

ACCOMPANYING DOCUMENTS

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Wild Animals and Circuses (Wales) Bill

[AS PASSED]

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Wild Animals and Circuses (Wales) Bill

[AS PASSED]

An Act of the National Assembly for Wales to make it an offence to use wild animals in travelling circuses; and to make miscellaneous changes to the licensing of circuses and dangerous wild animals.

5 **Having been passed by Senedd Cymru and having received the assent of Her Majesty, it is enacted as follows:**

Prohibition on using wild animals in travelling circuses

1 Offence to use wild animals in travelling circuses

- 10 (1) A person who is an operator of a travelling circus commits an offence if the person uses, or causes or permits another person to use, a wild animal in the travelling circus in Wales.
- (2) For the purpose of this section, a wild animal is used if the animal –
- (a) performs, or
 - (b) is exhibited.
- 15 (3) A person guilty of an offence under subsection (1) is liable on summary conviction to a fine.

2 Meaning of “operator”

In this Act, “operator” means –

- 20 (a) the owner of the travelling circus,
- (b) a person other than the owner with overall responsibility for the operation of the travelling 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 responsible for the operation of the travelling circus.

3 Meaning of “wild animal”

- 25 (1) In this Act, a “wild animal” means an animal of a kind that is not commonly domesticated in the British Islands.
- (2) Despite subsection (1), regulations may specify for the purposes of this Act a kind of animal –
- (a) that is to be regarded as a wild animal;
 - 30 (b) that is not to be regarded as a wild animal.
- (3) In this Act, “animal” has the meaning given by the Animal Welfare Act 2006 (c. 45) (see section 1).

- (4) In subsection (1), “British Islands” means the United Kingdom, the Channel Islands and the Isle of Man.

4 Meaning of “travelling circus”

- (1) In this Act, a “travelling circus” means a circus which travels from one place to another for the purpose of providing entertainment at those places.
- (2) A “travelling circus” includes a circus which travels as mentioned in subsection (1) for the purpose mentioned there, despite there being periods during which it does not travel from one place to another.
- (3) Despite subsection (1), regulations may specify for the purposes of this Act a type of undertaking, act or entertainment –
- (a) that is to be regarded as a travelling circus;
 - (b) that is not to be regarded as a travelling circus.

Enforcement

5 Powers of enforcement

The Schedule makes provision about powers of enforcement.

Offences by bodies corporate etc.

6 Offences by bodies corporate etc.

- (1) This section applies where an offence under section 1 is committed by –
- (a) a body corporate;
 - (b) a partnership;
 - (c) an unincorporated association other than a partnership.
- (2) A person mentioned in subsection (3) also commits the offence if the offence is proved to have been –
- (a) committed by, or with the consent or connivance of, that person, or
 - (b) attributable to any neglect on the part of that person.
- (3) The persons are –
- (a) in relation to a body corporate, a director, manager, secretary or other similar officer of the body corporate;
 - (b) in relation to a partnership, a partner in the partnership;
 - (c) in relation to an unincorporated association other than a partnership, any officer of the association or any member of its governing body.
- (4) In subsection (3)(a), “director” in relation to a body corporate whose affairs are managed by its members means a member of the body corporate.

(5) In this Act, “partnership” means –

- (a) a partnership within the Partnership Act 1890 (c. 39), or
- (b) a limited partnership registered under the Limited Partnerships Act 1907 (c. 24).

7 Proceedings: offences committed by partnerships and unincorporated associations

- 5 (1) Proceedings for an offence under section 1 alleged to have been committed by a partnership are to be brought in the name of the partnership (and not in that of any of the partners).
- 10 (2) Proceedings for an offence under section 1 alleged to have been committed by an unincorporated association other than a partnership are to be brought in the name of the association (and not in that of any of its members).
- (3) Rules of court relating to the service of documents have effect as if the partnership or unincorporated association were a body corporate.
- 15 (4) Section 33 of the Criminal Justice Act 1925 (c. 86) and Schedule 3 to the Magistrates’ Courts Act 1980 (c. 43) apply in proceedings for an offence brought against a partnership or an unincorporated association as they apply in relation to a body corporate.

