



# Housing Act 2004

## 2004 CHAPTER 34

### PART 5

#### HOME INFORMATION PACKS

##### *Preliminary*

#### **148 Meaning of “residential property” and “home information pack”**

(1) In this Part—

“residential property” means premises in England and Wales consisting of a single dwelling-house, including any ancillary land; and

“dwelling-house” means a building or part of a building occupied or intended to be occupied as a separate dwelling (and includes one that is being or is to be constructed).

(2) References in this Part to a home information pack, in relation to a residential property, are to a collection of documents relating to the property or the terms on which it is or may become available for sale.

#### **149 Meaning of “on the market” and related expressions**

(1) In this Part references to “the market” are to the residential property market in England and Wales.

(2) A residential property is put on the market when the fact that it is or may become available for sale is, with the intention of marketing the property, first made public in England and Wales by or on behalf of the seller.

(3) A residential property which has been put on the market is to be regarded as remaining on the market until it is taken off the market or sold.

(4) A fact is made public when it is advertised or otherwise communicated (in whatever form and by whatever means) to the public or to a section of the public.

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### **150 Acting as estate agent**

- (1) A person acts as estate agent for the seller of a residential property if he does anything, in the course of a business in England and Wales, in pursuance of marketing instructions from the seller.
- (2) For this purpose—
  - “business in England and Wales” means a business carried on (in whole or in part) from a place in England and Wales; and
  - “marketing instructions” means instructions to carry out any activities with a view to—
    - (a) effecting the introduction to the seller of a person wishing to buy the property; or
    - (b) selling the property by auction or tender.
- (3) It is immaterial for the purposes of this section whether or not a person describes himself as an estate agent.

#### *Responsibility for marketing residential properties*

### **151 Responsibility for marketing: general**

- (1) References in this Part to a responsible person, in relation to a residential property, are to any person who is for the time being responsible for marketing the property.
- (2) Sections 152 and 153 identify for the purposes of this Part—
  - (a) the person or persons who are responsible for marketing a residential property which is on the market (“the property”); and
  - (b) when the responsibility of any such person arises and ceases.
- (3) Only the seller or a person acting as estate agent for the seller may be responsible for marketing the property.
- (4) A person may be responsible for marketing the property on more than one occasion.

### **152 Responsibility of person acting as estate agent**

- (1) A person acting as estate agent becomes responsible for marketing the property when action taken by him or on his behalf—
  - (a) puts the property on the market; or
  - (b) makes public the fact that the property is on the market.
- (2) That responsibility ceases when the following conditions are satisfied, namely—
  - (a) his contract with the seller is terminated (whether by the withdrawal of his instructions or otherwise);
  - (b) he has ceased to take any action which makes public the fact that the property is on the market; and
  - (c) any such action being taken on his behalf has ceased.
- (3) Any responsibility arising under this section also ceases when the property is taken off the market or sold.

### **153 Responsibility of the seller**

- (1) The seller becomes responsible for marketing the property when action taken by him or on his behalf—
  - (a) puts the property on the market; or
  - (b) makes public the fact that the property is on the market.
- (2) That responsibility ceases when the following conditions are satisfied, namely—
  - (a) there is at least one person acting as his estate agent who is responsible for marketing the property;
  - (b) the seller has ceased to take any action which makes public the fact that the property is on the market; and
  - (c) any such action being taken on the seller's behalf has ceased.
- (3) In this section the references to action taken on behalf of the seller exclude action taken by or on behalf of a person acting as his estate agent.
- (4) Any responsibility arising under this section also ceases when the property is taken off the market or sold.

#### *Duties of a responsible person where a property is on the market*

### **154 Application of sections 155 to 158**

- (1) Where a residential property is on the market, a person responsible for marketing the property is subject to the duties relating to home information packs that are imposed by sections 155 to 158 until his responsibility ceases.
- (2) Each of those duties is subject to any exception relating to that duty which is provided for in those sections.
- (3) The duty under section 156(1) is also subject to any condition imposed under section 157.

