

Wild Animals in Circuses (No. 2) Bill

HL Bill 180 of 2017–19

Summary

The [Wild Animals in Circuses \(No. 2\) Bill](#) is a government bill that would prohibit the use of wild animals in travelling circuses. The bill defines a wild animal as one that is not commonly domesticated in Great Britain. The bill would ban the performance or exhibit of a wild animal and provide various powers of inspection of circus premises.

There has been longstanding debate about the ethics of using wild animals in circuses and successive governments have made commitments to introduce a ban. The use of wild animals in circuses is currently regulated by the Welfare of Wild Animals in Travelling Circuses (England) Regulations 2012. The regulations require all circuses using wild animals to be licensed and to adhere to a range of animal welfare and inspection requirements. The regulations contained a sunset clause and are due to expire in January 2020.

The bill was introduced in the House of Commons on 1 May 2019. Its second reading took place on 7 May 2019 and it completed its Commons stages on 4 June 2019. During its passage it received general cross-party support and no amendments were made at any of its House of Commons stages. The House of Lords gave the bill a first reading on 5 June 2019. The bill's second reading is scheduled for 19 June 2019.

A similar private member's bill, sponsored by Trudy Harrison (Conservative MP for Copeland), was introduced in the House of Commons on 6 March 2018. It has yet to be scheduled for second reading.

Bill Provisions

The bill is comprised of four clauses and a schedule. Clause 1(1) would prohibit a circus operator from using a wild animal in a travelling circus in England. Clause 1(2) defines the use of a wild animal as one that “performs or is exhibited” as part of the circus. Clause 1(3) would provide that a circus operator found guilty of an offence under clause 1(1) would be liable on conviction to a fine. Clause 1(4) would provide for corporate liability, if the circus operator were a corporate entity. Clause 1(5) defines various terms in the bill, eg:

- “animal” has the same meaning as in section 1(1) of the Animal Welfare Act 2006—a “vertebrate other than man”;
- “circus operator” means the circus owner or other person with overall responsibility who is present in the UK; and
- “wild animal” is an animal of a kind not commonly domesticated in Great Britain.

Clause 2 would provide for the bill's schedule to make provisions about inspections of circus premises.

The schedule would make provisions in the following areas:

- appointment of inspectors by the Secretary of State;
- powers of entry;
- powers of inspection;
- powers of seizure of evidence (but not of animals);
- obstruction of an inspector; and
- liability of inspectors.

Clause 3 would make a consequential amendment to section 5(2) of the Dangerous Wild Animals Act 1976, to remove the exemption for circuses under that Act. The exemption would continue to apply to circuses in Wales.¹

Clause 4(1) would extend the bill's provisions to England and Wales only, except for clause 3 which would also apply in Scotland. Clause 4(2) would provide that the Act entered into force on 20 January 2020.

Background

There have been longstanding debates about the ethics of using wild animals in circuses. Proponents of a ban claim that the welfare needs of wild animals cannot be met in travelling circuses, that the practice is outdated, and that a ban is supported by the majority of the public.² Opponents of a ban claim that the use of wild animals in circuses does not cause stress to the animals, that circuses perform a valuable educational and conservation role, and that the current licensing system imposes strict welfare standards and has produced few prosecutions.³

During the passage of the Animal Welfare Act 2006, proposed backbench amendments to ban the use of non-domesticated animals in circuses were withdrawn following assurances from the Labour Government that it would investigate the introduction of a ban.⁴ Following that commitment, the then Government established a working group to investigate whether delegated powers under that Act could be used to introduce a ban on wild animals in circuses.⁵ The group's 2007 report concluded that there was "little evidence" to demonstrate that the welfare of animals kept in travelling circuses was any better or worse than that of animals kept in other captive environments.⁶ The report therefore concluded that to ban the use of wild animals using delegated powers would fail the test of proportionality.⁷ Instead, a ban would need to be introduced on ethical grounds, requiring primary legislation.