Amendments relating to licensing of circuses

8 Amendments relating to licensing of circuses

- 20 (1) Omit section 5(2) of the Dangerous Wild Animals Act 1976 (c. 38) (as amended by the Wild Animals in Circuses Act 2019 (c. 24)).
- (2) In section 1(2) of the Zoo Licensing Act 1981 (c. 37), after “(as so defined)” the first time it occurs insert “in England”.

Application to the Crown

9 Power of High Court to declare unlawful an act or omission of the Crown

25 The High Court may declare unlawful any act or omission of the Crown for which the Crown would be criminally liable under this Act were it not for section 28(3) of the Legislation (Wales) Act 2019 (anaw 4) (Acts of the Assembly do not make the Crown criminally liable).

10 Crown land: powers of entry

- 30 (1) The powers conferred by the Schedule (powers of entry etc.) may be exercised in relation to Crown land only with the consent of the appropriate authority.
- (2) In this section –
- (a) “Crown land” means land, an interest in which belongs to –
 - (i) Her Majesty in right of the Crown or in right of Her private estate,
 - (ii) Her Majesty in right of the Duchy of Lancaster,

(iii) the Duchy of Cornwall, or

(iv) a government department or is held in trust for Her Majesty for the purposes of a government department;

(b) “appropriate authority” means –

(i) if the land belongs to Her Majesty in right of the Crown, the Crown Estate Commissioners or other government department having the management of the land in question;

(ii) if the land belongs to Her Majesty in right of the Duchy of Lancaster, the Chancellor of the Duchy;

(iii) if the land belongs to the Duchy of Cornwall, such person as the Duke of Cornwall, or the possessor for the time being of the Duchy of Cornwall, appoints;

(iv) if the land belongs to a government department or is held in trust for Her Majesty for the purpose of a government department, that department.

(3) If any question arises under this section as to what authority is the appropriate authority in relation to any land, that question is to be referred to the Treasury, whose decision is final.

(4) In this section, the reference to Her Majesty’s private estates is to be construed in accordance with section 1 of the Crown Private Estates Act 1862 (c. 37).

General

11 Regulations

(1) Regulations under this Act are to be made by the Welsh Ministers.

(2) A power to make regulations under this Act –

(a) is exercisable by statutory instrument, and

(b) includes power to make different provision for different purposes.

(3) A statutory instrument containing regulations made under this Act may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales.

12 Coming into force

This Act comes into force on 1 December 2020.

13 Short title

The short title of this Act is the Wild Animals and Circuses (Wales) Act 2020.

SCHEDULE
(introduced by section 5)

POWERS OF ENFORCEMENT

Interpretation

- 5 1 (1) In this Schedule –
- “inspector” (“*arolygydd*”) means a person appointed as an inspector for the purposes of this Act by –
- (a) a county council or a county borough council in Wales, or
- (b) the Welsh Ministers.
- 10 “power of entry” (“*pŵer mynediad*”) means a power of entry conferred on an inspector by –
- (a) paragraph 2 (power to enter premises other than dwellings), or
- (b) a warrant under paragraph 3 (warrant to enter dwellings);
- “premises” (“*mangreodd*”) includes –
- 15 (a) land, and
- (b) any place, including in particular –
- (i) a vehicle, and
- (ii) a tent or a moveable structure.
- 20 (2) In this Schedule, references to the occupier of premises in relation to a vehicle are references to the person who appears to be in charge of the vehicle; and “unoccupied” is to be construed accordingly.

Power to enter premises other than dwellings

- 2 (1) An inspector may enter any premises if the inspector has reasonable grounds for suspecting that –
- 25 (a) an offence under section 1 is being, has been or is about to be committed on the premises, or
- (b) evidence an offence under section 1 is being, has been or is about to be committed may be found on the premises.
- (2) But this does not apply in relation to premises used wholly or mainly as a dwelling.

30 *Warrant to enter a dwelling*

- 3 (1) An inspector may not enter any premises used wholly or mainly as a dwelling unless –
- (a) the occupier of the premises or other person appearing to the inspector to be in charge of the premises consents, or

(b) a justice of the peace has issued a warrant, on the application of an inspector, authorising the inspector to enter the premises.

(2) A justice of the peace may issue a warrant if satisfied on sworn information in writing that –

(a) there are reasonable grounds for suspecting that –

(i) an offence under section 1 is being, has been or is about to be committed on the premises, or

(ii) evidence an offence under section 1 is being, has been or is about to be committed may be found on the premises; and

(b) any of conditions 1, 2, 3 or 4 is met.

