



Llywodraeth Cymru
Welsh Government

The Wild Animals and Circuses (Wales) Act 2020

Guidance for Local Authorities

January 2021

This document has been prepared by the Welsh Government to provide guidance on the Wild Animals and Circuses (Wales) Act 2020. The Guidance should be read in conjunction with the Act and does not form part of it.

Contents

1. Introduction	3
2. Background	3
3. The offence	3
4. Meaning of “circus operator”	4
5. Meaning of “wild animal”	4
6. Meaning of “travelling circus”	5
7. Amendments relating to the licensing of circuses	6
8. Enforcement	7
9. Further information.....	7

1. Introduction

- 1.1 This Guidance is intended to complement the Wild Animals and Circuses (Wales) Act 2020 (“the Act”).¹ It has been prepared by the Welsh Government in order to aid understanding by providing general guidance on the content of the Act and, where appropriate, to give additional notes on its general and specific provisions. It does not form part of the Act and has not been endorsed by the Senedd.
- 1.2 This Guidance is not a comprehensive description of the Act. It is intended to be used as a reference document and should be read alongside the Act. Whilst this Guidance is intended to be as helpful as possible, it cannot give a definitive interpretation of the law. Questions of interpretation are ultimately definitively determined by the courts.

2. Background

- 2.1 The Act came into force on 1 December 2020. The Act makes it an offence to use a wild animal in a travelling circuses in Wales. It applies to Wales only.
- 2.2 A detailed explanation of the policy intentions underpinning the Act’s purpose can be found in the Explanatory Memorandum² that accompanied the Act.

3. The offence

- 3.1 The Act makes it an offence for an operator of a travelling circus to use, or cause or permit another person to use, a wild animal in a travelling circus.
- 3.2 The Act does not affect the use of domesticated animals in travelling circuses, nor does it prevent wild animals being used for entertainment in other settings.
- 3.3 A wild animal is “used” if the animal performs or is exhibited.
- 3.4 A wild animal “performs” if, for example, it does tricks or manoeuvres for an audience.
- 3.5 A wild animal is “exhibited” if it is on display to the public, even if it is on display outside the main circus arena. Deliberately positioning the wild animal so that it can be viewed by the public in fields next to the circus would be “exhibiting” the animal, as would displaying the animal next to a circus poster or in any other way intended to promote the travelling circus. Operators of travelling circuses will not, however, commit an offence if anybody inadvertently viewed a wild animal which is in an outdoor enclosure, provided the wild animal was not deliberately placed there to be viewed or to promote the travelling circus.

¹ Wild Animals and Circuses (Wales) Act 2020: <https://www.legislation.gov.uk/asc/2020/2/enacted>

² Explanatory Memorandum to the Wild Animals and Circuses (Wales) Bill: <http://www.assembly.wales/laid%20documents/pri-ld12632-em/pri-ld12632-em-e.pdf>

- 3.6 It may be difficult to remove wild animals in travelling circuses entirely from view without potentially compromising their welfare. Circus operators would not have committed an offence if, for example, a member of the public viewed a wild animal grazing in a paddock where there was no active effort on the part of the travelling circus to encourage that viewing.
- 3.7 Travelling circuses may continue to keep (but not use) wild animals. Wild animals may be kept as pets by individual circus workers and kept in their domestic residences. Alternatively, there may be retired wild animals still living and travelling with the circus. Wild animals may continue to be transported by travelling circuses whilst in Wales, as long as they are not used in Wales.
- 3.8 Provided there is no use of a wild animal in a travelling circus, no offence is committed under the Act. However, other legislation may apply. See Section 7 for information relating to licenses travelling circuses, or individuals in those travelling circuses, may require to keep wild animals under the Zoo Licensing or Dangerous Wild Animals legislation. The welfare of these animals continues to be protected by the Animal Welfare Act 2006³ while they are in Wales.
- 3.9 A wild animal does not need to have been transported with the travelling circus nor be owned by the travelling circus for an offence to be committed.
- 3.10 An offence is committed whether or not payment is required, or a donation suggested, to view the performance or exhibition.

4. Meaning of “circus operator”

- 4.1 Any person who is a circus operator commits an offence if that person uses, or causes or permits another person to use, a wild animal in a travelling circus.
- 4.2 Only the operator of a travelling circus can commit the offence. The operator is the owner of the travelling circus or another person who does not own the travelling circus but has overall responsibility for its operation or, if neither is present in the United Kingdom, the person in the United Kingdom responsible for the operation of the travelling circus. The Act also makes provision about individuals who may be liable where the offence is committed by a company etc.

5. Meaning of “wild animal”

- 5.1 A “wild animal” is an animal of a kind which is not commonly domesticated in the British Islands. Animals considered commonly domesticated in their country of origin but not of a kind commonly domesticated in the British

³ Animal Welfare Act 2006: <https://www.legislation.gov.uk/ukpga/2006/45/contents>

Islands are “wild animals” under the Act. For example, camels and reindeer are “wild animals” under the Act.

5.2 Some other examples of “wild animals” include:

- Big cats, like lions and tigers
- Elephants
- Zebras
- Raccoons
- Snakes

5.3 The definition of “wild animal” does not include commonly domesticated species such as dogs, cats, horses, llamas/alpacas, rabbits or pigeons/doves.

