



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

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

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 are repealed.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

- II** 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)

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