

# Wild Animals in Travelling Circuses (Scotland) Bill

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## Financial memorandum

### Introduction

1. As required under Rule 9.3.2 of the Parliament's Standing Orders, this Financial Memorandum is published to accompany the Wild Animals in Travelling Circuses (Scotland) Bill, introduced in the Scottish Parliament on 10 May 2017.
2. The following other accompanying documents are published separately:
  - Explanatory Notes (SP Bill 12-EN);
  - a Policy Memorandum (SP Bill 12-PM);
  - statements on legislative competence by the Presiding Officer and the Scottish Government (SP Bill 12-LC).
3. This Financial Memorandum has been prepared by the Scottish Government to set out the costs associated with the measures introduced by the Bill. It does not form part of the Bill and has not been endorsed by the Parliament.

### The Bill

4. The Bill prohibits the use of any wild animal (as defined in the Bill) in a travelling circus in Scotland on ethical grounds. It does so by the creation of a criminal offence of causing or permitting a wild animal to be used (that is, made to perform or to be exhibited or displayed) in a travelling circus. The Scottish Government intends to commence the provisions of the Bill at least two months after Royal Assent, with no transitional arrangements for circuses using wild animals that may be in Scotland when the offence in section 1 is commenced.

## Background

5. There are no travelling circuses that currently use wild animals based in Scotland, but until recently there were four British travelling circuses using wild animals (in England): the Great British Circus, Bobby Roberts Super Circus, Peter Jolly's Circus and Circus Mondao. Due to the lack of any specific legislation requiring any meaningful figures to be maintained, the precise number of wild animals used by these circuses has been difficult to obtain. However, the figure is usually estimated to be fewer than 50. 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 two circuses to use wild animals to date. Information on the circuses and animals involved is shown in the table below.

6. Circus stocklists – as of 10/08/2016<sup>1</sup>

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

7. 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.<sup>2</sup>

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<sup>1</sup>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)

<sup>2</sup>'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](http://endcap.eu/wp-content/uploads/2016/11/PERFORMING-ANIMALS-REPORT-2016_FINAL_NO-MARKS.pdf)

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8. It is presently possible for circuses based in England or mainland Europe to visit Scotland with their performing wild animals. According to respondents to the 2014 Scottish Government consultation on travelling circuses<sup>3</sup>, only two travelling circuses with wild animals had visited Scotland in the last five years and none in the last 12 months. Some local authorities in Scotland prohibit circuses that use wild animals from performing on local authority land. The Scottish Government is not aware that either of the two licenced circuses in England plan to visit Scotland. Nor is the Scottish Government aware of any circuses based on mainland Europe that plan to visit Scotland.

## Method

9. This section details the financial information and academic sources that have informed the Financial Memorandum, and specifies the methodology used in the wider process of considering the costs associated with the measures introduced by the Bill.

## Consultation

10. Views on the business impact of the Bill were requested in the Scottish Government consultation “Should the use of wild animals in travelling circuses be banned in Scotland?”<sup>4</sup> Questions were asked around how often travelling circuses with wild animals visited Scotland and what the impact of a ban would be on the revenue of those circuses, other types of circuses, circus venues and wider entertainment industries.

## Email, telephone, meeting

11. More detailed financial information around what precisely those impacts might be was requested of key industry and landowner stakeholders, including local authorities, in a follow-up questionnaire. Meetings were offered with any stakeholders that requested them. Policy officials met 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). There was on-going liaison with local authorities (LA) via COSLA throughout the drafting of the Bill and accompanying documents, with LA colleagues providing feedback on enforcement

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<sup>3</sup> <http://www.gov.scot/Publications/2015/06/1512>

<sup>4</sup> <http://www.gov.scot/Publications/2014/01/5291/0>

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provisions and specific information requested for the Business and Regulatory Impact Assessment (BRIA) via COSLA.

## Reports

12. Relevant background information was also extracted from the Defra 2012 Impact Assessment<sup>5</sup> and via the economic analysis “The Show Will Still Go On: An Economic Analysis of Massachusetts S.2002”<sup>6</sup>, (which considered the likely economic impact of proposed legislation to restrict wild animal performances in Massachusetts, USA).

13. All these data sources are discussed in detail in the BRIA published separately.

## Costs on the Scottish administration, public bodies and executive agencies

14. It is considered that the annual number of prosecutions will be none at all or very few, resulting in minimal impact on the Scottish Administration, its Public Bodies and Executive Agencies. This assumption is based on the fact that there are no travelling circuses with wild animals currently based, or likely to be based in Scotland, and that to the Scottish Government’s knowledge, there have only been two visits to Scotland by travelling circuses with wild animals in the last eight years.

