



Consumers, Estate Agents and Redress Act 2007

2007 CHAPTER 17

PART 3

AMENDMENT OF THE ESTATE AGENTS ACT 1979

Estate agents' duties

53 Membership of redress schemes

- (1) Schedule 6 (which amends the Estate Agents Act 1979 (c. 38) to make provision for redress schemes dealing with complaints about estate agents) has effect.
- (2) In section 3(1) of the Estate Agents Act 1979 (grounds for making prohibition orders), after paragraph (c) insert—
 - “(ca) has engaged in estate agency work in relation to residential property in breach of the duty imposed by an order under section 23A(1) below; or”.
- (3) Sections 172 to 174 of the Housing Act 2004 (c. 34) (redress schemes dealing with complaints about the activities of estate agents in relation to home information packs) are omitted.

Commencement Information

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| I1 | S. 53(1) in force at 12.10.2007 by S.I. 2007/2934 , art. 3, Sch. |
| I2 | S. 53(2) in force at 1.10.2008 by S.I. 2008/905 , art. 3(2), Sch. 2 |
| I3 | S. 53(3) in force at 1.10.2008 by S.I. 2008/2550 , art. 2, Sch. |

Status: This version of this part contains provisions that are prospective.

Changes to legislation: Consumers, Estate Agents and Redress Act 2007, Part 3 is up to date with all changes known to be in force on or before 13 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

PROSPECTIVE

54 Duty to keep records

- (1) After section 21 of the Estate Agents Act 1979 (transactions in which an estate agent has a personal interest) insert—

“21A Duty to keep permanent records

- (1) A person engaged in estate agency work shall—
- (a) keep records for the purposes of this section (“the permanent records”); and
 - (b) ensure that anything required by subsection (3) to be included in the permanent records is kept for a period of at least six years beginning with the day on which it is included.
- (2) In the case of a person engaged in estate agency work in the course of employment the duties under subsection (1) are duties of the employer (and not the employee).
- (3) A person engaged in estate agency work shall ensure that a record of any information or event to which this subsection applies is included in the permanent records kept by that person or his employer (as the case may be).
- (4) Subsection (3) applies to—
- (a) information the person concerned is required to give by section 18(1) or (3) and any prescribed information relating to the giving of that information;
 - (b) information the person concerned is required to disclose by section 21(1) or (2) and any prescribed information relating to the disclosure of that information;
 - (c) any offer of a prescribed description received by the person concerned and any prescribed information relating to the making of the offer;
 - (d) any action of a prescribed description taken by the person concerned in relation to such an offer and any prescribed information relating to that action; and
 - (e) any other information or event of a prescribed description.
- (5) If the person concerned is acting in the course of employment, it is also the duty of the employer to ensure that the record of the information or event is included in the permanent records; but the employer is not to be regarded as having breached his duty if he shows that he took such steps as were reasonably practicable to ensure that the duty under subsection (3) was complied with by his employees.
- (6) The Secretary of State may by regulations make provision as to—
- (a) the manner in which the permanent records are to be kept;
 - (b) the place or places at which they are to be kept.
- (7) In this section “prescribed” means prescribed by regulations made by the Secretary of State.

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(8) Any power to make regulations under this section shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.”

(2) In section 3(1) of that Act (grounds for making prohibition orders), in paragraph (c), for “21” substitute “ 21A ”.

Prohibition and warning orders

55 Grounds for prohibition orders

(1) Section 3(1) of the Estate Agents Act 1979 (c. 38) (grounds for making prohibition orders) is amended as follows.

(2) In paragraph (a), for “has been convicted of” substitute “ has committed ”.

(3) After paragraph (b) insert—

“(ba) has failed to comply with an undertaking accepted from him under section 217, 218 or 219 of the Enterprise Act 2002 and given in relation to estate agency work; or

(bb) has failed to comply with an enforcement order under section 217 of the Enterprise Act 2002 which was made against him in relation to estate agency work; or”.

(4) Section 5(4) of that Act (which provides for section 3 orders based on a person's conviction to cease to have effect when the conviction is spent) is omitted.

