



Estate Agents Act 1979

1979 CHAPTER 38

Information, entry and inspection

9 Information for the Director.

- (1) The Director may, for the purpose of assisting him—
 - (a) to determine whether to make an order under section 3 or section 4 above, and
 - (b) in the exercise of any of his functions under sections 5, 6 and 8 above and 13 and 17 below,by notice require any person to furnish to him such information as may be specified or described in the notice or to produce to him any documents so specified or described.
- (2) A notice under this section—
 - (a) may specify the way in which and the time within which it is to be complied with and, in the case of a notice requiring the production of documents, the facilities to be afforded for making extracts, or taking copies of, the documents; and
 - (b) may be varied or revoked by a subsequent notice.
- (3) Nothing in this section shall be taken to require a person who has acted as counsel or solicitor for any person to disclose any privileged communication made by or to him in that capacity.
- (4) A person who—
 - (a) refuses or wilfully neglects to comply with a notice under this section, or
 - (b) in furnishing any information in compliance with such a notice, makes any statement which he knows to be false in a material particular or recklessly makes any statement which is false in a material particular, or
 - (c) with intent to deceive, produces in compliance with such a notice a document which is false in a material particular,

shall be liable on conviction on indictment or on summary conviction to a fine which, on summary conviction, shall not exceed the statutory maximum.

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- (5) In section 131 of the ^{M1} Fair Trading Act 1973 (which provides for the Director to be notified by courts of convictions and judgements which may be relevant to his functions under Part III of that Act) after the words “this Act” there shall be inserted the words “or under the Estate Agents Act 1979”.
- (6) It shall be the duty of—
- (a) the Equal Opportunities Commission,
 - (b) the Equal Opportunities Commission for Northern Ireland, and
 - (c) the Commission for Racial Equality,
- to furnish to the Director such information relating to any finding, notice, injunction or order falling within paragraph 2 of Schedule 1 to this Act as is in their possession and appears to them to be relevant to the functions of the Director under this Act.

Modifications etc. (not altering text)

- C1** The text of s. 9(5) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Marginal Citations

- M1** 1973 c. 41.

10 Restriction on disclosure of information.

- (1) Subject to subsections (3) to (5) below, no information obtained under or by virtue of this Act about any individual shall be disclosed without his consent.
- (2) Subject to subsections (3) to (5) below, no information obtained under or by virtue of this Act about any business shall be disclosed except, so long as the business continues to be carried on, with the consent of the person for the time being carrying it on.
- (3) Subsections (1) and (2) above do not apply to any disclosure of information made—
- (a) for the purpose of facilitating the performance of any functions under this Act, the ^{M2}Trade Descriptions Act 1968, the ^{M3}Fair Trading Act 1973, the ^{M4}Consumer Credit Act 1974 ^{F1}. . . [^{F2}or the ^{M5}Competition Act 1980]^{F3} or the Telecommunications Act 1984]^{F4} or the Gas Act 1986]^{F5} or the Airports Act 1986]^{F6} or the Consumer Protection Act 1987]^{F7} or the Water Act 1989] [^{F8}the Water Industry Act 1991 or any of the other consolidation Acts (within the meaning of section 206 of that Act of 1991)] [^{F9}or the Electricity Act 1989]^{F10} or the Electricity (Northern Ireland) Order 1992]^{F11} or the Gas (Northern Ireland) Order 1996]^{F12} or Part IV of the Airports (Northern Ireland) Order 1994]^{F13} or the Control of Misleading Advertisements Regulations 1988]^{F14} or the Courts and Legal Services Act 1990]^{F15} or the Railways Act 1993]^{F16} or the Coal Industry Act 1994]^{F17} or the Competition Act 1998]^{F18} or Part I of the Transport Act 2000]^{F19} or the Consumer Protection (Northern Ireland) Order 1987] of any Minister of the Crown, any Northern Ireland department, the Director [^{F3}the Director General of Telecommunications,]^{F4} the Director General of Gas Supply,]^{F5} the Civil Aviation Authority,]^{F7} the Director General of Water Services,]^{F9} the Director General of Electricity Supply,]^{F10} the Director General of Electricity Supply for Northern Ireland]^{F11} or the Director General of Gas for Northern Ireland]^{F15} the Rail Regulator]^{F20} the Authorised Conveyancing Practitioners

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- Board, the Coal Authority] or a local weights and measures authority in Great Britain, or
- (b) in connection with the investigation of any criminal offence or for the purposes of any criminal proceedings, or
 - (c) for the purposes of any civil proceedings brought under or by virtue of this Act or any of the other enactments [^{F21}or subordinate legislation]specified in paragraph (a) above.
- (4) For the purpose of enabling the Director to use, in connection with his functions under this Act, information obtained by him in the exercise of functions under certain other enactments, the following amendments shall be made in provisions restricting disclosure of information . . . ^{F22}
- (5) Nothing in subsections (1) and (2) above shall be construed—
- (a) as limiting the particulars which may be entered in the register; or
 - (b) as applying to any information which has been made public as part of the register.
- (6) Any person who discloses information in contravention of this section shall be liable on summary conviction to a fine not exceeding the statutory maximum and, on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or both.

