

Wild Animals in Circuses

April 2013



Wild Animals in Circuses

April 2013

Presented to Parliament
by the Secretary of State for Environment, Food and Rural Affairs by Command of Her Majesty
April 2013

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Foreword by Lord de Mauley

The British circus industry has a rich heritage dating back over two centuries, and I hope it will continue to thrive long into the future. For many years wild animals were an integral part of the circus experience: the only chance that most people would have to glimpse exotic beasts from distant lands. Today, by contrast, we are fortunate to enjoy world-class zoos, a wide-reaching education system, and internationally renowned wildlife documentaries, which together give children and adults an appreciation and knowledge of wild animals and the environments they come from.

As a nation we have long concerned ourselves with the plight of animals. Martin's Act in 1822 was the first law anywhere to prohibit animal cruelty; Parliament's world-leading role has continued right up to the present day including the Animal Welfare Act in 2006. But these two centuries of legislative action on animals have mirrored developing national opinion. Today the overwhelming view of the public, as well as such respected bodies as the RSPCA, is that travelling circuses are no place for wild animals. Members of Parliament have long voiced concerns around the issue in debates dating back a number of years.

As the process of introducing new primary legislation is necessarily a long one, the Government has introduced Welfare Regulations, which will protect wild animals which stay in travelling circuses in the short term. To date, two circuses have been licensed. However, when it comes into force the ban in this Draft Bill will supersede the Regulations.

In drafting this legislation we have taken into account the many and varied views gathered in numerous consultations in recent years on this subject. We look forward to receiving comments on the Draft Bill during the process of pre-legislative scrutiny, which will help ensure that it is well prepared for introduction to Parliament.

This legislation will end the use of wild animals in travelling circuses in this country. It will also help ensure that our international reputation as a leading protector of animals continues into a new global era.

Lord de Mauley

SECTION 1 – INTRODUCTION

Publishing the draft Bill for pre-legislative scrutiny

Why we have this document

1. As well as containing the draft Wild Animals in Circuses Bill itself, this document explains the context and rationale behind the Bill.
 - Section 1 outlines the background to and legislative context of the Bill, briefly summarising its key elements.
 - Section 2 sets out the main arguments which form the justification for the Bill.
 - Section 3 explains the current position on application of the draft Bill to the Devolved Administrations.
 - Section 4 contains the draft Bill.
 - Section 5 contains the Explanatory Notes to the draft Bill. These provide an outline of the effect of the clauses and the Schedule.

Pre-legislative scrutiny and the legislative process

2. The Government is committed where possible to publishing Bills in draft for pre-legislative scrutiny before they are formally introduced to Parliament. This is to improve the scrutiny of Bills and draw the wider public more effectively into the Parliamentary process.
3. Pre-legislative scrutiny allows for thorough consultation on the draft Bill, ensuring that both Parliament and stakeholders have the opportunity to comment before it is finalised for introduction to Parliament. The Committee holding the inquiry into the draft Bill will usually issue a call for written evidence before holding public evidence sessions. The Minister responsible for the draft Bill is likely to be asked to give oral evidence during this evidence-gathering phase.
4. Following the oral evidence sessions the Committee will then issue its report. It is usual for the Government to make a formal response to the Committee's report – though in some cases, for example where all the recommendations are accepted, the final Bill itself may serve as a response. It is for the Government to decide whether or not to accept the Committee's recommendations for changes to the draft Bill.
5. We expect that the House of Commons' Environment, Food and Rural Affairs Select Committee will lead the scrutiny of the draft Wild Animals in Circuses Bill.

Background to the draft Bill

6. During a Backbench Business debate on 23 June 2011 the House of Commons agreed on a motion 'directing the Government to use its powers under section 12 of the Animal Welfare Act 2006 to introduce a regulation banning the use of all wild animals in circuses to take effect by 1 July 2012'.¹ The Government's position was, and remains, that there is currently insufficient evidence of irredeemable welfare problems in travelling circuses with wild animals to justify a ban on welfare grounds.
7. In October 2007 the report 'Wild Animals in Travelling Circuses: The Report of the Chairman of the Circus Working Group'² (commonly referred to as the 'Radford Report'), commissioned by the previous Government, concluded that, in terms of using the delegated powers in the Animal Welfare Act 2006 to introduce a ban, after reviewing the available scientific evidence submitted, 'there appears to be little evidence to demonstrate that the welfare of animals

1 Hansard 23 June 2011 Column 548

2 <http://archive.defra.gov.uk/foodfarm/farmanimal/welfare/documents/circus-report.pdf>

kept in travelling circuses is any better or worse than that of animals kept in other captive environments'. Therefore, in the absence of any compelling scientific evidence, any attempt to ban the use of an animal using the delegated powers provided by the Animal Welfare Act would fail the test of proportionality, and primary legislation is needed to 'have any realistic prospect of achieving a lawful ban'.

