

Changes to legislation: Estate Agents Act 1979, SCHEDULE 3 is up to date with all changes known to be in force on or before 14 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

SCHEDULES

[^{F1}SCHEDULE 3

Section 23A(10)

REDRESS SCHEMES

Textual Amendments

- F1** Sch. 3 inserted (12.10.2007) by [Consumers, Estate Agents and Redress Act 2007 \(c. 17\)](#), s. 66(2), [Sch. 6 para. 3](#); [S.I. 2007/2934](#), art. 3, Sch.

Approval of redress schemes

- 1 A redress scheme may be approved for the purposes of section 23A by the [^{F2}lead enforcement authority] acting in accordance with paragraphs 2 to 8.

Textual Amendments

- F2** Words in Sch. 3 para. 1 substituted (31.3.2014) by [The Public Bodies \(Abolition of the National Consumer Council and Transfer of the Office of Fair Trading's Functions in relation to Estate Agents etc\) Order 2014 \(S.I. 2014/631\)](#), art. 1(5), [Sch. 2 para. 1\(14\)\(a\)](#) (with Sch. 1 para. 28, 2 paras. 13-15)

- 2 (1) A scheme may not be approved unless the [^{F3}lead enforcement authority] considers that—
- (a) the provisions of the scheme; and
 - (b) the manner in which it will be operated (so far as can be judged from facts known to the authority);
- are satisfactory for the purposes of section 23A.
- (2) Without prejudice to the generality of sub-paragraph (1), a scheme must not be approved unless the [^{F4}lead enforcement authority] considers that it makes satisfactory provision about—
- (a) the complaints which may be made under the scheme (which may include complaints about non-compliance with the provisions of a code of practice or other document);
 - (b) the ombudsman's duties and powers in relation to the investigation and determination of complaints (which may include power to decide not to investigate or determine a particular complaint);
 - (c) the redress which the ombudsman may require members to provide to complainants, which must include the types of redress specified in sub-paragraph (3);
 - (d) the enforcement of any requirement to provide redress imposed on a member in accordance with the scheme.
- (3) The types of redress mentioned in sub-paragraph (2)(c) are—

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- (a) providing an apology or explanation;
- (b) paying compensation; and
- (c) taking such other actions in the interests of the complainant as the ombudsman may specify.

Textual Amendments

- F3** Words in Sch. 3 para. 2(1) substituted (31.3.2014) by [The Public Bodies \(Abolition of the National Consumer Council and Transfer of the Office of Fair Trading’s Functions in relation to Estate Agents etc\) Order 2014 \(S.I. 2014/631\)](#), art. 1(5), **Sch. 2 para. 1(14)(b)** (with Sch. 1 para. 28, 2 paras. 13-15)
- F4** Words in Sch. 3 para. 2(2) substituted (31.3.2014) by [The Public Bodies \(Abolition of the National Consumer Council and Transfer of the Office of Fair Trading’s Functions in relation to Estate Agents etc\) Order 2014 \(S.I. 2014/631\)](#), art. 1(5), **Sch. 2 para. 1(14)(b)** (with Sch. 1 para. 28, 2 paras. 13-15)

- 3 (1) In determining whether a scheme, or any provisions mentioned in paragraph 2(2), are satisfactory the [^{F5}lead enforcement authority] must have regard to—
- (a) the interests of members of the scheme and of sellers and buyers of residential properties; and
 - (b) such principles as—
 - (i) in the opinion of the [^{F5}lead enforcement authority] constitute generally accepted principles of best practice in relation to consumer redress schemes, and
 - (ii) it is reasonable to regard as applicable to the scheme.
- (2) In considering the interests mentioned in sub-paragraph (1)(a), the [^{F6}lead enforcement authority] may have regard to the number of other redress schemes which are (or are likely to become) approved redress schemes.

Textual Amendments

- F5** Words in Sch. 3 para. 3(1) substituted (31.3.2014) by [The Public Bodies \(Abolition of the National Consumer Council and Transfer of the Office of Fair Trading’s Functions in relation to Estate Agents etc\) Order 2014 \(S.I. 2014/631\)](#), art. 1(5), **Sch. 2 para. 1(14)(c)** (with Sch. 1 para. 28, 2 paras. 13-15)
- F6** Words in Sch. 3 para. 3(2) substituted (31.3.2014) by [The Public Bodies \(Abolition of the National Consumer Council and Transfer of the Office of Fair Trading’s Functions in relation to Estate Agents etc\) Order 2014 \(S.I. 2014/631\)](#), art. 1(5), **Sch. 2 para. 1(14)(c)** (with Sch. 1 para. 28, 2 paras. 13-15)

- 4 The [^{F7}lead enforcement authority] must not approve a scheme unless it considers that the scheme makes satisfactory provision about the provision of information by the ombudsman or the scheme administrator to—
- (a) persons exercising functions under other approved schemes;
 - (b) persons exercising functions under other consumer redress schemes; and
 - (c) the [^{F7}lead enforcement authority] or any other person exercising regulatory functions in relation to the activities of persons engaging in estate agency work.

