

**Business and Regulatory
Impact Assessment**

Wild Animals in Travelling Circuses (Scotland) Bill

May 2017

TITLE OF PROPOSAL

Wild Animals in Travelling Circuses (Scotland) Bill

PURPOSE AND INTENDED EFFECT

Background

Travelling circuses in Scotland

1. There are currently no travelling circuses that use wild animals based in Scotland, but until recently there were four British travelling circuses using wild animals (based in England): the Great British Circus, Bobby Robert's Super Circus, Peter Jolly's Circus and Circus Mondao. Due to the lack of any specific legislation requiring that any meaningful figures be maintained, the precise number of wild animals used by these circuses has been difficult to obtain. However, the figure was usually estimated to be fewer than 50 at any one time.¹ Since legislation regulating the use of wild animals in travelling circuses came into force in England in January 2013, there have only been licenses issued to use wild animals to two travelling circuses to date. Information on the circuses and animals involved is shown in the table below:

Circus Stock lists – As of 10/08/2016² (Source: Defra)

Circus Mondao	Peter Jolly's Circus
2 reindeer	4 reindeer
2 camels	1 camel
	3 zebra
	1 fox
	1 racoon
	1 macaw
	1 zebu
	1 zebu

2. It is more common for wild animals to perform in mainland European circuses. Wild animal species currently used in European circuses include (but are not limited to): elephants, tigers, lions, sea lions, zebras, crocodiles, bears, primates, giraffes, hippopotamus, rhinoceros, penguins, snakes, kangaroos and emus.³

3. It is presently possible for circuses based in England or mainland Europe to visit Scotland with their performing wild animals. Some local authorities in Scotland prohibit circuses that use wild animals from performing on local authority land. We

¹ Defra Impact Assessment 2012.

² Figures published at: <http://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2017-01-25/61557/> (Further information on division by Circus received from Defra)

³ 'The use of wild animals in performance 2016' Born Free for the European coalition ENDCAP.

are not aware that either of the two licenced circuses in England plan to visit Scotland. We are also unaware of any circuses based on mainland Europe that plan to visit Scotland.

Facts and Figures

4. **Declining animal numbers** - In line with changing public perceptions, the number of travelling circuses using wild animals has greatly declined in recent years:
 - According to Animal Defenders International, in 1997 there were 124 'exotic' or wild animals in the UK ⁴ in 20 circuses (Animal circuses and the Animal Welfare Bill 2004).
 - According to Defra's 2012 Impact Assessment on 'Ending the use of wild animals in travelling circuses' there were 40 wild animals in three travelling circuses in the UK.
 - As of January 2017, there are 16 wild animals in 2 travelling circuses, both based in England.
5. **Attendance** – According to Defra's 2012 Impact Assessment:
 - 2007 – 320,000 people attended at four circuses using wild animals in the UK
 - 2011 - 153,000 people attended at three circuses using wild animals in the UK
6. **Ticket Prices** – Ticket prices do not appear to include a premium for wild animals. Defra produced figures in 2011 showing that the highest ticket prices were £20 for adult ringside seats and the cheapest £7.50 for group bookings or concessions; in 2012, prices ranged from £5.99 to £29.00. This wider range of prices partly reflects the fact that the majority of travelling circuses do not use wild animals. However, it also suggests that opportunities exist to develop businesses and that revenues may not necessarily fall as a result of ceasing to use wild animal acts.⁵
7. **Alternative circuses** – It should be noted that the majority of England's travelling circuses, which number approximately 20, operate without the use of wild animals. Even if a ban was put in place in England and Wales as well as Scotland, presuming that they come through a period of adaptation, the two circuses that do still use wild animals ought, on current evidence, to be able to continue operating.⁶
8. **Escapes and injury** – There are numerous documented instances of escape or injury caused by wild animals around Europe. Since 2005, there have been at least eight documented big cat accidents or escapes, twelve elephant accidents or escapes, as well as bear and crocodile escapes in the circus industry. Some of the incidents resulted in serious injury to people or the animals themselves.⁷

⁴ 'Animals in Travelling Circuses: The Science on Suffering' 2006.

⁵ Defra Impact Assessment 2012.

⁶ Defra Impact Assessment 2012.

⁷ 'The use of wild animals in performance 2016' Born Free for the European coalition END CAP.