8. Subsequent to the 23 June 2011 debate, and following the resolution of a legal challenge to a wild animal ban in circuses in Austria (that did not, in the end, result in a referral to the Court of Justice of the European Union which would have been of interest to the UK Government), the Government on 1 March 2012 set out its policy on the use of wild animals in travelling circuses³. The Government stated that it intended to pursue a ban on the use of wild animals in travelling circuses in England. Because primary legislation would take time, as an interim measure the Government would introduce a licensing scheme, which could be done quickly using powers already available under the Animal Welfare Act 2006, to promote the welfare of wild animals in travelling circuses in England. The Welfare of Wild Animals in Travelling Circuses (England) Regulations 2012 (the 'Regulations') came into force on 20 January 2013.

Existing welfare legislation for Wild Animals in Circuses

9. There are currently three main pieces of legislation relevant to wild animals in travelling circuses:
 - The **Welfare of Wild Animals in Travelling Circuses (England) Regulations 2012**. The Regulations require all operators of travelling circuses in England which use wild animals to be licensed. Licensed circuses are required to receive regular inspections to check compliance with strict welfare standards. Anyone responsible for a travelling circus that uses wild animals must meet strict welfare standards; prepare and follow care plans for every animal; organise regular veterinary inspections; and have a retirement plan for each animal. The maximum penalty for operating a travelling circus with wild animals without a licence is six months' imprisonment or a fine not exceeding £5,000, or both.
 - The **Animal Welfare Act 2006** (under which the above Regulations are made) makes it a criminal offence for any person responsible for an animal, including all wild animals in travelling circuses, to fail to provide for their animal's welfare needs. Under section 9 of the 2006 Act, a person responsible for an animal has a duty to provide for that animal's needs, which include: its need for a suitable environment; its need for a suitable diet; its need to be able to exhibit normal behaviour patterns; its need to be housed with, or apart from, other animals; and its need to be protected from any pain, suffering, injury or disease. The 2006 Act also makes it a criminal offence to cause an animal any unnecessary pain or suffering. The maximum penalties available for an offence of causing unnecessary suffering are a fine of £20,000 or six months' imprisonment, or both. The maximum penalties for failing to provide for the welfare of an animal are a fine of £5,000 or six months' imprisonment, or both.
 - The **Performing Animals (Regulation) Act 1925** requires anyone who trains or exhibits animals to register with a local authority, stating details of the animals involved. The Act also gives powers to local authorities to enter premises. The maximum penalty for exhibiting or training an animal without being registered with a local authority is a fine not exceeding level 3 on the standard scale (currently £1,000).

3 Hansard 1 March 2012 Column 41WS

Key Elements of the draft Wild Animals in Circuses Bill

10. The draft Wild Animals in Circuses Bill prohibits the use of wild animals in travelling circuses in England. Wild animals are defined by the Bill as any vertebrate animal of a kind which is not normally domesticated in Great Britain – a similar definition to that used in the Zoo Licensing Act 1981 for a wild animal. An offence is committed by a circus operator where any wild animal is used in performance or exhibition in the operator's travelling circus. The maximum penalty on summary conviction for breach of the prohibition on use of wild animals proposed under the draft Bill is a fine not exceeding level 5 on the standard scale (currently £5,000).
11. The draft Bill contains a consequential amendment to the Dangerous Wild Animals Act 1976 that would remove the current exemption from the licensing provisions in that Act for a dangerous wild animal kept in a circus in England. If the prohibition contained in the draft Bill comes into force, there should be no dangerous vertebrate animals, as listed in the 1976 Act, remaining in circuses that would require the exemption.
12. According to the present draft, the Bill would come into force on 1 December 2015. This will allow a 'grace period' of up to three more touring seasons to travelling circuses, to enable them to adapt their performances and to make alternative care arrangements for their wild animals if necessary.

Taking the draft Bill forward

13. It is possible that aspects of the draft Bill and our supporting arguments will change before a Bill is introduced into Parliament. Depending on the recommendations of the Committee scrutinising the draft Bill, it is the Government's intention to bring forward an actual Bill as soon as the legislative programme allows.
14. The offences in the current draft Bill apply in England only. Defra is speaking with counterparts in the Devolved Administrations about the territorial scope of any eventual Bill produced. More details of the possible implications for the Bill in relation to the Devolved Administrations are set out in Section 3 – Devolution.

