
STATUTORY INSTRUMENTS

2007 No. 1667

HOUSING, ENGLAND AND WALES

The Home Information Pack (No. 2) Regulations 2007

<i>Made</i>	- - - -	<i>8th June 2007</i>
<i>Laid before Parliament</i>		<i>11th June 2007</i>
<i>Coming into force</i>	- -	<i>2nd July 2007</i>

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 161, 163, 164, 165 and 250(2) of, and paragraphs 2 and 11(b) of Schedule 8 to, the Housing Act 2004⁽¹⁾.

In accordance with section 250(3) of that Act, the Secretary of State has consulted the National Assembly for Wales in relation to residential properties in Wales.

PART 1

CITATION, COMMENCEMENT AND INTERPRETATION

Citation and commencement

- 1.—(1) These Regulations may be cited as the Home Information Pack (No. 2) Regulations 2007.
- (2) These Regulations shall come into force on 2nd July 2007.

Interpretation – general provisions

- 2.—(1) In these Regulations—
 - “the 2004 Act” means the Housing Act 2004;
 - “appropriate local land charges register” means the register described in section 4 of the Local Land Charges Act 1975⁽²⁾;
 - “approved certification scheme” means a certification scheme approved by the Secretary of State under regulation 37 of these Regulations and from which such approval has not been withdrawn under regulation 39;

(1) 2004 c. 34.

(2) 1975 c. 76. Section 4 is amended by section 25(1) of and Schedule 3 to the Interpretation Act 1978 (c. 30).

“the Chief Land Registrar” means the person appointed by the Lord Chancellor under section 99(3) of the Land Registration Act 2002(3);

“conservation area consent” means the consent described in section 74(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990(4);

“developer” means a person who has built or converted, or is building or converting the property;

“edited information document” means, where the Chief Land Registrar has designated a document an exempt information document, the edited copy of that document lodged under rule 136(2)(b) or 138(4) of the Land Registration Rules 2003(5);

“energy performance certificate” means a certificate which complies with regulation 11(1) of the Energy Performance of Buildings (Certificates and Inspections) (England and Wales) Regulations 2007(6) or regulation 17E of the Building Regulations 2000(7);

“exempt information document” means the original and copies of a document so designated under rule 136(3) of the Land Registration Rules 2003;

“first point of marketing” means the time described in regulation 3;

“home condition report” means a document which complies with Schedule 9;

“home information pack” in relation to a property, means—

- (a) where a duty arises under section 155(1) of the 2004 Act, the home information pack intended by the responsible person(8) to be the one required by that provision; and
- (b) where a duty arises under section 159(2) of that Act, the home information pack intended by the person to whom that section applies to be the one required by that provision;

“home information pack index” means the document required by regulation 8(a);

“home inspector” means a person who is a member of an approved certification scheme;

“individual register” means the register so named in rule 2 of the Land Registration Rules 2003, the contents and arrangement of which are described in rules 3 and 4 of those Rules;

“lease” means a long lease except in regulation 8(i), regulation 26(b)(i), paragraph 3(l) of Schedule 4 and paragraph 3(a) of Schedule 5(9);

“listed building consent” means a consent under section 8(1), (2) or (3) of the Planning (Listed Buildings and Conservation Areas) Act 1990(10);

“occupant” includes a potential occupant;

“pack document” means a document (or part of a document) required or authorised by these Regulations to be included in the home information pack;

“planning permission” means a permission (granted or deemed to be granted) under Part 3 of the Town and Country Planning Act 1990(11);

“predicted energy assessment” means the document required by regulation 8(c);

“premises” includes buildings and land;

(3) 2002 c. 9.

(4) 1990 c. 9.

(5) S.I. 2003/1417.

(6) S.I. 2007/991, amended by S.I. 2007/1669.

(7) S.I. 2000/2531. Regulation 17E was inserted by S.I. 2006/652 and substituted by S.I. 2007/991.

(8) The circumstances in which a person becomes and ceases to be a “responsible person” are described in sections 151, 152 and 153 of the 2004 Act.

(9) “Long lease” is defined in section 177(1) of the 2004 Act.

(10) Subsection (2) is amended by S.I. 2001/24.

(11) 1990 c. 8.

“property” means the residential property in respect of which a duty arises under section 155(1) or 159(2) of the 2004 Act⁽¹²⁾;

“property interest” means the freehold interest (including a freehold estate in commonhold land) or the leasehold interest in the property that the seller is proposing to sell⁽¹³⁾;

“recommendation report” has the meaning given by regulation 2(1) of the Energy Performance of Buildings (Certificates and Inspections) (England and Wales) Regulations 2007;

“records” includes documents, registers, files and archives, kept in any form;

“register of title” means the register kept by the Chief Land Registrar pursuant to section 1 of the Land Registration Act 2002;

“registered estate” means a legal estate the title to which is entered in the register of title, other than a charge the title to which is entered in that register;

“responsible person” also includes a person subject to a duty under section 159(2) of the 2004 Act;

“sale” includes the potential sale of a property interest⁽¹⁴⁾;

“sale statement” means the document required by regulation 8(d);

“search” means an inspection or investigation (whether manual or electronic) of records;

“service charge” has the same meaning as in section 18 of the Landlord and Tenant Act 1985⁽¹⁵⁾;

“title plan” means the plan so named in rule 5(a) of the Land Registration Rules 2003; and

“year” means a period of 12 months.

(2) In these Regulations, any expression relating to commonhold land must be construed in accordance with—

(a) Part 1 of the Commonhold and Leasehold Reform Act 2002⁽¹⁶⁾ if it is also used in that Act; or

(b) the Commonhold Regulations 2004⁽¹⁷⁾ where those Regulations further define or elaborate upon an expression used in Part 1 of that Act,

and in relation to commonhold land, references to common parts are to those that relate to the property and the commonhold of which the property forms part.

(3) For the purposes of these Regulations—

(a) the property is physically complete if its building or its conversion for residential purposes has been completed; and

(b) where a question arises as to whether the property is physically complete, it must be considered physically complete if it—

(i) is wind and weather proof;

(ii) is safe and sanitary in relation to its occupants or visitors;

(iii) has facilities for the supply of space heating, hot and cold water and electricity; and

(iv) has washing and drainage facilities.

⁽¹²⁾ “Residential property” is defined in section 148(1) of the 2004 Act.

⁽¹³⁾ “Seller” is defined in section 177(1) of the 2004 Act.

⁽¹⁴⁾ “Sale” is defined in section 177(1) of the 2004 Act.

⁽¹⁵⁾ 1985 c. 70. Section 18 is amended by paragraph 1 of Schedule 2 to the Landlord and Tenant Act 1987 (c. 31) and paragraph 7 of Schedule 9 to the Commonhold and Leasehold Reform Act 2002 (c. 15).

⁽¹⁶⁾ 2002 c. 15.

⁽¹⁷⁾ S.I. 2004/1829.

(4) In these Regulations, references to the amendment or revision of a document include its modification or variation.

(5) In these Regulations, references to a number of days, months or years are to a consecutive period of days or months.

Interpretation – first point of marketing

3.—(1) Subject to the provisions specified in paragraph (2), a reference in these Regulations to the “first point of marketing” is to the first time a duty arises under section 155(1) or 159(2) of the 2004 Act in relation to the sale of the property interest.

(2) The provisions referred to in paragraph (1) are—

- (a) regulations 16(3), 17(3), 21(3), 22(3) and 23(3); and
- (b) paragraphs (3), (4) and (5).

(3) No further first point of marketing shall arise where the property is taken off the market and then put back on the market before the end of the period of one year starting with the day on which the first point of marketing falls.

(4) Except in the circumstances described in paragraph (5), where the property is taken off the market and then put back on the market after the end of the period of one year starting with the day on which the first point of marketing falls—

- (a) a further first point of marketing arises; and
- (b) that first point of marketing is the time at which the property is put back on the market.

(5) No further first point of marketing shall arise where the property—

- (a) is taken off the market for any period of time because the seller accepts an offer to buy the property; and
- (b) is then put back on the market within 28 days of that offer being withdrawn or its acceptance repudiated.

PART 2

HOME INFORMATION PACK - GENERAL PROVISIONS

Required, authorised and excluded documents

4.—(1) A home information pack—

(a) must include—

- (i) the documents required under regulation 8 (including that regulation as modified by regulation 10); and
- (ii) the particular information so required to be included in a pack document; and

(b) may include—

- (i) the documents authorised under regulation 9 (including that regulation as modified by regulation 10); or
- (ii) the particular information so authorised to be included in a pack document.

(2) A home information pack must not include any other documents or information contained in a document.

(3) A copy of a home information pack, or of a pack document provided to a potential buyer pursuant to section 156(1) of the 2004 Act must be separated and clearly distinguished by the responsible person from documents or information which are—

- (a) provided to a potential buyer in close proximity to the pack or pack document; and
- (b) neither required nor authorised by these Regulations to be included in the pack.

The home information pack

5.—(1) Except where an official copy of a document is required or authorised by these Regulations to be included in the home information pack, the pack must be composed of original documents or true copies of them⁽¹⁸⁾.

(2) For the purposes of these Regulations, a copy of a document containing a map, plan or drawing

- (a) which is in the seller's possession, under his control, or to which he has reasonable access; and
- (b) in which colours are used to mark boundaries or other features,

is a true copy if those colours are reproduced with sufficient accuracy to enable them to be identified.

Copies of a home information pack

6. The copies of a home information pack or pack document provided or produced under section 156(1) or 167(1) of the 2004 Act must be—

- (a) true copies of the home information pack or pack document; or
- (b) where a pack document is an official copy, a true copy of it or another official copy.

Comprehension of documents

7.—(1) Subject to paragraph (2), pack documents and true copies of documents made in accordance with regulation 6—

- (a) must be legible; or
- (b) in the case of maps, plans or drawings, must be clear.

(2) Paragraph (1) does not apply where, despite all reasonable efforts and enquiries by the responsible person—

- (a) the only version of a pack document available is one which is illegible or unclear (either in whole or in part); and
- (b) that document is to be included under any of the following provisions—
 - (i) regulation 8(f)(ii) (documents relied on to deduce unregistered title);
 - (ii) regulation 9(j) (documents referred to in the register of title);
 - (iii) regulation 8(g) or 9(k) (required or authorised commonhold information); or
 - (iv) regulation 8(h) or 9(l) (required or authorised leasehold information).

(3) Pack documents must be in—

- (a) English, where the property is in England; or

⁽¹⁸⁾ Under section 155(1) of the 2004 Act a responsible person must have in his possession, or under his control, a home information pack which complies with the requirements of these Regulations. Under section 156, a responsible person must provide a potential buyer with a copy of the pack (rather than the original version). Under subsection (8) of section 156, a reasonable sum may be charged for the cost of making and sending a paper copy of the home information pack.

- (b) English, Welsh or a combination of English and Welsh, where the property (or part of the property) is in Wales.

PART 3

CONTENTS OF HOME INFORMATION PACKS

Required pack documents

8. Subject to regulations 10, 11, 12 and Parts 4 and 5, the home information pack must include the following—

- (a) an index to the home information pack complying with Schedule 1 (the home information pack index);
- (b) an energy performance certificate and its accompanying recommendation report for a property which is physically complete before or at the first point of marketing;
- (c) a predicted energy assessment complying with Schedule 2 if the property is not physically complete before or at the first point of marketing;
- (d) a document complying with Schedule 3 (the sale statement);
- (e) if the property interest is or includes the whole or part of a registered estate—
 - (i) an official copy of the individual register relating to that estate; and
 - (ii) an official copy of the title plan relating to that estate;
- (f) if the property interest is or includes the whole or part of an estate, the title to which is not entered in the register of title—
 - (i) a certificate of an official search of the index map issued under rule 145(4) of the Land Registration Rules 2003 in relation to the parcel of land to which the property interest relates; and
 - (ii) such other documents on which the seller can reasonably be expected to rely in order to deduce title to that estate for the purposes of its sale;
- (g) if the property interest is or includes the whole or part of a freehold estate in commonhold land—
 - (i) the documents described in paragraph 1 of Schedule 4; and
 - (ii) documents consisting of or containing information about the matters described in paragraph 2 of that Schedule;
- (h) if the property interest is or includes the whole or part of a leasehold interest—
 - (i) the documents described in paragraph 1 of Schedule 5; and
 - (ii) documents consisting of or containing information about the matters described in paragraph 2 of that Schedule;
- (i) if the property interest is or includes the whole or part of an interest in dwelling-houses to which Part 5 of the 2004 Act applies by virtue of section 171(2) of that Act, such leases⁽¹⁹⁾ or licences—
 - (i) to which the dwelling-houses are subject or are expected to be subject at the time of, or following completion of the sale of the property interest⁽²⁰⁾; and

⁽¹⁹⁾ In this case, “lease” does not only mean a long lease - see regulation 3(1).

⁽²⁰⁾ Under section 160 of the Housing Act 2004, the duties under sections 155 to 159 do not apply to a residential property at any time when it is not available for sale with vacant possession. However, under section 171(2) of the Housing Act 2004,

- (ii) as have not been included in the pack under paragraph (h) of this regulation;
- (j) a search report which relates to the property and which records the results of a search of all parts of the appropriate local land charges register—
 - (i) in the form of an official search certificate, in the case of an official search made pursuant to section 9 of the Local Land Charges Act 1975(21); or
 - (ii) in any other form but made in accordance with Parts 1 and 2 of Schedule 6, in the case of a personal search made pursuant to section 8 of that Act(22);
- (k) a search report which—
 - (i) is made in accordance with Parts 1 and 2 of Schedule 6 and with Schedule 7; and
 - (ii) records the results of a search of records held by or derived from a local authority (local enquiries); and
- (l) a search report which is made in accordance with Parts 1 and 2 of Schedule 6 and with Schedule 8 (drainage and water enquiries).

Authorised pack documents

9. Subject to regulations 10, 11, 12 and Parts 4 and 5, the home information pack may include documents consisting of or containing any of the following—

- (a) a home condition report which complies with Schedule 9;
- (b) documentary evidence of any safety, building, repair or maintenance work as has been carried out in relation to the property since the date of any home condition report included in the pack under paragraph (a);
- (c) any warranty, policy or guarantee for defects in the design, building, or completion of the property, or its conversion for residential purposes;
- (d) information about the design or standards to which a property has been or is being built;
- (e) an accurate translation in any language of any pack document;
- (f) an additional version of any pack document in another format, such as Braille or large print;
- (g) a summary or explanation of any pack document, including legal advice on the content of the pack or any pack document;
- (h) information identifying the property including a description, photograph, map, plan or drawing of the property;
- (i) information about a pack document, about information contained within a pack document or about the home information pack, relating to—
 - (i) its source or supply; or
 - (ii) complaints or redress procedures arising from it;
- (j) if the property interest is or includes the whole or part of a registered estate, official copies of any documents referred to in the individual register, including any edited information

Part 5 applies where two or more dwellings in sub-divided building are marketed for sale (with any ancillary land) as a single property and one or more is not available for sale as a separate property, but is available with vacant possession.

(21) 1975 c. 76. Section 9 is amended by section 15 of and Schedule 4 to the Constitutional Reform Act 2005 (c. 4) in relation to fees in England and Wales. Sub-section (2) is repealed by sections 158 and 194 of and Schedule 12 to the Local Government and Housing Act 1989 (c. 42).

