



Property Factors (Scotland) Act 2011

2011 asp 8

PART 2

DISPUTE RESOLUTION

Property factor enforcement orders

19 Determination by homeowner housing committee

- (1) The homeowner housing committee to which a homeowner's application under section 17(1) is referred must decide—
 - (a) whether the property factor has failed to carry out the property factor's duties or, as the case may be, to comply with the section 14 duty, and
 - (b) if so, whether to make a property factor enforcement order.
- (2) In any case where the committee proposes to make a property factor enforcement order, they must before doing so—
 - (a) give notice of the proposal to the property factor, and
 - (b) allow the parties an opportunity to make representations to them.
- (3) If the committee are satisfied, after taking account of any representations made under subsection (2)(b), that the property factor has failed to carry out the property factor's duties or, as the case may be, to comply with the section 14 duty, the committee must make a property factor enforcement order.
- (4) Subject to section 22, no matter adjudicated on by the homeowner housing committee may be adjudicated on by another court or tribunal.

20 Property factor enforcement orders

- (1) A property factor enforcement order is an order requiring the property factor to—
 - (a) execute such action as the homeowner housing committee considers necessary,
 - (b) where appropriate, make such payment to the homeowner as the committee considers reasonable.

- (2) A property factor enforcement order must specify the period within which any action required must be executed or any payment required must be made.
- (3) A property factor enforcement order may specify particular steps which the property factor must take.

21 Variation and revocation of property factor enforcement orders

- (1) The homeowner housing committee which made a property factor enforcement order may, at any time—
 - (a) vary the order in such manner as they consider reasonable, or
 - (b) where they consider that the action required by the order is no longer necessary, revoke it.
- (2) Where subsection (3) applies, the committee must vary the property factor enforcement order—
 - (a) so as to extend, or further extend, the period within which any action required by the order must be executed, and
 - (b) in such other manner as they think fit.
- (3) This subsection applies where—
 - (a) the committee consider, on the submission of the property factor or otherwise, that any action required by a property factor enforcement order has not been, or will not be, executed during the period within which the order requires the work to be executed, and
 - (b) the committee—
 - (i) consider that satisfactory progress has been made in executing the action required, or
 - (ii) have received a written undertaking from the property factor stating that the action required will be executed by a later date which the committee consider satisfactory.
- (4) References in this Act to a property factor enforcement order or to action required by such an order are, where the order has been varied under this section, to be treated as references to the order as so varied or, as the case may be, to action required by the order as so varied.