



# Estate Agents Act 1979

## 1979 CHAPTER 38

### *Supplementary*

#### **28 General provisions as to offences.**

- (1) In any proceedings for an offence under this Act it shall be a defence for the person charged to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of an offence by himself or any person under his control.
- (2) Where an offence under this Act committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

#### **29 Service of notices etc.**

- (1) Any notice which under this Act is to be given to any person by the [<sup>F1</sup>lead enforcement authority] shall be so given—
  - (a) by delivering it to him, or
  - (b) by leaving it at his proper address, or
  - (c) by sending it by post to him at that address.
- (2) Any such notice may,—
  - (a) in the case of a body corporate or unincorporated association, be given to the secretary or clerk of that body or association; and
  - (b) in the case of a partnership, be given to a partner or a person having the control or management of the partnership business.
- (3) Any application or other document which under this Act may be made or given to the [<sup>F2</sup>lead enforcement authority] may be so made or given by sending it by post to the [<sup>F2</sup>lead enforcement authority] at such address as may be specified for the purposes of this Act by a general notice.

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- (4) For the purposes of subsections (1) and (2) above and section 7 of the <sup>M1</sup>Interpretation Act 1978 (service of documents by post) in its application to those subsections, the proper address of any person to whom a notice is to be given shall be his last-known address, except that—
- (a) in the case of a body corporate or their secretary or clerk, it shall be the address of the registered or principal office of that body;
  - (b) in the case of an unincorporated association or their secretary or clerk, it shall be that of the principal office of that association;
  - (c) in the case of a partnership or a person having the control or management of the partnership business, it shall be that of the principal office of the partnership;
- and for the purposes of this subsection the principal office of a company registered outside the United Kingdom or of an unincorporated association or partnership carrying on business outside the United Kingdom shall be their principal office within the United Kingdom.
- (5) If the person to be given any notice mentioned in subsection (1) above has specified an address within the United Kingdom other than his proper address, within the meaning of subsection (4) above, as the one at which he or someone on his behalf will accept notices under this Act, that address shall also be treated for the purposes mentioned in subsection (4) above as his proper address.

#### Textual Amendments

- F1** Words in s. 29(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(10)(b)** (with Sch. 1 para. 28, 2 paras. 13-15)
- F2** Words in s. 29(3) 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(10)(b)** (with Sch. 1 para. 28, 2 paras. 13-15)

#### Marginal Citations

- M1** 1978 c. 30.

### 30 Orders and regulations.

- (1) Before making any order or regulations under any provision of this Act to which this subsection applies, the Secretary of State shall consult the [<sup>F3</sup>lead enforcement authority], such bodies representative of persons carrying on estate agency work, such bodies representative of consumers and such other persons as he thinks fit.
- (2) Subsection (1) above applies to paragraphs (a)(iii) and (d) of section 3(1) above and to sections 14, 15, 16, 18, 19 and 22 above.
- (3) Any power of the Secretary of State to make orders or regulations under this Act—
  - (a) may be so exercised as to make different provision in relation to different cases or classes of cases and to exclude certain cases or classes of case; and
  - (b) includes power to make such supplemental, incidental and transitional provisions as he thinks fit.

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### Textual Amendments

- F3** Words in s. 30(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(10)(c)** (with Sch. 1 para. 28, 2 paras. 13-15)

## 31 Meaning of “business associate” and “controller”.

- (1) The provisions of this section shall have effect for determining the meaning of “business associate” and “controller” for the purposes of this Act.
- (2) As respects acts done in the course of a business carried on by a body corporate, every director and controller of that body is a business associate of it.
- (3) As respects acts done in the course of a business carried on by a partnership, each partner is a business associate of every other member of the partnership and also of the partnership itself and, in the case of a partner which is a body corporate, every person who, by virtue of subsection (2) above, is a business associate of that body is also a business associate of every other member of the partnership.
- (4) As respects acts done in the course of a business carried on by an unincorporated association, every officer of the association and any other person who has the management or control of its activities is a business associate of that association.
- (5) In relation to a body corporate “controller” means a person—
  - (a) in accordance with whose directions or instructions the directors of the body corporate or of any other body corporate which is its controller (or any of them) are accustomed to act; or
  - (b) who, either alone or with any associate or associates, is entitled to exercise, or control the exercise of, one third or more of the voting power at any general meeting of the body corporate or of another body corporate which is its controller.

## 32 Meaning of “associate”.

- (1) In this Act “associate” includes a business associate and otherwise has the meaning given by the following provisions of this section.
- (2) A person is an associate of another if he is the spouse [<sup>F4</sup> or civil partner ] or a relative of that other or of a business associate of that other.
- (3) In subsection (2) above “relative” means brother, sister, uncle, aunt, nephew, niece, lineal ancestor or lineal descendant, <sup>F5</sup>... references to a spouse include a former spouse and a [<sup>F6</sup>reputed spouse, and references to a civil partner include a former civil partner [<sup>F7</sup>and a reputed civil partner];] and for the purposes of this subsection a relationship shall be established as if an illegitimate child or step-child of a person [<sup>F8</sup>were the legitimate child of the relationship in question] .
- (4) A body corporate is an associate of another body corporate—
  - (a) if the same person is a controller of both, or a person is a controller of one and persons who are his associates, or he and persons who are his associates, are controllers of the other; or

