

## How to quieten that barking dog

"My neighbour's two dogs have been barking incessantly the last few days at all hours of the day and night. My wife and I as well as our young toddler have been getting no sleep and its taking its toll on us personally and at work. Is there anything that we can do legally?"

In terms of our law all property owners have the right to the undisturbed use and enjoyment of their land and property, subject to compliance with certain legislation, regulations and by-laws, which use should be exercised in a manner that does not prejudice or burden anyone else of their use and enjoyment of their property.



The incessant barking of your neighbour's dogs might constitute a noise nuisance as it has the potential to impair or disturb your peace and convenience. To prove that a noise nuisance does exist, a reasonable person without any peculiar sensitivity to the particular noise, must find it, if not quite intolerable, a serious impediment to the ordinary and reasonable enjoyment of his property.

The Noise Control Regulations issued under the Environment Conservation Act prohibits a noise nuisance and determines that no person shall allow an animal owned or controlled by him to cause a noise nuisance. Persons who contravene or fail to comply with the provisions of these regulations, can face penalties of fines not exceeding R20,000 or imprisonment for a period not exceeding two years.

To solve your problem, my first suggestion is to try and solve the problem amicably by approaching your neighbour and informing him about the nuisance being caused by their barking dogs and if possible offer a solution for such problem. Should this amicable approach fail to work, a more formal attorney's letter can also be used warning of further legal steps to be taken should your neighbour not address the nuisance.

If this still does not work, the following legal steps can then be considered:

- Report the noise nuisance by making a written complaint or statement to your local municipality whose officials are empowered to take the necessary steps to resolve the problem. Steps they can take include instructions or warnings to reduce such noise or they can cause the animal to be impounded if the owner fails to comply with their instructions.
- If the problem still persists an application can be made to court for an interdict preventing your neighbour from further causing or allowing such noise. However, one should tread carefully here in not bringing frivolous applications to our already over-burdened courts.

The law does provide remedies for the termination of noise nuisances, provided the relief sought is reasonable and the problem is persistent. First try to address the problem directly with your neighbours and then contact your attorney to assist you with further steps should such be needed.

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### CONTACT US

Tel: 011 844 3900

Fax: 011 234 9562

Email: [insurance@hamtern.co.za](mailto:insurance@hamtern.co.za)

[www.hamtern.co.za](http://www.hamtern.co.za)