

SCHEDULE 2

Consequential, supplementary, incidental and transitional provision and savings relating to the transfer of functions under the Estate Agents Act 1979

PART 1

Amendments to Acts

Estate Agents Act 1979

1.—(1) The 1979 Act(1) is amended as follows.

(2) In the italic heading before section 3 for “*Office of Fair Trading*” substitute “*the lead enforcement authority*”.

(3) In section 3 (orders prohibiting unfit persons from doing estate agency work)—

(a) in subsection (1)—

(i) for “Office of Fair Trading (in this Act referred to as “the OFT”)” substitute “lead enforcement authority”;

(ii) for “OFT” substitute “lead enforcement authority”;

(b) in subsections (2), (4), (5) and (8), in each place it occurs, for “OFT” substitute “lead enforcement authority”;

(4) In the following provisions for “OFT”, in each place it occurs, substitute “lead enforcement authority”—

(a) section 4(1), (1A)(b), (1B)(b), (1C)(b), (2) and (3)(2);

(b) section 5(1)(a), (2), (3) and (5)(3);

(c) section 6(1), (3), (4), (5) and (6)(4);

(d) section 7(1)(5);

(e) section 8(1), (3), (4), (5) and (6);

(f) the heading for section 9;

(g) section 9(1) and (6)(6).

(5) After section 9 insert—

“Notice of convictions and judgments

9A.—(1) This section applies if—

(a) a person is convicted of an offence by or before a court in the United Kingdom, or

(b) a judgment is given against a person by a court in civil proceedings in the United Kingdom.

(1) References in the 1979 Act to the Office of Fair Trading were substituted for references to the Director General of Fair Trading by paragraph 9 of Schedule 25 to the 2002 Act.

(2) Section 4(1), (1A), (1B) and (1C) was substituted for section 4(1), section 4(2) and (3) was amended and section 4(4) was inserted by section 56 of the 2007 Act.

(3) Section 5(3) was amended by paragraph 5(a) of Schedule 26 and paragraph 1 of Schedule 27 to the Equality Act 2010 (c. 15).

(4) Section 6(4) was amended by paragraph 2(a) of Schedule 7 to the 2007 Act.

(5) Section 7(1) and (2) was amended by paragraph 3 of Schedule 1 to S.I. 2009/1836.

(6) Section 9(6) was amended by paragraph 37(a) of Schedule 3 and paragraph 1 of Schedule 4 to the Equality Act 2006 (c. 3).

Draft Legislation: This is a draft item of legislation. This draft has since been made as a UK Statutory Instrument: *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 No. 631*

- (2) The court may make arrangements to bring the conviction or judgment to the attention of the lead enforcement authority if it appears to the court that—
- (a) having regard to the functions of the lead enforcement authority under this Act it is expedient for the conviction or judgment to be brought to the attention of the lead enforcement authority, and
 - (b) without such arrangements the conviction or judgment may not be brought to the attention of the lead enforcement authority.”.
- (6) In section 11 (powers of entry and inspection) omit subsections (6) and (7).
- (7) In the following provisions for “OFT”, in each place it occurs, substitute “lead enforcement authority”—
- (a) section 13(4);
 - (b) section 15(5);
 - (c) section 17(1), (5) and (6);
 - (d) section 19(6);
 - (e) section 20(3);
 - (f) section 21(6);
 - (g) section 23A(8)(b)(i) and (9)(7).
- (8) In section 23B (enforcement)(8)—
- (a) in subsection (1) omit “other than the OFT”;
 - (b) in subsection (4) for “OFT”, in both places it occurs, substitute “lead enforcement authority”.
- (9) In section 25 (general duties of OFT)—
- (a) in the heading for “OFT” substitute “the lead enforcement authority”;
 - (b) in subsections (1), (2) and (3) for “OFT”, in each place it occurs, substitute “lead enforcement authority”;
- (10) In the following provisions for “OFT”, in each place it occurs, substitute “lead enforcement authority”—
- (a) section 26(1)(a) and (4);
 - (b) section 29(1) and (3);
 - (c) section 30(1).
- (11) In section 33 (general interpretation provisions)(9), in subsection (1)—
- (a) in the definition of “general notice” for “OFT” substitute “lead enforcement authority”;
 - (b) omit the definition of “OFT”;
 - (c) at the appropriate place insert—
““the lead enforcement authority” means Powys County Council;”.
- (12) In section 34 (financial provisions), in subsection (2) for the words from “paid to” to “this Act” substitute “paid to the lead enforcement authority under this Act”.
- (13) In Schedule 2 (procedure etc.)—
- (a) in Part 1 (orders and decisions under sections 3, 4 and 6)—

(7) Section 23A was inserted by paragraph 2 of Schedule 6 to the 2007 Act.

(8) Section 23B was inserted by paragraph 2 of Schedule 6 to the 2007 Act.

(9) The definition of the Director General of Fair Trading was repealed by paragraph 1 of Schedule 26 to the 2002 Act.

