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Llywodraeth Cymru
Welsh Government

Welsh Government Consultation Document

Animal Exhibits

The Animal Welfare (Licensing of Animal Exhibits) (Wales)
Regulations 2020

Date of issue: 29 August 2019

Action required: Responses by 21 November 2019

Mae'r ddogfen yma hefyd ar gael yn Gymraeg.
This document is also available in Welsh.

Overview

The Animal Welfare (Licensing of Animal Exhibits) (Wales) Regulations 2020 provide a licensing scheme for all Animal Exhibits that meet a given criteria. Animal Exhibits are diverse and there is currently no standard licensing regime or requirement for routine inspection. Consequently there are concerns welfare standards cannot be guaranteed.

Following a 2017 consultation, in December 2017 the then titled Minister for Environment and Rural Affairs Lesley Griffiths AM announced her intention to introduce a licensing scheme for Mobile Animal Exhibits in Wales. Following a review of the policy scope in April 2019, a decision was made to include all Animal Exhibits which meet a given criteria.

The licensing scheme will provide for checks to be made to ensure good welfare standards are maintained and that animals are exhibited in a way that encourages respectful and responsible attitudes towards all species.

This approach will deliver a scheme which will have a lasting impact on the welfare of exhibited animals and on the attitudes towards animals of future generations in Wales.

How to respond

You can respond to this consultation using the questionnaire at the back of this document, by completing an online questionnaire, or writing to the team using the contact details below.

Further information and related documents

Large print, Braille and alternative language versions of this document are available on request.

To access the consultation online, including a questionnaire to submit your response, please see <https://beta.gov.wales/consultations>

Contact details

For further information:

Address:

Animal Welfare & Framework Branch
Office of the Chief Veterinary Officer
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

Email: WAHFG@gov.wales

Telephone: 03000 257961

General Data Protection Regulation (GDPR)

The Welsh Government will be data controller for any personal data you provide as part of your response to the consultation. Welsh Ministers have statutory powers they will rely on to process this personal data which will enable them to make informed decisions about how they exercise their public functions. Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about or planning future consultations. Where the Welsh Government undertakes further analysis of consultation responses then this work may be commissioned to be carried out by an accredited third party (e.g. a research organisation or a consultancy company). Any such work will only be undertaken under contract. Welsh Government's standard terms and conditions for such contracts set out strict requirements for the processing and safekeeping of personal data.

In order to show that the consultation was carried out properly, the Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. If you do not want your name or address published, please tell us this in writing when you send your response. We will then redact them before publishing.

You should also be aware of our responsibilities under Freedom of Information legislation

If your details are published as part of the consultation response then these published reports will be retained indefinitely. Any of your data held otherwise by Welsh Government will be kept for no more than three years.

Your rights

Under the data protection legislation, you have the right:

- to be informed of the personal data held about you and to access it
- to require us to rectify inaccuracies in that data
- to (in certain circumstances) object to or restrict processing
- for (in certain circumstances) your data to be 'erased'
- to (in certain circumstances) data portability
- to lodge a complaint with the Information Commissioner's Office (ICO) who is our independent regulator for data protection.

For further details about the information the Welsh Government holds and its use, or if you want to exercise your rights under the GDPR, please see contact details below:

Data Protection Officer:
Welsh Government

Cathays Park
CARDIFF
CF10 3NQ

e-mail:

Data.ProtectionOfficer@gov.wales

The contact details for the Information Commissioner's Office are:

Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Tel: 01625 545 745 or
0303 123 1113

Website: <https://ico.org.uk/>

Where are we now?

Animal Exhibits (AEs) are diverse and there is currently no standard licensing regime or requirement for routine inspection. As such, it is unlikely that the welfare standards of many of Wales' exhibited animals are routinely assessed.

The Performing Animals (Regulation) Act 1925 requires performing animals to be registered with Local Authorities. However, registrations often have no end date, which makes quantifying the number of active performing animals in Wales difficult, and there are no specific inspection requirements. The Act also does not define what is meant by a 'performing animal'. Because of this, the approach to enforcing this legislation differs between Local Authorities.

