
EXPLANATORY NOTE

(This note is not part of the Regulations)

The main purpose of these Regulations is to prescribe the documents to be included in home information packs and the circumstances in which they are included (Parts 1 to 4 of the Regulations). The duties to have a home information pack which complies with these Regulations are found in sections 155 to 159 of the Housing Act 2004 (“the home information pack duties”). In general, the duties apply to a “responsible person” as described in sections 151 to 153 of the Housing Act 2004.

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

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

Regulation 9 describes the information authorised to be included in a home information pack. This information may be included in a separate document or within a required document. Authorised information includes translations, Braille versions, summaries or explanations of pack documents, additional title information or information relating to commonhold and leasehold properties and additional information about physical condition. It includes further property searches and searches relating to other premises may be included. Schedule 11 to the Regulations specifies additional relevant information which may be included. Regulation 10 deals with the required information for new properties where the legal commonhold or leasehold interest being sold has not yet been registered or created.

Part 4 of the Regulations deals with the assembly and accuracy of home information packs. Required documents must be included before the first point of marketing which is defined in regulation 3 as the time a duty under sections 155(1) or 159(2) of the Housing Act 2004 first arises. Certain title information, home condition reports and required property searches should be no older than 3 months at the first point of marketing (regulation 14). Regulation 3(3) and 3(5) describe the circumstances in which putting the property back on the market will not result in a new first point of marketing. Regulations 15 and 17 deal with the event that certain required documents are unavailable or unobtainable before the first point of marketing. Regulation 15(2) provides that a home information pack complies with the Regulations if a responsible person continues to use all reasonable efforts to obtain a document and the first point of marketing does not occur 14 days before the day a request for a document is first delivered.

Regulations 18 to 20 deal with the circumstances in which the pack or pack documents must or may be updated, and the effect of regulation 21 is that a responsible person must provide a seller with a copy of any pack documents requested by him for the purposes of checking their accuracy.

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

Part 5 of the Regulations makes exceptions from the home information pack duties. These exceptions relate to seasonal accommodation, sales mixed with sales of non-residential premises, dwelling houses used for both residential and non-residential purposes, portfolios of residential properties, unsafe properties and properties to be demolished. The exception under regulation 30 deals with a transitional period starting on 1st June 2007 and ending on 31st October 2007. It ensures that where a responsible person makes public that a property is on the market during the transitional period, a person does not become a responsible person if it was put on the market before the period, providing further action was taken to market the property. It also deals with the circumstances where the home information pack duties do not arise by putting the property on the market during the transitional period, providing the property was first put on the market before the period and an offer to buy the property was withdrawn (or its acceptance repudiated).

Part 6 of the Regulations specifies that the level of penalty charge for penalty charge notices which may be given by enforcement authorities is £200 (for a breach of a home information pack duty). Regulation 32 specifies that penalty charge notices do not apply where the content of a pack document fails to comply with these Regulations, but a responsible person believes on reasonable grounds that it does.

Additionally, the Regulations require home condition reports (which must be included in home information packs in the circumstances described in regulation 8(h)) to be made by members of a certification scheme (home inspectors) approved by the Secretary of State under Part 7. Before approving a scheme, the Secretary of State must be satisfied that a scheme contains appropriate provision for the matters described in regulation 33.

A full regulatory impact assessment of the effect that this instrument will have on businesses has been prepared and placed in the libraries of both Houses of Parliament. Copies of the regulatory impact assessment and guidance related to these Regulations are available at the Department for Communities and Local Government's website and or from its Home Buying and Selling Reform Division (telephone: 020 7944 19342, fax: 020 7944 3408 and e-mail: homeinfopacks@communities.gsi.gov.uk).