- (i) in paragraph 1(1)(a) for “OFT” substitute “lead enforcement authority”;
 - (ii) in paragraph 1(1)(b) for “OFT’s” substitute “lead enforcement authority’s”;
 - (iii) in paragraph 1(2) for “OFT” substitute “lead enforcement authority”;
 - (iv) in paragraph 2(1)—
 - (aa) for “OFT” substitute “lead enforcement authority”; and
 - (bb) for “OFT’s” substitute “lead enforcement authority’s”;
 - (v) in the following provisions for “OFT”, in each place it occurs, substitute “lead enforcement authority”—
 - (aa) paragraph 2(2) and (3);
 - (bb) paragraph 3;
 - (cc) paragraph 4(1) and (2);
 - (dd) paragraph 5;
 - (ee) paragraph 6(1), (2) and (3);
 - (ff) paragraph 7;
 - (gg) paragraph 8;
 - (vi) in paragraph 9(1) for “OFT’s” substitute “lead enforcement authority’s”;
 - (vii) in paragraph 10(2) for “OFT” substitute “lead enforcement authority”;
 - (b) in Part 2 (applications under sections 6(1) and 8(3)), in the following provisions for “OFT”, in each place it occurs, substitute “lead enforcement authority”—
 - (i) paragraph 11;
 - (ii) paragraph 12;
 - (iii) paragraph 13;
 - (iv) paragraph 14.
- (14) In Schedule 3 (redress schemes)(**10**), in the following provisions for “OFT”, in each place it occurs, substitute “lead enforcement authority”—
- (a) paragraph 1;
 - (b) paragraph 2(1) and (2);
 - (c) paragraph 3(1) and (2);
 - (d) paragraph 4;
 - (e) paragraph 5;
 - (f) the italic heading before paragraph 6;
 - (g) paragraph 6;
 - (h) paragraph 7;
 - (i) paragraph 8;
 - (j) paragraph 9;
 - (k) the italic heading before paragraph 10;
 - (l) paragraph 10;
 - (m) paragraph 11;
 - (n) paragraph 12;

(10) Schedule 3 was inserted by paragraph 3 of Schedule 6 to the 2007 Act.

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- (o) paragraph 13.
- (15) In Schedule 4 (penalty notices under section 23B(1)(11)—
 - (a) in paragraph 1 omit “other than the OFT”;
 - (b) in paragraph 10—
 - (i) in paragraph (a) omit “other than the OFT”;
 - (ii) for “by the OFT” substitute “by the lead enforcement authority”.

Companies Act 1985

- 2. In Schedule 15D to the Companies Act 1985(12) (disclosures)—
 - (a) in paragraph 17 omit paragraph (c);
 - (b) after paragraph 27 insert—

“27A. A disclosure for the purpose of enabling or assisting the lead enforcement authority (as defined in section 33(1) of the Estate Agents Act 1979) to exercise its functions under the Estate Agents Act 1979.”.

Tribunals and Inquiries Act 1992

- 3.—(1) The Tribunals and Inquiries Act 1992(13) is amended as follows.
 - (2) In section 14 (restricted application of Act in relation to certain tribunals)(14) after subsection (1)(a) insert—

“(aa) the lead enforcement authority referred to in paragraph 16A of Schedule 1,”.
 - (3) In Part 1 of Schedule 1 (tribunals under direct supervision of Council)(15)—
 - (a) after paragraph 16 insert—

“Estate agents	16A. The lead enforcement authority (as defined in section 33(1) of the Estate Agents Act 1979) in respect of its functions under the Estate Agents Act 1979, and any member of its staff authorised to exercise those functions.”;
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- (b) in paragraph 17 omit “and the Estate Agents Act 1979”.

Enterprise Act 2002

- 4. In section 231 of the Enterprise Act 2002 (notice of convictions and judgment to OFT), in subsection (2) omit “or under the Estate Agents Act 1979 (c.38)”.

Companies Act 2006

- 5.—(1) The Companies Act 2006(16) is amended as follows.

(11) Schedule 4 was inserted by paragraph 4 of Schedule 6 to the 2007 Act.
 (12) 1985 c. 6; Schedule 15D was inserted by paragraph 25 of Part 3 of Schedule 2 to the Companies (Audit, Investigations and Community Enterprise) Act 2004 (c. 27).
 (13) 1992 c. 53.
 (14) Section 14(1)(b) was amended by paragraph 27(3) of Schedule 25 to the 2002 Act.
 (15) The entry for Fair Trading in paragraph 17 was revoked by paragraph 4 of Part 1 of Schedule 1 to S.I. 2013/1881, which was commenced on 26 July 2013 for the purposes in Article 1(2) of that Order, coming fully into force on 1st April 2014.
 (16) 2006 c. 46.

(2) In Part 2 of Schedule 2 (specified descriptions of disclosures)(17)—

(a) in paragraph 25 omit paragraph (c);

(b) after paragraph 36 insert—

“**36A.** A disclosure for the purpose of enabling or assisting the lead enforcement authority (as defined in section 33(1) of the Estate Agents Act 1979) to exercise its functions under the Estate Agents Act 1979.”

(3) In Part 2 of Schedule 11A (specified descriptions of disclosures)(18)—

(a) in paragraph 39 omit paragraph (c);

(b) after paragraph 51 insert—

“**51A.** A disclosure for the purpose of enabling or assisting the lead enforcement authority (as defined in section 33(1) of the Estate Agents Act 1979) to exercise its functions under the Estate Agents Act 1979.”

Public Bodies Act 2011

6. In Schedule 5 to the Public Bodies Act 2011 (power to modify or transfer functions: bodies and offices) omit the entry for the Office of Fair Trading (“OFT”).

(17) Schedule 2 was substituted containing new Part headings by paragraph 1 of Schedule 1 to [S.I. 2009/1208](#).

(18) Schedule 11A was inserted by paragraph 1 of Schedule 1 to [S.I. 2007/3494](#).