Home Owner and Debtor Protection (Scotland) Act 2010

2010 asp 6

PART 1

RESIDENTIAL STANDARD SECURITIES ETC.: CREDITOR'S RIGHTS ON DEFAULT

8 Minor and consequential amendments

(1) In section 19 (calling-up of standard security) of the 1970 Act—

(a) after subsection (10) insert—

"(10A) Subsection (10B) below applies where the calling-up notice relates to a standard security over land or a real right in land used to any extent for residential purposes.

(10B) The period of notice mentioned in the calling-up notice may be shortened under subsection (10) above only with the consent in writing (in addition to any other consent required by that subsection) of—

(a) any person entitled to make an application under section 24B(1) of this Act as an entitled resident falling within paragraph (d), (e) or (f) of section 24C(1), and

(b) where the debtor in the standard security is not the proprietor—

(i) the debtor, and

(ii) if the standard security is over a matrimonial home or a family home (within the definitions in section 23A(3)), the debtor's spouse or civil partner.",

(b) in subsection (11), at the beginning insert " Subject to subsection (12) below, ",

(c) after subsection (11) insert—

"(12) A calling-up notice calling up a standard security over land or a real right in land used to any extent for residential purposes ceases to have

effect on the expiration of a period of 5 years from the date of the notice.”.

(2) In section 21 (notice of default) of the 1970 Act, in subsection (3), for the words “section 19(10) of this Act shall apply as it applies” substitute “ subsections (10) and (10B) of section 19 of this Act shall apply as they apply ”.

(3) In section 23 (rights and duties of parties after service of notice of default) of the 1970 Act, in subsection (2), after “Act” insert “ and subsection (4) below ”.

(4) In the Mortgage Rights (Scotland) Act 2001 (asp 11)—

(a) sections 1 to 3, and

(b) in section 4, subsections (4) to (5A),

are repealed.

(5) In the Homelessness etc. (Scotland) Act 2003 (asp 10)—

(a) in section 11 (notices to local authorities of proceedings for possession and enforcement of standard securities)—

(i) in subsection (3)(a), for “are” substitute “ include ”,

(ii) before paragraph (a) of subsection (5) insert—

“(za) section 5A(2)(c) (notice to local authority of proceedings to eject proprietor in personal occupancy) of the Heritable Securities (Scotland) Act 1894 (c. 44),”,

(iii) paragraph (g) of that subsection is repealed,

(b) in the schedule, paragraph 5 is repealed.

Commencement Information

I1 S. 8 in force at 30.9.2010 by S.S.I. 2010/314, **art. 3** (with transitional provisions and savings in S.S.I. 2010/316, arts. 4, 5)

Status:
Point in time view as at 30/09/2010.

Changes to legislation:
There are currently no known outstanding effects for the Home Owner and Debtor Protection (Scotland) Act 2010, Section 8.