(3) Condition 1 is that –

(a) a request to enter the premises has been refused or is likely to be refused, and

(b) notice of the intention to apply for a warrant has been given to the occupier of the premises or to a person appearing to the inspector to be in charge of the premises.

(4) Condition 2 is that requesting to enter the premises or giving notice of intention to apply for a warrant under this paragraph might defeat the object of the entry.

(5) Condition 3 is that the premises are unoccupied.

(6) Condition 4 is that –

(a) the occupier of the premises is temporarily absent, and

(b) it might defeat the object of entry to wait for the occupier's return.

A warrant issued under paragraph 3 –

(a) authorises entry on one occasion;

(b) must be executed within 28 days beginning with the date it was issued.

Entering premises

(1) An inspector exercising a power of entry must, if asked by a person on the premises –

(a) show evidence of the inspector's identity, and

(b) outline the purpose for which the power is exercised.

(2) Where an inspector enters premises under a warrant issued under paragraph 3, the inspector must also –

(a) if asked by a person on the premises, show a copy of the warrant, and

(b) if asked by the occupier or a person appearing to the inspector to be in charge of the premises, give a copy of the warrant to that person.

(3) If neither the occupier nor a person appearing to the inspector to be in charge of the premises is present –

(a) the inspector must leave a copy of the warrant in a prominent place on the premises, and

(b) on leaving the premises, the inspector must leave them as effectively secured against unauthorised entry as when the inspector found them.

6 An inspector exercising a power of entry must do so at a reasonable hour unless it
5 appears to the inspector that the purpose of entry would be frustrated by entry at a
reasonable hour.

7 An inspector exercising a power of entry may use reasonable force to enter the premises
if necessary.

8 An inspector exercising a power of entry may take –

- 10 (a) such other persons onto the premises as appear to the inspector to be appropriate,
and
(b) such equipment and materials onto the premises as appear to the inspector to be
appropriate.

Powers of inspection etc.

9 An inspector exercising a power of entry may –

- 15 (a) search the premises;
(b) examine, measure or test anything that is found on the premises, including an
animal;
(c) question any person on the premises;
(d) require any person on the premises to give the inspector such assistance as the
20 inspector may reasonably require;
(e) take a sample, including a sample from an animal;
(f) mark an animal found on the premises for identification purposes;
(g) take a photograph or video recording of anything that is found on the premises,
including of an animal;
25 (h) require any person on the premises to produce any document or record in
whatever form it is held that is in the person's possession or control;
(i) take copies of or extracts from any document or record found on the premises in
whatever form it is held;
(j) require information which is stored in an electronic form and is accessible from
30 the premises to be produced in a form in which it can be taken away and in which
it is visible and legible or from which it can readily be produced in a visible and
legible form;
(k) seize any item, except an animal, that is found on the premises and which the
35 inspector reasonably believes to be evidence of the commission of an offence
under section 1.

10 A person taken onto the premises under paragraph 8(a) may exercise any power
conferred on an inspector by paragraph 9 if the person is under the supervision of the
inspector.

Power of seizure: supplementary

- 11 (1) Any item seized under paragraph 9(k) may be retained for so long as is necessary.
- (2) A person who seizes anything under paragraph 9(k) must –
- 5 (a) keep a record of the item seized, and
- (b) provide a record of the item seized if requested to do so by a person who occupied the premises at the time of the seizure or who had possession or control of the item immediately before it was seized.
- (3) Paragraph 9(k) does not include power to seize any item in respect of which a claim to legal professional privilege could be maintained in legal proceedings.

10 *Obstruction etc.*

- 12 (1) A person commits an offence if –
- (a) the person fails without reasonable excuse to comply with a requirement for assistance reasonably made under paragraph 9(d);
- 15 (b) the person intentionally obstructs another in the exercise of a function under this Schedule.
- (2) A person guilty of an offence under this section is liable on summary conviction to a fine.

Liability of inspectors

- 13 (1) An inspector is not liable in any civil or criminal proceedings for anything done in the purported performance of the inspector's functions under this Schedule if the court is
- 20 satisfied that the act was done in good faith and that there were reasonable grounds for doing it.
- (2) Sub-paragraph (1) applies to any person taken onto premises by an inspector under paragraph 8(a) as it applies to an inspector if the person is under the supervision of the inspector.