

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations require property agents that hold money on behalf of a client to belong to an approved or designated client money protection scheme in order to afford protection to that client against the loss, theft, misappropriation, etc. of their funds and make associated provision.

Regulation 3 requires property agents that hold money on behalf of a client to belong to an approved or designated client money protection scheme in order to afford protection to that client against the loss, theft, misappropriation, etc. of their funds. It also provides that that membership must be one that protects the maximum amount of client money that the agent may hold.

Regulation 4 requires a property agent to provide evidence of or information about its membership of a scheme.

Regulations 5 to 8 make provision for the enforcement of the above requirements by local authorities in England including the imposition of a financial penalty of up to £30,000 for a breach of regulation 3 and £5,000 for a breach of regulation 4 and the circumstances in which a further penalty can be imposed in respect of a continuing breach of duty.

Regulation 10 introduces the Schedule which makes provision for the procedure that applies when a financial penalty is to be imposed, in relation to appeals against such a penalty and for the recovery of a financial penalty via the court if the agent does not pay it. It also provides that a local authority may use the proceeds of any financial penalty for purposes connected with enforcement of legal requirements applicable to the private rented sector and if it does not the proceeds must be paid into the consolidated fund.

A full impact assessment of the effect that this instrument will have on the costs of business, the voluntary sector and the public sector is available in pdf format at www.gov.uk or in hard copy from the Ministry of Housing, Communities and Local Government, Fry Building, 2 Marsham Street, London SW1P 4DF.