

WILD ANIMALS IN CIRCUSES ACT 2019

EXPLANATORY NOTES

What these notes do

These Explanatory Notes relate to the Wild Animals in Circuses Act 2019 (c. 24) which received Royal Assent on 24 July 2019.

- These Explanatory Notes have been prepared by the Department of Environment, Food and Rural Affairs in order to assist the reader in understanding the Act. They do not form part of the Act and have not been endorsed by Parliament.
- These Explanatory Notes explain what each part of the Act will mean in practice; provide background information on the development of policy; and provide additional information on how the Act will affect existing legislation in this area.
- These Explanatory Notes might best be read alongside the Act. They are not, and are not intended to be, a comprehensive description of the Act.

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Overview of the Act

- 1 The Act makes it an offence, from 20 January 2020, for an operator of a travelling circus in England to use a "wild animal" in the circus. Wild animals are defined in the Act as animals of a kind which are not commonly domesticated in Great Britain.

Policy background

- 2 The Act fulfills the Government's policy in relation to the use of wild animals in travelling circuses as set out in the Written Ministerial Statements of 1 March¹ and 12 July 2012.² As an interim measure the Government introduced a licensing scheme using powers available under the Animal Welfare Act 2006. The Welfare of Wild Animals in Travelling Circuses (England) Regulations 2012 (SI 2012/2932) came into force on 20 January 2013.

Legal background

- 3 The use of wild animals in circuses in England, ahead of the Act coming into force on 20 January 2020, is regulated through the Welfare of Wild Animals in Travelling Circuses (England) Regulations 2012 (SI 2012/2932).

Territorial extent and application

- 4 Section 4 sets out the territorial extent of the Act. Sections 1 and 2 extend to England and Wales but only apply in England. Section 3 also extends and applies in Scotland.
- 5 See the table in Annex A for a summary of the position regarding territorial extent and application in the United Kingdom of the Act.

¹ Hansard 1 March 2012 Column 41 WS

² Hansard 12 July 2012 Column 43 WS

Commentary on provisions of Act

Section 1: Prohibition on use of wild animals in travelling circuses in England

- 6 Subsection (1) sets out the central prohibition in the Act which provides that circus operators are no longer allowed to use wild animals in their travelling circus in England.
- 7 Subsection (2) clarifies that “use” of a wild animal in a circus extends to a performance by the animal and any exhibition of a wild animal as part of the circus. For example, performance would include a parade of animals in a circus ring and an exhibition would include the display of a lion in a cage.
- 8 Subsection (3) establishes that a circus operator is guilty of an offence if that person uses a wild animal in a travelling circus in England in breach of subsection (1). A person guilty of such an offence is liable on summary conviction to a fine of any amount.
- 9 Subsection (4) provides for individual liability in some cases where there is also corporate liability.
- 10 Subsection (5) contains definitions of expressions used in the Act. For instance, a “circus operator” is defined as the owner of the circus or any other person with overall responsibility for the operation of the circus except that, if no such person is present in the United Kingdom, the circus operator will be the person in the United Kingdom who has ultimate responsibility for the operation of the circus. A “wild animal” is defined as any animal of a kind not commonly domesticated in Great Britain, with “animal” taking the same meaning as section 1(1) of the Animal Welfare Act 2006.

Section 2: Inspections

- 11 This section introduces the Schedule, which makes provision for inspections under the Act.

Section 3: Consequential amendment

- 12 Section 3 makes a consequential amendment to the Dangerous Wild Animals Act 1976 (c.38) in order to remove the exemption in England and Scotland in section 5(2) that exempts dangerous wild animals kept in a circus from having to be licensed. After 20 January 2020, none of the vertebrate animals listed in the Dangerous Wild Animals Act 1976 can be used in circuses in England. The Wild Animals in Travelling Circuses (Scotland) Act 2018 prohibits the use of wild animals in travelling circuses in Scotland from 28 May 2018. The exemption under the Act will remain for circuses in Wales.

Section 4: Extent, commencement and short title

- 13 This section provides that the Act will come into force on 20 January 2020.