Bans elsewhere

9. Austria, Bolivia, Bosnia and Herzegovina, Colombia, Costa Rica, Croatia, Cyprus, El Salvador, Greece, Israel, Malta, Mexico, The Netherlands, Paraguay, Peru, Singapore, and Slovenia have implemented bans on circuses that use wild animals. Austria, Costa Rica, Israel, Singapore; the Czech Republic, Denmark, Finland, India, Sweden, Belgium, Estonia and Poland all have bans or restrictions of some description relating to the use of wild animals in travelling circuses. The exact nature of the bans varies with country, and it appears that many are not as comprehensive as that currently being considered in Scotland. In March 2016 six EU Member States had banned the use of wild animals in circuses, whilst an additional 12 Member States had implemented partial bans.⁸

Economic Considerations

10. **Competition** - Increasing the number of circuses without wild animal acts ought to increase competition between other travelling circuses, but travelling circuses in fact tend to act like local monopolies, i.e. there is at most one circus available to each consumer at any one time.⁹

11. **Types of spending at events** – Taking the same principles as those laid out by Fearing in her report (The Show Will Still Go On: An Economic Analysis of Massachusetts S.2002, 2016), the local economic activity generated by an event staged at a venue hosting a travelling circus with wild animals derives from four sources: 1. Spending to attend the event (e.g. tickets, parking); 2. spending on items sold during the show (e.g. popcorn, t-shirts, photos); 3. spending before and after the event on consumables like meals/fuel; and 4. taxes on the first three categories.

12. **Spending by the circus** – There is the potential for travelling circuses to themselves spend in local communities, for example on printing, casual hire, laundry, animal feed or bedding, and veterinary care. Little information is available on the amounts involved, but this is likely to be small in Scotland.

13. **Wider industry links** – There is also the potential for a ban to have wider impacts, for example on the sourcing of animals for use in TV/film/advertising (again there is little evidence on this) and on the venue managers/land-owners who might consider hosting travelling circuses with wild animals (likely to be small in Scotland). Twenty-eight Municipalities in Massachusetts had enacted bans on the use of exotic animals in circuses and none had reported any economic losses as a result.¹⁰

14. **Spending and the local economy** - Spending can only be considered a benefit to the local economy if the spending would not have taken place in the absence of the event. Only that portion of the spending that stays in the local economy can be counted as proving a local benefit. All benefits must be weighed

⁸ 'The use of wild animals in performance 2016': Born Free for the European coalition ENDCAP http://endcap.eu/wp-content/uploads/2016/11/PERFORMING-ANIMALS-REPORT-2016_FINAL_NO-MARKS.pdf

⁹ Defra Impact Assessment 2012.

¹⁰ 'The Show Will Still Go On: An Economic Analysis of Massachusetts S.2002', J. Fearing 2006.

against the direct and indirect costs of holding the event, including opportunity costs.¹¹

15. **Origin of the spender** – Following Fearing’s line of reasoning on customers, the only way that the loss of a travelling circus electing to stop coming to Scotland could have an impact is if all the spending associated with the circus event never takes place in the Scottish economy at all.¹² This implies that people had been specifically travelling to Scotland to see wild animals in travelling circuses, and would therefore stop coming with the advent of any ban. There is no evidence to support this. As, by their nature, travelling circuses go on tour, their audiences are highly likely to wait until they come to a venue near their home to see them rather than travel to a different country specifically to see them.

16. **Finite family entertainment budget** – Fearing notes that economists generally agree that sports arenas do not generate new income to an area; they merely re-distribute the existing discretionary spending of families to different owners of capital. She argues that travelling circuses coming to an area have a similar effect – audiences are made up of local families, most families have entertainment budgets and the amount that they spend going to the circus is then not spent on miniature golf or going to the zoo. Whether or not there is a circus in the area, that entertainment budget would be spent in the local economy, so the travelling circus does not, she argues, generate any new economic impact.¹³

17. **Travelling circuses leave** - Again adapting Fearing’s reasoning to the Scottish context, the owners, operators and performers of travelling circuses with wild animals do not reside in Scotland. When they leave Scotland they take their profits out of the country, thus limiting the economic benefits of such shows to Scotland. From an economic perspective, family spending would create more economic impact if spent on local attractions instead of travelling shows based outside Scotland.¹⁴

Public opinion

18. The issue of wild animals in travelling circuses has been a source of longstanding unease to many, with full/partial bans now existing in many other EU and non EU countries. Significant concerns were raised regarding the use of wild animals in travelling circuses during the Scottish Government’s 2004 consultation on the Animal Health and Welfare (Scotland) Bill, which became the 2006 Act.

19. Since then, a steady stream of letters to Scottish Government Ministers from MSPs, the general public and animal welfare organisations, has shown that on-going concerns not only involve perceived animal welfare issues but deal also with the ethical point of whether it is acceptable, in today’s society, to regularly transport wild animals throughout the country in order to make them perform simply for financial gain and public entertainment. We are also aware of at least five Scottish Local Authorities that do not allow circuses with wild animals on their land.

¹¹ ‘The Show Will Still Go On: An Economic Analysis of Massachusetts S.2002’, J. Fearing 2016.

¹² ‘The Show Will Still Go On: An Economic Analysis of Massachusetts S.2002’, J. Fearing 2016).

¹³ ‘The Show Will Still Go On: An Economic Analysis of Massachusetts S.2002’, J. Fearing 2016.

¹⁴ ‘The Show Will Still Go On: An Economic Analysis of Massachusetts S.2002’, J. Fearing 2016.

