

From: [REDACTED] (Defra)
Sent: 22 June 2017 16:59
To: peter Jolly's Circus
Cc: [REDACTED] (Defra)
Subject: RE: Article 9 Application: Procyon lotor (American raccoons)

Dear Mr Jolly,

Thank you for your e-mail dated 23rd May 2017 and the additional information. I have considered this carefully. Now that you have given us further evidence that you acquired the two raccoons before the EU IAS regulation No. 1143/2014 came into force, on the basis of advice that we have received from the European Commission, you can continue to keep the animals until the end of their natural life.

You must, however, ensure that your raccoons are kept in a secure enclosure and not allowed to escape. If you do transport them, you must keep them securely under your control during transit and ensure that they do not escape. You must also take appropriate measures to stop them breeding.

There is no case for a permit under Article 9, as we concur with the European Commission's view that you have not demonstrated an *"exceptional case, for reasons of compelling public interest, including those of social or economic nature"* as required by Article 9(1) of the Regulation. This is not something about which you have provided any further evidence. There is no right of appeal against a refusal of an application for a derogation under Article 9 of the EU IAS Regulation No.1143/2014.

You will be aware that under the terms of the EU IAS Regulation No.1143/2014, you may not intentionally acquire, exchange, transport, or keep, any further raccoons.

Further information about the EU IAS Regulation No 1143/2014 can be found on the website of the GB non-native species secretariat which can be found here:
<http://www.nonnativespecies.org/index.cfm?sectionid=7>. This also contains answers to frequently asked questions which may be of assistance.

You may wish to consider taking your own legal advice on these points. Ultimately it is only the courts that definitely interpret the law.

With best wishes,

[REDACTED]

[REDACTED] **Head of Protected and Invasive Non-Native Species Team** | Department for Environment, Food and Rural Affairs | Direct line: [REDACTED] | Email: [REDACTED] | Address: 2nd Floor, Horizon House, Deanery Road, Bristol BS1 5AH

25 May 2017

From: [REDACTED] (Defra)
Sent: 25 May 2017 12:45
To: peter Jolly's Circus
Cc: [REDACTED] (APHA); [REDACTED] (Defra); [REDACTED]
Subject: RE: Article 9 Application: Procyon lotor (American raccoons)

Dear Mr Jolly,

Thank you for sending this additional information. We will study this carefully and respond to you in due course.

With best wishes,

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██████████ **Head of Protected and Invasive Non-Native Species Team** | Department for Environment, Food and Rural Affairs | Direct line: ██████████ | Email: ██████████.uk | Address: 2nd Floor, Horizon House, Deanery Road, Bristol BS1 5AH.

From: peter Jolly's Circus ██████████
Sent: 23 May 2017 20:20
To: ██████████ (Defra)
Cc: ██████████ (APHA); ██████████ (Defra); ██████████
Subject: Re: Article 9 Application: Procyon lotor (American raccoons)

Dear ██████████

Thank you for your e-mail of the 18th May 2017 regarding our application of 8th February 2018 for a derogation under Article 9 of the EU Invasive Alien Species Regulation for keeping, transporting, using or exchanging of our two raccoons.

There is obviously some mistake here as you are quite wrong in your reply and you have all the facts wrong. We did not explain ourselves very well in our application Annex 1 – Question 12. Was Annex 1 – Question 12 sent to the EU Commission?. We put that we acquired the raccoons on the 5th of December, which is when they came to live with us at our farm, however we did not explain that we had owned the animals since the 16th March 2016.

Unfortunately this mistake led you to make the decision not to issue us with a permit to keep them and we are now formally appealing against your decision not to provide us with a permit to keep these two raccoons. The reason being that the regulations regarding the keeping of invasive species which came into force on the 3rd of August 2016. However the raccoons belonged to us officially from the 16th March 2016 when they were born and we paid for them in April 2016. Please see attached e-mail confirming this.

We applied for a permit as we believed this was the right and proper thing to do as we already have a raccoon which is on our stock list and has been licensed by Defra for the last 4 years, we are also licensed for this year. We have not put them on our stock list for Defra as we wanted to get the permit first as you can imagine we get a lot of accusations from the animal rights and we did not want to be accused of having illegal animals in our possession. Although the raccoons live with our resident raccoon Reggie we have not worked them in the show or put them on display for the same reasons.

The Circus Licensing Panel chaired by Marc Casale have been fully aware of our additional raccoons right from the start and on our last unannounced Defra inspection they were inspected with the rest of our animals, please see attached inspection form from 21st February 2017. ██████████ BVM&S MRCVS the Defra Circus inspector and ██████████ Animal Health Authority Shrewsbury were the inspectors. Defra are happy with all of our obligations under the Welfare of Wild Animals in Travelling Circuses (England) Regulations 2012 including those for the raccoons and we have held a license for every year since the Regulations came into force. We also hold a DWA license and are registered under the

Performing Animals (Regulations) Act 1925. We also comply with all other regulations regarding animals, vehicles and wildlife and the countryside.

