

PROPERTY FACTORS (SCOTLAND) ACT 2011

EXPLANATORY NOTES

THE ACT

Part 1 – Registration of Property Factors

Section 12 – Offence of operating as a property factor without registration

49. Subsection (1) makes it an offence for a person to operate as a property factor without being registered.
50. There are two exceptions: the first (subsection (2)) is that the offence is not committed by a person who is operating as a property factor when the Act first comes into force while their application for registration is under consideration (and subsection (8) makes clear that an application remains under consideration until all avenues of appeal under the Act have been exhausted). The second (subsection (3)) is that the offence is not committed by a property factor who is removed from the register under section 8(1) until all avenues of appeal provided by the Act have been exhausted.
51. It is a defence to show that there was a reasonable excuse for acting as a property factor without being registered (subsection 4)).
52. Subsection (5) stipulates that a person guilty of an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 5 on the standard scale, to imprisonment for a term not exceeding six months or to both.
53. Subsection (6) makes additional provision in relation to cases where the offence is committed by a body corporate or Scottish partnership or other unincorporated association, to the effect that relevant individuals (as defined in subsection (7)), as well as the body corporate or partnership or association, are guilty of the offence in certain circumstances.