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Wild Animals in Travelling Circuses (Wales) Bill

[DRAFT]

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Wild Animals in Travelling Circuses (Wales) Bill

[DRAFT]

An Act of the National Assembly for Wales to make it an offence to use wild animals in travelling circuses.

Having been passed by the National Assembly for Wales and having received the assent of Her Majesty, it is enacted as follows:

5 *Prohibition on using wild animals in circuses*

1 Offence to use wild animals in travelling circuses

- (1) A person who is an operator of a travelling circus commits an offence if the person uses, or causes or permits another person to use, a wild animal in the travelling circus in Wales.
- 10 (2) For the purpose of this section, a wild animal is used if the animal –
 - (a) performs, or
 - (b) is exhibited.
- (3) A person guilty of an offence under subsection (1) is liable on summary conviction to a fine.

2 Meaning of “operator”

In this Act, “operator” means –

- (a) the owner of the travelling circus,
- (b) a person other than the owner with overall responsibility for the operation of the travelling circus, or
- 20 (c) if neither of the persons mentioned in paragraph (a) or (b) is present in the United Kingdom, the person in the United Kingdom with overall responsibility for the operation of the travelling circus.

3 Meaning of “wild animal”

- 25 (1) In this Act, a “wild animal” means an animal of a kind that is not commonly domesticated in the British Islands.
- (2) An animal is of a kind that is domesticated if the behaviour, life cycle or physiology of animals of that kind has been altered as a result of the breeding or living conditions of multiple generations of animals of that kind being under human control.
- (3) Despite subsection (1), regulations may specify, for the purposes of this Act, a kind of animal –
 - 30 (a) that is to be regarded as a wild animal, or

(b) that is not to be regarded as a wild animal.

(4) In this Act, “animal” has the meaning given by the Animal Welfare Act 2006 (c. 45) (see section 1).

4 Meaning of “travelling circus”

(1) In this Act, a “travelling circus” means a circus which travels from one place to another for the purpose of providing entertainment at those places.

(2) A “travelling circus” includes a circus which travels as mentioned in subsection (1) for the purpose mentioned there, despite there being periods during which it does not travel from one place to another.

(3) But a “travelling circus” does not include a circus which travels in order to relocate to a new fixed base for use only or mainly as a place to give performances.

(4) Despite subsection (1), regulations may specify a type of undertaking, act, or entertainment which is to be regarded as a travelling circus for the purposes of this Act.

Enforcement

5 Powers of enforcement

The Schedule makes provision about powers of enforcement.

6 Offences by bodies corporate etc.

(1) This section applies where an offence under section 1 is committed by –

(a) a body corporate;

(b) a partnership;

(c) an unincorporated association other than a partnership.

(2) A person mentioned in subsection (3) also commits the offence if the offence is proved to have been –

(a) committed by, or with the consent or connivance of, that person, or

(b) attributable to any neglect on the part of that person.

(3) The persons are –

(a) in relation to a body corporate, a director, manager, secretary or other similar officer of the body corporate;

(b) in relation to a partnership, a partner in the partnership;

(c) in relation to an unincorporated association other than a partnership, any officer of the association or any member of its governing body.

(4) In subsection (3)(a), “director” in relation to a body corporate whose affairs are managed by its members means a member of the body corporate.

(5) In this section, “partnership” means –

(a) a partnership within the Partnership Act 1890 (c. 39), or

(b) a limited partnership registered under the Limited Partnerships Act 1907 (c. 24).

General

7 Regulations

- (1) Regulations under this Act are to be made by the Welsh Ministers.
- (2) A power to make regulations under this Act –
 - (a) is exercisable by statutory instrument, and
 - (b) includes power to make different provision for different purposes.
- (3) A statutory instrument containing regulations made under this Act is subject to annulment in pursuance of a resolution of the National Assembly for Wales.

8 Coming into force

This Act comes into force on [...].

9 Short title

The short title of this Act is the Wild Animals in Travelling Circuses (Wales) Act 2020.

SCHEDULE
(introduced by section 5)

POWERS OF ENFORCEMENT

Interpretation

- 5 1 (1) In this Schedule –
- “power of entry” (“*prŵer mynediad*”) means a power of entry conferred on an inspector by –
- (a) paragraph 3 (power to enter premises other than dwellings), or
 - (b) a warrant under paragraph 4 (power to enter dwellings);
- 10 “premises” (“*mangreodd*”) includes any place and in particular includes –
- (a) a vehicle, and
 - (b) a tent or a moveable structure.
- (2) In this Schedule, references to the occupier of premises in relation to a vehicle are to the person who appears to be in charge of the vehicle; and “unoccupied” is to be construed
- 15 accordingly.

