



Office of the
Deputy Prime Minister

Creating sustainable communities

*Draft Home Information Pack
Regulations 2006:
Draft Procedural Guidance*



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Deputy Prime Minister

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Draft Home Information Pack Regulations 2006: Draft Procedural Guidance

November 2005

Office of the Deputy Prime Minister: London

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CONTENTS

PART 1	
General Provisions	5
PART 2	
Home Information Pack – General Provisions	7
PART 3	
Contents of Home Information Packs	10
PART 4	
Assembly and Authenticity of Home Information Packs	21
PART 5	
Exceptions	26
PART 6	
Enforcement	31
Schedule 1 – Home information pack logo	32
Schedule 2 – Home information pack index	32
Schedule 3 – Sale statement	32
Schedule 4 – Home contents form	32
Schedule 5 – Home use information	32
Schedule 6 – Commonhold information	32
Schedule 7 – Leasehold information	35
Schedule 8 – Home condition report	37
Schedule 9 – New homes warranties	44
Schedule 10 – Report on a home not physically complete	44
Schedule 11 – General provision on searches & search reports	45
Schedule 12 – Local enquiries	48
Schedule 13 – Drainage and water enquiries	52
Sample: Home Condition Report	56

DRAFT HOME INFORMATION PACK REGULATIONS 2006: DRAFT PROCEDURAL GUIDANCE

This guidance provides a commentary on the draft Home Information Pack Regulations 2006 ('the Regulations'), published for technical consultation on 31 October 2005. It is intended to assist readers' consideration of the Regulations and preparation of their response to the consultation. Ultimately, the guidance is intended to assist in compiling home information packs in accordance with the requirements of the Regulations.

The guidance does not form part of the Regulations and it should be read in conjunction with them. Where a provision in the Regulations does not seem to require any explanation or comment, none is given. Compilers of home information packs and those marketing homes with home information packs might also find it helpful to read the Explanatory Notes on Part 5 of the Housing Act 2004 ('the 2004 Act'). The Act and its Explanatory Notes are available from the legislation section of the Office of Public Sector Information's (formerly Her Majesty's Stationery Office) website: www.opsi.gov.uk/legislation/index.htm. They are also available at www.odpm.gov.uk/homeinformationpacks.

PART 1

GENERAL PROVISIONS

Regulation 1: Citation and commencement

1 – This provides that the Home Information Pack Regulations 2006 will come into force in England and Wales on [to be completed] 2006. However, the duties to have a home information pack and to provide a copy to potential buyers on request (in sections 155(1) and 159(2) of the 2004 Act) will be brought into force separately by a commencement order to be made under section 270(6) of the 2004 Act. Therefore, these Regulations will not be effective until the duties are brought into force. The purpose in making the Regulations in advance of bringing the duties into force is to inform the general public and to give businesses enough time to prepare for the advent of home information packs.

The ‘responsible person’

The duties to have a home information pack apply to the ‘responsible person’ as defined by Part 5 of the 2004 Act (rather than these Regulations). The requirements to have or produce a pack commence when a property is first put on the market, or the fact that the property is on the market is made public (including to a section of the public). ‘On the market’ is defined under section 149 of the 2004 Act.

There are two categories of people who will be responsible where a property is on the market and therefore subject to the duties concerning the availability of a home information pack – the seller of that property or someone acting as an estate agent for the seller as defined in section 150 of the 2004 Act. Section 152 of the 2004 Act sets out the responsibilities that apply to estate agents and when responsibility ceases. Section 153 describes the responsibilities of sellers who market their property without an estate agent. If a seller instructs an estate agent who has a place of business in England and Wales to put his property on the market, the estate agent (and not the seller) will be considered responsible.

Additional duties to have a home information pack apply to estate agents, even where the property is not yet on the market, but the agent is nevertheless attempting to market the property (see section 159 of the 2004 Act).

Regulation 2: Interpretation

2(1), (2) – These provisions set out the meaning of some of the expressions used in the Regulations. In some cases, where a definition is relevant to only one regulation it is defined at the point it appears. The definitions found in Part 5 of the 2004 Act apply to the Regulations and as such are not repeated in them. Some of those definitions can be found in sections 148 to 150 and 177 to 178 of the 2004 Act (such as the definition of ‘residential property’, ‘acting as estate agent’, ‘sale’, ‘ancillary land’ and ‘long lease’).

Some common rules of statutory interpretation and construction can be found in the Interpretation Act 1978 which will generally apply to these Regulations (for example the use of ‘he’ also includes ‘she’ and words in the singular include the plural and vice versa). Some definitions of words and expressions can also be found in Schedule 1 to the Interpretation Act 1978, such as the definition of ‘England’ and ‘Wales’ and the meaning of ‘person’ (which includes a body of persons corporate or unincorporate).

The definition of ‘property interest’

‘Property interest’ is used throughout the Regulations to describe the legal interest that the seller is proposing to sell. It is distinct from references to the property itself. The legal interest will be either a freehold or a leasehold interest, (an interest in a commonhold is a type of freehold interest). Putting a residential property on the market for sale will usually attract the duty to have a home information pack and a ‘sale’ is defined (in section 177 of the 2004 Act) by reference to various freehold or leasehold interests. ‘Residential property’ is defined (in section 148 of the 2004 Act) as meaning ‘premises in England and Wales consisting of a single dwelling-house including any ancillary land’. Therefore, a home information pack will be required for each dwelling that is on the market providing that the duties in the 2004 Act apply.

2(3) – This contains interpretation of the term ‘physically complete’ where used in relation to a residential property. Where there is a question as to whether a property is physically complete, one which has basic living amenities will be considered complete. This is relevant when determining whether a home condition report or a report on a property not physically complete should be included in the pack (see the commentary on regulations 8(j) and 8(n) below).

PART 2

HOME INFORMATION PACK – GENERAL PROVISIONS

Regulation 3: Required, authorised and prohibited documents

Section 163 of the 2004 Act provides for the Secretary of State to make regulations prescribing documents which are required or authorised to be included in home information packs. The Regulations are made principally in exercise of this power. This regulation provides that packs must include 'required' documents, may include 'authorised' documents and must not include any other form of documents.

The difference between 'required' and 'authorised' documents: compulsory and optional documents

Only documents that are prescribed as either required or authorised may be included in home information packs. Documents which are not mentioned in the Regulations should not be included.

Required documents must be included in the pack in all cases except in certain limited circumstances where they are unobtainable or unavailable and regulations 16 or 17 apply. Authorised documents do not have to be provided in the pack. However, it is strongly recommended that these documents are included where they are available and are relevant to the property and/or its sale and are likely to be of interest to a potential buyer.

Where a document which is prohibited from being included in a home information pack is provided to a potential buyer in close proximity to a pack or pack document, it must be distinguished from the pack or pack document. The intention behind this provision is two-fold. Firstly, to distinguish the 'official' pack documents from others, to avoid consumers being confused or misled into believing that prohibited documents form part of the pack. Secondly, to ensure that consumers know the difference between pack documents and, for example, advertising or marketing information about other services that they might otherwise feel pressured to accept. This provision does not prevent anyone from giving such information to a potential buyer providing that the nature of it is made clear and distinct from pack documents.

Regulation 4: The original home information pack

This regulation deals with an 'original' home information pack. There is no requirement to supply the original to a potential buyer under these Regulations or the 2004 Act. Instead, section 156(1) of the 2004 Act provides that copies of the pack or pack documents must be provided to a potential buyer on request (see also the commentary on regulation 6 below).

Under this regulation, an 'original' home information pack must be composed of original documents or true copies of them. Where a seller has access to a map, plan or drawing in which colours mark boundaries or other features, those colours must be reproduced accurately.

Regulation 5: The home information pack logo

This regulation provides that the home information pack logo to be prescribed in Schedule 1 must be displayed on the front of each pack document. As with the forms in the Schedules to the Regulations, the logo may be copied for these purposes, although the Government asserts its moral rights in the logo (see the box below on ‘The copying of forms from these Regulations’).

Regulation 6: Copies of a home information pack

This regulation requires that copies of a pack or pack document which must be provided to a potential buyer (or an officer of an enforcement authority under section 167 of the 2004 Act) must be a true copy of the ‘original’ pack or pack document. Under regulation 8 (see the commentary below), official copies of certain documents held by Land Registry must be included in the ‘original’ home information pack. Regulation 6 allows such official copies to be copied, but also allows further official copies to be obtained and included in a ‘copy’ pack. Please also see the commentary on regulation 8(e) below on ‘Relying on official copies’.

Under section 156 of the 2004 Act, a responsible person (as defined by the Act) must, on request, provide a potential buyer with a copy of the pack and may charge a reasonable sum for the cost of making a paper copy and, if requested, sending it to a potential buyer. It is expected that copies of packs will normally be provided electronically where the potential buyer is able to receive it in that form and consents to receiving it in that form (see section 156(11) of the 2004 Act).

The copying of forms from the Regulations

In some cases, the Regulations prescribe standard forms for home information pack documents (using the power in section 163(7)(a) of the 2004 Act). Where the Regulations do so, the relevant form is found in the Schedules to the Regulations. As part of legislation, these forms are subject to Crown copyright. However, copyright in legislation has generally been waived by the Crown and the forms and the legislation containing them may be reproduced.

Nevertheless, moral rights in Crown copyright are asserted to protect the use of such material¹. In particular, the rights to be identified as the author and against use in a misleading or derogatory manner are asserted. This waiver also only extends to legislation derived from an official source (such as a version downloaded from the website of the Office of Public Sector Information). Users should also check that the version used is up to date and should consult the Office of Public Sector Information’s Guidance Note 6 on the precise terms of the waiver². In particular, the forms should be reproduced in full together with the official home information pack logo to be prescribed in Schedule 1 to the Regulations.

Regulation 7: Comprehension of documents

7(1) – provides that information in copies of documents included in packs must be legible and clear, unless originals of certain historic documents (e.g. deeds, leases, regulations made by a landlord or requests for service charges) or copies of documents held by Land Registry (i.e. official copies) are illegible or obscured. However if the entire document is illegible or obscured, it should not be included.

¹ See Chapter IV of Part I of the Copyright Designs and Patents Act 1988.

² Dated 27 October 1999 and revised 9 May 2005.

7(2) – If the property is situated in England, the information set out in the documents must be in English. If the property is in Wales, the information must be provided in English or Welsh or both or a combination of both languages. This does not prevent information being provided **in addition**, in other languages (see guidance on regulation 9(a) below). **These provisions do not authorise any unlawful act of discrimination and do not confer any authority to refuse to provide a pack or sell a residential property to those who only speak a particular language.**

See also the commentary on regulation 9(b), below, which allows packs to include additional versions of pack documents in alternative forms, such as Braille or large print.

