**The Civic Government (Scotland) Act 1982 Annoying Creatures Procedure**

If you suffer continual annoyance from other another person's animal there is legislation in place that allows you to apply for an Order from the Court requiring the keeper of the animal to take steps to prevent the annoyance continuing.

The keeper of the animal may wish to defend the action and consequently the process can sometimes become quite complex. Before proceeding it is worth considering the alternatives. Sometimes the animal's keeper is unaware of any nuisance being caused and discussions can resolve the problem. Alternatively, a letter from a Solicitor or from a Citizen's Advice Bureau may be of assistance.

If these have failed, you may find it useful to instruct a solicitor to act on your behalf in applying for an Order, as they can guide you through the procedure.

If you still wish to make an application for an Order yourself, you should continue to read.

**The Law**

The Civic Government (Scotland) Act, section 49, states:

*"49.- Dangerous and annoying creatures.*

1. *A district court may, if satisfied that any creature kept in the vicinity of any place where* a *person resides is giving that person, while in that place, reasonable cause for annoyance, make an order requiring the person keeping the creature to take, within such period* 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.*
2. *An application to a district court for an order under subsection (2) above may be made by any person."*

An annoying creatures hearing is a civil, and not a criminal, procedure, however if an Order is made and subsequently breached this may trigger criminal proceedings.

Please note that at an annoying creature hearing the Justice does not have the power to order destruction of the creature, only to make an Order for its control. Only after an Order is breached can the Court, in certain circumstances, require disposal of the creature.

**Making an Application**

* 1. An application should be made by completing the attached Form, either typewritten or in ink.
  2. To assist you in completing the form please note the following:
     1. You, the Applicant, are referred to as the "Complainer". You should therefore insert your own name above the word "Complainer". The person keeping the animal which is causing the annoyance is referred

to as the "Respondent". Therefore his/her name should be written above the word "Respondent".

* + 1. Under the words "Humbly Sheweth", in paragraph 2, you should give the home or business address of the Respondent where the annoyance is taking place, which must be in the vicinity of your own home address.
    2. In paragraph 3 you should state what type of animal or animals are kept at the premises and are causing the annoyance.
    3. In paragraph 4 you should describe fully what the animal is doing to cause you annoyance. Please give as much detail as possible.
  1. When you have completed the application form (ensuring you have signed it), you should take it or send it to the Clerk of the Justice of the Peace Court in your local area. The addresses and locations of all the Justice of the Peace Courts in Scotland can be found on the Scottish Court Service website: [www.scotcourts.gov.uk/locations](http://www.scotcourts.gov.uk/locations)

# What Happens Next?

On receipt of your completed application, the Clerk of the Justice of the Peace Court will select a time and date for the hearing when your application will be heard by the Justice of the Peace.

The Clerk will serve a copy of your application on the Respondent by recorded delivery post and notify them of the time and date of the hearing. You will receive a letter confirming that this has been and done and also notifying you of the time and date of the hearing.

# The Hearing

You should attend at the Hearing at the correct time and date and bring with you any witness(es) whom you may wish to call to support your case, and any other documents or evidence which you wish to rely on.

If the Respondent does not attend court (without a reasonable excuse) the Justice of the Peace may decide to hear your application without the Respondent being present. The court will listen to you, to any witness(es) you may call and consider any other evidence you may wish to lead.

If the Respondent has a reasonable excuse for not being able to attend on the date assigned, then the Justice of the Peace may continue the Hearing to another date to allow him/her to attend.

If the animal's keeper does attend Court, he or she will be entitled to give evidence to the Court by calling any witness(es) or producing any other evidence they wish. Each party will be given the opportunity to address the court without interruption by the other party, however once they have finished, they can be asked questions by the other party. Once both parties have had the opportunity to speak then each will be given the opportunity to sum up their evidence.

Once the Justice of the Peace has considered all of this evidence, he or she may make an Order requesting the keeper of the animal to take steps to prevent the continuance of the annoyance (short of destruction of the creature). If an order is

made, the Clerk of the Court will serve an Order on the Keeper of the animal within seven days.

The Justice of the Peace, having heard the evidence, can also decide to make no Order.

**After an Order is Made**

Should the keeper of the animal not comply with the terms of the Order this is a criminal offence. You should report the matter to the Police, who will make all of the necessary enquiries, and the breach of the Order may be reported to the Procurator Fiscal with a view to raising proceedings against the keeper of the animal.

**IN THE JUSTICE OF THE PEACE COURT AT DUMBARTON**

APPLICATION

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

(Full Name)........................................................................................

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

.........·········......................................................·········............

against

(Full Name)..........................................................................................

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

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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.

1. That at the said premises the Respondent keeps.......................................................................................
2. 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 the .............day of ............................20.....