

Wild Animals and Circuses (Wales) Bill

WEDNESDAY 5 FEBRUARY 2020: STAGE TWO CONSIDERATION - CLIMATE CHANGE, ENVIRONMENT AND RURAL AFFAIRS COMMITTEE

This briefing is issued ahead of the Climate Change, Environment and Rural Affairs Committee's stage two consideration of the Wild Animals and Circuses (Wales) Bill. The Bill is a hugely welcome and long overdue piece of legislation, which will bring Wales into line with other nations in Great Britain, who have already introduced bans on this outdated practice. Travelling circus life severely compromises welfare for wild animals. RSPCA Cymru welcomes the cross-party support which exists within the Assembly for ending this practice - which, for too long, has seen confinement, stressful transportation, forced training and abnormal social groupings a grim reality for the animals involved. While the legislation is very welcome, we are eager to secure further improvements to the Bill - ensuring a full ban on wild animals travelling with a circus, closing loopholes, implementing the ban sooner and extending punishment provisions. We are pleased to have worked closely with Members of the Senedd at this stage of scrutiny, welcome all amendments tabled and encourage members of the Climate Change, Environment and Rural Affairs Committee to support these to further improve this law.

What does the Bill do?

- The Wild Animals and Circuses (Wales) Bill makes it an offence for the operator to use wild animals in travelling circuses in Wales, where that animal is performed or exhibited:
 - The operator means the owner of the travelling circus or the individual that has overall responsibility for the travelling circus.
 - A wild animal is one not commonly domesticated in the British Islands. This definition is aligned with that of the Zoo Licensing Act 1981 - and is supported by the RSPCA.
 - A travelling circus is defined as a circus which travels from one place to another, for the purpose of providing entertainment.
- The Bill confers powers on Inspectors appointed by Welsh Government or local authorities to enforce the law. Enforcement powers include: powers of entry; inspection; search; and seizure of evidence, including the taking of a sample from an animal - but not the seizure of animals.

AMENDMENT GROUPINGS:

Offence to Use Wild Animals in Travelling Circuses (Amendments 1 and 41) - Group 1

Currently, the Bill only forbids wild animals being performed or exhibited for entertainment in a travelling circus environment - a definition which the RSPCA feels is too narrow. As drafted, the current wording will still allow a wild animal to be legally taken on tour with a travelling circus and trained for performance in Wales - perhaps for later exhibition in a country without a ban. RSPCA Cymru wants to see the expansion of the definition of what constitutes an offence under this legislation - to make it clear the 'use' of a wild animal in a travelling circus includes *training* with that circus, or - generally - *travelling* with that circus. Exposing a wild animal to forced training or travel with the circus is hugely inappropriate, and it is a concern that the legislation - as of yet - does not address these realities and their impact on animal

welfare. Both amendments would bring the legislation closer into line with terminology used within the Republic of Ireland's legislative ban¹ - and offer clear recognition on the face of the Bill as to the issues they present to wild animals. The Climate Change, Environment and Rural Affairs Committee considered how, in the absence of a more complete ban, the legislation may fail to meet the public's expectations².

Disqualification of Offenders (Amendments 2 and 3) - Group 2

Present proposals mean those guilty of an offence under the legislation are only liable to a fine on conviction. Courts should have the option to disqualify those committing an offence under this legislation from keeping wild animals for a set period of time. This would be more proportionate to the offence, and more consistent with penalties found in other animal-related legislation, such as the Dangerous Wild Animals Act 1976 or the Animal Welfare Act 2006. Attempts were made to amend the Bill along similar lines in England, with the Shadow Minister for the Environment, Food and Rural Affairs arguing that powers of disqualification would send a "strong signal" and would amount to "sufficient punishment to ensure that those animals could no longer be used"³ - while, the RSPCA also believes, meeting public expectations in terms of a proportionate response to a breach of this legislation.

