



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Status: This is the original version (as it was originally enacted).

- (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 an interest 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, and
 - (b) serve on the occupier of the security subjects a notice in conformity with Form 2 in that Part of that schedule.
- (5) Notices under subsection (4) 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.
- (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.