

*Status: Point in time view as at 05/12/2005.*

*Changes to legislation: Mortgage Rights (Scotland) Act 2001 is up to date with all changes known to be in force on or before 12 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## SCHEDULE

*(introduced by section 4)*

### NOTICES TO DEBTORS, PROPRIETORS AND OCCUPIERS

#### PART 1

##### AMENDMENTS TO SCHEDULE 6 TO THE 1970 ACT

- 1 Schedule 6 to the 1970 Act (forms to be used in connection with calling-up of, or default under, standard security) is amended as follows.
- 2 In Form A (notice of calling-up of standard security) there is inserted, at the end of the notice—

“**NOTE:** The Mortgage Rights (Scotland) Act 2001 gives you the right in certain circumstances to apply to the court to suspend the rights of C.D. You have two months (which may be shortened only with your consent) to make an application. The court will have regard in particular to the circumstances giving rise to the service of this notice, your ability to comply with this notice, any action taken by C.D. to assist the debtor in the standard security to fulfil the obligations under it and the ability of you and anyone else residing at the property to find reasonable alternative accommodation. If you wish to make such an application, you should consult a solicitor. You may be eligible for legal aid depending on your circumstances, and you can get information about legal aid from a solicitor. You may also be able to get advice, including advice about how to manage debt, from any Citizens Advice Bureau or from other advice agencies.”
- 3 In Form B (notice of default under standard security) there is inserted, at the end of the notice—

“**NOTE:** The Mortgage Rights (Scotland) Act 2001 gives you the right in certain circumstances to apply to the court to suspend the rights of C.D. You have two months (which may be shortened only with your consent) to make an application. The court will have regard in particular to the nature of and reasons for the default, your ability to fulfil the obligations under the standard security, any action taken by C.D. to assist the debtor in the standard security to fulfil those obligations and the ability of you and anyone else residing at the property to find reasonable alternative accommodation. If you wish to make such an application, you should consult a solicitor. You may be eligible for legal aid depending on your circumstances, and you can get information about legal aid from a solicitor. You may also be able to get advice, including advice about how to manage debt, from any Citizens Advice Bureau or from other advice agencies.”
- 4 After Form B there is inserted—

#### “FORM BB

##### NOTICE TO OCCUPIER

To the Occupier (*address*)

A Notice of Calling-up of a standard security/ Default under a standard security (*delete as appropriate*) has been served by C.D. on A.B. in relation to (*address of subjects*). A copy of the notice is attached.

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If you are a tenant of A.B., in certain circumstances C.D. cannot take possession of the property without a court order. You should obtain legal advice about your rights as a tenant. You may be eligible for legal aid depending on your circumstances, and you can get information about legal aid from a solicitor. You may also be able to get advice from any Citizens Advice Bureau or from other advice agencies.

If you are the spouse or partner of A.B., the Mortgage Rights (Scotland) Act 2001 gives you the right in certain circumstances to apply to the court to suspend the rights of C.D. You have two months (which may be shortened only with your consent) to make an application. The court will have regard in particular to—

*(for a Notice of Calling-up)* the circumstances giving rise to the service of the Notice of Calling-up, your ability to comply with the notice, any action taken by C.D. to assist the debtor in the standard security to fulfil the obligations under it and the ability of you and anyone else residing at the property to find reasonable alternative accommodation.

*(for a Notice of Default)* the nature of and reasons for the default, your ability to fulfil the obligations under the standard security, any action taken by C.D. to assist the debtor in the standard security to fulfil those obligations and the ability of you and anyone else residing at the property to find reasonable alternative accommodation.

*(delete as appropriate)*

If you wish to make such an application, you should consult a solicitor. You may be eligible for legal aid depending on your circumstances, and you can get information about legal aid from a solicitor. You may also be able to get advice, including advice about how to manage debt, from any Citizens Advice Bureau or from other advice agencies.

Dated

*(Signature of C.D., or signature and designation of C.D.'s agent followed by the words Agent of C.D.)*”

5 After Form D there is inserted—

### “FORM E

To A.B. *(address)*

C.D. *(designation)*, the creditor in a standard security by you *(or by E.F.)* in favour of C.D. *(or of G.H. to which C.D. now has right)* recorded in the Register for» *(or, as the case may be, registered in the Land Register for Scotland)* on *(date)* has applied to the court under section 24 of the Conveyancing and Feudal Reform (Scotland) Act 1970 for warrant to exercise in relation to *(address of security subjects)* remedies to which he is entitled on the following default—

*(specify in detail the default in respect of which the application is made)*

A copy of the application is attached.