20. In response to this public concern around the use of wild animals in travelling circuses, the Scottish Government ran a public consultation on proposals to ban such use on ethical grounds from January 2014 to April 2014. A total of 2043 responses were received. The response was overwhelmingly in favour of a ban, with, amongst other findings, 95.8% respondents of the view that there are no benefits to having wild animals in travelling circuses. 95.7% of respondents also took the view that the concerns surrounding the travelling circus environment could only be resolved by banning wild animals in travelling circuses.

Existing Legislation on Travelling Circuses

21. At present there are no specific animal welfare regulations for wild animals in travelling circuses in Scotland; however, they do fall under the scope of other wider legislation.

The Animal Health and Welfare (Scotland) Act 2006

22. This Act makes it an offence for any person responsible for an animal, including owners and keepers, to fail to provide for the animal's welfare. Under section 24 of the Act, a person responsible for an animal has a duty to provide for the animal's needs, which includes: its need for a suitable environment; its need for a suitable diet; its need to be able to exhibit normal behaviour patterns; its need to be housed with, or apart from, other animals as appropriate; and its need to be protected from suffering, injury and disease. Section 19 of the Act makes it an offence to cause an animal unnecessary suffering. The Act applies to all vertebrate animals (other than man).

The Performing Animals (Regulation) Act 1925

23. This Act makes it an offence for a person to exhibit or train a "performing animal" without being registered with a relevant local authority. It also allows a sheriff, acting on the application of a constable or a local authority, to grant an order prohibiting training or exhibition of an animal or imposing conditions on it. Such an order may be made where the sheriff is satisfied that the training or exhibition "has been accompanied by cruelty". Breach of such an order is also an offence.

Commission Regulation (EC) No. 1739/2005 laying down animal health requirements for the movement of circus animals between Member States.

24. This Regulation lays out animal health requirements for circuses or other animal acts that move between Member States. The Regulation requires that every animal act that wishes to move between Member States must be registered with the competent authority of the country in which it is based, that all performing animals must be registered as belonging to that act or circus, that all registered animals must be issued with a passport and that shortly before moving from one Member State to another, a veterinary inspector must confirm that all registration documents are in order and that all animals are in good health.

Objective

25. The Policy objective is to prohibit the use (performance and exhibition) of any wild animal (as defined) in a travelling circus in Scotland, based on ethical grounds.

Rationale for Government intervention

26. The Radford Report (2007)¹⁵ concluded that there is insufficient evidence to support allegations of poor welfare for wild animals within the travelling circus environment. This could potentially be used as justification to do nothing, to continue to allow travelling circuses to use whatever animals they choose in Scotland. However, the report also notes that this did not mean that there were no welfare concerns, and indeed stated that the status quo was not a tenable option.

27. In addition, the concept of using such animals in this context continues to sit extremely uncomfortably with a significant proportion of the Scottish population. The vast majority of those who responded to the Scottish Government consultation on this matter find the practice morally objectionable for reasons including the impact on the nature and well-being of the animals themselves, and on how these and potentially other animals may be viewed, and in future treated, by members of the audience, particularly children.

28. Given the strong tradition and cultural heritage of wild animal use within parts of the circus industry, and indeed the sometimes strong attachments that trainers can form with their animals, change can be difficult to achieve voluntarily within the timeframe demanded by the changing attitudes of society. The legislation proposed is intended to correct this market failure by sending a clear message that, although travelling circuses will always be welcome in Scotland, acts using such animals are not.

29. The Scottish Government's core purpose is to focus government and public services on creating a more successful country, with opportunities for all of Scotland to flourish, through increasing sustainable economic growth. Responses to the Scottish Government consultation on the matter of wild animals in travelling circuses suggest that many are boycotting travelling circuses with wild animals. Removing these acts is anticipated to have a long-term positive benefit on the reputation and revenue of the travelling circus industry and supporting services within Scotland.

30. The Government also has five objectives that underpin its core purpose, including: **Safer and stronger** – 'helping local communities to flourish, becoming stronger, safer places to live, offering improved opportunities and a better quality of life.'

31. The proposed Bill would help the Scottish society stand up for its beliefs without local protests focused on particular circuses and the potential need for police intervention. It would allow local communities to enjoy visiting travelling circuses, without being concerned about such issues.

¹⁵ Wild Animals in Travelling Circuses: The Report of the Chairman of the Circus Working Group, October 2007, Commissioned by Defra.

CONSULTATION

Within Government

32. The Government agencies, directorates and enforcement bodies that have been consulted are listed below, with a brief explanation of how their input supported the formulation of the policy proposals.

- Criminal Justice (Criminal Law and Sentencing) – provided advice on the proposed offences and penalties
- Information Services and Information Systems (Information Management and Assurance) – provided advice on data protection and on the Privacy Impact Assessment
- Better Life Chances Unit (Children and Families) – provided advice on children's rights.
- Animal Health and Welfare Division (veterinary advisors) – provided advice on animal welfare and ethics in connection with travelling circuses.
- Communications – provided advice on a potential publicity campaign prior to the proposed legislation coming into force.
- Defra, the Welsh Government and the Northern Ireland Executive provided advice on developments and policy rationale in other parts of Great Britain and engaged in regular discussion to ensure consistency across GB where possible.
- Convention of Scottish Local Authorities (COSLA) – provided advice on powers required for effective enforcement of the Bill and anonymous information on Scottish businesses that might be affected.

