



Mortgage Rights (Scotland) Act 2001

2001 asp 11

4 Notices to debtors, proprietors and occupiers

(1) After section 19 of the 1970 Act there is inserted—

“19A Notice to occupier of calling-up

(1) Where a creditor in a standard security over an interest in land used to any extent for residential purposes serves a calling-up notice, he shall serve a notice in conformity with Form BB (notice to occupier) of Schedule 6 to this Act together with a copy of the calling-up notice.

(2) Notices under subsection (1) above shall be sent by recorded delivery letter addressed to “The Occupier” at the security subjects.

(3) If a creditor fails to comply with subsections (1) and (2) above, the calling-up notice shall be of no effect.”

(2) In section 21 (notice of default) of that Act, after subsection (2) there is inserted—

“(2A) Section 19A of this Act applies where the creditor serves a notice of default as it applies where he serves a calling-up notice.”

(3) In section 24 (application by creditor to court for remedies on default) of that Act, after subsection (2) there is inserted—

“(3) Where the creditor applies to the court under subsection (1) above, he shall, if the standard security is over an interest in land used to any extent for residential purposes—

(a) serve on the debtor and (where the proprietor is not the debtor) on the proprietor a notice in conformity with Form E of Schedule 6 to this Act, and

(b) serve on the occupier of the security subjects a notice in conformity with Form F of that Schedule.

(4) Notices under subsection (3) above shall be sent by recorded delivery letter addressed—

(a) in the case of a notice under subsection (3)(a), to the debtor or, as the case may be, the proprietor at his last known address,

Status: Point in time view as at 02/10/2008. This version of this provision has been superseded.

Changes to legislation: There are currently no known outstanding effects for the Mortgage Rights (Scotland) Act 2001, Section 4. (See end of Document for details)

- (b) in the case of a notice under subsection (3)(b), to “The Occupier” at the security subjects.”
- (4) Where a creditor in a standard security over [^{F1}land or a real right] in land used to any extent for residential purposes commences proceedings under section 5 (power to eject proprietor in personal occupancy) of the 1894 Act, the creditor must—
- (a) serve on the proprietor a notice in conformity with Form 1 in Part 2 of the schedule to this Act, ^{F2}...
 - (b) serve on the occupier of the security subjects a notice in conformity with Form 2 in that Part of that schedule [^{F3}and
 - (c) give notice of the commencement of the proceedings to the local authority in whose area the security subjects are situated, unless the creditor is that local authority.]
- (5) Notices under subsection [^{F4}(4)(a) or (b)] must be sent by recorded delivery letter addressed—
- (a) in the case of a notice under subsection (4)(a), to the proprietor at the proprietor’s last known address,
 - (b) in the case of a notice under subsection (4)(b), to “The Occupier” at the security subjects.
- [^{F5}(5A) Notice under subsection (4)(c) is to be given in the form and manner prescribed under section 11(3) of the Homelessness etc. (Scotland) Act 2003 (asp 10).]
- (6) The schedule to this Act, Part 1 of which amends Schedule 6 to the 1970 Act (forms to be used in relation to calling-up and default) and Part 2 of which sets out the Forms referred to in subsection (4), has effect.
- (7) The Scottish Ministers may, by order made by statutory instrument, amend—
- (a) the Notes inserted in Forms A and B in Schedule 6 to the 1970 Act by Part 1 of the schedule to this Act,
 - (b) Forms BB, E and F in Schedule 6 to the 1970 Act,
 - (c) the Forms set out in Part 2 of the schedule to this Act.
- (8) A statutory instrument containing an order under subsection (7) is subject to annulment in pursuance of a resolution of the Scottish Parliament.

Textual Amendments

- F1** Words in s. 4(4) substituted (28.11.2004) by [Title Conditions \(Scotland\) Act 2003 \(asp 9\)](#), ss. 122(1), 129(2), [Sch. 14 para. 13](#) (with ss. 119, 121) (see S.S.I. 2003/456, art. 2)
- F2** Word in s. 4(4)(a) repealed (2.10.2008 for specified purposes) by [Homelessness etc. \(Scotland\) Act 2003 \(asp 10\)](#), s. 14(1), [Sch. para. 5\(a\)\(i\)](#); S.S.I. 2008/313, art. 2(a)
- F3** S. 4(4)(c) and word inserted (2.10.2008 for specified purposes) by [Homelessness etc. \(Scotland\) Act 2003 \(asp 10\)](#), s. 14(1), [Sch. para. 5\(a\)\(ii\)](#); S.S.I. 2008/313, art. 2(a)
- F4** Words in s. 4(5) substituted (2.10.2008 for specified purposes) by [Homelessness etc. \(Scotland\) Act 2003 \(asp 10\)](#), s. 14(1), [Sch. para. 5\(b\)](#); S.S.I. 2008/313, art. 2(a)
- F5** S. 4(5A) inserted (2.10.2008 for specified purposes) by [Homelessness etc. \(Scotland\) Act 2003 \(asp 10\)](#), s. 14(1), [Sch. para. 5\(c\)](#); S.S.I. 2008/313, art. 2(a)

Status:

Point in time view as at 02/10/2008. This version of this provision has been superseded.

Changes to legislation:

There are currently no known outstanding effects for the Mortgage Rights (Scotland) Act 2001, Section 4.