

**2008 No. 572**

**HOUSING, ENGLAND AND WALES**

**The Home Information Pack (Amendment) Regulations 2008**

*Made* - - - - *27th February 2008*

*Laid before Parliament* *6th March 2008*

*Coming into force* - - *31st March 2008*

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 163 and 250(2) of the Housing Act 2004(a).

In accordance with section 250(3) of that Act, the Secretary of State has consulted the Welsh Ministers in relation to residential properties in Wales(b).

**Citation, commencement, extent and interpretation**

1.—(1) These Regulations may be cited as the Home Information Pack (Amendment) Regulations 2008.

(2) These Regulations shall come into force on 31st March 2008.

(3) Regulations 2 and 3 apply in relation to properties located or to be located in England.

(4) Regulations 4, 5 and 6 apply in relation to properties located or to be located in England or Wales.

(5) In these Regulations, “the principal Regulations” means the Home Information Pack (No. 2) Regulations 2007(c).

**Amendments relating to sustainability information for new homes**

2.—(1) After regulation 8(c) (required documents) of the principal Regulations, add—

“(ca) subject to regulation 34A, for a property finished before or at the first point of marketing, which is marketed as a new home—

(i) a sustainability certificate complying with paragraph 2 of Schedule 2A; or

(ii) a nil-rated certificate complying with paragraph 4 of that Schedule;

(cb) subject to regulation 34A, for a property not finished before or at the first point of marketing, which is marketed as a new home—

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(a) 2004 c. 34.

(b) The expression “Welsh Ministers” is to be construed in accordance with section 45(2) of the Government of Wales Act 2006 (c. 32). Section 250(3) of the Housing Act 2004 refers to consultation with the National Assembly for Wales. Under paragraphs 30 and 32 of Schedule 11 to the Government of Wales Act 2006 functions of the National Assembly for Wales (as constituted under the Government of Wales Act 1998 (c. 38)) conferred or imposed on it by an Act are transferred to the Welsh Ministers.

(c) S.I. 2007/1667, amended by S.I. 2007/3301.

- (i) an interim sustainability certificate complying with paragraph 3 of Schedule 2A; or
  - (ii) a nil-rated certificate complying with paragraph 4 of that Schedule;”.
- (2) After Schedule 2 to the principal Regulations, add—

## “SCHEDULE 2A regulation 8(ca) and 8(cb)

### Sustainability information for new homes

#### **Interpretation**

##### **1. In this Schedule—**

“assessment” means an assessment as to sustainability, made in accordance with the Code for Sustainable Homes, using the rating system set out in that Code;

“Code Assessor” means a person trained and certified as such, pursuant to the terms of a contract entered into on 12th December 2006 between the Secretary of State and Building Research Establishment Limited<sup>(a)</sup> (together with affiliate companies);

“Code for Sustainable Homes” means the standards and processes for determining sustainability, set out in the document, “The Code for Sustainable Homes: Setting the Sustainability Standards for New Homes<sup>(b)</sup>”;

“construction” and related words include any related demolition and any off-site activities relating to the construction or demolition;

“design stage assessment” means an assessment based on an inspection by a Code Assessor of the plans and specifications for the property;

“post-construction stage assessment” means an assessment based on a visit to the constructed property by a Code Assessor or to another representative property;

“sustainability” relates to the extent to which—

- (a) the materials used in the property;
- (b) other aspects of the design and construction of the property; and
- (c) any services, fittings and equipment provided in, or in connection with the property,

further the sustainable design principles; and

“the sustainable design principles” are any of the following principles—

- (a) ensuring the health, safety, welfare and convenience of persons in or about the property and of others who may be affected by the property or matters connected with it;
- (b) furthering the efficient management of the property and of its construction;
- (c) furthering energy efficiency;
- (d) furthering the efficient use of water and minimising flood risk;
- (e) furthering efficient waste management;
- (f) furthering the protection or enhancement of the environment; and
- (g) furthering the prevention or detection of crime.

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<sup>(a)</sup> A private limited company. Registered office: Bucknalls Lane, Garston, Watford, Hertfordshire, WD25 9XX. Company number: 03319324.

<sup>(b)</sup> Published by the Department for Communities and Local Government, 27th February 2008, available at: [www.communities.gov.uk/publications/planningandbuilding/codesustainabilitystandards](http://www.communities.gov.uk/publications/planningandbuilding/codesustainabilitystandards).

### **Sustainability certificate**

2.—(1) A sustainability certificate must—

- (a) confirm that there has been a post-construction assessment of the property;
- (b) contain a single star rating from a minimum of zero stars to a maximum of six stars, awarded by a Code Assessor as to the sustainability of the property under the Code for Sustainable Homes;
- (c) contain an explanation of that rating;
- (d) contain a certificate number;
- (e) contain the date it is issued; and
- (f) contain a percentage rating against categories relating to the sustainable design principles.

(2) A certificate prepared under this paragraph must be prepared by the Code Assessor based on his post-construction assessment of the property.

### **Interim sustainability certificate**

3.—(1) An interim sustainability certificate must—

- (a) confirm that there has been a design stage assessment of the designs for the property;
- (b) contain a single star rating from a minimum of zero stars to a maximum of six stars, awarded by a Code Assessor as to the general sustainability of the plans and specifications for the property under the Code for Sustainable Homes;
- (c) contain an explanation of that star rating;
- (d) contain a certificate number;
- (e) contain the date it is issued; and
- (f) contain a percentage rating against categories relating to the sustainable design principles.

(2) A certificate prepared under this paragraph must be prepared by the Code Assessor based on a design stage assessment of the plans and specifications for the property.

