



Estate Agents Act 1979

1979 CHAPTER 38

Supplementary

28 General provisions as to offences

- (1) In any proceedings for an offence under this Act it shall be a defence for the person charged to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of an offence by himself or any person under his control.
- (2) Where an offence under this Act committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

29 Service of notices etc.

- (1) Any notice which under this Act is to be given to any person by the Director shall be so given—
 - (a) by delivering it to him, or
 - (b) by leaving it at his proper address, or
 - (c) by sending it by post to him at that address.
- (2) Any such notice may,—
 - (a) in the case of a body corporate or unincorporated association, be given to the secretary or clerk of that body or association ; and
 - (b) in the case of a partnership, be given to a partner or a person having the control or management of the partnership business.
- (3) Any application or other document which under this Act may be made or given to the Director may be so made or given by sending it by post to the Director at such address as may be specified for the purposes of this Act by a general notice.

- (4) For the purposes of subsections (1) and (2) above and section 7 of the Interpretation Act 1978 (service of documents by post) in its application to those subsections, the proper address of any person to whom a notice is to be given shall be his last-known address, except that—
- (a) in the case of a body corporate or their secretary or clerk, it shall be the address of the registered or principal office of that body ;
 - (b) in the case of an unincorporated association or their secretary or clerk, it shall be that of the principal office of that association;
 - (c) in the case of a partnership or a person having the control or management of the partnership business, it shall be that of the principal office of the partnership ;
- and for the purposes of this subsection the principal office of a company registered outside the United Kingdom or of an unincorporated association or partnership carrying on business outside the United Kingdom shall be their principal office within the United Kingdom.
- (5) If the person to be given any notice mentioned in subsection (1) above has specified an address within the United Kingdom other than his proper address, within the meaning of subsection (4) above, as the one at which he or someone on his behalf will accept notices under this Act, that address shall also be treated for the purposes mentioned in subsection (4) above as his proper address.

30 Orders and regulations

- (1) Before making any order or regulations under any provision of this Act to which this subsection applies, the Secretary of State shall consult the Director, such bodies representative of persons carrying on estate agency work, such bodies representative of consumers and such other persons as he thinks fit.
- (2) Subsection (1) above applies to paragraphs (a)(iii) and (d) of section 3(1) above and to sections 14, 15, 16, 18, 19 and 22 above.
- (3) Any power of the Secretary of State to make orders or regulations under this Act—
 - (a) may be so exercised as to make different provision in relation to different cases or classes of cases and to exclude certain cases or classes of case; and
 - (b) includes power to make such supplemental, incidental and transitional provisions as he thinks fit.

31 Meaning of " business associate " and " controller "

- (1) The provisions of this section shall have effect for determining the meaning of " business associate " and " controller " for the purposes of this Act.
- (2) As respects acts done in the course of a business carried on by a body corporate, every director and controller of that body is a business associate of it.
- (3) As respects acts done in the course of a business carried on by a partnership, each partner is a business associate of every other member of the partnership and also of the partnership itself and, in the case of a partner which is a body corporate, every person who, by virtue of subsection (2) above, is a business associate of that body is also a business associate of every other member of the partnership.

- (4) As respects acts done in the course of a business carried on by an unincorporated association, every officer of the association and any other person who has the management or control of its activities is a business associate of that association.
- (5) In relation to a body corporate " controller" means a person—
 - (a) in accordance with whose directions or instructions the directors of the body corporate or of any other body corporate which is its controller (or any of them) are accustomed to act; or
 - (b) who, either alone or with any associate or associates, is entitled to exercise, or control the exercise of, one third or more of the voting power at any general meeting of the body corporate or of another body corporate which is its controller.

