

These notes refer to the Housing Act 2004 (c.34) which received Royal Assent on Thursday 18 November 2004

HOUSING ACT 2004

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 5 - Home Information Packs

Sections 177: Interpretation of Part 5

400. This section contains definitions of expressions used in Part 5 of the Act. In particular, subsection (1) defines:
- "ancillary land" as land being sold with a house or flat - for example, a garden.
 - "long lease" is a lease granted for more than 21 years, or one capable of perpetual renewal. For these purposes, "lease" does not include a mortgage term;
 - "potential buyer", is a person who claims that he is or may become interested in buying a residential property.
 - "sale" means the sale, agreement to sell, or creation of:
 - the freehold interest
 - the interest under a long lease, or
 - an option to acquire the freehold interest or the interest under a long lease
 - and "seller" means a person who is contemplating making such a sale.
401. Subsection (3) provides that a document actually in the possession of another person and not in electronic form can only be regarded as being under the possession or control of a person if he has the right to take immediate possession of it without payment. So, for example, if a seller terminates a contract with an estate agent and the former agent retains a paper copy of a home information pack, the pack can only be regarded as within the control of the seller if he does not owe the agent any money for the pack. This may be relevant in determining whether the seller has complied with any duty he has as a "responsible person" to market property with a home information pack.
402. Under subsection (4), a document which is held in electronic form is to be regarded as being in a person's possession or control if he is able (using equipment available to him) to:
- View the document in a form that is visible and legible; and
 - Produce a legible copy in documentary (e.g. paper) form.