(22) Section 8 is amended by section 34 of the Local Government (Miscellaneous Provisions) Act 1982 (c. 30).

- documents derived from such exempt information documents as are referred to in the register⁽²³⁾;
- (k) if the property interest is or includes the whole or part of a freehold estate in commonhold land, information which—
- (i) relates to one or more of the matters described in paragraph 3 of Schedule 4; and
 - (ii) would be of interest to potential buyers of the property interest;
- (l) if the property interest is or includes the whole or part of a leasehold interest, information which—
- (i) relates to one or more of the matters described in paragraph 3 of Schedule 5; and
 - (ii) would be of interest to potential buyers of the property interest;
- (m) one or more of the following search reports which must be made in accordance with Part 1 of Schedule 6 and may be made in accordance with Part 2 of that Schedule, which records the results of a search relating to the property and relating to any of the following matters—
- (i) information held by or derived from a local authority, and dealing with matters supplementary to those contained in the search reports required by regulation 8(j) (search of the local land charges register) or 8(k) (local enquiries);
 - (ii) common land or town or village greens;
 - (iii) rights of access to, over or affecting the property interest;
 - (iv) ground stability, the effects of mining or extractions or the effects of natural subsidence;
 - (v) actual or potential environmental hazards, including the risks of flooding or contamination from radon gas or any other substance;
 - (vi) telecommunications services;
 - (vii) sewerage, drainage, water, gas or electrical services;
 - (viii) the potential or actual effects of transport services, including roads, waterways, trams and underground or over-ground railways; or
 - (ix) liabilities to repair or maintain buildings or land not within the property interest;
- (n) where it would be of interest to potential buyers of the property interest, a document which —
- (i) records the results of a search relating to other premises in the vicinity of the property; and
 - (ii) would otherwise be a report of the type required by regulation 8(j) (search of the local land charges register), 8(k) (local enquiries) or 8(l) (drainage and water enquiries) or authorised by paragraph (m) of this regulation, if references in those provisions and in Schedules 6, 7 and 8 to “property”, “land” and “land on which the property is or will be situated” were references to those other premises;
- (o) any documents referred to in a search report included in the pack under regulation 8(j) (search of the local land charges register), 8(k) (local enquiries), 8(l) (drainage and water enquiries) (subject to paragraph 2(4)(b) of Schedule 8) or paragraphs (m) or (n) of this regulation; and

(23) Part 13 of the Land Registration Rules 2003 describes the nature and effect of exempt information and edited information documents. Under rule 136(1), a person may apply to the Chief Land Registrar for a document to be designated an exempt information document on the basis that it contains “prejudicial information”. This is defined in rule 131 as information that if disclosed would cause substantial unwarranted damage or distress to someone, or would prejudice the commercial interests of the applicant. Under rule 136(2)(b), an application for designation must be accompanied by a version of the document that excludes the prejudicial information (an edited information document).

- (p) information which—
 - (i) relates to one or more of the matters described in Schedule 10; and
 - (ii) would be of interest to potential buyers of the property interest.

Creation of interests

- 10.**—(1) Subject to regulation 12 and Parts 4 and 5, where the sale involves(24)—
- (a) the whole or part of a commonhold unit, which at the first point of marketing has not been registered by the Chief Land Registrar as a freehold estate in commonhold land; or
 - (b) a leasehold property interest, which at the first point of marketing has not yet been created,
- regulations 8 and 9 apply as respects that freehold estate or leasehold interest, as modified by this regulation.
- (2) Where paragraph (1)(a) applies—
- (a) the sale statement must be completed as if the freehold estate had been registered by the Chief Land Registrar;
 - (b) regulations 8(e) (evidence of title for registered estates), 8(f) (evidence of title for unregistered estates) and 9(j) (documents referred to in the individual register) apply as if for “is or includes” in each paragraph, there were substituted “to be registered as a freehold estate in commonhold land arises from”;
 - (c) paragraphs 1 and 2 of Schedule 4 (required commonhold information) do not apply;
 - (d) regulation 9(k) and paragraph 3 of Schedule 4 (authorised commonhold information) must be construed by reference to the information expected to be relevant to the interest to be registered as a freehold estate in commonhold land; and
 - (e) the home information pack must include documents consisting of or containing information which relates to the matters described in paragraph 4 of Schedule 4.
- (3) Where paragraph (1)(b) applies—
- (a) the sale statement must be completed as if the leasehold interest had been created;
 - (b) regulations 8(e) (evidence of title for registered estates), 8(f) (evidence of title for unregistered estates) and 9(j) (documents referred to in the individual register) apply as if for “is or includes” in each paragraph, there were substituted “is to be created from”;
 - (c) paragraphs 1 and 2 of Schedule 5 (required leasehold information) do not apply;
 - (d) regulation 9(l) and paragraph 3 of Schedule 5 (authorised leasehold information) must be construed by reference to the information expected to be relevant to the interest to be created; and
 - (e) the home information pack must include documents consisting of or containing information which relates to the matters described in paragraph 4 of Schedule 5.

Prohibitions relating to home condition reports

- 11.**—(1) A home condition report must not be included in the home information pack if it was not completed for the purposes of the sale by the seller of the property interest.
- (2) No pack document may be described as a “home condition report” unless it complies with Schedule 9.

(24) Under section 177(2) of the 2004 Act, any reference in the definition of “sale” to the disposal of an interest includes a reference to the creation of such an interest.

Exclusion of advertising information

12.—(1) Information advertising or marketing goods or services must not be included in the home information pack or a pack document—

- (a) by a responsible person;
- (b) at his request; or
- (c) with his permission.

(2) In paragraph (1), “information advertising or marketing goods or services” does not include information in a document required to be included under regulation 8 (including that regulation as modified by regulation 10).

PART 4

ASSEMBLY OF HOME INFORMATION PACKS

Order of pack documents

13. Subject to the provisions of this Part, a copy of a home information pack provided or produced under section 156(1) or 167(1) of the 2004 Act must be composed of pack documents in the following order—

- (a) firstly, the document required by regulation 8(a) (home information pack index);
- (b) secondly—
 - (i) the documents required by regulation 8(b) (energy performance certificate and recommendation report); or
 - (ii) the document required by regulation 8(c) (predicted energy assessment); then
- (c) the remaining pack documents (which may be included in any order).

Time at which pack documents are to be included

14.—(1) Subject to regulations 16, 20 and 34, the documents required to be included in the home information pack under the following provisions of regulation 8 (including that regulation as modified by regulation 10) must be included before or at the first point of marketing—

- (a) paragraph (a) (home information pack index);
- (b) paragraph (b) (energy performance certificate and recommendation report);
- (c) paragraph (c) (predicted energy assessment);
- (d) paragraph (d) (sale statement);
- (e) paragraph (e) (evidence of title for registered estates); and
- (f) paragraph (f)(i) (official search of the index map for unregistered estates).

(2) Subject to regulations 17, 20 and 34, the remaining documents required by regulation 8 to be included in the home information pack must be included before the end of the period of 28 days starting with the first point of marketing.

(3) The pack documents authorised by these Regulations to be included in the home information pack under regulation 9 (including that regulation as modified by regulation 10) may be included at any time.

Age of pack documents when first included

15.—(1) The documents included under the following provisions of regulation 8 (including that regulation as modified by regulation 10) must be dated no earlier than the date that falls three months before the first point of marketing—

- (a) official copies included in the home information pack under—
 - (i) paragraph (e) (evidence of title for registered estates);
 - (ii) paragraph (g) (required commonhold information); and
 - (iii) paragraph (h) (required leasehold information);
- (b) a certificate of an official search of the index map included in the pack under paragraph (f)(i) (evidence of title for unregistered estates);
- (c) paragraph (j) (search of the local land charges register);
- (d) paragraph (k) (local enquiries); and
- (e) paragraph (l) (drainage and water enquiries).

(2) The documents included under the following provisions of regulation 8 must be dated no earlier than the date that falls twelve months before the first point of marketing—

- (a) paragraph (b) (energy performance certificate and recommendation report); and
- (b) paragraph (c) (predicted energy assessment).

(3) All other pack documents must be such versions of the documents as can reasonably be assumed to be the most recent to the first point of marketing.

(4) Where—

- (a) a pack document has been amended at any time before its inclusion in the home information pack; and
- (b) the amendment is not incorporated in the document,

that amendment must be included in the pack.

Energy information unobtainable before or at the first point of marketing

16.—(1) This regulation applies—

- (a) where the first point of marketing occurs on or after 1st January 2008;
- (b) where regulation 20 does not apply; and
- (c) in relation to the following pack documents required to be included in the home information pack before or at the first point of marketing by virtue of regulation 14(1)—
 - (i) energy performance certificate and recommendation report (regulation 8(b)); and
 - (ii) predicted energy assessment (regulation 8(c)).

(2) If, despite all reasonable efforts and enquiries by the responsible person, a pack document to which this regulation applies cannot be obtained by him before or at the first point of marketing, the home information pack complies with the requirements of these Regulations where—

- (a) the first point of marketing falls no earlier than the end of the period of 14 days starting with the day a request for the document is delivered in accordance with this Part;
- (b) the responsible person continues to use all reasonable efforts to obtain the document, and in particular, to obtain the document before the end of the period of 28 days starting with the first point of marketing;
- (c) the document is included in the home information pack as soon as reasonably practicable; and

- (d) proof of the request for the document is included in the pack⁽²⁵⁾.
- (3) The time at which the document is included in the home information pack becomes the first point of marketing for that document—
 - (a) for the purposes of regulation 15(2); and
 - (b) until such time (if any) as a further first point of marketing arises under regulation 3(4) or Part 5.

Documents required within 28 days of the first point of marketing

- 17.—(1) This regulation applies—
- (a) where regulation 20 does not apply; and
 - (b) in relation to the pack documents required to be included in the home information pack before the end of the period of 28 days starting with the first point of marketing by virtue of regulation 14(2).
- (2) The home information pack complies with the requirements of these Regulations where, in respect of a pack document to which this regulation applies—
- (a) the day a request for the document is delivered falls before the first point of marketing;
 - (b) the responsible person believes on reasonable grounds that the latest time a document is likely to be obtained by him is at the end of the period of 28 days starting with the first point of marketing, and uses all reasonable efforts to obtain the document before then;
 - (c) where it is reasonable to expect that the document can be obtained by the responsible person earlier than the time identified in paragraph (b), he uses all reasonable efforts to obtain the document before then;
 - (d) the responsible person continues to use such efforts if the document cannot be obtained by him in accordance with paragraphs (b) or (c);
 - (e) the responsible person records on the home information pack index the information required under paragraph 1(f) of Schedule 1;
 - (f) the document is included in the home information pack as soon as the responsible person obtains it; and
 - (g) proof of the request for the document is included in the pack⁽²⁶⁾.
- (3) The time at which the document is included in the home information pack becomes the first point of marketing for that document—
- (a) for the purposes of any provision of these Regulations that requires the age or currency of a pack document to be determined by reference to a period preceding the first point of marketing; and
 - (b) until such time (if any) as a further first point of marketing arises under regulation 3(4) or Part 5.

Requests for documents under this Part

- 18.—(1) In this Part, references to a request for a document are to a request—
- (a) which is properly addressed to a person who usually provides or is likely to provide the type of document requested; and
 - (b) which—

⁽²⁵⁾ As to proof of the request, see regulation 18(2).

⁽²⁶⁾ As to proof of the request, see regulation 18(2).

- (i) is made in such form;
- (ii) contains all such information; and
- (iii) is accompanied by such payment or an undertaking to make such payment, as is usually necessary to obtain a document of the type requested.

(2) In this Part, proof of a request for a document means a written statement of the following matters—

- (a) which of the required documents has been requested;
- (b) the date that a request for the document is delivered in accordance with regulation 19;
- (c) the name of the person to whom the request has been addressed;
- (d) the date the responsible person believes the document is likely to become available; and
- (e) confirmation that the request complies with paragraph (1).

Delivery of documents under this Part

19.—(1) Subject to paragraphs (2) and (3), the day a request for the document is delivered shall, for the purposes of this Part, be taken to be, depending on the method of delivery—

- (a) the day the request is served personally on the intended recipient;
- (b) the day it would be delivered to the intended recipient's address in the ordinary course of post or (if sooner), the day on which it is proved to have been so delivered;
- (c) the day it is left at the intended recipient's address;
- (d) the second day after it is left at the document exchange of the person making the request or (if sooner), the day on which it is proved to have been so delivered; or
- (e) the day it is sent by fax or electronic communication to the intended recipient's address or (if later), the day on which it is proved to have been so delivered.

(2) Subject to paragraph (3), where a request for a document is delivered to the Chief Land Registrar, the day the request is delivered shall, for the purposes of this Part, be taken to be the day it is delivered in accordance with, or under, the Land Registration Act 2002(27)—

- (a) personally;
- (b) by post, and is the day it would be delivered to the Chief Land Registrar in the ordinary course of post or (if sooner), the day on which it is proved to have been so delivered;
- (c) by document exchange, and is the second day after it is left at the document exchange of the person making the request or (if sooner), the day on which it is proved to have been so delivered;
- (d) orally; or
- (e) by telephone, fax or other electronic method.

(3) For the purposes of this Part, where a request for a document—

(27) An application for an official copy of an individual register, for an official copy of any title plan referred to in an individual register, for an official copy of a document referred to in the register and kept by the Chief Land Registrar or for an official copy of an exempt information document made under Part 13 of the Land Registration Rules 2003 may be delivered by post, document exchange or personal delivery to the proper office of the Land Registry as designated by the Land Registration (Proper Office) Order 2003 (S.I.2003/2040) (as amended by S.I.2005/1765). Under rule 132 of the Land Registration Rules 2003, an application for an official copy under Part 13 of those Rules may also be delivered by any other means of communication during the currency of a relevant notice given under Schedule 2 to the Land Registration Rules 2003, and subject to and in accordance with the limitations contained in that notice. Current notices provide for oral delivery and delivery by telephone, fax and on-line.

- (a) is made in parts, the day the request is delivered shall be taken to be the day the last part is delivered as described in paragraphs (1) and (2);
 - (b) is delivered more than once, the day the request is delivered shall be taken to be the first day on which a request is delivered as described in paragraphs (1) and (2); and
 - (c) is delivered using more than one method of delivery, the day the request is delivered shall be taken to be the day on which the first request is delivered as described in paragraphs (1) and (2).
- (4) In paragraph (1)(a), “served personally”—
- (a) in relation to an individual, means leaving it with that individual;
 - (b) in relation to a business, means leaving it with an employee or owner of the business; and
 - (c) in relation to any other body of persons corporate or unincorporate, means leaving it with an employee or member of that body.
- (5) References to a recipient’s address—
- (a) in paragraphs (1)(b) and (c) are, if the intended recipient is an individual—
 - (i) to his usual or last known residence; or
 - (ii) if his usual or last known residence is the property, to that address and an address (if any) at which it can reasonably be assumed he will be contacted;
 - (b) in paragraphs (1)(b) and (c), are if the intended recipient is a business or other body, to any principal or last known place of business from which a document of the type requested is usually or likely to be provided; and
 - (c) in paragraph (1)(e), are to any electronic address, identification or number published or provided by the intended recipient for the purposes of supplying the document requested.

