

PE2006/I: Review and simplify the legislation in relation to dismissal of property factors

Minister for Victims and Community Safety written submission, 31 March 2025

Thank you for your letter dated 10 March 2025 which highlights some of the points raised during my evidence session for the public petition PE2006: Review and simplify the legislation in relation to dismissal of property factors which you seek a response on.

To ask what further consideration the Scottish Government has given to the suggestion from Fergus Ewing that the small claims court be given powers to dismiss property factors in situations where excessive charges have been introduced.

In considering this suggestion I consulted with the Scottish Courts and Tribunals Service (SCTS) to seek their initial views. They advised that:

“From 28 November 2016, small claims procedure was repealed and replaced by [the simple procedure which allows a party to raise a claim which seeks payment for £5000 or less, delivery or recovery of possession of moveable property or an order for someone to do something specific where there is an alternative claim for £5000 or less](#). In addition, and as a consequence of the coming into force of the simple procedure, actions that could be raised under the summary cause procedure are limited to actions for delivery only; actions for delivery where there is an additional claim for £5000 or less; actions for recovery of possession of heritable property; and damages resulting from personal injuries.

It would appear an order for the removal of a property factor would appear to be currently outwith the scope of both the simple and summary cause procedure as defined by the Courts Reform (Scotland) Act 2014 and Sheriff Courts (Scotland) Act 1971 respectively.

Due to the level of complexity in the legislation, it would appear that the proposal may add a layer of complexity that may not be suitable certainly for simple procedure.”

SCTS suggested an alternative would be to consider whether [the summary application procedure available in the sheriff courts](#) would be a possible route to removing property factors – however, concluded that this is not readily accessible to unrepresented parties and may involve awards of expenses on a par with ordinary cause procedure in particular where an application was opposed as this is what we are trying to avoid here.

We would conclude that this is not a viable option to take forward.

Seeking further detail on the Scottish Government’s response to the Competition and Markets Authority (CMA) report into housebuilding, including the anticipated timescale for the response to be published

As you are aware, Scottish Ministers welcomed the report and recommendations from the CMA and are grateful for their engagement with officials and the Scottish market in their investigation. We have been considering the CMA report and its recommendations carefully and will respond in due course. In the context of the housing emergency, we are focussing on those actions which will have the greatest impact.

To ask how many property factors have been dismissed in the past 10 years, and, if this information is not already compiled, how it might be established.

Decisions on the dismissal of a property factor are for individual groups of homeowners to make and the Scottish Government does not hold information on these decisions.

The provision of statistics on the number of property factors who have been dismissed is not included in the current legislative duty placed on property factors to provide information to the Scottish Government. Establishing a system to provide this additional information would require legislative change and would incur cost.

Finally, I would draw to your attention that guidance on the dismissal and appointment of a property factor is available at [Appointing or dismissing a property factor - mygov.scot](#). Relevant stakeholders are being notified.

I hope this is helpful to the Committee.

Yours sincerely,

SIOBHIAN BROWN