

CIVIC GOVERNMENT (SCOTLAND) ACT 1982

SECTION 49

COMPLAINTS REGARDING ANNOYING CREATURES

PROCEDURE TO BE TAKEN

Section 49, Sub Section (2), of the above Act deals with such complaints and allows a person who has reasonable cause for annoyance to make an application to the District Court for an Order to be made requiring the owner of the creature to take action to prevent the annoyance from continuing.

An application would require to be made on a specified form and, subject to the Court considering that there appeared to be reasonable cause for annoyance, a date would be set for a Hearing. Both the complainant and the owner of the creature would be required to attend the Hearing to state their cases. Subject to the Court agreeing that the complaint is justified, they would issue an Order specifying what action the owner of the animal would require to take. The complainant would also be advised of the terms of the Order and if these were not complied with, subsequent complaint about failure to comply with the Order would then require to be made to the Police.

If the Police can substantiate that the conditions in the Order are not being complied with they can then make a report to the Procurator Fiscal with a view to the Court taking action against the owner of the creature for failure to comply with the Order.

An application form, a specimen completed form and a copy of Section 49 of the Act are enclosed for your information. Should you decide to proceed with an application, legal assistance from a solicitor. As an option an Environmental Health Officer would be willing to check that the correct information had been provided on the form. If the form is wrongly completed it will be returned to you without any assistance from the District Court as they require to remain impartial.

Dangerous
and Annoying
Creatures

- 49- (1) Any person who suffers or permits any creature in his charge to cause danger or injury to any person who is in a public place or to give such person reasonable cause for alarm or annoyance shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding £50.
- (2) A district court may, if satisfied that any creature kept in the vicinity of any place where a person resides is giving, while in that place reasonable cause for annoyance, make an order requiring that person keeping the creature to take, within such periods as may be specified in the order, such steps (short of destruction of the creature) to prevent the continuance of the annoyance as may be so specified.
- (3) An application to a district court for an order under subsection (2) above may be made by any person.
- (4) Any person who fails to comply with an order under subsection (2) above shall be guilty of an offence and liable, on summary convictions to a fine not exceeding £1000.
- (5) The fact that there is licence under the dangerous wild animals Act 1976 in respect of a creature shall not or itself afford a defence in the proceedings under the section relating to that creature.
- (6) When a court convicts a person of an offence under this section or discharges him absolutely or makes a probation order in relation to him, it may, whether or not (in the case of conviction) it imposes a penalty under subsection (1) or (4) above -
- (a) subject to subsection (8) below, make such order as it sees fit as to the disposal of the creature to which the proceedings relate:
- (b) authorise a constable, in pursuance of such an order, to take possession of the creature.
- (7) An order under subsection (6) above may, subject to any enactment relating the protection or conservation of living things, be for the destruction of the creature to which it relates.
- (8) No creature disposed of under an order under subsection (6) above shall be given or sold for the purposes of vivisection.

IN THE JUSTICE OF THE PEACE COURT AT GREENOCK

APPLICATION

under Section 49(2) and (3) of the Civic Government (Scotland) Act 1982

by

(Full Name).....
COMPLAINER

(Address).....
.....
.....

against

(Full Name).....
RESPONDENT

(Address).....
.....
.....

HUMBLY SHEWETH:

1. That the Complainer is resident at the above stated address.

2. That the Respondent occupies premises at.....
....., being in the vicinity of the
Complainer's above stated address.

3. That at the said premises the Respondent
keeps.....
.....

4. That.....
.....
.....
.....
.....
.....

May it therefore please the Court to order service of a copy of this application upon the Respondent(s); to fix a date for the hearing of this application no earlier than 14 days after such service and thereafter to make an order on the Respondent to take within such period as may be specified in the order such steps (short of destruction of the creature) as may be so specified to prevent the continuance of the annoyance.

IN RESPECT WHEREOF

(Signed)..... (COMPLAINER)

at..... (PLACE OF SIGNING)

on theday of20.....