



Home Owner and Debtor Protection (Scotland) Act 2010

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PART 1

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

7 Representation in repossession proceedings

(1) After section 24D of the 1970 Act (inserted by section 6 of this Act) insert—

“24E Lay representation in section 24(1B) proceedings etc.

- (1) In proceedings under sections 24(1B) and 24D(1) of this Act, the debtor and any entitled resident may be represented by an approved lay representative except in prescribed circumstances.
- (2) An approved lay representative must throughout the proceedings satisfy the sheriff that the representative is a suitable person to represent the debtor or entitled resident and is authorised by the debtor or entitled resident to do so.
- (3) References in this section to an approved lay representative are to an individual (other than an advocate or solicitor) approved for the purposes of this section by a person or body prescribed, or of a description prescribed, by the Scottish Ministers by order made by statutory instrument.
- (4) An order under subsection (3) above may—
 - (a) prescribe persons or bodies, or descriptions of persons or bodies, for the purposes of that subsection;
 - (b) make provision about the procedure for, and form and manner of—
 - (i) approval,
 - (ii) withdrawal of approval,of an individual for the purposes of this section;
 - (c) make provision requiring a prescribed person or body, or a person or body of a prescribed description, to provide information to the Scottish Ministers about approvals and withdrawals of approval;

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- (d) prescribe circumstances in which an approved lay representative may not represent a debtor or entitled resident.
 - (5) Before making an order under subsection (3) above the Scottish Ministers must consult the Lord President of the Court of Session.
 - (6) A statutory instrument containing an order under subsection (3) above is subject to annulment in pursuance of a resolution of the Scottish Parliament.”.
- (2) After section 5E of the 1894 Act (inserted by section 6 of this Act) insert—

“5F Lay representation in section 5 proceedings relating to residential property etc.

- (1) In proceedings on an application to which section 5A applies and proceedings under section 5E(1), the debtor and any entitled resident may be represented by an approved lay representative except in prescribed circumstances.
 - (2) An approved lay representative must throughout the proceedings satisfy the sheriff that the representative is a suitable person to represent the debtor or entitled resident and is authorised by the debtor or entitled resident to do so.
 - (3) References in this section to an approved lay representative are to an individual (other than an advocate or solicitor) approved for the purposes of this section by a person or body prescribed, or of a description prescribed, by the Scottish Ministers by order made by statutory instrument.
 - (4) An order under subsection (3) may—
 - (a) prescribe persons or bodies, or descriptions of persons or bodies, for the purposes of that subsection,
 - (b) make provision about the procedure for, and form and manner of—
 - (i) approval,
 - (ii) withdrawal of approval,
 of an individual for the purposes of this section,
 - (c) make provision requiring a prescribed person or body, or a person or body of a prescribed description, to provide information to the Scottish Ministers about approvals and withdrawals of approval,
 - (d) prescribe circumstances in which an approved lay representative may not represent a debtor or entitled resident.
 - (5) Before making an order under subsection (3) the Scottish Ministers must consult the Lord President of the Court of Session.
 - (6) A statutory instrument containing an order under subsection (3) is subject to annulment in pursuance of a resolution of the Scottish Parliament.”.
- (3) In section 32 (offence for unqualified persons to prepare certain documents) of the Solicitors (Scotland) Act 1980 (c. 46), in subsection (2B)—
- (a) after “apply to” insert “—
 - (a)”,
 - and
 - (b) at the end add—
 - “(b) an approved lay representative within the meaning of section 5F of the Heritable Securities (Scotland) Act 1894

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or section 24E of the Conveyancing and Feudal Reform (Scotland) Act 1970 (lay representation in proceedings by creditors for repossession of residential property) while acting in pursuance of the section in question.”.