We were also inspected by the Welsh Government with regards to their proposed Mobile Animal Exhibits Checklist on the 17th June 2016 this is attached for your interest. Please note at the time of this test inspection all documents were confidential and not to be shared, however since a FOI request to the Welsh Assembly for the documents occurred they are now in the public domain, however we would prefer for you to keep them in a confidential manner out of respect for the WA original wishes. We volunteered to be inspected by Wales to help them with their proposed checks on Mobile Animal Exhibits and our Circus Guild of Great Britain Government Liaison Officer [REDACTED] helped to put together the checklist and also worked with the WA to arrange for the two licensed circuses to be inspected.

Please see below our reasons for appealing against your decision.

1. These two Raccoons belong to us as from the 16th March 2016 and we paid in full for them in April 2016. They were born at the Owl Falconry Wildlife Park. We brought them to our farm on the 5th of December 2016 after they had been weaned and socialised at the Wildlife Park and we had extended our existing raccoon enclave to accommodate 3 animals.
2. As these two raccoons were acquired before the regulations came into force on the 3rd August 2016 we are entitled to apply for a permit to keep them. Please see [REDACTED] [REDACTED] from the wild life Park, e-mail (attached) confirming my acquisition date of the [REDACTED] raccoons.
3. We attach again Annex 1 – Question 12.
4. Your third paragraph states that the transfer took place on the 12 December 2016 however this is completely wrong these raccoons were ours legally from the 16th March so we do not come under the restrictions of Article 7, just because someone else was looking after them it does not mean they were the owners, we were and still are the owners. Unfortunately our submission was obviously not clear enough to show this.

We did a similar thing with our zebra mare and took her to a horse rescue establishment to foal well before her due date. They have a foaling box and are constantly attended by a horse vet and we thought this was the right and proper thing to do, however she still belonged to Jolly's circus.

5. Your third paragraph states concern for the contained holdings of the raccoons, if you read the Defra inspection report, attached, you will the Defra Vet and the LA inspector are very happy with our raccoon facilities as are Defra as they have issued us with a license to travel with wild animals for the 5th year in a row. Defra class raccoons as DWA animals under the circus regulations.

You will also find confirmation in [REDACTED] report of our in house rules and principles which govern our policy regarding escape or accidents; we also put this in our application in Annex 4 – Question 15. Which is also attached again.

6. We are very sorry for the mistake and dismayed and worried that you feel we are in breach of the law. The defra circus welfare licensing team will confirm that we are very careful to keep within all the laws concerning animals.

To sum up.

We look forward to a favourable reply and wish to receive a permit to keep our raccoons as we are allowed to do so in law. If we don't need a permit as we acquired them prior to the 3rd of August please inform us so that we can put them on our Defra stock list. The rules and regulations regarding invasive species are very vague at the moment it is difficult to know what animal owners are required to do. To be honest we do not know if we need a permit or not.

With very best wishes

Peter Jolly

Jolly's Circus

From: [REDACTED] (Defra) [REDACTED]
Sent: 18 May 2017 11:38
To: [REDACTED]
Cc: [REDACTED] (APHA)
Subject: Article 9 Application: Procyon lotor (American raccoons)

Dear Mr Jolly,

I write concerning your application of 8th February 2017, for a derogation under Article 9 of the EU Invasive Alien Species Regulation for the keeping, transporting, using or exchanging of 2 raccoons which you acquired in December 2016. I apologise for the delay in responding to your application.

We have been in touch with the European Commission about your application. They have advised that they consider it inadmissible because it does not demonstrate an *"exceptional case, for reasons of compelling public interest, including those of social or economic nature"* in order to justify its activities, as required by Article 9(1) of the Regulation. I realise that this will be a disappointment to you.

I should advise you that the Commission has also raised with us whether there is an infringement of the Regulation 1143/2014. The transfer took place on 12 December 2016, i.e. after 3 August 2016 when the raccoon was listed as an IAS of Union concern. This means that at the time of the transfer, the restrictions under Article 7 of the Regulation applied and raccoons could not intentionally be transferred from one owner to another. This would only be permissible if an establishment that could not, or no longer wished to keep their animals had transferred their raccoon to you to ensure keeping of the animals in contained holdings while ensuring that reproduction and escape are not possible. I would be grateful if you could confirm to me that this is the case.

Yours sincerely,

[REDACTED]
[REDACTED] **Head of Protected and Invasive Non-Native Species Team** | Department for Environment, Food and Rural Affairs | Direct line: [REDACTED] | Email: [REDACTED] | Address: 2nd Floor, Horizon House, Deanery Road, Bristol BS1 5AH.