PART 3

CONTENTS OF HOME INFORMATION PACKS

Regulation 8: Required pack documents

8(a) – a **completed version of Part 1 of the index**. This will indicate all required documents contained in the pack. It provides a helpful checklist for sellers, estate agents and enforcement authorities to ensure that no required documents are missing from the pack. The index has to be in the form prescribed in Schedule 2 to the Regulations and this form sets out all the documents required and authorised to be in the pack. Only authorised items which are not actually included in the pack may be deleted from the index Regulation 15 (described further below) requires that if documents are later added to or removed from the pack, the index must be revised or amended accordingly. Part 2 of the index relates to commonhold information and Part 3 relates to leasehold information. These parts of the index are only required where these types of property are being sold (see paragraph 1 of Schedule 6 and paragraph 1 of Schedule 7 respectively).

8(b) – a **completed sale statement**. This will provide a brief summary of the nature of the interest in the property being offered for sale. This statement has to be in the form prescribed in Schedule 3 to the Regulations.

8(c) – a **home contents form**. This must be in the form prescribed in Schedule 4 to the Regulations. The form provides an opportunity for sellers to indicate the contents of the property and their preliminary intentions as to which items are included in the sale and which are not. There is no requirement for the seller to complete this form. The requirements of the regulations are satisfied if a blank form is included in the pack. However, it is strongly advised that sellers should include a completed form as far as possible. Any information inserted in the form does not in any way commit the seller. Rather, its purpose is to give potential buyers an indication of the seller's intentions. These can then be taken into account in pre-contract negotiations over price, and help avoid misunderstandings leading to disputes, delays and renegotiation later in the transactions process. The form assumes that certain basic items will be included in the sale (e.g. central heating systems, double glazing and light fittings; see the 'Home essentials' part of the form) although the form can be used to indicate otherwise. There is also a section dealing with certain contents which are commonly the subject of negotiation between buyer and seller (e.g. carpets and curtains; see the 'Home furnishings' section). The question of whether particular items are included in the sale is frequently important to a buyer and often causes delay and frustration during the course of a sale. This is why completion of the form is strongly recommended at this stage of the home buying process.

8(d) – a **home use form**. This must be in the form prescribed in paragraph 1 of Schedule 5 to the Regulations. As with the home contents form, there is no requirement for the seller to complete this form and the requirements of the regulations are satisfied if a blank form is included in the pack. However, it is strongly recommended that sellers should include a completed form as far as possible. The form enables the seller to provide for the benefit of potential buyers and their legal advisers information about the property and its use, alterations to it, its boundaries, access arrangements and other matters that are important to the sale but are not necessarily apparent from the evidence of title or other documents included in the pack. This is information that a buyer's legal adviser is likely to seek, and so completing this form is likely to help speed up the sale and help it proceed smoothly.

This information, if not revealed at the start of the transaction process, could easily put the transaction at risk, or at least lead to renegotiation and delay. A buyer and buyer's mortgage lender will rely on the information provided in this form. It is therefore important that the answers are as accurate and truthful as possible. The form is in four parts: Parts 1 and 2 are for all properties; Parts 3 and 4 are respectively for commonhold and leasehold properties. The form can be completed by someone on behalf of the seller, but the seller should check the answers and it should be completed with their authority.

8(e) – the documents described in this regulation and in regulation 8(f) are required to provide satisfactory **evidence of title to the property**. Regulation 8(e) describes documents official copies of which are available on request from Land Registry and must be included in the pack where the whole or part of the property interest is registered with the Land Registry. These documents provide an up to date official record of who owns the land, so no further evidence of title should be needed. These documents should comprise:

- official copies of the 'individual register' (made up of a property register, proprietorship register and typically a charges register); and
- an official copy of the title plan.

In the case of a commonhold interest, official copies of the register and title plan should be produced for both the unit and common parts (see the guidance on regulation 8(g) below for further details on commonhold land).

There may be other documents referred to and dated in the individual register (for example, a right of way) and in some instances these documents are summarised or extracted in the register. If a potential buyer has concerns about the implications of such documents, it is often possible to apply to Land Registry for official copies of the documents referred to (known as 'filed copies'). Alternatively, he or she can seek professional advice. A seller can choose to include such documents in the home information pack (see the guidance on regulation 9(f) below).

Relying on official copies

The right to rely on official copies is found in the Land Registration Act 2002. Under section 67(1) and (2) of that Act, a Land Registry official copy has the same legal effect as an original and a person who relies on an official copy in which there is a mistake is not liable for loss suffered by another person by reason of the mistake. Paragraph 1(d) of Schedule 8 of the Land Registration Act 2002 entitles a person to be indemnified by the Chief Land Registrar if he suffers a loss resulting from a mistake in an official copy.

Land Registry official copies were previously known as 'office copies' although there is no statutory definition of either. In practice a hard copy of an official copy is one prepared by Land Registry on watermarked paper or a printed version of an electronic official copy (providing that the electronic file has not been modified or corrupted). Land Registry's view is that a photocopy of an official copy would not necessarily benefit from the protections described for official copies in the Land Registration Act 2002. For more information on official copies and how to apply for them, see Land Registry Practice Guide 11³.

Copies of the register are Crown copyright. Land Registry permits copies to be reproduced to potential purchasers and other relevant parties as part of this Pack but this permission does not extend to any other purpose.

³ Dated October 2005 and available at <http://www.landregistry.gov.uk/assets/library/documents/lrpg011.pdf>

8(f) – this regulation applies to **unregistered land**, that is, where the property interest or part of it is not registered with Land Registry and where therefore the title to the estate, including its past history, needs to be examined in order to deduce title. In such cases, the documents required to be included in the pack are a copy of a certificate of an official search of the index map (this is obtained from Land Registry) and of such other documents as the seller intends to rely on to provide evidence of his or her title to the property and hence their right to sell it. These documents would normally comprise a bundle of title documents held by the seller or by the seller's lender or solicitor. Usually, there are two ways of deducing title to unregistered land:

1. A 'good root of title' together with an 'abstract' of title. A good root of title will be a document at least 15 years old which records a transaction with the entire legal and equitable estate in the property, and which does not reveal any potential problems with the title or raise any suspicions about its validity. An 'abstract' of title will be a record of every transaction affecting the property dated after the good root of title and summaries of all the documents; or
2. A good root of title together with an 'epitome' of title (effectively an index) and full copies of every subsequent transaction.

8(g) – this regulation applies where the property is or includes land registered at Land Registry as a **freehold estate in commonhold land**. By its nature a freehold estate in commonhold land does not exist unless its title is registered at Land Registry, so there can be no such interest in unregistered land. Commonhold is a form of freehold ownership, created by the Commonhold and Leasehold Reform Act 2002, which provides a framework for freehold ownership of a part of a multi-occupied development (for example, a flat in a block of flats). Individual title is held in a 'unit' and title to the common parts is held by a commonhold association which is a company limited by guarantee. The commonhold community statement sets out the rights and obligations of unit-holders and the commonhold association. The Commonhold Regulations 2004⁴ provide for a model commonhold community statement to be used.

See guidance on **Schedule 6** below which deals with all the additional documents required or authorised to be included in a home information pack for commonhold property interests.

8(h) – this regulation applies where the interest in the property being offered for sale, or any part of it, is **leasehold**.

See guidance on **Schedule 7** below which deals with all the additional documents required or authorised to be included in a home information pack for leasehold property interests.

8(i) – A home information pack is not required if the property is not being offered for sale with vacant possession under section 160 of the 2004 Act. However, this is subject to the exception described in section 171(2) of the 2004 Act and this regulation applies in those circumstances, that is, **where two or more dwellings in a sub-divided building are marketed for sale as a single property** and only part of the property is being offered for sale with vacant possession. An example would be a house with a 'granny flat' where the flat is let separately from the remainder of the house. In such circumstances, this regulation requires that the pack must include a copy of the leases to which the property is, or is

⁴ Statutory Instrument No. 2004/1829.

expected to be subject after the sale has been completed (see guidance on Part 5 for more detail on exceptions to the requirement to provide a home information pack).

8(j) – This regulation applies to properties that are physically complete and concerns the information to be provided about the physical condition of the property. Regulation 8(n) (see below) deals with incomplete properties.

As described above, regulation 2(3) provides that ‘physically complete’ refers to the construction or completion of a property or its conversion for residential purposes. Where there is a question as to whether a property is indeed ‘physically complete’, regulation 2(3) specifies that a property which has basic living facilities shall be considered physically complete (i.e. is wind and weather proof, is safe and sanitary and has heating, water, electricity, washing and drainage facilities).

There are two ways of providing information about physical condition where a property is physically complete. A person must include one or both of the options set out in 8(j)(i) and (ii):

8(j)(i) – A home condition report. This is described in regulation 2(1) and further provision is made about such reports in Schedule 8. This will be a report on the physical condition of the property and its energy performance that will give the buyer, seller and mortgage lender important information about the condition of the property. The guidance on Schedule 8 gives further details on home condition reports, but briefly, they will be the equivalent of what is currently a mid-range survey and are to be completed by a person (a ‘home inspector’) who is a member of an approved certification scheme. The role of a certification scheme is to ensure that home inspectors are fit and proper persons who are properly qualified and insured to produce home condition reports.

Home inspectors will work in a variety of ways, varying from sole traders to employees of substantial corporate enterprises. However, all home inspectors will be individual members of a certification scheme and must follow its rules and requirements. Although consumers may contact the home inspector direct to obtain a home condition report it is likely that, in many cases, estate agents or other providers of home information packs will engage the home inspector on the consumer’s behalf. The cost of providing the home condition report will not be set by the regulations and is likely to be determined by the market, having regard to such matters as the length and complexity of the task. The amount and timing of payment of home inspectors’ fees will be a matter for the contract under which they are engaged, although as described in the commentary on Schedule 8 below, the Regulations prescribe certain minimum terms for the contract under which a home condition report is prepared.

8(j)(ii) – A copy of the terms of a new homes warranty plus confirmation that the warranty will apply. Most newly built or converted homes are covered by such warranties, which generally serve two purposes:

- to guarantee that the home has been or will be constructed to a particular standard; and
- to ensure that redress is available to the owner if the construction falls short of that standard.

This regulation gives an exemption from the requirement to provide a home condition report if the home is covered by a new homes warranty which is about to start. This provision only applies to the warranties to be listed in Schedule 9 which the Secretary of State decides will provide consumer protection to home owners. The Secretary of State is in the process of preparing criteria to be used in making that decision.

The home information pack must provide evidence that warranty cover will be available. Typically, the warranty provider will issue a cover note to a builder when a property is physically complete, confirming that the property meets the requirements for cover under its warranty scheme, but the warranty itself does not commence until a date agreed between the warranty provider and owner. This date will usually be when the property is sold to a new owner who intends to take possession of it. Such a cover note would be evidence that the warranty is offered on the property.