Textual Amendments

- F1** Words in s. 10(3)(a) repealed (1.3.2000) by 1998 c. 41, s. 74(1)(3), Sch. 12 para. 3(a), **Sch. 14 Pt. I** (with s. 73); S.I. 2000/344, art. 2, **Sch.**
- F2** Words added by Competition Act 1980 (c. 21, SIF 124:1), s. 19(4)(f)
- F3** Words inserted by Telecommunications Act 1984 (c. 12, SIF 96), s. 109(1), Sch. 4 para. 72, **Sch. 5 para. 45**
- F4** Words inserted (E.W.S.) by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1), **Sch. 7 para. 27**
- F5** Words inserted by Airports Act 1986 (c. 31, SIF 9), s. 83(1), **Sch. 4 para. 6**
- F6** Words inserted by Consumer Protection Act 1987 (c. 43, SIF 109:1), s. 48(1), **Sch. 4 para. 6**
- F7** Words inserted (E.W.) by Water Act 1989 (c. 15, SIF 130), s. 190(1), **Sch. 25 para. 57**
- F8** Words in s. 10(3)(a) inserted (E.W.)(1.12.1991) by Water Consolidation (Consequential Provisions) Act 1991 (c. 60, SIF 130), ss. 2, 4(2), **Sch. 1 para. 33**
- F9** Words inserted (E.W.S.) by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1), **Sch. 16 para. 24**
- F10** Words in s. 10(3)(a) inserted (1.4.1992) by S.I. 1992/231 (N.I. 1), art. 95(1), **Sch. 12 para. 20**; S.R. 1992/117, **art. 3(1)**.
- F11** Words in s. 10(3)(a) inserted (N.I.) (10.6.1996) by S.I. 1996/275 (N.I. 2), art. 71(1), **Sch. 6** (with Sch. 7 paras. 2, 3(2)); S.R. 1996/216, **art. 2**
- F12** Words in s. 10(3)(a) inserted (N.I.) (1.9.1995) by S.I. 1994/426 (N.I. 1), art. 71(2), **Sch. 9 para. 7** (with art. 16); S.R. 1995/294, **art. 2**
- F13** Words inserted by S.I. 1988/915, **art. 7(6)(d)(i)**
- F14** Words inserted (*prosp.*) by Courts and Legal Services Act 1990 (c. 41, SIF 37), ss. 124(3), 125(3), **Sch. 18 para. 22(1)(a)**
- F15** Words in s. 10(3)(a) inserted (6.1.1994) by 1993 c. 43, s. 152(1), **Sch. 12 para. 11** (with s. 150(1)(o)); S.I. 1993/3237, **art. 2(2)**.
- F16** Words in s. 10(3) inserted (31.10.1994) by 1994 c. 21, s. 67, **Sch. 9 para. 21** (with ss. 40(7), 66); S.I. 1994/2553, **art. 2**
- F17** Words in s. 10(3)(a) inserted (11.1.1999) by 1998 c. 41, s. 74(1), **Sch. 12 para. 3(b)** (with s. 73); S.I. 1998/3166, **art. 2, Sch.**
- F18** Words in s. 10 inserted (21.12.2001) by S.I. 2001/4050, art. 2, **Sch. Pt. IV para. 16**

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- F19** Words inserted by S.I. 1987/2049 (N.I. 20), art. 35(1), **Sch. 3 para. 4**
- F20** Words substituted (31.10.1994) by 1994 c. 21, s. 67, **Sch. 9 para. 21** (with ss. 40(7), 66); S.I. 1994/2553, **art. 2**
- F21** Words inserted by S.I. 1988/915, **art. 7(6)(d)(ii)**
- F22** Words at end of s. 10(4) were omitted from Statutes in Force, they amend **Fair Trading Act 1973 (c. 41), s. 133(2)(a)**, **Consumer Credit Act 1974 (c. 39), s. 174(3)(a)** and **Restrictive Trade Practices Act 1976 (c. 34), s. 41(1)(a)**

Modifications etc. (not altering text)

- C2** S. 10(3): disclosure powers extended (14.12.2001) by 2001 c. 24, ss. 17, 127(2)(a), **Sch. 4 Pt. I para. 17**

Marginal Citations

- M2** 1968 c. 29(109:1).
- M3** 1973 c. 41(124:1).
- M4** 1974 c. 39(60).
- M5** 1980 c. 21(124:1).

