

*Status: Point in time view as at 31/03/2014.*

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## SCHEDULES

### [<sup>F1</sup>SCHEDULE 3

Section 23A(10)

#### REDRESS SCHEMES

##### Textual Amendments

- F1** Sch. 3 inserted (12.10.2007) by [Consumers, Estate Agents and Redress Act 2007 \(c. 17\), s. 66\(2\), Sch. 6 para. 3; S.I. 2007/2934, art. 3, Sch.](#)

##### *Approval of redress schemes*

- 1 A redress scheme may be approved for the purposes of section 23A by the [<sup>F2</sup>lead enforcement authority] acting in accordance with paragraphs 2 to 8.

##### Textual Amendments

- F2** Words in Sch. 3 para. 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\(14\)\(a\)](#) (with Sch. 1 para. 28, 2 paras. 13-15)

- 2 (1) A scheme may not be approved unless the [<sup>F3</sup>lead enforcement authority] considers that—
- (a) the provisions of the scheme; and
  - (b) the manner in which it will be operated (so far as can be judged from facts known to the authority);
- are satisfactory for the purposes of section 23A.
- (2) Without prejudice to the generality of sub-paragraph (1), a scheme must not be approved unless the [<sup>F4</sup>lead enforcement authority] considers that it makes satisfactory provision about—
- (a) the complaints which may be made under the scheme (which may include complaints about non-compliance with the provisions of a code of practice or other document);
  - (b) the ombudsman's duties and powers in relation to the investigation and determination of complaints (which may include power to decide not to investigate or determine a particular complaint);
  - (c) the redress which the ombudsman may require members to provide to complainants, which must include the types of redress specified in sub-paragraph (3);
  - (d) the enforcement of any requirement to provide redress imposed on a member in accordance with the scheme.
- (3) The types of redress mentioned in sub-paragraph (2)(c) are—

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- (a) providing an apology or explanation;
- (b) paying compensation; and
- (c) taking such other actions in the interests of the complainant as the ombudsman may specify.

#### Textual Amendments

- F3** Words in Sch. 3 para. 2(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(14)(b)** (with Sch. 1 para. 28, 2 paras. 13-15)
- F4** Words in Sch. 3 para. 2(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(14)(b)** (with Sch. 1 para. 28, 2 paras. 13-15)

- 3 (1) In determining whether a scheme, or any provisions mentioned in paragraph 2(2), are satisfactory the [<sup>F5</sup>lead enforcement authority] must have regard to—
- (a) the interests of members of the scheme and of sellers and buyers of residential properties; and
  - (b) such principles as—
    - (i) in the opinion of the [<sup>F5</sup>lead enforcement authority] constitute generally accepted principles of best practice in relation to consumer redress schemes, and
    - (ii) it is reasonable to regard as applicable to the scheme.
- (2) In considering the interests mentioned in sub-paragraph (1)(a), the [<sup>F6</sup>lead enforcement authority] may have regard to the number of other redress schemes which are (or are likely to become) approved redress schemes.

#### Textual Amendments

- F5** Words in Sch. 3 para. 3(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(14)(c)** (with Sch. 1 para. 28, 2 paras. 13-15)
- F6** Words in Sch. 3 para. 3(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(14)(c)** (with Sch. 1 para. 28, 2 paras. 13-15)

- 4 The [<sup>F7</sup>lead enforcement authority] must not approve a scheme unless it considers that the scheme makes satisfactory provision about the provision of information by the ombudsman or the scheme administrator to—
- (a) persons exercising functions under other approved schemes;
  - (b) persons exercising functions under other consumer redress schemes; and
  - (c) the [<sup>F7</sup>lead enforcement authority] or any other person exercising regulatory functions in relation to the activities of persons engaging in estate agency work.

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#### Textual Amendments

**F7** Words in Sch. 3 para. 4 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(14)(d)** (with Sch. 1 para. 28, 2 paras. 13-15)

- 5 The [<sup>F8</sup>lead enforcement authority] must not approve a scheme if it considers that the scheme provides for membership to be revoked on any unfair grounds.

#### Textual Amendments

**F8** Words in Sch. 3 para. 5 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(14)(e)** (with Sch. 1 para. 28, 2 paras. 13-15)

*Applications for approval to the [<sup>F9</sup>lead enforcement authority]*

#### Textual Amendments

**F9** Words in Sch. 3 para. 6 cross-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(14)(f)** (with Sch. 1 para. 28, 2 paras. 13-15)

- 6 An application for approval by the [<sup>F10</sup>lead enforcement authority] of a redress scheme must—
- (a) be made in such manner as the [<sup>F10</sup>lead enforcement authority] may determine; and
  - (b) be accompanied by such information as the [<sup>F10</sup>lead enforcement authority] may require.

