

**PLEASE NOTE THAT REFERENCE TO THE DISTRICT COURT SHOULD
BE CONSTRUED AS REFERENCE TO THE JUSTICE OF THE PEACE
COURT**

**THE CIVIC GOVERNMENT (SCOTLAND) ACT 1982
ANNOYING CREATURES
PROCEDURE RELATIVE TO AN APPLICATION FOR AN ORDER**

The Civic Government (Scotland) Act 1982
Section 49 states that:-

“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 continuation of the annoyance as may be specified”.

An application to a District Court for an Order under S49(2) of the Act may be made by any person.

The Civic Government (Scotland) Act 1982 allows persons who suffer continual annoyance by other people’s animals to apply for an Order which requires 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 become complex, prolonged and expensive. Sometimes the animal’s keeper is unaware of any nuisance being caused and discussions (especially via a recognised mediation service) can resolve the problem, failing which a letter from a Solicitor or Citizen’s Advice Bureau may be required. If however you wish to make application for an Order yourself, you should comply with the following instructions.

1 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.

- (a) 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”.
- (b) In paragraph (1) you the Complainer should give your home address.
- (c) In paragraph (2) you should give the home or business address of the Respondent being the keeper of the animal where the annoyance is taking place.
- (d) In paragraph (3) you should state what type of animal or animals are causing the Annoyance.
- (e) In paragraph (4) you should describe as fully as possible what the animal(s) is/are doing to cause the annoyance.

When you have completed and SIGNED the application form, take it or send it to the Clerk to Justice of The Peace Court, 27 Chambers Street, Edinburgh EH1 1LB. On receipt of your completed Application, the Clerk to the Court will return a copy to you together with two copies (1 principal and 1 service copy) of an Order of Service which you are then required to complete. You then send this Service copy with the copy of Application to the Respondent by RECORDED

DELIVERY. When this is done, attach the proof of posting slip to the principal and return it to the Clerk of the Court or retain and bring it with you to the Court Hearing. The Order of Service will let you know the date and time when your application will be heard by a Justice of the Peace. You should attend 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, or any other evidence upon which you wish to found upon.

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

If the animal's keeper does attend Court either at the date stated in the Order of Service (or a later date, if allowed to do so by the Court because it was not possible for him/her to attend on the date stated in the Order of Service), he/she will also be entitled to give evidence to the Court, by calling any witness(es) or produce other evidence.

Once the Justice of the Peace has considered all the evidence, they may make an Order requesting the Keeper of the animal(s) to take steps to prevent the continuance of the annoyance (short of the destruction of the creature).

The Clerk to the Court will then serve a copy of the Order on the Keeper of the animal within seven days of the Order being made.

Should the animal(s) keeper not comply with the terms of the Order, you will require to report the matter to the police, who will make all 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.

GOVERNMENT (SCOTLAND) ACT 1982
IN THE DISTRICT COURT OF EDINBURGH

APPLICATION
Under
The Civic Government (Scotland) Act 1982 Section 49 (2) and (3)

IN CAUSA

Complainer:

Against

Respondent:

Humbly Sheweth:

1. That the Complainer is resident at
2. That the Respondent occupies premises at being in the vicinity of
3. That at said premises the Respondent keeps
- 4.

May it therefore please the Court to order service of a copy of this application upon the Respondent to fix a date for the hearing of this application not earlier than 14 days after such service and thereafter to make an Order upon 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

Complainer/Solicitor