Guidance (Amendments 4 and 42) - Group 3

The draft Bill provides definitions of both a wild animal and a travelling circus. While the RSPCA believes the proposed definition of a wild animal is appropriate and consistent with other legislation, we have concerns about the definition of a travelling circus - which is potentially ambiguous and open to interpretation. RSPCA Cymru has identified concerns that operators could seek to continue touring under the guise of education in an attempt to circumvent the regulations. The provision of guidance - particularly in relation to the meaning of a travelling circus - would thus be welcome. The implementation of such guidance were key recommendations of the Climate Change, Environment and Rural Affairs Committee. However, currently there is no provision for statutory guidance in the Bill - meaning the status and scope of any future guidance is currently unclear. The ability for a Minister to revise such guidance is of great importance in that it will future-proof the legislation and ensure travelling circus operators cannot circumvent the law, allowing loopholes to be identified and acted upon by Welsh Ministers without the need for new legislation. Issuing guidance pertaining to the definitions of a wild animal, a travelling circus and an exhibit will help aid interpretation, understanding and implementation.

Coming into Force (Amendment 5) - Group 4

A ban on the use of wild animals in circuses in Wales is long overdue - but despite being on the agenda for many years, Wales will be the final nation in Great Britain to introduce a ban. In England, the Wild Animals in Circuses Act came into force on 20 January 2020; while in Scotland a ban has been in force since 28 May 2018⁴. However, as drafted, Wales' proposed ban won't come into force until 1 December 2020; paving the way for one final tour in the summer of 2020 for travelling circuses that play home to wild animals - with Wales the only location where circus performance would, temporarily, remain a legal reality for wild animals. The Welsh Government have said they do not wish for Wales to "become a sanctuary"⁵ for travelling circuses - and yet the current proposals risk creating such a situation this summer. RSPCA Cymru wishes to see a ban come into force as soon as possible - to end the compromised welfare wild animals face in the travelling circus environment.

¹ Republic of Ireland S.I. No. 482/2017 - Circuses (Prohibition on Use of Wild Animals) Regulations 2017. This states a person shall not be allowed to use a wild animal in a circus, and that any reference to a circus includes a reference to any place where animals used in a circus are kept or trained.

² National Assembly for Wales, Climate Change, Environment and Rural Affairs Committee: Wild Animals and Circuses (Wales) Bill, Stage 1 Report

³ Wild Animals in Circuses (No. 2) Bill, Public Bill Committee, 22 May 2019

⁴ Wild Animals in Travelling Circuses (Scotland) Act 2018

⁵ National Assembly for Wales, Record of Proceedings, 9 July 2019

Roles of Enforcement (Amendments 6 to 40) - Group 5

As it stands, the Bill confers powers of entry to appointed inspectors if they have reasonable grounds to believe an offence is being committed. These inspectors are appointed for the purposes of the Act by a County or County Borough Council in Wales, or by the Welsh Ministers. RSPCA Cymru believes such powers of entry should be extended to include police constables - as is the case in the Wild Animals in Travelling Circuses (Scotland) Act 2018⁶. Accordingly, the amendments (6-40) proposing to extend powers under the Bill to constables are welcome and will ensure enforcement opportunities and provisions of the legislation in Wales are strengthened. The RSPCA fully appreciates that police officers often cannot prioritise animal welfare issues. However, amending the Bill in this way also brings enforcement provisions into line with Animal Welfare Act (2006)⁷ - providing clarity for local authorities and members of the public across Wales, with regards to who has powers of entry relating to animal health and welfare offences, While the Minister does not anticipate constables would enforce this legislation⁸, provisions within the Bill are already included for police officers to accompany inspectors; highlighting the role they could play.

Powers of Inspection (Amendments 43, 44 and 45) - Group 6

The Bill currently allows inspectors exercising powers of entry to take a sample from an animal. It is essential for the welfare of any wild animal that - particularly when animal handling is involved - samples are taken by a suitably trained and knowledgeable individual. While this would not need to be a veterinary surgeon, any move to ensure samples are taken by those with an appropriate level of expertise in animal health and welfare is welcome for the Bill's animal welfare credentials. In many cases, the appointed inspector - such as a zoo inspector - may already have the necessary experience to take samples, but added guarantees around this are welcome.

⁶ Wild Animals in Travelling Circuses (Scotland) Act 2018

⁷ Animal Welfare Act (2006)

⁸ National Assembly for Wales, Record of Proceedings, 10 October 2019