

MORTGAGE RIGHTS (SCOTLAND) ACT 2001

EXPLANATORY NOTES

GLOSSARY OF TERMS

21. A **standard security** is the legal agreement that secures the money borrowed (the debt) from a bank, building society or other creditor on an interest in land (usually a property such as a house). A standard security is the legal term in Scotland for what is commonly called a mortgage and can be secured to borrow money for the purchase of a property or for some other reason such as to pay for a wedding or a new car.
22. A debtor **defaults** when they fail to comply with an obligation under the standard security, most commonly by failing to keep up mortgage repayments. Other defaults include failure to maintain the property and renting out the property without obtaining the consent of the creditor.
23. There may be cases where the debtor does not own the property which is used as security for the money borrowed. In such cases the owner is the **proprietor** and the debtor takes on the obligations of repaying the loan.
24. Where one spouse has the right to occupy the matrimonial home either as owner or as tenant of the property and the other spouse does not have that right, that other spouse is the **non-entitled spouse**.
25. A **calling-up notice** is issued by the creditor and requires the debtor to repay the whole sum borrowed and any interest within two months. The creditor may be entitled to serve a calling-up notice even where the debtor is not in default, but failure to comply with the notice is itself a default. A calling-up notice expires five years from the date of the notice or from the date of the last offer for sale, if the creditor exercised the right to sell.
26. A **notice of default** is issued by the creditor and requires the debtor to remedy the default within one month. A notice of default expires five years from the date of the notice.
27. The creditor can apply to the court for a **warrant under section 24** of the 1970 Act to obtain the right to exercise any of the remedies available to the creditor when the debtor is in default. Remedies include undertaking necessary maintenance to the property and selling the property to pay off the outstanding debt.
28. The creditor can apply to the court under **section 5** of the 1894 Act to eject the debtor where the debtor is in arrears and still occupies the property.