

Property Factors (Scotland) Bill

2nd Groupings of Amendments for Stage 2

This document provides procedural information which will assist in preparing for and following proceedings on the above Bill. The information provided is as follows:

- the list of groupings (that is, the order in which amendments will be debated). Any procedural points relevant to each group are noted;
- a list of any amendments already debated;
- the text of amendments to be debated on the second day of Stage 2 consideration, set out in the order in which they will be debated. **THIS LIST DOES NOT REPLACE THE MARSHALLED LIST, WHICH SETS OUT THE AMENDMENTS IN THE ORDER IN WHICH THEY WILL BE DISPOSED OF.**

Groupings of amendments

Applications to homeowner housing panels

9, 85, 10, 11, 12, 87, 13, 14, 89, 15, 90, 16, 17, 18, 30, 31

Notes of amendments in this group

Amendment 89 pre-empts amendments 15

Homeowner housing panels and committees

88, 91, 92, 93, 98, 104, 105

Part 2: minor amendments

94, 95, 96, 97, 99, 100, 101, 102, 103, 112

Part 2: appeals procedure

19, 20

Notes of amendments in this group

Amendment 20 pre-empts amendment 103 in group Part 2: minor amendments

Ancillary provision

25, 26, 28

Crown application

32

Commencement

33, 113, 34, 35

Notes of amendments in this group

Amendments 113 pre-empts amendment 34

Amendments already debated

Part 1: minor amendments and consequential

With 36 – 106, 111

Meaning of property factor

With 39 – 22, 27, 107, 109, 110

Compliance with the code of conduct

With 46 – 86

Recovery of costs of dispute resolution

With 6 – 21, 24, 29

Effect of refusal of entry into the register or removal from the register

With 116 – 117

Definition of “homeowner”

With 72 – 108

Procedure for appeal against refusal to register or removal from the register

With 73 – 23

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Amendments in debating order

Applications to homeowner housing panels

Alex Neil

- 9 In section 16, page 10, leave out lines 24 and 25 and insert—
<() to carry out the property factor’s duties,>

Patricia Ferguson

- 85 In section 16, page 10, line 25, at end insert—
<() to carry out management and maintenance required by burdens contained within their title deeds or land certificates, where the property factor owns land for the benefit of owners of related properties (as defined in section 2(1)(c) and (d)), or>

Alex Neil

- 10 In section 16, page 10, line 29, leave out <comply with the contractual> and insert <carry out the property factor’s>

Alex Neil

- 11 In section 16, page 10, line 30, after <be,> insert <to comply with>

Alex Neil

- 12 In section 16, page 10, line 33, leave out <comply with the contractual> and insert <carry out the property factor’s>

Patricia Ferguson

- 87 In section 16, page 10, line 34, after <duties> insert <, burdens contained within their title deeds or land certificates>

Alex Neil

- 13 In section 16, page 10, line 34, after <be,> insert <to comply with>

Alex Neil

- 14 In section 16, page 10, line 36, at end insert—
<(4) References in this Act to a failure to carry out a property factor’s duties include references to a failure to carry them out to a reasonable standard.
(5) In this Act, “property factor’s duties” means, in relation to a homeowner—
(a) duties in relation to the management of the common parts of land or buildings owned by the homeowner, or
(b) duties in relation to the management or maintenance of land—
(i) adjoining or neighbouring residential property owned by the homeowner, and
(ii) available for use by the homeowner.>

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Patricia Ferguson

- 89 In section 18, page 11, line 29, leave out <complied> and insert <failed to comply>

Alex Neil

- 15 In section 18, page 11, line 29, leave out <complied with the contractual> and insert <failed to carry out the property factor's>

Patricia Ferguson

- 90 In section 18, page 11, line 29, after <duties> insert <, burdens contained within their title deeds or land certificates>

Alex Neil

- 16 In section 18, page 11, line 30, after <be,> insert <to comply with>

Alex Neil

- 17 In section 18, page 12, line 2, leave out <comply with the contractual> and insert <carry out the property factor's>

