

SCHEDULE

Paragraph 2(5)

Form 11C

Rule 3.4.3(2)

Form of certificate of completion of pre-action requirements

Certificate of completion of pre-action requirements in an application under [insert reference to provision or provisions under which application is made] of the property at (*insert address of security subjects*).

in the cause

SHERIFFDOM OF (*insert name of sheriffdom*)

AT (*insert place of sheriff court*)

[A.B.], (*insert designation and address*), Pursuer

against

[C.D.], (*insert designation and address*), Defender

Court ref. no:

(*Insert name of pursuer*), pursuer and creditor in the security with (*insert name of defender*), the defender, in respect of the premises at (*insert address of security subjects*) aver(s) that the pre-action requirements, have been complied with (*tick boxes to confirm*)—

1. As soon as reasonably practicable upon the defender entering into default, the pursuer provided the defender with clear information about —
 - (a) the terms of the security;
 - (b) the amount due to the pursuer under the security, including any arrears and any charges in respect of late payment, broken down so as to show—
 - (i) the total amount of the arrears;
 - (ii) the total outstanding amount due including any charges already incurred;
 - (c) the nature and the level of any charges that may be incurred by virtue of the contract to which the security relates if the default is not remedied; and
 - (d) any other obligation under the security in respect of which the defender is in default.

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Please provide details of (a) the date on which the information mentioned in 1(a) was provided; and (b) how the requirements of 1(b), (c) and (d) were complied with including a copy of the information provided under those paragraphs:

3. The pursuer has made reasonable efforts to agree with the defender proposals in respect of future payments to the pursuer under the security and the fulfilment of any other obligation under the security in respect of which the defender is in default, including—
- (a) making reasonable attempts to contact the defender to discuss the default;
 - (b) providing the defender with details of any proposals made by the pursuer, set out in such a way as to allow the defender to consider the proposal;
 - (c) allowing the defender reasonable time to consider any proposals made by the pursuer;
 - (d) notifying the defender within a reasonable time of any decision taken by the pursuer to accept or reject a proposal made by the defender and, where the pursuer rejects such proposal, the pursuer has provided reasons for rejecting the proposal in writing within 10 working days of notifying the defender it is rejecting the proposal;
 - (e) considering the affordability of any proposal for the defender taking into account, where known to the pursuer, the defender’s personal and financial circumstances.

Provide details:

- *3. Where the defender has failed to comply with a condition of an agreement reached with the pursuer in respect of any proposal and the defender has not previously failed to comply with a condition of the agreement—
- (a) the pursuer has given the defender notice in writing of its decision to make an application under [insert reference to provision or provisions under which application is made] and the ground of the proposed application before making the application;
 - (b) the pursuer has not made an application before the expiry of 15 working days**, beginning with the date on which the defender is deemed to have received the notice referred to at paragraph (a);
 - (c) the default by the defender in respect of which the application is intended to be made has not been remedied during that notice period.

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Provide details of the defender's failure to comply with a condition of the agreement:

*Indicate here if not applicable

**In this paragraph, "working day" means a day that is not a Saturday or Sunday, or any day that is a bank holiday under the Banking and Financial Dealings Act 1971(a) in any part of the United Kingdom.

4. The defender has not taken steps that are likely to result in—
- (a) the payment to the pursuer within a reasonable time of any arrears, or the whole amount, due to the pursuer under the security; and
 - (b) fulfilment by the defender within a reasonable time of any other obligation under the security in respect of which the defender is in default.

Indicate what (if any) steps have been taken by the defender and why those steps are not considered to be effective:

5. The pursuer has provided the defender with information about sources of advice and assistance in relation to management of debt, including—
- (a) where the security is regulated, any relevant information sheet published by the appropriate regulatory body;
 - (b) a local citizens advice bureau or other advice organisation; and
 - (c) the housing department of the local authority in whose area the property which is subject to the security is situated.
6. The pursuer has encouraged the defender to contact the local authority in whose area the security subjects are situated.
7. The pursuer has had regard to any guidance issued by the Scottish Ministers.

(Signed)

[X.Y.], (add designation and business address)

Pursuer's solicitor

(a) 1971 c.80.

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Form 11D

Rule 3.4.6

Form of notice to entitled residents in an application for enforcement of security over residential property

Notice to an entitled resident in an application for repossession of the property at (*insert address of security subjects*).

SHERIFFDOM OF (*insert name of sheriffdom*)

AT (*insert place of sheriff court*)

[A.B.], (*insert designation and address*), Pursuer

against

[C.D.], (*insert designation and address*), Defender

Court ref. no:

To: (*insert name and address of entitled resident*)

Attached to this notice is a copy of an application by (*insert name of pursuer*) under [insert reference to provision or provisions under which application is made]. **IF THE APPLICATION IS GRANTED, THE PROPERTY AT (*INSERT ADDRESS OF SECURITY SUBJECTS*) MAY BE REPOSSESSED AND YOU WOULD NO LONGER HAVE THE RIGHT TO RESIDE THERE.** A Form 11E application form is also attached.