The Animal Welfare Act 2006 ("the 2006 Act") places a duty on someone who is responsible for an animal to ensure its welfare. A person must take such steps as are reasonable in all the circumstances to ensure that the needs of an animal are met. Section 13(7) of the 2006 Act provides powers for the Welsh Ministers to introduce licensing schemes which promote the welfare of animals, by way of Regulations.

A 2016 survey carried out by the Captive Animal Protection Society for Great Britain (GB)¹ suggested that the number of mobile zoos in GB was approximately 188 plus seven 'mobile farms' with around 3,750 animals between them. Preliminary analysis of the movements of these exhibits is that they travel all over GB. A great range of animals are used, including exotic species such as African land snails, reindeer, penguins, bearded dragons, corn snakes, scorpions, tarantulas, camels and crocodiles. 'Events' include school/educational establishment talks, party packages, corporate bookings and fêtes. AEs of this nature could fall within the scope of the proposed licensing scheme, depending on the individual circumstances of each entity.

In 2017, Welsh Local Authorities undertook a Partnership Delivery Project with the objective of gaining more information about the number and type of Mobile Animal Exhibits (MAEs) operating in Wales. 53 MAEs were identified (five in North Wales, 13 in South Wales, 10 in Gwent and 25 in Dyfed-Powys) and the nature of these Exhibits included falconers, exotic animal displays, animals for film sets and equine displays.² Work is now ongoing to quantify the number of AEs in Wales that meet the proposed definition.

In 2017 we also consulted on the introduction of a licensing or registration scheme for Mobile Animal Exhibits. We also asked for views on banning the use of wild animals in circuses. There was overwhelming support from respondents to the consultation for a ban on the use of wild animals in circuses and last year the Minister for Environment, Energy and Rural Affairs consulted on a draft Bill aimed at addressing these ethical concerns. The consultation attracted over 6,500 responses and, again, the overwhelming majority of respondents supported the introduction of this legislation.³ The Minister laid the Wild Animals and Circuses (Wales) Bill before the National Assembly on 8 July 2019. The purpose of the Bill is to make it an offence for a wild animal to be used in a travelling circus. The Bill will not affect the use of domesticated animals in travelling circuses, nor will it prevent wild animals being used for entertainment in other settings. The passage of the Bill through the Assembly scrutiny stages can be followed on the National Assembly for Wales' website.⁴

¹ <http://www.captiveanimals.org/mobile-zoos-and-live-animal-parties>

² <https://beta.gov.wales/mobile-animal-exhibits>

³ <https://gov.wales/wild-animals-travelling-circuses-wales-bill>

⁴ <http://senedd.assembly.wales/mglIssueHistoryHome.aspx?lId=25643>

Current Position Elsewhere

In England, the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018⁵ (“the 2018 Regulations”) came into force on 1st October 2018. The 2018 Regulations introduced an updated licensing system in England for five activities involving animals, including the keeping or training of animals for exhibition. The licensing system will be enforced by Local Authorities and will ensure, at a minimum, the standards set out in the 2018 Regulations. The 2018 Regulations amend the Performing Animals (Regulation) Act 1925 with the effect that it repeals the requirement to be registered under that Act in England.

The Scottish Government confirmed in its 2018-19 Programme for Government⁶ that it will continue to work to introduce and reform the licensing of animal activities, including the use of animals in public display or performance.

What will the legislation do?

Welsh Ministers have the power to make secondary legislation (by way of regulations) to promote animal welfare under the Animal Welfare Act 2006⁷. The Animal Welfare (Licensing of Animal Exhibits) (Wales) Regulations 2020 will introduce a requirement for Animal Exhibits (AEs) which meet a given criteria to be licensed by their local authority. Licences will be subject to certain conditions. Statutory guidance will accompany the legislation.

