
STATUTORY INSTRUMENTS

1991 No. 859

ESTATE AGENTS

The Estate Agents (Provision of Information) Regulations 1991

Made - - - - 28th March 1991
Laid before Parliament 28th March 1991
Coming into force - - 29th July 1991

The Secretary of State, after consulting in accordance with section 30(1) of the Estate Agents Act 1979⁽¹⁾ the persons therein referred to, in exercise of the powers conferred on him by section 18(4) of that Act and of all other powers enabling him in that behalf, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Estate Agents (Provision of Information) Regulations 1991 and shall come into force on 29th July 1991.

(2) In these regulations—

“the Act” means the Estate Agents Act 1979;

“associate” has the meaning given to it in section 32(1) of the Act;

“client” means a person on whose behalf an estate agent acts;

“connected person” in relation to an estate agent means any of the following—

(a) his employer or principal, or

(b) any employee or agent of his, or

(c) any associate of his or of any person mentioned in (a) and (b) above;

“estate agent” means any person who in the course of a business (including one in which he is employed) engages in estate agency work and includes cases where he is negotiating on his own behalf;

“estate agency work” has the meaning given in section 1(1) of the Act;

“financial benefit” includes commission and any performance related benefit;

“interest in land” means any of the interests referred to in section 2 of the Act and references herein to an “interest in the land” are references to the particular interest in land of which the estate agent is engaged to secure the disposal or acquisition;

“purchaser” means a person to whom an interest in land is transferred or in whose favour it is created;

“services” means any services to a prospective purchaser for consideration, being services which are such as would ordinarily be made available to a prospective purchaser in connection with his acquisition of an interest in land or his use or enjoyment of it (including the provision to that purchaser of banking and insurance services and financial assistance and securing the disposal for that purchaser of an interest in land if that disposal is one which has to be made in order for him to be able to make the acquisition he is proposing or is one which is a result of that acquisition).

Additional information as to services

2.—(1) The following additional information is hereby prescribed and shall be given by an estate agent to his client, that is to say as to the services—

- (a) which the estate agent is himself offering, or intends to offer, to any prospective purchaser of an interest in the land; or
- (b) which he knows a connected person or (in a case where he or a connected person would derive a financial benefit from the provision of the service) another person is offering, or intends to offer, to any prospective purchaser of an interest in the land.

(2) The additional information referred to in paragraph (1) above shall be given at the time and in the manner specified in Regulations 3 and 4 below.

Time of giving information

3.—(1) The time when an estate agent shall give the information specified in section 18(2) of the Act, as well as the additional information prescribed in Regulation 2 above, is the time when communication commences between the estate agent and the client or as soon as is reasonably practicable thereafter provided it is a time before the client is committed to any liability towards the estate agent.

(2) The time when an estate agent shall give the details of any change to the terms of the contract between himself and his client as are mentioned in section 18(3) of the Act, is the time when, or as soon as is reasonably practicable after, those changes are agreed.

Manner of giving information

4. The additional information prescribed in Regulation 2 above and the information required to be given under section 18(2) and (3) of the Act shall be given by the estate agent in writing.

Explanation of terms concerning client’s liability to pay remuneration to an estate agent

5.—(1) If any of the terms “sole selling rights”, “sole agency” and “ready, willing and able purchaser” are used by an estate agent in the course of carrying out estate agency work, he shall explain the intention and effect of those terms to his client in the manner described respectively below, that is to say—

- (a) “sole selling rights”, by means of a written explanation having the form and content of the statement set out in paragraph (a) of the Schedule to these Regulations;
- (b) “sole agency”, by means of a written explanation having the form and content of the statement set out in paragraph (b) of the Schedule to these Regulations; and
- (c) “ready, willing and able purchaser”, by means of a written explanation having the form and content of the statement set out in paragraph (c) of the Schedule to these Regulations:

Provided that if, by reason of the provisions of the contract in which those terms appear, the respective explanations are in any way misleading, the content of the explanation shall be altered so as accurately to describe the liability of the client to pay remuneration in accordance with those provisions.

