
STATUTORY INSTRUMENTS

2014 No. 2359

The Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc) (England) Order 2014

PART 1

Introduction

Citation, commencement and application

1.—(1) This Order may be cited as the Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc) (England) Order 2014 and comes into force on the twenty-eighth day after the day on which it is made.

(2) This Order applies in relation to England only.

Commencement Information

I1 Art. 1 in force at 1.10.2014 in accordance with art. 1(1)

Interpretation

2. In this Order—

“the Act” means the Enterprise and Regulatory Reform Act 2013;

“enforcement authority” means a district council, a London borough council, the Common Council of the City of London in its capacity as a local authority, or the Council of Isles of Scilly.

Commencement Information

I2 Art. 2 in force at 1.10.2014 in accordance with art. 1(1)

PART 2

Lettings agency work

Requirement to belong to a redress scheme: lettings agency work

3.—(1) A person who engages in lettings agency work must be a member of a redress scheme for dealing with complaints in connection with that work.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to *The Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc) (England) Order 2014*. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

- (2) The redress scheme must be one that is—
- (a) approved by the Secretary of State; or
 - (b) designated by the Secretary of State as a government administered redress scheme.
- (3) For the purposes of this article a “complaint” is a complaint made by a person who is or has been a prospective landlord or a prospective tenant.

Commencement Information

I3 Art. 3 in force at 1.10.2014 in accordance with art. 1(1)

Exclusions: lettings agency work

4.—(1) For the purposes of section 83 of the Act, “lettings agency work” does not include the things described in this article.

- (2) “Lettings agency work” does not include things done by —
- (a) the employer, where the prospective tenant is an employee;
 - (b) the person for whom the prospective tenant provides work or services, where the prospective tenant is a worker;
 - (c) the person for whom the prospective tenant provides work or services, where the prospective tenant is —
 - (i) an employee who provides work or services under the contract of employment to a person who is not the prospective tenant’s employer; or
 - (ii) a worker who provides work or services under the worker’s contract to a person who is not a party to that contract;
 - (d) the hirer, where the prospective tenant is an agency worker;
 - (e) the person for whom the prospective tenant provides services under a contract for services.
- (3) “Lettings agency work” does not include things done by —
- (a) an institution within the meaning of paragraph 5 of Schedule 1 to the Local Government Finance Act 1992⁽¹⁾;
 - (b) an authorised person within the meaning of section 18 of the Legal Services Act 2007⁽²⁾.
- (4) In this article the following have the same meaning as the Agency Workers Regulations 2010⁽³⁾ —
- “agency worker”
 - “contract of employment”
 - “employee”
 - “employer”
 - “hirer”
 - “worker”.

⁽¹⁾ 1992 c.14

⁽²⁾ 2007 c.29

⁽³⁾ S.I. 2010/93; amended by SI 2011/1941.

Commencement Information

I4 Art. 4 in force at 1.10.2014 in accordance with art. 1(1)

PART 3

Property management work

Requirement to belong to a redress scheme: property management work

5.—(1) A person who engages in property management work must be a member of a redress scheme for dealing with complaints in connection with that work.

(2) The redress scheme must be one that is—

- (a) approved by the Secretary of State; or
- (b) designated by the Secretary of State as a government administered redress scheme.

Commencement Information

I5 Art. 5 in force at 1.10.2014 in accordance with art. 1(1)

Exclusions: property management work

6.—(1) For the purposes of section 84 of the Act, “property management work” does not include the things described in this article.

(2) “Property management work” does not include things done in relation to premises which consist of or include more than one dwelling-house where the land is registered as commonhold land (whether or not there is a relevant tenancy in relation to any of the commonhold units).

(3) “Property management work” does not include things done in relation to premises which are used wholly or mainly for the accommodation of students where a condition in paragraphs (4) to (6) is met.

(4) The first condition is that the premises are owned or managed by —

- (a) an institution within the meaning of paragraph 5 of Schedule 1 to the Local Government Finance Act 1992; or
- (b) a body established for charitable purposes only.

(5) The second condition is that the premises are a hall of residence.

(6) The third condition is that the students have been nominated to occupy the premises by an institution or body of the kind mentioned in paragraph (4).

(7) “Property management work” does not include things done in relation to a dwelling-house occupied by students who have been nominated to occupy the dwelling-house by an institution or body of the kind mentioned in paragraph (4).

(8) “Property management work” does not include things done in relation to premises where the conditions in paragraphs (9) and (10) are met.

(9) The first condition is that either of the following applies to the premises —

- (a) it is not operated on a commercial basis and its costs of operation are provided wholly or in part by a government department or agency, by a local authority or by a parish council;

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(b) it is managed by a voluntary organisation or charity.