As part of that licensing scheme, it is proposed a condition is included in licences that are issued, requiring licensed AEs to promote, where possible, public education and awareness, and respectful and responsible attitudes, in relation to the species kept. This condition is aimed at encouraging responsible ownership and respect for animals. This approach, which follows a long-standing requirement for licensed zoos, was well received in the 2017 consultation⁸ and in the series of stakeholder workshops held in 2018, with many responses suggesting this already happens in many AEs.

It is also proposed the Regulations amend other existing pieces of legislation, namely by repealing the Performing Animals (Regulation) Act 1925⁹ in relation to Wales. If both static and mobile Animal Exhibits are subject to the new licensing regime, the 1925 Act will become redundant. This follows the approach taken in England.

⁵ <https://www.legislation.gov.uk/ukdsi/2018/9780111165485>

⁶ <https://www.gov.scot/publications/delivering-today-investing-tomorrow-governments-programme-scotland-2018-19/>

⁷ <http://www.legislation.gov.uk/ukpga/2006/45/contents>

⁸ <https://gov.wales/mobile-animal-exhibits>

⁹ <https://www.legislation.gov.uk/ukpga/Geo5/15-16/38>

Evidence for change

There is concern from the Welsh Government and animal welfare organisations that the welfare of some exhibited animals is not routinely assessed.

In the Welsh Government's aforementioned 2017 consultation exercise, views were sought on a proposal to introduce licensing or registration for MAEs in Wales. There were 70 comprehensive responses, of which the majority were in favour of the introduction of a scheme, with most preferring licensing over registration.

In the autumn of 2018, a series of seven stakeholder workshops were held across Wales to discuss the proposal to introduce a licensing scheme for MAEs. 41 organisations were represented at the workshops where open discussion took place on the objective of promoting animal welfare, whilst being mindful of the need for proportionality, both for a sector that is primarily made up of small businesses and for enforcement authorities who have, for many years, been managing with fewer resources. The overwhelming response was of support for the proposal to introduce a licensing scheme, in particular the opportunity it presented to encourage respectful and responsible attitudes towards animals in future generations.

Concern has been expressed about similarities between travelling circuses and other MAEs. Whilst there are some similarities, in as much as animals are transported and displayed for entertainment, there are not the same fundamental ethical objections from members of the public to the use of animals in other exhibits as there are for the use of wild animals in travelling circuses. There are differences with regards to the types of species kept, the conditions in which they are kept and how they are used or displayed. These Regulations will play a key role in ensuring that the welfare standards of exhibited animals, including the domesticated species which will continue to be used in travelling circuses, will be subject to regulation and certain standards will be met.

Conclusion

Whilst the original focus of this policy was on MAEs, in light of the legislative changes outlined, and a thorough consideration of the evidence presented, what has become clear is that if the focus of the licensing scheme is limited to mobile exhibits, the welfare standards of animals used in some static exhibits may not receive a comparable level of scrutiny. We feel this discrepancy is not acceptable and as such, the scope was extended to include all Animal Exhibits that meet a given criteria, to be defined in law.

The Questions

Overleaf, we have included a list of questions aimed at ensuring the draft Regulations and accompanying Guidance are robust and proportionate. We are also seeking evidence on a range of issues to allow us to assess the impact the Regulations may have on the lives of the people of Wales. Please provide as much information as possible to support your answers.

**Consultation
Response Form**

Your name:

Organisation (if applicable):

email / telephone number:

Your country of residence:

Question 1: Regulation 3 sets out that, for the purposes of determining whether something is a licensable activity, 'licensable activity' means:

- (a) keeping animals in Wales where those animals are being used for exhibition for educational or entertainment purposes,
 - (b) training animals in Wales where those animals are being used for exhibition for educational or entertainment purposes, or
 - (c) exhibiting animals in Wales for educational or entertainment purposes.
- (2) The licensable activity may take place with or without charge.
- (3) Exhibiting animals for the purpose of the licensable activity includes—
- (a) the exhibition of animals to any audience attending in person, and
 - (b) the recording of visual images of the animals by any form of technology that enables the display of such images.

If something is a licensable activity, in order to carry it out, a licence will be needed.

Do you agree with this definition? Please provide reasons for your answer.