Required pack documents which are completely unobtainable

20.—(1) The provisions of regulation 8 specified in paragraph (2) do not apply where, after making all reasonable efforts and enquiries, the responsible person believes on reasonable grounds that the document in question—

- (a) no longer exists in any form; or
 - (b) cannot be obtained from or created by any person.
- (2) The provisions are—
- (a) paragraph (c) (predicted energy assessment);
 - (b) paragraph (f)(ii) (documents relied on to deduce unregistered title);
 - (c) paragraph (g) (required commonhold information);
 - (d) paragraph (h) (required leasehold information); or
 - (e) paragraph (i) (leases or licences for dwelling-houses to which section 171(2) of the 2004 Act applies).

PART 5

ACCURACY OF HOME INFORMATION PACKS

Updating of required pack documents

21.—(1) This regulation applies to any document included in a home information pack under regulation 8 (including that regulation as modified by regulation 10).

(2) Where the responsible person amends such a document or obtains or creates a further version of it, he must—

- (a) include the amended document or the further version in the pack;
- (b) amend accordingly such translations, additional versions, summaries or explanations as are included in the pack under regulation 9(e), 9(f) or 9(g) or include a further version of such translations, additional versions, summaries or explanations; and
- (c) remove such documents as have been wholly superseded by a document included under sub-paragraphs (a) or (b).

(3) The time at which the responsible person amends a document or obtains or creates a further version of it under paragraph (2) becomes the first point of marketing for that document—

- (a) for the purposes of any provision of these Regulations that requires the age or currency of a pack document to be determined by reference to a period preceding the first point of marketing; and
- (b) until such time (if any) as a further first point of marketing arises under regulation 3(4), Part 4 or this Part.

Updating of predicted energy assessment

22.—(1) If the property is not physically complete before or at the first point of marketing, and becomes complete after that time, the responsible person must include in the home information pack the documents which would be required by regulation 8(b) (energy performance certificate and recommendation report).

(2) The documents required to be included in the pack under paragraph (1) must—

- (a) be so included before the end of the period of 14 days starting with the day on which the property becomes physically complete; and
- (b) replace any document already included in the pack in accordance with regulation 8(c) (predicted energy assessment).

(3) The time at which the responsible person includes a document under paragraph (2) becomes the first point of marketing for that document—

- (a) for the purposes of regulation 15(2); and
- (b) until such time (if any) as a further first point of marketing arises under regulation 3(4), Part 4 or this Part.

Updating of authorised pack documents

23.—(1) This regulation applies to any document included in a home information pack under regulation 9 (including that regulation as modified by regulation 10).

(2) A responsible person—

- (a) may include an amended document or further version in the pack; and

- (b) may remove such documents as have been wholly superseded by a document or version included under sub-paragraph (a).
- (3) The time at which the responsible person includes the amended document or further version under paragraph (2)(a) becomes the first point of marketing for that document—
 - (a) for the purposes of any provision of these Regulations that requires the age or currency of a pack document to be determined by reference to a period preceding the first point of marketing; and
 - (b) until such time (if any) as a further first point of marketing arises under regulation 3(4), Part 4 or this Part.

Seller’s check of the home information pack

24. If he is not the seller, the responsible person must provide the seller with a copy of any of the pack documents which the seller has requested him to provide for the purposes of ensuring the accuracy of the home information pack.

PART 6 EXCEPTIONS

Meaning of “non-residential premises”

- 25.—**(1) In this Part, “non-residential premises” includes—
- (a) premises where the most recent use of the premises is or was primarily non-residential; and
 - (b) any dwelling-house where—
 - (i) it is clear from the manner in which it is marketed that it is due to be converted for primarily non-residential use by the time its sale is completed; and
 - (ii) all the relevant planning permissions and listed building consents exist in relation to the conversion.
- (2) For the purposes of this Part, where a question arises as to whether premises are—
- (a) non-residential premises; or
 - (b) residential property by virtue of being ancillary land to a dwelling-house⁽²⁸⁾,
- the premises may be treated as non-residential premises if the conditions in paragraph (3) are met.
- (3) The conditions referred to in paragraph (2) are that—
- (a) the total area of the land is 5 hectares or more; and
 - (b) the most recent use of the land is or was primarily for one or more of the following purposes—
 - (i) horticulture or cultivation;
 - (ii) the breeding or keeping of animals or livestock; or
 - (iii) as grazing land or woodlands.

⁽²⁸⁾ Under section 148(1) of the 2004 Act, “residential property” consists of a single dwelling-house, including any ancillary land. “Ancillary land” is defined in section 177(1) in relation to a dwelling-house or a sub-divided building as “any land intended to be occupied and enjoyed together with that dwelling-house or building”.

Exclusion from meaning of “non-residential premises”

26. In this Part, “non-residential premises” do not include—
- (a) premises due to be converted to a dwelling-house by the time the sale of the property interest is complete; or
 - (b) a dwelling-house or a building ancillary to a dwelling-house used for either or both of the following purposes—
 - (i) letting under a lease⁽²⁹⁾; or
 - (ii) home working.

Exception for seasonal and holiday accommodation

27. The duties under sections 155 to 159 of the 2004 Act do not apply in relation to a property where—
- (a) the dwelling-house which is or forms part of the property is subject to a condition imposed under section 72(1)(a) of the Town and Country Planning Act 1990 regulating the use of the dwelling-house to either or both of the following—
 - (i) occupation for less than 11 months in any 12 month period; or
 - (ii) use only for holiday accommodation; and
 - (b) that regulation of the use of the dwelling-house is clear from the manner in which the property is marketed.

Exception for mixed sales

28. The duties under sections 155 to 159 of the 2004 Act do not apply in relation to a property where—
- (a) it is to be sold with one or more non-residential premises;
 - (b) the dwelling-house which is or forms part of the property is ancillary to those non-residential premises;
 - (c) at the time at which the first point of marketing would have occurred (were sections 155 to 159 of the 2004 Act to apply but for this regulation), the seller does not intend to accept an offer to buy the property in isolation from any one of those non-residential premises; and
 - (d) the seller’s intention not to accept such an offer is clear from the manner in which the property is marketed.

Exception for dual use of a dwelling-house

29. The duties under sections 155 to 159 of the 2004 Act do not apply in relation to a property where—
- (a) the dwelling-house which is or forms part of the property was most recently used for both residential and non-residential purposes; and
 - (b) the manner in which it is marketed suggests that it is suitable for—
 - (i) non-residential use; or
 - (ii) both residential and non-residential use.

⁽²⁹⁾ In this case, “lease” does not only mean a long lease - see regulation 3(1).

Exception for portfolios of properties

30.—(1) Subject to paragraph (2), the duties under sections 155 to 159 of the 2004 Act do not apply in relation to a property where—

- (a) the dwelling-house which is or forms part of the property is to be sold with one or more other dwelling-houses;
- (b) the other dwelling-houses mentioned in sub-paragraph (a)—
 - (i) are available for sale with vacant possession; and
 - (ii) are not dwelling-houses to which Part 5 of the 2004 Act applies by virtue of section 171(2) of that Act;
- (c) at the time at which the first point of marketing would have occurred (were sections 155 to 159 of the 2004 Act to apply but for this regulation), the seller does not intend to accept an offer to buy any one of those dwelling-houses in isolation from another; and
- (d) the seller’s intention not to accept such an offer is clear from the manner in which the dwelling-houses are marketed.

(2) Paragraph (1) does not apply where the other dwelling-houses mentioned in sub-paragraph (a) are ancillary to the dwelling-house.

Exception for unsafe properties

31. The duties under sections 155 to 159 of the 2004 Act do not apply in relation to a property—

- (a) which is unoccupied;
- (b) whose condition poses a serious risk to the health or safety of its potential occupants or visitors; and
- (c) where the manner in which the property is marketed suggests it is unsuitable for occupation in its condition.

Exception for properties to be demolished

32.—(1) The duties under sections 155 to 159 of the 2004 Act do not apply in relation to a property where—

- (a) it is clear from the manner in which the property is marketed that—
 - (i) the dwelling-house which is or forms part of the property is suitable for demolition; and
 - (ii) the resulting site is suitable for re-development;
- (b) all the relevant planning permissions, listed building consents; and conservation area consents exist in relation to the demolition; and
- (c) in relation to the re-development—
 - (i) either outline planning permission or planning permission exists, or both; and
 - (ii) where relevant, listed building consent exists.

(2) In paragraph (1)(c)(i), “outline planning permission” has the same meaning as in article 1(2) of the Town and Country Planning (General Development Procedure) Order 1995(30).

(30) S. I. 1995/419. The definition refers to “reserved matters”, also defined in article 1(2). The definition of “reserved matters” is substituted by S.I. 2006/1062.

Exception – properties marketed before the commencement date

33.—(1) In this regulation, “commencement date” means the date appointed by the Secretary of State for the coming into force of sections 155(1), 156(1) and 159(2) of the 2004 Act in relation to the property⁽³¹⁾.

- (2) This regulation applies in relation to a property where—
- (a) the property is put on the market by or on behalf of the seller before the commencement date;
 - (b) action taken at any time during the period starting with 1st June 2006 and ending before the commencement date by or on behalf of the seller, made public the fact that the property was on the market;
 - (c) such action was taken with the intention of selling the property before the commencement date; and
 - (d) such action was sustained to a reasonable extent after it was put on the market, during the period starting with 1st June 2006 and ending before the commencement date.

(3) A person is not a responsible person in relation to a property to which this regulation applies, by virtue of action taken on or after the commencement date, by or on behalf of the seller, which makes public the fact that the property is on the market⁽³²⁾.

(4) The duties under sections 155 to 159 of the 2004 Act do not apply in relation to a property to which this regulation applies, which is put back on the market on or after the commencement date—

- (a) after the seller had accepted an offer to buy the property; and
- (b) within 28 days of that offer being withdrawn or its acceptance repudiated.

Exception – first day marketing during a temporary period

34.—(1) In the circumstances set out in paragraph (2) and subject to paragraph (3), the duties under sections 155 to 159 of the 2004 Act do not apply in relation to a property until the responsible person has in his possession or under his control (where they would otherwise be required by regulation 8)—

- (a) an energy performance certificate relevant to the property and its accompanying recommendation report; or
- (b) a predicted energy assessment relevant to the property complying with Schedule 2.

(2) The circumstances referred to in paragraph (1) are that—

- (a) the property is put on the market by or on behalf of the seller before 1st January 2008;
- (b) requests for all the required documents are delivered before the property is put on the market; and
- (c) those requests comply with regulation 18(1).

(3) The exception described in paragraph (1) does not apply unless the responsible person also satisfies the following conditions—

- (a) that where it is reasonable to expect that the responsible person can obtain a required document before the property is put on the market, he uses all reasonable efforts to obtain the document before then;
- (b) that where he believes on reasonable grounds that he is unlikely to obtain all the required documents by the end of the period of 28 days starting with the date on which the property is put on the market, he uses all reasonable efforts to obtain the documents before then;

⁽³¹⁾ In accordance with section 270(6) or (8) of the 2004 Act.

⁽³²⁾ See sections 151, 152(1)(b) and 153(1)(b) of the 2004 Act.

- (c) that where sub-paragraphs (a) and (b) do not apply or he cannot obtain all the required documents in accordance with those provisions, he continues to use all reasonable efforts to obtain them.
- (4) In this regulation—
 - (a) “responsible person” means the person who would be the responsible person if the duties under sections 155 to 159 of the 2004 Act applied;
 - (b) “required documents” means the documents that would be required under regulation 8 if sections 155 to 159 of the 2004 Act applied; and
 - (c) the day a request for a document is delivered shall be construed in accordance with regulation 19.
- (5) Once the duties under sections 155 to 159 of the 2004 Act apply, the point at which the property is put on the market is the first point of marketing for that document—
 - (a) for the purposes of regulation 17(1) and (2) (documents required within 28 days of first point of marketing);
 - (b) for the purposes of any provision of these Regulations that requires the age or currency of a pack document to be determined by reference to a period preceding the first point of marketing; and
 - (c) until such time (if any) as a further first point of marketing arises under regulation 3(4), Part 4 or Part 5.

PART 7

ENFORCEMENT

Amount of penalty charge

35. The amount of a penalty charge specified in a notice given to a person under section 168 of the 2004 Act (penalty charge notices) shall be £200.

Exclusion of penalty charge for content of pack documents

36. Section 168(1)(a) of the 2004 Act does not apply to a breach of a duty under section 155(1) or 159(2) of that Act to the extent that—

- (a) the content of a pack document, other than the home information pack index and the sale statement, fails to comply with any requirement of these Regulations; and
- (b) the responsible person believes on reasonable grounds that the document does comply with that requirement.

PART 8

APPROVED CERTIFICATION SCHEMES

Approval of certification schemes

37. The Secretary of State shall approve one or more certification schemes, but before doing so must be satisfied that the scheme contains appropriate provision—

- (a) for ensuring that its members are fit and proper persons who are qualified (by their education, training and experience) to produce home condition reports;
- (b) for ensuring that its members have in force suitable indemnity insurance;
- (c) for facilitating the resolution of complaints against its members;
- (d) for requiring home condition reports made by its members to be entered onto the register kept pursuant to Part 9;
- (e) for the keeping of a public register of its members; and
- (f) for requiring all members of all certification schemes as have been approved, to make home condition reports using a standard form for the type of dwelling-house which is or forms part of the property, which—
 - (i) includes a statement of the procedures for the resolution of complaints against members;
 - (ii) includes a statement of such procedures as are maintained by the scheme for rectifying inaccuracies in a particular home condition report; and
 - (iii) includes a numerical scale for rating the conditions within the property.

Terms of approved certification schemes

- 38.** An approved certification scheme must contain provision—
- (a) for ensuring that its objects and activities are compatible with protecting, promoting and facilitating the reliability and trustworthiness of home condition reports and home inspectors, with particular reference to potential and actual buyers, sellers and mortgage lenders of residential properties;
 - (b) for ensuring that the scheme produces and publishes a code as regards the conduct required of its members;
 - (c) for the conduct of inspections of residential properties by its members; and
 - (d) for ensuring that its members complete home condition reports complying with Schedule 9 using the standard form described in regulation 37(f).

Withdrawal of approval from certification schemes

- 39.** The Secretary of State may withdraw approval from one or more certification schemes—
- (a) with immediate effect; or
 - (b) with written notice—
 - (i) with effect from a date specified in the notice; or
 - (ii) temporarily for a period specified in the notice.

PART 9

HOME CONDITION REPORT REGISTER

CHAPTER 1

Interpretation

Interpretation of this Part

- 40.—(1)** In this Part—

“agent” includes a person who—

- (a) provides advice to another in a professional capacity; or
- (b) acts on behalf of another with their authority;

“automated valuation supplier” means a person who carries out valuations of properties for the purposes of their sale other than by means of a visual inspection of the property;

“keeper of the register” means the Secretary of State or persons keeping the register or any part of the register on behalf of the Secretary of State;

“primary disclosure” means one or more of the following disclosures—

- (a) an inspection of the register or a home condition report entered onto the register;
- (b) the taking or giving of electronic or paper copies of the register or a home condition report entered onto the register; or
- (c) the giving of information contained in or derived from the register or a home condition report entered onto the register;

“report reference number” means the number assigned to a home condition report in accordance with regulation 41;

“request” includes an electronic or automated request;

“register” means the register of home condition reports described in section 165 of the 2004 Act and further described in this Part, and includes parts of the register;

“secondary disclosure” means a disclosure of a home condition report or its contents where that information has been obtained by virtue of a primary disclosure; and

“seller” does not include former sellers.