Public Consultation

33. The Scottish Government's Consultation 'Should the use of wild animals in travelling circuses be banned in Scotland?' was issued on 22 January 2014 and closed on 16 April 2014.¹⁶

34. The purpose of the consultation was to identify any ethical concerns the public may associate with the use of wild animals in travelling circuses, consider how any such issues identified could be resolved and, in particular, gauge public support for, or opposition to, a possible Scottish ban on the use of these animals on ethical grounds. The consultation received a total of 2043 responses.

35. In terms of questions, the consultation focused specifically on the 3 main areas which may be of greatest moral concern to the public. These were, in a travelling circus context, the impact on respect for animals, the impact on an animal's telos (its intrinsic nature) in a travelling environment and how the ethical costs and benefits balance up. Full results from the consultation analysis were published in June 2015.¹⁷ Highlights include:

¹⁶ <http://www.gov.scot/Publications/2014/01/5291/downloads#res-1>

¹⁷ <http://www.gov.scot/Publications/2015/06/1512>

36. A total of 2003 respondents (98%) indicated that they thought the use of wild animals for performance in travelling circuses should be banned in Scotland; and 1969 respondents (96.4%) indicated that they thought the use of wild animals for exhibition (without performing) in travelling circuses should be banned in Scotland.

Impact on respect for animals:

- 89.5% respondents believed exhibitions and performances compromised respect for the animals concerned.
- 94.7% respondents believed use had an adverse impact on the development of respectful and responsible attitudes towards animals in children and young people
- 94.7% respondents did not consider that the situation could be remedied by anything other than a complete ban.

Impact on telos in the travelling environment:

- 90.8% respondents considered the ability of wild animals to undertake natural behaviours compromised in travelling circus environment.
- 90.8% respondents thought that no natural behaviours could be facilitated within the travelling circus.
- 95.7% of respondents did not believe that the concerns raised surrounding the travelling environment could be resolved without banning the use of wild animals in travelling circuses.

Ethical costs and benefits:

- 95.8% of respondents did not consider there were any benefits to having wild animals in travelling circuses.
- 93.7% of respondents did not believe there were sufficient benefits to justify the potential compromise to the wider well-being of wild animals kept in a travelling circus.
- 96.7% of respondents thought that no conflict existed between compromising the well-being of wild animals and obtaining any benefit.

Business

Formal consultation

37. As well as being made publically available on the Scottish Government website, the consultation on 'Should the use of wild animals in travelling circuses be banned in Scotland?' was issued directly to a wide range of businesses, enforcement agencies and animal welfare charities with a potential interest. A full list is provided in the covering letter to the consultation.¹⁸

38. Respondents were specifically asked certain financial questions as part of the consultation. The full analysis of consultation responses and a full list of the organisations that responded to the consultation broken down by type in Annex 3 of the analysis.¹⁹ Summaries of the finding are provided here.

¹⁸ <http://www.gov.scot/Publications/2014/01/5291/downloads#res-1>

¹⁹ <http://www.gov.scot/Publications/2015/06/1512>

39. **As far as you are aware, how often have travelling circuses that use wild animals in performances or for exhibition visited Scotland in the last 5 years and in the last 12 months?** Of the 22% of respondents that provided figures on circus visits, the majority thought that only 2 circuses with wild animals had visited in the last 5 years, and none in the last 12 months.

40. **What effect do you think a ban on the use and exhibition of wild animals would have on the revenue of such circuses?** 34% of respondents thought revenue would increase, 28.8% thought it would stay the same, 15.6% thought it would decrease, 19.8% did not know. Key points raised included:

- **Alternative circuses** - Many respondents felt the majority of the population currently shunning circuses for ethical reasons would attend circuses after a ban. New customers would outnumber a small minority who may possibly no longer attend as no wild animals, so profits increase.
- **Business planning** - Other respondents felt there would be no/minimal change to profits in the event of a ban if circus operators take steps to safeguard their businesses. The popularity of circuses is dependent on social trends and currently these indicate a need for circuses to evolve. Other respondents felt that, in the beginning, there could be a small decrease in revenue from ticket sales as some people who particularly like seeing wild animals perform may stop going. Many did not share this view, however, considering that most people do not expect or want to see wild animals in circuses anymore, and the few who did would soon adjust. Other respondents stated that they did not know enough about a circus's customer base, its monetary inflow and outflow, the savings from no longer keeping animals and whether or not these would offset wages for additional human performers, to be able to formulate an opinion.
- **Innovation** - Several respondents thought that a ban would force circuses to be more innovative with their acts and this would keep circuses alive, ultimately make them more successful and increase revenue.
- **Resource re-direction** - A few respondents thought that circuses would do better without the expense of having to keep wild animals; the removal of these animals would open up more job opportunities in the circus industry and the money saved from keeping the animals could pay for human acts.
- **Natural decline**- Overall, respondents felt that attitudes towards travelling, wild animal circuses were changing and, regardless of whether a ban on the use of wild animals was put in place or not, the public's raised awareness of perceived animal welfare issues coupled with an increasing distaste for "archaic" and "unethical" performing animal acts would result in a continuing decline in popularity and revenue for these types of travelling shows.

