



Home Owner and Debtor Protection (Scotland) Act 2010

2010 asp 6

PART 1

RESIDENTIAL STANDARD SECURITIES ETC.: CREDITOR'S RIGHTS ON DEFAULT

6 Recall of decree

(1) After section 24C of the 1970 Act (inserted by section 5 of this Act) insert—

“24D Section 24(1B) proceedings: recall of decree

- (1) A person mentioned in subsection (2) below may apply to the court for recall of a decree granted on an application under section 24(1B) of this Act.
- (2) Those persons are—
 - (a) the creditor;
 - (b) the debtor, but only if the debtor did not appear and was not represented in the proceedings on the application under section 24(1B);
 - (c) an entitled resident, but only if the entitled resident did not make an application under section 24B(1) in the proceedings.
- (3) An application under subsection (1) may be made at any time before the decree has been fully implemented.
- (4) An application by any person under subsection (1) above is not competent if an application under that subsection has already been made by that person in relation to the application under section 24(1B).
- (5) An applicant under subsection (1) above must give notice of the application to—
 - (a) the creditor (unless the applicant is the creditor);
 - (b) the debtor (unless the applicant is the debtor);

Status: This is the original version (as it was originally enacted).

- (c) every entitled resident (or, if the applicant is an entitled resident, every other entitled resident).”.

(2) After section 5D of the 1894 Act (inserted by section 5 of this Act) insert—

“5E Recall of decree

- (1) A person mentioned in subsection (2) may apply to the court for recall of a decree granted on an application to which section 5A applies.
- (2) Those persons are—
 - (a) the creditor,
 - (b) the debtor, but only if the debtor did not appear and was not represented in the proceedings on the application,
 - (c) an entitled resident, but only if the entitled resident did not make an application under section 5C(1) in the proceedings.
- (3) An application under subsection (1) may be made at any time before the decree has been fully implemented.
- (4) An application by any person under subsection (1) is not competent if an application under that subsection has already been made by that person in relation to the application to which section 5A applies.
- (5) An applicant under subsection (1) must give notice of the application to—
 - (a) the creditor (unless the applicant is the creditor),
 - (b) the debtor (unless the applicant is the debtor),
 - (c) every entitled resident (or, if the applicant is an entitled resident, every other entitled resident).”.