A 2009 consultation by the Labour Government on how best to safeguard the welfare of wild animals in travelling circuses found that approximately 95 percent of respondents favoured a total ban.⁸ Subsequent studies have found similar levels of public support.⁹

The current bill's explanatory notes set out the more recent policy background:

The bill takes forward the Government's policy in relation to the use of wild animals in travelling circuses as set out in the written ministerial statements on 1 March [2012] and 12 July 2012. The Government stated that it intended to pursue a ban on ethical grounds on the use of wild animals in travelling circuses in England. In the absence of any compelling scientific evidence that a ban could be justified on welfare grounds, such a ban requires primary legislation. As primary legislation would have taken time to secure, as an interim measure the Government introduced a

licensing scheme using powers available under the Animal Welfare Act 2006. The Welfare of Wild Animals in Travelling Circuses (England) Regulations 2012 came into force on 20 January 2013. Only two travelling circuses have been licensed under the 2012 regulations to use wild animal acts.¹⁰

In 2013, the Coalition Government published a draft Wild Animals in Circuses Bill for pre-legislative scrutiny.¹¹ The House of Commons Environment, Food and Rural Affairs Committee considered the bill and published its report in July 2013. The committee recommended that some, but not all, wild animals in circuses should be banned.¹² The Government response rejected this recommendation and it indicated that the Government intended to proceed with a total ban.¹³ The current bill's explanatory notes state that, since 2013, "no parliamentary time has been found" for the Government to introduce the bill.¹⁴

The 2013 draft bill formed the basis of several private member's bills that were introduced in previous parliamentary sessions. However, none of those bills completed their parliamentary stages. In the current session, a similar private member's bill was introduced in the House of Commons on 6 March 2018. It has yet to be scheduled for second reading.

Data from the Department for Environment, Food and Rural Affairs (Defra) in May 2019 showed that two travelling circuses in England were licensed to use a total of 19 wild animals: six reindeer; four camels; four zebras; two racoons; one fox; one macaw; and one zebu (a type of cattle).¹⁵

Devolved Nations

Animal welfare is a devolved issue. Scotland has already implemented a ban through the Wild Animals in Travelling Circuses (Scotland) Act 2018. The Welsh Government has stated that it intends to legislate to ban the use of wild animals in circuses.¹⁶ The UK Government has stated that the Northern Ireland administration has been consulted on the current bill. However, it has not sought to be included in the bill as it is a "significant policy decision" that should be taken when devolved government is restored in Northern Ireland.¹⁷

House of Commons Stages

Second Reading

Second reading took place on 7 May 2019. Introducing the bill, the Minister for Animal Welfare, David Rutley, stated:

This important bill seeks to bring to an end outdated practices that have no place in modern society and delivers a long-held government commitment [...] It is not necessary to use wild animals to operate a circus or to enjoy the circus experience. The public can still, as the vast majority already do, attend travelling circuses that do not use wild animal acts [...] Attitudes and audience appetites have changed, but if we fail to bring in a ban by the time our licensing regulations expire in January, there is a risk that we could see more travelling circuses using wild animals such as lions and tigers again. It is crucial that we do not let that happen.¹⁸

Although there was general cross-party support for the bill, MPs raised several concerns. These were focused predominantly on four areas: the definition of a "travelling circus"; the definition of a "wild" animal; powers of enforcement and inspection; and the welfare of wild animals currently used in circuses after a ban would come into effect.

Caroline Lucas (Green Party MP for Brighton, Pavilion) argued that the current definition of “travelling circus” could create a loophole allowing circuses to travel with wild animals but not exhibit them or use them in performance.¹⁹ Other MPs raised concerns that without a clearer definition other types of events involving animals—such as falconry events, county shows or a Santa’s grotto that included reindeer—may come within the scope of the legislation. David Rutley stated that the Government believed the definition in the bill was commonly understood and would be interpreted as such by the courts. He added that:

The ban [would not] lead to the banning of other animal exhibits such as falconry displays, zoos, farm parks or the sort of displays that we might see at summer fêtes in our constituencies. Even though such activities may move animal displays from one place to another, they do not fall within the ordinary interpretation of a circus and will therefore not meet the definition of a travelling circus [...] The important distinction is that circuses move from A to B to C, whereas other displays may go to one place, come back to a home base and go to another place some time later—they are a very different activity.²⁰