### **155 Duty to have a home information pack**

- (1) It is the duty of a responsible person to have in his possession or under his control a home information pack for the property which complies with the requirements of any regulations under section 163.
- (2) That duty does not apply where the responsible person is the seller at any time when—
  - (a) there is another person who is responsible for marketing the property under section 152; and
  - (b) the seller believes on reasonable grounds that the other responsible person has a home information pack for the property in his possession or under his control which complies with the requirements of any regulations under section 163.

### **156 Duty to provide copy of home information pack on request**

- (1) Where a potential buyer makes a request to a responsible person for a copy of the home information pack, or of a document (or part of a document) which is or ought to be included in that pack, it is the duty of the responsible person to comply with that request within the permitted period.

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- (2) The responsible person does not comply with that duty unless—
- (a) he provides the potential buyer with a document which is—
    - (i) a copy of the home information pack for the property as it stands at the time when the document is provided, or
    - (ii) a copy of a document (or part of a document) which is included in that pack,
 as the case may be; and
  - (b) that pack or document complies with the requirements of any regulations under section 163 at that time.
- (3) In subsection (2) “the home information pack” means the home information pack intended by the responsible person to be the one required by section 155.
- (4) That duty does not apply if, before the end of the permitted period, the responsible person believes on reasonable grounds that the person making the request—
- (a) is unlikely to have sufficient means to buy the property in question;
  - (b) is not genuinely interested in buying a property of a general description which applies to the property; or
  - (c) is not a person to whom the seller is likely to be prepared to sell the property.
- Nothing in this subsection authorises the doing of anything which constitutes an unlawful act of discrimination.
- (5) Subsection (4) does not apply if the responsible person knows or suspects that the person making the request is an officer of an enforcement authority.
- (6) That duty does not apply where the responsible person is the seller if, when the request is made, the duty under section 155 does not (by virtue of subsection (2) of that section) apply to him.
- (7) But where the duty under this section is excluded by subsection (6), it is the duty of the seller to take reasonable steps to inform the potential buyer that the request should be made to the other person.
- (8) The responsible person may charge a sum not exceeding the reasonable cost of making and, if requested, sending a paper copy of the pack or document.
- (9) The permitted period for the purposes of this section is (subject to section 157(5)) the period of 14 days beginning with the day on which the request is made.
- (10) If the responsible person ceases to be responsible for marketing the property before the end of the permitted period (whether because the property has been taken off the market or sold or for any other reason), he ceases to be under any duty to comply with the request.
- (11) A person does not comply with the duty under this section by providing a copy in electronic form unless the potential buyer consents to receiving it in that form.

## **157 Section 156 (1) duty: imposition of conditions**

- (1) A potential buyer who has made a request to which section 156(1) applies may be required to comply with either or both of the following conditions before any copy is provided.

- (2) The potential buyer may be required to pay a charge authorised by section 156(8).
- (3) The potential buyer may be required to accept any terms specified in writing which—
  - (a) are proposed by the seller or in pursuance of his instructions; and
  - (b) relate to the use or disclosure of the copy (or any information contained in or derived from it).
- (4) A condition is only effective if it is notified to the potential buyer before the end of the period of 14 days beginning with the day on which the request is made.
- (5) Where the potential buyer has been so notified of either or both of the conditions authorised by this section, the permitted period for the purposes of section 156 is the period of 14 days beginning with—
  - (a) where one condition is involved, the day on which the potential buyer complies with it by—
    - (i) making the payment demanded, or
    - (ii) accepting the terms proposed (or such other terms as may be agreed between the seller and the potential buyer in substitution for those proposed),as the case may be; or
  - (b) where both conditions are involved, the day (or the later of the days) on which the potential buyer complies with them by taking the action mentioned in paragraph (a)(i) and (ii).

#### **158 Duty to ensure authenticity of documents in other situations**

- (1) Where a responsible person provides a potential buyer with, or allows a potential buyer to inspect, any document purporting to be—
  - (a) a copy of the home information pack for the property, or
  - (b) a copy of a document (or part of a document) included in that pack,the responsible person is under a duty to ensure that the document is authentic.
- (2) A document is not authentic for the purposes of subsection (1) unless, at the time when it is provided or inspected—
  - (a) it is a copy of the home information pack for the property or a document (or part of a document) included in that pack, as the case may be; and
  - (b) that pack or document complies with the requirements of any regulations under section 163.
- (3) In subsection (2) “the home information pack” means the pack intended by the responsible person to be the one required by section 155.
- (4) The duty under this section does not apply to anything provided in pursuance of the duty under section 156.

