

Draft Regulations laid before Parliament under section 61(2) of the Animal Welfare Act 2006, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2012 No.

ANIMALS, ENGLAND

**The Welfare of Wild Animals in Travelling
Circuses (England) Regulations 2012**

Made - - - - - *******

Coming into force in accordance with regulation 1

The Secretary of State is, in relation to England, the appropriate national authority for the purpose of exercising the powers conferred by section 13(2), (7) and (10) of, and Parts 1 and 3 of Schedule 1 to, the Animal Welfare Act 2006⁽¹⁾, and makes the following Regulations in exercise of those powers.

In accordance with section 13(9) of that Act, the Secretary of State has consulted such persons appearing to the Secretary of State to represent interests with which these Regulations are concerned as the Secretary of State considered appropriate.

In accordance with section 61(2) of that Act, a draft of this instrument has been laid before Parliament and approved by resolution of each House of Parliament.

Citation, commencement, application and expiry

1.—(1) These Regulations may be cited as the Welfare of Wild Animals in Travelling Circuses (England) Regulations 2012.

(2) They come into force sixty days after the day on which they are made.

(3) They apply in England.

(4) They cease to have effect at the end of the period of seven years beginning with the day on which these Regulations come into force.

Interpretation

2. In these Regulations—

“group care plan” means a written plan of the care to be provided for each social group of licensed animals;

“individual care plan” means—

(1) 2006 c. 45. The appropriate national authority is defined in section 62(1) of the Act.

- (a) for a licensed animal that is not part of a social group, a written plan of the care to be provided for that animal; or
- (b) for all other licensed animals, a written plan that supplements the applicable group care plan so as to make provision specific to an individual licensed animal;

“lead veterinary surgeon” means the veterinary surgeon appointed under paragraph 6(1) of Condition 6 of the licensing conditions;

“licence” means a licence to operate a travelling circus;

“licensed animal” means a wild animal kept in a travelling circus in respect of which a licence has been applied for or obtained in accordance with regulation 4;

“licensing conditions” means the conditions set out in the Schedule;

“operator” means a person responsible for the operation of a travelling circus;

“social group” means licensed animals that are kept as part of a socially compatible group;

“travelling circus” means—

- (a) a circus—
 - (i) which travels from place to place for the purpose of giving performances, displays or exhibitions, and
 - (ii) as part of which wild animals are kept or introduced (whether for the purpose of performance, display or otherwise); and
- (b) any place where a wild animal associated with such a circus is kept;

“wild animal” means an animal that is a member of a species not normally domesticated in Great Britain.

Licensing of operators

3. Operating a travelling circus is an activity for the purposes of section 13(1) of the Animal Welfare Act 2006.

Grant and renewal of licence

4.—(1) The Secretary of State—

- (a) must, having received an application in writing for a licence giving such information as the Secretary of State may require, grant a licence to an operator, or renew a licence, if satisfied that the licensing conditions are or will be met and any appropriate fee has been paid in accordance with regulation 8 and not otherwise;
- (b) may not grant or renew a licence unless the travelling circus has been inspected by an inspector;
- (c) must take account of the results of any inspection under sub-paragraph (b) before deciding whether to grant or renew a licence; and
- (d) may grant or renew a licence for any period of up to three years.

(2) In considering whether the licensing conditions will be met, the Secretary of State may take account of the applicant’s conduct as the operator of the travelling circus to which the licence relates or in relation to any other travelling circus or any other circumstances that are relevant.

(3) A decision by the Secretary of State not to grant or renew a licence must be notified to the applicant in writing and that notice must—

- (a) include a statement of the grounds of the decision;
- (b) set out the right of appeal to a magistrates’ court; and

- (c) set out the period within which such an appeal may be brought.
- (4) A licence granted under paragraph (1) is subject to the licensing conditions.

