



# 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 homeowner housing committee to decide whether a property factor has failed to comply with a property factor enforcement order made by the committee.
- (2) Where the committee decide that a property factor has failed to comply with the property factor enforcement order, the committee must serve notice of the failure on the Scottish Ministers.
- (3) The committee 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 committee are 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 committee are 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 committee must serve notice on the Scottish Ministers stating that they consider the property factor to be unable to comply with the property factor enforcement order.