

WILD ANIMALS IN TRAVELLING CIRCUSES (SCOTLAND) ACT 2018

EXPLANATORY NOTES

THE ACT

Meaning of other key terms

12. [Section 3](#) defines two key terms for the Act: “circus operator” and “travelling circus”. Only a “circus operator” can commit the offence in section 1. This means circus owners, people who do not own a circus but have overall charge of its operations or (if no-one in those categories is in the United Kingdom) any other person present in the United Kingdom who has ultimate responsibility for the circus operations.
13. In terms of section 3, a circus is a “travelling circus” even though there are periods when the circus is not travelling from one place to another (for example during temporary tour stops or during the winter closed season). A circus is, however, not a travelling circus for the purpose of the Act if it travels merely in order to relocate to a new fixed base which is then used only or mainly as a place to give performances. A static circus which travels only to take up a new residence as a base for its operations is therefore not a travelling circus.
14. The expression “travelling circus” also includes any place where a wild animal associated with the circus is kept, including temporarily, such as a wild animal’s accommodation. The effect of this is that if a travelling circus wild animal is, for example, actively exhibited or actively displayed while it is in any kind of accommodation, at any time, the offence in section 1 can be committed. In this case “exhibition” might include, but not be limited to, wild animals being proactively housed in a way which encourages viewing by the public, for example by the use of signage conveying information to the public, whether or not to generate income. “Display” might include, but again not be limited to, the showing of wild animals to the public, regardless of location. Circus operators would not, however, have committed an offence if, for example, a member of the public inadvertently viewed a wild animal grazing unadorned in a back paddock.
15. In addition, section 5 confers on the Scottish Ministers a power to make regulations to describe a particular type of undertaking, act, entertainment or similar thing that is, or is not, to be regarded as a “travelling circus” for the purposes of the Act. The power permits further future detailed clarification of what is a “travelling circus” if necessary, in cases of real doubt and where clarification would be deemed helpful. In many cases, it will be clear whether something is a travelling circus or not in terms of the definition set out in section 3. But, given the potential variety of forms of entertainments using wild animals, there may be cases where it is not possible to identify something definitively as a travelling circus or not. The power may be exercised so as to provide certainty in relation to types of acts and undertakings whose status as a travelling circus (or as something other than a travelling circus) is unclear. Regulations under this power are subject to the affirmative procedure.

*These notes relate to the Wild Animals in Travelling Circuses (Scotland)
Act 2018 (asp 3) which received Royal Assent on 24 January 2018*

16. As with the case of specifying in regulations a kind of animal as wild, any specification of an undertaking as a travelling circus is subject to the generality of the definition in section 3. Any regulations therefore need to be considered against that definition to determine whether something described in regulations as a travelling circus is, or continues to be, caught by the definition.