

WILD ANIMALS IN CIRCUSES (PROHIBITION) BILL

EXPLANATORY NOTES

What these notes do

These Explanatory Notes relate to the Wild Animals in Circuses (Prohibition) Bill as introduced in the House of Commons on 4 July 2016 (Bill 29).

- These Explanatory Notes relate to the Wild Animals in Circuses (Prohibition) Bill. They have been prepared by the Department for Environment, Food and Rural Affairs, with the consent of Kevin Foster, the Member in charge of the Bill, in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by Parliament.
- The notes need to be read in conjunction with the Bill. They are not, and are not meant to be, a comprehensive description of the Bill. So where a clause or part of a clause does not seem to require any explanation or comment, none is given.

Table of Contents

Subject	Page of these Notes
Summary and Background	2
Territorial Extent	2
Commentary	2
Clause 1: Use of wild animals in a travelling circus	2
Clause 3: Consequential amendment	3
Clause 4: Extent, commencement and short title	3
Schedule- Enforcement Powers	3
Financial Effects and Effects on Public Sector Manpower	4
Summary of the Impact Assessment	4
Compatibility with the European Convention on Human Rights	4
Commencement	4

Summary and Background

- 1 The Bill makes it an offence for an operator of a travelling circus in England to use a “wild animal” in the circus. Wild animals are defined in the Bill as any animal of a kind which is not commonly domesticated in Great Britain.
- 2 The Bill allows operators of travelling circuses up to 1 December 2018 to remove any wild animals used by the travelling circus before it becomes an offence for the travelling circus to use the wild animal in exhibition or performance.

Territorial Extent

- 3 Clause 4 sets out the territorial extent of the Bill, that is, the jurisdictions which the Bill forms part of the law of. The extent of a Bill can be different to its application. Application is the practical effect of a Bill.
- 4 Clauses 1 and 2, being the substantive provisions of this Bill, extend to England and Wales but apply to England only.
- 5 There is a convention that Westminster will not normally legislate with regard to matters that are within the legislative competence of the Scottish Parliament, the National Assembly for Wales or the Northern Ireland Assembly without the consent of the legislature concerned.
- 6 The Bill does not contain any provision which gives rise to the need for a legislative consent motion in the Scottish Parliament, the National Assembly for Wales or the Northern Ireland Assembly. If there are amendments relating to such matters that fall within the convention, the consent of these legislatures (as appropriate) will be sought for them.
- 7 As the Bill is a private members’ Bill, the new English votes provisions in the House of Commons Standing Orders do not apply.

Commentary

Clause 1: Use of wild animals in a travelling circus

- 8 Subsection (1) sets out the central prohibition in the Bill which provides that circus operators are no longer allowed to use wild animals in their travelling circus in England.
- 9 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. Performance would include a parade of animals in the ring while exhibition would extend to the display of a lion in a cage.
- 10 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. A person guilty of such an offence is liable on summary conviction to a fine of any amount.
- 11 Subsection (4) provides for individual liability in some cases where there is also corporate liability.
- 12 Subsection (5) contains definitions of expressions used in the Bill. 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. “Travelling circus” takes its ordinary meaning.

Clause 3: Consequential amendment

- 13 Clause 3 makes a consequential amendment to the Dangerous Wild Animals Act 1976; in order to remove the current exemption from the Act in section 5(2) for a dangerous wild animal kept in a circus in England. This exemption will no longer be required following introduction of the ban.

Clause 4: Extent, commencement and short title

- 14 This clause provides that the Bill will come into force on 1 December 2018.

Schedule- Enforcement Powers

- 15 Clause 2 and the Schedule make 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 Bill.
- 16 Paragraph 1 gives a power to the Secretary of State to appoint persons as inspectors for the purposes of the Bill.
- 17 Paragraph 2 confers a power to enter premises, other than premises used only as a dwelling, to carry out the functions set out in this Schedule. The inspector must have reasonable grounds for suspecting that an offence under clause 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.
- 18 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 sets out the matters that must be satisfied before a warrant may be granted.
- 19 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.
- 20 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.
- 21 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 anything necessary (including equipment and materials) to assist them in their duties. The assistants could include specialists, for example a zoological specialist to help identify animals.
- 22 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.
- 23 Paragraph 7(d) imposes an obligation on any person on the premises to give reasonable assistance to the inspector. 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.
- 24 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 direct supervision.
- 25 Paragraph 10 creates an offence of failing to comply with a requirement reasonably made by an

inspector, or preventing any other person from so doing, or intentionally obstructing an inspector when the inspector is carrying out their duties under the Bill. The offence also applies to the assistants of inspectors. This is a summary offence for which the penalty is a fine of any amount.

- 26 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 Bill. This exemption from liability does not apply where an inspector or their assistant acts in bad faith or if there were no reasonable grounds to act in such manner.

Financial Effects and Effects on Public Sector Manpower

- 27 Given the small scale of the industry, and the visibility of any operator seeking to contravene the ban, the Government does not anticipate any changes in public sector expenditure or manpower as a result of the Wild Animals in Circuses (Prohibition) Bill.

Summary of the Impact Assessment

- 28 An Impact Assessment for the draft Wild Animals in Circuses Bill, as published on 16 April 2013, found the impact on the industry would be cost neutral. This was based on the assumption that the cost of caring for the animals would no longer fall to the circus business and would transfer to private keepers. The cost to the private keeper is likely to be less than to the circus operator because of less expensive licensing requirements (e.g. registration under the Dangerous Wild Animals Act 1976) and less need for transport, training and specialist equipment. The Impact Assessment acknowledged, however, that the actual owner of an animal may well not change. The Impact Assessment noted that the primary benefit of a ban – putting an end to a practice believed to be unethical is non-monetary.

Compatibility with the European Convention on Human Rights

- 29 The Government has examined the compatibility of the provisions in the Bill with the Convention. In particular, the Government has considered potential arguments that a ban on the use of a wild animal in a travelling circus amounts to a deprivation of a possession or is a disproportionate interference with the rights of that animal's owner under article 1 of Protocol 1 to the Convention. The Government believes that the Bill's provisions are compatible with the Convention. The ban would not require any change of ownership of a wild animal or otherwise amount to a deprivation of a possession. The ethical case behind the ban justifies any interference with property rights under article 1 of Protocol 1 to the Convention in controlling the use to which a wild animal may be put.

Commencement

- 30 The Bill will come into force on 1 December 2018.

WILD ANIMALS IN CIRCUSES (PROHIBITION) BILL

EXPLANATORY NOTES

These Explanatory Notes relate to the Wild Animals in Circuses (Prohibition) Bill as introduced in the House of Commons on 4 July 2016 (Bill 29).

Ordered by the House of Commons to be printed, 9 February 2017

© Parliamentary copyright 2017

This publication may be reproduced under the terms of the Open Parliament Licence which is published at www.parliament.uk/site-information/copyright

PUBLISHED BY AUTHORITY OF THE HOUSE OF COMMONS