



Material Information

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Material information

“ Under current legislation, as set out in the Consumer Protection from Unfair Trading Regulations 2008, estate and letting agents have a legal obligation not to omit material information from property listings. But current practices around disclosure are not consistent across the industry.”

Material Information - legislation



Trade Descriptions Act 1968

1968 CHAPTER 29

An Act to replace the Merchandise Marks Acts 1887 to 1953 by fresh provisions prohibiting misdescriptions of goods, services, accommodation and facilities provided in the course of trade; to prohibit false or misleading indications as to the price of goods; to confer power to require information on instructions relating to goods to be marked on or to accompany the goods or to be included in advertisements; to prohibit the unauthorised use of devices or emblems signifying royal awards; to enable the Parliament of Northern Ireland to make laws relating to merchandise marks; and for purposes connected with those matters.



Property Misdescriptions Act 1991

1991 CHAPTER 29

An Act to prohibit the making of false or misleading statements about property matters in the course of estate agency business and property development business.

Material Information

MARTIN SCORSESE
**THE WOLF
OF WALL STREET**



Fugazi (The Wolf of Wall Street - 2013)

"Fugayzi, fugazi. It's a whazy. It's a woozie. It's fairy dust. It doesn't exist. It's never landed. It is no matter. It's not on the elemental chart.

Material Information

The Consumer Protection from Unfair Trading Regulations 2008 (known as the CPRs) control unfair practices used by traders when dealing with consumers, and create criminal offences for traders that breach them.

The Regulations prohibit 31 specific practices that are always considered to be unfair, and create further offences for aggressive practices. They prohibit 'misleading actions' and 'misleading omissions' that cause, or are likely to cause, the average consumer to take a 'transactional decision' they would not have taken otherwise. They apply to commercial practices relating to products (which includes goods, services and digital content) before, during and after a contract is made.

They provide consumers with rights to redress in respect of misleading and aggressive commercial practices, and set out the remedies available to them.

STATUTORY INSTRUMENTS

2008 No. 1277

CONSUMER PROTECTION

The Consumer Protection from Unfair Trading Regulations 2008

Made

8th May 2008

Coming into force

26th May 2008

The Secretary of State, being a Minister designated⁽¹⁾ for the purposes of section 2(2) of the European Communities Act 1972⁽²⁾ in relation to measures relating to consumer protection and to the control of advertising, makes the following Regulations in exercise of the powers conferred upon him by section 2(2) of that Act;

Material Information

The Business Protection from Misleading Marketing Regulations 2008 (BPRs) prohibit misleading business-to-business advertising and impose further restrictions on how businesses compare their products to rival products from other companies.

If you are selling to businesses the Regulations prohibit you from giving misleading information to the other business that would deceive that business and affect, or be likely to affect, its economic behaviour. You are also prohibited from giving misleading information that injures, or is likely to injure, a competitor.

The BPRs have a consumer equivalent: the Consumer Protection from Unfair Trading Regulations 2008 (CPRs); see 'Consumer protection from unfair trading' for more information.

It is useful to look at both sets of regulations as they are similar and there are elements in each that overlap.

STATUTORY INSTRUMENTS

2008 No. 1276

TRADE DESCRIPTIONS

The Business Protection from Misleading Marketing Regulations 2008

<i>Made</i>	-	-	-	-	<i>8th May 2008</i>
<i>Coming into force</i>	-	-			<i>26th May 2008</i>

The Secretary of State, being a Minister designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to measures relating to the control of advertising, makes the following Regulations in exercise of the powers conferred upon him by section 2(2) of that Act;

Material Information

What is 'material information'? Material information is information that the average person needs to be able to make an informed transactional decision – basically whether you decide to enquire further, view, or buy/rent a property. This information, where known, should be provided at the earliest reasonable opportunity, normally via the property portals; however, agents should be providing the information via their own property particulars and on their own websites too. Any information provided in a property listing must be accurate and truthful and not misleading. Important information should not be left out of, or hidden, on property listings or at any part of the buying/renting process. Material information refers to the information the “average” consumer (i.e., buyers and tenants) would need and not just information they would like.