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- (b) if a group of two or more persons is a controller of each company, and the groups either consist of the same persons or could be regarded as consisting of the same persons by treating (in one or more cases) a member of either group as replaced by a person of whom he is an associate.
- (5) An unincorporated association is an associate of another unincorporated association if any person—
- (a) is an officer of both associations;
  - (b) has the management or control of the activities of both associations; or
  - (c) is an officer of one association and has the management or control of the activities of the other association.
- (6) A partnership is an associate of another partnership if—
- (a) any person is a member of both partnerships; or
  - (b) a person who is a member of one partnership is an associate of a member of the other partnership; or
  - (c) a member of one partnership has an associate who is also an associate of a member of the other partnership.

#### Textual Amendments

- F4** Words in s. 32(2) inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\), s. 263\(10\)\(b\), Sch. 27 para. 63\(2\)](#); S.I. 2005/3175, art. 2(2)
- F5** Word in s. 32(3) repealed (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\), s. 263\(10\)\(b\), Sch. 27 para. 63\(3\)\(a\), Sch. 30](#); S.I. 2005/3175, art. 2(2)(6)
- F6** Words in s. 32(3) substituted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\), s. 263\(10\)\(b\), Sch. 27 para. 63\(3\)\(b\)](#); S.I. 2005/3175, art. 2(2)
- F7** Words in s. 32(3) inserted (5.12.2005) by [The Civil Partnership Act 2004 \(Overseas Relationships and Consequential, etc. Amendments\) Order 2005 \(S.I. 2005/3129\), art. 1, Sch. 4 para. 5](#)
- F8** Words in s. 32(3) substituted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\), s. 263\(10\)\(b\), Sch. 27 para. 63\(3\)\(c\)](#); S.I. 2005/3175, art. 2(2)

### 33 General interpretation provisions.

- (1) In this Act, unless the context otherwise requires,—
- “associate” has the meaning assigned to it by section 32 above and
  - “business associate” has the meaning assigned to it by section 31 above;
  - “client account” has the meaning assigned to it by section 14(2) above;
  - “client’s money” has the meaning assigned to it by section 12(1) above;
  - “connected contract”, in relation to the acquisition of an interest in land, has the meaning assigned to it by section 12(4) above;
  - “contract deposit” has the meaning assigned to it by section 12(2) above;
  - “controller”, in relation to a body corporate, has the meaning assigned to it by section 31(5) above;
  - <sup>F9</sup> .....
  - “enforcement authority” has the meaning assigned to it by section 26(1) above;
  - “estate agency work” has the meaning assigned to it by section 1(1) above;
  - “general notice” means a notice published by the [<sup>F10</sup>lead enforcement authority] at a time and in a manner appearing to [<sup>F11</sup>it] suitable for securing

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that the notice is seen within a reasonable time by persons likely to be affected by it;

[<sup>F12</sup>“the lead enforcement authority” means Powys County Council;]

<sup>F13</sup>

“pre-contract deposit” has the meaning assigned to it by section 12(3) above;

“prescribed fee” means such fee as may be prescribed by regulations made by the Secretary of State;

<sup>F14</sup>

“unincorporated association” does not include a partnership.

- (2) The power to make regulations under subsection (1) above prescribing fees shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### Textual Amendments

- F9** Words in s. 33 repealed (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 9(15)(a)**, Sch. 26; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)
- F10** Words in s. 33(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(11)(a)** (with Sch. 1 para. 28, 2 paras. 13-15)
- F11** Words in s. 33 substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 9(15)(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.)
- F12** Words in s. 33(1) 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(11)(c)** (with Sch. 1 para. 28, 2 paras. 13-15)
- F13** Words in s. 33(1) 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(11)(b)** (with Sch. 1 para. 28, 2 paras. 13-15)
- F14** Definition in s. 33(1) repealed (5.11.1993) by 1993 c. 50, s. 1(1), **Sch. 1 Pt. XIV** Group2.

## 34 Financial provisions.

- (1) There shall be defrayed out of moneys provided by Parliament—
- (a) any expenses incurred by the Secretary of State in consequence of the provisions of this Act; and
  - (b) any increase attributable to this Act in the sums payable out of moneys so provided under any other Act.
- (2) Any fees [<sup>F15</sup>paid to the lead enforcement authority under this Act] shall be paid into the Consolidated Fund.

#### Textual Amendments

- F15** Words in s. 34(2) 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(12)** (with Sch. 1 para. 28, 2 paras. 13-15)

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### 35 Scotland.

F16

#### Textual Amendments

F16 S. 35 repealed by [Statute Law \(Repeals\) Act 1981 \(c. 19\), Sch. 1 Pt. IV](#)

### 36 Short title, commencement and extent.

- (1) This Act may be cited as the Estate Agents Act 1979.
- (2) This Act shall come into force on such day as the Secretary of State may by order made by statutory instrument appoint and different days may be so appointed for different provisions and for different purposes.
- (3) This Act extends to Northern Ireland.

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

C1 Power of appointment conferred by s. 36(2) partly exercised: [S.I. 1981/1517](#)

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