

**EXPLANATORY MEMORANDUM TO
THE HOME INFORMATION PACK (AMENDMENT) REGULATIONS**

2009 No. 34

1. This explanatory memorandum has been prepared by the Department for Communities and Local Government (“the Department”) and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 These Regulations amend the Home Information Pack (No.2) Regulations 2007 (“the principal Regulations”).

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None

4. Legislative Context

4.1 The background to the principal Regulations was covered in detail in the Explanatory Memorandum that accompanied them.

4.2 Under Part 5 of the Housing Act 2004 (“the Act”) a “responsible person” (i.e. a seller and/or an estate agent) is required to have in their possession or control a home information pack (“HIP”) when marketing a residential property for sale with vacant possession (see sections 151 to 153 of the Act). The HIP must comply with the requirements of the principal Regulations (by virtue of section 155) and a responsible person is required to provide a copy of the HIP to a potential buyer on request (under section 156). Part 5 of the Act was brought into force on a phased basis by a series of commencement orders.

4.3 The content of HIPs is prescribed by the principal Regulations.

5. Territorial Extent and Application

5.1 These Regulations apply to England and Wales.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- *What is being done and why*

- 7.1 The amendment made by these regulations is supplementary to the amendments made to the principal Regulations by regulations 8 to 12 of the Home Information Pack (Amendment) (No.3) Regulations 2008 (SI 2008 No 3107). The explanatory memorandum to those regulations explained their purpose and the Department's overall policy objectives, and the expected benefits of HIPs, are covered in more detail as part of the explanatory memorandum to the principal Regulations. This memorandum draws particular attention to the changes given effect by the amendment contained in these Regulations and why it has been made at this time.
- 7.2 The Home Information Pack (Amendment) (No.3) Regulations 2008 (SI 2008 No 3107) made provision for a new required document to be included in the HIP, a Property Information Questionnaire (PIQ). The PIQ should be completed by sellers and will contain basic information about the property that is likely to be of assistance to potential buyers. This requirement will have effect from 6 April 2009.
- 7.3 The explanatory memorandum to those regulations explained that the PIQ is intended to improve the content and accessibility of the HIP by providing buyers with the type of information they want to know during their first steps in a transaction and before they invest financially and emotionally in a particular property. It is therefore important that the PIQ is made available by the seller at the very beginning of the process and is not treated in the same way as other documents provided by third parties (e.g. searches) that can be left out of the HIP when marketing starts, provided that they have been ordered and are expected to be obtained within 28 days. Due to an oversight the Home Information Pack (Amendment) (No.3) Regulations 2008 did not provide for this and this regulation amends the principal Regulations to provide that the PIQ must be part of the HIP when marketing begins.

Previous scrutiny of Home Information Packs - Reports of the Select Committee on the Merits on Statutory Instruments

- 7.4 The Select Committee on the Merits of Statutory Instruments has reported on the policy issues raised by the HIP Regulations on five occasions:
- In its 15th report of Session 2007-08, the Committee drew the Home Information Pack (Amendment) Regulations 2008 (SI 2008/572) to the special attention of the House on the ground that they give rise to issues of public policy likely to be of interest to the House. They welcomed the publication of the final report of the trials of HIPs in pilot areas but expressed concerns that the findings in the report raised questions about the extent to which the scheme had delivered the objectives which were identified for it. Against this background, the Committee considered it important that any additional information included in HIPs, notably about sustainability, is presented in a readily understandable way.
 - In its 5th Report of Session 2007-08, the Committee drew the Home Information Pack (Amendment) Regulations 2007 (SI 2007/3301) to the special attention of the House on the ground that they give rise to issues of public policy likely to be of interest to the House. They stated that practitioners in the housing market remained split in their response to

HIPs and recommended that the Government kept the implementation of the policy under review, providing full information about the practical effects of its introduction.

- In its 24th Report of Session 2006-07, the Committee drew the Home Information Pack Regulations (No.2) 2007 to the special attention of the House on the ground that they may imperfectly achieve their policy objective. However, the Committee did recognise that the Department had responded to the concerns expressed both in and outside of Parliament in revoking and relaying the regulations. They also welcomed the decision to consult further on the age of the Energy Performance Certificate.
- In its 18th Report of Session 2006-07, the Committee drew the Home Information Pack Regulations 2007 to the special attention of the House on the ground that they may imperfectly achieve their policy objective. Before doing so, the Committee heard oral evidence from Departmental officials.
- In its 39th Report of Session 2005-06, the Statutory Instruments Merits Committee drew the Home Information Pack Regulations 2006 Regulations to the special attention of the House on the ground that they gave rise to issues of public policy likely to be of interest to the House.

In relation to the latest report, the Department has kept the implementation of the HIP under review. All evidence to date points to a smooth introduction across the market. The Department has also engaged closely with stakeholders on the implementation of HIPs, including the stakeholder panel on wider home buying and selling. The panel is chaired by the Housing Minister and its membership comprises the Law Society, Council of Mortgage Lenders (CML), Royal Institution of Chartered Surveyors (RICS), National Association of Estate Agents (NAEA), Association of Home information Pack Providers (AHIPP), Council of Property Search Organisations ((CoPSO), World Wildlife Fund (WWF), Which?, Local Government Association (LGA), Land Registry, and the Department for Business Enterprise & Regulatory Reform (BERR).

- ***Consolidation***

7.26 No decision has yet been taken on producing a consolidated version of the amended regulations, but the matter is kept under review.

8. Consultation outcome

8.1 Full details of the Department's consultation on HIP policy are given in the explanatory memorandum to the Home Information Pack (No.2) Regulations 2007. The explanatory memorandum to the Home Information Pack (Amendment) (No.3) Regulations 2008 explained the consultation process on the inclusion of the PIQ in the HIP.

9. Guidance

9.1 The current procedural guidance on the Regulations will be amended to take account of these changes.

10. Impact

10.1 The Impact Assessment attached to the explanatory memorandum to the Home Information Pack (Amendment) (No.3) Regulations 2008 is unchanged as this amendment has no effect on the findings set out in that document.

11. Regulating small business

11.1 The legislation applies to small business.

12. Monitoring & review

12.1 The evaluation of the HIPs programme is currently planned for 2010 by updating the HIPs Baseline Research Report..

13. Contact

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