

EXPLANATORY MEMORANDUM TO
THE CONSUMERS, ESTATE AGENTS AND REDRESS ACT 2007
(COMMENCEMENT No. 3 AND SUPPLEMENTARY PROVISION) ORDER 2008
2008 No.

- 1.** This explanatory memorandum has been prepared by the Department for Business, Enterprise and Regulatory Reform and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 The Consumers, Estate Agents and Redress Act 2007 (Commencement No. 3 and Supplementary Provision) Order 2008 (“the draft Order”) commences section 5 of the Consumers, Estate Agents and Redress Act 2007 (“the Act”), and makes supplementary provision for the purposes of section 5.

2.2 Section 5 of the Act places an obligation on the new National Consumer Council to draft, consult upon, and publish a forward work programme before the start of each financial year. The supplementary provision in paragraph 4 of the draft Order alters the definition of “financial year” in the Act for the purposes of the first such forward work programme alone so that it will be the period 1 October 2008 to 31 March 2010.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Background

4.1 The Consumers, Estate Agents and Redress Act 2007 includes provisions to establish a new National Consumer Council and its associated bodies in Scotland, Wales and Northern Ireland, in place of the current, non-statutory, National Consumer Council, the Gas and Electricity Consumer Council (“Energywatch”) and the Consumer Council for Postal Services (“Postwatch”).

4.2 An earlier Order, the Consumers, Estate Agents and Redress Act 2007 (Commencement No. 2) Order 2007 (S.I No. 2007/3546) commenced certain provisions of the Act relating to the new Council, to enable the appointment of Chairs and Members, a Chief Executive, and to give the new Council the ability to convene meetings and engage with the process of setting up the new body. These provisions were commenced on 21 December 2007.

4.3 The new Council is required by section 5 of the Act to publish a forward work programme before each financial year, having consulted on a draft. The new Council is not due to assume its full functions until 1 October 2008, when it is planned that the new body will be staffed, trained, and otherwise resourced to fulfil the full range of statutory functions.

4.4 As part of the transition to full operation, it is planned to commence the requirement on the new Council to maintain proper accounts and records as from 1 April 2008, by commencing paragraph 32 of Schedule 1 to the Act by means of a separate Order. That will mean that the first financial year of the new Council for accounting purposes will run from 1 April 2008 to 31 March 2009.

4.5 The proposed supplementary provision in this Order enables the new Council to plan, develop, and consult upon its first forward work programme for the period starting on 1 October 2008, when it is planned to take up its full range of functions. The period of 1 October 2008 to 31 March 2010 provides an eighteen month period for the first forward work programme.

5. Extent

5.1 This instrument applies to the United Kingdom.

6. European Convention on Human Rights

6.1 The Parliamentary Under Secretary of State for Trade and Consumer Affairs has made the following statement regarding Human Rights:

In my view the provisions of the Consumers, Estate Agents and Redress Act 2007 (Commencement No.3 and Supplementary Provision) Order 2008 are compatible with the Convention Rights.

7. Policy background

7.1 The first forward work programme for the new Council is of particular significance. The period for the duration of the first forward work programme is proposed to be eighteen months because six months would be a very short period and the new Council would need to commence consultation on the next forward work programme immediately after completing the first one. A twelve month period would not reconcile the period of the forward work programme with the actual financial year.

8. Impact

8.1 An Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

9. Contact

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