



# Estate Agents Act 1979

## 1979 CHAPTER 38

### *Orders by Director General of Fair Trading*

#### **3 Orders prohibiting unfit persons from doing estate agency work**

(1) The power of the Director General of Fair Trading (in this Act referred to as " the Director ") to make an order under this section with respect to any person shall not be exercisable unless the Director is satisfied that that person—

- (a) has been convicted of—
  - (i) an offence involving fraud or other dishonesty or violence, or
  - (ii) an offence under any provision of this Act, other than section 10(6), section 22(3) or section 23(4), or
  - (iii) any other offence which, at the time it was committed, was specified for the purposes of this section by an order made by the Secretary of State; or
- (b) has committed discrimination in the course of estate agency work; or
- (c) has failed to comply with any obligation imposed on him under any of sections 15 and 18 to 21 below; or
- (d) has engaged in a practice which, in relation to estate agency work, has been declared undesirable by an order made by the Secretary of State;

and the provisions of Schedule 1 to the Act shall have effect for supplementing paragraphs (a) and (b) above.

(2) Subject to subsection (1) above, if the Director is satisfied that any person is unfit to carry on estate agency work generally or of a particular description he may make an order prohibiting that person—

- (a) from doing any estate agency work at all; or
- (b) from doing estate agency work of a description specified in the order;

and in determining whether a person is so unfit the Director may, in addition to taking account of any matters falling within subsection (1) above, also take account of whether, in the course of estate agency work or any other business activity, that person has engaged in any practice which involves breaches of a duty owed by virtue

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*Status: This is the original version (as it was originally enacted).*

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of any enactment, contract or rule of law and which is material to his fitness to carry on estate agency work.

- (3) For the purposes of paragraphs (c) and (d) of subsection (1) above.—
- (a) anything done by a person in the course of his employment shall be treated as done by his employer as well as by him, whether or not it was done with the employer's knowledge or approval, unless the employer shows that he took such steps as were reasonably practicable to prevent the employee from doing that act, or from doing in the course of his employment acts of that description ; and
  - (b) anything done by a person as agent for another person with the authority (whether express or implied, and whether precedent or subsequent) of that person shall be treated as done by that other person as well as by him; and
  - (c) anything done by a business associate of a person shall be treated as done by that person as well, unless he can show that the act was done without his connivance or consent.
- (4) In an order under this section the Director shall specify as the grounds for the order those matters falling within paragraphs (a) to (d) of subsection (1) above as to which he is satisfied and on which, accordingly, he relies to give him power to make the order.
- (5) If the Director considers it appropriate, he may in an order under this section limit the scope of the prohibition imposed by the order to a particular part of or area within the United Kingdom.
- (6) An order under paragraph (a)(iii) or paragraph (d) of subsection (1) above—
- (a) shall be made by statutory instrument;
  - (b) shall be laid before Parliament after being made ; and
  - (c) shall cease to have effect (without prejudice to anything previously done in reliance on the order) after the expiry of the period of twenty-eight days beginning with the date on which it was made unless within that period it has been approved by a resolution of each House of Parliament.
- (7) In reckoning for the purposes of subsection (6)(c) above any period of twenty-eight days, no account shall be taken of any period during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.
- (8) A person who fails without reasonable excuse to comply with an order of the Director under this section shall be liable on conviction on indictment or on summary conviction to a fine which on summary conviction shall not exceed the statutory maximum.