(5) For paragraph 1 of Schedule 1 to that Act substitute—

“1 A person is not to be treated for the purposes of section 3(1)(a) of this Act as having committed an offence if he has been convicted of that offence and that conviction is to be treated as spent for the purposes of the Rehabilitation of Offenders Act 1974 or any corresponding enactment for the time being in force in Northern Ireland.”

Commencement Information

I4 S. 55 in force at 1.10.2008 by [S.I. 2008/905](#), art. 3(2), [Sch. 2](#)

56 Grounds for warning orders

(1) Section 4 of the Estate Agents Act 1979 (warning orders) is amended as follows.

(2) For subsection (1) substitute—

“(1) If the OFT is satisfied that any of subsections (1A), (1B) or (1C) apply in relation to a person it may by order notify that person that it is satisfied of the matters mentioned in that subsection.

(1A) This subsection applies in relation to a person if—

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- (a) in the course of estate agency work, he has engaged in conduct falling within paragraph (a), (b), (c), (ca) or (cb) of section 3(1); and
- (b) were he to engage again in any conduct falling within that paragraph, the OFT would consider him unfit and proceed to make a prohibition order.

(1B) This subsection applies in relation to a person if—

- (a) in the course of estate agency work, he has engaged in conduct constituting a failure to comply with—
 - (i) an undertaking mentioned in section 3(1)(ba); or
 - (ii) an enforcement order mentioned in section 3(1)(bb); and
- (b) were he to fail again to comply with that undertaking or order by engaging in the same or similar conduct, the OFT would consider him unfit and proceed to make a prohibition order.

(1C) This subsection applies in relation to a person if—

- (a) in the course of estate agency work, he has engaged in a practice mentioned in section 3(1)(d); and
- (b) were he to engage again in that practice, the OFT would consider him unfit and proceed to make a prohibition order.”

(3) In subsection (2) for the words from “a further” to “order” (in the second place it appears) substitute “ further conduct as mentioned in subsection (1A)(b) or (1B)(b) or engaging again in the practice specified in the order, as the case may be, ”.

(4) In subsection (3) for the words from “fails to comply” to “order” (in the second place it appears) substitute “ engages in further conduct as mentioned in subsection (1A)(b) or (1B)(b) or engages again in the practice specified in the order, as the case may be, ”.

(5) After subsection (3) insert—

“(4) In this section “unfit” means unfit as mentioned in subsection (2) of section 3 and “prohibition order” means an order under that section.”

Commencement Information

I5 S. 56 in force at 1.10.2008 by [S.I. 2008/905, art. 3\(2\)](#), [Sch. 2](#)

Investigatory powers

^{F1}57 Powers of entry and inspection

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Textual Amendments

F1 S. 57 repealed (1.10.2015) by [Consumer Rights Act 2015 \(c. 15\), s. 100\(5\)](#), [Sch. 6 para. 85\(i\)](#); [S.I. 2015/1630, art. 3\(i\)](#) (with art. 8)

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58 Failure to produce information

^{F2}(1)

(2) In section 3(1) of that Act (grounds for making prohibition orders), after paragraph (ca) (inserted by section 53(2)) insert—

“(cb) has failed to comply with any requirement imposed on him under section 9(1) or 11(1A)(b) below; or”.

^{F3}(3)

^{F3}(4)

Textual Amendments

F2 S. 58(1) repealed (1.10.2015) by Consumer Rights Act 2015 (c. 15), s. 100(5), Sch. 6 para. 85(i); S.I. 2015/1630, art. 3(i) (with art. 8)

F3 S. 58(3)(4) repealed (1.10.2015) by Consumer Rights Act 2015 (c. 15), s. 100(5), Sch. 6 para. 85(i); S.I. 2015/1630, art. 3(i) (with art. 8)

Commencement Information

I6 S. 58 in force at 1.10.2008 by S.I. 2008/905, art. 3(2), Sch. 2

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 42(4)(c) words substituted by [2023 c. 52 Sch. 17 para. 16\(a\)](#)
- s. 42(4)(c) words substituted by [2023 c. 52 Sch. 17 para. 16\(b\)](#)