41. **If a ban on the use and exhibition of wild animals was imposed, do you think that such circuses would still visit Scotland without the wild animals?** – 65.8% of respondents thought that such circuses would keep coming to Scotland after a ban; 6.1% thought they would not; 27% did not know. Key points raised included:

- **Animal disposal** - Some respondents thought circuses would dispose of wild animals to "reinvent" themselves. Some animal welfare organisations offered assistance with rehoming to avoid euthanasia. As Scotland has no travelling circuses with wild animals this will not be an issue.

- **Animal parking** - Other respondents thought that circuses would “park” their wild animals somewhere before entering Scotland. A few respondents were concerned about where and thought that the Government should provide suitable accommodation; other respondents thought that the circuses would leave their animals at their winter quarters and travel to Scotland without them. Some respondents thought it would be immoral to allow these circuses into the country even without their animals as they still use them elsewhere.
- **Lure of wild animals** Some respondents thought that there would be little point in them coming to Scotland at all with only half a circus; ultimately, any show they put on would be too lacking in acts to attract an audience so these circuses would fail and ultimately be forced to close unless they opted to amalgamate their remaining acts with other circuses in similar positions.
- **Visits to Scotland** - Some respondents thought that travelling circuses with wild animals would boycott Scotland and only visit countries where it was legal for them to use wild animals. Respondents were not concerned about this as they felt other types of circuses would come to Scotland instead.

42. **What effect do you think a ban on the use and exhibition of wild animals in travelling circuses would have on the revenue of other types of circus (e.g. static or those travelling without wild animals)?** – 24.6% of respondents thought the revenue of other types of circus would increase, 48.8% thought it would stay the same, 2.9% thought it would decrease, 21.9 did not know. Key points raised included:

- **Competition** - Some respondents thought other types of circuses would probably gain more business and have less competition in the event of a ban as circuses with wild animals would go out of business. Other respondents thought that this would be a temporary advantage and that circuses that formally used wild animals would ultimately change their acts, providing a greater range of shows for the public to choose from and ultimately increased competition in the market, with all circuses being “other types of circus”.
- **Different patrons** - Many respondents thought that travelling circuses that had never used wild animals and static circuses, with or without animals, would be unaffected by a ban as they would already have established audiences that were unlikely to stop attending.
- **Circus image** - Many respondents believed that the use of wild animals was casting a shadow over the entire circus industry and that a ban on their use would completely change its image and all types of circuses would benefit as a result.

43. **What effect do you think a ban on the use and exhibition of wild animals in travelling circuses would have on the revenue of circus venues?** -30.9% of respondents thought revenue would increase, 32.8 % thought it would stay the same, 8.3% thought it would decrease, 25.9% did not know. Key points raised included:

- **Additional venues** - A few respondents considered that a ban on the use of wild animals in travelling circuses could create a need/opportunity for additional venues so revenue for venues overall could possibly increase.
- **Venue fees** - Some respondents thought that landlords could potentially charge more rent as, without wild animals, circuses would do better and everyone could gain from increased profits.

- **Visits to Scotland** - Some respondents thought there would be a decrease in venue revenue as fewer people would go to the circus after a ban and fewer circuses, or perhaps even no circuses, would visit Scotland. However, a few respondents thought that, due to the small number of circuses that currently visit Scotland, the impact would not be dramatic. A few other respondents suggested that circuses brought work and money to the towns they visited, so the towns would also experience a financial loss if circuses no longer visited Scotland.
- **Visits to venues** - Some respondents thought that any loss of revenue from circus rents would be negligible because travelling circuses tended to rent agricultural fields or park land at a low cost. Landlords could rent out their land for alternative forms of entertainment such as food festivals, farmers' markets, car exhibitions or rock concerts. In addition, there are plenty of existing human-only circuses that could potentially fill any gaps.

44. **Do you consider that a ban on wild animals in travelling circuses could have an impact on other industries? If so, which industries, what would be the effect and why?** The industries considered were film, TV Drama, TV documentaries, Kids TV, TV advertising, other advertising, and other industries. In all cases the majority of respondents thought that there would either be a positive or no impact.

- Those respondents that focused more on the economic impact (revenue streams and finances) in the event of a ban were more likely to select no impact as they felt that these industries operated as wholly separate entities from travelling circuses financially.
- However, a few respondents felt there would be damage to the UK film and TV industries by the removal of a ready supply of trained wild animals.
- The majority of respondents appeared to interpret 'impact' in terms of the effect a ban might have on the animals, their welfare, and overall attitude towards these. In such cases almost all respondents selected positive impact as a ban was seen likely to promote the message of good welfare to these industries, either through encouraging alternatives to animal use, or through increasing the care and monitoring of animal welfare in these industries.
- It was considered that the use of wild animals in films was less intense than animals living in a travelling circus 24/7 and that this industry were ethically sound enough to be unaffected by the repercussions of a ban on wild animals in travelling circuses. In addition, there is increasing use of CGI.