In the case where one of the specified warranties has been offered on a property, two documents should be produced in the home information pack:

- the proposed terms of the new homes warranty; and
- the warranty cover note.

If at the first point of marketing a property is not complete the 'report on a property not physically complete', as specified in Schedule 9, must be in the pack. However, if it is subsequently completed and a responsible person voluntarily commissions a home condition report, that must be included in accordance with regulation 18 (see commentary below) and the report on a property not physically complete may be retained in the pack.

It is important to note that the warranty must not have commenced at the first point of marketing. Once the warranty has commenced, a home condition report will be required for subsequent sales. A home condition report is necessary for later sales, because even where the warranty is still in place, it could have become invalidated by unauthorised or inappropriate alterations to the property, or lack of maintenance.

If the warranty is not one of those specified in Schedule 9, then a home condition report is required even where the warranty has not commenced.

8(k) – provides that a new homes warranty that has already commenced and is current, it must be included. Typically a new homes warranty lasts 10 years, and can transfer to a new owner within that period.

8(l) – This provides that all home condition reports commissioned in the past 12 months must be included in the home information pack. The purpose of this requirement is to ensure transparency by requiring that the buyer can see all of the home condition reports prepared by or on behalf of the seller or an estate agent acting for him. For example, if the seller has undertaken repair work to rectify defects identified in a home condition report and then commissions a further report, having both reports in the pack will identify for a buyer both the original defects and the work carried out. This should also reveal whether a seller has 'shopped around' for a favourable home condition report.

The minimum terms under which home condition reports are prepared should include terms allowing home condition reports to be copied and included in the pack (see Schedule 8, paragraph 2 (c) and (d)). Please see the guidance on regulations 8(j) and (i) for further information about such contracts.

Under regulation 11, a home condition report must not be included if it has been prepared on behalf of a former seller or his estate agent. Therefore, regulation 8(l) only applies to the home condition reports commissioned for the current seller.

8(m) – The EU Directive on the energy performance of buildings (2002/91/EC, Official Journal No. L1, 4.1.03, p 65) will require that when any buildings are constructed, sold or rented out an energy performance certificate is made available to the owner or by the owner to the prospective buyer or tenant. The home information pack will be the primary vehicle by which energy performance certificates are produced for sales of properties to which the Regulations apply.

The home condition report will contain an energy performance certificate (see guidance on Schedule 8, paragraph 4(q) for more information) which will need to comply with the requirements of the UK legislation implementing the Directive. Although energy performance certificates can last for 10 years under the Directive, a new certificate will be made every time a new home condition report is made. This will ensure that the buyer has up to date information about the energy performance of the home and cost effective improvements that could be made. It is expected to be cost-effective to include an energy inspection while the home inspector is on site preparing the home condition report, enabling an up to date energy performance certificate to be provided at minimal extra cost.

Where a home condition report is not included in a pack (i.e. because a new homes warranty is provided instead), then a stand-alone energy performance certificate must be provided. Additionally, if a stand-alone energy performance certificate is obtained after the home condition report is prepared, that must be included in the home information pack along with the home condition report, irrespective of the fact that the home condition report already includes an energy performance certificate. This is because it is expected that the UK's implementation of the Directive will provide that only one certificate can be current for a property (i.e. the last one, providing it has not expired).

It is expected that consumers will also be able to obtain a stand-alone energy performance certificate from home inspectors (see guidance on regulation 8(j)(i) above). It is also envisaged that other inspectors will become qualified to prepare stand-alone energy reports which will also be needed for other types of property transactions e.g. commercial properties or sales of residential properties which are not marketed. ODPM will provide further information in due course.

8(n) – In cases where the property is not physically complete (see guidance on regulation 8(j)), it is not possible to assess the condition of a property, and therefore a home condition report cannot be provided. Instead, the home information pack must include a different report, which provides the buyer with important information about the dimensions, lay-out and construction intended for the property. The form of this report, entitled 'Report on a home not physically complete', is prescribed in Schedule 10 and may be completed by the seller, or such persons as the seller's architect or builder and should state the name and qualifications of the person monitoring the construction, completion or conversion of the property.

8(o) – a search report that records the results of a search of the appropriate local land charges register that relates to the property being sold. The search may be an ‘official search’ or a ‘personal search’ under the Local Land Charges Act 1975 (these terms are defined under ‘searches’ in regulation 2). In either case the search report must comply with the general conditions on searches described in Schedule 11 of these regulations. Where the search report is the outcome of an ‘official search’ the report should be in the form of an official certificate of an official search of all parts of the local land charges register. This form is found in Form C of Schedule 1 to the Local Land Charges Rules 1977. Where the search report is the outcome of a ‘personal search’ it may take a different form but must also record the results of a search of all parts of the local land charges register.

8(p) – a search report that records the results of a search of records that are either held by or derived from a local authority and which complies with Schedules 11 and 12. Schedule 11 sets out general provision on searches and search reports. Schedule 12 specifies the information that must be included in a search report recording the result of ‘local enquiries’, as they are known in the Regulations.

8(q) – a search report that records the results of a search of records that are either held by or derived from a water or sewerage undertaker and which complies with Schedules 11 and 13. Schedule 11 sets out general provision on searches and search reports. Schedule 13 specifies the information that must be included in a search report recording the result of drainage and water enquiries.

Regulation 9: Authorised pack documents

The Regulations prescribe documents which are authorised to be included in home information packs. Authorised documents contain information that is likely to be of particular interest to potential buyers but which at this time is not considered to be information which should be compulsory in every case. This may be for a variety of reasons – for example, because the information is not always readily available in a reliable, easily understood and cost-effective form; because products providing the information are relatively new and as yet are not fully tested; because the information is not relevant to all home sales; because the information is provided as part of the present process on a discretionary basis; or because the information, while required at a later stage of the transaction process, is not key to the initial decisions that sellers and buyers need to make.

Authorised documents and information do not have to be provided in home information packs. However, it is recommended that these documents are included in the pack where they are relevant to the property and/or its sale and are likely to be of interest to potential buyers. In particular, it is strongly recommended that completed home contents and home use forms are included. Authorised documents or information may be added to the pack at any time but it is recommended that where available they are included from the outset. This is important because failure to include in the pack authorised documents where they are relevant and available could delay the sale of the property and prevent the seller and potential buyer achieving the full benefits of marketing homes with a home information pack.

Documents containing authorised, as well as required, information should be endorsed with the ODPM’s Home Information Pack logo (see guidance on regulation 5). This is to make it easy for potential buyers and their advisers to differentiate between these documents and other documents that are prohibited by regulation 3 from being included in the pack but which might be supplied alongside the pack.

As with required documents, authorised documents included in home information packs must be in English where the property is in England and in English and/or Welsh where the property is in Wales. **Regulation 9(a)** provides that, in addition, home information packs may include an accurate translation in any language of any document required or authorised by the Regulations, and **9(b)** authorises the inclusion of additional versions of pack documents in other formats such as Braille or large print.

Other documents and information authorised to be included in home information packs are prescribed in regulation 9(c) to (l) and Schedules 4, 5, 6 and 7 to the Regulations. These are:

9(c) – A completed or partially completed home contents form in the form prescribed in Schedule 4 to the Regulations.

9(d) – A completed or partially completed home use form in the form prescribed in paragraph 1 of Schedule 5 to the Regulations.

9(e) – Any documents containing information of a description set out in paragraph 2 of schedule 5 to the Regulations. This is intended to allow the seller to supplement or replace information provided by the property use form. This includes information about rights of way, communications with public authorities, information about standards of safety or construction, alterations to the property, warranties and guarantees, utilities and taxes or charges relating to the property.

9(f) – Allows people to include extra title information obtained from Land Registry in the form of official copies of documents referred to in the individual register (also known as ‘filed copies’, see the guidance on regulation 8(e) above).

9(g) – Where the property is or includes a freehold estate in **commonhold** land, any documents containing some or all of the information specified in paragraphs 3 and 4 of Schedule 6 to the Regulations. This is intended to supplement the required documents listed in paragraph 1 of Schedule 6 with other documents providing similar or related information about any matter connected with the property or its sale that would be of interest to potential buyers of commonhold property.

9(h) – Where the property is **leasehold**, any documents containing some or all of the information specified in paragraphs 3 and 4 of Schedule 7 to the Regulations. This is also intended to supplement the required documents listed in paragraph 1 of Schedule 7 with other documents providing similar or related information about any matter connected with the property or its sale that would be of interest to potential buyers of leasehold property.

9(i) – Once the home condition report is obtained, the seller may choose to undertake works to remedy any defects identified in the report. This regulation allows the seller to include in the home information pack documentary evidence of any such work that has been done. This information may be included in a home information pack at any time, before or after the home is put on the market for sale.

9(j) – This allows the inclusion in the pack of any other guarantees against defects in the design, construction, completion or conversion of the property (e.g. those other than the new homes warranties specified in Schedule 9).

9(k) – this authorises the inclusion in the home information pack of searches that relate to the property being sold. These searches are not required to be included in the home information pack but sellers may consider it advantageous to include them where appropriate. It is standard practice to obtain a mining search in areas where coal mining has taken place for example and sellers will save time if they provide this in the pack. Search reports must comply with the general conditions on searches described in Schedule 11 of these regulations but paragraph 7 of the regulations provides that authorised searches may include any terms. The regulation specifies the matters that may be covered an authorised search. These are searches:

- relating to records held by or obtained from a local authority and dealing with matters other than those contained in a search report required by regulation 9(0) or 9(p);
e.g. Supplementary enquiries on matters not covered by the 'local enquiries' described in Schedule 12 are sometimes made of local authorities using the Law Society form CON 29 Part 2 (Optional enquiries of Local Authority).
- relating to common land;
e.g. A 'commons registration search' is often made where a residential property is near to land which is common land or a town or village green.
- relating to rights of access to, over or affecting the property interest;
e.g. The 'optional enquiries form' referred to above includes a question on rights of way. This information is often requested by buyer's conveyancers, particularly in rural areas.
- relating to ground stability, the effects of mining or extractions, or the effects of natural subsidence;
e.g. A coal mining search will indicate whether the property is in the vicinity of workings and similar reports are available covering other mining activities such as Tin (affecting Cornwall, Devon and parts of Somerset), Salt (Cheshire), Limestone (West Midlands), China Clay (Devon, Dorset and Cornwall). The British Geological Survey produce a report on natural subsidence.
- relating to actual or potential environmental hazards, including the risks of flooding or contamination from radon gas or any other substance;
e.g. The Environment Agency and others provide search reports that include information on flood risk, proximity to landfill sites, industrial processes, radioactive materials etc. Commercially available environmental reports provide a view on whether land is potentially contaminated and might require further investigation. Information on whether the property is within an area known to be affected by Radon gas is included in replies to form CON 29 Part 1 (Standard enquiries of local authorities. There are also commercially available radon gas reports on the market.
- relating to telecommunications services;
e.g. British Telecom and other telecommunication companies provide search reports on matters affecting the property. These include the existence of wayleaves and services that are connected to the property.