#### *Other duties of person acting as estate agent*

#### **159 Other duties of person acting as estate agent**

- (1) This section applies to a person acting as estate agent for the seller of a residential property where—

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- (a) the property is not on the market; or
  - (b) the property is on the market but the person so acting is not a person responsible for marketing the property.
- (2) It is the duty of a person to whom this section applies to have in his possession or under his control, when any qualifying action is taken by him or on his behalf, a home information pack for the property which complies with the requirements of any regulations under section 163.
- (3) In subsection (2) “qualifying action” means action taken with the intention of marketing the property which—
- (a) communicates to any person in England and Wales the fact that the property is or may become available for sale; but
  - (b) does not put the property on the market or make public the fact that the property is on the market.
- (4) Where a person to whom this section applies provides a potential buyer with, or allows a potential buyer to inspect, any document purporting to be—
- (a) a copy of the home information pack for the property; or
  - (b) a copy of a document (or part of a document) included in that pack;
- it is his duty to ensure that it is an authentic copy.
- (5) A document is not authentic for the purposes of subsection (4) unless, at the time when it is provided or inspected—
- (a) it is a copy of the home information pack for the property or a document (or part of a document) included in that pack, as the case may be; and
  - (b) that pack or document complies with the requirements of any regulations under section 163.
- (6) In subsection (5) “the home information pack” means the home information pack intended by the person to whom this section applies to be the one required by subsection (2).

*Exceptions from the duties*

**160 Residential properties not available with vacant possession**

- (1) The duties under sections 155 to 159 do not apply in relation to a residential property at any time when it is not available for sale with vacant possession.
- (2) But for the purposes of this Part a residential property shall be presumed to be available with vacant possession, at any time when any of those duties would apply in relation to the property if it is so available, unless the contrary appears from the manner in which the property is being marketed at that time.

**161 Power to provide for further exceptions**

The Secretary of State may by regulations provide for other exceptions from any duty under sections 155 to 159 in such cases and circumstances, and to such extent, as may be specified in the regulations.

## **162 Suspension of duties under sections 155 to 159**

- (1) The Secretary of State may make an order suspending (or later reviving) the operation of any duty imposed by sections 155 to 159.
- (2) An order under this section may provide for the suspension of a duty to take effect only for a period specified in the order.
- (3) A duty which is (or is to any extent) revived after being suspended under this section is liable to be suspended again.

### *Contents of home information packs*

## **163 Contents of home information packs**

- (1) The Secretary of State may make regulations prescribing—
  - (a) the documents which are required or authorised to be included in the home information pack for a residential property; and
  - (b) particular information which is required or authorised to be included in, or which is to be excluded from, any such document.
- (2) A document prescribed under subsection (1) must be one that the Secretary of State considers would disclose relevant information.
- (3) Any particular information required or authorised to be included in a prescribed document must be information that the Secretary of State considers to be relevant information.
- (4) In this section “relevant information” means information about any matter connected with the property (or the sale of the property) that would be of interest to potential buyers.
- (5) Without prejudice to the generality of subsection (4), the information which the Secretary of State may consider to be relevant information includes any information about—
  - (a) the interest which is for sale and the terms on which it is proposed to sell it;
  - (b) the title to the property;
  - (c) anything relating to or affecting the property that is contained in—
    - (i) a register required to be kept by or under any enactment (whenever passed); or
    - (ii) records kept by a person who can reasonably be expected to give information derived from those records to the seller at his request (on payment, if required, of a reasonable charge);
  - (d) the physical condition of the property (including any particular characteristics or features of the property);
  - (e) the energy efficiency of the property;
  - (f) any warranties or guarantees subsisting in relation to the property;
  - (g) any taxes, service charges or other charges payable in relation to the property.
- (6) The regulations may require or authorise the home information pack to include—
  - (a) replies the seller proposes to give to prescribed pre-contract enquiries; and
  - (b) documents or particular information indexing or otherwise explaining the contents of the pack.

