

EXECUTIVE NOTE

THE PROPERTY FACTORS (SCOTLAND) ACT 2011 (COMMENCEMENT NO.2 AND TRANSITIONAL) ORDER 2012

SSI 2012 No. 149 (C. 12)

The above instrument was made in exercise of the powers conferred by sections 30(2) and 33(2) and (4) of the Property Factors (Scotland) Act 2011. The instrument is laid with no further procedure under section 30 of the Interpretation and Legislative Reform (Scotland) Act 2010. This note is provided in view of the transitional provision in article 3.

Policy Objectives

The Property Factors (Scotland) Act 2011 aims to create a framework which will provide increased protection for homeowners who use the services of a property factor. It has three main elements:

- a compulsory register for property factors
- a code of conduct with which all registered property factors will be required to comply
- a new statutory dispute resolution mechanism, to be known as the homeowner housing panel.

The provisions of the Act will come into force on 1 October, unless they are commenced earlier.

The Commencement and Transitional order has three purposes:

1. It brings into force on 1 July 2012 most of the provisions of the Act relating to registration of property factors. This means that Scottish Ministers may invite applications in advance of 1 October from property factors who wish to be registered, allowing a reasonable period of time within which applications can be submitted before the 1 October deadline. .
2. The minor transitional provision in article 3 ensures that as long as a property factor has submitted an application for registration by 1 October they will not be committing an offence. Property factors who are already operating at 1 July 2012 and submit their applications by 1 October 2012 are protected from the offence provision by section 12(2)(a) of the Act. The transitional provision extends this protection to property factors who begin operating after 1 July 2012 but before 1 October 2012 and who submit their applications for registration by 1 October.
3. It commences on 1 July 2012 the section of the Act relating to setting up the homeowner housing panel and its committees, though they will not begin to exercise their functions until the rest of Part 2 of the Act comes into force on 1 October 2012. This will ensure anything necessary can be done to establish the homeowner housing panel before it becomes operational on 1 October 2012.

In relation to the policy of, consultation on and the financial and equalities effects of the provisions of the Act commenced by this Order, reference is made to the Parliamentary consideration of the Bill, in particular the Policy Memorandum available from the Scottish Parliament website¹. There has not been consultation on the minor transitional provision, but it has no significant effects on those matters.

Scottish Government
Housing, Regeneration, Commonwealth Games and Sport Directorate

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¹ <http://www.scottish.parliament.uk/parliamentarybusiness/Bills/22539.aspx>