Email and telephone discussions

45. While the above information from the 2014 consultation provides some useful background on what might happen, no actual financial data was provided in response to these questions and it is difficult to assess the validity or otherwise of any of the predictions provided. There is also very little financial information on the circus industry available in the public literature and no information that we could find from the circus industry themselves.

46. It was therefore decided to design a further questionnaire specifically asking for detailed financial information and to target this by email at key stakeholders from the circus, landowner, TV and Film industry, along with individual respondents from

the original consultation in 2014 from these sectors who had agreed to be contacted again on this topic. 140 emails were sent and 4 responses were received

Face to face discussions

47. There are no travelling circuses with wild animals based in Scotland, and, according to respondents to the 2014 consultation, there had only been 2 visits of such businesses in the last 5 years, and none since 2012. In practice, therefore, it is unlikely that any businesses will be adversely affected by the proposed Bill. However, in the covering letter accompanying the questionnaire referred to in the section above, face to face discussions were offered to anyone who wished to discuss matters further. Policy Officials met in person with a representative from the Circus Guild of Great Britain and Performing Animals Welfare Standards International (PAWSI), and received a written submission from the Producers Alliance for Cinema and Television (PACT).

OPTIONS

The options considered included:

48. **Do nothing** – No travelling circus using wild animals has visited Scotland in a number of years and there are only two such circuses with 16 animals between them in the UK. It is possible that the practice of using wild animals in such circumstances may die out naturally within the UK due to the strength of public feeling. There would be no pressure on circuses to adapt their acts, however, and circuses from areas in the world where such entertainment remains popular would also continue to be free to visit Scotland. It is unlikely that such an approach would satisfy the many that continue to call for a ban.

49. **Ban use of wild animals in travelling circuses** – If this was being proposed on welfare grounds, it might seem somewhat disproportionate to ban an activity that has not taken place in Scotland for a number of years, particularly given the small number of animals involved in the UK, none of which are based in Scotland. However, the ban is being proposed on ethical grounds, and part of its purpose would be to send a clear message to other countries that although travelling circuses will always be welcome in Scotland, acts using wild animals in travelling circuses are not, because the Scottish public considers such forms of entertainment morally wrong. This is a strong, clear message to send, and one that has firm support from animal welfare and veterinary bodies, the general public, and politicians in Scotland alike.

50. Sectors and groups affected

Sectors	Do nothing	Ban Wild animals
General Public	No impact	Directly affected. The vast majority of respondents to the 2014 Scottish Government consultation were concerned individual members of the general public calling for a ban on ethical grounds.
Local Authorities	No impact	Directly affected. They are responsible for ensuring compliance with the Performing Animals Act 1925 and the Animal Health and Welfare Act 2006. Several LA's already refuse to let their own grounds to circuses with wild animals on principle and would be very pleased to see a ban.
Travelling circus with wild animals	No impact	Directly affected. Will be allowed to keep and bring wild animals to Scotland, but will not be allowed to exhibit those animals or to use them in acts. May be some impact on revenue depending on how they adapt to the ban. In practice there is likely to be no impact as there have been no visits to Scotland in recent years.
Travelling circus with domestic animals only	No impact	May be affected if the focus of animal rights organisations shifts to these circuses. Down to each circus to demonstrate the ethical treatment of their domestic animals. Also may be affected if circuses that previously used wild animals begin touring in Scotland without them and take some ticket sales. Impact likely to be minimal.
Travelling circus with no animals	No impact	May be affected if circuses that previously used wild animals begin touring in Scotland without them and take some ticket sales. Impact likely to be minimal.
Landowner/venue manager	No impact	May be affected if circuses that previously used wild animals stop coming to Scotland permanently. Impact minimal as have been no visits in recent years.
TV/Film industry	No impact	May be affected if previously sourced animals from circuses using wild animals that visited Scotland and if they stop coming. Impact likely to be minimal. May also be affected if the focus of animal rights organisations shifts to wild animal use in this area.
Advertising Industry	No impact	May be affected if previously sourced animals from circuses using wild animals that visited Scotland and if they stop coming. Impact likely to be minimal. May

		also be affected if the focus of animal rights organisations shifts to wild animal use in this area.
Other entertainment industry	No impact	May be affected if the focus of animal rights organisations shifts to wild animal use in this area.
Animal Feed Industry	No impact	It is not clear where circuses with wild animals source their feed, but could potentially be affected if stop coming to Scotland permanently. Impact minimal as have been no visits in recent years.
Veterinary Profession	No impact	It is not clear how often circuses with wild animals access local vets, but could potentially be affected if stop coming to Scotland permanently. Impact minimal as have been no visits in recent years.
Other Service industries	No impact	It is not clear what local services circuses with wild animals use, but could potentially be affected if stop coming to Scotland permanently. Impact minimal as have been no visits in recent years.