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- (7) The regulations may require a prescribed document—
  - (a) to be in such form as may be prescribed; and
  - (b) to be prepared by a person of a prescribed description on such terms (if any) as may be prescribed.
- (8) The terms mentioned in subsection (7)(b) may include terms which enable provisions of the contract under which the document is to be prepared to be enforced by—
  - (a) a potential or actual buyer;
  - (b) a mortgage lender; or
  - (c) any other person involved in the sale of the property who is not a party to that contract.
- (9) The regulations may—
  - (a) provide for the time at which any document is to be included in or removed from the home information pack; and
  - (b) make different provision for different areas, for different descriptions of properties or for other different circumstances (including the manner in which a residential property is marketed).
- (10) In this section “prescribed” means prescribed by regulations under this section.

#### **164 Home condition reports**

- (1) Regulations under section 163 may make the provision mentioned in this section in relation to any description of document dealing with matters mentioned in section 163(5)(d) or (e) (reports on physical condition or energy efficiency) which is to be included in the home information pack.
- (2) In this section “home condition report” means a document of that description.
- (3) The regulations may require a home condition report to be made by an individual who is a member of an approved certification scheme following an inspection carried out by him in accordance with the provisions of the scheme.
- (4) The regulations shall, if the provision mentioned in subsection (3) is made, make provision for the approval by the Secretary of State of one or more suitable certification schemes (and for the withdrawal by him of any such approval).
- (5) The regulations shall require the Secretary of State to be satisfied, before approving a certification scheme, that the scheme contains appropriate provision—
  - (a) for ensuring that members of the scheme are fit and proper persons who are qualified (by their education, training and experience) to produce home condition reports;
  - (b) for ensuring that members of the scheme have in force suitable indemnity insurance;
  - (c) for facilitating the resolution of complaints against members of the scheme;
  - (d) for requiring home condition reports made by members of the scheme to be entered on the register mentioned in section 165;
  - (e) for the keeping of a public register of the members of the scheme; and
  - (f) for such other purposes as may be specified in the regulations.



- (6) Subsection (5)(d) only applies where provision for a register of home condition reports is made under section 165.
- (7) The regulations may require or authorise an approved certification scheme to contain provision about any matter relating to the home condition reports with which the scheme is concerned (including the terms on which members of the scheme may undertake to produce a home condition report).
- (8) Nothing in this section limits the power under section 163 to make provision about home condition reports in the regulations.

### *Register of home condition reports*

#### **165 Register of home condition reports**

- (1) Where the provision mentioned in section 164(3) is made in relation to an approved certification scheme, regulations under section 163 may make provision for and in connection with a register of the home condition reports made by members of the scheme.
- (2) The regulations may provide for the register to be kept—
  - (a) by (or on behalf of) the Secretary of State; or
  - (b) by such other person as the regulations may specify.
- (3) The regulations may require a person wishing to enter a home condition report onto the register to pay such fee as may be prescribed.
- (4) No person may disclose—
  - (a) the register or any document (or part of a document) contained in it; or
  - (b) any information contained in, or derived from, the register,except in accordance with any provision of the regulations which authorises or requires such a disclosure to be made.
- (5) The provision which may be made under subsection (1) includes (without prejudice to the generality of that subsection) provision as to circumstances in which or purposes for which a person or a person of a prescribed description—
  - (a) may (on payment of such fee, if any, as may be prescribed)—
    - (i) inspect the register or any document (or part of a document) contained in it;
    - (ii) take or be given copies of the register or any document (or part of a document) contained in it; or
    - (iii) be given information contained in, or derived from, the register; or
  - (b) may disclose anything obtained by virtue of provision made under paragraph (a).
- (6) The purposes which may be so prescribed may be public purposes or purposes of private undertakings or other persons.
- (7) A person who contravenes subsection (4) is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (8) Nothing in this section limits the power to make regulations under section 163.

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## *Enforcement*

### **166 Enforcement authorities**

- (1) Every local weights and measures authority is an enforcement authority for the purposes of this Part.
- (2) It is the duty of each enforcement authority to enforce—
  - (a) the duties under sections 155 to 159 and 167(4), and
  - (b) any duty imposed under section 172(1),in their area.