Schedule - Inspections

- 14 The Schedule makes provision for the appointment of inspectors and specifies the powers and duties of those inspectors when exercising powers of entry, inspection or search under the Act.
- 15 Paragraph 1 of the Schedule permits the Secretary of State to appoint persons as inspectors for the purposes of the Act.
- 16 Paragraph 2 confers a power to enter premises, other than premises used only as a dwelling, if the inspector has reasonable grounds for suspecting that an offence under section 1 is being, has been, or is about to be committed on the premises or that evidence of the commission of such an offence may be found there.

- 17 Paragraph 3 provides that a justice of the peace may issue a warrant authorising an inspector to enter premises used as a dwelling to search for evidence of an offence. It also sets out the matters that must be satisfied before a warrant may be granted.
- 18 Paragraph 4 requires an inspector, on request, to produce evidence of identity before exercising the power of entry and to state for what purpose the power is being exercised. If entry is under a warrant, the inspector is required to supply a copy of the warrant or to leave such a copy on the premises.
- 19 Paragraph 5 requires an inspector to exercise a power of entry at a reasonable time unless the officer believes that, by waiting for that reasonable time, the purpose for requiring entry and inspection may be thwarted.
- 20 Paragraph 6 allows an inspector to use reasonable force where necessary to exercise a power of entry and to take on to the premises up to two other persons and any equipment and materials that the inspector considers to be appropriate. The assistants could include specialists, for example a zoological specialist to help identify animals, or police constables to help keep the peace when necessary to enable an inspector to conduct his or her work.
- 21 Paragraph 7 outlines the powers of inspection, search and seizure available to an inspector when exercising a power of entry under paragraph 2 or 3. This paragraph does not include a power to seize a wild animal. Where any item has been seized under paragraph 7(k), paragraph 9(2) requires the inspector or their assistant, on request, to provide a record of the item seized to whoever had possession or control of the item before it was seized.
- 22 Paragraph 7(d) permits an inspector to require any person on the premises to provide him or her with reasonable assistance. This obligation may be needed, for example, to enable access to an animal cage, handle an animal (to be able to take samples) or to move a vehicle.
- 23 The power provided by paragraph 8 enables any person brought to the premises by the inspector to exercise the inspector's powers under paragraph 7, but only under the inspector's supervision.
- 24 Paragraph 10 creates an offence of failing to comply with a requirement for assistance reasonably made by an inspector or intentionally obstructing an inspector when the inspector is carrying out their functions under the Schedule. The offence also applies to the assistants of inspectors. This is a summary offence for which the penalty is a fine of any amount.
- 25 Paragraph 11 protects inspectors and their assistants from liability in any civil and criminal proceedings for anything done or not done as a result of carrying out their duties under the Act. This exemption from liability only applies where an inspector or their assistant acts in good faith or if there were reasonable grounds for acting in such a manner.
- 26 Paragraph 12 defines the terms "power of entry" and "premises" which are used in the Schedule. This clarifies that the term "premises" includes any vehicle, tent or movable structure. In relation to a vehicle, where the Schedule refers to the occupier of premises this is to be read as a reference to the person who is in charge of the vehicle.

Commencement

27 The Act comes into force on 20 January 2020.

Annex A - Territorial extent and application in the United Kingdom

Provision	Extends to E & W and applies to England?	Extends to E & W and applies to Wales?	Extends and applies to Scotland?	Extends and applies to Northern Ireland?
Section 1	Yes	No	No	No
Section 2	Yes	No	No	No
Section 3	Yes	No	Yes	No
Section 4	Yes	No	Yes	No
Schedule	Yes	No	No	No

Annex B - Hansard References

28 The following table sets out the dates and Hansard references for each stage of the Act's passage through Parliament.

Stage	Date	Hansard Reference
House of Commons		
Introduction	1 May 2019	Vol.659 Col.221
Second Reading	7 May 2019	Vol.659 Col. 497
Public Bill Committee	21 May 2019	Col.1
	21 May 2019	Col.35
	22 May 2019	Col.73
Report and Third Reading	4 June 2019	Vol.661 Col. 81
House of Lords		
Introduction	5 June 2019	Vol.798
Second Reading	19 June 2019	Vol.798 Col. 787
Grand Committee	3 July 2019	Vol.798 Col.94GC
Report	17 July 2019	Vol.799 Col. 240
Third Reading	23 July 2019	Vol.799 Col. 673
Royal Assent	24 July 2019	Vol.799

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