Benefits

Do Nothing

51. This option would not require any action on the part of travelling circuses, enforcement authorities, or the Scottish Government and would incur no additional costs. It would allow the few travelling circuses with wild animals that very occasionally visit Scotland to continue to follow their cultural traditions.

Ban

52. It is quite clear, both from the results of the Scottish Government consultation and from the stance of a number of Local Authorities, that a significant portion of modern Scottish society finds the concept of transporting wild animals around in a travelling circus for the purposes of entertainment morally objectionable. Ethical arguments against the practice include the negative impact on the nature and well-being of the animals themselves, and on how these and potentially other animals may be viewed, and in future treated, by members of the audience, particularly children. The main benefit of a ban, therefore, would be to send a clear message that, although travelling circuses will always be welcome in Scotland, travelling circus acts or displays using such animals are not.

53. As the analysis of consultation responses shows, there is also a huge interest in the possibility of a ban in Scotland from people outside this country, from as close as other areas of the UK and Ireland, to as far away as Australia.

54. Putting an end to the use of wild animals may also improve the public perception of travelling circuses that visit Scotland and of the sector as a whole. It might improve their public standing and increase the viability of future visits, or even

encourage businesses to set up in Scotland, without those acts that cause such opposition and public disapproval.

Costs

Do Nothing

55. This option would incur no additional financial costs or savings.

Ban

56. A number of potential impacts have been discussed earlier in this document. However, since there are no travelling circuses with wild animals based in Scotland and none have visited for several years, in practice this option would incur no additional financial costs or savings beyond the cost of Government and Parliamentary time. Enforcement of the Bill would not constitute additional work as it could be conducted alongside existing enforcement activities that Local Authorities carry out with respect to travelling circuses.

57. Breaches are unlikely to arise often. Prosecutions under the Bill relating to either a contravention of the ban or for intentionally obstructing an inspector or constable in exercising their duty are therefore anticipated to be rare. The Scottish Government publication —Costs of the Criminal Justice System in Scotland 2014/15²⁰ estimates that the average cost of criminal cases in different levels of court. The table below sets out these costs, relating to a Sheriff Summary Court Case:

	Sheriff Summary Court Case
Cost to Crown Office and Procurator Fiscal Service	£379
Cost to Scottish Courts and Tribunals Service	£385
Cost to Scottish Legal Aid Board	£600
Total Costs	£1,364

58. The costs above are provided in case such a prosecution is required. The Offences in the Bill may be tried summarily only and these figures relate to prosecution in the Sheriff or Justice of the Peace courts.

²⁰ <http://www.gov.scot/Topics/Statistics/Browse/Crime-Justice/Publications/costcrimjustscot/costcrimjustdataset>).

SCOTTISH FIRMS IMPACT TEST

59. There are no circuses based in Scotland that use wild animals and none have visited for several years, so venues, land-owners and supporting businesses in Scotland are unlikely to be affected. See previous section for explanation of sectors/businesses consulted and the methods used.

Competition Assessment

60. In line with the competition assessment in England (IA 2014), this policy is not expected to have any substantial impact on competition within the travelling circus industry. The policy does not discriminate between travelling circuses, applying equally to all.

Test run of business forms

61. No new forms will be introduced.

LEGAL AID IMPACT TEST

62. It is not anticipated that this policy will give rise to additional need for legal aid. Although the policy will introduce new offences and appeals, as explained below, circus operators that may fall foul of the proposed legislation will be businesses and unlikely to qualify for legal aid.

ENFORCEMENT, SANCTIONS AND MONITORING

Enforcement Strategy

63. It is expected that it will primarily be Local Authorities that will enforce the Bill as part of other responsibilities relevant to travelling circuses. This should not generally involve any additional work or cost. Given the extremely rare occurrence of a visit to Scotland by a travelling circus with wild animals, breaches are expected to be infrequent.

Authorised person

64. Authorised persons for the purposes of enforcing this Bill are:
- A constable (which has the meaning given by section 99(1) of the Police and Fire Reform (Scotland) Act 2012).
 - An inspector appointed as an inspector for the purposes of this Act by the Scottish Ministers or by a Local Authority.

Enforcement powers

Entry and associated powers

65. An inspector may enter any premises (other than domestic premises)—
- (a) if there are reasonable grounds for believing that a section 1 offence has been or is being committed at the premises, and

(b) for the purpose of ascertaining whether or not a section 1 offence has been or is being committed at the premises.

66. A sheriff or justice of the peace may grant a warrant if satisfied that there are reasonable grounds for believing that an offence has been or is being committed at any premises, or that evidence of an offence is to be found at any premises. The criteria used to assess whether a warrant should be granted are that admission to the premises has been refused, or such a refusal may reasonably be expected, and that notice of the intention to seek a warrant has been given to the occupier of the premises, or the giving of such notice would frustrate the purpose for which the warrant is sought. A warrant may also be granted where the premises are unoccupied, or the occupier is temporarily absent.