Alex Neil

- 18 In section 18, page 12, line 3, after <be,> insert <to comply with>

Alex Neil

- 30 In section 28, page 15, leave out line 14

Alex Neil

- 31 In section 28, page 15, line 20, at end insert—

<“property factor’s duties” has the meaning given by section 16(5),”>

Homeowner housing panels and committees

Patricia Ferguson

- 88 In section 17, page 11, line 7, leave out <there has not been a reasonable period of time> and insert <a reasonable period of time has not elapsed>

Patricia Ferguson

- 91 In section 18, page 11, line 37, leave out subsection (3)

Patricia Ferguson

- 92 In section 18, page 12, line 1, leave out <is> and insert <are>

Patricia Ferguson

- 93 In section 18, page 12, line 5, leave out <and the common law remedy of judicial review,>

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Patricia Ferguson

- 98 In section 21, page 13, line 11, leave out subsection (3) and insert—
<(3) The decision of the sheriff under this section is final.>

Patricia Ferguson

- 104 In section 25, page 14, line 20, leave out <written>

Patricia Ferguson

- 105 In section 25, page 14, line 20, leave out <by the panel>

Part 2: minor amendments

Patricia Ferguson

- 94 In section 19, page 12, line 11, leave out <financial>

Patricia Ferguson

- 95 In section 19, page 12, line 15, leave out from <committee> to end of line 16 and insert <property factor must take>

Patricia Ferguson

- 96 In section 20, page 12, line 24, leave out <in question>

Patricia Ferguson

- 97 In section 20, page 13, line 1, leave out <(including this section)>

Patricia Ferguson

- 99 In section 22, page 13, line 16, leave out <complied> and insert <failed to comply>

Patricia Ferguson

- 100 In section 23, page 14, line 7, leave out <has> and insert <have>

Patricia Ferguson

- 101 In section 23, page 14, line 8, after <decided> insert <under section 22(1)>

Patricia Ferguson

- 102 In section 24, page 14, line 15, leave out <procedure> and insert <rules>

Patricia Ferguson

- 103 In section 24, page 14, line 17, leave out <making> and insert <rights>

Patricia Ferguson

- 112 In section 28, page 15, line 24, leave out <16(1)(b)> and insert <13(4)>

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Part 2: appeals procedure

Alex Neil

- 19 In section 24, page 14, line 16, after <16> insert <and>

Alex Neil

- 20 In section 24, page 14, line 17, leave out <and the making of appeals against such decisions>

Ancillary provision

Alex Neil

- 25 In section 26, page 14, line 37, after <25(3)> insert <, (*Ancillary provision*)(1)>

Alex Neil

- 26 After section 26, insert—

<Ancillary provision

- (1) The Scottish Ministers may by order make such incidental, supplementary, consequential, transitional, transitory or saving provision as they consider appropriate for the purposes of, in consequence of, or for giving full effect to, any provision of this Act.
- (2) An order under subsection (1) may modify any enactment (including this Act).
- (3) 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.>

Alex Neil

- 28 In section 27, page 15, line 9, after <13(3)(c)> insert <, (*Ancillary provision*)(1)>

Crown application

Alex Neil

- 32 After section 28, insert—

<Crown application

- (1) No contravention by the Crown of any provision of this Act makes the Crown criminally liable.
- (2) However, the Court of Session may, on the application of the Scottish Ministers, declare unlawful any act or omission of the Crown which constitutes such a contravention.>

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Commencement

Alex Neil

- 33 In section 29, page 15, line 28, after <Act> insert <(except this Part)>

Patricia Ferguson

- 113 In section 29, page 15, line 28, leave out <29 September> and insert <31 December>

Alex Neil

- 34 In section 29, page 15, line 28, leave out <29 September 2011 or such earlier date> and insert <such day>

Alex Neil

- 35 In section 29, page 15, line 29, at end insert—
<() This Part comes into force at the beginning of the day after the day on which the Bill for this Act receives Royal Assent.>