



## MEDIA RELEASE

Immediate release

### Replying Affidavit filed in groundbreaking litigation to protect African Penguins

On 13 September 2024, BirdLife South Africa and the Southern African Foundation for the Conservation of Coastal Birds (SANCCOB), represented by the Biodiversity Law Centre, filed their [replying affidavit](#) in landmark litigation against the Minister of Forestry, Fisheries and the Environment to protect African Penguins.

The environmental NGOs first approached the Pretoria High Court in March 2024 to review and set aside the Minister's August 2023 decision on fishing closures around key African Penguin breeding colonies.

The South African Pelagic Fishing Industry Association and the Eastern Cape Pelagic Association (the fourth and fifth respondents in the matter) filed their [answering affidavit](#) on 23 August 2024, pursuant to a directive from the Pretoria High Court. In seeking to defend the Minister's decision to implement so-called interim closures, the Industry respondents have challenged the science on which the applicants have relied. They have also claimed financial implications for Industry.

The applicants' reply shows that there are some difficulties with these claims. They also contend that Industry has failed to refute the fundamental irrationality and unlawfulness of the Minister's decision, which ignored key recommendations of an independent, International Review Panel. This Panel was appointed by the Minister to address a long-running debate between fisheries and seabird scientists regarding the conservation benefits of island closures. Industry has again raised these issues in their papers. In reply, the applicants explain where such arguments were resolved by the Review Panel.

To date, the State parties have not filed an answering affidavit. Their opposition to the case has, however, not been withdrawn. The matter remains set down for hearing from 22 to 24 October 2024 in Pretoria.

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#### ***About the litigation to date***

[Landmark litigation to protect the African Penguin from extinction](#)

#### ***About the applicants***

- *BirdLife South Africa (<https://www.birdlife.org.za/>) is a non-profit organisation whose vision is a country and region where nature and people live in greater harmony, more equitably and more sustainably, while its mission is to conserve birds, their habitats and biodiversity through, inter alia, scientifically-based programmes and supporting the sustainable and equitable use of natural resources. BirdLife South Africa actively works towards the conservation of African Penguins through its Seabird Conservation Programme.*
- *SANCCOB (<https://sanccob.co.za/>) is registered as a non-profit company, non-profit organisation and public benefit organisation in terms of the laws of South Africa, operating from two facilities in the Western Cape and Eastern Cape. SANCCOB's primary objective is to reverse the decline of seabird populations – flagship species being the endangered African penguin – through a multi-faceted conservation approach that includes rehabilitation and release of seabirds, implementation and consultancy of preparedness and response in the event of oil spills affecting marine wildlife, carrying out integral scientific research, provision of in-situ support to conservation managing authorities, skills development, and public awareness via environmental education.*

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