People who may not apply for a licence

5. A person may not apply for a licence if the person is disqualified under—
- (a) section 5(3) of the Pet Animals Act 1951⁽²⁾ from keeping a pet shop;
 - (b) section 1 of the Protection of Animals (Amendment) Act 1954⁽³⁾ from having custody of an animal;
 - (c) section 3(3) of the Animal Boarding Establishments Act 1963⁽⁴⁾ from keeping a boarding establishment for animals;
 - (d) section 4(3) of the Riding Establishments Act 1964⁽⁵⁾ from keeping a riding establishment;
 - (e) section 3(3) of the Breeding of Dogs Act 1973⁽⁶⁾ from keeping a breeding establishment;
 - (f) section 6(2) of the Dangerous Wild Animals Act 1976⁽⁷⁾ from keeping a dangerous wild animal; or
 - (g) section 34 of the Animal Welfare Act 2006,

and any licence issued to a person so disqualified is invalid.

Death of a licence holder

6.—(1) In the event of the death of an operator who has been granted a licence, that licence is deemed to have been granted to personal representatives of the licensed operator in respect of the travelling circus to which the licence relates and remains in force for a period of three months beginning with the date of death, but remains subject to the Secretary of State's powers in regulations 9 and 13 to suspend or revoke the licence.

(2) The personal representatives must, within twenty-eight days of the death of the licensed operator, notify the Secretary of State that they are now the operators of the travelling circus.

Ensuring compliance with the licensing conditions

7. The Secretary of State must take such steps as the Secretary of State considers necessary to ensure compliance with the licensing conditions.

Fees

8.—(1) An operator who applies for a licence under regulation 4 must, when applying, pay to the Secretary of State a fee of £389.36 for administrative services relating to the application.

(2) A fee calculated in accordance with paragraph (3) must be paid to the Secretary of State in respect of any inspection carried out in pursuance of the Secretary of State's functions under regulation 4 or 7.

(3) The fee referred to in paragraph (2) is—

(2) 1951 c. 35. Section 5(3) was amended by section 64 of, and paragraph 3(2) of Schedule 3 to, the Animal Welfare Act 2006.
(3) 1954 c. 40. Section 1 was repealed by section 65 of, and Schedule 4 to, the Animal Welfare Act 2006.
(4) 1963 c. 43. Section 3(3) was amended by section 64 of, and paragraph 5(2) of Schedule 3 to, the Animal Welfare Act 2006.
(5) 1964 c. 70. Section 4(3) was amended by section 64 of, and paragraph 6(2) of Schedule 3 to, the Animal Welfare Act 2006.
(6) 1973 c. 60. Section 3(3) was amended by section 5(1) of the Breeding and Sale of Dogs (Welfare) Act 1999 (1999 c. 11).
(7) 1976 c. 38. Section 6(2) was amended by section 64 of, and paragraph 9 of Schedule 3 to, the Animal Welfare Act 2006.

- (a) £72.53 for each hour or part thereof spent by an inspector on an inspection, including time spent travelling to or from the site of inspection and on associated administration; and
- (b) the actual cost of travelling, accommodation and any other expenses reasonably incurred by the inspector or on behalf of the inspector by the Secretary of State.

Grounds for suspension

9. The Secretary of State may suspend a licence at any time if satisfied that the licensing conditions have not been complied with.

Procedure for suspension

10. If a licence is suspended the Secretary of State must notify the holder in writing without undue delay by way of a notice of suspension in accordance with regulation 11 and, unless the Secretary of State directs otherwise, the suspension has immediate effect and continues in effect unless the licence is reinstated.

Notice of suspension

11. A notice of suspension must—
- (a) state the Secretary of State’s grounds for being satisfied that the licensing conditions are not being complied with;
 - (b) specify the measures that, in the Secretary of State’s opinion, the operator must take in order to secure compliance;
 - (c) set out the right of appeal to a magistrates’ court; and
 - (d) set out the period within which such an appeal may be brought.

Reinstatement of licence

12.—(1) The Secretary of State must reinstate a suspended licence by way of notice in writing once satisfied that the licensing conditions have been or will be complied with.

(2) Where a licence is reinstated under paragraph (1) the period for which it is granted may be varied.