(2) In this Part, references to a home condition report include—

- (a) part of a home condition report; and
- (b) a summary or explanation of a home condition report.

(3) In this Part, references to the obtaining, keeping or storing of a document or information include the obtaining, keeping or storing of such a document or information in any form.

(4) In this Part, a disclosure includes—

- (a) a primary or secondary disclosure; and
- (b) leaving or storing information in a place where it may be visible to another person⁽³³⁾.

CHAPTER 2

ARRANGEMENTS FOR KEEPING THE REGISTER

Registration of home condition reports

41. Each home condition report entered onto the register—

- (a) shall be registered under a report reference number; and
- (b) shall not be altered once so registered.

⁽³³⁾ By virtue of section 165(7) of the Housing Act 2004, a disclosure not made in accordance with these Regulations contravenes section 165(4) and a person making such a disclosure is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Retention of home condition reports

42.—(1) Subject to paragraph (2), a home condition report entered onto the register must be cancelled from the register in the event that a person operating an approved certification scheme informs the keeper of the register that there is an inaccuracy in the report.

(2) Except in the circumstances described in paragraph (1), a home condition report entered onto the register must be kept on the register for no less than 15 years from the date on which it is entered onto the register.

Restrictions on disclosure by the keeper of the register in pursuance of a seller's instructions

43.—(1) This regulation applies to home condition reports prepared for the purposes of the sale of the property interest by the seller.

(2) A home inspector may inform the keeper of the register in writing, pursuant to the seller's instruction, that the seller does not wish the keeper to make a primary disclosure of a home condition report to which this regulation applies, to—

- (a) all persons; or
- (b) all mortgage lenders or automated valuation suppliers.

(3) Nothing in this Part authorises the primary disclosure of a home condition report in contravention of such an instruction.

Other registers

44. For the purposes of these Regulations and section 165 of the 2004 Act—

- (a) any other archive of home condition reports, or information obtained from a home condition report, is derived from the register whether or not obtained directly from the keeper of the register; and
- (b) the restrictions on disclosures or the permitted disclosures set out in Chapters 3 and 4 of this Part shall apply—
 - (i) to such archives derived from the register as they apply to the register; and
 - (ii) to the keeper of such an archive as they apply to the keeper of the register.

CHAPTER 3

DISCLOSURE - GENERAL PROVISIONS

Section 157 conditions

45. Nothing in this Part authorises a disclosure where the person who proposes to make the disclosure is aware that a condition exists under section 157(3) of the 2004 Act which prohibits the proposed disclosure.

Suspicion of unauthorised use

46. Nothing in this Part authorises a disclosure where the person who proposes to make a disclosure or requested to make a disclosure, believes that it is likely to result in a disclosure not authorised by this Part.

Commercial use by the keeper of the register

47. Nothing in this Part authorises the commercial use of the register by the keeper of the register, otherwise than in accordance with the provisions of this Part.

Responsibility for proving purposes of disclosure

48. Where this Part refers to the purposes of a disclosure, it shall be the responsibility of the person seeking the disclosure to prove those purposes to the satisfaction of the person from whom disclosure is sought.

Responsibility for proving agency

49. Where this Part authorises the disclosure to the agent of a person, it shall be the responsibility of the purported agent to prove the existence of an agency arrangement to the satisfaction of the person from whom the disclosure is sought.

Possession of report reference number

50.—(1) Before a primary disclosure authorised by this Part is made, the keeper of the register may require the person seeking the disclosure to provide the relevant report reference number.

(2) The keeper of the register may presume that any person who is in possession of a report reference number is lawfully in possession of such a number, unless the contrary is proved.

CHAPTER 4

AUTHORISED DISCLOSURES

Internal processing of information

51. Any person may make a primary or secondary disclosure, where necessary for the purposes of processing information—

- (a) within a body of persons corporate or unincorporate;
- (b) between principal and agent;
- (c) between an employer and employee; or
- (d) in order to manage the register.

Sellers and their agents

52.—(1) The keeper of the register may make a primary disclosure to a seller or his agent.

(2) Before making a disclosure in accordance with paragraph (1), the keeper of the register may require the person seeking that disclosure to prove that he is the seller or his agent.

(3) Where the home condition report to be disclosed was entered onto the register for the purposes of the sale of the property interest by that seller—

- (a) a seller may make a secondary disclosure to any person; and
- (b) the seller's agent may make a secondary disclosure to a person only if the seller has authorised the agent to make that disclosure.

Potential buyers and their advisers

53.—(1) The keeper of the register may make a primary disclosure to an actual or potential buyer or his agent.

(2) Before making a disclosure in accordance with paragraph (1), the keeper of the register may require the person seeking that disclosure to prove one or more of the following matters—

- (a) that he is an actual or potential buyer or his agent;

- (b) that the request relates to a home condition report for a property the buyer is genuinely interested in buying; or
- (c) that the request is made for the purposes of—
 - (i) checking the authenticity of a home condition report; or
 - (ii) checking whether any home condition reports not included in the home information pack have been completed for the purposes of the sale of the property interest by the seller.

Mortgage lenders or automated valuation suppliers

54.—(1) The keeper of the register may make a primary disclosure to a mortgage lender, an automated valuation supplier or their agents.

(2) Before making a disclosure in accordance with paragraph (1), the keeper of the register may require the person seeking that disclosure to prove one or more of the following matters—

- (a) that they are a mortgage lender, automated valuation supplier or their agent;
- (b) that the request relates to a report for a property that the mortgage lender or automated valuation supplier has been asked to consider by or on behalf of an actual or potential buyer; or
- (c) that the request is made for the purposes of—
 - (i) checking the authenticity of that report;
 - (ii) valuing the property; or
 - (iii) appraising the suitability of the property as security for mortgage or loan.

Approved certification schemes or complaints against home inspectors

55.—(1) The keeper of the register may make a primary disclosure to a person operating an approved certification scheme or a person dealing with complaints against home inspectors.

(2) Before making a disclosure in accordance with paragraph (1), the keeper of the register may require the person seeking that disclosure to prove one or more of the following matters—

- (a) that they operate an approved certification scheme or deal with complaints against home inspectors;
- (b) that the request is made for the purposes of —
 - (i) any complaint or disciplinary procedure relating to a home inspector; or
 - (ii) monitoring or assessing the work of home inspectors; or
- (c) that any request made by a person operating an approved certification scheme is made for the purposes of replacing archives of home condition reports prepared by its members, which—
 - (i) have been destroyed; and
 - (ii) were kept (and will be kept) for monitoring or assessing the work of members of that scheme.

Enforcement officers

56.—(1) The keeper of the register may make a primary disclosure to an authorised officer of an enforcement authority.

(2) Before making a disclosure in accordance with paragraph (1), the keeper of the register may require the person seeking that disclosure to prove one or more of the following matters—

- (a) that he is an authorised officer of an enforcement authority;
- (b) that the request is made for the purposes of the enforcement by enforcement authorities of—
 - (i) the duties under sections 155 to 159 and 167(4) of the 2004 Act; or
 - (ii) any duty imposed under section 172(1) of that Act.

Office of Fair Trading

57.—(1) The keeper of the register may make a primary disclosure to the Office of Fair Trading.

(2) Before making a disclosure in accordance with paragraph (1) in response to a request, the keeper of the register may require the Office of Fair Trading to prove that the request is made for the purposes of the enforcement by the Office of Fair Trading of its functions under the Estate Agents Act 1979⁽³⁴⁾ or the 2004 Act.

Information from which no particular property is identifiable

58. Any person may make a primary or secondary disclosure where no particular property would be identifiable in doing so.

Disclosures for the purposes of the 2004 Act or these Regulations

59. Any person may make a primary or secondary disclosure for the purposes of—

- (a) section 156(1), (2) and (11) of the 2004 Act; or
- (b) regulations 5, 6, 9(a) and 24.

Prevention of crime

60. Any person may make a primary or secondary disclosure for the purposes of or to facilitate—

- (a) the prevention or detection of crime; or
- (b) the apprehension or prosecution of offenders.

Legal proceedings and court orders

61. Any person may make a primary or secondary disclosure for the purposes of—

- (a) the establishment, exercise or defence of legal rights; or
- (b) an order of a court.

CHAPTER 5

FEES

Fees

62.—(1) The fee prescribed under section 165(3) of the 2004 Act is £1.15 (one pound and fifteen pence).

(2) No fee may be charged for a primary disclosure.

(34) c. 38.

Signed by authority of the Secretary of State
for Communities and Local Government

8th June 2007

Kay Andrews
Parliamentary Under Secretary of State
Department for Communities and Local
Government

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

SCHEDULE 1

regulation 8(a)

Home information pack index

Required matters

1. A home information pack index must—
 - (a) display prominently the title, “Home Information Pack Index”;
 - (b) contain the address or proposed address (which may include a plot number) of the property;
 - (c) contain a list of all the documents included in the home information pack;
 - (d) be revised whenever a document is included in or removed from the pack;
 - (e) where regulation 16, 17 or 20 apply, indicate—
 - (i) that a document otherwise required by these Regulations is missing from the pack;
 - (ii) specify which document it is; and
 - (iii) the reason why it is missing; and
 - (f) where regulation 16 or regulation 17(2)(e) apply, indicate—
 - (i) such steps as are being taken to obtain the document;
 - (ii) the date by which the responsible person expects to obtain the document;
 - (iii) the reason for any delay which has occurred or is likely to occur to the date described in paragraph (ii); and
 - (iv) where paragraph (iii) applies, the further date by which the responsible person expects to obtain the document.

Authorised matters

2. A home information pack index may indicate where a particular pack document can be found in the home information pack.

SCHEDULE 2

regulation 8(c)

Predicted energy assessment

A predicted energy assessment must—

- (a) display prominently the title “Predicted Energy Assessment”;
- (b) contain the following statement—

“This document is a Predicted Energy Assessment required to be included in a Home Information Pack for properties marketed when they are incomplete. It includes a predicted energy rating which might not represent the final energy rating of the property on completion. Once the property is completed, the Pack should be updated to include information about the energy performance of the completed property.”
- (c) contain the address or proposed address (which may include a plot number) of the property;
- (d) be compiled otherwise than by a visual inspection of the property;

- (e) contain the asset rating within the meaning given by regulation 2(1) of the Energy Performance of Buildings (Certificates and Inspections) (England and Wales) Regulations 2007⁽³⁵⁾ which is—
 - (i) predicted for the building;
 - (ii) based on its plans and specifications; and
 - (iii) expressed in a way approved by the Secretary of State under regulation 17A of the Building Regulations 2000⁽³⁶⁾; and
- (f) contain an explanation of that rating.

SCHEDULE 3

regulation 8(d)

Sale statement

A sale statement must—

- (a) display prominently the title “Sale Statement”;
- (b) contain the address or proposed address (which may include a plot number) of the property;
- (c) state whether the property interest is—
 - (i) a freehold estate other than a freehold estate in commonhold land;
 - (ii) a freehold estate in commonhold land; or
 - (iii) a leasehold interest;
- (d) state whether at the first point of marketing—
 - (i) the property interest is or includes the whole or part of a registered estate; or
 - (ii) the property interest is or includes the whole or part of an estate, the title to which is not entered in the register of title;
- (e) contain the name of the seller, and state the capacity in which they are selling the property;
- (f) state whether the property—
 - (i) is being sold entirely with vacant possession; or
 - (ii) is a property to which Part 5 of the 2004 Act applies by virtue of section 171(2) of that Act; and
- (g) if it is a property to which Part 5 of the 2004 Act applies by virtue of section 171(2) of that Act, state the nature of any lack of vacant possession.

SCHEDULE 4

regulation 8(g), 9(k) and 10(2)

Commonhold information

Required commonhold documents

- 1.—(1) Subject to sub-paragraph (2), the documents referred to in regulation 8(g)(i) are—
- (a) an official copy of such of the following documents as are kept by the Chief Land Registrar

⁽³⁵⁾ S.I. 2007/991, amended by S.I. 2007/1669.

⁽³⁶⁾ S.I. 2000/2531. Regulation 17A was inserted by S.I. 2006/652.

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- (i) the individual register and title plan relating to the common parts; and
- (ii) the commonhold community statement referred to in that register;
- (b) except where they are described in the commonhold community statement, such regulations or rules as are made for the purposes of managing the commonhold by—
 - (i) the commonhold association;
 - (ii) such managing agents as are appointed, or proposed for appointment by the commonhold association to manage the commonhold; or
 - (iii) such other persons as manage or are likely to manage the commonhold, and their predecessors (if any); and
- (c) the most recent requests for payment or financial contribution where made in respect of the property, relating to the 12 months preceding the first point of marketing, towards such of the following as are relevant to the property—
 - (i) commonhold assessment;
 - (ii) reserve funds;
 - (iii) insurance against damage for the common parts (if made separately to the requests relating to commonhold assessment included under sub-paragraph (i)); and
 - (iv) insurance for any person in respect of personal injury or death caused by or within the common parts (if made separately to the requests relating to commonhold assessment included under sub-paragraph (i)).

(2) Except for the documents specified in sub-paragraph (1)(a), the documents required by that sub-paragraph are only those which are in the seller's possession, under his control or to which he can reasonably be expected to have access, taking into account the enquiries that it would be reasonable to make of—

- (a) the unit-holder (unless the seller is the unit-holder); and
- (b) the persons described in sub-paragraph (1)(b) and their predecessors (if any).

Required commonhold information

2.—(1) Subject to sub-paragraph (2), the matters referred to in regulation 8(g)(ii) are—

- (a) the names and addresses of—
 - (i) such managing agents as are appointed, or proposed for appointment by the commonhold association to manage the commonhold; and
 - (ii) such other persons as manage or are likely to manage the commonhold;
- (b) such amendments as are proposed to the following—
 - (i) the commonhold community statement; and
 - (ii) the regulations or rules described in paragraph 1(1)(b); and
- (c) a summary of such works as are being undertaken or proposed, affecting the property or the common parts.

(2) The information required by sub-paragraph (1) is only that which the seller can reasonably be expected to be aware of, taking into account the enquiries that it would be reasonable to make of—

- (a) the unit-holder (unless the seller is the unit-holder); and
- (b) the persons described in paragraph 1(1)(b) and their predecessors (if any).

Authorised commonhold information

3. The matters referred to in regulation 9(k) are—
- (a) the commonhold community statement;
 - (b) the rights or obligations of the unit-holder under the commonhold community statement or otherwise, including whether the unit-holder has complied with such obligations;
 - (c) the rights or obligations of the commonhold association under the commonhold community statement or otherwise, including whether it has complied with such obligations;
 - (d) the commonhold association and any information that might affect the unit-holder's relationship with it;
 - (e) any agent of the commonhold association or other manager of the property and any information that might affect the unit-holder's relationship with such persons;
 - (f) the membership of the commonhold association;
 - (g) the status or memorandum and articles of association of any company related to the management of the property or the commonhold;
 - (h) any commonhold assessment payable for the property, including whether payments for such assessment are outstanding;
 - (i) any reserve fund levy relating to the property or the commonhold, including whether payments for such levies are outstanding;
 - (j) any planned or recent works relating to the property or the commonhold;
 - (k) responsibility for insuring the property or the commonhold, including the terms of such insurance and whether payments relating to it are outstanding; and
 - (l) any lease⁽³⁷⁾ or licence relating to the property.