- relating to utility services;
e.g. Electricity companies provide search reports on wayleaves, electricity equipment, electricity supply and other matters affecting the property. Gas companies provide information on the location of pipes etc and whether the property can be connected to the gas supply.
- relating to the potential or actual effects of transport services, including roads, waterways, trams and underground or over-ground railways;
e.g. The Highways Agency, Port of London Authority, London Transport and others provide search reports on matters affecting transport infrastructure that may be of interest to home buyers.
- relating to liabilities to repair or maintain buildings or land outside the property interest;
e.g. A Chancel Repair search will reveal whether there is a liability to contribute towards repairs at the local parish church.
- relating to information about any other matter connected with the property that would be of interest to its potential buyers.
e.g. Search reports on other relevant matters not specified here may be included in the home information pack provided they comply with the general conditions described in Schedule 11.

9(1) – a search report that relates to other land or property in the vicinity of the property may also be included in the home information pack provided it complies with the conditions described elsewhere in these regulations. A person selling a house in a rural location, for example, might want to show that there are no plans to develop adjacent land.

Regulation 10: Creation of interests

10 – Under section 177(2) of the 2004 Act, the definition of a ‘sale’ of a property for the purposes of the Act (and consequently the Regulations) includes a reference to the creation of interests. This regulation applies in these circumstances: that is, where the sale would create a new property interest. An example would be a new leasehold interest to be created by the proposed sale of a newly created flat within a freehold property. The purpose of this regulation is to ensure that, where appropriate, the documents included in the pack provide information about the new property interest being offered for sale.

In particular, regulation 10 provides that:

- **10(2)** – the property interest, or interests, described in the sale statement in the pack (see guidance on regulation 8(b) above) must be the new property interest(s) that will be created by the sale. Thus in the example of the new lease referred to above, the proposed new leasehold interest would be described;
- **10(3) and (4)** – where the property interest has not yet been created, it will obviously not be possible to prove evidence of title to that interest. Consequently, the effect of regulations 10(3) and 10(4) is that title should be proved for the interests from which the new interest is being created. If the pre-existing title is registered, official copies and the title plan should be produced and if the pre-existing title is unregistered, an index map search and the other documents deducing title (see the guidance to regulation 8(e) and (f) above);

- **10(5)** – this provides that all the other provisions in the Regulations requiring or authorising documents to be included in a home information pack apply to new interests but that those provisions should be interpreted according to the particular circumstances and by reference to what is relevant in those circumstances. Paragraph 5 of Schedule 6 and paragraph 5 of Schedule 7 to the Regulations specify (for the avoidance of doubt) some of the documents that will be relevant to a new commonhold or leasehold interest (see also the commentaries above on regulation 8(g) and (f)).

Regulation 11: Prohibitions relating to home condition reports

11 – Home condition reports must not be included in the home information pack if they are prepared on behalf of a former seller or his estate agent. The reason for this prohibition is that a home inspector's professional indemnity insurance is unlikely to cover previous transactions. If a potential buyer were to see a copy of such a report, which was inaccurate and relies on it to their detriment, it is unlikely that redress through insurance would be readily available, so they should not be included in home information packs. However, insurance and redress is likely to be available in respect of any inaccuracies in reports prepared for or on behalf of the current seller. Third parties are likely to have rights in relation to insured home condition reports (see further the guidance on Schedule 8 below).

PART 4

ASSEMBLY AND AUTHENTICITY OF HOME INFORMATION PACKS

Regulation 12: The first point of marketing

The first point of marketing is defined in regulation 2(1) as the day on which a duty to have a home information pack first arises. This will usually happen where a person becomes a 'responsible person' under the section 155(1) of the 2004 Act (sections 151 to 153 describe when a person becomes responsible) and where an estate agent undertakes a 'qualifying action' under section 159(2) of the Act (that is, where the property is not on the market but the estate agent is undertaking direct marketing).

However, if the property is taken off the market for more than 28 days, the first point of marketing starts again and becomes the day the property is put back on the market. Given that regulation 8(3) provides that most documents included in a home information pack must be those that are up to date at the first point of marketing, the practical significance of this is that if the property is taken off the market for a period of more than 28 days, some of the documents required to be included in the pack (in particular, copies of the individual register and title plan, the home condition report and searches) may no longer be current for the purposes of regulation 8(1) to (3) and may need to be replaced before the property is put back on the market. If the property is taken off the market for a period of less than 28 days, the documents that have already been collated will still be current for the purposes of the pack and will not need to be replaced when the property is put back on the market.

12(5) provides that if there is a gap in marketing because the property is taken off the market because the seller has accepted an offer to buy the property, the first point of marketing remains the point at which marketing originally started – if in the unfortunate event that the sale does not proceed and the property is put back on the market. Pack documents do not need to be refreshed in these circumstances. The reason for this is to avoid encouraging sellers keeping a property on the market once an offer has been accepted and to avoid any consequent gazumping.

12(6) indicates that where pack documents are later added to the pack, the first point of marketing in relation to an added document relates to the time the particular document is included. A point in time for a particular document is necessary to determine which is the most current version of the document, particularly where the requirement is to produce versions of documents that were received within a particular timeframe – for example, for leasehold properties paragraph 1(i) of Schedule 7 requires the inclusion of the most recent requests for payment of service charges and other specified matters relating to the 12 months preceding the first point of marketing.

Regulation 13: Time at which pack documents are included

13(1) requires that, subject to Regulations 16 and 17, documents required by Regulations 8 and 10 must be included in the pack before the first point of marketing.

13(2) provides that documents authorised by Regulations 9 and 10 may be included in the pack at any time. It is recommended that these documents are included at an early stage and, where possible, before marketing activity commences.

Regulation 14: Age of pack documents when first included

The purpose of Regulation 14 is to ensure that the contents of home information packs are up to date at the point when the property is first marketed for sale.

14(1) – If the property is registered at Land Registry, official copies of the individual register and title plan required by regulation 8(c) must be not more than 3 months old at the first point of marketing.

14(2) – The most recent home condition report included in the home information pack must not be more than three months old at the time marketing begins. Three months is allowed between completion of the report and marketing, to allow the seller to defer marketing, for example to undertake work to remedy defects identified in the home condition report. Three months is considered a reasonable period, as the condition of a property is unlikely to change rapidly during this period, unless there is a significant intervening event. The buyer and his advisers will be able to enquire whether any such event has occurred.

Once the home condition report is included in the home information pack, the responsible person is not required to update or renew the report, unless the property is taken off the market for more than 28 days, in which case (unless the gap is because the seller has accepted an offer) all the pack documents should be reviewed to see if they are still current according to the Regulations (see the guidance above on regulation 12 the ‘first point of marketing’). However, where a person voluntarily commissions a further home condition report, that must be added to the pack (see the guidance on regulation 18, below).

14(3) – Any other required or authorised document must be the version most recent to the first point of marketing. For the avoidance of doubt, **14(4)** requires that any separate amendments to documents must be included in the pack if those amendments were made before the pack was first compiled.

Regulation 15: Updating of home information pack index

This regulation requires that the home information pack index required by Regulation 8(a) must be kept up to date during the period that the property is marketed for sale. Regulation 15(a) requires that the index must be revised whenever a document is included in or removed from the pack. Regulation 15(b) requires that when a required document is unobtainable or unavailable (see guidance on Regulations 16 and 17 below) the index must indicate the reason and, in the case of a document that is unavailable, the steps being taken to obtain it.

Regulation 16: Required pack documents which are unobtainable

Regulation 16 applies to certain documents required to be included in home information packs under regulation 8. The documents affected are those connected with deducing title to an unregistered property (regulation 8(f)(ii)), leases, licences to which the property is subject in the case of partial occupancy (regulation 8(i)) and new homes warranties against defects in the building that are current (regulation 8(k)). It also applies to documents containing required commonhold information and required leasehold information but blank versions of the appropriate parts of the home use form must always be included.

Regulation 16 provides that, in relation to these documents, where following all reasonable enquiries and efforts, the responsible person has reasonable cause to believe that the document cannot be obtained from another person, cannot be created or no longer exists, the requirement to include the document in the pack and the duties in Part 5 of the Housing Act 2004 that might have applied to that document cease to apply. In such circumstances, marketing of the property can commence without that document, though the home information pack index needs to indicate that the document is missing and the reason why.

In some cases, copies of these documents may be available from an alternative source. This regulation ensures that marketing is not prevented or delayed when there is reasonable cause to believe that a document is unobtainable.

This regulation does not apply to documents required by Regulation 8 other than those detailed above. All other documents required by Regulation 8 should be obtainable in all cases and must be included in the pack before the property is marketed for sale.

Regulation 17: Required pack documents which are unavailable before or at the first point of marketing

Regulation 17 recognises that there will be instances where documents are obtainable but where despite all reasonable efforts of the responsible person (that is, the seller or any person acting as estate agent for the seller), certain documents required to be included in a home information pack cannot be obtained for the pack within a reasonable timescale. The documents covered by regulation 17 are those connected with deducing title to an unregistered property (regulation 8(f)(ii)), leases, or licences to which the property is subject (regulation 8(i)), new homes warranties against defects which are current (regulation 8(k)), past copies of home condition reports (regulation 8(l)) and stand-alone energy performance certificates (regulation 8(m)). It also applies to documents containing required commonhold information and required leasehold information but blank versions of the appropriate parts of the property use form must always be included.

Regulation 17 provides that where despite all reasonable efforts of the seller or any person acting as estate agent for the seller, a document of a description listed above has not been obtained after 14 days, marketing of the property may commence without that document being included in the pack, subject to certain conditions.

To satisfy the requirements of this regulation, the responsible person (the seller or any person acting as estate agent for the seller) must have done, and to continue to do, everything that could reasonably be expected of them ('all reasonable efforts' would include following up requests and, where necessary and possible, seeking to obtain the document from an alternative source); the request for the document must have been properly addressed to a person who usually provides or is likely to provide such a document (for example, to a home inspector or employer of home inspectors in the case of a home condition report); and the request must have been made in such form, and containing all such information and payment or undertaking to make such payment, as is usually necessary to obtain that document from that source.