### **Nil-rated certificate**

4.—(1) A nil-rated certificate must be made in the form specified in the Code for Sustainable Homes, and must contain the matters specified in that form.

(2) A nil-rated certificate may be prepared by any person.”

## **Amendments consequential upon regulation 2**

3. In consequence of regulation 2—

- (a) after regulation 1(2) (citation and commencement) of the principal Regulations, add—
  - “(3) Regulation 8(ca) and (cb) and Schedule 2A apply in relation to properties located or to be located in England.
  - (4) The remaining provisions of these Regulations apply in relation to properties located or to be located in England or Wales.”
- (b) in regulation 2(1) (interpretation – general provisions) of the principal Regulations, add in the appropriate place each of the following paragraphs—
  - ““finished” in regulation 8(ca) and (cb) refers to the stage at which the construction of a property is sufficiently advanced so as to make a post-construction assessment (within the meaning of Schedule 2A) possible;

“interim sustainability certificate” means the document required by regulation 8(cb)(i), which must comply with paragraph 3 of Schedule 2A;

“new home” in regulation 8(ca) and (cb) means—

- (a) a property being designed;
- (b) a property being constructed; or
- (c) a property, the construction of which is finished, but has never been occupied;

“nil-rated certificate” means the document required by regulation 8(ca)(ii) or (cb)(ii) which must comply with paragraph 4 of Schedule 2A;

“sustainability certificate” means the document required by regulation 8(ca)(i) which must comply with paragraph 2 of Schedule 2A;”;

- (c) in regulation 13(b), delete “then”;
- (d) after regulation 13(b) (order of pack documents) of the principal Regulations, add—
  - “(ba) thirdly—
    - (i) such of the documents as are required by regulation 8(ca) (sustainability of finished new homes); or
    - (ii) such of the documents as are required by regulation 8(cb) (sustainability of new homes not finished); then”;
- (e) after regulation 14(1)(c) (time at which pack documents are to be included), add
  - “(ca) (ca) paragraph (ca) (sustainability of finished new homes);
  - (cb) paragraph (cb) (sustainability of new homes not finished);”;
- (f) after regulation 22 (updating of predicted energy assessment), add—

#### **“Updating of sustainability information for new homes**

**22A.**—(1) If the property is not finished before or at the first point of marketing, and becomes finished after that time, the responsible person must replace any interim sustainability certificate included in the pack with—

- (a) a sustainability certificate if a post-construction assessment of the property has taken place; or
- (b) a nil-rated certificate if no such assessment has taken place.

(2) The document required to be included in the pack—

- (a) under paragraph (1)(a) must be so included before the end of the period of 21 days starting with the day on which the post-construction assessment takes place; or
- (b) under paragraph (1)(b) must be so included before the end of the period of 7 days starting with the day on which the property is finished.

(3) The responsible person may at any time replace a nil-rated certificate—

- (a) with a sustainability certificate, where the property is finished; or
- (b) with an interim sustainability certificate, where the property is not finished.

(4) In this regulation, “finished” and “post-construction assessment” have the same meaning as in paragraph 1 of Schedule 2A.”; and

- (g) after regulation 34 add—

#### **“Exception – transitional measure relating to regulation 8(ca) and (cb)**

**34A.** Regulation 8(ca) and (cb) do not apply to properties in relation to which any of the following documents have been received by a local authority before 1st May 2008—

- (a) a notice given under regulation 12(2A)(a) of the Building Regulations 2000<sup>(a)</sup> (building notices);
- (b) documents deposited under regulation 12(2A)(b) of those Regulations (full plans);  
or
- (c) a notice given under section 47(1)(a) of the Building Act 1984<sup>(b)</sup> (initial notices).”

**Amendment relating to access to local authority records for searches**

4. In paragraph 4(a) (access to local authority records) of Schedule 6 (general provision about searches and search reports) to the principal Regulations, for “1st April 2008”, substitute “1st January 2009”.

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

*Caroline Flint*  
Minister of State

27th February 2008

Department for Communities and Local Government

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(a) S.I. 2000/2531. Paragraph (2A) was substituted by S.I. 2006/652.  
(b) 1984 c. 55. There are amendments to subsection (1) which are not relevant to these Regulations.

## **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations amend the Home Information Pack (No. 2) Regulations 2007 (“the principal Regulations”). Under sections 155 to 159 of the Housing Act 2004, a home information pack must comply with the principal Regulations.

Regulation 2 adds new paragraphs (ca) and (cb) to regulation 8 of the principal Regulations and a new schedule, Schedule 2A. The effect of these amendments is to require that for new homes in England, a home information pack must include information about the sustainability of the property. For new homes that are “finished” within the meaning of Schedule 2A, this information must be a “sustainability certificate” or a “nil-rated certificate”. For new homes that are not finished, this must be an “interim sustainability certificate” or a nil-rated certificate. Under paragraph 1 of new Schedule 2A, a sustainability certificate or interim sustainability certificate must be based on an assessment as to the sustainability of the property in accordance with the Code for Sustainable Homes. “Sustainability” relates to the extent to which the materials, design and components of the property further the “sustainable design principles”, which are set out in paragraph 1 of Schedule 2A. Sustainability certificates and interim sustainability certificates must be produced by a Code Assessor as defined in Schedule 2A (paragraphs 1, 2 and 3). Any person may produce a nil-rated certificate (paragraph 4).

Regulation 3 contains a number of amendments to the principal Regulations which are consequential upon regulation 2.

Regulation 4 amends the principal Regulations to extend until 1st January 2009 the exemption in paragraph 4 of Schedule 6 relating to searches and access to local authority records.

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STATUTORY INSTRUMENTS

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