5.4 Annex A of the Guidance to the Zoo Licensing Act 1981⁴ contains information about species that may be classed as wild animals.

5.5 It is possible that wild species, or species domesticated in other countries, will in future become commonly domesticated in the British Islands due to changing prevalence and use. If there are future cases where there are uncertain or conflicting views regarding whether a kind of animal is to be considered wild for the purposes of the Act, the Welsh Ministers may, by regulations, specify whether a particular kind of animal is or is not wild. However the power to make regulations is without prejudice to the generality of the definition of wild animal in the Act. Additionally, this power does not require Welsh Ministers to list, in legislation, all wild animals.

5.6 “Animal” has the meaning given by the Animal Welfare Act 2006, and applies to vertebrate animals only.

6. Meaning of “travelling circus”

6.1 The word “circus” is not defined in the Act and therefore relies on an ordinary interpretation.

6.2 A type of undertaking, act, entertainment or similar may self-identify as a “circus” either in its name or through application for recognition under legislative regimes that govern circuses in other national territories. However, a type of undertaking, act, entertainment or similar may fall within the ordinary meaning of “circus” even if it does not use the word “circus” in its advertising material. The word “circus” does not need to be in the name.

6.3 A “travelling circus” means a circus which travels from one place to another for the purpose of providing entertainment. The definition recognises a circus is a “travelling circus” despite there being periods when it does not travel (e.g. during a break from touring or the closed season).

⁴ Zoo Licensing Act 1981: <https://www.legislation.gov.uk/ukpga/1981/37>

- 6.4 A “travelling circus” does not, however, include a normally static undertaking, act, entertainment or similar which self-identifies as a “circus” which travels in order to relocate to a new fixed base. However, the offence will apply to a normally static undertaking, act, entertainment or similar if it sends wild animal acts to put on a circus show anywhere other than its official location or permanently relocates several times.
- 6.5 The fact that a particular undertaking, act, entertainment or similar using a wild animal may include an educational aspect would not render it outside the ordinary meaning of circus, if the substance of the undertaking, act, entertainment or similar falls within that ordinary meaning.
- 6.6 The following are examples of types of undertakings, acts, entertainment or similar which would generally **not** be considered to fall within the ordinary meaning of circus:
- Bird of prey displays
 - Festive reindeer displays (i.e. the use of reindeer in a Christmas fair or similar festive entertainment)
 - Zoo outreach activities
 - Mobile zoos
 - The training or keeping of animals for use on film sets
 - School/educational visits
 - Animal handling sessions or parties, normally but not exclusively involving children
- 6.7 It is possible there may be uncertainty or conflicting views regarding whether a type of undertaking, act or entertainment is or is not a travelling circus. The Act allows Welsh Ministers to make regulations to specify a type of undertaking, act, entertainment or similar that is, and is not, to be regarded as a travelling circus for the purposes of the Act. This power does not require Welsh Ministers to list, in legislation, all types of undertakings, acts or entertainment which are to be regarded as a travelling circus.

7. Amendments relating to the licensing of circuses

- 7.1 The Act makes amendments to the Dangerous Wild Animals Act 1976⁵ (the “1976 Act”) and Zoo Licensing Act 1981 (the “1981 Act”), which mean, in order to keep wild animals, circuses may require a zoo licence or a dangerous wild animal licence.
- 7.2 Section 1 of the 1976 Act provides that no person shall keep any dangerous wild animal except under the authority of a licence. The Act removes the exemption for circuses at section 5(2) of the 1976 Act. This means that any circus (travelling or static) retaining but not using a dangerous wild animal will

⁵ Dangerous Wild Animals Act 1976: <https://www.legislation.gov.uk/ukpga/1976/38>

require a licence under the 1976 Act, unless the circus is caught by the provisions of the 1981 Act.

- 7.3 Section 1 of the 1981 Act provides that it is unlawful to operate a zoo except under the authority of a licence issued under the 1981 Act. The Act amends section 1(2) of the 1981 Act so that circuses in Wales fall within the definition of “zoo”. This means that a circus in Wales could be required to obtain a zoo licence if the 1981 Act applies to it. A circus must meet the requirements of section 1 of the 1981 Act in order for it to require a zoo licence. If the 1981 Act does not apply, then the 1976 Act may apply and a circus may need a dangerous wild animals licence.

8. Enforcement

- 8.1 The powers of enforcement are set out in the Schedule to the Act. The Schedule sets out the extent of those powers and creates offences where any person hampers the exercise of those powers.
- 8.2 Local Authorities will primarily enforce the Act alongside existing enforcement activities carried out with respect to travelling circuses. Breaches of the provisions of the Act are unlikely to arise often, if at all, and it is expected travelling circuses will comply with a ban. In the majority of situations, the offence of using a wild animal will be publicly obvious. If an operator is found guilty of an offence, the court may impose an unlimited fine.
- 8.3 We have not included a summary of the powers of enforcement within this guidance. The Act and the Explanatory Notes should be consulted on matters of enforcement.

9. Further information

- 9.1 If you would like to discuss any issue relating to this guidance please contact the Animal Welfare & Framework Branch of the Office of the Chief Veterinary Officer:

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

Or email: companionanimalwelfare@gov.wales