
DRAFT SCOTTISH STATUTORY INSTRUMENTS

2008 No.

**The Housing (Scotland) Act 2006
(Prescribed Documents) Regulations 2008**

Citation and commencement

1. These Regulations may be cited as the Housing (Scotland) Act 2006 (Prescribed Documents) Regulations 2008 and come into force on 1st October 2008.

Interpretation

2. In these Regulations—

“the 2006 Act” means the Housing (Scotland) Act 2006;

“the duties” means any of the duties in sections 98, 99(1) or 101(2) of the 2006 Act;

“on the market” has the same meaning as in section 119 of the 2006 Act.

Permitted period

3. The period specified for the purposes of section 99(2) of the 2006 Act is 9 days.

Prescribed documents

4. The documents prescribed for the purposes of section 98, 99(1) and 101(2) of the 2006 Act are—

(a) a survey report containing—

(i) the information in, or as nearly as may be in, the form set out in part 1 of Schedule 1;
and

(ii) the information on energy efficiency in part 2 of Schedule 1; and

(b) a property questionnaire in, or as nearly as may be in, the form set out in Schedule 2.

Persons who may prepare prescribed documents

5.—(1) The persons who may prepare the prescribed document set out in Schedule 1 are surveyors registered with or authorised to practise by the Royal Institution of Chartered Surveyors.

(2) The person who may prepare the prescribed document set out in Schedule 2 is the seller of the house or a person authorised by the seller to act on the seller’s behalf.

Date to which information in a prescribed document relates

6.—(1) The date to which information in a prescribed document relates must be no earlier than the date at the beginning of the period of 12 weeks before the date on which the house is put on the market (“the market date”).

(2) In circumstances where the house—

(a) is not sold;

- (b) is withdrawn from the market for a period or periods not exceeding 4 weeks at a time; and
- (c) is put on the market again;

the date to which information in a prescribed document relates when the house is put on the market again remains no earlier than the date at the beginning of the period of 12 weeks before the market date referred to in paragraph (1).

Exception for portfolios of properties

7.—(1) There is an exception to the duties in relation to a house—

- (a) which is to be sold with one or more other houses; and
- (b) where it is clear from the manner in which the houses are marketed that the seller does not intend to accept an offer to buy one of those houses in isolation from another.

(2) This exception does not apply where the houses to be sold comprise only a principal house and one or more ancillary houses.

Exception for seasonal and holiday accommodation

8. There is an exception to the duties in relation to a house—

- (a) which is subject to a condition imposed under section 41(1)(a) of the Town and Country Planning (Scotland) Act 1997(1) regulating the use of the 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) where it is clear from the manner in which the house is marketed that it is subject to such a condition.

Exception for mixed sales

9. There is an exception to the duties in relation to a house—

- (a) to be sold with one or more non-residential premises;
- (b) which is or forms part of the property ancillary to those non-residential premises; and
- (c) where it is clear from the manner in which the property is marketed that the seller does not intend to accept an offer to buy the house only.

Exception for dual use

10. There is an exception to the duties in relation to a house which is part of a property—

- (a) which was, immediately before being put on the market, used for both residential and non-residential purposes; and
- (b) which is marketed for—
 - (i) non-residential use; or
 - (ii) both residential and non-residential use.

Exception for unsafe properties

11. There is an exception to the duties in relation to a house—

(1) 1997 c. 8.

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

Exception for new housing

12. There is an exception to the duties in relation to a house which has not previously been used as a house or as any other premises.

Exception for properties to be demolished

13.—(1) There is an exception to the duties in relation to a house—

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

“conservation area consent” has the meaning given in section 66(1) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997(2);

“listed building consent” has the meaning given in section 7(7) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997;

“outline planning permission” has the meaning given in section 59 of the Town and Country Planning (Scotland) Act 1997;

“planning permission” has the meaning given in section 277 of the Town and Country Planning (Scotland) Act 1997.

Exception for newly converted premises

14.—(1) There is an exception to the duties in relation to a house which is being converted or has been converted to a house if it has not previously been used in its converted state.

(2) For the purposes of this regulation a house is converted if—

- (a) its use is being or has been changed from any other use to that of a house;
- (b) it is one of a number of houses created out of a larger house or number of houses; or
- (c) it is created out of more than one house.

St Andrew's House,
Edinburgh
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Authorised to sign by the Scottish Ministers