15. The offences in the Bill may be tried summarily only and prosecuted in the Sheriff or Justice of the Peace courts. The Scottish Government publication – “Costs of the Criminal Justice System in Scotland 2014/15”<sup>7</sup> estimates the average cost of criminal cases in different levels of court and the table below sets out these costs, relating to a Sheriff Summary Court Case.

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<sup>5</sup>

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/82464/circus-animals-ia-120301.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/82464/circus-animals-ia-120301.pdf)

<sup>6</sup>

<http://www.humanesociety.org/assets/pdfs/wildlife/circus/macircusanalysis.pdf>

<sup>7</sup><http://www.gov.scot/Topics/Statistics/Browse/Crime-Justice/Publications/costcrimjustscot/costcrimjustdataset>.

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**Costs of the Criminal Justice System in Scotland`  
(2014/15)**

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

16. To note, these figures represent the average cost of procedure for the Sheriff Court Summary and Justice of the Peace court (excluding stipendiary cases). All figures are for 2014-15. Further commentary is provided below.

**Crown Office and Procurator Fiscal Service (Scottish Administration)**

17. Costs to the Crown Office and Procurator Fiscal Service (COPFS) are expected to be minimal as 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 anticipated to be rare. As noted in the table above, the average cost to COPFS of a Sheriff Summary Court procedure case is £379.

**Scottish Courts and Tribunals Service (Non-Ministerial Government Department)**

18. Costs to the Scottish Courts and Tribunals Service (SCTS) are again expected to be minimal as prosecutions under the Bill are anticipated to be rare. As noted in the table above, the average cost to the SCTS of a Sheriff Summary Court procedure case is £385. The SCTS average cost of procedure is a weighted average using the volume of procedures.

**Scottish Legal Aid Board (Executive Non-Departmental Public Body)**

19. Costs to the Scottish Legal Aid Board (SLAB) are again expected to be minimal as prosecutions under the Bill are anticipated to be rare. As noted in the table above, the average cost to SLAB in relation to a Sheriff Summary Court procedure case is £600. This represents the average cost

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per legal aid certificate (per individual) where the case finished as Sheriff Court Summary case procedure. These figures are calculated by dividing total legal aid costs for cases which finish at Sheriff Court Summary case procedure by the corresponding number of legal aid certificates. Where a case progresses through several procedures, all legal assistance costs are included in the costs of the final procedure.

## Police Scotland

20. It is unlikely that there will be any perceptible additional costs to Police Scotland as it is expected that local authorities will undertake any investigation which might be required.

## Costs on local authorities

21. It is anticipated that costs to local authorities arising from the Bill will be minimal.

22. There should be no additional costs to local authorities for enforcement of the Bill as this would be conducted as part of other existing circus-related activities (for example the functions of authorities under the Performing Animals (Regulations) Act 1925 and the Animal Health and Welfare (Scotland) Act 2006, or their functions relating to public entertainment licencing). This current role involves a visit to the circus site in order to check the animals' general welfare, that any performing animals are properly registered under the Performing Animals (Regulations) Act 1925 and that the circus holds the required public entertainment licence. Any breach of the proposed prohibition will be relatively easy to detect as part of this process, and these new requirements should not place any substantive additional burden upon the inspectors as it is considered unlikely that circuses with wild animals for performance or display will choose to travel to Scotland in future. Local authorities were not able to provide any estimate of possible additional costs as these are expected to be negligible.

23. Breaches of the provisions in the Bill, either by contravening the ban or by intentionally obstructing an inspector or constable in exercising their duty, are anticipated to be rare.

## Costs on other bodies, individuals and businesses

24. There are no travelling circuses with wild animals based in Scotland, hence it is anticipated that no Scottish businesses will be liable for any

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finances under the Act. It is unlikely that there will be any cost to the two English circuses with wild animals as they have not visited Scotland for a number of years; nor indeed have any other travelling circuses with wild animals.

25. Some consideration was given to the potential impact of the Bill on Scottish businesses that might benefit from supporting visiting travelling circuses with wild animals. For example, there is the potential for travelling circuses to spend in local communities; on printing, casual hire, laundry, animal feed or bedding, and veterinary care etc. 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 and on the venue managers/landowners who might consider hosting travelling circuses with wild animals.

26. There is little available evidence on the impact of travelling circuses with wild animals in Scotland in these regards. However, it is anticipated that the Bill would result in minimal cost to supporting businesses or to local businesses in general. To the Scottish Government's knowledge, there have only been two visits to Scotland by travelling circuses with wild animals in the last eight years, so Scottish businesses will not have benefitted financially from circuses with wild animals locating near their businesses for some time.

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