



Consumers, Estate Agents and Redress Act 2007

2007 CHAPTER 17

PART 3

AMENDMENT OF THE ESTATE AGENTS ACT 1979

Prohibition and warning orders

55 Grounds for prohibition orders

- (1) Section 3(1) of the Estate Agents Act 1979 (c. 38) (grounds for making prohibition orders) is amended as follows.
- (2) In paragraph (a), for “has been convicted of” substitute “has committed”.
- (3) After paragraph (b) insert—
 - “(ba) has failed to comply with an undertaking accepted from him under section 217, 218 or 219 of the Enterprise Act 2002 and given in relation to estate agency work; or
 - (bb) has failed to comply with an enforcement order under section 217 of the Enterprise Act 2002 which was made against him in relation to estate agency work; or”.
- (4) Section 5(4) of that Act (which provides for section 3 orders based on a person’s conviction to cease to have effect when the conviction is spent) is omitted.
- (5) For paragraph 1 of Schedule 1 to that Act substitute—
 - “1 A person is not to be treated for the purposes of section 3(1)(a) of this Act as having committed an offence if he has been convicted of that offence and that conviction is to be treated as spent for the purposes of the Rehabilitation of Offenders Act 1974 or any corresponding enactment for the time being in force in Northern Ireland.”

Status: This is the original version (as it was originally enacted).

56 Grounds for warning orders

(1) Section 4 of the Estate Agents Act 1979 (warning orders) is amended as follows.

(2) For subsection (1) substitute—

“(1) If the OFT is satisfied that any of subsections (1A), (1B) or (1C) apply in relation to a person it may by order notify that person that it is satisfied of the matters mentioned in that subsection.

(1A) This subsection applies in relation to a person if—

- (a) in the course of estate agency work, he has engaged in conduct falling within paragraph (a), (b), (c), (ca) or (cb) of section 3(1); and
- (b) were he to engage again in any conduct falling within that paragraph, the OFT would consider him unfit and proceed to make a prohibition order.

(1B) This subsection applies in relation to a person if—

- (a) in the course of estate agency work, he has engaged in conduct constituting a failure to comply with—
 - (i) an undertaking mentioned in section 3(1)(ba); or
 - (ii) an enforcement order mentioned in section 3(1)(bb); and
- (b) were he to fail again to comply with that undertaking or order by engaging in the same or similar conduct, the OFT would consider him unfit and proceed to make a prohibition order.

(1C) This subsection applies in relation to a person if—

- (a) in the course of estate agency work, he has engaged in a practice mentioned in section 3(1)(d); and
- (b) were he to engage again in that practice, the OFT would consider him unfit and proceed to make a prohibition order.”

(3) In subsection (2) for the words from “a further” to “order” (in the second place it appears) substitute “further conduct as mentioned in subsection (1A)(b) or (1B)(b) or engaging again in the practice specified in the order, as the case may be,”.

(4) In subsection (3) for the words from “fails to comply” to “order” (in the second place it appears) substitute “engages in further conduct as mentioned in subsection (1A)(b) or (1B)(b) or engages again in the practice specified in the order, as the case may be,”.

(5) After subsection (3) insert—

“(4) In this section “unfit” means unfit as mentioned in subsection (2) of section 3 and “prohibition order” means an order under that section.”