



# Estate Agents Act 1979

## 1979 CHAPTER 38

### *Application of Act*

#### **1 Estate agency work.**

(1) This Act applies, subject to subsections (2) to (4) below to things done by any person in the course of a business (including a business in which he is employed) pursuant to instructions received from another person (in this section referred to as “the client”) who wishes to dispose of or acquire an interest in land—

- (a) for the purpose of, or with a view to, effecting the introduction to the client of a third person who wishes to acquire or, as the case may be, dispose of such an interest; and
- (b) after such an introduction has been effected in the course of that business, for the purpose of securing the disposal or, as the case may be, the acquisition of that interest;

and in this Act the expression “estate agency work” refers to things done as mentioned above to which this Act applies.

(2) This Act does not apply to things done—

- (a) <sup>F1</sup>in the course of his profession by a practising solicitor or a person employed by him [<sup>F2</sup>or by an incorporated practice (within the meaning of the Solicitors (Scotland) Act 1980) or a person employed by it]; or
- (b) in the course of credit brokerage, within the meaning of the <sup>M1</sup>Consumer Credit Act 1974; or
- <sup>F3</sup>(c) .....
- (d) in the course of carrying out any survey or valuation pursuant to a contract which is distinct from that under which other things falling within subsection (1) above are done; or
- (e) in connection with applications and other matters arising under [<sup>F4</sup>the Town and Country Planning Act 1990, the Planning (Listed Buildings and Conservation Areas) Act 1990, the Planning (Hazardous Substances) Act 1990] or [<sup>F5</sup>the Town and Country Planning (Scotland) Act 1997, the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, the Planning

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(Hazardous Substances) (Scotland) Act 1997] or the <sup>M2</sup>Planning (Northern Ireland) [<sup>F6</sup>Order 1991].

- (3) This Act does not apply to things done by any person—
- (a) pursuant to instructions received by him in the course of his employment in relation to an interest in land if his employer is the person who, on his own behalf, wishes to dispose of or acquire that interest; or
  - (b) in relation to any interest in any property if the property is subject to a mortgage and he is the receiver of the income of it; or
  - (c) in relation to a present, prospective or former employee of his or of any person by whom he also is employed if the things are done by reason of the employment (whether past, present or future).

<sup>F7</sup>(4) This Act does not apply to the following things when done by a person who does no other things which fall within subsection (1) above—

- (a) publishing advertisements or disseminating information;
- (b) providing a means by which—
  - (i) a person who wishes to acquire or dispose of an interest in land can, in response to such an advertisement or dissemination of information, make direct contact with a person who wishes to dispose of or, as the case may be, acquire an interest in land;
  - (ii) the persons mentioned in sub-paragraph (i) can continue to communicate directly with each other.]

(5) In this section—

- (a) “practising solicitor” means, except in Scotland, a solicitor who is qualified to act as such under section 1 of the <sup>M3</sup>Solicitors Act 1974 or Article 4 of the <sup>M4</sup>Solicitors (Northern Ireland) Order 1976, and in Scotland includes a firm of practising solicitors;
- (b) “mortgage” includes a debenture and any other charge on property for securing money or money’s worth; and
- (c) any reference to employment is a reference to employment under a contract of employment.

#### Textual Amendments

- F1** S. 1(2)(a) amendment to earlier affecting provision SI 2000/1119 Sch. 4 para. 17 (E.W.)
- F2** Words inserted (S.) by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1985 \(c. 73, SIF 76:2\), s. 56, Sch. 1 Pt. I para. 40](#)
- F3** S. 1(2)(c) omitted (30.4.2001) by virtue of [S.I. 2001/1283, art. 3\(1\)](#)
- F4** Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\), s. 4, Sch. 2 para. 42](#)
- F5** Words in s. 1(2)(e) substituted (27.5.1997) by [1997 c. 11, ss. 4, 6\(2\), Sch. 2 para. 28](#) (with s. 5, Sch. 3)
- F6** Words in s. 1(2)(e) substituted (N.I.)(21.8.1991) by [S.I. 1991/1220, art. 133\(1\), Sch.5.](#)
- F7** S. 1(4) substituted (1.10.2013) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\), ss. 70, 103\(3\)](#) (with s. 69(8)-(10)); [S.I. 2013/2227, art. 2\(g\)](#)

#### Modifications etc. (not altering text)

- C1** S. 1 excluded (E.W.) (*prosp.*) by [Administration of Justice Act 1985 \(c. 61, SIF 98\), s. 34\(3\)](#)
- C2** S. 1(2)(a) amended (E.W.)(1.2.1992) by [S.I. 1991/2684, arts. 4, 5, Sch.2](#)  
s. 1(2)(a) modified (22.5.2000) by [S.S.I. 2000/121, regs. 1, 37\(2\), Sch. 2 Pt. II para. 2](#)

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s. 1(2)(a) modified (22.5.2000) by S.I. 2000/1119, regs. 1, 37(3), **Sch. 4 para. 17** (as amended (1.7.2009) by S.I. 2009/1587, arts. 1(1)(c), **3(13)**)

**C3** S. 1(5)(a) amended (E.W.)(1.2.1992) by S.I. 1991/2684, arts. 4, 5, **Sch. 2%**

#### Marginal Citations

**M1** 1974 c. 39.

**M2** S.I. 1972/1634 (N.I. 17)

**M3** 1974 c. 47.

**M4** S.I. 1976/582 (N.I. 12)

## 2 Interests in land.

(1) Subject to subsection (3) below, any reference in this Act to disposing of an interest in land is a reference to—

- (a) transferring a legal estate in fee simple absolute in possession; or
- (b) transferring or creating, elsewhere than in Scotland, a lease which, by reason of the level of the rent, the length of the term or both, has a capital value which may be lawfully realised on the open market; or
- (c) transferring or creating in Scotland any estate or interest in land which is capable of being owned or held as a separate interest and to which a title may be recorded in the Register of Sasines;

and any reference to acquiring an interest in land shall be construed accordingly.

(2) In subsection (1)(b) above the expression “lease” includes the rights and obligations arising under an agreement to grant a lease.

(3) Notwithstanding anything in subsections (1) and (2) above, references in this Act to disposing of an interest in land do not extend to disposing of—

- (a) the interest of a creditor whose debt is secured by way of a mortgage or charge of any kind over land or an agreement for any such mortgage or charge; or
- (b) in Scotland, the interest of a creditor in a heritable security as defined in section 9(8) of the <sup>M5</sup>Conveyancing and Feudal Reform (Scotland) Act 1970.

#### Modifications etc. (not altering text)

**C4** S. 2 applied by Property Misdescriptions Act 1991 (c. 29, SIF 124:4), s. **1(6)(a)**

#### Marginal Citations

**M5** 1970 c. 35.

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