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Textual Amendments

F7 Words in Sch. 3 para. 4 substituted (31.3.2014) by [The Public Bodies \(Abolition of the National Consumer Council and Transfer of the Office of Fair Trading’s Functions in relation to Estate Agents etc\) Order 2014 \(S.I. 2014/631\)](#), art. 1(5), **Sch. 2 para. 1(14)(d)** (with Sch. 1 para. 28, 2 paras. 13-15)

- 5 The [^{F8}lead enforcement authority] must not approve a scheme if it considers that the scheme provides for membership to be revoked on any unfair grounds.

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Textual Amendments

F8 Words in Sch. 3 para. 5 substituted (31.3.2014) by [The Public Bodies \(Abolition of the National Consumer Council and Transfer of the Office of Fair Trading’s Functions in relation to Estate Agents etc\) Order 2014 \(S.I. 2014/631\)](#), art. 1(5), **Sch. 2 para. 1(14)(e)** (with Sch. 1 para. 28, 2 paras. 13-15)

Applications for approval to the [^{F9}lead enforcement authority]

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Textual Amendments

F9 Words in Sch. 3 para. 6 cross-heading substituted (31.3.2014) by [The Public Bodies \(Abolition of the National Consumer Council and Transfer of the Office of Fair Trading’s Functions in relation to Estate Agents etc\) Order 2014 \(S.I. 2014/631\)](#), art. 1(5), **Sch. 2 para. 1(14)(f)** (with Sch. 1 para. 28, 2 paras. 13-15)

- 6 An application for approval by the [^{F10}lead enforcement authority] of a redress scheme must—
- (a) be made in such manner as the [^{F10}lead enforcement authority] may determine; and
 - (b) be accompanied by such information as the [^{F10}lead enforcement authority] may require.

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Textual Amendments

F10 Words in Sch. 3 para. 6 substituted (31.3.2014) by [The Public Bodies \(Abolition of the National Consumer Council and Transfer of the Office of Fair Trading’s Functions in relation to Estate Agents etc\) Order 2014 \(S.I. 2014/631\)](#), art. 1(5), **Sch. 2 para. 1(14)(g)** (with Sch. 1 para. 28, 2 paras. 13-15)

- 7 Where the [^{F11}lead enforcement authority] is proposing to refuse an application for approval it must give the applicant a notice stating—
- (a) that it is proposing to refuse the application;
 - (b) the grounds for the proposed refusal; and
 - (c) that representations about the proposed refusal may be made within such period of not less than 30 days as is specified in the notice.

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Textual Amendments

F11 Words in Sch. 3 para. 7 substituted (31.3.2014) by [The Public Bodies \(Abolition of the National Consumer Council and Transfer of the Office of Fair Trading’s Functions in relation to Estate Agents etc\) Order 2014 \(S.I. 2014/631\)](#), art. 1(5), **Sch. 2 para. 1(14)(h)** (with Sch. 1 para. 28, 2 paras. 13-15)

- 8 If the [^{F12}lead enforcement authority] decides to refuse an application for approval, it must give the applicant a notice stating—
- (a) the [^{F12}lead enforcement authority]’s decision to refuse the application; and
 - (b) the reasons for the decision.

Textual Amendments

F12 Words in Sch. 3 para. 8 substituted (31.3.2014) by [The Public Bodies \(Abolition of the National Consumer Council and Transfer of the Office of Fair Trading’s Functions in relation to Estate Agents etc\) Order 2014 \(S.I. 2014/631\)](#), art. 1(5), **Sch. 2 para. 1(14)(i)** (with Sch. 1 para. 28, 2 paras. 13-15)

Notification of changes to an approved scheme

- 9 The scheme administrator of a redress scheme which is approved by the [^{F13}lead enforcement authority] must notify the [^{F13}lead enforcement authority] of any change to the scheme before the end of the period of 14 days beginning with the day on which the change is made.