(10) The second condition is that the premises are used wholly or mainly for providing accommodation to persons who have been subject to any incident, or pattern of incidents, of —

- (a) controlling, coercive or threatening behaviour;
- (b) physical violence;
- (c) abuse of any other description (whether physical or mental in nature); or
- (d) threats of any such violence or abuse.

(11) “Property management work” does not include things done by a person (“A”) in the course of a business—

- (a) where the premises are subject to a mortgage and A is the receiver of the income of it; or
- (b) where A is —
 - (i) an authority to which Part 3 of the Local Government Act 1974(4) applies;
 - (ii) a RTM company exercising the right to manage under Part 2 of the Commonhold and Leasehold Reform Act 2002(5);
 - (iii) an authorised person within the meaning of section 18 of the Legal Services Act 2007.

(12) “Property management work” does not include things done by a person (“A”) in the course of a business in response to instructions received from —

- (a) an authority to which Part 3 of the Local Government Act 1974 applies;
- (b) a social landlord for the purposes of Schedule 2 to the Housing Act 1996(6).

(13) For the purposes of this article—

“commonhold land” has the same meaning as in section 1 of the Commonhold and Leasehold Reform Act 2002(7);

“commonhold unit” has the same meaning as in section 11 of the Commonhold and Leasehold Reform Act 2002;

“government department” includes any body or authority exercising statutory functions on behalf of the Crown;

“RTM company” has the same meaning as in sections 71(1) and 73 of the Commonhold and Leasehold Reform Act 2002(8);

“student” has the same meaning as in paragraph 4 of Schedule 1 to the Local Government Finance Act 1992.

“voluntary organisation” means a body, other than a public or local authority, whose activities are not carried on for profit.

Commencement Information

I6 Art. 6 in force at 1.10.2014 in accordance with art. 1(1)

(4) 1974 c.7

(5) 2002 c.15

(6) 1996 c.52

(7) Section 1(1)(b) was amended by S.I. 2009/1941 Schedule 1 paragraph 194(1) and (2).

(8) Section 73 (2)(b) was amended by S.I. 2009/1941 Schedule 1 paragraph 194(1) and (15).

PART 4

Enforcement

Enforcement authority

7.—(1) It shall be the duty of every enforcement authority to enforce this Order.

(2) The duty referred to in paragraph (1) applies to the enforcement of the Order within the authority's area.

Commencement Information

I7 Art. 7 in force at 1.10.2014 in accordance with art. 1(1)

Penalty for breach of the requirement to belong to a redress scheme

8.—(1) Where an enforcement authority is satisfied on the balance of probabilities that a person has failed to comply with the requirement to belong to a redress scheme under article 3 (requirement to belong to a redress scheme: lettings agency work) or article 5 (requirement to belong to a redress scheme: property management work), the authority may by notice require the person to pay the authority a monetary penalty (a “monetary penalty”) of such amount as the authority may determine.

(2) The amount of the monetary penalty must not exceed £5,000.

(3) The Schedule provides for the procedure relating to the imposition of a monetary penalty.

Commencement Information

I8 Art. 8 in force at 1.10.2014 in accordance with art. 1(1)

Appeals

9.—(1) A person who is served with a notice imposing a monetary penalty under paragraph 3 of the Schedule (a “final notice”) may appeal to the First-tier Tribunal against that notice.

(2) The grounds for appeal are that—

- (a) the decision to impose a monetary penalty was based on an error of fact;
- (b) the decision was wrong in law;
- (c) the amount of the monetary penalty is unreasonable;
- (d) the decision was unreasonable for any other reason.

(3) Where a person has appealed to the First-tier Tribunal under paragraph (1), the final notice is suspended until the appeal is finally determined or withdrawn.

(4) The Tribunal may —

- (a) quash the final notice;
- (b) confirm the final notice;
- (c) vary the final notice.

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Commencement Information

I9 Art. 9 in force at 1.10.2014 in accordance with art. 1(1)

Recovery of monetary penalty

10.—(1) The enforcement authority may recover the monetary penalty on the order of a court, as if payable under a court order.

(2) In proceedings for the recovery of the amount due, a certificate which is—

(a) signed by the enforcement authority’s chief finance officer (within the meaning of section 5 of the Local Government and Housing Act 1989⁽⁹⁾); and

(b) states that the amount due has not been received by a date specified in that certificate, is conclusive evidence of that fact, and a certificate to that effect and purporting to be signed is to be treated as being signed, unless the contrary is proved.

(3) Sums received by an enforcement authority under a monetary penalty may be used by the authority for any of its functions.

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Commencement Information

I10 Art. 10 in force at 1.10.2014 in accordance with art. 1(1)

Signed by authority of the Secretary of State

Brandon Lewis
Minister of State
Department for Communities and Local
Government

3rd September 2014

(9) 1989 c.42; amendments have been made to section 5 but they are not relevant to this Order.

Changes to legislation:

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Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- [art. 7\(3\)](#) inserted by [2019 c. 4 s. 29\(3\)](#)