The 14 day period is calculated from the date on which the request for the document (or if in parts the date of the last part of that request) is either:

- Served personally on the intended recipient. This means leaving it with the intended recipient, or if the intended recipient is a business leaving it with an employee or owner of that business, or if the intended recipient is a corporate body by leaving it with an employee or member of that corporate body; or
- Left at, or received by post at, the intended recipient's address. Where the request is sent by post this is the date of the day it would be delivered in the ordinary course of post – (currently not less than one day if sent by first class post and not less than two days if sent by second class post). The recipient's address is:
 - in the case of an individual either his usual or last known residence, or if that is the property being sold and the intended recipient no longer resides there, both that address and any other address from which it can be assumed the person will be contacted; and
 - in the case of a business or corporate body, any principal or last known place of business from which the requested document or information is usually or likely to be provided; or
- Sent by electronic communication. The address must be the electronic address, identification or number published or provided by the intended recipient for that purpose.

Where a document is missing from the pack, this must be indicated in the home information pack index, together with the reason why it is missing and the steps that are being taken to obtain that document. The document must be included in the pack as soon as reasonably practicable after it has been obtained, and the pack index amended accordingly.

Regulation 18: Required updating of pack documents

There is no requirement in the 2004 Act or in the regulations for the contents of the home information pack to be updated during the marketing of the property. However, in some cases, the seller or an agent acting on behalf of the seller might voluntarily obtain or create a further version of a required document in the pack. Regulation 18 provides that in these circumstances the new document must be added to the pack and, except where the document is a home condition report, any document wholly superseded by the new document must be removed.

If the responsible person chooses to commission another home condition report, for example following changes or improvements to the property, the new home condition report should not replace any old reports in the home information pack, as may happen with other documents. A home condition report may not be removed, in whole or in part, from the home information pack (unless it becomes clear it is a prohibited document commissioned for a previous seller – see the guidance on regulation 11, above). Therefore, both the new report and the original report must be included in the pack.

Regulation 19: Authorised updating of pack documents

This regulation relates to documents which are authorised (rather than required) to be included in home information packs. It provides that where a seller or agent acting on the seller's behalf wishes to revise or substitute a document authorised to be included in the pack, they may do so. However, the only circumstances in which a home condition report may be removed from the pack is when that report was completed by or on behalf of someone other than the seller or his agent – for example, a previous owner of the property – and therefore prohibited from inclusion in the pack by regulation 11.

Regulation 20: Seller's check of the home information pack

This regulation provides that where the responsible person is not the seller (usually where he is the seller's estate agent), he must provide the seller with a copy of pack documents if he requests them in order to check their accuracy. This is important both to help ensure that the contents of the pack are accurate and to ensure that the seller has access to documents which concern his property (i.e. the pack).

PART 5

EXCEPTIONS

The home information pack legislation is only intended to cover the sale of properties that will be used or could be used as a home by the owner and where the sale is likely to form part of a chain of transactions. There are a number of exceptions from the duty to provide a home information pack where those events are unlikely. These exceptions are set out in regulations 21 to 26.

Regulation 21: Business premises and business use

21(1) – Under this regulation there is **no duty to provide a home information pack** when marketing business premises for sale.

21(2) – clarifies what the meaning of ‘business premises’ for the purposes of these regulations. **It should be noted that business premises should be given its ordinary meaning and that this regulation provides some instances of properties which are deemed to be business premises and others which are not. It is not an exhaustive list.**

21(2)(a) – a home information pack is not required when marketing a property that is currently used, or was last used, primarily for business purposes. For example, if a building that is currently used as an office is put on the market, no home information pack is required. If the property is vacant at the time it is marketed then the purpose of the building will be determined by its last use. Thus, a property that was last used for business purposes (e.g. an office) would be considered a business property and a home information pack would not be required.

21(2)(b) – under this regulation, any business property that is adapted into a primarily residential dwelling, or will be by the time the sale is complete, has to be marketed with a home information pack. This is to ensure that consumers who purchase a property in the expectation that they can use it as a residential dwelling without any further adaptation benefit from a home information pack. For example, a shop that will be converted into a home by the time the sale is complete should be marketed with a home information pack.

21(2)(c) – under this regulation, a home information pack should be provided when marketing any property that is, or was last used, primarily for residential purposes. If the property is currently vacant, but its last use was as a home, then it should be considered a residential property.

Properties are not business premises for these purposes if their **buildings** are **primarily** used for residential purposes. For example, a large house with a plot of land that is leased out as a paddock would not be considered, under these Regulations, as a business property as the main use of the premises is residential. Therefore, a home information pack would have to be provided when marketing such a property.

21(2)(d) – This section sets out that a home information pack will **not** have to be provided when marketing a residential property if it has been, or is due to be, converted for business use by the time the sale is complete.

21(3) – This section gives examples of ‘business uses’ and includes use as a hostel, hotel, residential care accommodation or residential schools. This is not, however, an exhaustive list. Any property that is primarily used for a purpose other than as a home is ‘business premises’ for the purposes of these Regulations.

21(4) – This section clarifies what is **not** ‘business use’ for the purposes of these Regulations, but again is not an exhaustive list. Residential properties that are used for:

- rental purposes,
- as holiday accommodation (either privately or leased), or for
- home working

are not considered, under these Regulations, as having a business use and a home information pack should ordinarily be provided by the responsible person when such premises are marketed for sale. These properties are usually no different from any other home and could therefore be part of a normal chain of residential transactions.

21(4)(a) – Under this section, homes that are, or could be, rented are not considered as having a business use, therefore a home information pack should be provided. For example, a house that is currently used as student accommodation could be bought as a buy to let investment or as a family home. As the property could be bought as a residential dwelling and form part of a chain, a home information pack should be provided.

21(4)(b) – Under this section, a property that is currently used as, or could be used as, a holiday home is not a business use for the purposes of these Regulations, and therefore when it is marketed for sale a home information pack should be provided. The exception is where the property is used as a hotel, boarding house or guest house (see guidance on regulation 21(3)(b) above).

21(4)(c) – Under this section, ‘business use’ does not include use of a residential property for home-working. For example, the owner may have set up an office in their home which they then use to work from home. The responsible person would need to provide a home information pack when marketing the property for sale.

Regulation 22: Mixed sales

22(1)(a) and (b) – the duty to provide a home information pack does not apply to mixed sales, i.e. a combination of residential dwelling(s) and business premises, in circumstances where an offer to buy a single residential dwelling in isolation would not be accepted by the seller (for portfolios of properties, see the commentary on regulation 24 below).

One example of such a mixed sale would be premises comprising a shop with living accommodation over the shop. No home information pack would be required for the marketing of such a property. Another example would be a farm with buildings comprising a farm house and buildings used for purposes connected with farming. If, however, the seller would accept an offer for a single residential dwelling (the flat above the shop, or the farm house) in isolation, a home information pack would be required.

22(2) – It is presumed that this exception applies where the marketing material makes it clear to any potential buyer that offers will only be accepted for the complete property i.e. that offers will not be accepted for the residential dwelling alone. For example, in the case of the farm with a farm house and outbuildings, the marketing should make explicit that only offers for the entire farm would be accepted, and that the farm house would not be sold independently of the land and buildings.

22(3) – If during the course of marketing, the seller of a mixed use property changes their mind and decides that they would be prepared to accept an offer on just the residential part of the property, then a pack must be assembled before marketing can continue. The home information pack would only need to cover the residential dwelling being offered for sale separately.

Regulation 23: Dual use properties

23(1)(a) and (b) – The duty to provide a home information pack does not apply to the sale of properties that are currently used as both residential dwellings and business premises, for example a guesthouse with living accommodation. If the building is currently vacant then, under this regulation, the last use would be determinative. However, in order to be exempt from the duty to provide a home information pack, the marketing material for the property must make it clear to potential buyers that the premises can be used for:

- either residential or business use, or
- both residential and business use.

For example there would be no requirement to provide a home information pack for a property that is currently used as a guest house **and** is marketed as having potential as either a business or residential home, or both. Thus, even though a home is marketed as having **potential** to be used as business premises or both business premises and residential use, a home information pack is still required if the current or last use of the property is primarily as a home. Therefore, a seller would not be able to avoid having a home information pack by marketing the property as suitable for business use where there is no previous use indicating such suitability.

23(2) – It is presumed that this exception applies where the marketing makes clear that the property could be used for either residential or business purposes or both. If, however, the marketing changed so that a property that was originally marketed as having potential as either a business or residential dwelling was then marketed as simply a residential property a home information pack would be required. The first point of marketing would be the time such marketing ceases.

23(3) – For the purposes of regulation 23, properties are **not** business premises if they are used for any of the following:

- horticulture or cultivation solely, or primarily, for the benefit of the occupants and any non-paying guests;

- gardens, fields or woodlands that are used solely, or primarily, for the benefit of the occupants and any non-paying guests;
- keeping animals or livestock solely, or primarily, for the benefit of the occupants and any non-paying guests. For example, a home information pack would have to be provided when marketing a property that had a paddock for keeping ponies that are used by the family. Where however, riding lessons are conducted from the paddock, this might be a business use (although see the commentary on regulation 21(2) above – the use of the **buildings** on the property should be the determinative factor).

Regulation 24: Portfolios of properties

24(1)(a) and (b) – Under this regulation, the duty to provide a home information pack does not apply where one or more properties are being sold and the seller does not intend to accept an offer for any one of the properties in isolation from the others. For example, no home information pack would be required when selling a block of residential flats or a group of holiday homes as a portfolio of properties.

24(2) and (3) – It is presumed that this exception applies where the marketing makes it clear to potential buyers that only offers for the complete portfolio will be accepted. If the seller subsequently decides that they would be prepared to accept offers on single dwellings then a home information pack would need to be supplied for each such dwelling. For example, if a seller markets a portfolio of holiday cottages for sale collectively then a home information pack would not be required for any one of the properties. If, however, he subsequently decides to invite offers on any one of the cottages, in isolation from the others, a home information pack would need to be assembled for that cottage. In such a case, the first point of marketing is the time that decision is made.

24(4) – The exclusion under regulation 24(1) does not apply to properties that consist of more than one building that are all ancillary to one another. For example, a large house with a swimming pool in a separate building from the main dwelling and/or a building containing a gymnasium for use by occupants of the property would not, under these regulations, be considered to be a portfolio. Another example would be a large house with a cottage for staff or guests.

Regulation 25: Unsafe properties

25(1) – This regulation excludes from the duty to provide a home information pack for properties that are unsuitable for habitation because they pose a serious risk to the health and safety of occupants or visitors (or potential occupants or visitors). For example, a home information pack is not required when marketing for sale a property that has fallen into such serious disrepair that it presents a health and safety risk. Any potential buyer would purchase the property in the expectation that extensive work would need to be undertaken before it could be used as a residential dwelling.

25(2) – This regulation provides that a home information pack is required for a property that is currently unsuitable for habitation, if it will be, or is expected to be, suitable for habitation by the time the sale is completed i.e. where a potential buyer expects to purchase a home that is suitable for habitation.

