



# Property Factors (Scotland) Act 2011

## 2011 asp 8

### PART 2

#### DISPUTE RESOLUTION

##### *Property factor enforcement orders*

#### 19 [F<sup>1</sup>Determination by the First-tier Tribunal]

- (1) The [F<sup>2</sup>First-tier Tribunal must, in relation to a homeowner's application referred to it under section 18(1)(a),] 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 [F<sup>3</sup>First-tier Tribunal] proposes to make a property factor enforcement order, [F<sup>4</sup>it] 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 [F<sup>5</sup>it] .
- (3) If the [F<sup>6</sup>First-tier Tribunal is] 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 [F<sup>7</sup>First-tier Tribunal] must make a property factor enforcement order.
- (4) Subject to section 22, no matter adjudicated on by the [F<sup>8</sup>First-tier Tribunal] may be adjudicated on by another court or tribunal.

#### Textual Amendments

- F1** S. 19 title 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. 8** (with sch. 1 para. 5)
- F2** Words in s. 19(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. 7(a)** (with sch. 1 para. 5)

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

- F3** Words in s. 19(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. 7(b)(i)(aa)** (with sch. 1 para. 5)
- F4** Word in s. 19(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. 7(b)(i)(bb)** (with sch. 1 para. 5)
- F5** Word in s. 19(2)(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. 7(b)(ii)** (with sch. 1 para. 5)
- F6** Words in s. 19(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. 7(c)(i)** (with sch. 1 para. 5)
- F7** Words in s. 19(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. 7(c)(ii)** (with sch. 1 para. 5)
- F8** Words in s. 19(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. 7(d)** (with sch. 1 para. 5)

#### Commencement Information

- I1** S. 19 in force at 1.10.2012, see s. 33(2)

## 20 Property factor enforcement orders

- (1) A property factor enforcement order is an order requiring the property factor to—
- execute such action as the [<sup>F9</sup>First-tier Tribunal] considers necessary,
  - where appropriate, make such payment to the homeowner as the [<sup>F10</sup>First-tier Tribunal] 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.

#### Textual Amendments

- F9** Words in s. 20(1)(a) 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. 9(a)** (with sch. 1 para. 5)
- F10** Words in s. 20(1)(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. 9(b)** (with sch. 1 para. 5)

#### Commencement Information

- I2** S. 20 in force at 1.10.2012, see s. 33(2)

## 21 Variation and revocation of property factor enforcement orders

- (1) [<sup>F11</sup>Where the First-tier Tribunal has made a property factor enforcement order it] may, at any time—

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- (a) vary the order in such manner as [<sup>F12</sup>it considers] reasonable, or
  - (b) where [<sup>F13</sup>it considers] that the action required by the order is no longer necessary, revoke it.
- (2) Where subsection (3) applies, the [<sup>F14</sup>First-tier Tribunal] 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 [<sup>F15</sup>it thinks] fit.
- (3) This subsection applies where—
- (a) the [<sup>F16</sup>First-tier Tribunal considers] , 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 [<sup>F17</sup>First-tier Tribunal] —
    - (i) [<sup>F18</sup>considers] that satisfactory progress has been made in executing the action required, or
    - (ii) [<sup>F19</sup>has] received a written undertaking from the property factor stating that the action required will be executed by a later date which the [<sup>F17</sup>First-tier Tribunal][<sup>F18</sup>considers] 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.

#### Textual Amendments

- F11** Words in s. 21(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. 10(a)(i)** (with sch. 1 para. 5)
- F12** Words in s. 21(1)(a) 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. 10(a)(ii)** (with sch. 1 para. 5)
- F13** Words in s. 21(1)(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. 10(a)(iii)** (with sch. 1 para. 5)
- F14** Words in s. 21(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. 10(b)(i)** (with sch. 1 para. 5)
- F15** Words in s. 21(2)(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. 10(b)(ii)** (with sch. 1 para. 5)
- F16** Words in s. 21(3)(a) 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. 10(c)(i)** (with sch. 1 para. 5)
- F17** Words in s. 21(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. 10(c)(ii)(aa)** (with sch. 1 para. 5)

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- F18** Word in s. 21(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. 10(c)(ii)(bb)** (with sch. 1 para. 5)
- F19** Word in s. 21(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. 10(c)(ii)(cc)** (with sch. 1 para. 5)

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**Commencement Information**

- I3** S. 21 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,  
Cross Heading: Property factor enforcement orders.