This Notice—

(a) gives you warning that an application has been made to the sheriff court for an order which may affect your interest as an entitled resident under [*insert reference to relevant provision or provisions*] in the property at (*insert address of security subjects*); and

(b) informs you that an entitled resident may apply to the court to continue the proceedings or make any other order [*insert reference to relevant provision or provisions*] of that Act.

IF YOU WISH TO MAKE AN APPLICATION FOR AN ORDER UNDER [*INSERT REFERENCE TO RELEVANT PROVISION OR PROVISIONS*] you should complete and lodge Form 11E with the sheriff clerk at (*insert name and address of sheriff court*).

IF YOU ARE UNCERTAIN AS TO WHAT ACTION TO TAKE you should consult a solicitor. You may be eligible for legal aid depending on your income, and you can get information about legal aid from a solicitor. You may also obtain advice from an approved lay representative, or any Citizens Advice Bureau or other advice agency.

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PLEASE NOTE THAT IF YOU DO NOTHING IN ANSWER TO THIS DOCUMENT the court will consider the application in the absence of you or your representative.

(Signed)
[P.Q.], Sheriff Officer, or
[X.Y.] *(add designation and
business address)* Solicitor

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Form 11E

Rules 3.4.6 and 3.4.7

Form of application to court by entitled resident

Application to court by an entitled resident in proceedings for repossession of the property at *(insert address of security subjects)*.

Sheriff Court:

Date:

Court ref. no.

1. This application is made [by/on behalf of] *(delete as appropriate)* *(insert name and address of entitled resident)*.

2. The applicant is an entitled resident within the meaning of section 24C(1) of the Conveyancing and Feudal Reform (Scotland) Act 1970 and/or, as the case may be, section 5D of the Heritable Securities (Scotland) Act 1894 because his or her sole or main residence is the security subjects (in whole or in part) at *(insert address of security subjects)* and *(*tick one box as appropriate)*—
 - (a) *he or she is the proprietor of the security subjects (where the proprietor is not the debtor in the security);*
 - (b) *her or she is the non-entitled spouse of the debtor or the proprietor of security subjects which are (in whole or in part) a matrimonial home;*
 - (c) *he or she is the non-entitled civil partner of the debtor or the proprietor of security subjects which are (in whole or in part) a family home;*
 - (d) *he or she is a person living together with the debtor or the proprietor as husband and wife;*
 - (e) *he or she is a person living together with the debtor or the proprietor in a relationship which has the characteristics of the relationship between civil partners;*
 - (f) *he or she lived together with the debtor or the proprietor in a relationship described in (d) or (e) and—*
 - (i) *the security subjects (in whole or in part) are not the sole or main residence of the debtor or the proprietor;*
 - (ii) *he or she lived together with the debtor or the proprietor throughout the period of 6 months ending with the date on which the security subjects ceased to be the sole or main residence of the debtor or the proprietor; and*
 - (iii) *the security subjects (in whole or in part) are the sole or main residence of a child aged under 16 who is a child of both parties in that relationship.*

3. The applicant believes that the court should consider this application because *(insert relevant details)*—

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4. The applicant asks the court to make an order under section 24B(1) of the Conveyancing and Feudal Reform (Scotland) Act 1970 and/or section 5C(1) of the Heritable Securities (Scotland) Act 1894 for *(insert details of what you wish the court to do and why—)*

WHAT HAPPENS NEXT: When you lodge this form at the sheriff clerk's office, the sheriff will fix a hearing for all those with an interest to appear and be heard. You are required to serve upon every party and intimate to every entitled resident a copy of this form, together with details of the date, time and place of the hearing.

IF YOU ARE UNCERTAIN AS TO WHAT ACTION TO TAKE you should consult a solicitor. You may be eligible for legal aid depending on your income, and you can get information about legal aid from a solicitor. You may also obtain advice from an approved lay representative or any Citizens Advice Bureau or other advice agency.

Date *(insert date)*

(Signed)
[P.Q.], (Applicant),
or [X.Y.], *(add designation and address of Applicant's representative)*

DIET ASSIGNED

At *(insert place)* on *(insert date)*, the court assigns the *(insert date of hearing)* at *(insert time)* at *(insert name of sheriff court)* as a diet for hearing parties on the Form 11E application.

Date *(insert date)*

(Signed)
Sheriff Clerk

EXECUTION OF CITATION

At *(insert place)* on *(insert date)*, I hereby certify that upon the *(insert date)*, I duly served upon every party and intimated to every entitled resident a copy of this Form 11E application, together with details of the hearing. This I did by *(insert method of service/intimation)*.

Date *(insert date)*

(Signed)
[P.Q.], Sheriff Officer, or
[X.Y.] *(add designation and business address)* Applicant's
Solicitor

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Form 11F

Rule 3.4.8(2)

Form of minute for recall of decree

Minute for recall of decree in an application for repossession of the property at (*insert address of security subjects*).