Creation of commonhold interests

4. The matters referred to in regulation 10(2)(e) are—
- (a) the terms of the commonhold community statement that will or is expected to apply in relation to the property interest once it has been registered as a freehold estate in commonhold land; and
 - (b) estimates of the payment or financial contribution likely to be required of the unit-holder within 12 months of completion of the sale of the property interest towards—
 - (i) commonhold assessment;
 - (ii) reserve funds;
 - (iii) insurance against damage for the common parts (if not to be included in contributions towards commonhold assessment); and
 - (iv) insurance for any person in respect of personal injury or death caused by or within the common parts (if not to be included in contributions towards commonhold assessment).

⁽³⁷⁾ In this case, "lease" does not only mean a long lease - see regulation 3(1).

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SCHEDULE 5

regulations 8(h), 9(l) and 10(3)

Leasehold information

Required leasehold documents

- 1.—(1) Subject to sub-paragraph (2), the documents referred to in regulation 8(h)(i) are—
- (a) the lease in the form of—
 - (i) an official copy;
 - (ii) the original lease (or a copy of it in accordance with regulation 6); or
 - (iii) an edited information document if, despite all reasonable efforts and enquiries by the responsible person, the lease can only be obtained by him in that form;
 - (b) such regulations or rules as are made for the purposes of managing the property by—
 - (i) the current lessor or proposed lessor;
 - (ii) such managing agents as are appointed or proposed for appointment by the lessor to manage the property; and
 - (iii) such other persons as manage or are likely to manage the property, and their predecessors (if any);
 - (c) statements or summaries of service charges supplied in respect of the property under section 21 of the Landlord and Tenant Act 1985(38) or otherwise, and relating to the 36 months preceding the first point of marketing; and
 - (d) the most recent requests for payment or financial contribution where made in respect of the property, relating to the 12 months preceding the first point of marketing, towards such of the following as are relevant to the property—
 - (i) service charges;
 - (ii) ground rent;
 - (iii) insurance against damage for the building in which the property is situated (if made separately from the request relating to service charges included under sub-paragraph (i)); and
 - (iv) insurance for any person in respect of personal injury or death caused by or within the building in which the property is situated (if made separately from the request relating to service charges included under sub-paragraph (i)).
- (2) Except for the documents specified in sub-paragraph (1)(a), the documents required by that sub-paragraph are only those which are in the seller's possession, under his control or to which he can reasonably be expected to have access, taking into account the enquiries that it would be reasonable to make of—
- (a) the lessee (unless the seller is the lessee); and
 - (b) the persons described in sub-paragraph (1)(b) and their predecessors (if any).

Required leasehold information

- 2.—(1) Subject to sub-paragraph (2), the matters referred to in regulation 8(h)(ii) are—
- (a) the names and addresses of—
 - (i) the current lessor or proposed lessor;

(38) 1985 c. 70. At the time these Regulations are made, section 152 of the Commonhold and Leasehold Reform Act 2002 (c. 15) which substitutes section 21 of the Landlord and Tenant Act 1985, is not yet fully in force.

- (ii) such managing agents as are appointed or proposed for appointment by the lessor to manage the property; and
 - (iii) such other persons as manage or are likely to manage the property;
 - (b) such amendments as are proposed to the following—
 - (i) the lease; and
 - (ii) the regulations or rules described in paragraph 1(1)(b); and
 - (c) where section 20 of the Landlord and Tenant Act 1985(39) applies to any qualifying works or qualifying long term agreement in respect of the property, a summary of—
 - (i) such works or agreements in relation to which a relevant contribution (or any part of a relevant contribution) has not been paid by the first point of marketing;
 - (ii) the total or estimated total cost of such works or agreements;
 - (iii) the expected remaining relevant contribution of a lessee of the property;
 - (iv) the date or estimated date that such works or agreements will be concluded; and
 - (v) the date or estimated date that the remaining relevant contribution will be required of a lessee of the property.
- (2) The information required by sub-paragraph (1) is only that which the seller can reasonably be expected to be aware of, taking into account the enquiries that it would be reasonable to make of—
- (a) the lessee (unless the seller is the lessee); and
 - (b) the persons described in paragraph 1(1)(b)(i) and their predecessors (if any).

Authorised leasehold information

3. The matters referred to in regulation 9(1) are—
- (a) any lease(40) of the property, including those that are superior or inferior to the property interest;
 - (b) any licence relating to the property;
 - (c) any freehold estate to which the lease relates including any proposals to buy a freehold interest relating to the property;
 - (d) the rights or obligations of the lessee under the lease or otherwise, including whether the lessee has complied with such obligations;
 - (e) the rights or obligations of the lessor under the lease or otherwise, including whether the lessor has complied with such obligations;
 - (f) the lessor of the property and any information that might affect the lessee’s relationship with the lessor;
 - (g) any agent of the lessor or other manager of the property and any information that might affect the lessee’s relationship with such persons;
 - (h) the membership or existence of any body of persons corporate or unincorporate which manages the property or building in which the property is situated;
 - (i) the status or memorandum and articles of association of any company related to the management of the property or building in which the property is situated;
 - (j) the rent payable for the property, including whether payments for such rent are outstanding;

(39) Section 20 is substituted by section 151 of the Commonhold and Leasehold Reform Act 2002.

(40) In this case, “lease” does not only mean a long lease - see regulation 3(1).

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- (k) any service charges payable in respect of the property, including whether payments for such charges are outstanding;
- (l) any reserve fund relating to the property for necessary works to it or the building in which the property is situated, including whether payments to such a fund are outstanding;
- (m) any planned or recent works to the property or the building in which the property is situated; and
- (n) any responsibility for insuring the property or the building in which the property is situated, including the terms of such insurance and whether payments relating to it are outstanding.

Creation of leasehold interests

4. The matters referred to in regulation 10(3)(e) are—
- (a) the terms of the lease that will or is expected to be granted in order to create the property interest; and
 - (b) estimates of the payment or financial contribution likely to be required of the lessee within 12 months of completion of the sale of the property interest towards—
 - (i) service charges;
 - (ii) ground rent;
 - (iii) insurance against damage for the building in which the property is situated (if not to be included in contributions towards service charges); and
 - (iv) insurance for any person in respect of personal injury or death caused by or within the building in which the property is situated (if not to be included in contributions towards service charges).

SCHEDULE 6 regulations 8(j)(ii), 8(k) 8(l), 9(m) and 9(n)

General provision about searches and search reports

PART 1

All search reports (other than official search certificate of the local land charges register)

General requirements

1. A search report must contain the following information—
- (a) the address of the premises in respect of which the search is conducted;
 - (b) a statement of whether the following persons have any personal or business relationship with any person involved in the sale of the property (if such a relationship exists)—
 - (i) a person who conducted the search; and
 - (ii) a person who prepared the search report;
 - (c) such enquiries as formed the basis of the search and the information sought;
 - (d) subject to paragraph 3, the results of the search;
 - (e) the date on which the search was completed;

- (f) a description of the records searched, and the name and address of the person who holds them;
- (g) if the records searched are derived from other records, a description of those other records and the name and address of the person who holds them;
- (h) a description of how relevant documents can be obtained (if they are not included in the home information pack under regulation 9(o) or otherwise);
- (i) the names and addresses of the parties to the arrangements—
 - (i) under which the search was conducted; and
 - (ii) if different, under which the search report was prepared;
- (j) the name of the persons liable in each of the following events—
 - (i) any negligent or incorrect entry in the records searched;
 - (ii) any negligent or incorrect interpretation of the records searched; and
 - (iii) any negligent or incorrect recording of that interpretation in the search report;
- (k) a description of such complaints or redress procedures as exist in relation to the report; and
- (l) the terms on which the report is made, including—
 - (i) the terms required by paragraphs 5, 6 and 7; and
 - (ii) the names of the persons who are liable to make the payments described in paragraphs 4(g), 4(h)7(b) and 7(c).

Additional search information

2. A search report complying with this Part may contain or be accompanied by documents containing all or any of the following information—

- (a) information which identifies the search or the search report;
- (b) information which explains the results of the search, the search report or the enquiries or matters to which the results of the search relate; and
- (c) information which identifies services or features local to the property, but not including any advertising or marketing information about them.

Unavailable search results

3. Subject to paragraph 4, the results of the search included in a search report under paragraph 1(d) must not fail to answer such enquiries as formed the basis of the search, nor fail to give the information originally sought, unless—

- (a) a record from which the answer or result could be deduced is not held by or obtainable under any circumstances from—
 - (i) a local authority in the case of a search report required by regulation 8(j)(ii) (personal search of the local land charges register) or 8(k) (local enquiries), or authorised by regulation 9(m)(i) (supplementary local enquiries); or
 - (ii) any person in the case of any other search report, and
- (b) a statement is also included in the search report indicating—
 - (i) that a particular result is not included; and
 - (ii) the reason under sub-paragraph (a) for failing to include the result.

PART 2

Specific required search reports

Access to local authority records

4. The results of the search included in the search report required by regulation 8(k) (local enquiries) may fail to answer the enquiries set out in Part 2 of Schedule 7, in the following circumstances—

- (a) the first point of marketing falls before 1st April 2008 (except where a further first point of marketing arises under regulation 3(4) or Part 5);
- (b) a record from which the answer or result could be deduced is held by a local authority;
- (c) that local authority has a policy of not allowing other persons to inspect such records;
- (d) a local authority is not requested to provide the search report;
- (e) any enquiries not answered are the subject of a contract of insurance against the liabilities that if they had been answered, they would have affected—
 - (i) an actual buyer's decision to buy the property; or
 - (ii) the price an actual or potential buyer would be prepared to pay for it,and result in financial loss;
- (f) such a contract of insurance is effected by, and to be carried out by persons so authorised for the purposes of the Financial Services and Markets Act 2000;
- (g) any liability for financial loss arising under paragraph (e) will be met by financial compensation to be paid by a person (other than the persons described in paragraph 6(a) (i) to (iii)) who is—
 - (i) a party to the contract of insurance; or
 - (ii) another person involved in the sale of the property; and
- (h) such financial compensation is paid by a person mentioned in sub-paragraph (f) if any person mentioned in sub-paragraph (g) fails to pay it (or no longer exists and has no successor); and
- (i) the search report—
 - (i) contains a description of the terms and effect of the insurance described in this paragraph; and
 - (ii) identifies which enquiries have not been answered and in respect of which the insurance has been obtained.

Terms for the preparation of required searches

5. Any person may prepare a report required by regulation 8(j)(ii) (personal search of the local land charges register), 8(k) (local enquiries) or 8(l) (drainage and water enquiries), but must do so on the following terms without exclusion or limitation—

- (a) that the search report will be prepared with reasonable care and skill; and
- (b) that a responsible person may copy or issue a copy of the report for the purposes of complying with any of the following provisions—
 - (i) regulations 5, 6, 8(j)(ii), 8(k), 8(l) and 24; and
 - (ii) section 156(1), (2) and (11) of the 2004 Act.

Third party contractual rights in relation to search reports

6. The person preparing a search report required by regulation 8(j)(ii) (personal search of the local land charges register), 8(k) (local enquiries) or 8(l) (drainage and water enquiries) must do so on terms enabling the provisions of the contract under which the report is prepared—

- (a) to be enforced in relation to the terms mentioned in paragraph 5, by—
 - (i) the seller;
 - (ii) a potential or actual buyer of the property interest; and
 - (iii) a mortgage lender in respect of the property interest; and
- (b) to be enforced by such persons in their own right, whether or not they are a party to such a contract.

Insurance cover for third party contractual rights

7. The person preparing the search reports required by regulation 8(k) (local enquiries) or 8(l) (drainage and water enquiries) must do so on terms ensuring that—

- (a) any liability of any type arising under paragraph 6 is the subject of a contract of insurance against such risk effected by, and to be carried out by persons so authorised for the purposes of the Financial Services and Markets Act 2000;
- (b) any liability for financial loss arising under paragraph 6 will be met by financial compensation to be paid by a person (other than the persons described in paragraph 6(a) (i) to (iii)) who is—
 - (i) a party to the contract of insurance; or
 - (ii) another person involved in the sale of the property; and
- (c) such financial compensation is paid by a person mentioned in sub-paragraph (a), if any person mentioned in sub-paragraph (b) fails to pay it (or no longer exists and has no successor).

Permitted limit on liability for financial loss

8. The amount of the financial compensation referred to in paragraphs 4(g) and 7(b) may be limited to the amount the potential or actual buyer reasonably believed to be the value of the property interest—

- (a) at the time the search report was completed; and
- (b) for the purposes of residential use.

Inclusion of additional or more favourable terms for required search reports

9. A person may prepare the search reports required by regulation 8(j)(ii) (personal search of the local land charges register), 8(k) (local enquiries) or 8(l) (drainage and water enquiries) on any of the following terms—

- (a) terms additional to those described in paragraphs 5, 6 and 7 (without excluding or limiting them); and
- (b) terms more favourable to—
 - (i) the seller;
 - (ii) a potential or actual buyer of the property interest; or
 - (iii) a mortgage lender in respect of the property interest,than those described in paragraphs 5, 6 and 7.

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Less favourable terms

10. Any search report which contains terms less favourable to—

- (a) the seller;
- (b) a potential or actual buyer of the property interest; or
- (c) a mortgage lender in respect of the property interest,

than those required by this Part of this Schedule is not made in accordance with this Schedule.

Required searches by another name

11. This Schedule applies in relation to pack documents which contain the enquiries required (or enquiries to like effect) to be contained in a search report which would be included under regulation 8(j)(ii), 8(k) or 8(l), regardless of whether one or more of the following has occurred—

- (a) they are included under regulation 9(m), Schedule 10 or another provision of these Regulations; or
- (b) they are described as a local land charges search, local enquiries or drainage and water enquiries, or given similar descriptions.

SCHEDULE 7

regulation 8(k)

Local enquiries

PART 1

General

Interpretation

1.—(1) In this Schedule—

“adoption” and “adopted” relate to an agreement made under section 38 of the Highways Act 1980(41);

“bond” means an indemnity or guarantee which is sought by a local authority as to the financial security of a developer;

“bond waiver” means an agreement that a local authority will not seek a bond from a developer;

“breach of condition notice” means a notice served under section 187A of the Town and Country Planning Act 1990(42);

“building preservation notice” means a notice served under section 3 of the Planning (Listed Buildings and Conservation Areas) Act 1990(43);

“building regulations approvals” means—

- (a) plans passed under section 16 of the Building Act 1984(44); or

(41) Amended by section 22(1) of the New Roads and Street Works Act 1991 (c. 22).

(42) Inserted by section 2 of the Planning and Compensation Act 1991 (c. 34).

(43) Amended by section 20(4) of and paragraph 25(2) of Schedule 6 to the Local Government (Wales) Act 1994 (c. 19).

(44) There are amendments to section 16 which are not relevant to these Regulations.

