

The Zoo Licensing Act 1981 and the Welfare of Animals in UK Zoos

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There has been a long history of keeping wild animals in the UK, dating back to the Norman kings of England and the subsequent establishment of the royal menagerie at the Tower of London in the 13th Century. The first “modern” zoological garden arrived with the opening of London Zoo to the public in 1847. Since then, the range of species kept and the number of zoos in the country has responded in part to public demand, while in recent years the educational and conservation profile of zoos has gained currency.

Zoos today (defined as establishments “where wild animals are kept for exhibition... to which members of the public have access, with or without charge for admission, seven or more days in any period of twelve consecutive months”, with the exception of pet shops and circuses¹) include everything from farm parks with some wild animals, reptile centres, park aviaries, butterfly houses, bird of prey centres, to the more traditional metropolitan zoos and aquaria.

Legislation relating to keeping animals in zoos arose, in part, from concerns that the Protection of Animals Act 1911 was insufficient to protect the specific welfare of captive

wild animals. Calls for regulation and inspection of zoos in UK began emerging in Parliament in the late 1960s, resulting in first reading of the Control of Zoological Gardens Bill in 1971. However, early calls for regulation of zoos were somewhat assuaged by the establishment of the Federation of Zoological Gardens of Great Britain and Ireland in 1966, which had as its object to encourage the proper care of wild animals in captivity, and to 1973, undertook inspections of 90 zoos². The Zoo Licensing Act 1981 (ZLA) finally came into force in 1984, requiring the licensing and inspection of zoos in Great Britain to cover the welfare of animals, the role of zoos in biodiversity conservation, and the safety of the public.

The biodiversity requirements of the Act were given further precedence by Council Directive 1999/22/EC. This Directive came about as the result of parallel lobbying by both the zoo industry and animal welfare groups in the European Parliament. It was given force of law in the countries of UK in 2003. The main change resulting from the Directive was the introduction of a framework for the participation of zoos in conservation and education. This further reinforced the welfare requirements of the ZLA by requiring zoos to “accommodate their animals under conditions which aim to satisfy the

biological and conservation requirements of the individual species, inter alia, by providing species specific enrichment of the enclosures; and maintaining a high standard of animal husbandry with a developed programme of preventive and curative veterinary care and nutrition”³. In addition, it imposed a requirement for the local authority to approve arrangements for the welfare or disposal of animals in the event of closure of a zoo. Nonetheless, at Government level, zoo legislation has remained the responsibility of departments dealing with biodiversity conservation rather than animal welfare.

While the ZLA and its amendments remain the primary legislation, vertebrate animals kept in zoos in Great Britain are subject to protection under the Animal Welfare Act 2006 / Animal Health and Welfare (Scotland) Act 2006. Following devolution and

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¹ The Zoo Licensing Act 1981 (Amendment) (England and Wales) Regulations 2002

² HL Deb 15 June 1973 343 cc986-1013

³ OJ L 94, 9.4.1999, p.25

the amendments required by the Directive, responsibility for zoo legislation in Wales and Scotland lies with the Welsh Assembly Government and the Scottish Executive respectively. Zoos in Northern Ireland are licensed and inspected under both the Welfare of Animals Act (Northern Ireland) 1972 and the Zoo Licensing Regulations (Northern Ireland) 2003.

Section 9 of the ZLA makes provision for the Secretary of State to put in place standards relating to the management of zoos and animals in zoos. These "Secretary of State's Standards of Modern Zoo Practice" have taken various forms over the years, and the last major review took place in 2004⁴. The welfare provisions within the Standards are based around the Five Freedoms or "Principles". However, the Standards include little in the way of species-specific provisions (with details limited to invertebrates, reptile and amphibians, pinnipeds, marine birds, waterfowl and birds of prey⁶). Additional standards on the keeping of cetaceans in captivity were produced following the review by Klinoska & Brown⁷ and are often regarded as the main obstacle to the proliferation of dolphinariums in the UK. The cetacean standards were recently recommended for review by the Zoos Forum, the Government-appointed advisory body on zoo matters⁸, but to date this process remains unfinished.

The licensing and inspection of zoos under the Act (including what can be

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considered to be official assessment of animal welfare in zoos) is undertaken by Local Authorities, with informal site visits by Local Authority representatives every twelve months; and less frequent (approximately every 3 years) formal inspections undertaken on behalf of the Local Authority by Government-appointed Zoo Inspectors. Inspectors should have regard to the Standards, any species management guidelines, and the Zoos Forum Handbook⁹ when carrying out a zoo inspection. It should be noted that an inspection includes not only the welfare of the animals, but also the participation in conservation and education, record keeping, staff-training, public safety – even the adequacy of public parking and toilets. As most inspections will take place in a single day, there are limitations on the ability of the inspection process to fully assess animal welfare.

As a result of concerns that the application of the ZLA is inconsistent, Defra have funded a review of the implementation of the Act by local authorities in England and Wales, which is due to be delivered in summer 2011¹⁰. However, the reliability of the formal

inspection system remains untested. Furthermore, there is an apparent disconnect between central and local Government on zoo matters, as evidenced by the lack of complete centralised list of licensed zoos¹¹. Information on the process and results of zoo inspections is held only at individual Local Authority level, and consequently industry-wide assessment of the welfare of animals in zoos in the UK is lacking. Similarly, information on numbers of prosecutions under the ZLA or refusals of licence is not held by Defra, the Ministry of Justice or the Department for Local Communities and Justice¹². This contrasts with formal inspections of animal-keeping facilities under the Animals (Scientific Procedures) Act 1986, for example, where annual statistics of compliance and infringements are maintained and published¹³.

There would seem to be an urgent need for review of the inspection process, the Standards and their application to ensure an effective and workable system to ensure the welfare of animals in UK zoos.

⁴ <http://ww2.defra.gov.uk/wildlife-pets/zoos/standards-zoo-practice/>

⁵ FAWC (1979). <http://www.fawc.org.uk/pdf/fivefreedom1979.pdf>

⁶ Defra (2004). Appendix 8 – Specialist Exhibits. <http://www.defra.gov.uk/wildlife-pets/zoos/documents/zoo-standards/app8.pdf>

⁷ Klinowska M & Brown S (1986). A Review of Dolphinariums. DoE

⁸ The Zoos Forum, was recently reconfigured and looks set to become the "Zoos Expert Committee" under the authority of Defra. It is not yet clear how this will affect its role and function.

⁹ <http://ww2.defra.gov.uk/wildlife-pets/zoos/zoos-forums-handbook/>

¹⁰ Defra (2010). Review of the implementation of the Zoo Licensing Act 1981 in local authorities in England and Wales. <http://www.defra.gov.uk/wildlife-pets/zoos/documents/zoo-licensing-act-adas-review.pdf>

¹¹ Defra (2009). Defra list of zoos operating in England (October 2009). <http://www.defra.gov.uk/wildlife-pets/zoos/documents/zoo-list.pdf>

¹² Letter from Defra, 28.02.2011

¹³ Home Office (2009). Animals Scientific Procedures Inspectorate and Division Annual Report 2009. <http://www.homeoffice.gov.uk/publications/science/769901/animals-annual-report-2009>