SCOTTISH STATUTORY INSTRUMENTS

2024 No. 274

HOUSING

The Property Factors (Registration) (Scotland) Regulations 2024

Made - - - -	*2nd October 2024*
Laid before the Scottish Parliament	*4th October 2024*
Coming into force - -	*29th November 2024*

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

Citation, commencement and interpretation

1. These Regulations may be cited as the Property Factors (Registration) (Scotland) Regulations 2024 and come into force on 29 November 2024.

2. In these Regulations—

"the Act" means the Property Factors (Scotland) Act 2011,

"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,

"relevant person" means any person named in the application who is (or is to be) directly concerned with the control or governance of a property factor.

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—

(a) a contact telephone number and email address (if any) for the applicant,

(b) a relevant website address (if any) belonging to the applicant,

(c) the trading name used by, if different from the name of, the applicant,

(d) details of any property factor enforcement order which has been made against the applicant,

(e) where the applicant is a natural person—

(i) any previous names by which the applicant has been known,

(ii) the residential address for the applicant during the period of 5 years ending with the date of the application, and

(**a**) 2011 asp 8.

(iii) the date of birth of the applicant,

(f) where a relevant person is specified in the application—

(i) a contact telephone number and email address (if any) for the relevant person,

(ii) any previous names by which the relevant person has been known,

(iii) the residential address for the relevant person during the period of 5 years ending with the date of the application,

(iv) the date of birth of the relevant person,

(g) in the case where the applicant is a body which is—

(i) entered in the Scottish Charity Register(**a**),

(ii) registered as a charity in England and Wales in accordance with section 30 of the Charities Act 2011(**b**), or

(iii) registered as a charity in Northern Ireland in accordance with section 16 of the Charities Act (Northern Ireland) 2008(**c**),

that body's charity number,

(h) any conviction of the applicant or a relevant person relating to any offence involving a matter mentioned in section 5(2)(a) of the Act,

(i) any court or tribunal judgment against the applicant or a relevant person under the Equality Act 2010(**d**) or any of—

(i) the Equal Pay Act 1970(**e**),

(ii) the Sex Discrimination Act 1975(**f**),

(iii) the Race Relations Act 1976(**g**),

(iv) the Disability Discrimination Act 1995(**h**),

(v) the Employment Equality (Sexual Orientation) Regulations 2003(**i**),

(vi) the Employment Equality (Religion or Belief) Regulations 2003(**j**), and

(j) in relation to a contravention by the applicant or 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(**k**)) 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(h) or (j)(i) is, or has become, inaccurate.

(**a**) The Scottish Charity Register is kept by the Office of the Scottish Charity Regulator under section 3 of the Charities and Trustee Investment (Scotland) Act 2005 (asp 10).
(**b**) 2011 c. 25. Section 30 was amended by S.I. 2016/997.
(**c**) 2008 c. 12. Section 16 was amended by section 3 of the Charities Act (Northern Ireland) 2022 (c. 11).
(**d**) 2010 c. 15.
(**e**) 1970 c. 41.
(**f**) 1975 c. 65.
(**g**) 1976 c. 74.
(**h**) 1995 c. 50.
(**i**) S.I. 2003/1161.
(**j**) S.I. 2003/1660.
(**k**) 1997 c. 50. Section 112(1) was amended by S.S.I. 2006/50 and section 79(1) of the Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14).

Fees payable on application for registration as a property factor

5.—(1) Subject to paragraphs (2) and (3) the fees prescribed for the purposes of 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 £200,

(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 £750.

(2) The number of properties in relation to which an applicant acts, or expects to act—

(a) does not include any property which the applicant owns (that is to say, owns more than only a share in the common parts of the relevant property), and

(b) is determined as at the date of the submission of the application for registration.

(3) Subject to paragraph (5) the prescribed fees are to be varied on 1 April each year, beginning on 1 April 2025, in accordance with paragraph (4).

(4) The prescribed fee is to be varied in accordance with the formula—

$$Fee_{i,t} = \left[\left(\frac{CPI_y}{CPI_{y-1}} \right) \quad * Fee_{i,t-1} \right]$$

Explanation:

$Fee_{i,t}$ is the value of the fee i (where i refers to the registration fee) to be applied in the financial year t,

CPI_y is the value of the Consumer Prices Index (All Items) for the calendar year y, where the calendar year y is the calendar year which precedes the financial year t,

CPI_{y-1} is the value of the Consumer Prices Index (All Items) for the calendar year which precedes the calendar year y,

$Fee_{i,t-1}$ is the value of the fee that was applied in the preceding financial year, $t - 1$.

The unrounded value of the fee will be used in the formula, and the value of the fee applied in year t will be rounded to the nearest pound.

Where 1 April in any year falls on a Saturday or Sunday, the prescribed fee is instead varied on the following Monday.

Revocation

6. The following regulations are revoked—

(a) the Property Factors (Registration) (Scotland) Regulations 2012(**a**),

(b) the Property Factors (Registration) (Scotland) Amendment Regulations 2015(**b**).

PAUL MCLENNAN
Authorised to sign by the Scottish Ministers

St Andrew's House,
Edinburgh
2nd October 2024

(**a**) S.S.I. 2012/181 as amended by S.S.I. 2015/217.
(**b**) S.S.I. 2015/217.

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 ("the 2011 Act").

Regulation 3 specifies additional information that applicants must supply in an application for registration under section 3(1) of the 2011 Act. This includes information in respect of any person concerned with the control or governance of a property factor. 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).

Regulation 4 provides that the Scottish Ministers may require the applicant to provide a criminal conviction certificate (a "basic disclosure") to verify the information on convictions provided in the application or if the Scottish Ministers suspect that the information is, or has become, inaccurate.

Regulation 5 provides the fee payable for applications for registration in the property factors register. The fee is £200 (where the property factor acts in relation to 100 or fewer properties) and £750 (where the property factor acts in relation to more than 100 properties). On or after 1 April 2025, the fee will increase each year by the Consumer Prices Index (All Items).

Regulation 6 revokes the Property Factors (Registration) (Scotland) Regulations 2012 and the Property Factors (Registration) (Scotland) Amendment Regulations 2015.

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