Revocation of licence

13.—(1) The Secretary of State may revoke a licence that has been suspended for more than twenty-eight days unless there is an outstanding appeal to the magistrates’ court and may publicise a revocation in such manner as the Secretary of State sees fit.

(2) When revoking a licence the Secretary of State must notify the holder in writing and revocation takes effect from the time of notification.

(3) Where an operator is disqualified under any of the enactments listed in regulation 5 the operator’s licence is automatically revoked when the time limit for any appeal against that disqualification expires or, if an appeal is brought, when that appeal is dismissed.

Appeals

14.—(1) A person who is aggrieved by a decision not to grant or renew a licence or the decision to suspend or revoke a licence may appeal to a magistrates’ court.

(2) The procedure on an appeal to a magistrates' court under paragraph (1) is by way of complaint and the Magistrates' Courts Act 1980(8) applies to the proceedings.

(3) The period within which an appeal may be brought is twenty-eight days beginning with the day following the date on which the decision is notified.

(4) A court may on application suspend a suspension or revocation or, in the case of a decision not to renew a licence, permit an operator to continue to operate a travelling circus subject to the conditions in the Schedule pending an appeal.

Review

15.—(1) Before the end of the review period, the Secretary of State must—

- (a) carry out a review of these Regulations;
- (b) set out the conclusions of the review in a report; and
- (c) publish the report.

(2) The report must in particular—

- (a) set out the objectives intended to be achieved by the regulatory system established by these Regulations;
- (b) assess the extent to which those objectives are achieved; and
- (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.

(3) "Review period" means the period of five years beginning with the day on which these Regulations come into force.

Date

Name
Parliamentary Under Secretary of State
Department for Environment, Food and Rural
Affairs

SCHEDULE

Regulations 2 and 4

Licensing conditions

Condition 1: Acquisition of wild animals

1. Unless the Secretary of State has agreed in advance to accept a shorter notice period, the operator must give the Secretary of State at least fourteen days written notice before acquiring a wild animal for use in the travelling circus.

Condition 2: Notification of tour itinerary

2.—(1) The operator must make a written notification of the itinerary for each tour of the travelling circus to the Secretary of State and any variation to that itinerary must be notified immediately in writing to the Secretary of State.

(2) Where reasonably practicable, the notification required by sub-paragraph (1) must be made at least thirty days prior to the first performance of the tour.

Condition 3: Wild animal records

3.—(1) The operator must make and maintain a list of each licensed animal with all the information necessary to identify that animal individually and must provide the Secretary of State with a copy of the list and any variation as soon as possible after they are made.

(2) The operator must make and maintain an individual record for each licensed animal.

(3) The record required to be made by sub-paragraph (2) must—

- (a) include all information necessary to identify the animal individually;
- (b) include all relevant permits and registrations for the animal;
- (c) include all relevant medical and reproductive history and behavioural issues for the animal;
- (d) include all veterinary treatments administered to the animal;
- (e) include the date and source of acquisition of the animal and, where relevant, the date when the animal leaves the travelling circus and its destination; and
- (f) be retained by the operator for at least three years from the date when the animal left the travelling circus.

(4) The operator must make and maintain a list showing the current location of each licensed animal.

Condition 4: Care plans

4.—(1) The operator must make, maintain and give effect to—

- (a) a group care plan for each social group of licensed animals; and
- (b) an individual care plan for each licensed animal.

(2) Group care plans and individual care plans must be—

- (a) agreed by the lead veterinary surgeon;
- (b) reviewed by the veterinary surgeon during the visits to the travelling circus required by Condition 6; and
- (c) made available to persons with access to the licensed animals.

(3) Group care plans and individual care plans must make provision for—

- (a) assessment of the risks to which licensed animals are exposed, in particular from training and performance;
 - (b) behavioural and environmental enrichment for licensed animals so as to ensure that normal behaviours can be expressed by those animals;
 - (c) a breeding policy for licensed animals;
 - (d) the dietary requirements of licensed animals;
 - (e) a programme of preventive medicine for licensed animals; and
 - (f) daily recording of all factors relevant to the welfare of licensed animals.
- (4) Individual care plans must make suitable provision for the retirement of licensed animals.
- (5) In this Condition references to licensed animals—
- (a) in relation to a group care plan, are references to the licensed animals in the social group for the care of which the plan provides; and
 - (b) in relation to an individual care plan, are references to the individual licensed animal for the care of which the plan provides.

