

SCHEDULE 3

Article 5(3)

Transitional and saving provisions

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1. Any proceedings before the Secretary of State to decide an appeal under section 7(1) of the Estate Agents Act 1979 which are pending immediately before 1st September 2009 shall continue on and after 1st September 2009 as proceedings before the First-tier Tribunal.

2.—(1) The following sub-paragraphs apply where proceedings are continued in the First-tier Tribunal by virtue of paragraph 1.

(2) Where a hearing began before 1st September 2009 but was not completed by that date, the First-tier Tribunal must be comprised for the continuation of that hearing of the person or persons appointed by the Secretary of State to hear the appeal on his behalf.

(3) The First-tier Tribunal may give any direction to ensure that proceedings are dealt with fairly and, in particular, may—

- (a) apply any provision regulating practice or procedure which applied to the proceedings before 1st September 2009; or
- (b) disapply provisions of Tribunal Procedure Rules.

(4) Any direction or order given or made in proceedings which is in force immediately before 1st September 2009 remains in force on and after that date as if it were a direction or order of the First-tier Tribunal.

(5) A time period which has started to run before 1st September 2009 and which has not expired shall continue to apply.

(6) An order for costs may only be made if, and to the extent that, an order could have been made before 1st September 2009.

3. Where an appeal lies to a court from any decision made by the Secretary of State on an appeal under section 7(1) of the Estate Agents Act 1979 before 1st September 2009, that right of appeal has not been exercised, and the time to exercise that right of appeal has not expired prior to 1st September 2009, section 11 of the Tribunals, Courts and Enforcement Act 2007(1) (right to appeal to Upper Tribunal) shall apply as if the decision were a decision made on or after 1st September 2009 by the First-tier Tribunal, and any reference to the Secretary of State in respect of the function of deciding appeals under section 7(1) of the Estate Agents Act 1979, or to any person by whom such appeals are to be heard on behalf of the Secretary of State, in an enactment relating to such an appeal, express or otherwise, is to be taken as a reference to the First-tier Tribunal.

4. Any case to be remitted by a court on or after 1st September 2009 and which, if it had been remitted before 1st September 2009, would have been remitted to the Secretary of State shall be remitted to the First-tier Tribunal.

5. Staff appointed in relation to the administration of appeals under section 7(1) of the Estate Agents Act 1979 before 1st September 2009 are to be treated on and after that date, for the purpose of any enactment, as if they had been appointed by the Lord Chancellor under section 40(1) of the Tribunals, Courts and Enforcement Act 2007 (tribunal staff and services).

6. A decision made by the Secretary of State on an appeal under section 7(1) of the Estate Agents Act 1979(2) before 1st September 2009 is to be treated as a decision of the First-tier Tribunal on or after 1st September 2009.

(1) 2007 c. 15.

(2) 1979 c. 38.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.