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(b) a certificate given under regulation 21(6) of the Building Regulations 2000(45) (regularisation certificates);

“building regulations completion certificate” means a certificate given under regulation 17(1) of the Building Regulations 2000(46);

“building regulations” has the same meaning as in section 122 of the Building Act 1984;

“certificate of lawfulness of existing use or development” means a certificate issued under section 191(4) of the Town and Country Planning Act 1990(47);

“certificate of lawfulness of proposed use or development” means a certificate issued under section 191(2) of the Town and Country Planning Act 1990(48);

“competent person self-certification scheme” means a scheme under whose provisions building work which consists only of work of a type described in column 1 of the Table in Schedule 2A to the Building Regulations 2000(49) is carried out by a person who is described in the corresponding entry in column 2 of that Table;

“compulsory purchase order with a direction for minimum compensation” means an order confirmed or made under section 50(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990(50);

“conservation area” means either or both of the following—

(a) an area designated under section 69 of the Planning (Listed Buildings and Conservation Areas) Act 1990; or

(b) an area so designated before 31st August 1974 by other means;

“contaminated land notice” means a notice given under section 78B(3) of the Environmental Protection Act 1990(51);

“cycle track” means a way constituting or comprised in a highway, being a way over which the public have the following, but no other, rights of way, that is to say, a right of way on pedal cycles (other than pedal cycles which are motor vehicles within the meaning of the Road Traffic Act 1988(52)) with or without a right of way on foot;

“development plan” must be construed in accordance with section 38 of the Planning and Compulsory Purchase Act 2004(53);

“direction restricting permitted development” means a direction given under article 4 of the Town and Country Planning (General Permitted Development) Order 1995(54);

“drainage agreement” means an agreement made under section 22(2) of the Building Act 1984;

“enforcement notice” means a notice issued under section 172 of the Town and Country Planning Act 1990(55);

“footpath” means a highway over which the public have a right of way on foot only, not being a footway;

“footway” means a way comprised in a highway which also comprises a carriageway, being a way over which the public have a right of way on foot only;

(45) S.I. 2000/2531. Under this provision, an applicant may apply to a local authority for a regularisation certificate in respect of unauthorised building work.

(46) Regulation 17 is amended by S.I. 2005/1541.

(47) Substituted by section 10(1) of the Planning and Compensation Act 1991 (c. 34).

(48) Substituted by section 10(1) of the Planning and Compensation Act 1991.

(49) Substituted by S.I. 2006/652.

(50) Amended by section 109(1), paragraph 345 of Schedule 8 to and Schedule 10 to the Courts Act 2003 (c. 39).

(51) Inserted by section 57 of the Environment Act 1995.

(52) 1988 c. 52.

(53) 2004 c.5.

(54) S.I. 1995/418. Article 4 is amended by S.I. 1996/528.

(55) Substituted by section 5 of the Planning and Compensation Act 1991.

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- “frontager” means the owner or occupier of premises that abut a road, footway or footpath;
- “highway maintainable at public expense” means a highway which by virtue of section 36 of the Highways Act 1980(56), or any other enactment, is a highway which for the purposes of that Act, is a highway maintainable at the public expense;
- “improvement” means the doing of any act under powers conferred by Part 5 of the Highways Act 1980 and includes the erection, maintenance, alteration and removal of traffic signs, and the freeing of a highway or road-ferry from tolls;
- “land required for public purposes” means land to which paragraphs 5 and 6 of Schedule 13 to the Town and Country Planning Act 1990 relate(57);
- “land to be acquired for road works” means land to be acquired by a public authority under any of sections 239 to 246 of the Highways Act 1980(58);
- “listed building enforcement notice” means a notice issued under section 38 of the Planning (Listed Buildings and Conservation Areas) Act 1990(59);
- “listed building repairs notice” means a notice served under section 48 of the Planning (Listed Buildings and Conservation Areas) Act 1990;
- “mini-roundabout” means a roundabout consisting of a level or raised circular marking of a diameter of four metres or less;
- “order requiring discontinuance of use or alteration or removal of buildings or works” means an order made under section 102 of the Town and Country Planning Act 1990(60);
- “order revoking or modifying planning permission” means an order made under section 97 of the Town and Country Planning Act 1990(61);
- “planning agreement” means an agreement made under section 106 of the Town and Country Planning Act 1990, as existing at any time before the enactment of the Planning and Compulsory Purchase Act 2004;
- “planning contravention notice” means a notice served under section 171C of the Town and Country Planning Act 1990(62);
- “planning contribution” means a contribution to be made pursuant to any regulations made under sections 46 to 48 of the Planning and Compulsory Purchase Act 2004;
- “remediation notice” means a notice served under section 78E of the Environmental Protection Act 1990(63);
- “railway” means a system of transport employing parallel rails which—
- (a) provide support and guidance for vehicles carried on flanged wheels; and

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- (56) 1980 c.66. Section 36 is amended by section 4(1) of and paragraph 47 of Schedule 2 to the Housing (Consequential Provisions) Act 1985 (c. 71), sections 64 and 68 of and Part 1 of Schedule 2 to the Transport and Works Act 1992 (c. 42), section 4 of and paragraph 45(3) of Schedule 2 to the Planning (Consequential Provisions) Act 1990 (c.11), section 57 of, and Part 1 of Schedule 6 to the Countryside and Rights of Way Act 2000 (c. 37) and by S.I. 2006/1177. There are further amendments to section 36 which are not relevant to these Regulations.
- (57) Paragraph 5 is amended by section 32 of and paragraph 56 of Schedule 7 to the Planning and Compensation Act 1991. Both paragraphs 5 and 6 were amended by section 118(1) of and paragraphs 1 and 18 of Schedule 6 to the Planning and Compulsory Purchase Act 2004.
- (58) Section 241 is amended by section 190 of and paragraph 62 of Schedule 25 to the Water Act 1989 (c. 15). Section 245A is inserted by section 13 of the Traffic Management Act 2004 (c. 18). Section 246 is amended by sections 68(2) and 70 of, and paragraph 26 of Schedule 15 to the Planning and Compensation Act 1991 and section 34 of and paragraph 31 of Schedule 4 to the Acquisition of Land Act 1981 (c. 67).
- (59) Amended by sections 25 and 84 of and Schedule 3 to the Planning and Compensation Act 1991.
- (60) Amended by sections 21 and 32 of, paragraph 6 of Schedule 1 to and paragraph 21 of Schedule 7 to the Planning and Compensation Act 1991.
- (61) Amended by sections 21 and 84 of, paragraph 4 of Schedule 1 to, and Schedule 19 to the Planning and Compensation Act 1991.
- (62) Inserted by section 1 of the Planning and Compensation Act 1991 and amended by S.I. 2003/956 and S.I. 2004/3156.
- (63) Inserted by section 57 of the Environment Act 1995 and amended by sections 86 and 105 of the Water Act 2003.

- (b) form a track which either is of a gauge of at least 350 millimetres or crosses a carriageway (whether or not on the same level),

but does not include a tramway;

“road hump” means an artificial hump in or on the surface of the highway which is designed to control the speed of vehicles, and references to a road hump include references to any other works (including signs or lighting) required in connection with such a hump;

“special road” means a highway, or a proposed highway, which is a special road in accordance with section 16 of the Highways Act 1980;

“stop notice” means a notice served under section 183 of the Town and Country Planning Act 1990(64);

“traffic calming works”, in relation to a highway, means works affecting the movement of vehicular or other traffic for the purpose of—

- (a) promoting safety (including avoiding or reducing, or reducing the likelihood of, danger connected with terrorism within the meaning of section 1 of the Terrorism Act 2000(65)); or

- (b) preserving or improving the environment through which the highway runs;

“tramway” means a system of transport used wholly or mainly for the carriage of passengers and employing parallel rails which—

- (a) provide support and guidance for vehicles carried on flanged wheels; and

- (b) are laid wholly or mainly along a street or in any other place to which the public has access (including a place to which the public has access only on making a payment);

“tree preservation order” means an order made under section 198 of the Town and Country Planning Act 1990(66); and

“trunk road” means a highway, or a proposed highway, which is a trunk road by virtue of section 10(1) or section 19 of the Highways Act 1980 or by virtue of an order or direction under section 10 of that Act(67) or under any other enactment.

(2) In paragraph 8 “private sewer”, “drain” and “disposal main” have the same meaning as in Schedule 9(68).

Enquiries

2.—(1) The search report required by regulation 8(k) must contain the enquiries set out in Part 2.

(2) Those enquiries must relate to the property.

(3) The enquiries in paragraphs 6 to 18 relate only to matters which are not entered on the appropriate local land charges register.

(64) Substituted by section 9(1) of the Planning and Compensation Act 1991.

(65) 2000 c. 1.

(66) Amended by sections 31, 32 and 84 of, paragraph 20 of Schedule 6 to and paragraph 34 of Schedules 7 and 19 to the Planning and Compensation Act 1991. Also amended by section 42(3) of the Planning and Compulsory Purchase Act 2004.

(67) Section 10 is amended by section 22(2) of the New Roads and Street Works Act 1991 (c. 22) and section 19 is amended by section 21(1) of that Act.

(68) See paragraph 1(1) of that Schedule.

PART 2

Enquiries

Planning and building decisions and pending applications

3. Which of the following relating to the property have been granted, issued or refused or (where applicable) are the subject of pending applications—

- (a) a planning permission;
- (b) a listed building consent;
- (c) a conservation area consent;
- (d) a certificate of lawfulness of existing use or development;
- (e) a certificate of lawfulness of proposed use or development;
- (f) building regulations approvals;
- (g) a building regulations completion certificate; and
- (h) any building regulations certificate or notice issued in respect of work carried out under a competent person self-certification scheme⁽⁶⁹⁾.

Planning designations and proposals

4. What designations of land use for the property or the area, and what specific proposals for the property, are contained in any existing or proposed development plan?

Roads

5. Which of the roads, footways and footpaths named in the application for this search are—

- (a) highways maintainable at public expense;
- (b) subject to adoption and supported by a bond or bond waiver;
- (c) to be made up by a local authority who will reclaim the cost from the frontagers; or
- (d) to be adopted by a local authority without reclaiming the cost from the frontagers?

Land required for public purposes

6. Is the property included in land required for public purposes?

Land to be acquired for road works

7. Is the property included in land to be acquired for road works?

Drainage agreements and consents

8. Do either of the following exist in relation to the property—

- (a) an agreement to drain buildings in combination into an existing sewer by means of a private sewer; or
- (b) an agreement or consent for—
 - (i) a building; or

⁽⁶⁹⁾ See regulation 16A of the Building Regulations 2000.

- (ii) extension to a building on the property,
to be built over or in the vicinity of a drain, sewer or disposal main?

Nearby road schemes

9. Is the property (or will it be) within 200 metres of any of the following—
- (a) the centre line of a new trunk road or special road specified in any order, draft order or scheme;
 - (b) the centre line of a proposed alteration or improvement to an existing road involving construction of a subway, underpass, flyover, footbridge, elevated road or dual carriageway;
 - (c) the outer limits of construction works for a proposed alteration or improvement to an existing road, involving—
 - (i) construction of a roundabout (other than a mini-roundabout); or
 - (ii) widening by construction of one or more additional traffic lanes;
 - (d) the outer limits of—
 - (i) construction of a new road to be built by a local authority;
 - (ii) an approved alteration or improvement to an existing road involving construction of a subway, underpass, flyover, footbridge, elevated road or dual carriageway; or
 - (iii) construction of a roundabout (other than a mini-roundabout) or widening by construction of one or more additional traffic lanes;
 - (e) the centre line of the proposed route of a new road under proposals published for public consultation; or
 - (f) the outer limits of—
 - (i) construction of a proposed alteration or improvement to an existing road involving construction of a subway, underpass, flyover, footbridge, elevated road or dual carriageway;
 - (ii) construction of a roundabout (other than a mini-roundabout); or
 - (iii) widening by construction of one or more additional traffic lanes, under proposals published for public consultation?

Nearby railway schemes

10. Is the property (or will it be) within 200 metres of the centre line of a proposed railway, tramway, light railway or monorail?

Traffic schemes

11. Has a local authority approved but not yet implemented any of the following for roads, footways and footpaths which abut the boundaries of the property—
- (a) permanent stopping up or diversion;
 - (b) waiting or loading restrictions;
 - (c) one way driving;
 - (d) prohibition of driving;
 - (e) pedestrianisation;
 - (f) vehicle width or weight restriction;

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- (g) traffic calming works including road humps;
- (h) residents parking controls;
- (i) minor road widening or improvement;
- (j) pedestrian crossings;
- (k) cycle tracks; or
- (l) bridge building?

Outstanding notices

12. Do any statutory notices which relate to the following matters subsist in relation to the property other than those revealed in a response to any other enquiry in this Schedule—

- (a) building works;
- (b) environment;
- (c) health and safety;
- (d) housing;
- (e) highways; or
- (f) public health?

Contravention of building regulations

13. Has a local authority authorised in relation to the property any proceedings for the contravention of any provision contained in building regulations?

Notices, orders, directions and proceedings under Planning Acts

14. Do any of the following subsist in relation to the property, or has a local authority decided to issue, serve, make or commence any of the following—

- (a) an enforcement notice;
- (b) a stop notice;
- (c) a listed building enforcement notice;
- (d) a breach of condition notice;
- (e) a planning contravention notice;
- (f) another notice relating to breach of planning control;
- (g) a listed building repairs notice;
- (h) in the case of a listed building deliberately allowed to fall into disrepair, a compulsory purchase order with a direction for minimum compensation;
- (i) a building preservation notice;
- (j) a direction restricting permitted development;
- (k) an order revoking or modifying planning permission;
- (l) an order requiring discontinuance of use or alteration or removal of buildings or works;
- (m) a tree preservation order; or
- (n) proceedings to enforce a planning agreement or planning contribution?

Conservation areas

15. Do the following apply in relation to the property—
- (a) the making of the area a conservation area before 31st August 1974; or
 - (b) an unimplemented resolution to designate the area a conservation area?

Compulsory purchase

16. Has any enforceable order or decision been made to compulsorily purchase or acquire the property?

Contaminated land

17. Do any of the following apply (including any relating to land adjacent to or adjoining the property which has been identified as contaminated land because it is in such a condition that harm or pollution of controlled waters might be caused on the property)—

- (a) a contaminated land notice;
- (b) in relation to a register maintained under section 78R of the Environmental Protection Act 1990(70)—
 - (i) a decision to make an entry; or
 - (ii) an entry; or
- (c) consultation with the owner or occupier of the property conducted under section 78G(3) of the Environmental Protection Act 1990(71) before the service of a remediation notice?

Radon gas

18. Do records indicate that the property is in a “Radon Affected Area” as identified by the Health Protection Agency(72)?

SCHEDULE 8

regulation 8(l)

Drainage and water enquiries

PART 1

General

Interpretation

- 1.—(1) In this Schedule—
- “the 1991 Act” means the Water Industry Act 1991(73);
 - “the 2000 Regulations” means the Water Supply (Water Quality) Regulations 2000(74);

(70) 1990 c. 43. Section 78R is inserted by section 57 of the Environment Act 1995.

(71) Section 78G is inserted by section 57 of the Environment Act 1995.

(72) A body established under section 1 of the Health Protection Agency Act 2004 (c. 17).

(73) 1991 c. 56.

(74) S.I. 2000/3184. These Regulations apply in relation to England.

