

ANIMAL HEALTH AND WELFARE (SCOTLAND) ACT 2006

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2 – Animal Welfare

Section 23 – Animal fights

119. This section creates specific offences in relation to animal fights. In the 1912 Act provisions relating to animals fights were subsumed under the general heading of “offences of cruelty”. It is intended that anything done by a person in connection with an animal fight which would amount to a criminal offence under the existing law, will continue to amount to a criminal offence under the new provision.
120. The offences under section 23 replace the offences under section 1(1)(c), 1A and 1B of the 1912 Act.
121. Subsections (1) and (2) penalise various forms of involvement in animal fights. The majority of the specific offences contained in the 1912 Act such as advertising a fight, allowing premises to be used, and accepting money for admission to an animal fight are covered by subsection (2)(a) to (e). Some of the offences under this section can be committed without a fight having taken place, for example the offence of making arrangements for an animal fight would not depend on the fight subsequently taking place. An animal fight could be arranged which is later cancelled.
122. Subsection (4) sets out offences in relation to the video recording of an animal fight. It will be an offence to supply or publish a video recording of an animal fight, to show a video recording of an animal fight to another person, or to possess a video recording of an animal fight with the intention of supplying it to another person.
123. Subsection (5) restricts the offences created by subsection (4) to video recordings of an animal fight which took place in Great Britain after the date on which subsection (5) came into force.
124. Subsection (6) provides that subsection (4) does not apply to anything done by way of broadcasting, anything done for the purposes or in connection with law enforcement, and anything done in the course of any other lawful activity done in the public interest or with a view to the public interest being served. In consequence, no offence is committed under subsection (4) where the thing done falls within subsection (6).
125. Subsection (7) provides definitions for terms used in the above subsections in relation to video recordings of animal fights.
126. Subsection (9) defines an animal fight as an occasion on which a protected animal is placed with an animal or with a human for the purpose of fighting, wrestling or baiting. This means that an animal fight can be deemed to have taken place, even if both animals

*These notes relate to the Animal Health and Welfare (Scotland)
Act 2006 (asp 11) which received Royal Assent on 11 July 2006*

are wild animals, as the definition of protected animal in section 17 includes any animal under the control of man whether on a permanent or temporary basis.