Regulation 26: Demolition

Under this regulation, there is no requirement to provide a home information pack in cases where the property is marketed for demolition and redevelopment, rather than for use as a residential home. For example, the marketing of a house for demolition to make way for redevelopment of the site. If however, the same property is marketed at any time as a family home (as well as a property with potential for demolition and redevelopment), then a home information pack is required.

PART 6

ENFORCEMENT

Regulation 27: Amount of penalty charge

Section 168 of the 2004 Act provides that where an authorised officer of an enforcement authority (that is, a local weights and measures authority) believes that a seller or agent acting on behalf of the seller has committed a breach of the home information pack duties, that officer may give a penalty charge notice. Schedule 8 to the 2004 Act provides that the penalty charge specified in the notice shall be prescribed by regulations and shall not exceed £500. This regulation sets the penalty charge initially at £200. It should be noted that payment of this penalty charge does not entitle the person to continue marketing the property in breach of the home information pack duties. To do so would render that person liable to further penalty charge notices. If the person is an estate agent, it also amounts to an 'undesirable practice' for the purposes of section 3(1)(d) of the Estate Agents Act 1979, and would render them liable to action by the Office of Fair Trading, which ultimately could result in a banning order preventing them from continuing to trade (see section 175 of the 2004 Act).

Regulation 28: Exclusion of penalty charges in relation to the content of documents

Paragraph 11 of Schedule 8 to the 2004 Act provides that the Secretary of State may by regulations make provision supplementary to Part 5 of the 2004 Act. Regulation 28 recognises that the content of many of the documents required to be included in a home information pack is determined by people other than the seller or a person acting as estate agent for the seller. For example, the content of a home condition report is determined by a home inspector who is a member of a certification scheme approved by the Secretary of State, and searches information may be provided by a local authority responsible for maintaining public registers containing that information. It is not intended that the seller or the seller's estate agent should be held responsible for the accuracy of the information contained in such documents included in the pack. Accordingly, regulation 28 provides that the penalty provisions contained in section 168(1)(a) of the 2004 Act shall not apply to a breach of the home information pack duties to the extent that the content of a document (other than the home information pack index and the sale statement) fails to comply with the requirements of the regulations. This exception applies so long as the seller and a person acting as estate agent for the seller have reasonable cause to believe that the document does comply with the regulations.

SCHEDULE 1 – Home information pack logo

This schedule prescribes the logo that home information pack documents need to contain. Use of this logo will enable potential buyers to differentiate between official pack documents (that is, documents required or authorised by the Regulations to be included in the pack) and other documents that might be supplied to them at the same time as a copy of the pack. See the commentary on regulation 5 above.

SCHEDULE 2 – Home information pack index

This schedule prescribes the form of the index, a completed version of which has to be included in the home information pack to index or otherwise explain the contents of the pack. See the commentary on regulation 8(a) above.

SCHEDULE 3 – Sale statement

This schedule prescribes the form of the sale statement, a completed version of which has to be included in the home information pack in order to comply with regulation 8(b). This form provides a brief summary of the interest in the property that is being offered for sale.

SCHEDULE 4 – Home contents form

This schedule prescribes the form of the home contents form that is required to be included in the home information pack under regulation 8(c). Sellers can use this form to indicate to potential buyers the contents of the home that they intend to include in the sale and those that they intend to remove from the property. There is no requirement to complete this form. It is sufficient for the purposes of complying with the Regulations that a blank copy of the form be included in the pack. However, it is strongly recommended that the form included in the pack is completed as far as possible. See the commentary on regulation 8(c) above.

SCHEDULE 5 – Home use information

This schedule prescribes the form of the home use form that is required to be included in the home information pack under regulation 8(d). This form enables sellers to provide information about the property and its use. There is no requirement to complete this form. It is sufficient for the purposes of complying with the Regulations that a blank copy of the form be included in the pack. However, this information is very important to prospective buyers and their legal advisers, and failure to complete the form may lead to delay and other problems later in the transaction process. It is strongly recommended therefore that the form included in the pack is completed as far as possible. It is important that the information provided on this form is as accurate and truthful as possible. See the commentary on regulation 8(d) above.

SCHEDULE 6 – Commonhold information

This schedule sets out additional documents and information required or authorised to be included in the home information pack where the property being offered for sale comprises or includes land registered as a freehold estate in commonhold land. See the commentary on regulations 8(g) and 9(g) above.

The commonhold documents **required** to be included in the pack are found in paragraph 1 of Schedule 6. These include:

- a completed version of the commonhold part of the index (Part 2). As with items on Part 1 of the index, all entries for required pack documents must be listed in the index, although authorised entries for pack documents may be deleted if they are not actually included in the pack;
- an official copy of the individual register and title plan for the common parts. This is in addition to official copies for the unit (see guidance on regulation 8(e), above);
- an official copy of the commonhold community statement. This can be obtained from Land Registry and sets out details of the rights and obligations of the commonhold association and unit holders – for example, voting rights, the requirement for a commonhold assessment (equivalent of leasehold service charges) and the share of the commonhold assessment for which each unit holder is responsible, requirements for reserve funds, obligations for insurance, unit holders' rights to let their units, restrictions on the use of the property and procedures for resolving disputes; and
- an official copy of the memorandum and articles of association of the commonhold association. These too will be obtainable from Land Registry. These two documents form the constitution of the commonhold association and regulate its internal organisation and affairs;

The official copies listed above are the key commonhold documents of interest to potential buyers and are not valid for the purposes of commonhold legislation until they are registered with the Land Registry. Therefore official copies (or copies of them) will be the most definitive versions. However, other documents and information are also likely to be of particular interest and use to potential buyers and their legal advisers. Where the seller can reasonably be expected to be aware of them, taking into account reasonable enquiries of the commonhold association and any managing agents, the following are also required to be included in the pack:

- the name and address of any managing agents or other persons appointed or proposed to be appointed by the commonhold association to manage the commonhold;

and also, where they are in the seller's possession or else the seller has access to them or can reasonably obtain them (again taking into account reasonable enquiries of the commonhold association and any managing agents):

- copies of any regulations or rules that have been made by the commonhold association or by those responsible for managing the commonhold or their predecessors but which are not in the commonhold community statement; and any amendments proposed to those regulations or rules or to the commonhold community statement or memorandum and articles of association of the commonhold association;
- a summary or works affecting the commonhold that are current or proposed;
- copies of any requests for payments made in the previous 12 months in respect of commonhold assessment, reserve fund levy and insurance (if not covered by a request for commonhold assessment or reserve fund levy);

An uncompleted version of the commonhold part of the home use form (Part 3) must be included although this can be replaced by a completed version.

Where the sale involves the creation of a commonhold interest, the home information pack must include:

- the proposed commonhold community statement and memorandum and articles of association of the commonhold association; and
- an estimate of costs expected of the unit-holder in the first 12 months of new ownership.

Paragraphs 3 and 4 of Schedule 6 prescribe other information, documents containing all or some of which are authorised to be included in the home information pack. This information is intended to supplement the required documents listed in paragraph 1 of Schedule 6 with other documents providing similar or related information about any matter connected with the property that would be of interest to potential buyers of commonhold property.

SCHEDULE 7 – Leasehold information

This schedule sets out additional documents and information required or authorised to be included in the home information pack where the interest in the property being offered for sale, or any part of it, is leasehold. See the commentary on regulations 8(h) and 9(h) above.

The leasehold documents **required** to be included in the pack are found in paragraph 1 of Schedule 7. These include:

- A completed version of the leasehold part of the index (Part 3). As with items on Part 1 of the index, all entries for required pack documents must be listed in the index, although authorised entries for pack documents may be deleted if they are not actually included in the pack.
- In all cases, a copy of the lease. The lease contains information of key importance to potential buyers and their legal advisers – for example, the length of the term of the lease, details of obligations with which the buyer would have to comply, any restrictions that the buyer would have to observe and any rights that would apply to the buyer and obligations falling to the landlord or management company. The copy of the lease required to be included in the pack can be:
 - an official copy obtained from Land Registry, if the property is registered;
 - any other copy of the lease; or
 - if despite all reasonable efforts the lease can only be obtained in an edited form held by Land Registry, a copy of the lease in that form. Typically a document will be an ‘exempt information document’ under Land Registry Rules because someone has applied to it for the full version to be exempt from disclosure on the grounds of commercial or personal confidentiality. A potential buyer’s legal adviser is likely to wish to see the full version of the lease in due course.
- Where the seller can reasonably be expected to be aware of them, taking into account reasonable enquiries of the landlord and any managing agents, the following are also required to be included in the pack, the name and address of:
 - the current landlord or, if the property is in the process of being built or landlord is in the process of changing, the proposed landlord;
 - any managing agents appointed or proposed to be appointed by the landlord; and
 - any other persons who manage, or who are likely to manage, the property.

This contact information will be important if potential buyers or their legal advisers need to make further enquiries.

and also, where they are in the seller’s possession or else the seller has access to them or can reasonably obtain them (again taking into account reasonable enquiries of the landlord and any managing agents):

- any regulations or rules relating to the management of the property made or proposed to be made by the existing or proposed landlord, managing agents or other persons

involved with the management of the property or their predecessors. In some cases, the terms of the lease may enable the landlord or management company etc. to make regulations or rules relating to the management of the building. These could be significant to a potential buyer – for example they could cover the provision of services or impose restrictions on leaseholders' activities;

- the memorandum and articles of association of any company with responsibility for the management of the property. This is only required if the buyer will be required to become a member of that company. Leaseholder management companies are fairly common and where they exist potential buyers and their legal advisers will wish to assure themselves of the new owner's rights and obligations;
- any amendments proposed to the lease, to regulations or rules relating to the management of the property, or to the memorandum and articles of association of any management company of which the buyer will be required to become a member;
- statements of account for service charges and summaries of costs for service charges in relation to the property that have been supplied to the leaseholder by the landlord or managing agents and which relate to the past 3 years. These might have been supplied as a result of the leaseholder's rights under section 21 of the Landlord and Tenant Act 1985 or might be contained in some other form of document. These documents should be in the seller's possession. If the seller has requested and received them but not retained them, copies might be available from the landlord or managing agents;
- a summary of works affecting the property that are current or proposed;
- the most recent request for payment made by or on behalf of the leaseholder in relation to service charges, ground rent, and insurance (if not covered by a request for service charge or ground rent). The request for payment required to be included in the pack is that relating to the 12 months preceding the date that the property is put on the market for sale. If the seller has not retained the request for payment, a copy might be available from the landlord or managing agents.

An uncompleted version of the leasehold part of the home use form (Part 4) must be included although this can be replaced by a completed version.

Where the sale involves the creation of a leasehold interest, the home information pack must include:

- the proposed lease; and
- an estimate of costs expected of the leaseholder in the first 12 months of new ownership.