Condition 5: Persons with access to licensed animals

5.—(1) The operator must ensure that access to licensed animals is restricted to persons with the appropriate qualifications and experience for the activities those persons undertake.

(2) The operator must make and maintain a list of persons authorised to access and care for licensed animals.

(3) The list required by sub-paragraph (2) must include the name, role, qualifications and relevant experience of each person.

(4) The operator must ensure that a list of those persons currently on duty who are authorised to access and care for licensed animals is displayed prominently at any premises where licensed animals are kept.

(5) The operator must ensure that sufficient numbers of appropriately qualified and experienced persons are present wherever licensed animals are kept to ensure the safety of—

- (a) licensed animals;
- (b) persons handling those animals; and
- (c) the general public.

(6) The operator must ensure that at all times a suitably qualified and experienced person—

- (a) is in overall charge of the animals at any place where licensed animals are kept; and
- (b) has the necessary authority to ensure that the licensing conditions are complied with.

Condition 6: Veterinary surgeons

6.—(1) The operator must appoint a veterinary surgeon to lead on the veterinary care for the licensed animals.

(2) The lead veterinary surgeon must have an appropriate level of expertise in the health and welfare requirements of the licensed animals.

(3) The operator must consult the lead veterinary surgeon on the health and welfare requirements of the licensed animals and act on any advice received.

(4) The licensed animals must be inspected by a veterinary surgeon with an appropriate level of expertise in the health and welfare requirements of those animals at least once every three months.

(5) Where the inspection required by sub-paragraph (4) is not conducted by the lead veterinary surgeon, the operator must ensure that the lead veterinary surgeon provides all necessary advice and assistance to the attending veterinary surgeon.

(6) The licensed animals must be inspected by the lead veterinary surgeon at least twice in any twelve-month period.

(7) Of the inspections required by sub-paragraph (6), at least one must be at the travelling circus while it is on tour and one must, where relevant, be at the winter quarters of the travelling circus.

Condition 7: Responsibility of the operator to promote the welfare of licensed animals

7.—(1) The operator must take all reasonable steps to ensure that the needs of a licensed animal are met to the extent required by good practice.

(2) For the purposes of this Condition, a licensed animal's needs shall be taken to include—

- (a) its need for a suitable environment;
- (b) its need for a suitable diet;
- (c) its need to be able to exhibit normal patterns of behaviour;
- (d) any need it has to be housed with, or apart from, other animals; and
- (e) its need to be protected from pain, suffering, injury and disease.

Condition 8: Specific welfare requirements for display, training and performance

8. The operator must ensure that where a licensed animal is used in the travelling circus for display, training or performance—

- (a) the animal is fit for the intended activity;
- (b) the activity is halted if the animal shows any sign of pain, suffering, injury or disease;
- (c) desired behaviour from the animal is not sought in any way that could cause pain, suffering, injury or disease;
- (d) no equipment is used with or on the animal in such a way that it could cause pain, suffering, injury or disease;
- (e) rewards for the successful completion of a desired behaviour are immediate and tangible for the animal;
- (f) in addition to the restriction on access required by Condition 5(1), the general public are informed, by appropriate signage and announcement, of behaviour to be avoided at the travelling circus that might adversely impact on the welfare of the animal; and
- (g) on completion of the activity the animal is checked for any sign of pain, suffering, injury or disease.

Condition 9: Specific welfare requirements for environment

9.—(1) In respect of any part of the travelling circus to which a licensed animal has or will have access, the operator must take reasonable steps to—

- (a) minimise loud or unexpected noises;
- (b) provide the animal with shelter from adverse weather conditions;
- (c) minimise distress to the animal from environmental factors such as strobe lighting or smoke; and
- (d) manage environmental variables such as temperature and humidity at levels appropriate to safeguard the welfare of the animal.

