expertise. The decision is polycentric, involving executive functions, and the first respondent is best positioned, in light of her academic qualifications and involvement in the formulation, implementation and execution of policy.[39]

[92] The decision does not amount to a foregone conclusion in respect of the technical knowledge, insight and understanding required. It would seem that there is, in any event, a factual dispute which is not capable of resolution on the papers.

[93] As the decision by the first respondent is set aside by this court, she is not prevented from making a fresh determination on an acceptable compensation value as interpreted in this judgment and in accordance with the guidelines provided for in this judgment.

Conclusion

[94] The decision of the first respondent to determine the value of the compensation contrary to the directive of the appeal authority and the process contained in the directive of the appeal authority is reviewable in accordance with section 6 of the Promotion of Administrative Justice Act.

Order

[95] The decision of the first respondent, made on 30 January 2023, by determining the value of compensation in terms of section 19(2) of the Animal Diseases Act 35 of 1984 as nil, is hereby reviewed and set aside.

[39] Cachalia "Clarifying the Exceptional Circumstance Test in *Trencon*: An Opportunity missed" (2015) 7 *Constitutional Court Review* 115 at 127 – 128.

[96] The claim of the applicant for compensation in terms of section 19(1) of the Act is remitted to the first respondent for reconsideration.

[97] In terms of section 8(2)(b) of the Promotion of Administrative Justice Act 3 of 2000, the Director is ordered to take into consideration, in the determination of an acceptable compensation, that the applicant's destroyed "animals or things" shall be valued on the basis that they were in a "healthy" state.

[98] Each party shall pay their own costs.

[redacted]

E RAUBENHEIMER
ACTING JUDGE OF THE HIGH COURT
GAUTENG DIVISION, PRETORIA

Appearances:

For the Applicant:	Adv Heyns SC
Instructed by:	Van der Merwe Saayman-Fourie Attorneys
For the Respondents:	Adv C Puckrin SC
Instructed by:	State Attorney

Date of Hearing: 15 October 2025

Date of judgment: 17 April 2026