Appointment of inspectors

- 2 “Inspector” means a person appointed to be an inspector for the purposes of this Act by –
- (a) a county council or a county borough council in Wales, or
 - (b) the Welsh Ministers.

20 *Power to enter premises other than dwellings*

- 3 An inspector may enter any premises, other than premises used wholly or mainly as a dwelling, if there are reasonable grounds for suspecting –
- (a) that an offence under section 1 is being, has been or is about to be committed on the premises, or
 - 25 (b) that evidence that an offence under section 1 is being, has been or is about to be committed may be found on the premises.

Power to enter a dwelling

- 4 (1) An inspector may not enter premises used wholly or mainly as a dwelling unless –
- 30 (a) the occupier or other person appearing to the inspector to be in charge of the premises consents, or
 - (b) a justice of the peace has issued a warrant, on the application of an inspector, authorising the inspector to enter the premises.

(2) A justice of the peace may issue a warrant only if the justice is satisfied on sworn information in writing that –

(a) there are reasonable grounds for suspecting that –

(i) an offence under section 1 is being, has been or is about to be committed on the premises, or

(ii) evidence that an offence under section 1 is being, has been or is about to be committed may be found on the premises; and

(b) any of conditions 1, 2, 3 or 4 is met.

(3) Condition 1 is that –

(a) a request to enter the premises is likely to be refused unless a warrant is produced, and

(b) notice of intention to apply for a warrant has been given to the occupier or to a person appearing to the inspector to be in charge of the premises.

(4) Condition 2 is that requesting to enter the premises or giving notice of intention to apply for a warrant under this section might defeat the object of the entry.

(5) Condition 3 is that the premises are unoccupied.

(6) Condition 4 is that –

(a) the occupier is temporarily absent, and

(b) it might defeat the object of entry to wait for the occupier's return.

A warrant issued under paragraph 4 authorises entry on one occasion.

A warrant issued under paragraph 4 must be executed within 28 days beginning with the date it was issued.

Entering premises

(1) Before entering premises by virtue of paragraph 3 or 4 (power to enter premises), an inspector must, if asked to do so by a person on the premises –

(a) show evidence of the inspector's identity, and

(b) outline the purpose for which the power is exercised.

(2) Before entering premises by virtue of paragraph 4(1)(b) (power to enter dwelling with a warrant), an inspector must also, if asked to do so by a person on the premises –

(a) show a copy of the warrant, and

(b) give a copy of the warrant to the occupier or any other person appearing to the inspector to be in charge of the premises.

(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.

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.

9 An inspector exercising a power of entry may, if necessary, use reasonable force to enter the premises.

10 An inspector exercising a power of entry may take –

- 5
- (a) such other persons onto the premises as appear to the inspector to be appropriate (including a constable), and
 - (b) such equipment and materials onto the premises as appear to the inspector to be appropriate.

Powers of inspection etc.

11 An inspector exercising a power of entry may –

- 10
- (a) search the premises;
 - (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
15 inspector may reasonably require;
 - (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
20 whatever form it is held that is in the person’s possession or control;
 - (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
25 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;
 - (k) seize anything, except an animal, that is found on the premises and which the
30 inspector reasonably believes to be evidence of the commission of an offence under section 1.

12 A person taken onto the premises under paragraph 10(a) may exercise any power conferred on an inspector by paragraph 11 if the person is under the supervision of the inspector.

Power of seizure: supplementary

- 35 13 (1) Anything seized under paragraph 11(k) may be retained for so long as is necessary.

(2) A person who seizes anything under paragraph 11(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 11(k) does not include power to seize anything in respect of which a claim to legal professional privilege could be maintained in legal proceedings.

Power to stop and search vehicles

- 14 (1) A constable in uniform or an inspector if accompanied by a constable in uniform may stop a vehicle for the purpose of entering and searching it in the exercise of a power of entry.
- 10 (2) A vehicle may be stopped for so long as it is reasonably required for the purpose of exercising the power of entry.
- (3) The power of entry may be exercised either at the place where the vehicle was stopped or nearby.

Obstruction etc.

- 15 15 (1) A person commits an offence if –
- (a) the person fails without reasonable excuse to comply with a requirement for assistance reasonably made under paragraph 11(d);
 - (b) the person intentionally obstructs another in the exercise of a function under this Schedule.
- 20 (2) A person guilty of an offence under subparagraph (a) or (b) is liable on summary conviction to a fine.

Liability of inspectors

- 16 (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
- 25 satisfied that the act was done in good faith and that there were reasonable grounds for doing it.
- (2) Sub-paragraph (1) applies to any person taken onto premises by an inspector under paragraph 10 as it applies to an inspector if the person is under the supervision of the inspector.