11 Powers of entry and inspection.

- (1) A duly authorised officer of an enforcement authority, at all reasonable hours and on production, if required, of his credentials may—
- (a) if he has reasonable cause to suspect that an offence has been committed under this Act, in order to ascertain whether it has been committed, enter any premises (other than premises used only as a dwelling);
 - (b) if he has reasonable cause to suspect that an offence has been committed under this Act, in order to ascertain whether it has been committed, require any person—
 - (i) carrying on, or employed in connection with, a business to produce any books or documents relating to it, or
 - (ii) having control of any information relating to a business recorded otherwise than in a legible form, to provide a document containing a legible reproduction of the whole or any part of the information;
 and take copies of, or of any entry in, the books or documents;
 - (c) seize and detain any books or documents which he has reason to believe may be required as evidence in proceedings for an offence under this Act;
 - (d) for the purpose of exercising his powers under this subsection to seize books and documents, but only if and to the extent that it is reasonably necessary for securing that the provisions of this Act are duly observed, require any person having authority to do so to break open any container and, if that person does not comply, break it open himself.
- (2) An officer seizing books or documents in exercise of his powers under this section shall not do so without informing the person from whom he seizes them.
- (3) If and so long as any books or documents which have been seized under this section are not required as evidence in connection with proceedings which have been begun for an offence under this Act, the enforcement authority by whose officer they were seized shall afford to the person to whom the books or documents belong and to any person authorised by him in writing reasonable facilities to inspect them and to take copies of or make extracts from them.

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- (4) If a justice of the peace, on sworn information in writing, or, in Scotland, a sheriff or a justice of the peace, on evidence on oath,—
- (a) is satisfied that there is reasonable ground to believe either—
 - (i) that any books or documents which a duly authorised officer has power to inspect under this section are on any premises and their inspection is likely to disclose evidence of the commission of an offence under this Act, or
 - (ii) that an offence under this Act has been, or is being or is about to be, committed on any premises; and
 - (b) is also satisfied either—
 - (i) that admission to the premises has been or is likely to be refused and that notice of intention to apply for a warrant under this subsection has been given to the occupier, or
 - (ii) that an application for admission, or the giving of such a notice, would defeat the object of the entry or that the premises are unoccupied or that the occupier is temporarily absent and it might defeat the object of the entry to wait for his return,
- the justice or, as the case may be, the sheriff may by warrant under his hand, which shall continue in force for a period of one month, authorise an officer of an enforcement authority to enter the premises, by force if need be.
- (5) An officer entering premises by virtue of this section may take such other persons and equipment with him as he thinks necessary, and on leaving premises entered by virtue of a warrant under subsection (4) above shall, if the premises are unoccupied or the occupier is temporarily absent, leave them as effectively secured against trespassers as he found them.
- (6) The Secretary of State may by regulations provide that, in cases specified in the regulations, an officer of a local weights and measures authority is not to be taken to be duly authorised for the purposes of this section unless he is authorised by the Director.
- (7) The power to make regulations under subsection (6) above shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (8) Nothing in this section shall be taken to require a person who has acted as counsel or solicitor for any person to produce a document containing a privileged communication made by or to him in that capacity or authorises the seizing of any such document in his possession.

Modifications etc. (not altering text)

- C3** S. 11(1)(c): powers of seizure extended (*prosp.*) by 2001 c. 16, ss. 50, 52-55, 68, 138, **Sch. 1 Pt. 1 para. 24**
- C4** S. 11(3) applied (*prosp.*) by 2001 c. 16, ss. 70, 138, **Sch. 2 Pt. 1 para. 5**
- C5** S. 11(8) extended (E.W.) by **Administration of Justice Act 1985 (c. 61, SIF 98), s. 34(2)(e)**
- C6** S. 11(8) amended (E.W.S.) (*prosp.*) by **Building Societies Act 1986 (c.53, SIF 16), ss. 124, 126(4), Sch. 21 paras. 9(e), 12(2)(3)**

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