Paragraphs 3 and 4 of Schedule 7 prescribe other information, documents containing all or some of which are authorised to be included in the home information pack. This information is intended to supplement the required documents listed in paragraph 1 of Schedule 7 with other documents providing similar or related information about any matter connected with the property that would be of interest to potential buyers of leasehold property.

SCHEDULE 8 – Home condition report

This schedule provides more detail about the content of the home condition report and the terms on which it is prepared. It also makes provision for certification schemes and the withdrawal of such approval.

Home condition report

Paragraph 1 specifies what constitutes a valid home condition report for the purposes of the Regulations. The home condition report is an objective report on the physical condition of a property. Under paragraph 4 (see below), it also includes an energy performance certificate complying with the EU Directive on the Energy Performance of Buildings. The purpose of the home condition report is to provide the buyer, seller and mortgage lender with reliable information about the condition and energy performance of a home.

The detailed form and content of home condition reports will not be prescribed in Regulations because it is envisaged that, over time, it will be necessary to make amendments to reflect changes in building construction and the experience of home inspectors and consumers in using the home condition report. Instead the form and content of the home condition report will be produced and published by the certification scheme or schemes and will be one of the matters considered by the Secretary of State when deciding whether to approve a scheme. If there is more than one scheme, they will be required to prescribe a common format so that consumers and lenders can readily use the reports and compare properties irrespective of which certification scheme the home inspector belonged to (see paragraph 7(e)(i) of Schedule 8).

A sample home condition report is attached to this guidance. The form and content of the sample home condition report has been developed with the assistance of industry working groups and it has been made available for public comment on ODPM and other websites. Owing to the level of industry involvement and consultation it is expected that certification schemes will adopt this form of report.

1(a) – Inspections and the form of report: For the purpose of the Regulations, a home condition report must be prepared by a home inspector following an inspection carried out in accordance with inspection and reporting standards set by the certification scheme of which he is a member. Such a certification scheme may be approved by the Secretary of State under section 164 of the Housing Act 2004 and these Regulations, only if he is satisfied that the scheme contains a number of safeguards for consumers in the way the scheme is run (see the guidance in paragraph 6, below). It is intended that a scheme will ensure that the home inspector is competent, insured, and a fit and proper person to carry out the inspection.

Paragraph 1(a)(ii) provides that home inspectors must use the standard format for home condition report prescribed by the certification scheme of which he is a member. The format of the report will adapt electronically to cater to the specific reporting needs of different types of property (e.g. houses and flats).

1(b) – The register. This provides that a home condition report is only valid once it is entered onto a register. Registration will enable consumers and their professional advisers to check the authenticity of reports, and enable other reports to be identified that should be included in the pack (see the guidance above on regulation 8, which requires that all home condition reports prepared for the current seller on the same property must be included in the home information pack). It will also help the certification schemes to monitor the performance and conduct of their members.

The register of home information packs will be subject to separate regulations made section 165 of the 2004 Act, specifying who keeps it and who has access to the reports stored in it, and on what terms.

1(c) – Terms and conditions. To ensure consistency in the preparation of home condition reports, and protection for consumers in the event that details in a report are wrong, they must be prepared under the minimum terms (specified in paragraph 2, see below for more information).

Terms for the preparation of a home condition report

Paragraph 2 specifies the express terms that must be included in the contract under which the home inspector prepares the home condition report. These must all be included without exclusion or limitation (see the commentary on paragraph 3 below), to ensure that reports are prepared under the same minimum terms as these underpin the content of the home condition report. This also allows consumers to reliably compare different reports.

2(a) – The home inspector has a duty to provide an objective opinion about the condition of a home based on the inspection he has carried out. To ensure the opinion expressed is objective, a certification scheme is expected to prescribe inspection and reporting standards supported by guidance that the home inspectors must follow along with standard and preferred text to be used when completing the home condition report. This also helps to ensure consistency between reports, so that consumers are able to compare them. ODPM intends to publish suggested standards in January 2006.

2(b) – This provision will require a home inspector to identify repairs that need to be made, or serious defects in the property. In the majority of cases, the home inspector should be able to come to a conclusion about the condition of each part of the building, and the certification schemes' inspection and reporting standards and guidance will require the home inspector to do so. In the sample home condition report, attached, the home inspector would allocate numerical ratings to prescribed parts of the home to indicate their condition and provide commentary explaining why the rating has been given. However, in cases where the home inspector is unable properly to assess the condition of an element of the property, for example where access is not available, the inspector may recommend further investigation.

2(c) and (d) – These paragraphs ensure that any copyright in a home condition report does not prevent responsible persons from making copies of home condition reports and including these in home information packs. This protection will also apply to reports obtained from the home condition report register by those granted access to it in the separate regulations that are to be made to address this issue (as described in guidance on Schedule 8, paragraph 1(b), above). However, these users will also be required to abide by rules on the use of data specified in these separate regulations. It is important to note that amount and time of payment of the home inspector's fee are not covered by the regulations and are entirely a matter for the contract under which the report is prepared.

2(e) – This ensures that the seller, buyer and mortgage lender have rights to enforce the contract under which the home condition report is prepared. A home inspector might owe duties in negligence to third parties when preparing the report, but such liability would depend on the individual circumstances of each case. This provision guarantees direct legal rights for sellers, buyers and lenders and ensures that they are able to rely on the home condition report. It is also intended to minimise the need for buyers and lenders to seek their own advice on a property, which would result in delay to the transaction.

Inclusion of terms for home condition reports

3 – This requires the terms set out in paragraph 2 to be included in the contract under which the home condition report is prepared. It clarifies that these are the minimum terms for a contract and that others may be added although these may not limit or exclude the effect of the minimum terms. These might, for example, relate to the home inspector's fee and timing of payment.

Completion of home condition reports by home inspectors

4 – This paragraph sets out the core contents of the home condition report. Under sub paragraph(s), the certification scheme of which a home inspector is a member may require additional contents.

4(a) – The home inspector will have individual membership of the certification scheme, which will be responsible for prescribing standards and ensuring that these are maintained by its members. The identity of the inspector that prepared the report is disclosed for the information of those relying on the report and the certification scheme of which the inspector is a member.

4(b) – The home condition report must specify any business or personal relationships between the home inspector and anyone involved in the sale, for the purpose of transparency. This will ensure that all parties are made aware of the situation, enabling them to consider whether any such relationship is prejudicial to their interests. A certification scheme is likely to require home inspectors to comply with a code of conduct, supported by guidance. This will set out rules covering conflicts of interest and guidance to home inspectors on required standards of behaviour and how they should act in cases where there is an actual or perceived conflict of interest (suggested duties and responsibilities of HIs are expected to be published by ODPM in January 2006). It will also clarify what sort of business and personal relationships should be disclosed in the home condition report.

4(c) – identifies the individual report, through a unique reference number or code. This could aid identification of reports on the home condition report register (mentioned in sections 164(5)(d) and 165 of the 2004 Act), The address and reference numbers could also allow identification of multiple reports for one address, which would aid compliance with regulation 8(l) (the requirement to include previous reports made within the past 12 months).

4(d) – the names of all certification schemes of which the home inspector is a member are included. In the event of a complaint that is not satisfactorily resolved by the home inspector, the consumer should have recourse to the independent complaints resolution procedures put in place by the certification scheme (see guidance on paragraph 6(c) of Schedule 8, below).

4(e) – A home inspector could work for a firm or as an individual; the name and address of the firm are therefore included if applicable.

4(f) – The date of inspection is relevant, as the home condition report is a record of the condition of the property at the time of the inspection. Although the condition of a property would not normally change quickly, an intervening event such as a fire or flood could cause a rapid deterioration of condition after the inspection has been made, so it is important that those reading the report note the date of the inspection. If there are, for example, particular

weather conditions on the day the inspection is carried out, this will be relevant to the home inspector's inspection of parts of the property, such as the performance of gutters and drainpipes.

Although the home condition report is likely to be written up quickly after an inspection, it can also be good practice to allow for a period of 'reflective thought', for example, and the date of completing the report might be later than the date of the inspection.

4(g) – identifies the property by address.

4(h) through to (p) – Key elements of the property for the buyer, seller and mortgage lender to know about are listed in these paragraphs:

- (h) requires the year the property was constructed, or an estimate where the exact year cannot be determined;
- (i) requires the number of storeys in the home, and rooms on each storey;
- (j) requires information about parking for vehicles;
- (k) requires information about utility services that are connected to the property. In the sample home condition report, attached, this would include a condition rating;
- (l) is concerned with the building that contains a flat or maisonette, and requires details about the number of storeys in that building, other flats in the same building and any lift facilities. As with existing surveys of flats, it is not cost-efficient for the home inspector to report in detail on the external condition of the whole building, because that could be a substantial and costly task. Therefore the home inspector will report on the general condition of the outside of the building containing the flat, and will report specifically on only the external parts of the flat itself. Similarly, inside, the home inspector will report on the condition of the roof structure only if it is accessed directly from the flat itself, and he/she will only report on common areas leading to the flat, not all common areas in the building;
- (m) requires a general assessment of health and safety to identify whether any of the risks, specified in a list prescribed in the inspection and reporting standards, is present at the property. This would not include a condition rating in the sample home condition report (for more information see standards and reporting requirements);
- (n) is an assessment of the condition of the outside parts of the building such as roof coverings, rainwater pipes and gutters, chimney stacks, walls, doors and windows. These are likely to require a condition rating in the sample home condition report;
- (o) is an assessment of the condition of the inside parts of the property, such roof structures, ceilings, floors, walls, and kitchen and bathroom fittings. They will also be assessed for dampness. These are likely to require a condition rating in the sample home condition report;
- (p) is an assessment of the general condition of outbuildings, which would not include a condition rating in the sample home condition report.

4(q) – The purpose of the energy performance certificate is to provide consumers with information about the energy performance of the property and to provide information about ways that this can be improved. A valid certificate will need to comply with legislation implementing the EU Directive on the energy performance of buildings.

The certificate should be prepared using a Government approved methodology to be specified in the implementing legislation; for the majority of homes the methodology is likely to be reduced data Standard Assessment Procedure (RDSAP), but for larger (over 450 square metres) or more unusual homes the alternative methodology Simplified Building Energy Model (SBEM) may be used. Details of these methods are available online:

- <http://projects.bre.co.uk/sap2005/> for RDSAP
- <http://www.ncm.bre.co.uk/> for SBEM

The energy rating of the home is likely to be calculated by computer software from data collected at the property by the inspector, following the procedures prescribed in the methodology. Much of this data would already have been collected by the home inspector when preparing the other parts of the home condition report and only a limited further inspection would be needed to calculate the energy rating when the two parts of the report are prepared at the same time.

