

KEEPING OF WILD ANIMALS ACT 2002

Principal Act

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| Act. No. 2002-25 | <i>Commencement</i> | <i>(LN. 2003/024)</i> | 20.2.2003 |
| | <i>Assent</i> | | 30.1.2003 |

EU Legislation/International Agreements involved:

Directive 1999/22/EC

English sources:

None cited

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AN ACT TO TRANSPOSE INTO THE LAW OF GIBRALTAR THE PROVISIONS OF COUNCIL DIRECTIVE 1999/22/EC RELATING TO THE KEEPING OF WILD ANIMALS IN ZOOS.

Title and commencement.

1. This Act may be cited as the Keeping of Wild Animals Act 2002 and comes into operation on the day appointed by the Minister for the Environment by notice in the Gazette.

Interpretation and purpose.

2.(1) In this Act unless the context otherwise requires—

“competent authority” means the Minister for the Environment and he is designated as responsible for performing the duties of the competent authority set out in this Act;

“the Directive” means Council Directive 1999/22/EC of 29 March 1999 relating to the keeping of wild animals in zoos;

“exempted establishment” means an establishment which would be a zoo if it were not exempted from the requirements of this Act under section 4;

“the Minister” means the Minister for the Environment; and

“zoo” means a permanent establishment where animals of wild species are kept for exhibition to the public for seven or more days a year unless that establishment is—

- (a) a circus;
- (b) a pet shop; or
- (c) an exempted establishment.

(2) The purposes of this Act are to protect wild fauna and to conserve biodiversity thereby strengthening the role of zoos in the conservation of biodiversity.

Licence.

3.(1) No person shall operate a zoo without a licence granted by the competent authority in accordance with section 6.

- (2) A licence shall contain–
- (a) conditions to ensure that the zoo implements the conservation measures set out in the Schedule; and
 - (b) such other conditions, including conditions as to the period of the licence, as the competent authority considers appropriate.

Exempted establishments.

4. The Minister may decide to exempt* an establishment from the requirements of this Act if he considers that–

- (a) the establishment does not exhibit a significant number of animals or species to the public; and
- (b) the exemption will not jeopardise the purposes of this Act.

Application for licence.

5.(1) A person making an application for licence required by section 3 shall submit with that application information supporting the claim that the zoo will comply with the requirements of the Schedule.

(2) The person applying for a licence shall publish the fact of the application in two or more daily or weekly newspapers circulating in Gibraltar stating that the details of the application may be inspected at the offices of the competent authority.

(3) The competent authority shall allow any member of the public to inspect the application during office hours.

Grant of licence.

6.(1) Before deciding whether to grant a licence the competent authority shall carry out an inspection in order to determine whether or not the conditions of the proposed licence will be met.

(2) The competent authority may grant a licence if it is satisfied that the zoo will implement the conservation measures set out in the Schedule and comply with the conditions of the proposed licence.

Extension, amendment and transfer of a licence.

* LN. 2003/025 exempts the Gibraltar Botanic Gardens.

This version is out of date

7.(1) The holder of a licence who wishes to apply for an extension of the period of a licence or for a significant amendment to the terms of the licence shall do so in accordance with the procedure set out in section 5.

(2) Before deciding whether to grant an extension of the period of a licence or a significant amendment to the terms of the licence the competent authority shall carry out an inspection in order to determine whether—

- (a) the conditions of the current licence are met; and
- (b) the conditions of the proposed licence will be met.

(3) The competent authority may grant an extension of the period of a licence or a significant amendment to the terms of the licence if it is satisfied that—

- (a) the zoo implements the conservation measures set out in the Schedule in respect of the current licence; and
- (b) the zoo will implement the conservation measures set out in the Schedule in respect of the proposed licence.

(4) The holder of a licence who wishes to apply for a non-significant amendment to the terms of the licence shall do so in writing and the competent authority may approve it in writing.

(5) A licence may with the approval of the competent authority be transferred to another person and the transferee shall become the holder of the licence from the date specified by the competent authority.

(6) The competent authority may refuse to approve the transfer of the licence if they are not satisfied that the conservation measures set out in the Schedule will be implemented within a period, not exceeding two years, determined by the competent authority.

