



# Estate Agents Act 1979

## 1979 CHAPTER 38

### *Regulation of other aspects of estate agency work*

#### **18 Information to clients of prospective liabilities.**

- (1) Subject to subsection (2) below, before any person (in this section referred to as “the client”) enters into a contract with another (in this section referred to as “the agent”) under which the agent will engage in estate agency work on behalf of the client, the agent shall give the client—
  - (a) the information specified in subsection (2) below; and
  - (b) any additional information which may be prescribed under subsection (4) below.
- (2) The following is the information to be given under subsection (1)(a) above—
  - (a) particulars of the circumstances in which the client will become liable to pay remuneration to the agent for carrying out estate agency work;
  - (b) particulars of the amount of the agent’s remuneration for carrying out estate agency work or, if that amount is not ascertainable at the time the information is given, particulars of the manner in which the remuneration will be calculated;
  - (c) particulars of any payments which do not form part of the agent’s remuneration for carrying out estate agency work or a contract or pre-contract deposit but which, under the contract referred to in subsection (1) above, will or may in certain circumstances be payable by the client to the agent or any other person and particulars of the circumstances in which any such payments will become payable; and
  - (d) particulars of the amount of any payment falling within paragraph (c) above or, if that amount is not ascertainable at the time the information is given, an estimate of that amount together with particulars of the manner in which it will be calculated.
- (3) If, at any time after the client and the agent have entered into such a contract as is referred to in subsection (1) above, the parties are agreed that the terms of the contract should be varied so far as they relate to the carrying out of estate agency work or

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any payment falling within subsection (2)(c) above, the agent shall give the client details of any changes which, at the time the statement is given, fall to be made in the information which was given to the client under subsection (1) above before the contract was entered into.

- (4) The Secretary of State may by regulations—
- (a) prescribe for the purposes of subsection (1)(b) above additional information relating to any estate agency work to be performed under the contract; and
  - (b) make provision with respect to the time and the manner in which the obligation of the agent under subsection (1) or subsection (3) above is to be performed;
- and the power to make regulations under this subsection shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) If any person—
- (a) fails to comply with the obligation under subsection (1) above with respect to a contract or with any provision of regulations under subsection (4) above relating to that obligation, or
  - (b) fails to comply with the obligation under subsection (3) above with respect to any variation of a contract or with any provision of regulations under subsection (4) above relating to that obligation,
- the contract or, as the case may be, the variation of it shall not be enforceable by him except pursuant to an order of the court under subsection (6) below.
- (6) If, in a case where subsection (5) above applies in relation to a contract or a variation of a contract, the agent concerned makes an application to the court for the enforcement of the contract or, as the case may be, of a contract as varied by the variation,—
- (a) the court shall dismiss the application if, but only if, it considers it just to do so having regard to prejudice caused to the client by the agent's failure to comply with his obligation and the degree of culpability for the failure; and
  - (b) where the court does not dismiss the application, it may nevertheless order that any sum payable by the client under the contract or, as the case may be, under the contract as varied shall be reduced or discharged so as to compensate the client for prejudice suffered as a result of the agent's failure to comply with his obligation.
- (7) In this section—
- (a) references to the enforcement of a contract or variation include the withholding of money in pursuance of a lien for money alleged to be due under the contract or as a result of the variation; and
  - (b) “the court” means any court having jurisdiction to hear and determine matters arising out of the contract.

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**Subordinate Legislation Made**

**P1** S. 18(4): power exercised by [S.I. 1991/859](#)

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## PROSPECTIVE

### 19 Regulation of pre-contract deposits outside Scotland.

- (1) No person may, in the course of estate agency work in England, Wales or Northern Ireland, seek from any other person (in this section referred to as a “prospective purchaser”) who wishes to acquire an interest in land in the United Kingdom, a payment which, if made, would constitute a pre-contract deposit in excess of the prescribed limit.
- (2) If, in the course of estate agency work, any person receives from a prospective purchaser a pre-contract deposit which exceeds the prescribed limit, so much of that deposit as exceeds the prescribed limit shall forthwith be either repaid to the prospective purchaser or paid to such other person as the prospective purchaser may direct.
- (3) In relation to a prospective purchaser, references in subsections (1) and (2) above to a pre-contract deposit shall be treated as references to the aggregate of all the payments which constitute pre-contract deposits in relation to his proposed acquisition of a particular interest in land in the United Kingdom.
- (4) In this section “the prescribed limit” means such limit as the Secretary of State may by regulations prescribe; and such a limit may be so prescribed either as a specific amount or as a percentage or fraction of a price or other amount determined in any particular case in accordance with the regulations.
- (5) The power to make regulations under this section shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) Failure by any person to comply with subsection (1) or subsection (2) above may be taken into account by the <sup>F1</sup>lead enforcement authority] in accordance with section 3(1)(c) above but shall not render that person liable to any criminal penalty nor constitute a ground for any civil claim, other than a claim for the recovery of such an excess as is referred to in subsection (2) above.
- (7) This section does not form part of the law of Scotland.

#### Textual Amendments

- F1** Words in s. 19(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(7)(d)** (with Sch. 1 para. 28, 2 paras. 13-15)

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