

Property Factor Re-Registration

and

Review of the code of conduct for Property Factors



Scottish Government
Riaghaltas na h-Alba
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Overview

- **An overview of Ministers functions under the Act**
- **Re-Registration**

**Considerations for entry
Removals from the register**

- **Registration – Key Trends and Developments**
- **Review of the Code of Conduct for Property Factors**



Scottish Ministers functions under the PFSA

- Registration Team comprised of 4 staff based across Scotland responsible for preparing and maintaining a register of property factors as per section 1 of the Act.
- Consider applications submitted in accordance with section 3 of the Act and determine these in accordance with section 4 and 5 of the Act.
- Notify responsible persons of the outcome of their application in accordance with sections 6 and 15 of the Act.
- Consider any changes to information previously supplied by registered property factors and set registration fees in accordance with section 7 of the Act
- Have the power to remove property factors under section 8 and ensure that removals are undertaken in accordance with sections 9, 10 and 11 of the Act.



The limits of our functions - PFSA

- We cannot comment on or intervene in decisions made by the Homeowner Housing Panel.
- We do not comment on complaints against property factors. We can provide general advice and guidance on the Act however we cannot provide legal advice.
- We do not have any specific investigatory powers under the Act however we do act on third party reports regarding unregistered property factors or where information on the displayed on the register may be inaccurate.
- Our primary approach is to encourage and facilitate registration. This brings homeowners under the protections of the Act.
- We do not determine who is or who is not acting as a property factor (as defined by section 2 of the Act). Ultimately that is for the Scottish Courts to decide.



Re-Registration

- The Act came into force on 1 October 2012 with the first tranche of property factors registered as of 1 November 2012.
- An entry on the register lasts three years so further applications from registered property factors to enter the register have started to be submitted since November 2015
- Stakeholder events were undertaken and guidance on how to register was prepared ahead of the application deadline.
- **310** applications have been received to date. **99%** of which applied on time.

Entry to the Register – Main Considerations

- **Checking whether an application has been submitted on time otherwise we automatically remove the entry from the register.**
- **Checking the information which has been included in the application in accordance with section 3 of the Act**
- **Checking whether the person is ‘fit and proper’ in accordance with the considerations specified at section 5 of the Act**
- **Considering whether we are satisfied (following receipt of any representations if required) that an applicant has complied with the code of conduct and whether they have complied with any property factor enforcement orders made by a homeowner housing committee**



Re-Registration - Removals from the register

- **49** property factors automatically removed under section 4(7)(a) as no further application was made before deadline
- **0** Applications refused to date therefore entry removed from the register

Automatic Removal - Reasons

Reason	No of Cases
No application made - Confirmation received that individual / organisation is no longer factoring	27
No application made - Status on Companies House showing as Dissolved / Liquidation	17
Removed and then made a subsequent application to register	2
Still to be confirmed	3

Automatic Removals from the register

In accordance with the Act:

- The responsible person is notified of the date of removal and the 'relevant' date when removal takes effect.
- A public notice is placed in an newspaper circulating in the locality in which the property factor operated.
- Relevant local authorities are provided with a copy of the public notice.
- Any notices sent to responsible persons and local authorities are issued by recorded delivery.

The HoHP are also informed of any removals from the register.

Key Trends

Financial Year	No of Registered Property Factors	No of Factored Properties
2012/13	297	554,966
2013/14	346	571,293
2014/15	377	624,274
2015/16	372	611,281

Financial Year	No of actual applications received	No of future applications expected* *to date
2015/16	183	-
2016/17	127	33
2017/18	-	30
2018/19	-	149
2019/20	-	125

Related Developments

- **Working with Registers of Scotland to explore options for developing a new housing register which would incorporate property factors as well as landlord registration and the forthcoming register of letting agents.**
- **As key users - there will be opportunities for the industry to participate in the development of a new register of property factors. We anticipate that RoS will initiate discussions with the factoring industry and representative bodies later this year.**
- **Code of Conduct for property factors is being reviewed this year**



Review of the Code of Conduct

- Code of Conduct came into effect when the Act came into force setting out minimum standards of practice and applies to all registered property factors as defined by the Act
- There are currently **373** registered Property Factors who are required to comply with the requirements of the code.
 - 20** local authorities,
 - 121** Registered Social Landlords (RSLs),
 - 232** private property factors/land management companies.



Why are we reviewing the Code?

- The PFSA requires Scottish Ministers from 'time to time' to prepare a code of conduct setting minimum standards of practice for all registered property factors.
- The code has been operating now for nearly four years so we are taking an opportunity to review the code to assess whether it is still fit for purpose and whether it could be strengthened?
- **Scope - Review is intended only to cover the code of conduct**
No plans at this current time to review the primary legislation (PFSA).
- **Currently gathering views, ideas and suggestions on the current code.**



Consultation Stages

- All feedback received will be considered and may inform a draft 'revised' code prepared by Scottish Ministers.
- Any draft 'revised' code would be subject to formal consultation (12 weeks) with relevant interests including the general public. All registered factors will be sent a link to the draft revised code and the consultation paper
- Following this – a Consultation Analysis report will be prepared and published. Any representations received as a result of the formal consultation will be considered and the draft 'revised' code may be amended accordingly as required by the Act.
- A revised code must then be laid in the Scottish Parliament for its consideration.
- The revised code (if approved by Parliament would then be published and brought into force on a date agreed by resolution of the Scottish Parliament.



Code of Conduct Review – Estimated Timescales

- **Discovery – Pre Consultation – Spring/Summer 2016**
- **Publish a draft code for formal consultation - Autumn 2016**
- **Analysis of consultation responses – Winter/Spring 2017**
- **Considering responses and amending draft if required – Spring 2017**
- **Laying a draft code in the Parliament – Spring/Summer 2017**
- **Revised code of conduct brought into force – TBC**



Further Information

Scottish Ministers functions under the PFSA 2011

<http://www.gov.scot/Topics/Built-Environment/Housing/privateowners/propertyfactors/2011Act>

Review of the code of conduct

<http://www.gov.scot/Topics/Built-Environment/Housing/privateowners/propertyfactors/2011Act/reviewcocpf2016>

Property Factor Enquiry Mailbox

propertyfactorregister@gov.scot

Property Factor Enquiry Line - Tel: 0131 244 9965



The Scottish Property Factor Register



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Questions?



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