

The Animal Welfare Act 2006 (1)

The Animal Welfare Act 2006 **only applies to vertebrate, non-human animals (e.g. mammals, birds, reptiles, amphibians and fish).**

The categories of animals protected by the Act depend on the offence in question.

Protected animals are those that are:

- commonly domesticated in the British Islands (e.g. dogs and cats, including feral cats and stray dogs), or
- under the control of man, whether on a permanent basis (e.g. wild animals in circuses and zoos) or a temporary basis (e.g. animals caught in traps), or
- not living in a wild state (e.g. animals that escape from captivity but cannot be described as living in a wild state because they are non-native to the British Islands).

The Act **does not apply** to invertebrates (e.g. insects, shellfish, octopuses and snails), foetal or embryonic animals, wild animals (that do not fall within the definition of protected animal) and research animals that are regulated by the Animals (Scientific Procedures) Act 1986.

The Act does not apply to the sea, only to inland waters (river, streams, lakes) and estuaries. The Act does not affect legal hunting (i.e. trail hunting), shooting and sea fishing, and does not apply to angling.

The offences in the Act are divided into two broad categories – the **promotion of animal welfare** and the **prevention of harm** to animals.

The owner of an animal is always considered to be legally 'responsible' for the animal's welfare. But legal responsibility may also include the person who is in charge of an animal, even temporarily. If an animal is looked after by a child under 16, the person who has the care and control of the child (e.g. parent/guardian) is treated as responsible for the animal.

The promotion of animal welfare

Duty of care

A person commits an offence if he/she does not take reasonable steps to ensure that the needs of an animal for which he/she is responsible are met (the 'duty of care') in line with good practice¹.

The Act defines an animal's needs as including:

- a) its need for a suitable environment
- b) its need for a suitable diet
- c) its need to be able to exhibit normal behaviour patterns
- d) any need it has to be housed with, or apart from, other animals, and
- e) its need to be protected from pain, suffering, injury and disease.

Selling animals to a person under 16

It is illegal to sell an animal to any person who you have reasonable cause to believe to be under 16. This includes transferring or agreeing to transfer ownership of an animal (e.g. giving an unwanted pet to someone under 16).

¹ Only the courts are entitled to define what good practice means in relation to looking after different animals.



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Offering a person under 16 the chance to win an animal as a prize

Generally, it is an offence to offer a person under 16, who is not accompanied by an adult, an animal as a prize.

The prevention of harm to animals

Unnecessary suffering

There are two separate offences:

- 1) to **cause** unnecessary suffering to a protected animal by an act (e.g. kicking a dog) or failure to act (e.g. to provide veterinary treatment)
- 2) to **permit** unnecessary suffering to an animal for which that person is responsible, which has been caused by another person (e.g. allowing someone to neglect a pet by not feeding it).

Mutilation

Mutilation, i.e. interference with the sensitive tissues or bone structure of protected animals is banned unless:

- it is necessary for the animal's medical treatment, or
- it is a procedure specifically allowed by regulations because it is performed in the animal's long-term welfare interest or it is an accepted method of animal management, e.g. on a farm.

Docking of dogs' tails

It is illegal to dock a dog's tail unless this is required for the purpose of its medical treatment or the dog is a certified working dog of a certain breed or breed type (as specified by secondary legislation) and is not more than five days old. Different exceptions apply to dogs in England and Wales.

The showing of dogs with docked tails is also restricted. It is an offence to show a dog whose tail has been wholly or partially removed on or after 28 March 2007 (Wales) or 6 April 2007 (England) at an event that people pay money to watch. However, it is not illegal if the dog is a certified working dog and is shown only for the purposes of demonstrating its working ability.

Administration of poisons etc

A person commits an offence if they administer poisonous or injurious substances or drugs to a protected animal, or they permit someone else to do this. It also applies if they cause these substances to be taken by a protected animal, e.g. leaving rat poison out, which may be eaten by another animal.

Fighting etc

An animal fight is defined as an occasion on which a protected animal is placed with an animal or a human, for the purpose of fighting, wrestling or baiting.

There are a number of offences relating to animal fights. The main offences include causing an animal to fight, or attempting to do so, receiving money for admission to a fight, publicising a fight, training an animal to fight, betting on a fight and being present at an animal fight without lawful authority.

Animals commonly used for fighting include dogs, cockerels and badgers.

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Sanctions

The magistrates have a range of sanctions available to them in the event of finding someone guilty of offences under the Act. Depending on the offence, these may include:

- custodial sentences of up to six months
- deprivation orders (taking the animal away)
- disqualification orders (banning a person from owning, keeping, controlling, influencing, dealing or transporting animals)
- fines of up to £20,000
- destruction of the animal.

Associated secondary legislation and codes of practice

The Animal Welfare Act has been designed to evolve over time and have a positive impact on attitudes to animals. Secondary legislation and codes of practice on the keeping of cats, dogs and equines, the rearing of game birds, racing greyhounds and keeping primates as pets have been published by the governments of England and Wales. Other secondary legislation on issues such as wild animals in circuses, performing animals and commercial pet vending may be introduced under the Act but will take a while to be written.

Until these are in place, any animal may be used for any purpose or activity, provided it is lawful (section 9.3). At times, this may appear to be in opposition to the welfare offence, for example, the suffering of battery hens. However, the standard to which the 'duty of care' applies is the extent required by 'good practice'.

The concept of **good practice** is not static – it may evolve with time. For example, many people keep rabbits in hutches on their own, which is not illegal under the Act. However, an increasing number of experts believe that rabbits are social animals that, in a natural state, live in groups, and that living alone does not fulfil their need to have the company of other animals. Therefore, the courts may, in the future, decide on the basis of such advice that keeping a rabbit on its own is not 'good practice' and is therefore an offence.

Up-to-date information on secondary legislation and the Act can be found on the following websites:

- For England: www.defra.gov.uk/wildlife-pets/pets/cruelty
- For Wales: <https://gov.wales/animal-welfare>

The RSPCA is opposed to any activity involving animals that is likely to cause unnecessary suffering.

If you believe an offence has been committed under the Animal Welfare Act 2006, you should telephone the RSPCA on **0300 1234 999**.