

# **WILD ANIMALS IN TRAVELLING CIRCUSES (SCOTLAND) ACT 2018**

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## **EXPLANATORY NOTES**

### **THE ACT**

#### ***Meaning of “wild animal”***

9. [Section 2](#) provides a definition of “wild animal” for the purposes of the Act. A wild animal is an animal other than one which is of a kind that is commonly domesticated in the British Islands. The Act explains what it means for an animal to be “domesticated” to inform that definition. Where an animal is of a kind whose behaviour, life cycle or physiology has, over multiple generations, been changed through breeding or living conditions being controlled by humans, it is said to be domesticated for the purposes of the Act. Wild animals are those not commonly domesticated in the British Islands under that definition of “domesticated”. Animals can be considered commonly domesticated in their country of origin although they are not of a kind commonly domesticated in the British Islands. Such animals would be “wild animals” under the Act. In this context, “British Islands” takes its meaning from the Interpretation Act 1978, and refers to the United Kingdom, the Channel Islands and the Isle of Man.
10. In addition, section 4 confers a power on the Scottish Ministers to specify, by regulations, a kind of animal that is to be regarded as wild, and a kind of animal that is not to be regarded as wild, for the purposes of the Act. This power will allow future detailed clarification of whether particular kinds of animals are or are not “wild animals”. Given the general definition in section 2, which will mean in most cases it will be clear whether a kind of animal is wild or not, the power is expected to be used only in cases of doubt or where clarification would be deemed helpful. The distinction between kinds of animals which are wild and those of a kind commonly domesticated in the British Islands is not an immutable one, and there may be particular examples where it is unclear into which category an animal type falls. The power is therefore expected to be used to provide clarity in difficult or borderline cases where there is uncertainty to ensure circus operators know what kinds of animals may or may not be used in travelling circuses in order to avoid committing an offence. Regulations under this power are subject to the affirmative procedure.
11. Where regulations under section 4 are made specifying a kind of animal as wild, such regulations are without prejudice to the generality of the definition in section 2. That means regulations cannot have an effect so as to reduce the range of animal types caught by the generality of the definition. It also means that section 2 could have a determinative effect as regards the status of a kind of animal specified in regulations as wild. For example, if circumstances relating to a specified kind of animal change, it may be that that type of animal is regarded as not wild (or no longer wild) for the purposes of the Act, despite regulations having been made specifying that animals of that kind are to be treated as wild for those purposes. That will be a question of fact in each case, considered against the definition in section 2.