32 Meaning of " associate "

- (1) In this Act " associate " includes a business associate and otherwise has the meaning given by the following provisions of this section.
- (2) A person is an associate of another if he is the spouse or a relative of that other or of a business associate of that other
- (3) In subsection (2) above " relative " means brother, sister, uncle, aunt, nephew, niece, lineal ancestor or linear descendant, and references to a spouse include a former spouse and a reputed spouse; and for the purposes of this subsection a relationship shall be established as if an illegitimate child or step-child of a person had been a child born to him in wedlock.
- (4) A body corporate is an associate of another body corporate—
 - (a) if the same person is a controller of both, or a person is a controller of one and persons who are his associates, or he and persons who are his associates, are controllers of the other; or
 - (b) if a group of two or more persons is a controller of each company, and the groups either consist of the same persons or could be regarded as consisting of the same persons by treating (in one or more cases) a member of either group as replaced by a person of whom he is an associate.
- (5) An unincorporated association is an associate of another unincorporated association if any person—
 - (a) is an officer of both associations ;
 - (b) has the management or control of the activities of both associations; or
 - (c) is an officer of one association and has the management or control of the activities of the other association.
- (6) A partnership is an associate of another partnership if—
 - (a) any person is a member of both partnerships ; or
 - (b) a person who is a member of one partnership is an associate of a member of the other partnership ; or
 - (c) a member of one partnership has an associate who is also an associate of a member of the other partnership.

33 General interpretation provisions

(1) In this Act, unless the context otherwise requires,—

" associate " has the meaning assigned to it by section 32 above and " business associate" has the meaning assigned to it by section 31 above;

" client account " has the meaning assigned to it by section 14(2) above;

" clients' money " has the meaning assigned to it by section 12(1) above;

" connected contract", in relation to the acquisition of an interest in land, has the meaning assigned to it by section 12(4) above;

" contract deposit " has the meaning assigned to it by section 12(2) above;

" controller ", in relation to a body corporate, has the meaning assigned to it by section 31(5) above ;

" Director " means the Director General of Fair Trading ;

" enforcement authority " has the meaning assigned to it by section 26(1) above ;

" estate agency work " has the meaning assigned to it by section 1(1) above;

" general notice " means a notice published by the Director at a time and in a manner appearing to him suitable for securing that the notice is seen within a reasonable time by persons likely to be affected by it;

" pre-contract deposit " has the meaning assigned to it by section 12(3) above;

" prescribed fee " means such fee as may be prescribed by regulations made by the Secretary of State;

" the statutory maximum ", in relation to a fine on summary conviction, means—

(a) in England and Wales and Northern Ireland, the prescribed sum within the meaning of section 28 of the Criminal Law Act 1977 (at the passing of this Act £1,000); and

(b) in Scotland, the prescribed sum within the meaning of section 289B of the Criminal Procedure (Scotland) Act 1975 (at the passing of this Act £1,000);

and for the purposes of the application of this definition in Northern Ireland the provisions of the Criminal Law Act 1977 which relate to the sum mentioned in paragraph (a) above shall extend to Northern Ireland; and

" unincorporated association " does not include a partnership.

(2) The power to make regulations under subsection (1) above prescribing fees shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

34 Financial provisions

(1) There shall be defrayed out of moneys provided by Parliament—

(a) any expenses incurred by the Secretary of State in consequence of the provisions of this Act; and

(b) any increase attributable to this Act in the sums payable out of moneys so provided under any other Act.

(2) Any fees paid to the Director under this Act shall be paid into the Consolidated Fund.

35 Scotland

- (1) In the Scotland Act 1978, at the end of Part III of Schedule 10 (matters dealt with by certain enactments to be included, to the extent specified, in the groups of devolved matters) there shall be added the following entry—

“The Estate Agents Act 1979 (c. 38).

Included, except so far as relates to fees paid or to be paid to the Director General of Fair Trading.”

- (2) For the purpose of the following provisions of the Scotland Act 1978, this Act shall be deemed to have been passed before the passing of that Act, namely—
- (a) section 21(2) (executive powers);
 - (b) subsections (1) and (2) of section 22 (subordinate instruments);
 - (c) section 60 (modification of enactments providing for payments out of moneys provided by Parliament etc.); and
 - (d) section 82 (construction and amendment of existing enactments).

36 Short title, commencement and extent

- (1) This Act may be cited as the Estate Agents Act 1979.
- (2) This Act shall come into force on such day as the Secretary of State may by order made by statutory instrument appoint and different days may be so appointed for different provisions and for different purposes.
- (3) This Act extends to Northern Ireland.