

The Hunting Act 2004 – A summary of the legal challenges

There are currently 3 main challenges to the validity of the Hunting Act 2004, each one against the Government:

- the Parliament Act challenge: the Countryside Alliance is arguing that the Act is invalid because it was passed using the Parliament Acts 1911 and 1949 - in other words, by the House of Commons and the monarch but not by the House of Lords. This is the procedure contemplated by the Parliament Acts when the House of Lords refuses to pass a bill which has been passed by the House of Commons in two consecutive parliamentary sessions. The argument is that the Parliament Act 1949 is itself invalid because the House of Commons used the 1911 Act to amend its own terms - essentially by reducing from 3 to 2 the sessions of Lords non-co-operation needed before the House of Commons could bypass it. The House of Lords would not agree to this in 1949 and the House of Commons therefore used the 1911 Act to bypass it. The claimants argue that Parliament did not contemplate, when passing the 1911 Act, that it could be used to amend its own terms.

The case has reached the House of Lords and will be heard by a 9-judge court on 13 July. The League against Cruel Sports is intervening in the case. If the challenge succeeds, other legislation passed using the 1949 Act would also be invalidated.

- - the Human Rights Act challenge: the Countryside Alliance and individual claimants argue that the Hunting Act is in breach of several articles of the European Convention on Human Rights - in particular, Article 8 (right to respect for private life and home), Article 11 (freedom of association) and Article 1 of the First Protocol (right to possessions) (A1P1), in conjunction with Article 14 (prohibition on discrimination). In each case, the claimants have to show that the Article in question is engaged - this is disputed save to a limited extent with A1P1; even if they succeed, the Government argues that the prima facie breach can be justified in each case under the exceptions to the Articles.

The case is due to be heard on 6 July, with a 7-day estimate. the RSPCA is intervening.

- - the European Community law challenge: the Countryside Alliance and a number of individuals argue that the Act contravenes the principles of free movement of goods and services under the EC Treaty. Once more, the claimants have to show that the Articles in question are engaged; even if they are, the Government argues the Act falls within relevant exceptions.

The case is due to be heard with the HRA case. Again, the RSPCA is intervening.