*Draft Order laid before Parliament under section 88(3(a)(i) of the Enterprise and Regulatory Reform Act 2013, for approval by resolution of each House of Parliament.*

DRAFT STATUTORY INSTRUMENTS

# 2014 No.

# HOUSING, ENGLAND

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

*Made - - - -* ***

*Coming into force in accordance with article 1(1)*

The Secretary of State makes the following Order in exercise of the powers conferred by sections 83(1), (5), and (9)(b), 84(1) and (7)(b), 85(1)(a), (2)(a), (3) and (4) and 88(1) of the Enterprise and Regulatory Reform Act 2013(**1**).

The Secretary of State is satisfied, in accordance with sections 83(6) and 84(5) of that Act, that all persons who are to be subject to a duty under this Order to belong to a redress scheme are eligible to join such a scheme.

In accordance with section 88(3)(a)(i) of that Act, a draft of this instrument was laid before Parliament and approved by a resolution of each House of Parliament.

## 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.

### Interpretation

**2.** In this Order—

(**1**) 2013 c.24

"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.

# 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.

(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.

### 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(**2**);

(b) an authorised person within the meaning of section 18 of the Legal Services Act 2007(**3**).

(4) In this article the following have the same meaning as the Agency Workers Regulations 2010(**4**) —

"agency worker"

(**2**) 1992 c.14
(**3**) 2007 c.29
(**4**) S.I. 2010/93; amended by SI 2011/1941.

"contract of employment"

"employee"

"employer"

"hirer"

"worker".

# 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.

**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;

(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(**5**) applies;

(ii) a RTM company exercising the right to manage under Part 2 of the Commonhold and Leasehold Reform Act 2002(**6**);

(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(**7**).

(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(**8**);

"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(**9**);

"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.

# PART 4

## Enforcement

### Enforcement authority

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

(**5**) 1974 c.7
(**6**) 2002 c.15
(**7**) 1996 c.52
(**8**) Section 1(1)(b) was amended by S.I. 2009/1941 Schedule 1 paragraph 194(1) and (2).
(**9**) Section 73 (2)(b) was amended by S.I. 2009/1941 Schedule 1 paragraph 194(1) and (15).