Material Information

What to expect?	How will this be shown?
Asking price/rent	This should be a number value with any deposits payable, and (for lettings) how often the rent is payable (e.g., per week, per month).
Tenure (sales only).	This should be the type of tenure (e.g., freehold, leasehold, shared ownership). Different tenures might require additional information (e.g., for leasehold what are the service charges or ground rents? For shared ownership, what is the percentage share in the property being sold and how much rent needs to be paid on the remaining share?)
Council Tax or Domestic Rates	This should be the council tax banding letter or actual current £GBP cost. In Northern Ireland, it is known as "domestic rates" but the same information should be shown. Some new build properties may not have been banded for council tax when they are advertised, this should be adequately explained.
Physical characteristics of the property.	This should be the type of property (e.g., semi-detached, terraced, flat), and may be shown by photos; and should include extra information if any of the building materials might impact your enjoyment of the property, or your ability to get contents insurance.
Number, types and sizes of rooms	This should be a number of rooms, and measurement details of each room. This can either be listed in the property description or by use of a floorplan.
Utilities information	If the utilities are not on a mains supply, the listing should include information on how they are connected to the property (e.g., when there is a private or non-standard supply) and the sources of the utility. For example, is it LPG heating, does it have a septic tank and is the water supply from a private source such as a private well? The utilities are water, electricity, heating, sewerage, broadband installation type, and mobile signal.
Parking	This should be information about parking at the property, and any known costs or issues in obtaining permits or accessing car parks. If there is no dedicated parking, this needs to be disclosed.

Material Information

These items will only be on a listing if it relevant to the property in question	
Building safety	This should be information on known issues with the safety or structure of the building. A description of the issue alongside any known costs should be clearly displayed.
Restrictions, rights, easements and other legal considerations	This should be information on things that might restrict the use, or rights of other people over the property and land. Common examples might be not being able to run a business from the address, it being a listed building, or having a public right of way over the garden.
Flooding or coastal erosion	This should be information on recent known flooding history and risk at the property, as this might impact the ability to obtain a mortgage or relevant insurance.
Planning permissions or proposed developments	This should be information of any known planning permission for development that could impact you, as the buyer or tenant. Development plans and planning permission can be checked on the local authority website.
Property adaptations and accessibility	This should be information on any existing property accessibility adaptations (such as the presence of grab rails, step-free access, and wet rooms or level-access showers). This can be achieved through photos.
Coalfield or mining area	This should be information on any issue relating to coal or other mining that could have an impact on you as the buyer/renter; for example, you might not be able to obtain contents insurance.

Example – Underpinning of Property



Example - Selling property with undeclared burial

Exhuming a deceased body

Exhumations are generally rare and tend to be traumatic for the family involved. They can take a long time to arrange and are usually expensive. For these reasons, it is always best to consult with all the relatives before proceeding.

Exhumation of both buried and cremated remains generally requires a Ministry of Justice licence and may also require permission from the Church. It is an offence to exhume any human remains without first obtaining the necessary lawful permissions. Funeral directors can help in obtaining these.

Exhumations occur for a number of reasons, and there are a number of requirements including:

Relevant licence/s which will also contain certain conditions that must be observed.

An Environmental Health Officer must be present at the exhumation of a body to ensure that there is no threat to public health.

Occasionally cadaver certificates are required in addition to exhumation licences.

An Environmental Health Officer must be present at the exhumation and supervises the event to ensure that respect for the deceased person is maintained and that public health is protected. The Officer will also ensure that all licence conditions are met.

If the conditions of the licence cannot be met, or there are public health or decency concerns, the exhumation may not proceed.



Example – Footpath

Property with non disclosed footpath.



Example – access point



Example – unmortgage property – non-compliant build



Material Information

The key message

when applying a descriptions to a residential property, commercial property and
a tenancy agreement,

all statements made

must be a true statement of fact.

Thank you / Meur ras

If you have any questions or comments email:

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