### **167 Power to require production of home information packs**

- (1) An authorised officer of an enforcement authority may require a person who appears to him to be or to have been subject to the duty under section 155 or 159(2), in relation to a residential property, to produce for inspection a copy of, or of any document included in, the home information pack for that property.
- (2) The power conferred by subsection (1) includes power—
  - (a) to require the production in a visible and legible documentary form of any document included in the home information pack in question which is held in electronic form; and
  - (b) to take copies of any document produced for inspection.
- (3) A requirement under this section may not be imposed more than six months after the last day on which the person concerned was subject to the duty under section 155 or 159(2) in relation to the property (as the case may be).
- (4) Subject to subsection (5), it is the duty of a person subject to such a requirement to comply with it within the period of 7 days beginning with the day after that on which it is imposed.
- (5) A person is not required to comply with such a requirement if he has a reasonable excuse for not complying with the requirement.
- (6) In this section “the home information pack” means—
  - (a) where a requirement under this section is imposed on a person at a time when he is subject to the duty under section 155 or 159(2), the home information pack intended by him to be the one he is required to have at that time; or
  - (b) in any other case, the home information pack intended by the person concerned, when he was last subject to the duty under section 155 or 159(2), to be the one he was required to have at that time.

### **168 Penalty charge notices**

- (1) An authorised officer of an enforcement authority may, if he believes that a person has committed a breach of—
  - (a) any duty under sections 155 to 159 and 167(4), or
  - (b) any duty imposed under section 172(1),give a penalty charge notice to that person.

- (2) A penalty charge notice may not be given after the end of the period of six months beginning with the day (or in the case of a continuing breach the last day) on which the breach of duty was committed.
- (3) Schedule 8 (which makes further provision about penalty charge notices) has effect.

#### **169 Offences relating to enforcement officers**

- (1) A person who obstructs an officer of an enforcement authority acting in pursuance of section 167 is guilty of an offence.
- (2) A person who, not being an authorised officer of an enforcement authority, purports to act as such in pursuance of section 167 or 168 is guilty of an offence.
- (3) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

#### **170 Right of private action**

- (1) This section applies where a person (“the responsible person”) has committed a breach of duty under section 156 by failing to comply with a request from a potential buyer of a residential property for a copy of a prescribed document.
- (2) If the potential buyer commissions his own version of the prescribed document at a time when both of the conditions mentioned below are satisfied, he is entitled to recover from the responsible person any reasonable fee paid by him in order to obtain the document.
- (3) The first condition is that—
  - (a) the property is on the market; or
  - (b) the potential buyer and the seller are attempting to reach an agreement for the sale of the property.
- (4) The second condition is that the potential buyer has not been provided with an authentic copy of the prescribed document.
- (5) A copy of a prescribed document is not authentic for the purposes of subsection (4) unless—
  - (a) it is a copy of a document included in the home information pack for the property as it stands at the time the copy is provided to the potential buyer; and
  - (b) the document so included complies with the requirements of any regulations under section 163 at that time.
- (6) In subsection (5) “the home information pack” means the home information pack intended by the responsible person to be the one required by section 155.
- (7) In this section “prescribed document” means a document (being one required to be included in the home information pack by regulations under section 163) which is prescribed by regulations made by the Secretary of State for the purposes of this section.
- (8) It is immaterial for the purposes of this section that the request in question did not specify the prescribed document but was for a copy of the home information pack or a part of the pack which included (or ought to have included) that document.

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### *Supplementary*

#### **171 Application of Part to sub-divided buildings**

- (1) This section applies where—
  - (a) two or more dwelling-houses in a sub-divided building are marketed for sale (with any ancillary land) as a single property; and
  - (b) any one or more of those dwelling-houses—
    - (i) is not available for sale (with any ancillary land) as a separate residential property; but
    - (ii) is available with vacant possession.
- (2) This Part applies to the dwelling-houses mentioned in subsection (1)(a) (with any ancillary land) as if—
  - (a) they were a residential property, and
  - (b) section 160 were omitted.
- (3) Subsection (2) does not affect the application of this Part to any of those dwelling-houses which is available for sale (with any ancillary land) as a separate residential property.
- (4) In this section “sub-divided building” means a building or part of a building originally constructed or adapted for use as a single dwelling which has been divided (on one or more occasions) into separate dwelling-houses.

#### **172 Power to require estate agents to belong to a redress scheme**

- (1) The Secretary of State may by order require every estate agent to be a member of an approved redress scheme.
- (2) Acting as estate agent for the seller of a residential property in contravention of such an order is a breach of duty under this Part.
- (3) Before making such an order the Secretary of State must be satisfied that he has approved one or more redress schemes such that every estate agent who is (or will be) subject to the duty imposed by the order is eligible to join an approved redress scheme.

For this purpose “estate agent” does not include a person who is (by virtue of a prohibition imposed by or under the Estate Agents Act 1979 (c. 38)) unable lawfully to act as estate agent for the seller of a residential property.

- (4) An order under this section may—
  - (a) exclude estate agents of a prescribed description from any duty imposed under subsection (1);
  - (b) limit any duty so imposed so that it applies only in relation to relevant complaints of a prescribed description.
- (5) Nothing in this section is to be taken as preventing an approved redress scheme from providing—
  - (a) for membership to be open to persons who are not subject to any duty to belong to an approved redress scheme;

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- (b) for the investigation and determination of complaints, other than those in relation to which such a duty applies, made against members who have voluntarily accepted the jurisdiction of the scheme over such complaints;
  - (c) for the exclusion from investigation and determination under the scheme of any complaint in such cases or circumstances as may be specified in the scheme.
- (6) In this section and sections 173 and 174—
- “approved redress scheme” means a redress scheme that is for the time being approved under section 173;
  - “estate agent” means a person who acts as estate agent for sellers of residential properties for which a home information pack is (or will be) required under this Part;
  - “redress scheme” means a scheme under which certain relevant complaints may be investigated and determined by an independent person (referred to in those sections as “the ombudsman”); and
  - “relevant complaint” means a complaint against an estate agent which—
    - (a) is made by a person who at the material time is the seller or a potential buyer of a residential property; and
    - (b) relates to an act or omission affecting the complainant in the course of the estate agent’s activities in relation to a home information pack that is (or will be) required for that property (including the giving of advice as to whether such a pack is required).
- (7) For the purposes of the law relating to defamation, proceedings under an approved redress scheme in relation to the investigation and determination of a complaint which is subject to an order under this section are to be treated in the same way as proceedings before a court.

### **173 Approval of redress schemes**

- (1) If the Secretary of State considers that a redress scheme (including one made by him or in pursuance of arrangements made by him) is satisfactory for the purposes of section 172, he may approve it for those purposes.
- (2) In determining whether a redress scheme is satisfactory the Secretary of State shall have regard to—
  - (a) the provisions of the scheme;
  - (b) the manner in which the scheme will be operated (so far as can be judged from the facts known to him); and
  - (c) the respective interests of members of the scheme and of sellers and potential buyers of residential properties.
- (3) A redress scheme may not be approved unless it makes satisfactory provision about the following matters (among other things)—
  - (a) the matters about which complaints may be made (which may include non-compliance with the provisions of a code of practice or other document);
  - (b) the ombudsman’s duties and powers in relation to the investigation and determination of complaints (which may include power to decide not to investigate or determine a complaint);
  - (c) the provision of information by the ombudsman to—

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- (i) persons exercising functions under other schemes providing a means of redress for consumers; and
  - (ii) the Secretary of State or any other person exercising regulatory functions in relation to the activities of estate agents.
- (4) An application for approval of a redress scheme shall be made in such manner as the Secretary of State may determine, accompanied by such information as the Secretary of State may require.
- (5) The person administering an approved redress scheme shall notify the Secretary of State of any change to the scheme as soon as practicable after the change is made.

#### **174 Withdrawal of approval of redress schemes**

- (1) The Secretary of State may withdraw his approval of a redress scheme.
- (2) But before withdrawing his approval, the Secretary of State shall serve on the person administering the scheme a notice stating—
- (a) that he proposes to withdraw his approval;
  - (b) the grounds for the proposed withdrawal of approval; and
  - (c) that representations about the proposed withdrawal may be made within such period of not less than 14 days as is specified in the notice.
- (3) The Secretary of State shall give notice of his decision on a proposal to withdraw approval, with his reasons, to the person administering the scheme.
- (4) Withdrawal of approval has effect from such date as may be specified in that notice.
- (5) The person administering the scheme shall give a copy of a notice under subsection (3) to every member of the scheme.