Breach of licence and closure of zoo.

8.(1) If the conditions of a licence are not met, the competent authority shall be entitled to take both or either of the steps set out in subsection (2).

(2) The steps referred to in subsection (1) are—

- (a) closing the zoo to the public; and

- (b) imposing requirements to ensure that the conditions of the licence are met within a period, not exceeding two years, determined by the competent authority.

(3) If the requirements referred to in subsection (2)(b) are not met, the competent authority shall either—

- (a) withdraw the licence and close the zoo; or
- (b) modify the licence and close part of the zoo.

(4) If a zoo does not have a licence, the competent authority shall be entitled to close the zoo.

Disposal of animals.

9. The competent authority shall ensure that the animals concerned are treated or disposed of under conditions which the Minister deems to be appropriate and consistent with the purposes of this Act—

- (a) if steps are taken under section 8(3) or (4); or
- (b) if the zoo closes or is closed for any other reason.

Inspection.

10. Any officer of the competent authority (or person appointed to act for the competent authority) may inspect the zoo and may take samples and gather any information necessary for the performance of the competent authority's duties under this Act.

Charges by competent authority.

11.(1) Where the competent authority incurs costs in carrying out its functions under this Act it may charge a fee determined in accordance with this section to any person carrying on an activity to which this Act applies.

(2) The fee shall not exceed the sum of the costs reasonably incurred by the competent authority in dealing with the activity to which this Act applies.

(3) Where, in the opinion of the competent authority, it can properly carry out its functions under this Act only by engaging specialists and consultants, the cost of such specialists and consultants shall be included in the fee payable under subsection (1).

(4) When requiring payment the competent authority shall send or give to the person by whom the fee is payable, if that person so requests, a detailed statement of the work done and costs incurred and the period to which the statement relates and the requirements of this Act shall be deemed not to have been complied with unless the fee, or such proportion of it as the competent authority may in its discretion specify, has been paid.

(5) The fee or such part of it as remains unpaid shall be recoverable as a civil debt.

Offences.

12. A person who—

- (a) fails to comply with section 3(1);
- (b) provides misleading information in support of an application;
- (c) breaches the condition of a licence; or
- (d) intentionally obstructs an officer of the competent authority acting pursuant to this Act;

is guilty of an offence and liable on summary conviction to a fine up to level 5 on the standard scale.

Offences by corporations etc.

13.(1) Where an offence under this Act which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of, a director, manager, secretary or other similar officer of the body corporate, or any other person purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of a body corporate.

(3) A fine imposed on an unincorporated association on its conviction for an offence shall be paid out of the funds of the association.

(4) Where an offence under this Act committed by a partnership is proved to have been committed with the consent or connivance of, or to have been

attributable to any neglect on the part of a partner, he as well as the partnership is guilty of the offence and liable to be proceeded against and punished accordingly.

Defences.

14. In any proceedings for an offence under this Act it shall be a defence for the person charged to prove that he took all reasonable steps and exercised all due diligence to avoid the commission of the offence.

Regulations.

15. The Minister may make regulations for the purposes of implementing this Act and the Directive.

SCHEDULE

sections 3(2), 5(1), 6(2) and 7(3) and (6).

Conservation Measures

Zoos must—

- (a) participate in one or more of the following
 - (i) research from which conservation benefits accrue to the species;
 - (ii) training in relevant conservation skills;
 - (iii) the exchange of information relating to species conservation; and
 - (iv) where appropriate, captive breeding, repopulation or reintroduction of species into the wild;
- (b) promote public education and awareness in relation to the conservation of biodiversity, particularly by providing information about the species exhibited and their natural habitats;
- (c) accommodate their animals under conditions which aim to satisfy the biological and conservation requirements of the individual species by, amongst other items—
 - (i) providing species specific enrichment of the enclosure; and
 - (ii) maintaining a high standard of animal husbandry with a developed programme of preventive and curative veterinary care and nutrition;
- (d) prevent the escape of animals in order to avoid possible ecological threats to indigenous species and preventing intrusion of outside pests and vermin; and
- (e) keep up to date records of the zoo's collection appropriate to the species recorded.