(2) The operator must ensure that any food and water for a licensed animal is stored, prepared and provided in such a way as to protect the health and welfare of the animal.

(3) The operator must ensure that licensed animals are housed in accommodation that is designed, constructed and maintained to be—

- (a) free from hazards;
- (b) compatible with the social and welfare needs of the animals;
- (c) secure; and
- (d) of an appropriate size.

Condition 10: Specific welfare requirements for transportation

10. The operator must ensure that where a licensed animal is transported—

- (a) a written plan is prepared in advance setting out the details of the journey;
- (b) the animal is fit for the intended journey;
- (c) the means of transport and any containers and fittings used in the transport are designed, constructed, maintained and operated in such a way as to secure the welfare of the animal;
- (d) all necessary arrangements, including a contingency plan, have been made in advance to minimise the length of the journey and to secure the welfare of the animal during the journey; and
- (e) on arrival at the final destination, the details are recorded of the actual journey times and of any action taken or planned in response to possible injury or distress to the animal arising from the transport.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for the protection of the welfare of wild animals in travelling circuses in England.

Regulation 1(4) provides that the Regulations are to cease to have effect seven years after they come into force.

Regulation 2 provides for definitions and defines a “travelling circus” as a circus that includes wild animals and travels from place to place to give performances, displays or exhibitions and includes any place where the wild animals are kept.

For the purposes of section 13(1) of the Animal Welfare Act 2006, regulation 3 designates the operation of a travelling circus as an activity which may not be carried on except under the authority of a licence issued by the Secretary of State. Regulation 4 provides for the granting and renewal of licences while regulation 5 details those persons who may not apply for a licence.

Regulation 7 requires the Secretary of State to take such steps as are necessary in order to ensure compliance with the licensing conditions. Regulation 8 provides for the charging of fees to cover the cost of considering applications for a licence, granting or renewing a licence and for monitoring compliance with the licensing conditions.

Regulations 9 to 11 provide a power for the Secretary of State to suspend a licence where the licensing conditions are not being complied with and the procedure by which that suspension is given effect. Provisions relating to reinstatement of a suspended licence are set out in regulation 12. Regulation 13 provides a power for the Secretary of State to revoke a licence while regulation 14 provides for appeals.

A person who without a licence operates a travelling circus commits an offence under section 13(6) of the Animal Welfare Act 2006 and is liable to imprisonment for a term of up to six months or a fine not exceeding level five on the standard scale or both.

Regulation 15 requires the Secretary of State to review the operation and effect of these Regulations and publish a report within five years after the Regulations come into force. Following the review it will fall to the Secretary of State to consider whether the Regulations should be allowed to expire as regulation 1(4) provides, be revoked early or continue in force with or without amendment. A further instrument would be needed to continue the Regulations in force with or without amendments or to revoke them early.

The Schedule sets out the conditions that the Secretary of State must be satisfied are or will be met before the Secretary of State can grant or renew a licence and to which any licence is subject. Condition 1 requires the operator to give the Secretary of State written notice before acquiring a new wild animal for use in the travelling circus. Condition 2 requires the operator to notify the Secretary of State of their tour itinerary. A stock list, which must be sent to the Secretary of State, and individual animal records are required by Condition 3. Condition 4 requires that group and individual care plans must be made, maintained and given effect to for all wild animals in the travelling circus. Condition 5 requires access to wild animals to be restricted to competent persons and the presence at all times of sufficient staff to ensure animal and public safety and a competent person in overall charge of the animals. The appointment of a lead veterinary adviser and quarterly visits by a suitable veterinary surgeon are required by Condition 6. Condition 7 requires the operator to take all reasonable steps to meet the needs of wild animals in the travelling circus. Conditions 8 to 10 impose specific requirements for the display, training, performance, environment and transportation of wild animals in the travelling circus.

A full impact assessment of the effect that this instrument will have on the costs of business, the voluntary sector and the public sector is available from Animal Welfare, Department for Environment, Food and Rural Affairs, 9 Millbank, c/o 17 Smith Square, London, SW1P 3JR.