

ANIMAL HEALTH AND WELFARE (SCOTLAND) ACT 2006

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2 – Animal Welfare

Section 44 – Proceedings for animal fighting offences

219. This section provides for proceedings for section 23 (animal fights) and extends the time limits within which prosecution for offences under that section may be brought and sets out maximum periods after which proceedings for such an offence cannot be brought. It also makes provision as to when proceedings are deemed to be commenced.
220. Unless otherwise provided, proceedings for a statutory offence must normally be brought within 6 months *of the offence being committed* if the offence may only be tried summarily (i.e. by a sheriff without a jury) (Criminal Procedure (S) Act 1995 s.136). For offences under section 23, the maximum period is 6 months *from the date on which evidence sufficient in the prosecutor’s opinion to justify proceedings came to the knowledge of the prosecutor* (section 44(1)). A certificate by the prosecutor setting out the date on which such evidence came to the prosecutor’s knowledge is to be conclusive evidence of that fact (section 44(4)).
221. Subsection (2) limits the period set out in subsection (1) by providing that no proceedings can be brought more than 3 years after the commission of the offence, and 3 years after the last date on which the offence was committed in the case of a continuous contravention. Nevertheless, in the case of a continuous contravention, the whole period of contravention may be included in the offence charged (even if part of it occurs outwith the time limits specified in subsections (1) and (2) (see subsection (3)).
222. Subsection (5) provides that proceedings are deemed to be commenced on the date on which a warrant to apprehend or to cite the accused is granted, provided that the warrant is executed without undue delay.