SECTION 2 – THE ARGUMENTS AGAINST THE USE OF WILD ANIMALS IN TRAVELLING CIRCUSES

15. The use of wild animals in travelling circuses reflects a traditional, but outdated, view of wild animals. Travelling circuses are no longer one of the only ways to see and learn about wild animals. Other settings, such as modern and well managed zoos, offer greater assurance of respect for the intrinsic value of the specimen and species, and for the natural environment.
16. Captive wild animals have much the same genetic makeup as counterparts in the wild and retain their wild nature and natural instinctive behaviours. Their wild nature and innate value should be recognised and respected. Using wild animals solely for circus performance is unbecoming to their wildness and potentially harmful.
17. There is little or no educational, conservational, research or economic benefit derived from wild animals in travelling circuses that might justify their use and the loss of their ability to behave naturally as a wild animal. The public can still attend numerous successful circuses that do not use wild animals and continue to enjoy the experience and the varied and exciting acts.
18. If a captive wild animal belongs to an endangered or threatened species or habitat (few of the species used in circuses do) then there is an even stronger argument only to use such an animal – if it must be used at all – for the greater end of conservation, education and/or the greater good of the species and/or natural environment. Such animals should not be used solely or primarily for entertainment and spectacle.
19. In summary, the Government does not believe it is appropriate to continue to use wild animals in travelling circuses because:
 - It is not necessary to use wild animals in travelling circuses to experience the circus;
 - wild animals are just that and are not naturally suited to travelling circuses and may suffer as a result of being unable to fulfil their instinctive natural behaviour;
 - we should feel duty-bound to recognise that wild animals have intrinsic value, and respect their inherent wildness and its implications for their treatment; and
 - the practice adds nothing to the understanding and conservation of wild animals and the natural environment.

SECTION 3 – DEVOLUTION

20. As is usual, the draft Bill extends to England and Wales only. However, the offence of using a wild animal in a travelling circus in the draft Bill applies only in England.
21. The Government does recognise that, given the travelling nature of circuses, enforcement would be simpler if the legislation extended throughout all the countries of the United Kingdom. As such, Defra Minister Lord de Mauley has written to his three counterparts in the Devolved Administrations to ask them to consider whether they want to allow the Westminster Parliament to legislate for their countries.

Scotland and Wales

22. The Scottish Government has indicated that they wish to consult before considering extending the Bill to Scotland. The Welsh Government has indicated that it would also like to consider the implications of the introduction of a ban. Subject to the outcome of these considerations, we will work with colleagues in Scotland and Wales during and after the pre-legislative scrutiny period to help develop a Bill that could apply to Great Britain.

Northern Ireland

23. The Minister of Agriculture and Rural Development has confirmed that while there are no travelling circuses based in Northern Ireland there were some travelling circuses from the Republic of Ireland that did occasionally tour there. The Minister has not yet developed a position on the use of wild animals in travelling circuses and wishes to take time to consider this issue, as well as engage with stakeholders, and discuss the matter with counterparts in Dublin. The Minister has asked to be kept informed about the development of the Bill.

Wild Animals in Circuses Bill

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- 2 Enforcement powers
- 3 Consequential amendment
- 4 Extent, commencement and short title

Schedule – Enforcement powers

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TO

Make provision to prohibit the use of wild animals in travelling circuses in England.

BE IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Use of wild animals in a travelling circus

- (1) A circus operator may not use a wild animal in a travelling circus in England.
- (2) For the purposes of subsection (1), a circus operator uses a wild animal in a travelling circus if the animal performs or is exhibited as part of the circus.
- (3) A circus operator who contravenes subsection (1) is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale. 5
- (4) Where an offence under subsection (1) is committed by a body corporate and is proved—
 - (a) to have been committed with the consent or connivance of an officer of the body corporate, or 10
 - (b) to be attributable to any neglect on the part of an officer of the body corporate,
 the officer (as well as the body corporate) is guilty of the offence and is liable to be proceeded against and punished accordingly. 15
- (5) In this section—
 - “animal” has the meaning given by section 1(1) of the Animal Welfare Act 2006;
 - “circus operator”, in relation to a circus, means—
 - (a) the owner of the circus, 20
 - (b) any other person with overall responsibility for the operation of the circus, or

- (c) if neither the owner of the circus nor any person with overall responsibility for its operation is present in the United Kingdom, the person in the United Kingdom who is ultimately responsible for the operation of the circus;
- “officer”, in relation to a body corporate, means – 5
- (a) a director, manager, secretary or other similar officer of the body corporate, or
- (b) any person purporting to act in any such capacity;
- “wild animal” means an animal of a kind which is not commonly domesticated in Great Britain. 10

2 Enforcement powers

The Schedule makes provision about inspectors and their enforcement powers.