Please enter here:

Question 2: Regulation 3(4) lists a number of exempted activities that it is proposed will not be subject to this licensing scheme. The exempted activities will therefore not require a licence. These are:

- (a) “Keeping animals primarily for dairy farming and livestock¹⁰ breeding and keeping,
- (b) Keeping or training animals for military or police purposes,
- (c) Keeping or training animals for sporting purposes,
- (d) Animals displaying learned behaviours which are taught for working purposes,
- (e) Any activity permitted under a licence for a zoo under the Zoo Licensing Act 1981,
- (f) Keeping a pet shop under a licence granted under section 1(1) of the Pet Animals Act 1951,
- (g) Any activity permitted under a licence for a riding establishment under the Riding Establishments Act 1964.”

Do you agree with these exemptions? Can you think of an activity that would fall within the exemptions that you believe should be included within the scope of the licensing scheme? Can you think of an activity that would fall within the current definition of an Animal Exhibit that you believe should be exempted? Please provide evidence to support your comments.

Please enter here:

Question 3: We are proposing that all Animal Exhibits that meet the licensing criteria should be licensed, irrespective of whether they charge a fee for that Exhibit or not i.e. it could apply to individuals, businesses, charities or other not-for-profit entities. This is considered appropriate as the intention of the Regulations is to ensure that animal welfare standards are met, and this is the case regardless of whether an activity is carried out for profit or not. Do you agree with this approach? Please give reasons for your answer.

Please enter here:

Question 4: The current definition of a licensable activity does not provide an exemption for people who may only exhibit their animals only once or twice a year. If an activity falls within the definition of ‘licensable activity’ then a licence is required. Do you agree with this approach? If not, do you think a threshold should be included, setting out the number of times someone can exhibit animals before requiring a licence? What would be an appropriate threshold? Do you feel this is enforceable? Please give reasons for your answer.

Please enter here:

¹⁰ For the purposes of this regulation, “livestock” includes any creature kept for the production of food, wool, skins or fur, or for the purpose of its use in the farming of land.

Question 5: There will be cost implications associated with this licensing scheme in so much as an Animal Exhibit licence will be subject to a fee payable to the relevant local authority by the licence applicant and, for example, an applicant may need to improve their facilities to meet the licence conditions.

Local authorities will also incur costs to manage the licensing scheme. Whilst the licensing fee should compensate for these costs, in some cases ongoing enforcement costs may exceed it.

Costs may also be incurred for the justice system where prosecutions or appeals are taken forward.

We would welcome any evidence of any potential financial impacts, both on Exhibitors and on local authorities, and any other persons or organisations you feel may be affected, which may occur as a result of the proposed licensing scheme. Please give reasons for your answer.

Please enter here:

Question 6: We would like to know your views on any other effects you anticipate the draft Regulations could have on the Justice System. This includes operators of Animal Exhibits (for example, if they are prosecuted for not being licensed or are prosecuted for breach of a licence condition); local authorities as the enforcement authority; the court system; and any other persons or organisations you feel may be affected.

What effects do you think there would be?

Please enter here:

Question 7: We feel the licensing scheme presents an opportunity for the Welsh tourist industry, of which Animal Exhibits play an important role. The licensing scheme will ensure that all licensed Animal Exhibits will be meeting the same welfare standards and will prove to visitors that we are a nation of animal lovers and the welfare of exhibited animals is taken seriously. We would like to know your views on the effects that the draft Regulations may have, particularly on rural businesses, people and communities.

What effects do you think there would be?

Please enter here:

Question 8: Schedule 1 of the Regulations contains a list of licence conditions that must be attached to every licence issued for the licensable activity. Are there any conditions that you do not consider appropriate, or alternatively, are there any conditions that you would expect to be included, which aren't? Do the licence conditions provide sufficient flexibility, both from an operational and enforcement point of view? Please provide as many reasons to substantiate your views as possible.

