



Consumers, Estate Agents and Redress Act 2007

2007 CHAPTER 17

PART 3

AMENDMENT OF THE ESTATE AGENTS ACT 1979

Investigatory powers

58 Failure to produce information

- (1) After section 11 of the Estate Agents Act 1979 (c. 38) (powers of entry and inspection) insert—

“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 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—

Status: This is the original version (as it was originally enacted).

“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.”

(2) In section 3(1) of that Act (grounds for making prohibition orders), after paragraph (ca) (inserted by section 53(2)) insert—

“(cb) has failed to comply with any requirement imposed on him under section 9(1) or 11(1A)(b) below; or”.

(3) In section 9 of that Act (information for the OFT), in subsection (4)—

- (a) omit paragraph (a); and
- (b) in paragraph (b) for “such a notice” substitute “a notice under this section”.

(4) In section 27 of that Act (obstruction and personation of authorised officers)—

- (a) in subsection (1)—
 - (i) omit paragraph (b); and
 - (ii) in paragraph (c) for “other” substitute “any”; and
- (b) after subsection (1) insert—

“(1A) A failure to give assistance or information shall not constitute an offence under subsection (1)(c) if it is also a failure in relation to which an authorised officer may apply for an order under section 11A above.”