



# Property Factors (Scotland) Act 2011

## 2011 asp 8

### PART 2

#### DISPUTE RESOLUTION

##### *Effect of failure to comply with property factor enforcement order*

#### **23 Effect of failure to comply with property factor enforcement order**

- (1) It is for the [<sup>F1</sup>First-tier Tribunal] to decide whether a property factor has failed to comply with a property factor enforcement order made by the [<sup>F2</sup>First-tier Tribunal] .
- (2) Where the [<sup>F3</sup>First-tier Tribunal][<sup>F4</sup>decides] that a property factor has failed to comply with the property factor enforcement order, the [<sup>F3</sup>First-tier Tribunal] must serve notice of the failure on the Scottish Ministers.
- (3) The [<sup>F5</sup>First-tier Tribunal] may not decide that a property factor has failed to comply with a property factor enforcement order—
  - (a) unless the period within which the order requires any work to be executed has ended, or
  - (b) if the [<sup>F6</sup>First-tier Tribunal is] satisfied, on the submission of the property factor or otherwise—
    - (i) that the property factor is unable to comply with the order because of a lack of necessary rights (of access or otherwise) despite having taken reasonable steps for the purposes of acquiring those rights, or
    - (ii) that any action required by the order is likely to endanger any person.
- (4) Where the [<sup>F7</sup>First-tier Tribunal is] prevented by reason only of subsection (3)(b) from deciding that a property factor has failed to comply with a property factor enforcement order, the [<sup>F8</sup>First-tier Tribunal] must serve notice on the Scottish Ministers stating that [<sup>F9</sup>it considers] the property factor to be unable to comply with the property factor enforcement order.

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*Changes to legislation: There are currently no known outstanding effects for the Property Factors (Scotland) Act 2011, Section 23. (See end of Document for details)*

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### Textual Amendments

- F1** Words in s. 23(1) substituted (1.12.2016) by The First-tier Tribunal for Scotland (Transfer of Functions of the Homeowner Housing Committees) Regulations 2016 (S.S.I. 2016/335), reg. 1(2), **sch. 2 para. 11(a)(i)** (with sch. 1 para. 5)
- F2** Words in s. 23(1) substituted (1.12.2016) by The First-tier Tribunal for Scotland (Transfer of Functions of the Homeowner Housing Committees) Regulations 2016 (S.S.I. 2016/335), reg. 1(2), **sch. 2 para. 11(a)(ii)** (with sch. 1 para. 5)
- F3** Words in s. 23(2) substituted (1.12.2016) by The First-tier Tribunal for Scotland (Transfer of Functions of the Homeowner Housing Committees) Regulations 2016 (S.S.I. 2016/335), reg. 1(2), **sch. 2 para. 11(b)(i)** (with sch. 1 para. 5)
- F4** Word in s. 23(2) substituted (1.12.2016) by The First-tier Tribunal for Scotland (Transfer of Functions of the Homeowner Housing Committees) Regulations 2016 (S.S.I. 2016/335), reg. 1(2), **sch. 2 para. 11(b)(ii)** (with sch. 1 para. 5)
- F5** Words in s. 23(3) substituted (1.12.2016) by The First-tier Tribunal for Scotland (Transfer of Functions of the Homeowner Housing Committees) Regulations 2016 (S.S.I. 2016/335), reg. 1(2), **sch. 2 para. 11(c)(i)** (with sch. 1 para. 5)
- F6** Words in s. 23(3)(b) substituted (1.12.2016) by The First-tier Tribunal for Scotland (Transfer of Functions of the Homeowner Housing Committees) Regulations 2016 (S.S.I. 2016/335), reg. 1(2), **sch. 2 para. 11(c)(ii)** (with sch. 1 para. 5)
- F7** Words in s. 23(4) substituted (1.12.2016) by The First-tier Tribunal for Scotland (Transfer of Functions of the Homeowner Housing Committees) Regulations 2016 (S.S.I. 2016/335), reg. 1(2), **sch. 2 para. 11(d)(i)** (with sch. 1 para. 5)
- F8** Words in s. 23(4) substituted (1.12.2016) by The First-tier Tribunal for Scotland (Transfer of Functions of the Homeowner Housing Committees) Regulations 2016 (S.S.I. 2016/335), reg. 1(2), **sch. 2 para. 11(d)(ii)** (with sch. 1 para. 5)
- F9** Words in s. 23(4) substituted (1.12.2016) by The First-tier Tribunal for Scotland (Transfer of Functions of the Homeowner Housing Committees) Regulations 2016 (S.S.I. 2016/335), reg. 1(2), **sch. 2 para. 11(d)(iii)** (with sch. 1 para. 5)

### Commencement Information

- I1** S. 23 in force at 1.10.2012, see s. 33(2)

**Changes to legislation:**

There are currently no known outstanding effects for the Property Factors (Scotland) Act 2011, Section 23.