

# **PROPERTY FACTORS (SCOTLAND) ACT 2011**

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## **EXPLANATORY NOTES**

### **THE ACT**

#### **Part 1 – Registration of Property Factors**

##### *Section 5 – Section 4: considerations*

23. Subsection (1) requires the Scottish Ministers to have regard to any material falling within subsections (2) to (4) when considering under section 4(4) whether a person is a fit and proper person to be a property factor. They may also take other information into account in considering this matter.
24. Material falls within subsection (2) if it shows that any person who is (or is to be) directly concerned with the control or governance of the property factor has been convicted of an offence involving fraud or other dishonesty, violence or drugs; practised unlawful discrimination on grounds of any protected characteristics in Part 2 of the Equality Act 2010; or contravened any provision of the law relating to tenements, property or debt.
25. Material falls within subsection (3) if it shows the extent to which any other property factor with which the person (or any other person who is, or is to be, directly concerned with the control or governance of the property factor) is or has previously been involved demonstrates or demonstrated compliance with the property factor code of conduct (see section 14) and any property factor enforcement order made against that other property factor by a homeowner housing committee (see sections 19 and 20).
26. Material falls within subsection (4) if it shows that a person who is (or has previously been) registered as a property factor has failed to pay any charges imposed by virtue of section 26 (recovery of costs from property factors in relation to applications referred to the homeowner housing committee and property factor enforcement orders).
27. As in section 3, references in this section to persons who are directly concerned in the control or governance of a property factor include reference to any person who owns 25% or more of the equity in a business which is a property factor.