



# Wild Animals in Travelling Circuses (Scotland) Act 2018

## 2018 asp 3

### *Offence and what it covers*

#### **1 Wild animals in travelling circuses: offence**

- (1) A person who is a circus operator commits an offence if the person uses, or causes or permits another person to use, a wild animal in a travelling circus.
- (2) An offence under this section is committed in relation to a travelling circus only if the wild animal is transported, whether regularly or irregularly, from one place to another where it is used in the travelling circus, but—
  - (a) the animal need not be in the course of being transported for the offence to be committed,
  - (b) it is immaterial to the commission of the offence whether or not the transportation of the animal is with, or is part of, the travelling circus.
- (3) For the purpose of this section, a wild animal is used if the animal—
  - (a) performs, or
  - (b) is displayed or exhibited.
- (4) A person who commits an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

#### **Commencement Information**

**II** [S. 1](#) in force at 28.5.2018 by [S.S.I. 2018/149](#), [reg. 2](#)

#### **2 Meaning of wild animal**

- (1) In this Act, “wild animal” means an animal other than one of a kind that is commonly domesticated in the British Islands.
- (2) For the purpose of subsection (1), an animal is of a kind that is domesticated if the behaviour, life cycle or physiology of animals of that kind has been altered as a result

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of the breeding or living conditions of multiple generations of animals of that kind being under human control.

(3) In this section—

“animal” has the same meaning as in Part 2 of the Animal Health and Welfare (Scotland) Act 2006 (see section 16 of that Act),

“British Islands” has the meaning given in schedule 1 of the Interpretation Act 1978.

#### Commencement Information

**I2** [S. 2](#) in force at 28.5.2018 by [S.S.I. 2018/149](#), [reg. 2](#)

### 3 Meaning of other key terms

In this Act—

“circus operator”, in relation to a circus, means—

- (a) the owner of the circus,
- (b) any person, other than the owner, with overall responsibility for the operation of the circus, or
- (c) if neither of the persons mentioned in paragraph (a) or (b) is present in the United Kingdom, the person in the United Kingdom who is ultimately responsible for the operation of the circus,

“travelling circus”—

- (a) means a circus which travels, whether regularly or irregularly, from one place to another for the purpose of providing entertainment,
- (b) includes—
  - (i) a circus which travels as mentioned in paragraph (a) for the purpose mentioned there, despite there being periods during which it does not travel from one place to another,
  - (ii) any place where a wild animal associated with such a circus is kept (including temporarily),

(but not, for example, a circus which travels in order to relocate to a new fixed base for use only or mainly as a place to give performances).

#### Commencement Information

**I3** [S. 3](#) in force at 28.5.2018 by [S.S.I. 2018/149](#), [reg. 2](#)

### 4 Power to specify animals as wild or not

(1) The Scottish Ministers may by regulations specify—

- (a) a kind of animal that is to be regarded as wild,
  - (b) a kind of animal that is not to be regarded as wild,
- for the purposes of this Act.

(2) For the avoidance of doubt—

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- (a) whatever is done by regulations under subsection (1)(a) is without prejudice to the generality of section 2,
  - (b) the generality of section 2 is subject to whatever is done by regulations under subsection (1)(b).
- (3) Regulations under this section—
- (a) may make different provision for different purposes,
  - (b) are subject to the affirmative procedure.

#### Commencement Information

**I4** [S. 4](#) in force at 28.5.2018 by [S.S.I. 2018/149](#), [reg. 2](#)

## 5 Power to describe what is or is not a travelling circus

- (1) The Scottish Ministers may by regulations describe a particular type of undertaking, act, entertainment or similar thing that—
- (a) is to be regarded as a travelling circus,
  - (b) is not to be regarded as a travelling circus,
- for the purposes of this Act.
- (2) For the avoidance of doubt—
- (a) whatever is done by regulations under subsection (1)(a) is without prejudice to the generality of section 3,
  - (b) the generality of section 3 is subject to whatever is done by regulations under subsection (1)(b).
- (3) Regulations under subsection (1)—
- (a) may make different provision for different purposes,
  - (b) are subject to the affirmative procedure.

#### Commencement Information

**I5** [S. 5](#) in force at 28.5.2018 by [S.S.I. 2018/149](#), [reg. 2](#)

### *Individual liability for organisational offending*

## 6 Individual culpability where organisation commits offence

- (1) This section applies where—
- (a) an offence under section 1 is committed by a relevant organisation, and
  - (b) the commission of the offence—
    - (i) involves consent or connivance on the part of a responsible individual, or
    - (ii) is attributable to neglect on the part of a responsible individual.
- (2) The responsible individual (as well as the relevant organisation) commits the offence.
- (3) For the purposes of this section—

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- (a) “relevant organisation” means an organisation listed in the first column of the table in subsection (4),
  - (b) “responsible individual” means, in relation to a relevant organisation—
    - (i) an individual falling within the corresponding entry in the second column of the table in subsection (4), or
    - (ii) an individual purporting to act in the capacity of an individual falling within the corresponding entry.
- (4) The table is as follows—

<i><b>Organisation</b></i>	<i><b>Individual</b></i>
company as mentioned in section 1 of the Companies Act 2006	director, manager, secretary or other similar officer member, where the company's affairs are managed by its members
limited liability partnership	member
other partnership	partner
any other body or association	individual who is concerned in the management or control of its affairs

#### Commencement Information

**I6** [S. 6](#) in force at 28.5.2018 by [S.S.I. 2018/149](#), [reg. 2](#)

### *Enforcement*

#### **7 Powers of enforcement**

- (1) Schedule 1 makes provision about the powers of inspectors and constables for the purposes of and in connection with this Act.
- (2) Schedule 2 makes further provision about the application of schedule 1 in relation to Crown land.

#### Commencement Information

**I7** [S. 7](#) in force at 28.5.2018 by [S.S.I. 2018/149](#), [reg. 2](#)

### *General*

#### **8 Crown application**

- (1) Nothing in this Act makes the Crown criminally liable.
- (2) The Court of Session may, on an application by the Lord Advocate, declare unlawful any act or omission for which the Crown would be criminally liable if it were not for subsection (1).

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- (3) Subsection (1) does not affect the criminal liability of persons in the service of the Crown.

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**Commencement Information**

**18** [S. 8](#) in force at 28.5.2018 by [S.S.I. 2018/149](#), [reg. 2](#)

**9 Commencement**

- (1) This section and section 10 come into force on the day after Royal Assent.
- (2) The other provisions of this Act come into force on such day as the Scottish Ministers may by regulations appoint.
- (3) Different days may be appointed for different purposes.

**10 Short title**

The short title of this Act is the Wild Animals in Travelling Circuses (Scotland) Act 2018.

**Changes to legislation:**

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