

*These notes refer to the Animal Welfare Act 2006 (c.45)
which received Royal Assent on 8 November 2006*

ANIMAL WELFARE ACT 2006

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Prevention of harm

Section 8: Fighting etc.

39. This section creates a specific offence of animal fighting, which in the 1911 Act was subsumed under the general heading of “offences of cruelty”.
40. The offences under the section replace the offences under sections 1(1)(c), 5A and 5B of the 1911 Act.
41. *Subsection (1)(a)* will penalise a person causing an animal fight, or attempting to do so. *Subsections (1)(b)-(i)* cover various activities relating to animal fights, such as receiving money for admission, publicising a fight, training an animal to fight and taking part in a fight.
42. *Subsection (2)* will make it an offence to be present at an animal fight without lawful authority or reasonable excuse.
43. *Subsection (3)* creates offences relating to recordings of animal fights that took place in Great Britain after this section becomes law. It will be an offence to supply, publish, show, or possess with intent to supply, such a recording without lawful authority or reasonable excuse. An exemption from these offences is provided in *subsection (5)* for recordings used, or intended for use, in a “programme service” as defined in the Communications Act 2003.
44. *Subsection (6)* makes provision to ensure that the national authority can comply with Directive [2000/31/EC](#) of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce in the Internal Market (Directive on electronic commerce). The Directive requires that the offence is extended to information society service providers established in the UK but who operate (for example by publishing) in another EEA State. The government intends to effect this extension by making regulations under section 2(2) of the European Communities Act 1972. *Subsection (6)* will ensure that the same penalties can be applied to such providers as to others who commit the offence, when the offence is extended.
45. *Subsection (7)* 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. The provision applies to any protected animal which under section 2 includes any animal under the control of man, whether on a permanent or temporary basis. As a result, a person commits an offence in relation to an animal fight even if there is no one who is responsible for the animal or animals involved within the meaning of section 3.
46. Legitimate pest control activities which involve the use of one animal to catch another will not fall within the definition of an animal fight, as the animals are not placed together for the purpose of fighting, wrestling or baiting.

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47. *Subsection (7)* defines a video recording as a recording, in any form, from which a moving image may by any means be reproduced and includes data stored on a computer disc or by other electronic means which is capable of conversion into a moving image. This definition will not cover still photographs.