MPs debated the distinction between a wild animal and some domesticated species. They questioned whether the animals currently used in circuses would qualify if they had been born in captivity. Mr Rutley stated that the definition of a wild animal used in the bill was well understood and was consistent with the definition used in the Zoo Licensing Act 1981 and other regulations. Mr Rutley stated:

To meet that definition, an animal does not have to have been born in the wild. Most of the wild animals currently in English circuses have been bred in captivity, usually from several generations of circus animals, but that does not make them domesticated.²¹

About enforcement, Luke Pollard, Shadow Minister for the Environment, Food and Rural Affairs, stated that at the bill’s future stages the Opposition intended to explore some issues. These included: the powers of appointed inspectors; whether powers of inspection and entry should be extended to police constables; and whether inspectors should have the power to seize animals.²² David Rutley stated that the bill did not have extensive enforcement powers because other legislation—in particular the Animal Welfare Act 2006 and the Dangerous Wild Animals Act 1976—contained sufficient enforcement powers if a circus were found to be in breach of the ban. On inspectors, Mr Rutley stated:

We already have a small panel of inspectors to enforce the interim wild animals in circuses licensing regime, all of whom are drawn from [Defra]’s list of zoo licensing veterinary inspectors and are highly experienced in the handling and treatment of wild animals in captivity. Inspectors will be appointed on a case-by-case basis by the Animal and Plant Health Agency to investigate evidence of any offence.²³

Regarding the power to seize animals, Parliamentary Under Secretary of State for the Environment, Dr Thérèse Coffey, stated that the 2006 and 1976 Acts already provided powers of seizure if there was evidence of animals being mistreated.²⁴

MPs also raised concerns about the welfare of wild animals in circuses after the implementation of the ban, particularly if any may be destroyed as a consequence. Ministers gave commitments that they had received assurances from the two circuses that they had retirement plans in place for their animals and that none would be destroyed.²⁵

Committee Stage

The bill was considered by a public bill committee over three sittings from 21 to 22 May 2019. At the first two sittings the committee took evidence from animal rights and veterinary groups, and circus operators.

The animal rights charities and veterinary groups were unanimous in their support for the bill. They argued that it was not possible to meet the complex welfare needs of wild animals in a travelling circus environment.²⁶ However, the groups argued in favour of a clearer definition of “travelling circus” than was in the bill. This would address the issue of wild animals being kept and transported by travelling circuses, but not exhibited or used in performance. The groups also supported the extension of the bill’s powers of inspection to include the seizure of animals and to give police constables the power to inspect circus premises.

Representatives from the two circus operators currently licensed to use wild animals opposed the ban. Peter Jolly’s Circus and Circus Mondao argued that their animals were kept to very high welfare standards, that the licensing regime worked well, and that they had received positive reports from Defra inspectors.²⁷ They said that their animals were not wild. They referred to the animals as “exotic” species that had been bred in captivity over many generations. They also said they had great affection for their animals and that performing in the circus did not cause the animals stress.

At the committee’s third sitting the bill was passed without amendment. However, several amendments were tabled and subsequently withdrawn, and there was one division. Luke Pollard moved amendment 1. This sought to insert a clearer definition of “travelling circuses”, in line with the evidence provided by the animal rights and veterinary groups.²⁸ The minister, David Rutley, argued against the amendment. He stated that the bill’s current definition was commonly understood and that too wide a definition may have the unintended consequence of bringing activities such as falconry displays and county shows within the scope of the bill.²⁹ Luke Pollard withdrew the amendment following assurances from the Minister that guidance accompanying the Act would clearly set out the type of activities to be covered by the ban.

