



# Property Misdescriptions Act 1991

## 1991 CHAPTER 29

### **1 Offence of property misdescription**

- (1) Where a false or misleading statement about a prescribed matter is made in the course of an estate agency business or a property development business, otherwise than in providing conveyancing services, the person by whom the business is carried on shall be guilty of an offence under this section.
- (2) Where the making of the statement is due to the act or default of an employee the employee shall be guilty of an offence under this section; and the employee may be proceeded against and punished whether or not proceedings are also taken against his employer.
- (3) A person guilty of an offence under this section shall be liable—
  - (a) on summary conviction, to a fine not exceeding the statutory maximum, and
  - (b) on conviction on indictment, to a fine.
- (4) No contract shall be void or unenforceable, and no right of action in civil proceedings in respect of any loss shall arise, by reason only of the commission of an offence under this section.
- (5) For the purposes of this section—
  - (a) “false” means false to a material degree,
  - (b) a statement is misleading if (though not false) what a reasonable person may be expected to infer from it, or from any omission from it, is false,
  - (c) a statement may be made by pictures or any other method of signifying meaning as well as by words and, if made by words, may be made orally or in writing,
  - (d) a prescribed matter is any matter relating to land which is specified in an order made by the Secretary of State,
  - (e) a statement is made in the course of an estate agency business if (but only if) the making of the statement is a thing done as mentioned in subsection (1) of section 1 of the Estate Agents Act 1979 and that Act either applies to it or would apply to it but for subsection (2)(a) of that section (exception for things done in course of profession by practising solicitor or employee),

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*Status: This is the original version (as it was originally enacted).*

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- (f) a statement is made in the course of a property development business if (but only if) it is made—
    - (i) in the course of a business (including a business in which the person making the statement is employed) concerned wholly or substantially with the development of land, and
    - (ii) for the purpose of, or with a view to, disposing of an interest in land consisting of or including a building, or a part of a building, constructed or renovated in the course of the business, and
  - (g) “conveyancing services” means the preparation of any transfer, conveyance, writ, contract or other document in connection with the disposal or acquisition of an interest in land, and services ancillary to that, but does not include anything done as mentioned in section 1(1)(a) of the Estate Agents Act 1979.
- (6) For the purposes of this section any reference in this section or section 1 of the Estate Agents Act 1979 to disposing of or acquiring an interest in land—
- (a) in England and Wales and Northern Ireland shall be construed in accordance with section 2 of that Act, and
  - (b) in Scotland is a reference to the transfer or creation of an “interest in land” as defined in section 28(1) of the Land Registration (Scotland) Act 1979.
- (7) An order under this section may—
- (a) make different provision for different cases, and
  - (b) include such supplemental, consequential and transitional provisions as the Secretary of State considers appropriate;

and the power to make such an order shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.