
SCOTTISH STATUTORY INSTRUMENTS

2012 No. 180

The Homeowner Housing Panel (Applications and Decisions) (Scotland) Regulations 2012

PART 1

Preliminary

Citation and commencement

1. These Regulations may be cited as the Homeowner Housing Panel (Applications and Decisions) (Scotland) Regulations 2012 and come into force on 1st October 2012.

Interpretation

2.—(1) In these Regulations—

“the Act” means the Property Factors (Scotland) Act 2011;

“application” means an application under section 17(1) of the Act;

“committee” means a homeowner housing committee⁽¹⁾;

“electronic communication” has the meaning given to it by section 15(1) of the Electronic Communications Act 2000 (general interpretation)⁽²⁾ and “electronic signature” has the same meaning as in section 7 of that Act;

“hearing” includes any resumed hearing;

“homeowner’s concern” means the homeowner’s reason for considering 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 panel” means the homeowner housing panel⁽³⁾;

“party” includes the homeowner, the property factor and any person sisted as a party to the proceedings;

“the president” means the president of the panel;

“the proceedings” means the proceedings in relation to the making of a decision under section 19(1), 21(1) or 23(1) of the Act (including any preliminary issue); and

“writing” includes electronic communication which has been recorded and is consequently capable of being reproduced; and cognate expressions are to be construed accordingly.

(1) Homeowner housing committees are constituted under Schedule 4 to the Rent (Scotland) Act 1984 (c.58), and given additional functions and re-named for the purposes of the 2011 Act by section 16(2) of that Act.
(2) 2000 c.7. Section 15(1) was amended by paragraph 158 of Schedule 17 to the Communications Act 2003 (c.21).
(3) The homeowner housing panel is constituted under Schedule 4 to the Rent (Scotland) Act 1984, and given additional functions and re-named for the purposes of the Property Factors (Scotland) Act 2011 by section 16(2) of that Act.

(2) References in these Regulations to a committee include references to any successor committee constituted in accordance with Schedule 4 to the Rent (Scotland) Act 1984⁽⁴⁾ and the Act.

The overriding objective

3.—(1) The overriding objective of these Regulations is to enable the panel and any committee to deal with the proceedings justly.

(2) Dealing with the proceedings justly includes—

- (a) dealing with the proceedings in ways which are proportionate to the complexity of the issues and to the resources of the parties;
- (b) seeking informality and flexibility in the proceedings;
- (c) ensuring, so far as practicable, that the parties are on an equal footing procedurally and are able to participate fully in the proceedings, including assisting any party in the presentation of the party's case without advocating the course they should take;
- (d) using the special expertise of the panel and the committees effectively; and
- (e) avoiding delay, so far as compatible with the proper consideration of the issues.

Application of the overriding objective

4.—(1) The president and any committee must seek to give effect to the overriding objective when—

- (a) exercising any power under these Regulations; and
- (b) interpreting any regulation.

(2) In particular, the president and any committee must manage the proceedings in accordance with the overriding objective.

(3) The parties must assist the panel or any committee to further the overriding objective.

(4) 1984 c.58.