

This is an example of the form that a mortgage lender will send to a mortgage holder to notify them that they have started proceedings to eject them from the property over which the mortgage has been taken out.

In this form:

- **“A.B.” refers to the mortgage holder**
- **“C.D.” refers to the mortgage lender**
- **“E.F.” refers to another party, for example a partner of the mortgage holder, who may also be liable for the mortgage**
- **“G.H.” refers to another party who may have been instructed by the mortgage lender to claim the debt owed under the mortgage agreement**

FORM 1

NOTICE OF PROCEEDINGS

IT IS IMPORTANT THAT YOU READ THIS LETTER – YOUR HOME MAY BE AT RISK OF REPOSSESSION

To A.B. (address)

C.D. (designation), the creditor in a 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) in consequence of 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.)

IT IS STRONGLY RECOMMENDED THAT YOU SEEK ADVICE:

You can get advice about this Notice and what it means for you from a solicitor, Citizens Advice Bureau or other advice agency or an approved lay representative. A Citizens Advice Bureau or other advice agency may also be able to give you advice about how to manage debt. Take this Notice with you when seeking advice. You may be eligible for legal aid depending on your circumstances. You can get information about legal aid from a solicitor.

A solicitor or approved lay representative may represent you in any court proceedings in relation to an application by C.D. for possession and sale of your home. You can find out more about approved lay representatives from the housing department of your local authority or from a Citizens Advice Bureau or other advice agency.

YOUR RIGHTS IN RELATION TO RESIDENTIAL PROPERTY ARE PROTECTED BY LAW:

C.D.’s application is not valid and can be challenged by you (or by E.F.) if C.D. has failed to comply with certain pre-action requirements. These requirements include providing specified information and to contacting you (or the debtor) to discuss alternatives to repossession. It is important to

discuss with your solicitor or advisor if you have doubts about whether C.D. has complied with these requirements.

YOU HAVE THE RIGHT TO BE HEARD IN COURT:

You are (or the debtor is) entitled to intervene in the court proceedings following from C.D.'s application. You (or the debtor) can appear personally or be represented by a solicitor or approved lay representative. For example, you (or the debtor) might want to argue that the pre-action requirements have not been complied with or that it would not be reasonable for the sheriff to grant the application. Even if they have, you have (or the debtor has) the right to ask the sheriff to continue the proceedings or make any other order. The sheriff will take into account matters such as the nature of and reasons for the default, your (or the debtor's) ability to fulfil your (or the) obligations under the security within a reasonable time, any action taken by C.D. to assist you (or the debtor) to fulfil your (or the) obligations, your (or the debtor's) participation in a relevant debt payment programme and your (or the debtor's) ability, or the ability of any other person residing in the property, to secure reasonable alternative accommodation.

YOU MAY WISH TO VOLUNTARILY SURRENDER YOUR HOME:

It is open to you (or the debtor), in certain circumstances, to voluntarily surrender the property to C.D. if all entitled residents in it consent. If you wish to consider voluntary surrender you should discuss with your solicitor or advisor whether this option is right for you. You should not proceed with voluntary surrender unless you understand the consequences of doing so, for example that you may still owe money to C.D.

WHAT IF AN ORDER FOR REPOSSESSION HAS ALREADY BEEN GRANTED AND I HAVE JUST BECOME AWARE OF THE APPLICATION?

It may not be too late to intervene so you should urgently seek advice. You have the right to apply to the court to ask for the order to be recalled at any time before repossession has taken place. If the court recalls the order it will fix a hearing, giving you (or the debtor) the opportunity to appear or be represented.