Dated

*(Signature of C.D., or signature and designation of C.D.'s agent followed by the words Agent of C.D.)*

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**NOTE:** The Mortgage Rights (Scotland) Act 2001 gives you the right in certain circumstances to apply to the court for suspension of the rights of C.D. The court will have regard in particular to the nature of and reasons for the default, your ability to fulfil the obligations under the standard security, any action taken by C.D. to assist the debtor in the standard security to fulfil those obligations and the ability of you and anyone else residing at the property to find reasonable alternative accommodation. If you wish to make such an application, you should consult a solicitor. You may be eligible for legal aid depending on your circumstances, and you can get information about legal aid from a solicitor. You may also be able to get advice, including advice about how to manage debt, from any Citizens Advice Bureau or from other advice agencies.

## FORM F

To the Occupier (*address*)

C.D. (*designation*) has applied to the court under section 24 of the Conveyancing and Feudal Reform (Scotland) Act 1970 for warrant to exercise in relation to (*address of security subjects*) remedies to which he is entitled on the default of A.B. (*designation*) in the performance of his obligations under a standard security over (*address of subjects*). A copy of the application is attached.

If you are a tenant of A.B. (*or, if A.B. is not the proprietor of the subjects, of E.F. (being the proprietor)*), in certain circumstances C.D. cannot take possession of the property without a court order. You should obtain legal advice about your rights as a tenant. You may be eligible for legal aid depending on your circumstances, and you can get information about legal aid from a solicitor. You may also be able to get advice from any Citizens Advice Bureau or from other advice agencies.

If you are the spouse or partner of A.B., the Mortgage Rights (Scotland) Act 2001 gives you the right in certain circumstances to apply to the court to suspend the rights of C.D. The court will have regard in particular to the nature of and reasons for the default, your ability to fulfil the obligations under the standard security, any action taken by C.D. to assist the debtor in the standard security to fulfil those obligations and the ability of you and anyone else residing at the property to find reasonable alternative accommodation. If you wish to make such an application, you should consult a solicitor. You may be eligible for legal aid depending on your circumstances, and you can get information about legal aid from a solicitor. You may also be able to get advice, including advice about how to manage debt, from any Citizens Advice Bureau or from other advice agencies.

Dated

(*Signature of C.D., or signature and designation of C.D.'s agent followed by the words Agent of C.D.*)”

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## PART 2

### FORMS RELATING TO PROCEEDINGS UNDER SECTION 5 OF THE 1894 ACT

#### FORM 1

To A.B. (*address*)

C.D. (*designation*), the creditor in a standard security by you (*or* by E.F.) in favour of C.D. (*or* of G.H. to which C.D. now has right) recorded in the Register for» (*or, as the case may be, registered in the Land Register for Scotland*) on (*date*) has commenced proceedings against you under section 5 of the Heritable Securities (Scotland) Act 1894 to eject you from (*address of security subjects*). A copy of the initial writ is attached.

Dated

(*Signature of C.D., or signature and designation of C.D.'s agent followed by the words Agent of C.D.*)

**NOTE:** The Mortgage Rights (Scotland) Act 2001 gives you the right in certain circumstances to apply to the court for suspension of the rights of C.D. The court will have regard in particular to the nature of and reasons for the default, your ability to fulfil the obligations under the standard security, any action taken by C.D. to assist the debtor in the standard security to fulfil those obligations and the ability of you and anyone else residing at the property to find reasonable alternative accommodation. If you wish to make such an application, you should consult a solicitor. You may be eligible for legal aid depending on your circumstances, and you can get information about legal aid from a solicitor. You may also be able to get advice, including advice about how to manage debt, from any Citizens Advice Bureau or from other advice agencies.

#### FORM 2

To the Occupier (*address*)

C.D. (*designation*) has commenced proceedings under section 5 of the Heritable Securities (Scotland) Act 1894 to eject A.B. from (*address of security subjects*). A copy of the initial writ is attached.

If you are a tenant of A.B., in certain circumstances C.D. cannot take possession of the property without a court order. You should obtain legal advice about your rights as a tenant. You may be eligible for legal aid depending on your circumstances, and you can get information about legal aid from a solicitor. You may also be able to get advice from any Citizens Advice Bureau or from other advice agencies.

If you are the spouse or partner of A.B., the Mortgage Rights (Scotland) Act 2001 gives you the right in certain circumstances to apply to the court to suspend the rights of C.D. The court will have regard in particular to the nature of and reasons for the default, your ability to fulfil the obligations under the standard security, any action taken by C.D. to assist the debtor in the standard security to fulfil those obligations and the ability of you and anyone else residing at the property to find reasonable alternative accommodation. If you wish to make such an application, you should consult a solicitor. You may be eligible for legal aid depending on your circumstances, and you can get information about legal aid from a solicitor. You may also be able to get advice, including advice about how to manage debt, from any Citizens Advice Bureau or from other advice agencies.

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Dated

*(Signature of C.D., or signature and designation of C.D.'s agent followed by the words Agent of C.D.)*

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