Sheriff Court:

Date:

Court ref. no.

A.B. (*pursuer*) against C.D. (*defender(s)*)

(*Insert name*), being (*tick one box as appropriate*)–

The Pursuer*;

The Defender*; or

An entitled resident within the meaning of section 24C(1) of the Conveyancing and Feudal Reform (Scotland) Act 1970 and/or, as the case may be, section 5D of the Heritable Securities (Scotland) Act 1894 because my sole or main residence is the security subjects (in whole or in part) at (*insert address of security subjects*) and—*

(a) *I am the proprietor of the security subjects (where the proprietor is not the debtor in the security);*

(b) *I am the non-entitled spouse of the debtor or the proprietor of security subjects which are (in whole or in part) a matrimonial home;*

(c) *I am the non-entitled civil partner of the debtor or the proprietor of security subjects which are (in whole or in part) a family home;*

(d) *I am a person living together with the debtor or the proprietor as husband and wife;*

(e) *I am a person living together with the debtor or the proprietor in a relationship which has the characteristics of the relationship between civil partners;*

(f) *I am a person who lived together with the debtor or the proprietor in a relationship described in (d) or (e) and—*

(i) *the security subjects (in whole or in part) are not the sole or main residence of the debtor or the proprietor;*

(ii) *I lived together with the debtor or the proprietor throughout the period of 6 months ending with the date on which the security subjects ceased to be the sole or main residence of the debtor or the proprietor; and*

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- (iii) *the security subjects (in whole or in part) are the sole or main residence of a child aged under 16 who is a child of both parties in that relationship.*

moves the court to recall the decree pronounced on *(insert date)* in this case.

WHAT HAPPENS NEXT: When you lodge this form at the sheriff clerk's office, the sheriff clerk will fix a hearing for all those with an interest to appear and be heard. You are required to serve upon every party and intimate to every entitled resident a copy of this form, together with details of the date, time and place of the hearing.

If you wish to proceed with this application for recall of decree **YOU MUST ATTEND OR BE REPRESENTED AT THAT HEARING.**

YOU ARE STRONGLY ADVISED TO SEEK IMMEDIATE LEGAL ADVICE FROM A SOLICITOR. You may be eligible for legal aid depending on your income, and you can get information about legal aid from a solicitor. You may also obtain advice from an approved lay representative or any Citizens Advice Bureau or other advice agency.

Date *(insert date)*

(Signed)
[P.Q.], (Applicant),
or [X.Y.], *(add designation and address of Applicant's representative)*

DIET ASSIGNED

At *(insert place)* on *(insert date)*, the court assigns the *(insert date of hearing)* at *(insert time)* at *(insert name of sheriff court)* as a diet for hearing parties on the Form 11F application.

Date *(insert date)*

(Signed)
Sheriff Clerk

EXECUTION OF CITATION

At *(insert place)* on *(insert date)*, I hereby certify that upon the *(insert date)*, I duly served upon every party and intimated to every entitled resident a copy of this Form 11F application, together with details of the hearing. This I did by *(insert method of service/intimation)*.

Date *(insert date)*

(Signed)
[P.Q.], Sheriff Officer, or
[X.Y.] *(add designation and business address)* Applicant's
Solicitor

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Form 11G

Rule 3.4.8(10)

Form of intimation where peremptory diet fixed in a recall of decree application

Intimation of peremptory diet fixed in an application for repossession of the property at *(insert address of security subjects)*.

SHERIFFDOM OF *(insert name of sheriffdom)*

AT *(insert place of sheriff court)*

[A.B.], *(insert designation and address)*, Pursuer

against

[C.D.], *(insert designation and address)*, Defender

Court ref. no:

The court noted that you did not appear at the Hearing to consider your application for recall of decree on *(insert date)*. In your absence the decree for repossession of the property at *(insert address of security subjects)* has been recalled. As a result of your non-appearance the sheriff has ordered that you appear or be represented on *(insert date)* at *(insert time)* within *(insert name and address of sheriff court)* in order to ascertain whether you intend to proceed with your defence or your application.

A copy of the order is attached.

When you appear you will be asked by the sheriff to state whether you intend to proceed with your defence or your application.

IF YOU ARE UNCERTAIN AS TO WHAT ACTION TO TAKE you should consult a solicitor. You may be eligible for legal aid depending on your income, and you can get information about legal aid from a solicitor. You may also obtain advice from an approved lay representative or any Citizens Advice Bureau or other advice agency.

PLEASE NOTE THAT IF YOU DO NOT APPEAR OR ARE NOT REPRESENTED AT THAT HEARING the sheriff may regard you as no longer wishing to proceed with your defence or your application and the sheriff may award decree of new against you in your absence and you will not be allowed to make a further application for recall.

Date *(insert date)*

(Signed)
(add designation and address)