#### Textual Amendments

**F10** Words in Sch. 3 para. 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(14)(g)** (with Sch. 1 para. 28, 2 paras. 13-15)

- 7 Where the [<sup>F11</sup>lead enforcement authority] is proposing to refuse an application for approval it must give the applicant a notice stating—
- (a) that it is proposing to refuse the application;
  - (b) the grounds for the proposed refusal; and
  - (c) that representations about the proposed refusal may be made within such period of not less than 30 days as is specified in the notice.

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#### Textual Amendments

**F11** Words in Sch. 3 para. 7 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(14)(h)** (with Sch. 1 para. 28, 2 paras. 13-15)

- 8 If the [<sup>F12</sup>lead enforcement authority] decides to refuse an application for approval, it must give the applicant a notice stating—
- (a) the [<sup>F12</sup>lead enforcement authority]’s decision to refuse the application; and
  - (b) the reasons for the decision.

#### Textual Amendments

**F12** Words in Sch. 3 para. 8 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(14)(i)** (with Sch. 1 para. 28, 2 paras. 13-15)

#### *Notification of changes to an approved scheme*

- 9 The scheme administrator of a redress scheme which is approved by the [<sup>F13</sup>lead enforcement authority] must notify the [<sup>F13</sup>lead enforcement authority] of any change to the scheme before the end of the period of 14 days beginning with the day on which the change is made.

#### Textual Amendments

**F13** Words in Sch. 3 para. 9 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(14)(j)** (with Sch. 1 para. 28, 2 paras. 13-15)

#### *Withdrawal of approval by the [<sup>F14</sup>lead enforcement authority]*

#### Textual Amendments

**F14** Words in Sch. 3 para. 10 cross-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(14)(k)** (with Sch. 1 para. 28, 2 paras. 13-15)

- 10 The [<sup>F15</sup>lead enforcement authority] may withdraw approval of a redress scheme which is for the time being approved by it.

#### Textual Amendments

**F15** Words in Sch. 3 para. 10 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(14)(l)** (with Sch. 1 para. 28, 2 paras. 13-15)

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- 11 Before withdrawing approval of a scheme, the [<sup>F16</sup>lead enforcement authority] must give the scheme administrator a notice stating—
- (a) that it proposes to withdraw its approval;
  - (b) the grounds for the proposed withdrawal of approval; and
  - (c) that representations about the proposed withdrawal may be made within such period of not less than 30 days as is specified in the notice.

**Textual Amendments**

**F16** Words in Sch. 3 para. 11 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(14)(m)** (with Sch. 1 para. 28, 2 paras. 13-15)

- 12 The [<sup>F17</sup>lead enforcement authority] must give the scheme administrator a notice stating—
- (a) its decision on a proposal to withdraw approval; and
  - (b) the reasons for its decision.

**Textual Amendments**

**F17** Words in Sch. 3 para. 12 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(14)(n)** (with Sch. 1 para. 28, 2 paras. 13-15)

- 13 If the [<sup>F18</sup>lead enforcement authority] decides to withdraw approval of a scheme—
- (a) the withdrawal has effect from such date as may be specified in the notice under paragraph 12;
  - (b) the scheme administrator must give a copy of the notice under paragraph 12 to every member of the scheme.

**Textual Amendments**

**F18** Words in Sch. 3 para. 13 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(14)(o)** (with Sch. 1 para. 28, 2 paras. 13-15)

*Revocation of designation by the Secretary of State*

- 14 If the Secretary of State decides to revoke his designation of a scheme for the purposes of section 23A, he must give every member of the scheme a notice stating—
- (a) that he has decided to revoke the designation;
  - (b) the reasons for his decision; and
  - (c) the date from which the revocation has effect.

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### *Defamation proceedings*

- 15 For the purposes of the law relating to defamation, proceedings under an approved redress scheme in relation to the investigation and determination of a complaint are to be treated in the same way as proceedings before a court.

### *Interpretation*

- 16 In this Schedule—
- “redress scheme” has the meaning given in section 23A(8)(a);
  - “approved redress scheme” has the meaning given in section 23A(8)(b);
  - “buyer”, in relation to residential property, has the meaning given in section 23A(8)(e);
  - “complaint” has the meaning given in section 23A(8)(c);
  - “ombudsman” means the independent person mentioned in section 23A(8)(a);
  - “residential property” has the meaning given in section 23C;
  - “scheme administrator”, in relation to a redress scheme, means the person who administers the scheme;
  - “seller”, in relation to residential property, has the meaning given by section 23A(8)(d).]

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