

This is an example of the form that you should fill out if decree has been granted in your absence, if you are either a home owner or an entitled resident, and you wish the court to take back the decree and reopen court proceedings. For example, the court may have granted your lender the right to repossess your home and you feel that you have a valid defence and want to reopen the court action.

In this form:

- “A.B.” refers to the mortgage lender
- “C.D.” refers to the mortgage holder
- “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 11F

Rule 3.4.8(2)

Form of minute for recall of decree

Minute for recall of decree in an application for repossession of the property at (*insert address of security subjects*).

Sheriff Court:

Date:

Court ref. no.

A.B. (*pursuer*) against C.D. (*defender(s)*)

(*Insert name*), being (*tick one box as appropriate*)–

The Pursuer*;
 The Defender*; or

An entitled resident within the meaning of section 24C(1) of the Conveyancing and Feudal Reform (Scotland) Act 1970 and/or, as the case may be, section 5D of the Heritable Securities (Scotland) Act 1894 because my sole or main residence is the security subjects (in whole or in part) at (*insert address of security subjects*) and—*

- (a) *I am the proprietor of the security subjects (where the proprietor is not the debtor in the security);*
- (b) *I am the non-entitled spouse of the debtor or the proprietor of security subjects which are (in whole or in part) a matrimonial home;*
- (c) *I am the non-entitled civil partner of the debtor or the proprietor of security subjects which are (in whole or in part) a family home;*
- (d) *I am a person living together with the debtor or the proprietor as husband and wife;*
- (e) *I am a person living together with the debtor or the proprietor in a relationship which has the characteristics of the relationship between civil partners;*

- (f) I am a person who lived together with the debtor or the proprietor in a relationship described in (d) or (e) and–
- (i) the security subjects (in whole or in part) are not the sole or main residence of the debtor or the proprietor;
 - (ii) I lived together with the debtor or the proprietor throughout the period of 6 months ending with the date on which the security subjects ceased to be the sole or main residence of the debtor or the proprietor; and
 - (iii) the security subjects (in whole or in part) are the sole or main residence of a child aged under 16 who is a child of both parties in that relationship.

moves the court to recall the decree pronounced on (*insert date*) in this case.

WHAT HAPPENS NEXT: When you lodge this form at the sheriff clerk’s office, the sheriff clerk will fix a hearing for all those with an interest to appear and be heard. You are required to serve upon every party and intimate to every entitled resident a copy of this form, together with details of the date, time and place of the hearing.

If you wish to proceed with this application for recall of decree **YOU MUST ATTEND OR BE REPRESENTED AT THAT HEARING.**

YOU ARE STRONGLY ADVISED TO SEEK IMMEDIATE LEGAL ADVICE FROM A SOLICITOR. You may be eligible for legal aid depending on your income, and you can get information about legal aid from a solicitor. You may also obtain advice from an approved lay representative or any Citizens Advice Bureau or other advice agency.

Date (*insert date*)

(Signed)
[P.Q.], (Applicant),
or [X.Y.], (*add designation and
address of Applicant’s
representative*)

DIET ASSIGNED

At (*insert place*) on (*insert date*), the court assigns the (*insert date of hearing*) at (*insert time*) at (*insert name of sheriff court*) as a diet for hearing parties on the Form 11F application.

Date (*insert date*)

(Signed)
Sheriff Clerk

EXECUTION OF CITATION

At (*insert place*) on (*insert date*), I hereby certify that upon the (*insert date*), I duly served upon every party and intimated to every entitled resident a copy of this Form 11F application, together with details of the hearing. This I did by (*insert method of service/intimation*).

Date (*insert date*)

(Signed)
[P.Q.], Sheriff Officer, or
[X.Y.] (*add designation and
business address*) Applicant’s
Solicitor