

CONSUMER RIGHTS ACT 2015

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 3 Miscellaneous and General

Chapter 3: Duty of Letting Agents to Publicise Fees Etc.

Section 87: Enforcement of the duty

474. *Subsection (1)* places a duty on every local weights and measures authority in England and Wales to enforce the requirement for letting agents to publicise their fees etc in its area.
475. *Subsection (2)* sets out that, if an agent breaches the duty in section 83(3) to publicise fees on its website, that breach is taken to have occurred in the area in which the property to which the fees relate is located.
476. *Subsection (3)* enables local weights and measures authorities who are satisfied on the balance of probabilities that a letting agent has breached the requirement to impose a financial penalty on the agent in respect of that breach.
477. *Subsection (4)* provides that while it is the duty of local weights and measures authorities to enforce the requirement in their area, they may also impose a penalty in respect of a breach which occurs in England and Wales but outside that authority's area. However, *subsection (6)* ensures that an agent may only be fined once in respect of the same breach.
478. *Subsection (5)* requires a local weights and measures authority who wants to impose a fine in respect of a breach outside its own area but in the area of a Welsh authority, to seek the consent of that authority.
479. *Subsection (7)* provides that local weights and measures authorities may fine letting agents in breach of the requirement up to £5,000. When imposing a fine, *subsection (8)* states that authorities must follow the process described in Schedule 9.
480. *Subsection (9)* requires a local weights and measures authority in England to have regard to any guidance issued by the Secretary of State about how letting agents should comply with the duty to publicise their fees etc and on how the authority should carry out its enforcement duties.
481. Similarly *subsection (10)* requires a local weights and measures authority in Wales to have regard to any guidance issued by the Welsh Ministers about how letting agents should comply with the duty to publicise their fees etc and on how the authority should carry out its enforcement duties.
482. *Subsection (11) and (12)* give both the Secretary of State and the Welsh Ministers the power to make secondary legislation which amends the enforcement provisions and make the necessary consequential amendments for England and Wales respectively.