



Property Factors (Scotland) Act 2011

2011 asp 8

PART 1

REGISTRATION OF PROPERTY FACTORS

Registration

4 Registration

- (1) This section applies where a person makes an application to the Scottish Ministers in accordance with section 3.
- (2) In any case where the Scottish Ministers are considering refusing to enter a person in the register, they must before doing so—
 - (a) give notice to the responsible person that refusal is under consideration, and
 - (b) allow the person who made the application under section 3(1) an opportunity to make representations to them.
- (3) Notice under subsection (2) must be accompanied by a written statement of the Scottish Ministers' reasons for proposing to refuse to enter the person in the register.
- (4) The Scottish Ministers must enter the person in the register if, having considered the application and taken account of any representations made by virtue of subsection (2), they are satisfied—
 - (a) where the person has not previously been registered, that the person is a fit and proper person to be a property factor,
 - (b) where the person is, or has previously been, registered, that—
 - (i) the person is a fit and proper person to be a property factor,
 - (ii) the person has demonstrated compliance with section 13(3),
 - (iii) the person has, while registered, demonstrated compliance with the property factor code of conduct, and
 - (iv) the person has demonstrated compliance with a property factor enforcement order made against the person by [F1the First-tier Tribunal] .
- (5) Otherwise, the Scottish Ministers must refuse to enter the person in the register.

Changes to legislation: There are currently no known outstanding effects for the Property Factors (Scotland) Act 2011, Section 4. (See end of Document for details)

- (6) An entry under subsection (4) must include the information specified in the application by virtue of paragraphs (a) to (f) of section 3(2).
- (7) Subject to section 8, where the Scottish Ministers make an entry under subsection (4), they must remove the entry from the register—
- (a) on the expiry of the period of 3 years beginning with the day on which the entry is made, or
 - (b) where the person to whom the entry relates—
 - (i) has made a further application for entry in the register under section 3(1), and
 - (ii) that application has not been determined on the expiry of the period mentioned in paragraph (a),
 on the determination of that further application.
- (8) For the purposes of—
- (a) subsection (7)(b), an application is determined only when—
 - (i) the period within which any appeal under section 11(2) in relation to the application may be made expires (without such an appeal being made), or
 - (ii) any such appeal is concluded,
 - (b) paragraph (a)(ii), an appeal is concluded only when—
 - (i) the period within which an appeal under section 11(9) may be made has expired without such an appeal being made, or
 - (ii) any such appeal has been concluded.

[^{F2}(9) In this Act, “First-tier Tribunal” means the First-tier Tribunal for Scotland Housing and Property Chamber.]

Textual Amendments

- F1** Words in s. 4(4)(b)(iv) 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. 2(a)** (with sch. 1 para. 5)
- F2** S. 4(9) inserted (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. 2(b)** (with sch. 1 para. 5)

Commencement Information

- I1** S. 4 in force at 1.7.2012 by [S.S.I. 2012/149](#), art. 2, **sch.** (with art. 3)

Changes to legislation:

There are currently no known outstanding effects for the Property Factors (Scotland) Act 2011, Section 4.