



Home Owner and Debtor Protection (Scotland) Act 2010

2010 asp 6

PART 2

SEQUESTRATION AND TRUST DEEDS

11 Power in relation to debtor's family home

In section 40 (power in relation to family home) of the 1985 Act—

- (a) in subsections (1), (2) and (3), after “trustee” in each place where it occurs insert “or the trustee acting under the trust deed”,
- (b) in subsection (2), for “twelve months” substitute “3 years”,
- (c) after subsection (3) insert—

“(3A) Before commencing proceedings to obtain the authority of the sheriff under subsection (1)(b) the trustee, or the trustee acting under the trust deed, must give notice of the proceedings to the local authority in whose area the home is situated.

(3B) Notice under subsection (3A) must be given in such form and manner as may be prescribed by the Scottish Ministers.”, and

- (d) in subsection (4)—
 - (i) after paragraph (b), insert—

“(ba) “local authority” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c. 39);”, and
 - (ii) in paragraph (d), after “sequestration” insert “or, as the case may be, the day immediately preceding the date the trust deed was granted”.