67. A warrant authorises an inspector or a constable to enter the premises, to search for and examine any animal, and to search for, examine and seize any equipment, document or other thing tending to provide evidence of the commission of, or participation in, a section 1 offence. An inspector or a constable may exercise the powers without a warrant if it appears to the inspector or, as the case may be, constable that any delay would frustrate the purpose for which the powers are to be exercised, and in relation only to premises other than domestic premises.

Stopping and detaining vehicles

68. A constable in uniform may stop and detain a vehicle or vessel for the purpose of the exercise of a relevant power. An inspector, if accompanied by a constable in uniform, may stop and detain a vehicle or vessel for the purpose of the exercise of a relevant power. A vehicle or vessel may be detained for so long as it is reasonably required for the purpose of the exercise of the power concerned. The power concerned may be exercised either at the place where the vehicle or vessel was first detained or nearby. "Vehicle" includes caravan (within the meaning of section 29(1) of the Caravan Sites and Control of Development Act 1960).

Offences and Penalties

Wild animals in travelling circuses: offence

69. A person who is a circus operator commits an offence if the person causes or permits a wild animal to be used in a travelling circus. An offence is committed only if the wild animal is transported for the purpose of being used in a travelling circus, but the animal need not be in the course of being transported for the offence to be committed, and it is immaterial to the commission of the offence whether or not the transportation of the animal is with, or is part of, a travelling circus.

Offences

70. A wild animal is used if the animal—
(a) performs, or
(b) is displayed or exhibited.

71. A person who commits an offence under the proposed Act is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Appeals and review

72. There are no appeals or review provisions contained within the Bill. However as the offences in the Bill are summary offences, certain general powers of appeal would apply. Most relevantly, under section 175 of Criminal Procedure (Scotland) Act 1995 there is a general right of appeal for those convicted of offences in summary proceedings.

IMPLEMENTATION AND DELIVERY PLAN

73. As there are no travelling circuses with wild animals based in Scotland it is planned to implement the ban with no period of grace, with the Bill coming into force at least 2 months after Royal Assent. The introduction and passing of the Bill will be publicised widely.

Post-implementation review

74. Review of the proposed legislation will be on-going, in light of feedback from enforcement authorities and other stakeholders.

SUMMARY AND RECOMMENDATION

75. On the basis of:

- Responses received to the consultation document ‘Should the use of wild animals in travelling circuses be banned in Scotland?’;
- The ethical benefits outlined;

it is recommended that Parliament agree to proceeding with the Wild Animals in Travelling Circuses (Scotland) Bill.

Summary costs and benefits table

Option	Total benefit per annum: - economic, environmental, social	Total cost per annum: - economic, environmental, social - policy and administrative
1 Do Nothing	<p>Financial Impact</p> <ul style="list-style-type: none"> • None. <p>Wider benefits of the policy</p> <ul style="list-style-type: none"> • No impact on circus industry or supporting industries 	<p>Financial Impact</p> <ul style="list-style-type: none"> • None <p>Wider costs of the policy</p> <ul style="list-style-type: none"> • Potential reputational cost to Scottish Government/Parliament.
2 Proceed with the Bill	<p>Financial Impact</p> <ul style="list-style-type: none"> • Unclear whether there would be any financial benefits at this point. <p>Wider benefits of the policy</p> <ul style="list-style-type: none"> • Acknowledges the fact that a significant portion of modern Scottish society finds using wild animals in a travelling circus morally objectionable. • Sends a clear message that although travelling circuses are welcome in Scotland, travelling circus acts using wild animals are not. • Potential improvement to public standing and future viability of the wider travelling circus sector in Scotland. 	<p>Financial Impact</p> <ul style="list-style-type: none"> • No cost to Scottish travelling circuses with wild animals as there are none. • Minimal cost to supporting industries as to our knowledge there have only been two visits to Scotland by travelling circuses with wild animals in the last 8 years. • Minimal cost to Local Authorities as enforcement conducted alongside other existing circus related activities. Breaches and associated prosecution costs are anticipated to be rare and minimal. <p>Wider costs of the policy</p> <ul style="list-style-type: none"> • A minority sector is no longer free to come to Scotland to provide a form of entertainment consistent with their cultural heritage.

76. Due to the fact that there are no Scottish travelling circuses with wild animals and no such circuses have visited for several years, the financial impact of the proposed Bill is difficult to estimate but would in all likelihood be minimal in practice.

77. However, a strong message that came through many of the comments in responses to the 2014 consultation was that in this case ethical considerations should in any case take precedence over financial considerations. The results of that consultation were overwhelmingly in favour of a ban on the use of wild animals in travelling circuses on ethical grounds.

DECLARATION AND PUBLICATION

78. I have read the Business and Regulatory Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs. I am satisfied that business impact has been assessed with the support of businesses in Scotland.

Signed:

A handwritten signature in black ink, appearing to read 'R. Cunningham', written in a cursive style.

Date: 18 April 2017

**Ms Roseanna Cunningham
Cabinet Secretary for Rural Affairs, Food and the Environment**

Scottish Government Contact point: Beverley Williams



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