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.

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

Date

(**8**) 1980 c. 43.