



# Estate Agents Act 1979

## 1979 CHAPTER 38

### *Information, entry and inspection*

#### **9 Information for the <sup>F1</sup>lead enforcement authority]**

- (1) The <sup>F2</sup>lead enforcement authority] may, for the purpose of assisting <sup>F3</sup>it] —
- (a) to determine whether to make an order under section 3 or section 4 above, and
  - (b) in the exercise of any of <sup>F3</sup>its] functions under sections 5, 6 and 8 above and 13 and 17 below,

by notice require any person to furnish to <sup>F3</sup>it] such information as may be specified or described in the notice or to produce to <sup>F3</sup>it] 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—
- <sup>F4</sup>(a) .....
  - (b) in furnishing any information in compliance with <sup>F5</sup>a notice under this section], 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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<sup>F6</sup>(5) .....

(6) It shall be the duty of—

- [<sup>F7</sup>(a) the Commission for Equality and Human Rights, and]
- (b) the Equal Opportunities Commission for Northern Ireland, [<sup>F8</sup>and
- (c) the Commission for Racial Equality,]

to furnish to the [<sup>F9</sup>lead enforcement authority] 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 [<sup>F9</sup>lead enforcement authority] under this Act.

#### Textual Amendments

- F1** Words in s.9 heading substituted (31.3.2014) by [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 \(S.I. 2014/631\)](#), art. 1(5), **Sch. 2 para. 1(4)(f)** (with Sch. 1 para. 28, 2 paras. 13-15)
- F2** Words in s. 9(1) substituted (31.3.2014) by [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 \(S.I. 2014/631\)](#), art. 1(5), **Sch. 2 para. 1(4)(g)** (with Sch. 1 para. 28, 2 paras. 13-15)
- F3** Words in s. 9(1) substituted (1.4.2003) by [Enterprise Act 2002 \(c. 40\)](#), s. 279, **Sch. 25 para. 9(8)(b)**; [S.I. 2003/766](#), art. 2, **Sch.** (with art. 3) (as amended (20.7.2007) by [S.I. 2007/1846](#), reg. 3(2), **Sch.**)
- F4** S. 9(4)(a) repealed (1.10.2008) by [Consumers, Estate Agents and Redress Act 2007 \(c. 17\)](#), ss. 58(3)(a), 66(2), **Sch. 8** (with s. 48(3)); [S.I. 2008/905](#), art. 3(2), **Sch. 2**
- F5** Words in s. 9(4)(b) substituted (1.10.2008) by [Consumers, Estate Agents and Redress Act 2007 \(c. 17\)](#), ss. 58(3)(b), 66(2) (with s. 48(3)); [S.I. 2008/905](#), art. 3(2), **Sch. 2**
- F6** S. 9(5) repealed (20.6.2003) by [Enterprise Act 2002 \(c. 40\)](#), s. 279, **Sch. 26**; [S.I. 2003/1397](#), art. 2(1), **Sch.** (with art. 8)
- F7** S. 9(6)(a) substituted (E.W.S.) (1.10.2007) by [Equality Act 2006 \(c. 3\)](#), s. 93(1), **Sch. 3 para. 37(a)** (with s. 92); [S.I. 2007/2603](#), art. 2(d)
- F8** S. 9(6)(c) and preceding word repealed (E.W.S.) (1.10.2007) by [Equality Act 2006 \(c. 3\)](#), s. 93(1), **Sch. 3 para. 37(b)**, **Sch. 4** (with s. 92); [S.I. 2007/2603](#), art. 2(d)
- F9** Words in s. 9(6) substituted (31.3.2014) by [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 \(S.I. 2014/631\)](#), art. 1(5), **Sch. 2 para. 1(4)(g)** (with Sch. 1 para. 28, 2 paras. 13-15)

#### [<sup>F10</sup>9A Notice of convictions and judgments

(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.

(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.]