(2) Any other terms which, though differing from those referred to in paragraph (1) above, have a similar purport or effect shall be explained by the estate agent to his client by reference to whichever of paragraphs (a), (b) or (c) of the Schedule to these Regulations is appropriate, subject also to the proviso to paragraph (1) above.

(3) The explanation of the terms mentioned in paragraphs (1) and (2) above shall be given by the estate agent to his client in a document setting out the terms of the contract between them (whether that document be a written or printed agreement, a letter, terms of engagement or a form, and whether or not such document is signed by any of the parties), and shall be given at the time specified in Regulation 3(1) and (2) above.

Prominence etc. of explanation

6.—(1) Subject to the proviso to Regulation 5(1) and (2) above, the explanations set out in the Schedule to these Regulations shall be reproduced in the documents embodying them in the same form as they appear in that Schedule and without any material alterations or additions to the text, and shall be shown prominently, clearly and legibly.

(2) The wording of such explanations shall be given no less prominence than that given to any other information in the document setting out the terms of the contract (as more particularly described in Regulation 5(3) above) between the estate agent and his client apart from the heading thereto, trade names, names of the parties and numbers or letterings subsequently inserted therein in handwriting or in type.

28th March 1991

Edward Leigh
Parliamentary Under Secretary of State,
Department of Trade and Industry

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

THE SCHEDULE

Regulations 5 and 6

EXPLANATION OF CERTAIN TERMS(2)

(a) Sole selling rights

“SOLE SELLING RIGHTS

You will be liable to pay remuneration to us, in addition to any other costs or charges agreed, in each of the following circumstances—

if [unconditional contracts for the sale of the property are exchanged](3) in the period during which we have sole selling rights, even if the purchaser was not found by us but by another agent or by any other person, including yourself;

if [unconditional contracts for the sale of the property are exchanged](3) after the expiry of the period during which we have sole selling rights but to a purchaser who was introduced to you during that period or with whom we had negotiations about the property during that period.”

(b) Sole agency

“SOLE AGENCY

You will be liable to pay remuneration to us, in addition to any other costs or charges agreed, if at any time [unconditional contracts for the sale of the property are exchanged](3)—

with a purchaser introduced by us during the period of our sole agency or with whom we had negotiations about the property during that period; or

with a purchaser introduced by another agent during that period.”

(c) Ready, willing and able purchaser

“READY, WILLING AND ABLE PURCHASER

A purchaser is a “ready, willing and able” purchaser if he is prepared and is able to [exchange unconditional contracts for the purchase of your property].(4)

You will be liable to pay remuneration to us, in addition to any other costs or charges agreed, if such a purchaser is introduced by us in accordance with your instructions and this must be paid even if you subsequently withdraw and [unconditional contracts for sale are not exchanged](5), irrespective of your reasons.”

(2) In lieu of the words “us”, “we”, “our”, “you” or “your” may be inserted or printed the name of the agent, the agency or the client, as appropriate, and for “the property” may be inserted the address thereof.

(3) In Scotland for the words in square brackets there shall be substituted “unconditional missives for the sale of the property are concluded”.

(3) In Scotland for the words in square brackets there shall be substituted “unconditional missives for the sale of the property are concluded”.

(3) In Scotland for the words in square brackets there shall be substituted “unconditional missives for the sale of the property are concluded”.

(4) In Scotland for the words in square brackets there shall be substituted “conclude unconditional missives for the purchase of your property”.

(5) In Scotland for the words in square brackets there shall be substituted “unconditional missives for sale are not concluded”.

EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 18(4) of the Estate Agents Act 1979 empowers the Secretary of State to require that additional information be given to the clients of persons engaging in estate agency work and to stipulate the time and the manner in which that obligation, as well as the obligation to give other information required by section 18, is to be performed.

These Regulations prescribe that information as to the services being offered to prospective purchasers be given (Regulation 2), that this information, as well as information about remuneration, be given at a time before the client becomes committed to the estate agent (Regulation 3) and that it be given in writing (Regulation 4). Provision is also made for the form in which certain terms used by estate agents in connection with their entitlement to remuneration are to be explained (Regulation 5 and the Schedule) and as to the prominence and legibility of those explanations (Regulation 6).