3 Consequential amendment

In section 5(2) of the Dangerous Wild Animals Act 1976 (exemption from Act for animals kept in circuses), after “circus” insert “in Wales or Scotland”. 15

4 Extent, commencement and short title

- (1) This Act extends to England and Wales only.
- (2) This Act comes into force on 1 December 2015.
- (3) This Act may be cited as the Wild Animals in Circuses Act 2013.

SCHEDULE

Section 2

ENFORCEMENT POWERS

Appointment of inspectors

- 1 The Secretary of State may appoint a person to be an inspector for the purposes of this Act. 5

Powers of entry

- 2 An inspector may enter any premises (other than premises used only as a dwelling) if there are reasonable grounds for suspecting – 10
- (a) that an offence under section 1 is being, has been or is about to be committed on the premises, or
 - (b) that evidence of the commission of an offence under section 1 may be found on the premises.
- 3 (1) An inspector may enter premises used only as a dwelling if a justice of the peace has issued a warrant authorising the inspector to enter those premises.
- (2) A justice of the peace may only issue such a warrant if, on an application by an inspector, the justice is satisfied on sworn information in writing – 15
- (a) that there are reasonable grounds for suspecting – 20
 - (i) that an offence under section 1 is being, has been or is about to be committed on the premises, or
 - (ii) that evidence of the commission of an offence under section 1 may be found on the premises; and
 - (b) that any of the conditions in sub-paragraph (3) is satisfied.
- (3) The conditions are –
- (a) that entry to the premises is unlikely to be granted unless a warrant is produced and that notice of intention to apply for a warrant has been given to the occupier; 25
 - (b) that an application for admission to the premises or the giving of notice of intention to apply for a warrant might defeat the object of entry;
 - (c) that the premises are unoccupied; 30
 - (d) that the occupier is temporarily absent and it might defeat the object of entry to wait for the occupier’s return.

Exercise of powers of entry

- 4 (1) Before exercising a power of entry, an inspector must, if requested to do so by a person on the premises – 35
- (a) produce 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) produce a copy of the warrant, and
 - (b) supply the occupier (if present), or any other person appearing to the inspector to be in charge of the premises, with a copy of the warrant. 5
- (3) If neither the occupier nor any other person appearing to the inspector to be in charge of the premises is present, the inspector must leave a copy of the warrant in a prominent place on the premises.
- 5 An inspector exercising a power of entry must do so at a reasonable hour unless it appears to the inspector that the purpose of entry would be frustrated by entry at a reasonable hour. 10
- 6 An inspector exercising a power of entry may –
- (a) if necessary, use reasonable force to enter the premises;
 - (b) take up to two other persons onto the premises; 15
 - (c) take such equipment and materials onto the premises as appear to the inspector to be appropriate.

Powers of inspection etc

- 7 An inspector exercising a power of entry may –
- (a) search the premises; 20
 - (b) examine, measure or test anything, including an animal, that is found on the premises;
 - (c) question any person on the premises;
 - (d) require any person on the premises to give the inspector such assistance as the inspector may reasonably require; 25
 - (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, including an animal, that is found on the premises;
 - (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; 30
 - (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 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); 35
 - (k) seize anything, except an animal, that is found on the premises and which the inspector reasonably believes to be evidence of the commission of an offence under section 1. 40
- 8 A person taken onto the premises under paragraph 6(b) may exercise any power conferred on an inspector by paragraph 7 if the person is in the company and under the supervision of an inspector exercising a power of entry. 45

Powers of seizure: supplementary

- 9 (1) Anything seized under paragraph 7(k) may be retained for so long as is necessary in all the circumstances.
- (2) A person who seizes anything under paragraph 7(k) must, 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 thing immediately before it was seized, provide a record of its seizure. 5
- (3) Paragraph 7(k) does not include power to seize anything in respect of which a claim to legal professional privilege could be maintained in legal proceedings. 10

Obstruction etc

- 10 (1) A person is guilty of an offence if—
- (a) the person fails without reasonable excuse to comply with a requirement for assistance reasonably made under paragraph 7(d), or 15
- (b) the person intentionally obstructs another in the exercise of a function under this Schedule.
- (2) A person who is guilty of an offence under sub-paragraph (1)(a) or (b) is liable on summary conviction to a fine not exceeding level 5 on the standard scale. 20

Liability of inspectors

- 11 (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 satisfied that the act was done in good faith and that there were reasonable grounds for doing it. 25
- (2) Sub-paragraph (1) applies to any person taken onto premises by an inspector under paragraph 6(b) as it applies to an inspector if the person is in the company and under the supervision of an inspector exercising functions under this Schedule.