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#### Textual Amendments

- F10** S. 9A inserted (31.3.2014) by [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 \(S.I. 2014/631\)](#), art. 1(5), **Sch. 2 para. 1(5)** (with Sch. 1 para. 28, 2 paras. 13-15)

### <sup>F11</sup>10 Restriction on disclosure of information.

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#### Textual Amendments

- F11** S. 10 repealed (20.6.2003) by [Enterprise Act 2002 \(c. 40\)](#), ss. 247(e), 279, **Sch. 26**; S.I. 2003/1397, art. 2(1), **Sch.** (with art. 6)

### 11 Powers of entry and inspection.

[<sup>F12</sup>(1) If a duly authorised officer of an enforcement authority (“an officer”) has reasonable cause to suspect—

- (a) that an offence has been committed under this Act;
- (b) that a person has failed to comply with an obligation imposed on him under any of sections 15 and 18 to 21A; or
- (c) that a person has engaged in a practice mentioned in section 3(1)(d);

he may, in order to ascertain whether the offence has been committed, whether the person has failed to comply with the obligation or whether the person has engaged in the practice (as the case may be), exercise any power specified in subsection (1A).

(1A) The powers are—

- (a) to enter any premises (other than premises used only as a dwelling);
- (b) to require—
  - (i) any person carrying on, or employed in connection with, a business to produce any books or document relating to it, or
  - (ii) any person having control of any information relating to a business which is stored in any electronic form to produce the information in a form in which it can be taken away and in which it is visible and legible (or from which it can readily be produced in a visible and legible form);
- (c) to take copies of, or of any entry in, any books or documents produced or provided in pursuance of a requirement imposed under paragraph (b).

(1B) An officer may seize and detain any books or documents which he has reason to believe may be required as evidence—

- (a) in proceedings for an offence under this Act; or
- (b) in proceedings under any of sections 3, 4, 6 or 7 relating to an allegation—
  - (i) that an offence has been committed under this Act;
  - (ii) that a person has failed to comply with an obligation imposed on him under any of sections 15 and 18 to 21A; or
  - (iii) that a person has engaged in a practice mentioned in section 3(1)(d).

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- (1C) If it is not reasonably practicable to exercise any power under subsection (1A)(c) to take a copy of, or of any entry in, a book or document, an officer may seize and detain the book or document for the purpose of inspecting it (or any entry in it).
- (1D) A book or document which is seized in exercise of the power under subsection (1C) must be returned to the person from whom it was seized unless an officer has reason to believe that the book or document may be required as evidence in any proceedings mentioned in subsection (1B).
- (1E) Any power conferred by subsection (1) to (1C) may be exercised at all reasonable hours.
- (1F) An officer exercising any such power must, if required, produce his credentials.]
- (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.
- [<sup>F13</sup>(4) An appropriate judicial officer may, by warrant under his hand, authorise an officer of an enforcement authority to enter any premises, by force if need be, if on sworn information in writing or, in Scotland, on evidence on oath the appropriate judicial officer—
- (a) is satisfied that there is reasonable ground to believe that either of the conditions in subsection (4A) applies; and
  - (b) is also satisfied that at least one of the conditions in subsection (4B) applies.
- (4A) The conditions in this subsection are—
- (a) that any books or documents which a duly authorised officer has power to inspect under this section are on the premises and their inspection is likely to disclose evidence—
    - (i) that an offence has been committed under this Act;
    - (ii) that a person has failed to comply with an obligation imposed on him under any of sections 15 and 18 to 21A; or
    - (iii) that a person has engaged in a practice mentioned in section 3(1)(d);
  - (b) that an offence under this Act has been, is being or is about to be committed on the premises.
- (4B) The conditions in this subsection are—
- (a) that admission to the premises has been or is likely to be refused and that notice of intention to apply for a warrant under subsection (4) has been given to the occupier;
  - (b) that an application for admission, or the giving of such a notice of intention, would defeat the object of the entry;
  - (c) that the premises are unoccupied;
  - (d) that the occupier is temporarily absent and it might defeat the object of the entry to wait for his return.

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(4C) A warrant issued under subsection (4) shall continue in force for a period of one month.

