

PROPERTY FACTORS (SCOTLAND) ACT 2011

EXPLANATORY NOTES

THE ACT

Part 1 – Registration of Property Factors

Section 8 – Removal from register

33. Subsection (1) gives the Scottish Ministers the power to remove a property factor from the register if subsection (2) or (3) applies – that is, if the property factor is no longer a fit and proper person to be a property factor or if the property factor has failed to comply with section 13(3) (which relates to the use of property factor registered numbers), the property factor code of conduct (see section 14) or any property factor enforcement order made against them by a homeowner housing committee (see sections 19 and 20).
34. Subsection (4) is concerned with circumstances in which the Scottish Ministers are considering removing the person from the register under subsection (1). It requires the Scottish Ministers to give the responsible person notice that removal from the register is under consideration and allows the property factor an opportunity to make representations to them. Under subsection (5), notice under subsection (4) must be accompanied by a written statement of the Scottish Ministers' reasons for proposing to remove person in the register.
35. Subsection (6) prohibits the Scottish Ministers from removing the property factor from the register unless they are satisfied, having taken into account any representations made under subsection (4)(b), that subsection (2) or (3) applies.
36. Where the Scottish Ministers decide to remove a property factor from the register under subsection (1), subsection (7) requires the Scottish Ministers to notify the responsible person of this fact as soon as is practicable. They must also give notice of the date of removal, which must be at least 21 days after the date notice of removal is given under this subsection. This gives the property factor time to make an appeal against the removal under section 11. If such an appeal is made, the property factor may, despite having been removed from the register, continue to operate as a property factor without committing an offence under section 12(1) until such time as the appeal is concluded.
37. Subsection (7) also requires the Scottish Ministers to give public notice of the date on which the property factor will be removed from the register (see section 15(3) for further details of how public notice is given).