Textual Amendments

F13 Words in Sch. 3 para. 9 substituted (31.3.2014) by [The Public Bodies \(Abolition of the National Consumer Council and Transfer of the Office of Fair Trading’s Functions in relation to Estate Agents etc\) Order 2014 \(S.I. 2014/631\)](#), art. 1(5), **Sch. 2 para. 1(14)(j)** (with Sch. 1 para. 28, 2 paras. 13-15)

Withdrawal of approval by the [^{F14}lead enforcement authority]

Textual Amendments

F14 Words in Sch. 3 para. 10 cross-heading substituted (31.3.2014) by [The Public Bodies \(Abolition of the National Consumer Council and Transfer of the Office of Fair Trading’s Functions in relation to Estate Agents etc\) Order 2014 \(S.I. 2014/631\)](#), art. 1(5), **Sch. 2 para. 1(14)(k)** (with Sch. 1 para. 28, 2 paras. 13-15)

- 10 The [^{F15}lead enforcement authority] may withdraw approval of a redress scheme which is for the time being approved by it.

Textual Amendments

F15 Words in Sch. 3 para. 10 substituted (31.3.2014) by [The Public Bodies \(Abolition of the National Consumer Council and Transfer of the Office of Fair Trading’s Functions in relation to Estate Agents etc\) Order 2014 \(S.I. 2014/631\)](#), art. 1(5), **Sch. 2 para. 1(14)(l)** (with Sch. 1 para. 28, 2 paras. 13-15)

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- 11 Before withdrawing approval of a scheme, the [^{F16}lead enforcement authority] must give the scheme administrator a notice stating—
- (a) that it proposes to withdraw its approval;
 - (b) the grounds for the proposed withdrawal of approval; and
 - (c) that representations about the proposed withdrawal may be made within such period of not less than 30 days as is specified in the notice.

Textual Amendments

F16 Words in Sch. 3 para. 11 substituted (31.3.2014) by [The Public Bodies \(Abolition of the National Consumer Council and Transfer of the Office of Fair Trading’s Functions in relation to Estate Agents etc\) Order 2014 \(S.I. 2014/631\)](#), art. 1(5), **Sch. 2 para. 1(14)(m)** (with Sch. 1 para. 28, 2 paras. 13-15)

- 12 The [^{F17}lead enforcement authority] must give the scheme administrator a notice stating—
- (a) its decision on a proposal to withdraw approval; and
 - (b) the reasons for its decision.

Textual Amendments

F17 Words in Sch. 3 para. 12 substituted (31.3.2014) by [The Public Bodies \(Abolition of the National Consumer Council and Transfer of the Office of Fair Trading’s Functions in relation to Estate Agents etc\) Order 2014 \(S.I. 2014/631\)](#), art. 1(5), **Sch. 2 para. 1(14)(n)** (with Sch. 1 para. 28, 2 paras. 13-15)

- 13 If the [^{F18}lead enforcement authority] decides to withdraw approval of a scheme—
- (a) the withdrawal has effect from such date as may be specified in the notice under paragraph 12;
 - (b) the scheme administrator must give a copy of the notice under paragraph 12 to every member of the scheme.

Textual Amendments

F18 Words in Sch. 3 para. 13 substituted (31.3.2014) by [The Public Bodies \(Abolition of the National Consumer Council and Transfer of the Office of Fair Trading’s Functions in relation to Estate Agents etc\) Order 2014 \(S.I. 2014/631\)](#), art. 1(5), **Sch. 2 para. 1(14)(o)** (with Sch. 1 para. 28, 2 paras. 13-15)

Revocation of designation by the Secretary of State

- 14 If the Secretary of State decides to revoke his designation of a scheme for the purposes of section 23A, he must give every member of the scheme a notice stating—
- (a) that he has decided to revoke the designation;
 - (b) the reasons for his decision; and
 - (c) the date from which the revocation has effect.

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Defamation proceedings

- 15 For the purposes of the law relating to defamation, proceedings under an approved redress scheme in relation to the investigation and determination of a complaint are to be treated in the same way as proceedings before a court.

Interpretation

- 16 In this Schedule—
- “redress scheme” has the meaning given in section 23A(8)(a);
 - “approved redress scheme” has the meaning given in section 23A(8)(b);
 - “buyer”, in relation to residential property, has the meaning given in section 23A(8)(e);
 - “complaint” has the meaning given in section 23A(8)(c);
 - “ombudsman” means the independent person mentioned in section 23A(8)(a);
 - “residential property” has the meaning given in section 23C;
 - “scheme administrator”, in relation to a redress scheme, means the person who administers the scheme;
 - “seller”, in relation to residential property, has the meaning given by section 23A(8)(d).]

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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. 21A inserted by [2007 c. 17 s. 54\(1\)](#)