Please enter here:

Question 9: Schedule 2 of the Regulations contains details of persons who may not apply for a licence. This includes persons who have held a licence which has been revoked, or who have been disqualified, under the following legislation:

- Animal Welfare (Licensing of Animal Exhibits) (Wales) Regulations 2020;
- Animal Welfare (Breeding of Dogs) (Wales) Regulations 2014;
- The Welfare of Wild Animals in Travelling Circuses (England) Regulations 2012;
- The Welfare of Animals Act (Northern Ireland) 2011;
- The Welfare of Racing Greyhounds Regulations 2010;
- Animal Welfare Act 2006;
- Animal Health and Welfare (Scotland) Act 2006;
- Dangerous Dogs Act 1991;
- Dogs (Northern Ireland) Order 1983;
- Dangerous Wild Animals Act 1976;
- Breeding of Dogs Act 1973;
- Riding Establishments Act 1964;
- Animal Boarding Establishments Act 1963;
- Pet Animals Act 1951;
- Protection of Animals (Amendment) Act 1954;
- Performing Animals (Regulation) Act 1925;
- Protection of Animals Act 1911;
- Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018;
- Zoo Licensing Act 1981.

Do you agree with this approach? Should any other legislation be included? Please give reasons for your answer.

Please enter here:

Question 10: A Guidance document has been drafted to which local authorities must have regard in implementing the Regulations. Do you have any comments on the content of that guidance? Do you consider that additional guidance in connection with any particular provisions of the Regulations would be helpful? Please give reasons for your answer.

Please enter here:

Question 11: We are proposing a three-year licence period for all licensable Animal Exhibits. Is this appropriate, or do you consider that there should be the option of providing a licence for a shorter period? Please provide reasons for your answer.

Please enter here:

Question 12: In the 2017 consultation, 60% of respondents felt that Animal Exhibits may have a negative impact on the attitudes of children and young people towards animals, for example by perceiving them as play things or commodities. Conversely, many respondents felt Animal Exhibits play a key role in introducing children and young people to animals in a controlled environment and where managed well, could play a positive role in educating children, young people and adults.

In Schedule 1, paragraph 8(9) requires that the licence holder must “where possible, promote public education and awareness, and respectful and responsible attitudes, in relation to the species being exhibited”. We feel this will result in a positive impact on the attitudes of children and young people towards animals, with Animal Exhibitors leading by example to inspire the next generation of animal owners and keepers. Do you agree? Please give reasons for your answer.

Please enter here:

Question 13: There are some instances where an animal may be exhibited for a reason other than for entertainment or education. For example, for ornamental purposes (such as a fish tank in a restaurant) or animals that have been bred for sale (e.g. livestock, birds of prey, equines or other pets). As currently drafted, we would not expect exhibits of this nature to fall within the scope of the licensable activity.

Section 9 of the Animal Welfare Act 2006 places a duty on the person responsible for an animal to ensure its welfare. Not doing this is an offence. In light of this, are there any specific activities that you feel should be included in the Regulations, that aren't protected elsewhere? Please give reasons for your answer.

Please enter here:

Question 14: We would like to know your views on the effects that the draft Regulations may have on people with protected characteristics as defined in the Equality Act 2010¹¹. These characteristics are:

- age;
- disability;
- gender reassignment;
- marriage and civil partnership;
- pregnancy and maternity;
- race;
- religion or belief;
- sex; and
- sexual orientation. What effects do you think there would be?

Please enter here:

Question 15: We would like to know your views on whether the draft Regulations could offer any opportunities to reverse the decline of biodiversity in Wales, in line with the Wales Nature Recovery Action Plan.¹²

What effects do you think there would be?

Please enter here:

Question 16: We would like to know your views on the effects that the draft Regulations would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English.

What effects do you think there would be?

Please enter here:

¹¹ <https://www.legislation.gov.uk/ukpga/2010/15/contents>

¹² <https://www.biodiversitywales.org.uk/Nature-Recovery-Action-Plan>

Question 17: Please also explain how you believe the draft Regulations could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language.

Please enter here:

Question 18: We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, or have any comments on specific aspects of the draft Regulations or Guidance, use this space to report them. Please provide as much detail as possible.

Please enter here:

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here: