
STATUTORY INSTRUMENTS

2007 No. 1667

The Home Information Pack (No. 2) Regulations 2007

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(1);
 - “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approved by the Secretary of State under regulation 37 of these Regulations and from which such approval has not been withdrawn under regulation 39;
 - “the Chief Land Registrar” means the person appointed by the Lord Chancellor under section 99(3) of the Land Registration Act 2002(2);
 - “conservation area consent” means the consent described in section 74(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990(3);
 - “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(4);
 - “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(5) or regulation 17E of the Building Regulations 2000(6);
 - “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;

(1) 1975 c. 76. Section 4 is amended by section 25(1) of and Schedule 3 to the Interpretation Act 1978 (c. 30).
(2) 2002 c. 9.
(3) 1990 c. 9.
(4) S.I. 2003/1417.
(5) S.I. 2007/991, amended by S.I. 2007/1669.
(6) S.I. 2000/2531. Regulation 17E was inserted by S.I. 2006/652 and substituted by S.I. 2007/991.

- “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(7) 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(8);
- “listed building consent” means a consent under section 8(1), (2) or (3) of the Planning (Listed Buildings and Conservation Areas) Act 1990(9);
- “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(10);
- “predicted energy assessment” means the document required by regulation 8(c);
- “premises” includes buildings and land;
- “property” means the residential property in respect of which a duty arises under section 155(1) or 159(2) of the 2004 Act(11);
- “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(12);
- “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(13);
- “sale statement” means the document required by regulation 8(d);
- “search” means an inspection or investigation (whether manual or electronic) of records;

(7) 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.

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

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

(10) 1990 c. 8.

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

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

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

“service charge” has the same meaning as in section 18 of the Landlord and Tenant Act 1985⁽¹⁴⁾;

“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⁽¹⁵⁾ if it is also used in that Act; or

(b) the Commonhold Regulations 2004⁽¹⁶⁾ 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.

(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

⁽¹⁴⁾ 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).

⁽¹⁵⁾ 2002 c. 15.

⁽¹⁶⁾ S.I. 2004/1829.

- (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⁽¹⁷⁾.
- (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.

(17) 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.

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
 - (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⁽¹⁸⁾ 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⁽¹⁹⁾; and
 - (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⁽²⁰⁾; 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⁽²¹⁾;
- (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—

-
- (18) In this case, “lease” does not only mean a long lease - see regulation 3(1).
 - (19) 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, 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.
 - (20) 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).
 - (21) Section 8 is amended by section 34 of the Local Government (Miscellaneous Provisions) Act 1982 (c. 30).

- (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 documents derived from such exempt information documents as are referred to in the register(22);
- (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;

(22) 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).

- (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
- (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(23)—
- (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

(23) 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.

- (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(1) 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.

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(24).

(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);

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

- (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⁽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 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—
 - (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.

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

(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(26)—

- (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—
- (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.

(26) 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.

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(27), 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.

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(28); 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

(27) 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”.

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

- (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.

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(29).

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(30).

- (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(31).

(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;

(29) 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.

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

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

- (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;
 - (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⁽³²⁾.

(32) 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.

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.

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(33) 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.

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

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

8th June 2007