

1970 No. 1696

## MONOPOLIES AND MERGERS

## The Restriction on Agreements (Estate Agents) Order 1970

*Made* - - - - 10th November 1970

*Laid before Parliament* 18th November 1970

*Coming into Operation* 20th November 1970

The Secretary of State in exercise of his powers under section 3(3)(a) and (b) of the Monopolies and Mergers Act 1965(a) and of all other powers enabling him in that behalf and with a view to remedying and preventing mischiefs which in his opinion result from the conditions which, according to a report of the Monopolies Commission entitled "A Report on the Supply of Certain Services by Estate Agents" as laid before Parliament and ordered by the House of Commons to be printed on 20th February 1969, operate and may be expected to operate against the public interest, hereby orders as follows :

1. This Order may be cited as the Restriction on Agreements (Estate Agents) Order 1970, and shall come into operation on 20th November 1970.

2.—(1) In this Order—

(a) "acquisition" or "disposal" includes the acquisition or disposal of a freehold or leasehold interest or any other estate or interest (whether a subsisting interest or an interest to be created by the disposal) but does not include the acquisition or disposal of a dwelling in conjunction with the acquisition or disposal of farm land or commercial or industrial premises ; and "acquire" and "dispose" shall be construed accordingly;

(b) "association of estate agents" means a body (whether incorporated or not) whose purpose is to further the business interests of its members and which has for or amongst its members persons who are or who represent estate agents ;

(c) "estate agent" means a person who, in connection with the acquisition or disposal of an unfurnished dwelling :—

(i) brings together or takes steps to bring together the person wishing to dispose of the unfurnished dwelling and a person prepared to acquire it or undertakes to do either of those things ; or

(ii) acts or undertakes to act as auctioneer ; or

(iii) in the case of a proposed transaction, negotiates or undertakes to negotiate as to the terms on behalf of either party :

Provided that no account shall be taken for the purpose of this definition of anything done by a public authority or by a solicitor, accountant or registered architect in the course of his practice, or of any display of advertisements by the proprietor of a shop or newspaper ;

(d) "restriction" includes a negative obligation, whether expressed or implied and whether absolute or not.

(2) In this Order the supply of services by estate agents relates only to the supply of such services in England and Wales.

(3) For the purposes of this Order, two or more persons being either interconnected bodies corporate or individuals carrying on business in partnership with each other shall be treated as a single person.

(4) The Interpretation Act 1889(a) shall apply for the interpretation of this Order as it applies for the interpretation of an Act of Parliament.

3. Subject to the provisions of Article 4 of this Order, it shall be unlawful to make—

(a) any agreement or arrangement whether or not constituted by the rules of an association of estate agents, under which two or more estate agents accept any restriction with respect to the charges that they make to a person who wishes to acquire or dispose of an unfurnished dwelling for services supplied by them as estate agents or with respect to the terms and conditions on which such services are to be so supplied ;

(b) any agreement or arrangement, whether or not so constituted, under which two or more estate agents accept any restriction with respect to the advertising by them of the charges that they make to a person who wishes to acquire or dispose of an unfurnished dwelling for services supplied by them as estate agents : Provided that this paragraph shall not prevent the acceptance of restrictions which relate solely to the making known of charges by personal call or telephone ;

(c) any agreement or arrangement between two or more estate agents or to which an association of estate agents is a party and under which a person is to make any recommendation with respect to the charges made by estate agents to a person who wishes to acquire or dispose of an unfurnished dwelling for services supplied by them as estate agents.

4. Nothing in this Order shall relate to the charges to be made, advertised or recommended for the negotiation of the amount to be paid to the vendor for an acquisition by an authority possessing compulsory purchase powers as defined in section 39(1) of the Land Compensation Act 1961(b).

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(a) 1889 c. 63.

(b) 1961 c. 33.

5. Any agreement or arrangement made before the coming into operation of this Order which if made thereafter would be unlawful by virtue of Article 3 shall be determined by the parties thereto before 30th June 1971.

*Nicholas Ridley,*  
Parliamentary Under Secretary of State,  
Department of Trade and Industry.

10th November 1970.

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#### EXPLANATORY NOTE

*(This Note is not part of the Order.)*

This Order renders unlawful agreements and arrangements between estate agents relating to the charges, the advertising of the charges and the recommending of the charges for the supply of their services as estate agents in connection with the disposal of unfurnished dwellings. (Article 3). An exception is made in respect of agreements or arrangements which relate to the compulsory acquisition of unfurnished dwellings. (Article 4).

Agreements or arrangements made before the coming into operation of this Order are required to be determined before the 30th June 1971.

Copies of the report of the Monopolies Commission referred to in the Order (H.C. 127 Session 1968-69) may be obtained from Her Majesty's Stationery Office.

SI 1970/1696  
ISBN 0-11-001696-3