(4D) In subsection (4) “appropriate judicial officer” means—

- (a) in England and Wales, a justice of the peace;
- (b) in Scotland, the sheriff or a justice of the peace;
- (c) in Northern Ireland, a lay magistrate.]

(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.

<sup>F14</sup>(6) .....

<sup>F15</sup>(7) .....

(8) Nothing in this section shall be taken to require a person who has acted as [<sup>F16</sup> a relevant lawyer ] 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.

[<sup>F17</sup>(9) For the purposes of subsection (8) “relevant lawyer” means counsel, a solicitor or other legal representative communications with whom may be the subject of a claim to privilege.]

#### Textual Amendments

- F12** S. 11(1)-(1F) substituted for s. 11(1) (1.10.2008) by [Consumers, Estate Agents and Redress Act 2007 \(c. 17\)](#), **ss. 57(2), 66(2)** (with s. 48(3)); S.I. 2008/905, art. 3(2), Sch. 2
- F13** S. 11(4)-(4D) substituted for s. 11(4) (1.10.2008) by [Consumers, Estate Agents and Redress Act 2007 \(c. 17\)](#), **ss. 57(3), 66(2)** (with s. 48(3)); S.I. 2008/905, art. 3(2), Sch. 2
- F14** S. 11(6) omitted (31.3.2014) by virtue of [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 \(S.I. 2014/631\)](#), art. 1(5), **Sch. 2 para. 1(6)** (with Sch. 1 para. 28, 2 paras. 13-15)
- F15** S. 11(7) omitted (31.3.2014) by virtue of [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 \(S.I. 2014/631\)](#), art. 1(5), **Sch. 2 para. 1(6)** (with Sch. 1 para. 28, 2 paras. 13-15)
- F16** Words in s. 11(8) substituted (1.1.2010) by [Legal Services Act 2007 \(c. 29\)](#), s. 211(2), **Sch. 21 para. 41(a)** (with ss. 29, 192, 193); S.I. 2009/3250, art. 2(h)
- F17** S. 11(9) inserted (1.1.2010) by [Legal Services Act 2007 \(c. 29\)](#), s. 211(2), **Sch. 21 para. 41(b)** (with ss. 29, 192, 193); S.I. 2009/3250, art. 2(h)

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

- C1** S. 11(3) applied (1.4.2003) by [Criminal Justice and Police Act 2001 \(c. 16\)](#), s. 138(2), **Sch. 2 para. 5** (with s. 61); S.I. 2003/708, art. 2(k)
- C2** S. 11(8) extended (E.W.) by [Administration of Justice Act 1985 \(c. 61, SIF 98\)](#), s. 34(2)(e)

### [<sup>F18</sup>11A Failure to produce information

(1) If on an application made by a duly authorised officer of an enforcement authority it appears to the court that a person (“the defaulter”) has failed to do something that he

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is required to do by virtue of section 9(1) or 11(1A)(b) the court may make an order under this section.

- (2) An order under this section may require the defaulter—
- (a) to do the thing that it appears he failed to do within such period as may be specified in the order;
  - (b) otherwise to take such steps to remedy the consequences of the failure as may be so specified.
- (3) If the defaulter is a body corporate, a partnership or an unincorporated association, the order may require any officer who is (wholly or partly) responsible for the failure to meet such costs of the application as are specified in the order.
- (4) In this section—
- “court” means—
    - (a) in England and Wales and Northern Ireland, the High Court or a county court;
    - (b) in Scotland, the Court of Session or the sheriff;
  - “officer” means—
    - (a) in relation to a body corporate, a person holding a position of director, manager or secretary of the body or any similar position;
    - (b) in relation to a partnership or an unincorporated association, a member of the partnership or association.
- (5) In subsection (4) “director” means, in relation to a body corporate whose affairs are managed by its members, a member of the body.]

#### **Textual Amendments**

**F18** S. 11A inserted (1.10.2008) by [Consumers, Estate Agents and Redress Act 2007 \(c. 17\)](#), **ss. 58(1), 66(2)** (with [s. 48\(3\)](#)); [S.I. 2008/905](#), art. 3(2), Sch. 2

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