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SCOTTISH STATUTORY INSTRUMENTS

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**2012 No. 181**

**PROPERTY FACTORS**

**The Property Factors (Registration) (Scotland) Regulations 2012**

<i>Made</i>	- - - -	<i>29th May 2012</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>31st May 2012</i>
<i>Coming into force</i>	- -	<i>1st July 2012</i>

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 3(2)(f) and (4) and 30(2) of the Property Factors (Scotland) Act 2011<sup>(1)</sup> and all other powers enabling them to do so.

**Citation and commencement**

1. These Regulations may be cited as the Property Factors (Registration) (Scotland) Regulations 2012 and come into force on 1st July 2012.

**Interpretation**

2. In these Regulations—

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

“relevant person” means any person who is (or is to be) directly concerned with the control or governance of a property factor who is—

- (a) trading as a sole trader;
- (b) mentioned in section 3(2)(c) of the Act; or
- (c) mentioned in section 3(8) of the Act; and

“property” means—

- (a) each dwelling house or flat, the owner (or common or joint owners) of which has (or have) a share in common parts of land referred to in section 2(1)(a) or (b) of the Act; and
- (b) each residential property mentioned in section 2(1)(c) or (d) of the Act.

**Information to be specified in an application for registration as a property factor**

3. An application for registration under section 3(1) of the Act must also specify—

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(1) 2011 asp 8.

- (a) any conviction of a relevant person relating to any offence involving a matter mentioned in section 5(2)(a) of the Act;
- (b) any court or tribunal judgment against a relevant person under the Equality Act 2010(2) or any of—
  - (i) the Equal Pay Act 1970(3);
  - (ii) the Sex Discrimination Act 1975(4);
  - (iii) the Race Relations Act 1976(5);
  - (iv) the Disability Discrimination Act 1995(6);
  - (v) the Employment Equality (Sexual Orientation) Regulations 2003(7);
  - (vi) the Employment Equality (Religion or Belief) Regulations 2003(8); and
- (c) in relation to a contravention by a relevant person of a provision mentioned in section 5(2)(c) of the Act—
  - (i) any conviction of an offence; or
  - (ii) any finding of a court or tribunal.

**Application for registration: criminal conviction certificate**

4. The Scottish Ministers may require the applicant to provide a criminal conviction certificate (within the meaning of section 112 of the Police Act 1997(9)) as evidence of the information in the application for registration under section 3(1) of the Act or if they have reasonable grounds to suspect that information provided under regulation 3(a) or (c)(i) is, or has become, inaccurate.

**Fees payable on application for registration as a property factor**

5.—(1) The fees prescribed for the purposes of the Scottish Ministers determining fees under section 3(3)(b) of the Act (fees for application for registration) are—

- (a) where an applicant for registration acts, or expects to act, as a property factor in relation to 100 or fewer properties, the sum of £100;
- (b) where an applicant for registration acts, or expects to act, as a property factor in relation to more than 100 properties, the sum of £370.

(2) The number of properties in relation to which an applicant acts, or expects to act, is determined as at the date of the submission of the application for registration.

St Andrew's House,  
Edinburgh  
29th May 2012

*KEITH BROWN*  
Authorised to sign by the Scottish Ministers

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(2) c.15.  
(3) c.41.  
(4) c.65.  
(5) c.74.  
(6) c.50.  
(7) S.I. 2003/1661.  
(8) S.I. 2003/1660.  
(9) 1997 c.50. Section 112 was amended by section 79(1) of the Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14) and by S.S.I. 2006/50.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations prescribe additional information that a person must provide, and make provision for the fees that a person must pay, in relation to an application for entry in the register of property factors in terms of section 3(1) of the Property Factors (Scotland) Act 2011.

Regulation 3 requires an application for registration as a property factor to include the following information in relation to any person directly concerned with the control or governance of the property factor (see definition of “relevant person” in regulation 2):—

- the conviction of any offence involving fraud or other dishonesty, violence or drugs;
- the conviction or contravention of any provision of the law relating to tenements, property or debt; and
- any court or tribunal judgment under the Equality Act 2010; the Equal Pay Act 1970; the Sex Discrimination Act 1975; the Race Relations Act 1976; the Disability Discrimination Act 1995; the Employment Equality (Sexual Orientation) Regulations 2003; or the Employment Equality (Religion or Belief) Regulations 2003.

An applicant is not obliged to disclose any information related to a spent conviction (in accordance with section 4(3) of the Rehabilitation of Offenders Act 1974 (c.53)).

Regulation 4 provides that an applicant must provide a criminal conviction certificate (a “basic disclosure”) in relation to any person directly concerned with the control or governance of the property factor where this is required by the Scottish Ministers in order to verify the information provided in the application or if they suspect that the information is, or has become, inaccurate.

Regulation 5 sets the fees for registration as a property factor which are £100 (where the property factor acts in relation to 100 or fewer properties) or £370 (where the property factor acts in relation to more than 100 properties).