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- “the 2001 Regulations” means the Water Supply (Water Quality) Regulations 2001⁽⁷⁵⁾;
- “adoption agreement” means an agreement made or to be made under section 51A(1) or 104(1) of the 1991 Act⁽⁷⁶⁾;
- “bond” means a surety granted by a developer who is a party to an adoption agreement;
- “bond waiver” means an agreement with a developer for the provision of a form of financial security as a substitute for a bond;
- “calendar year” means the twelve months ending with 31st December;
- “discharge pipe” means a pipe from which discharges are made or are to be made under section 165(1) of the 1991 Act;
- “disposal main” means (subject to section 219(2) of the 1991 Act) any outfall pipe or other pipe which—
- (a) is a pipe for the conveyance of effluent to or from any sewage disposal works, whether of a sewerage undertaker or of any other person; and
 - (b) is not a public sewer;
- “drain” means (subject to section 219(2) of the 1991 Act) a drain used for the drainage of one building or of any buildings or yards appurtenant to buildings within the same curtilage;
- “effluent” means any liquid, including particles of matter and other substances in suspension in the liquid;
- “financial year” means the twelve months ending with 31st March;
- “lateral drain” means—
- (a) that part of a drain which runs from the curtilage of a building (or buildings or yards within the same curtilage) to the sewer with which the drain communicates or is to communicate; or
 - (b) (if different and the context so requires) the part of a drain identified in a declaration of vesting made under section 102 of the 1991 Act or in an agreement made under section 104 of that Act⁽⁷⁷⁾;
- “licensed water supplier” means a company which is the holder for the time being of a water supply licence under section 17A(1) of the 1991 Act⁽⁷⁸⁾;
- “maintenance period” means the period so specified in an adoption agreement as a period of time—
- (a) from the date of issue of a certificate by a sewerage undertaker to the effect that a developer has built (or substantially built) a private sewer or lateral drain to that undertaker’s satisfaction; and
 - (b) until the date that private sewer or lateral drain is vested in the sewerage undertaker;
- “map of waterworks” means the map made available under section 198(3) of the 1991 Act⁽⁷⁹⁾ in relation to the information specified in subsection (1A);
- “private sewer” means a pipe or pipes which drain foul or surface water, or both, from premises, and are not vested in a sewerage undertaker;

⁽⁷⁵⁾ S.I. 2001/3911. These Regulations apply in relation to Wales.

⁽⁷⁶⁾ Section 51A is inserted by section 92(2) of the Water Act 2003 (c. 37). Section 104(1) is amended by section 96(4) of that Act.

⁽⁷⁷⁾ To which there are various amendments made by sections 102 and 104 by section 96 of the Water Act 2003.

⁽⁷⁸⁾ Inserted by section 56 of and Schedule 4 to the Water Act 2003.

⁽⁷⁹⁾ Subsection (1A) is inserted by section 92(5) of the Water Act 2003.

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“public sewer” means, subject to section 106(1A) of the 1991 Act⁽⁸⁰⁾, a sewer for the time being vested in a sewerage undertaker in its capacity as such, whether vested in that undertaker—

- (a) by virtue of a scheme under Schedule 2 to the Water Act 1989⁽⁸¹⁾;
- (b) by virtue of a scheme under Schedule 2 to the 1991 Act⁽⁸²⁾;
- (c) under section 179 of the 1991 Act⁽⁸³⁾; or
- (d) otherwise;

“public sewer map” means the map made available under section 199(5) of the 1991 Act⁽⁸⁴⁾;

“resource main” means (subject to section 219(2) of the 1991 Act) any pipe, not being a trunk main, which is or is to be used for the purpose of—

- (a) conveying water from one source of supply to another, from a source of supply to a regulating reservoir or from a regulating reservoir to a source of supply; or
- (b) giving or taking a supply of water in bulk;

“sewerage services” includes the collection and disposal of foul and surface water and any other services which are required to be provided by a sewerage undertaker for the purpose of carrying out its functions;

“sewerage undertaker” means the company appointed to be the sewerage undertaker under section 6(1) of the 1991 Act for the area in which the property is or will be situated;

“surface water” includes water from roofs and other impermeable surfaces within the curtilage of the property;

“water main” means (subject to section 219(2) of the 1991 Act) any pipe, not being a pipe for the time being vested in a person other than the water undertaker, which is used or to be used by a water undertaker or licensed water supplier for the purpose of making a general supply of water available to customers or potential customers of the undertaker or supplier, as distinct from for the purpose of providing a supply to particular customers;

“water meter” means any apparatus for measuring or showing the volume of water supplied to, or of effluent discharged from any premises;

“water supplier” means the company supplying water in the water supply zone, whether a water undertaker or licensed water supplier;

“water supply zones” in relation to a calendar year means the names and areas designated by a water undertaker within its area of supply that are to be its water supply zones for that year; and

“water undertaker” means the company appointed to be the water undertaker under section 6(1) of the 1991 Act for the area in which the property is or will be situated.

(2) In this Schedule, references to a pipe, including references to a main, a drain or a sewer, shall include references to a tunnel or conduit which serves or is to serve as the pipe in question and to any accessories for the pipe.

Enquiries and responses

2.—(1) The search report required by regulation 8(1) must contain—

- (a) the enquiries (or requests) set out in sub-paragraph (1) of each paragraph of Part 2; and

⁽⁸⁰⁾ Section 106(1A) is inserted by section 99 of the Water Act 2003.

⁽⁸¹⁾ 1989 c. 15.

⁽⁸²⁾ To which there are various amendments made by section 101(1) of and Schedule 8 to the Water Act 2003.

⁽⁸³⁾ To which there are various amendments made by section 101(1) of and Schedule 8 to the Water Act 2003.

⁽⁸⁴⁾ Section 199 is amended by section 97(1) and (8) of the Water Act 2003.

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- (b) in relation to each such enquiry (or request), a response in the terms set out in sub-paragraph (2) of each such paragraph, which is the appropriate response as regards the property.
- (2) Only one of the alternative responses in sub-paragraph (2) of each paragraphs 3 to 11 and 13 to 24 may be the appropriate response.
- (3) Where the search report is made using a document which reproduces all of the enquiries (or requests) and responses set out in Part 2, such of those responses as are not appropriate must be deleted or struck out.
- (4) Where a response set out in sub-paragraph (2) of a paragraph of Part 2—
 - (a) includes words highlighted in italics which request the giving of information about specified matters—
 - (i) the appropriate response or the search report must include the information to which those matters refer; and
 - (ii) where information is so included and the search report is made using a document which reproduces that response, the words in italics may be deleted or struck out; and
 - (b) refers to an additional document being included, that document must accompany the search report required by regulation 8(1).

PART 2

Enquiries and responses

Public sewer map

- 3.—(1) Where relevant, please include a copy of an extract from the public sewer map.
- (2) A copy of an extract from the public sewer map is included in which the location of the property is identified;
 - (a) A copy of an extract of the public sewer map is included, showing the public sewers, disposal mains and lateral drains in the vicinity of the property; or
 - (b) No map is included, as there are no public sewers in the vicinity of the property.

Foul water

- 4.—(1) Does foul water from the property drain to a public sewer?
- (2) (a) Records indicate that foul water from the property drains to a public sewer;
- (b) Records indicate that foul water from the property does not drain to a public sewer; or
- (c) This enquiry appears to relate to a plot of land or a recently built property. It is recommended that drainage proposals are checked with the developer.

Surface water

- 5.—(1) Does surface water from the property drain to a public sewer?
- (2) (a) Records indicate that surface water from the property does drain to a public sewer;
- (b) Records indicate that surface water from the property does not drain to a public sewer; or
- (c) This enquiry appears to relate to a plot of land or a recently built property. It is recommended that drainage proposals are checked with the developer.

Public adoption of sewers and lateral drains

6.—(1) Are any sewers or lateral drains serving or which are proposed to serve the property the subject of an existing adoption agreement or an application for such an agreement?

(2) (a) Records indicate that in relation to sewers and lateral drains serving the development of which the property forms part—

- (i) an adoption agreement is currently in preparation;
 - (ii) an adoption agreement exists and the sewers and lateral drains are not yet vested in the sewerage undertaker, although the maintenance period has commenced;
 - (iii) an adoption agreement exists and the sewers and lateral drains are not yet vested in the sewerage undertaker and the maintenance period has not yet commenced;
 - (iv) an adoption agreement exists and is supported by a bond;
 - (v) an adoption agreement exists and is the subject of a bond waiver; or
 - (vi) an adoption agreement exists and is not supported by a bond or by a bond waiver; or
- (b) Records confirm that sewers serving the development, of which the property forms part are not the subject of an existing adoption agreement or an application for such an agreement; or
- (c) The property is part of an established development and is not subject to an adoption agreement.

Public sewers within the boundaries of the property

7.—(1) Does the public sewer map indicate any public sewer, disposal main or lateral drain within the boundaries of the property?

(2) (a) The public sewer map included indicates that there is a public sewer, disposal main or lateral drain within the boundaries of the property;

- (b) The public sewer map indicates that there are private sewers or lateral drains subject to an existing adoption agreement within the boundaries of the property; or
- (c) The public sewer map indicates that there are no public sewers, disposal mains or lateral drains within the boundaries of the property. However, it has not always been a requirement for such public sewers, disposal mains or lateral drains to be recorded on the public sewer map. It is therefore possible for unidentified sewers, disposal mains or lateral drains to exist within the boundaries of the property.

Public sewers near to the property

8.—(1) Does the public sewer map indicate any public sewer within 30.48 metres (100 feet) of any buildings within the property?

(2) (a) The public sewer map included indicates that there is a public sewer within 30.48 metres (100 feet) of a building within the property;

- (b) The public sewer map indicates that there is a public sewer or lateral drain subject to an existing adoption agreement within 30.48 metres (100 feet) of a building within the property; or
- (c) The public sewer map indicates that there are no public sewers within 30.48 metres (100 feet) of a building within the property. However, it has not always been a requirement for such public sewers to be recorded on the public sewer map. It is therefore possible for unidentified sewers or public sewers to exist within the boundaries of the property.

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Building over a public sewer, disposal main or drain

9.—(1) Has a sewerage undertaker approved or been consulted about any plans to erect a building or extension on the property over or in the vicinity of a public sewer, disposal main or drain?

(2) (a) Records indicate that a sewerage undertaker has approved or has been consulted about plans to erect a building or extension on the property over or in the vicinity of a public sewer, disposal main or drain;

(b) Records indicate that a sewerage undertaker has rejected plans to erect a building or extension on the property over or in the vicinity of a public sewer, disposal main or drain; or

(c) There are no records in relation to any approval or consultation about plans to erect a building or extension on the property over or in the vicinity of a public sewer, disposal main or drain. However, the sewerage undertaker might not be aware of a building or extension on the property over or in the vicinity of a public sewer, disposal main or drain.

Map of waterworks

10.—(1) Where relevant, please include a copy of an extract from the map of waterworks.

(2) (a) A copy of an extract from the map of waterworks is included in which the location of the property is identified;

(b) A copy of an extract of the map of waterworks is included, showing water mains, resource mains or discharge pipes in the vicinity of the property; or

(c) No map is included, as there are no water mains, resource mains or discharge pipes in the vicinity of the property.

Adoption of water mains and service pipes

11.—(1) Is any water main or service pipe serving or which is proposed to serve the property the subject of an existing adoption agreement or an application for such an agreement?

(2) (a) Records confirm that in relation to water mains and service pipes serving the development, of which the property forms part—

(i) an adoption agreement is currently in preparation;

(ii) an adoption agreement exists and the water mains or service pipes are not yet vested in the water undertaker;

(iii) an adoption agreement exists and is supported by a bond; or

(iv) an adoption agreement exists and is not supported by a bond; or

(b) Records confirm that water mains or service pipes serving the property are not the subject of an existing adoption agreement or an application for such an agreement.

Sewerage and water undertakers

12.—(1) Who are the sewerage and water undertakers for the area?

(2) *Give company name and address* is the sewerage undertaker for the area, and *give company name and address* is the water undertaker for the area.

Connection to mains water supply

13.—(1) Is the property connected to mains water supply?

(2) (a) Records indicate that the property is connected to mains water supply;

- (b) Records indicate that the property is not connected to mains water supply and water is therefore likely to be provided by virtue of a private supply; or
- (c) This enquiry relates to a plot of land or a recently built property. It is recommended that the water supply proposals are checked with the developer.

Water mains, resource mains or discharge pipes

14.—(1) Are there any water mains, resource mains or discharge pipes within the boundaries of the property?

- (2) (a) The map of waterworks indicates that there are water mains, resource mains or discharge pipes within the boundaries of the property;
- (b) The map of waterworks does not indicate any water mains, resource mains or discharge pipes within the boundaries of the property; or
- (c) The map of waterworks indicates that there is a water main subject to an existing adoption agreement within the boundaries of the property.

Current basis for sewerage and water charges

15.—(1) What is the current basis for charging for sewerage and water services at the property?

- (2) (a) The charges are based on actual volumes of water measured through a water meter (“metered supply”);
- (b) The charges are based on the rateable value of the property of £ *give rateable value* and the charge for the current financial year is £ *give amount of charge*;
- (c) The charges are made on a basis other than rateable value or metered supply. They are based on *give basis for charges* and are £ *give amount of charge* for each financial year.
- (d) Records indicate that this enquiry relates to a plot of land or a recently built property.

Charges following change of occupation

16.—(1) Will the basis for charging for sewerage and water services at the property change as a consequence of a change of occupation?

- (2) (a) The basis for the charges will change and will be based on an unmeasured supply;
- (b) The basis for the charges will change and will be based on a metered supply;
- (c) The basis for the charges will change and will be based on *give basis for charges*;
- (d) The basis for the charges will change and will be based on rateable value;
- (e) There will be no change in the current charging arrangements as a consequence of a change of occupation; or
- (f) Records indicate that this enquiry relates to a plot of land or a recently built property. It is recommended that the charging proposals are checked with the developer.

Surface water drainage charges

17.—(1) Is a surface water drainage charge payable?

- (2) (a) Records confirm that a surface water drainage charge is payable for the property at £ *give level of charge* for each financial year; or
- (b) Records confirm that a surface water drainage charge is not payable for the property.

Water meters

- 18.—(1) Please include details of the location of any water meter serving the property.
- (2) (a) Records indicate that the property is not served by a water meter; or
- (b) Records indicate that the property is served by a water meter, which is located—
- (i) within the dwelling-house which is or forms part of the property, and in particular is located at *give details of location*; or
 - (ii) is not within the dwelling-house which is or forms part of the property, and in particular is located at *give details of location*.

Sewerage bills

- 19.—(1) Who bills the property for sewerage services?
- (2) (a) The property is billed for sewerage services by give company name, billing address, enquiry telephone number and website address; or
- (b) The property is not billed for sewerage services.

Water bills

- 20.—(1) Who bills the property for water services?
- (2) (a) The property is billed for water services by give company name, billing address, enquiry telephone number and website address; or
- (b) The property is not billed for water services.

Risk of flooding due to overloaded public sewers

- 21.—(1) Is the dwelling-house which is or forms part of the property at risk of internal flooding due to overloaded public sewers?
- (2) (a) Records confirm that the property is at risk of internal flooding due to overloaded public sewers (following an actual flooding event or otherwise) and a report is included describing—
- (i) this and the action proposed by the sewerage undertaker to remove the risk;
 - (ii) who will undertake this action and when; and
 - (iii) whether mitigation measures have been installed to reduce the risk of flooding to the property;
- (b) An investigation is currently being carried out by the sewerage undertaker to determine if the property should be recorded on a register as being at risk of internal flooding due to overloaded public sewers, and a report is included describing—
- (i) the action proposed by the water undertaker to remove the risk; and
 - (ii) who will undertake the action and when; or
- (c) The property is not recorded as being at risk of internal flooding due to overloaded public sewers.

