

ENTERPRISE AND REGULATORY REFORM ACT 2013

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 5: Reduction of Legislative Burdens

Estate Agents etc.

Summary and Background

477. The section extends a current exemption to the definition of ‘estate agency work’ within the Estate Agents Act 1979 (“EAA 1979”) to update and clarify the scope of that legislation.
478. The EAA 1979 regulates persons engaging in estate agency work. Section 1 of the EAA 1979 sets out the definition of estate agency work. The definition provides that anyone acting on instructions from a client (who wants to buy or sell an interest in land) falls within the scope of the EAA 1979 if they do anything for the purpose of, or with a view to, introducing a prospective buyer and seller, and then for the purpose of securing the sale or purchase. The definition is subject to certain exemptions. The current section 1(4) of the EAA 1979 exempts the publication of advertisements or the dissemination of information, but does not allow for any other act covered by the general definition to be done. Section 1(4) of the EAA 1979 pre-dates the growth of the internet. Currently, some private sales internet portals may be exempt from the EAA 1979 whilst others may be within its scope, depending on whether they simply provide advertising space or enable prospective parties to a property transaction to make contact in response to an advertisement, for example through an online messaging board.

Section 70: Estate agency work

479. **Section 70** extends a current exemption to the definition of ‘estate agency work’ within the EAA 1979.
480. **Section 70** excludes from regulation under the EAA 1979 businesses such as private sales internet portals which provide a means for prospective parties to a property transaction to make contact in response to an advertisement or property information. The exemption applies provided that such businesses do nothing further that is covered by the general definition. The intention of the amendment is to update and clarify the law regarding businesses such as private sales portals and to deregulate those businesses in providing services which simply allow buyers and sellers to find and communicate with one another, provided they do not otherwise participate in the transaction for example by advising, negotiating or providing other services.