Amendment 2 sought to remove the reference to a commencement date of 20 January 2020. This was to allow the Secretary of State flexibility to impose an earlier date. Luke Pollard, moving the amendment, argued that it was necessary to avoid circuses having the chance to introduce new wild animals and new species to their performances prior to January 2020.³⁰ David Rutley spoke against the amendment. He stated that the current date aligned with the expiry of the 2012 regulations. That date, he added, provided certainty to the two licensed circuses so they could make retirement plans for their animals. Luke Pollard pressed the amendment to a division, which was lost by 7 votes to 8.³¹

New clauses 1 and 2 sought to provide powers to disqualify offenders from owning wild animals in the future, and for the seizure of animals by inspectors, respectively. Both were withdrawn following assurances from the minister that sufficient enforcement powers already existed in current legislation.³²

Report and Third Reading

Report stage and third reading were completed on 4 June 2019. At report, Philip Davies (Conservative MP for Shipley) moved new clause 1. This sought to include a more detailed definition of the difference between a wild animal and domesticated species.³³ David Rutley stated that the Government did not support the amendment, for the same reasons he had expressed at committee.³⁴ Following debate, Philip Davies withdrew the new clause.³⁵ Other amendments were tabled, but not called. These were on

issues such as the seizure of animals, powers of inspection for police constables, and a moratorium on the approval of new circus licenses.

At third reading MPs expressed their general support for the bill and it passed without division.

¹ [Explanatory Notes](#), p 3.

² House of Commons Public Bill Committee, [Wild Animals in Circuses \(No. 2\) Bill: First Sitting](#), 21 May 2019.

³ House of Commons Public Bill Committee, [Wild Animals in Circuses \(No. 2\) Bill: Second Sitting](#), 21 May 2019.

⁴ House of Commons, '[Written Statement: Circuses \(Wild Animals\)](#)', 8 March 2006, HCWS60–1.

⁵ Department for the Environment, Food and Rural Affairs, [Welfare of Wild Animals in Travelling Circuses: Impact Assessment](#), 8 February 2012, pp 5–6.

⁶ Circus Working Group, [Wild Animals in Travelling Circuses: The Report of the Chairman of the Circus Working Group](#), October 2007, p 6.

⁷ *ibid.*

⁸ [HC Hansard, 7 May 2019, col 500.](#)

⁹ House of Commons Public Bill Committee, [Wild Animals in Circuses \(No. 2\) Bill: First Sitting](#), 21 May 2019, col 30.

¹⁰ [Explanatory Notes](#), p 2.

¹¹ HM Government, [Wild Animals in Circuses](#), April 2013, Cm 8538, p 11.

¹² House of Commons Environment, Food and Rural Affairs Committee, [Wild Animals in Circuses](#), 9 July 2013, HC 553 of session 2013–14, p 6.

¹³ House of Commons Environment, Food and Rural Affairs Committee, [Wild Animals in Circuses: Government Response to the Committee's Fourth Report of Session 2013–14](#), 22 October 2013, HC 746 of session 2013–14, p 1.

¹⁴ [Explanatory Notes](#), p 2.

¹⁵ House of Commons, '[Written Question: Circuses: Wildlife](#)', 8 May 2019, 249841.

¹⁶ Welsh Government, [Wild Animals in Travelling Circuses \(Wales\) Bill: Consultation—Summary of Responses](#), January 2019, p 22.

¹⁷ [HC Hansard, 7 May 2019, col 520.](#)

¹⁸ *ibid.*, cols 497–502.

¹⁹ *ibid.*, col 502.

²⁰ *ibid.*, cols 504.

²¹ *ibid.*, col 503.

²² *ibid.*, cols 507–8.

²³ *ibid.*, col 503.

²⁴ *ibid.*, col 520.

²⁵ *ibid.*, cols 498 and 520.

²⁶ House of Commons Public Bill Committee, [Wild Animals in Circuses \(No. 2\) Bill: First Sitting](#), 21 May 2019, cols 4–7.

²⁷ House of Commons Public Bill Committee, [Wild Animals in Circuses \(No. 2\) Bill: Second Sitting](#), 21 May 2019, col 37–44.

²⁸ House of Commons Public Bill Committee, [Wild Animals in Circuses \(No. 2\) Bill: Third Sitting](#), 22 May 2019, col 75.

²⁹ *ibid.*, col 77.

³⁰ *ibid.*, col 83.

³¹ *ibid.*, col 87.

³² *ibid.*, col 92.

³³ [HC Hansard, 4 June 2019, col 81.](#)

³⁴ *ibid.*, col 94.

³⁵ *ibid.*, col 101.

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