Risk of low water pressure or flow

- 22.—(1) Is the property at risk of receiving low water pressure or flow?
- (2) (a) Records confirm that the property is recorded on a register kept by the water undertaker as being at risk of receiving low water pressure or flow, and a report is included describing—
- (i) the action proposed by the water undertaker to remove the risk; and
 - (ii) who will undertake the action and when;

- (b) An investigation is currently being carried out by the water undertaker to determine if the property should be recorded on a register as being at risk of receiving low water pressure or flow, and a report is included describing—
 - (i) the action proposed by the water undertaker to remove the risk; and
 - (ii) who will undertake the action and when; or
- (c) Records confirm that the property is not recorded on a register kept by the water undertaker as being at risk of receiving low water pressure or flow.

Water quality analysis

23.—(1) Please include details of a water quality analysis made by the water undertaker for the water supply zone in respect of the most recent calendar year.

- (2) (a) The analysis confirmed that all tests met the standards prescribed by the 2000 Regulations or the 2001 Regulations;
- (b) The analysis confirmed that tests met the standards prescribed by the 2000 Regulations or the 2001 Regulations, except that *give number* tests of *give total number* tests failed to meet the standard for nitrate;
- (c) The analysis confirmed that tests met the standards prescribed by the 2000 Regulations or the 2001 Regulations, except that *give number* tests of *give total number* tests failed to meet the standard for lead;
- (d) The analysis confirmed that tests failed to meet the standards of the 2000 Regulations or the 2001 Regulations in relation to both nitrate and lead, and these are *give further details of such tests*; or
- (e) The analysis records confirmed that tests failed to meet the standards of the 2000 Regulations or the 2001 Regulations in relation to another substance or substances, and these are *include further details*.

Authorised departures from water quality standards

24.—(1) Please include details of any departures—

- (a) authorised by the Secretary of State under Part 6 of the 2000 Regulations from the provisions of Part 3 of those Regulations; or
 - (b) authorised by the National Assembly for Wales under Part 6 of the 2001 Regulations from the provisions of Part 3 of those Regulations.
- (2) (a) There are no such authorised departures for the water supply zone; or
- (b) The Secretary of State or the National Assembly for Wales has authorised a departure from the standards prescribed by the 2000 Regulations or the 2001 Regulations, in the water supply zone, and—
 - (i) the departure permits the water undertaker or water supplier to supply water that does not meet the standard for *give substance* whilst remedial action to restore normal water quality is taken;
 - (ii) the maximum permitted departure is up to *give number* micrograms per litre; and
 - (iii) the measures taken to restore normal water quality are due to be completed by *give approximate month and year*.

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Sewage treatment works

25.—(1) Please state the distance from the property to the nearest boundary of the nearest sewage treatment works.

(2) The nearest sewage treatment works is *give distance in kilometres or miles* to the *give direction* of the property. The name of the nearest sewage treatment works is *give name*.

SCHEDULE 9

regulation 9(a)

Home condition report

Home condition reports

1. A home condition report—

- (a) must be made by a home inspector—
 - (i) following an inspection carried out by him in accordance with the provisions of the approved certification scheme of which he is a member and in which capacity the report is made; and
 - (ii) using the standard form for home condition report referred to in regulation 37(f).
- (b) must be entered onto the register kept pursuant to Part 9.

Terms for the preparation of a home condition report

2. A home inspector must prepare a home condition report on the following terms without exclusion or limitation—

- (a) that the report will be prepared with reasonable care and skill;
- (b) that the home inspector will provide in the report an objective opinion about the condition of the property;
- (c) that such an opinion will be based on his inspection;
- (d) that the home inspector will identify in the report such conditions within the property as appear to—
 - (i) be defects that are serious or require urgent attention, or both;
 - (ii) give rise to a need for repair or replacement; or
 - (iii) give rise to further investigation;
- (e) that a responsible person may copy or issue a copy of the report for the purposes of—
 - (i) regulations 5, 6, 9(a) and 24; and
 - (ii) section 156(1), (2) and (11) of the 2004 Act; and
- (f) that any person may do one or more of the following for the purposes of a disclosure or other act authorised by Part 9—
 - (i) copy a report;
 - (ii) issue a copy of a report;
 - (iii) rent or lend a report;
 - (iv) communicate a report; or
 - (v) make an adaptation of a report or do any of the above in relation to an adaptation.

Third party contractual rights in relation to home condition reports

3. A home inspector must prepare a home condition report on terms enabling the provisions of the contract under which the report is prepared to be enforced in relation to the terms mentioned in paragraph 2, by the following persons in their own right (whether or not they are a party to such a contract)—

- (a) the seller;
- (b) a potential or actual buyer of the property interest; and
- (c) a mortgage lender in respect of the property interest.

Inclusion of additional or more favourable terms for home condition reports

4. A home inspector may prepare a home condition report on any of the following—
- (a) terms additional to those described in paragraphs 2 and 3 (but without excluding or limiting them); and
 - (b) terms more favourable to—
 - (i) the seller;
 - (ii) a potential or actual buyer of the property interest; or
 - (iii) a mortgage lender in respect of the property interest,than those described in paragraphs 2 and 3.

Less favourable terms

5. Any home condition report which contains terms less favourable to—
- (a) the seller;
 - (b) a potential or actual buyer of the property interest; or
 - (c) a mortgage lender in respect of the property interest,
- than those required by this Schedule is not made in accordance with this Schedule.

Completion of home condition reports by home inspectors

6. A home condition report must be completed by a home inspector so as to contain his record of the following information—

- (a) his name;
- (b) whether he has any personal or business relationship with any person involved in the sale of the property;
- (c) the report reference number against which the report is registered under paragraph 1(b);
- (d) the name of the approved certification scheme of which he is a member and in which capacity the report is made;
- (e) such membership number or identification code as has been allocated to him by the scheme;
- (f) the name and address of his employer, or if he is self-employed, the name under which he trades;
- (g) the date of the inspection and the date on which the report is completed;
- (h) the address of the property;

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- (i) the year in which the property was built or, if this cannot be ascertained by him, his estimate of the year in which it was built;
- (j) the number of—
 - (i) storeys or levels in the property; and
 - (ii) rooms on each storey or level of the property;
- (k) such provision as has been made for the parking of vehicles relating to occupants of or visitors to the property;
- (l) such mains utility services as are connected to the property and the condition of their visible parts;
- (m) if the property is or forms part of a flat or maisonette—
 - (i) the number of storeys or levels of the building in which the flat or maisonette is situated;
 - (ii) the number of flats and maisonettes in that building or, if this cannot be ascertained by him, his estimate of the number of flats and maisonettes;
 - (iii) whether the building contains a lift;
 - (iv) the general condition of such areas that lead to the property as are common to both it and any neighbouring premises; and
 - (v) the general condition of the building in which the flat or maisonette is situated;
- (n) risks to the health or safety of the property’s occupants or visitors, so far as he can ascertain them;
- (o) the condition of the outside parts of the property including such—
 - (i) roof coverings;
 - (ii) rainwater pipes and gutters;
 - (iii) chimney stacks; and
 - (iv) walls, doors and windows,as relate to the property;
- (p) the condition of the inside parts of the property including—
 - (i) roof structures accessible directly from the property;
 - (ii) ceilings and floors;
 - (iii) internal walls; and
 - (iv) kitchen and bathroom fittings,and whether their appearance suggests that they have been materially affected by dampness;
- (q) the general condition of such outbuildings as are part of the property;
- (r) whether any parts of the property to which he would normally expect to have access were not accessible to him on the day of the inspection; and
- (s) any other provision required by the approved certification scheme of which he is a member and in which capacity the report is made.

Conduct of inspections

- 7. Nothing in this Schedule shall be construed as requiring a home inspector to—
 - (a) inspect such parts of the property as are not reasonably accessible on the day of the inspection; or

- (b) move furniture, fittings or personal items at the property during an inspection.

Prohibition on personal and security information

- 8.** A home condition report must not contain any of the following—
- (a) information or data from which another living individual can be identified from the report other than the information required under paragraphs 6(a) (name of inspector), 6(f) (name of employer) or 6(h) (address of property);
 - (b) any expression of opinion about a living individual; or
 - (c) information about security features at the property and, in particular, burglar alarm systems, safes or locks.

SCHEDULE 10

regulation 9(p)

Additional relevant information

The matters referred to in regulation 9(p)(ii) are—

- (a) energy performance, environmental impact or sustainability;
- (b) potential or actual environmental hazards that might affect the property or its occupants;
- (c) the price at which—
 - (i) the property is available for sale; or
 - (ii) was previously sold;
- (d) the length of time the property has been available for sale either generally or through a particular person;
- (e) location or address;
- (f) aspect, view, outlook or environment;
- (g) proximity and identity of local services, facilities or amenities;
- (h) Welsh speaking communities in the local area;
- (i) the use of the Welsh language;
- (j) the property's contents, fixtures or fittings;
- (k) history of the property, including age, ownership or use of the property or land on which it is or will be situated;
- (l) tenure or estate;
- (m) application of any statutory provision which restricts the use of land or which requires it to be preserved or maintained in a specified manner;
- (n) existence or nature of any restrictive covenants, or of any restrictions on resale, restrictions on use or pre-emption rights;
- (o) existence of any easements, servitudes or wayleaves;
- (p) any information held or provided by the Chief Land Registrar relating to the property;
- (q) equitable interests in the property;
- (r) rights of way or access to or over—
 - (i) the property (not including any ancillary land); or
 - (ii) land outside the property;

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- (s) rights of way or access to or over any ancillary land to the property including—
 - (i) obligations to maintain such land; or
 - (ii) whether any payments for maintaining such land are outstanding;
- (t) obligations to maintain the boundaries of the property;
- (u) communications from any public authority or person with statutory functions, that affect or might affect the property, including whether any request made by them (under any enactment or otherwise) has been complied with;
- (v) acquisition of any land by a public authority or person with statutory functions that affects or might affect the property;
- (w) standards of safety, building, repair or maintenance to which the property, its contents or the building in which it is situated ought to comply, and whether such standards have been complied with;
- (x) the property’s suitability or potential suitability for occupancy by a disabled person;
- (y) alterations or other works relating to the property and —
 - (i) the date or approximate date they occurred;
 - (ii) whether any necessary permissions for such alterations or works have been obtained; or
 - (iii) whether relevant consultations have been conducted;
- (z) identity of a person by whom the property, its fixtures or components were designed, constructed, built, produced, treated, processed, repaired, reconditioned or tested;
- (aa) measurements of the property;
- (bb) use or occupation of the property or use or occupation of other premises which affects or might affect the property;
- (cc) insurance policies, warranties, certificates or guarantees for the property or its contents;
- (dd) utility services connected to the property;
- (ee) taxes, levies or charges relating to the property; and
- (ff) information of any type mentioned in this Schedule relating to neighbouring, adjoining or nearby land or premises.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations prescribe the documents to be included in home information packs and the circumstances in which they are included (Parts 1 to 5 of the Regulations). They provide for exceptions and enforcement (Parts 6 and 7) and make further provision in relation to home condition reports (Parts 8 and 9). The duties to have a home information pack which complies with these Regulations are found in sections 155 to 159 of the Housing Act 2004 (“the home information pack duties”). The Regulations apply in England and Wales.

The Regulations make a distinction between “required” documents which must be included in home information packs and “authorised” documents which may be included. A pack must not include any documents not required or authorised (regulation 4) and advertising information must not be included (regulation 12). Part 2 of the Regulations makes provision about the source and clarity of documents included in the original home information pack, and in copies of a pack.

Regulations 8, 9 and 10 are the regulations that set out which documents are required and authorised to be included in packs. The required documents specified in regulation 8 include an index, information about the energy efficiency of the property, a sale statement, title information, additional information for commonhold and leasehold properties and property searches. Schedules 1 to 10 to the Regulations make further provision about these documents, and in some cases prescribe minimum terms necessary for documents to comply with the Regulations. Not all documents are required in every case, and regulation 8 describes this further.

Regulation 9 describes the information authorised to be included in a home information pack. This information may be included in a separate document or within a required document. Authorised information includes a home condition report, translations, Braille versions, summaries or explanations of pack documents, additional title information, additional information relating to commonhold and leasehold properties and additional information about physical condition. It includes further property searches. Searches relating to other premises may be included. Schedule 10 to the Regulations specifies a number of other types of relevant information which may be included. Regulation 10 deals with the required information for new properties where the legal commonhold or leasehold interest being sold has not yet been registered or created.

Part 4 of the Regulations deals with the assembly of home information packs. Regulation 13 prescribes the required order of documents included in a pack and regulation 15 prescribes the age of certain documents at the “first point of marketing” (defined in regulation 3). Under regulations 14, 16 and 17, some required documents must be included before the “first point of marketing” and others should be included within 28 days of that point. In the circumstances specified in regulations 16 and 17 a home information pack temporarily need not include a particular document, so long as reasonable efforts are being made to obtain it. Regulations 18 and 19 make provision for requests for and delivery of documents in relation to the obtaining of documents under Part 4. Regulation 20 makes provision for the event that a document is completely unobtainable.

Part 5 of the Regulations deals with the accuracy of home information packs. Regulations 21 to 23 deal with the circumstances in which the pack or pack documents must or may be updated. The effect of regulation 24 is that a responsible person must provide a seller with a copy of any pack documents requested by him for the purposes of checking their accuracy.

Part 6 of the Regulations makes exceptions from the home information pack duties. These exceptions relate to seasonal accommodation, sales mixed with sales of non-residential premises, dwelling houses used for both residential and non-residential purposes, portfolios of residential properties, unsafe properties and properties to be demolished. The exception under regulation 33 ensures that where a person makes public that a property is on the market before the date the home information pack duties are brought into force, a person does not become a responsible person for the purposes of the home information pack duties if it was put on the market before then, so long as marketing was sustained to a reasonable extent before the date. The exception under regulation 34 applies temporarily and its effect is that home information pack duties do not apply until all the required documents have been commissioned before the property is put on the market, and the responsible person has at least obtained energy information about the property.

Part 7 of the Regulations specifies that the level of penalty charge for penalty charge notices which may be given by enforcement authorities is £200 (for a breach of a home information pack duty). Regulation 36 specifies that penalty charge notices do not apply where the content of a pack document fails to comply with these Regulations, but a responsible person believes on reasonable grounds that it does.

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The Regulations require that home condition reports (which may be included in home information packs under regulation 9(a)) must be made by members of certification schemes (home inspectors) approved by the Secretary of State under Part 8. Before approving a scheme, the Secretary of State must be satisfied that it contains appropriate provision for the matters described in regulation 37.

Part 9 of the Regulations makes provision for the keeping of a register of home condition reports and the circumstances in which information may be disclosed from that register. Under section 165(7) of the Housing Act 2004, a disclosure from a register which is not in accordance with regulations is a criminal offence.

A full regulatory impact assessment of the effect that this instrument will have on businesses has been prepared and placed in the libraries of both Houses of Parliament. Copies of the regulatory impact assessment and guidance related to these Regulations will be available at the Department for Communities and Local Government's website and from its Home Information Pack Implementation Division (telephone: 020 7944 6211, fax: 020 7944 3408 and e-mail: homeinfopacks@communities.gsi.gov.uk).