#### **175 Office of Fair Trading**

- (1) An enforcement authority may notify the Office of Fair Trading of any breach of duty under this Part appearing to the authority to have been committed by a person acting as estate agent.
- (2) An enforcement authority shall notify the Office of Fair Trading of—
- (a) any penalty charge notice given by an officer of the authority under section 168;
  - (b) any notice given by the authority confirming or withdrawing a penalty charge notice; and
  - (c) the result of any appeal from the confirmation of a penalty charge notice.
- (3) The Estate Agents Act 1979 (c. 38) applies in relation to a person who has committed a breach of duty under this Part in the course of estate agency work (within the meaning of that Act) as it applies in relation to a person who has engaged in a practice such as is mentioned in section 3(1)(d) of that Act in the course of such work.

#### **176 Grants**

- (1) The Secretary of State may make grants towards expenditure incurred by any person in connection with—

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

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- (a) the development of proposals for any provision to be made by regulations under section 163;
  - (b) the development of schemes which are intended to be certification schemes for the purposes of any provision made or expected to be made in regulations under section 163 by virtue of section 164; or
  - (c) the development of a register for the purposes of any provision made or expected to be made in regulations under section 163 by virtue of section 165.
- (2) A grant under this section may be made on conditions, which may include (among other things)—
- (a) conditions as to the purposes for which the grant or any part of it may be used; and
  - (b) conditions requiring the repayment of the grant or any part of it in such circumstances as may be specified in the conditions.

## **177 Interpretation of Part 5**

- (1) In this Part—

“ancillary land”, in relation to a dwelling-house or a sub-divided building, means any land intended to be occupied and enjoyed together with that dwelling-house or building;

“long lease” means—

- (a) a lease granted for a term certain exceeding 21 years, whether or not it is (or may become) terminable before the end of that term by notice given by the tenant or by re-entry or forfeiture; or
- (b) a lease for a term fixed by law under a grant with a covenant or obligation for perpetual renewal, other than a lease by sub-demise from one which is not a long lease;

and for this purpose “lease” does not include a mortgage term;

“potential buyer” means a person who claims that he is or may become interested in buying a residential property;

“sale”, in relation to a residential property, means a disposal, or agreement to dispose, by way of sale of—

- (a) the freehold interest;
- (b) the interest under a long lease;
- (c) an option to acquire the freehold interest or the interest under a long lease;

and “seller” means a person contemplating disposing of such an interest (and related expressions shall be construed accordingly).

- (2) Any reference in the definition of “sale” to the disposal of an interest of a kind mentioned in that definition includes a reference to the creation of such an interest.
- (3) A document which is not in electronic form is only to be regarded for the purposes of this Part as being under the control of a person while it is in the possession of another if he has the right to take immediate possession of the document on demand (and without payment).
- (4) A document held in electronic form is only to be regarded for the purposes of this Part as being in a person’s possession or under his control if he is readily able (using equipment available to him)—

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

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- (a) to view the document in a form that is visible and legible; and
- (b) to produce copies of it in a visible and legible documentary form.

## **178 Index of defined expressions: Part 5**

In this Part, the expressions listed in the left-hand column have the meaning given by, or are to be interpreted in accordance with, the provisions inserted in the right-hand column.

<i>Expression</i>	<i>Provision of this Act</i>
Acting as estate agent for the seller	Section 150
Ancillary land	Section 177(1)
Control of documents	Section 177(3) and (4)
Dwelling-house	Section 148(1)
Enforcement authority	Section 166
Home information pack	Section 148(2)
Long lease	Section 177(1)
Make public	Section 149(4)
Possession of electronic documents	Section 177(4)
Potential buyer	Section 177(1)
Putting on the market	Section 149(2)
Remaining on the market	Section 149(3)
Residential property	Section 148(1)
Responsible person	Section 151(1)
Sale (and related expressions)	Section 177(1)
Seller (and related expressions)	Section 177(1)
The market	Section 149(1).