
SCOTTISH STATUTORY INSTRUMENTS

2010 No. 317

The Applications by Creditors (Pre-Action Requirements) (Scotland) Order 2010

Steps which are likely to result in payment within a reasonable time

4.—(1) Steps taken by the debtor which are steps within the meaning of section 5B(4)(a) of the 1894 Act and section 24A(4)(a) of the 1970 Act include providing documentary evidence to the creditor—

- (a) of submission of a claim to an insurer under a payment protection policy currently held by the debtor in respect of the security or the contract to which the security relates, where the evidence demonstrates a reasonable expectation of eligibility for payment from the insurer, unless paragraph (3) applies;
- (b) of submission of an application by the debtor to a support scheme run by Scottish Ministers or the United Kingdom Government, where the evidence demonstrates a reasonable expectation of being eligible for support in respect of the security or the contract to which the security relates, unless the creditor does not participate in, does not agree with any term of, or does not agree to the sale of the property in accordance with such a scheme or unless paragraph (3) applies; and
- (c) demonstrating that the debtor or a person acting as agent for the debtor is actively marketing the property for sale at an appropriate price in accordance with professional advice, unless paragraph (4) applies.

(2) Documentary evidence for the purposes of paragraph (1)(c) must include the documents prescribed for the purposes of sections 98, 99(1) and 101(2) of the Housing (Scotland) Act 2006⁽¹⁾, where section 98 requires the person responsible for marketing the property to possess those documents.

- (3) This paragraph applies where either the step in paragraph (1)(a) or (1)(b) is taken and—
 - (a) the debtor's claim or application has not been determined within a reasonable time or is refused; or
 - (b) the debtor is unable to pay any amount due under the security which is not covered by the insurance policy or support scheme.
- (4) This paragraph applies where the step in paragraph (1)(c) is taken and—
 - (a) the debtor rejects a reasonable offer to purchase the property;
 - (b) the property has not sold within a reasonable time of that step being taken; or
 - (c) the debtor refuses to provide the creditor with details of any agent acting for him in relation to the marketing or sale of the property or to authorise any such agent to communicate with the creditor, resulting in the creditor being unable to readily ascertain if the circumstances in sub-paragraphs (a) or (b) have occurred.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.
