

Property Factors (Scotland) Bill

Marshalled List of Amendments selected for Stage 3

The Bill will be considered in the following order—

Sections 1 to 29

Long Title

Amendments marked * are new (including manuscript amendments) or have been altered.

Section 3

Patricia Ferguson

- 1 In section 3, page 3, line 7, leave out from <used> to <person> in line 8 and insert <in relation to which the person acts, or expects to act, as a property factor>

Section 4

Patricia Ferguson

- 2 In section 4, page 4, line 12, at end insert—
< () the person has demonstrated compliance with section (*Property factor registered numbers*)(3),>

Patricia Ferguson

- 31* In section 4, page 4, line 35, leave out from <(without> to end of line 36

Section 5

Patricia Ferguson

- 3 In section 5, page 5, line 4, leave out <(4)> and insert <(3A)>

Section 7

Patricia Ferguson

- 4 In section 7, page 5, line 35, leave out <3(2)> and insert <3(2)(a) to (d)>

Patricia Ferguson

- 5 In section 7, page 5, line 38, at end insert—
<(2A) The property factor must, no later than three months after the end of each financial year, give notice to the Scottish Ministers—

- (a) of any dwelling houses, flats or land in relation to which the property factor has acted as property factor during that financial year, or
- (b) if there has been no change in that information since—
 - (i) the date of the last notice given under this subsection, or
 - (ii) if the person became registered as a property factor during the financial year, the date on which the person provided the information referred to in section 3(2)(e),that there has been no change in that information.>

Patricia Ferguson

- 6 In section 7, page 5, line 39, after <(2)> insert <or (2A)>

Patricia Ferguson

- 7 In section 7, page 6, line 6, after <(2)> insert <or (2A)>

Patricia Ferguson

- 8 In section 7, page 6, line 7, at end insert—
<(5A) A person who, in a notice under subsection (2) or (2A), provides information which the person knows is false in a material particular, is guilty of an offence.>

Patricia Ferguson

- 9 In section 7, page 6, line 8, after <(5)> insert <or (5A)>

Section 8

Patricia Ferguson

- 10 In section 8, page 6, line 17, after <factor,> insert—
<() the property factor has failed to comply with section (*Property factor registered numbers*)(3),>

Section 9

Patricia Ferguson

- 11 In section 9, page 7, leave out lines 8 and 9 and insert—
<() no costs incurred by the property factor in respect of work instructed after the relevant date are recoverable,
() no charge imposed by the property factor which relates to a period after the relevant date is recoverable,>

Patricia Ferguson

- 12 In section 9, page 7, line 10, leave out first <to>

Patricia Ferguson

- 13 In section 9, page 7, line 15, at end insert <in respect of work instructed after the relevant date.>

Section 10

Patricia Ferguson

- 14 In section 10, page 8, line 2, leave out <or buildings>

Section 12

Patricia Ferguson

- 32* In section 12, page 9, line 10, leave out from <(without> to end of line 11

Patricia Ferguson

- 15 In section 12, page 9, line 16, at end insert—

<(5A) Where—

- (a) an offence under subsection (1) has been committed by a body corporate or a Scottish partnership or other unincorporated association, and
- (b) it is proved that the offence was committed with the consent or connivance of, or was attributable to any neglect on the part of—
 - (i) a relevant individual, or
 - (ii) an individual purporting to act in the capacity of a relevant individual,

that individual, as well as the body corporate, Scottish partnership or other unincorporated association, is guilty of the offence and is liable to be proceeded against and punished accordingly.

(5B) In subsection (5A), “relevant individual” means—

- (a) in relation to a body corporate—
 - (i) a director, manager, secretary or other similar officer of the body,
 - (ii) where the affairs of the body are managed by its members, a member,
- (b) in relation to a Scottish partnership, a partner,
- (c) in relation to an unincorporated association other than a Scottish partnership, a person who is concerned in the management or control of the association.>

Patricia Ferguson

- 33* In section 12, page 9, line 21, leave out from <(without> to end of line 22

Patricia Ferguson

- 34* In section 12, page 9, line 23, leave out <paragraph (a)(ii)> and insert <subsection (3)(b) and paragraph (a)(ii) of this subsection>

After section 12

Patricia Ferguson

16 After section 12, insert—

<Property factor registered numbers

Property factor registered numbers

- 5 (1) The Scottish Ministers must allocate a number to each registered property factor (the “property factor registered number”).
- (2) The property factor registered number may be in such form, consisting of one or more sequences of letters or numbers, as the Scottish Ministers may determine.
- (3) A registered property factor must take all reasonable steps to ensure that the property factor registered number is included in—
- 10 (a) any document sent to a homeowner,
- (b) any other document or communication of such type as the Scottish Ministers may by order specify.
- (4) Any person other than a registered property factor who, without reasonable excuse, uses a number purporting to be a property factor registered number in any document or
- 15 communication commits an offence.
- (5) Subsection (4) does not apply to a person who has been removed from the register under section 8(1) until—
- (a) the period within which any appeal under section 11(2) in relation to the removal may be made expires (without such an appeal being made), or
- 20 (b) any such appeal is concluded (without the Scottish Ministers being required to enter the applicant in the register).
- (6) A person guilty of an offence under subsection (4) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.>

Patricia Ferguson

16A* As an amendment to amendment 16, line 20, leave out from <(without> to end of line 21

Patricia Ferguson

16B* As an amendment to amendment 16, line 23, at end insert—

- <() For the purposes of subsection (5)(b), an appeal is concluded only when—
- (a) the period within which an appeal under section 11(9) may be made has expired without such an appeal being made, or
- (b) any such appeal has been concluded.>

Section 13

Patricia Ferguson

17 In section 13, page 10, line 5, at end insert—

<() An order under subsection (3)(c) is not to be made unless a draft of the statutory instrument containing the order has been laid before, and approved by resolution of, the Scottish Parliament.>

Section 16

Patricia Ferguson

18 In section 16, page 11, line 22, leave out <or buildings>

Section 18

Patricia Ferguson

19 In section 18, page 12, line 26, leave out <(either or both) written or oral>

Section 21

Patricia Ferguson

20 In section 21, page 13, line 33, after <made> insert <by summary application>

Patricia Ferguson

21 In section 21, page 13, line 33, after second <the> insert <president of the>

Patricia Ferguson

22 In section 21, page 13, line 35, leave out <14> and insert <21>

Section 25A

Patricia Ferguson

23 Leave out section 25A

Section 26

Patricia Ferguson

24 In section 26, page 16, line 34, at end insert—

<() An order under subsection (1) is not to be made unless a draft of the statutory instrument containing the order has been laid before, and approved by resolution of, the Scottish Parliament.>

Patricia Ferguson

25 In section 26, page 16, line 36, after second <(4),> insert <(Property factor registered numbers)(3),>

Section 27

Patricia Ferguson

- 26** In section 27, page 17, line 18, after <13(3)(c),> insert <26(1),>

Section 28

Patricia Ferguson

- 27** In section 28, page 17, leave out lines 23 to 29

Patricia Ferguson

- 28** In section 28, page 17, line 30, leave out from <means> to end of line 38 and insert <has the meaning given by section 10(5),>

Patricia Ferguson

- 29** In section 28, page 18, leave out lines 7 and 8

Section 29

Patricia Ferguson

- 30** In section 29, page 18, line 18, leave out <29 September 2011> and insert <1 October 2012>

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