Interpretation 30

- 12 (1) In this Schedule—
- “animal” has the meaning given by section 1(1) of the Animal Welfare Act 2006;
- “power of entry” means a power of entry conferred on an inspector by— 35
- (a) paragraph 2, or
- (b) a warrant under paragraph 3;
- “premises” includes any place and, in particular, includes—
- (a) any vehicle, and
- (b) any tent or movable structure. 40
- (2) In this Schedule, references to the occupier of premises, in relation to any vehicle, are to the person who appears to be in charge of the vehicle, and “unoccupied” is to be construed accordingly.

SECTION 5 – EXPLANATORY NOTES

WILD ANIMALS IN CIRCUSES BILL

EXPLANATORY NOTES

INTRODUCTION

1. These Explanatory Notes relate to the Wild Animals in Circuses Bill as published in draft on 16 April 2013. They have been prepared by the Department for Environment, Food and Rural Affairs 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.
2. 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.

SUMMARY AND BACKGROUND

3. The Bill takes forward the UK Government’s policy in relation to the use of wild animals in travelling circuses as set out in Written Ministerial Statements on 1 March¹ and 12 July 2012². The Bill makes it an offence for an operator of a travelling circus in England to use a “wild animal”. Wild animals are defined in the Bill as any animal that is a member of a species not commonly domesticated in Great Britain.
4. The Bill will give circus operators until 1 December 2015 to remove any wild animals from their circus before it becomes an offence under the Bill to use a wild animal in a travelling circus.

TERRITORIAL EXTENT

5. The Bill extends to England and Wales only.

1 Hansard 1 March 2012 Column 41WS

2 Hansard 12 July 2012 Column 43WS

COMMENTARY

Clause 1: Use of wild animals in a travelling circus

6. 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.
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. Performance would include a parade of animals in the ring while exhibition would extend to the display of, for example, 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. A person guilty of such an offence is liable on summary conviction to a fine not exceeding level 5 on the standard scale (currently £5,000).
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 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” is left to take its ordinary meaning: it is a term that is commonly used and well understood, and therefore does not require a definition.

Clause 3: Consequential amendment

11. 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

12. This clause provides that the Bill will come into force on 1 December 2015.

Schedule – Enforcement Powers

13. 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 Bill.
14. Paragraph 1 gives a power to the Secretary of State to appoint persons as inspectors for the purposes of the Bill.
15. Paragraph 2 confers a power to enter premises, other than premises used only as a dwelling, to carry out relevant functions. 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.

16. 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.
17. 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.
18. 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.
19. 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.
20. 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.
21. 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.
22. 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.
23. 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 maximum penalty is a fine not exceeding level 5 on the standard scale (currently £5000).
24. 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

25. 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 Bill.

SUMMARY OF THE IMPACT ASSESSMENT

26. The Impact Assessment for the draft Bill found the impact on the industry would be cost neutral. This was based on the assumption that the cost of caring for the animals will no longer fall to the circus business and would transfer to private keepers. The Impact Assessment does acknowledge, however, that the actual owner of an animal may well not change. 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 notes that the primary benefit of a ban – putting an end to the use of wild animals in travelling circuses – is non-monetary.
27. All businesses affected by the draft Bill are small or micro-businesses. Defra has been granted an exemption from the Government moratorium restricting new regulations applying to micro-businesses announced in the 2011 budget. The draft Bill has an enforcement date of ‘1 December 2015’ in order to give operators of travelling circuses a reasonable period of time to adapt their businesses.
28. The Impact Assessment has been assessed by economists in Defra and has been approved by Defra’s Chief Economist. The Regulatory Policy Committee has provided a Regulatory Triage Confirmation that confirms, based on the evidence presented, that the proposal appears to be a low cost regulatory measure, which does not require a full opinion from the Committee.
29. The full Impact Assessment for the draft Wild Animals in Circuses Bill is available on the Government website at www.gov.uk/government/policies/protecting-animal-welfare/supporting-pages/wild-animals-in-travelling-circuses

COMPATIBILITY WITH THE EUROPEAN CONVENTION ON HUMAN RIGHTS

30. 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 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

31. The Bill will come into force on 1 December 2015.



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