4(r) – When the inspection is carried out, there may be parts of the property that would normally be inspected, but which the inspector is not able to see, for example where there is no access to the roof space. In such cases, the home inspector should make a statement in the report, identifying the part of the building that was not inspected. He might be able to draw conclusions about the condition from his observations of the parts that can be seen, and could recommend further investigations where appropriate.

4(s) – This allows the certification scheme to add to the matters that the home inspector must comment on, in the home condition report, subject to approval by the Secretary of State (see guidance on paragraph 1(a) of Schedule 8, above). The sample home condition report, attached specifies a number of matters not dealt with in paragraphs (a) to (r), although these are similar in nature to those specified in the Regulations and in some cases elaborate upon them.

Prohibition on personal and security information

5 – Certain information must not be included in the home condition report. To protect the privacy of individuals, there must be nothing in the report identifying or expressing an opinion on an individual (parts (a) and (b)). This is equivalent to the definition of ‘personal data’ in section 1 of the Data Protection Act 1998 and consequently, home condition reports must not contain personal data and that Act is unlikely to apply. Part (c) prohibits the inclusion of information about the security of the property that potentially could be misused.

Approval of certification schemes

6 – This paragraph provides that before approving a certification scheme, the Secretary of State must be satisfied that it includes a number of safeguards, as set out in Section 164(5) of the Housing Act 2004 (see explanatory notes for 2004 Act, and criteria and standards published by ODPM for more details). Home condition reports must be made by members of a certification scheme (home inspectors), so that their initial and continuing competence can

be assessed and monitored. The Secretary of State must be satisfied that the scheme contains appropriate provision for:

6(a) – undertaking checks to ensure that members are fit and proper, and qualified; An approved certification scheme should undertake checks to ensure that home inspectors are fit and proper persons in accordance with prescribed standards. Suggested standards are expected to be published by ODPM in January 2006. Home inspectors must be qualified to produce home condition reports and it is likely that, to demonstrate this, a certification scheme is likely to require them to hold a qualification in home inspection that is approved by the Qualifications and Curriculum Authority. The Qualifications and Curriculum Authority is a non-departmental public body sponsored by the Department for Education and Skills. Their accreditation of a qualification ensures that it is reliable and robust indicator of an individual's level of attainment in home inspection.

6(b) – ensuring members have suitable indemnity insurance. An approved scheme is likely to prescribe minimum acceptable terms for this insurance, so that consumers can obtain redress where they incur a loss owing to a home inspector's negligence;

6(c) – implementing a system for dealing with complaints about its members;

6(d) – ensuring that home condition reports are entered onto a register (this will be the subject of further regulations determining who will hold the register, and who will have access to it – see guidance on Schedule 8, paragraph 1(b), above for more information);

6(e) – keeping a register of their members, enabling monitoring of members' activities, and allowing consumers to locate home inspectors in their area.

Terms of approved certification schemes

7 – This paragraph is made under section 164(7) of the 2004 Act and sets minimum standards for certification schemes. It is intended to ensure they deliver their key role of ensuring the trustworthiness of home condition reports and home inspectors, allowing consumers and mortgage lender to have confidence in the report:

7(a) – This contains the underlying purpose of a certification scheme; to protect, promote and facilitate the reliability of home condition reports and home inspectors.

7(b) – A certification scheme must prescribe a code of conduct for home inspectors (see 4b).

7(c) – A certification scheme must also make provision for the promotion of recruitment and training of members, to help ensure that there is a continuing supply of home inspectors.

7(d) – This provides that a scheme must make provision for the conduct of inspections. The content and quality of the report should be underpinned by standards required to be followed during the inspection and reporting process and certification schemes are therefore responsible for ensuring that their members carry out inspections to prescribed standards (see 2a). Ensuring that proper standards are prescribed and followed will contribute to consumer trust in the home condition reports and consistency between reports prepared by different inspectors. This provision prohibits a scheme from requiring a home inspector to inspect parts of the property that are not reasonably accessible and from requiring that an

inspector moves furniture or personal items at the property. These prohibitions are intended to protect the inspector's health and safety and to avoid potential misunderstandings between the inspector and occupier or owner.

7(e) – The form of certification schemes' home condition reports will be required to meet standards set by the Secretary of State. If there is more than one approved certification scheme, they must all specify the same form of report so that consumers and others will be able to compare the condition of properties easily and to ensure consistency of standards. Home condition reports must be prepared on the basis of the minimum terms (see guidance on paragraph 2 of Schedule 8) and include them on the face of the report. An approved certification scheme is expected to have in place independent systems providing a consumer-friendly means to resolve complaints against their members and the form of home condition report must include a statement of how consumers can make a complaint, and how any inaccuracies in reports will be dealt with. A numerical scale used for rating conditions of various sections of the property must be included.

Withdrawal of approval from certification schemes

8 – The Secretary of State reserves the power to withdraw approval of a certification scheme if it fails to perform its specified functions. This paragraph specifies that withdrawal of approval may have immediate effect, may be made with notice, or temporarily.

SCHEDULE 9 – New homes warranties

This schedule will specify the new homes warranties that are acceptable to the Secretary of State as substitutes for the home condition report under regulation 8(j) (see guidance on regulation 8(j) for more information). The Secretary of State is in the process of preparing criteria to be used in deciding which warranties are acceptable.

SCHEDULE 10 – Report on a home not physically complete

This schedule prescribes the form of the report required to be included in the home information pack for any property that is not physically complete.

SCHEDULE 11 – General provision on searches and search reports

General requirements for search reports

Paragraph 1 describes the general information that must be contained in all search reports included in home information packs. The form prescribed for an official certificate of an official search is found in Schedule 1 to the Local Land Charges Rules 1977⁵ so in this case, the certificate must be accompanied by this information. The information that is required is as follows:

- **1(a)** the address of the property which is the subject of the search;
- **1(b)** a statement on whether there is any connection, either personal or financial, between the provider of the search report and any other person involved in the sale of the property, e.g. the seller's estate agent or conveyancer. Any business referral arrangements between conveyancers and search providers should therefore be revealed here;
- **1(c)** the questions that were asked to obtain the information contained within the search report, e.g. a copy of the Law Society form CON.29 Part 1 (standard enquiries of local authority) where that form was used to requisition a search report that complies with Schedule 12 of the regulations;
- **1(d)** the results of the search;
- **1(e)** the date the search was completed. The information contained within the search report should be current at this point;
- **1(f)** a description of the records that were examined to obtain the information contained within the search report;
- **1(g)** the name and address of the person responsible under the contract for carrying out the inspection for the search report and, where different, the name and address of the person responsible for preparing the report;
- **1(h)** the name of the person who is responsible for any errors in the search report;
- **1(i)** a description of the procedures that the search provider has put in place to deal with complaints or claims for redress;⁶
- **1(j)** the terms on which the search report is provided, including those that are required by paragraph 4 of Schedule 11.

⁵ Statutory Instrument 1977 No. 985.

⁶ This guidance takes account of the Office of Fair Trading report '*Property searches – a market study*' OFT810 September 2005. The report recommends that information concerning consumer redress and indemnity insurance should be included within any search reports in home information packs. The report also included recommendations on access to information and regulation of the searches market which are not dealt with in these regulations.

Additional search information

Paragraph 2 provides that search reports may include additional information that helps explain or identify the search results but which is not required under these regulations. This additional information may include, information identifying the search or the property, those involved in providing the report, information indexing or explaining the results or information identifying local features. The latter could include an aerial photograph of the property and information on local facilities such as local schools, leisure facilities shops (although the inclusion of advertising or marketing material for particular companies is prohibited).

Unavailable search results

Paragraph 3 provides that the search report must provide all the information sought except in cases where the information cannot be obtained **under any circumstances** from a local authority in the case of a search report dealing with local land charges, local enquiries or additional enquiries of a local authority, or any other person for any other search report (e.g. a water company in the case of the water and drainage search). That there is a charge for information should not therefore prevent the responsible person from including the search. Where information is missing from the search report for this reason, the report must include a statement to this effect.

Terms for the preparation of required search reports

Paragraph 4 specifies the express terms that must form part of the contract under which a 'required' search report is provided. They do not apply to 'authorised' searches (see the commentary on paragraph 7 below). These are necessary to give consumers, their legal representatives and mortgage lenders the assurance that search reports required to form part of the home information pack are reliable. The specified terms provide that:

- **4(a)** – the search report will be prepared with reasonable care and skill. This makes express the term that is implied into contracts for services in these instances;
- **4(b)** – this ensures that any copyright in a search report does not prevent responsible persons from making copies of home condition reports and including these in home information packs;
- **4(c)** this ensures that the seller, buyer and mortgage lender have rights to enforce the contract under which the home condition report is prepared. A person providing inaccurate information might owe duties in negligence to third parties when preparing the report, but such liability would depend on the individual circumstances of each case. This provision guarantees direct legal rights for sellers, buyers and lenders and ensures that they are able to rely on required searches;
- **4(d)** – the liability arising under the contract must result in financial compensation. This may be no more than the value of the property, but may exceed this amount. In this context, the 'value' is the value as a residential property and does not include, for example, the value put on any commercial development potential of the property.

This clause also guarantees that in the event that a party to the contract cannot, does not or will not meet the liability (e.g. because it is unwilling to or has gone out of business), it will be met through insurance. If the insurance company goes out of business, compensation might be available from the Financial Services Compensation Scheme (FSCS). The Financial Ombudsman Service may also provide help in resolving disputes involving insurance companies.

Inclusion of terms for required search reports

Paragraph 5 provides that additional terms may be included in the contract under which search reports are prepared. Those listed in paragraph 4 must not be excluded or limited in any way, although may be enhanced to provide greater protection.

Required searches by another name

Paragraph 6 provides that the requirements of paragraph 4 apply to any documents in the home information pack that contain the information prescribed in regulations 8(o), 8(p), 8(q) and Schedules 12 and 13. The effect of this is to ensure that the terms and conditions in paragraph 4 apply to all required searches in the pack even where they are given a different name to that used in the regulations or purport to be included in the home information pack under a different provision of the regulations, for example, Schedule 5.

Terms for the preparation of authorised search reports

Paragraph 7 provides that searches that are authorised for inclusion in the home information pack may include the terms described in paragraph 4 but are not required to do so.

Insurance cover for searches

Paragraph 8 provides that suitable insurance arrangements must be in place with an insurer authorised under the Financial Services and Markets Act 2000 to cover the terms mentioned in paragraph 4(d) (including ‘run-off’ cover).

SCHEDULE 12 – Local enquiries

Regulation 8(p) provides that the home information pack must include a search report that records the results of a search of records that are either held by or derived from a local authority and which complies with Schedule 11 (General provision on searches and search reports) and Schedule 12. This Schedule specifies the information that must be included in a search report recording the result of local enquiries – unless it isn't etc.

The information is information that would be provided in response to an application to a local authority using the Law Society form CON.29 Part 1 (standard enquiries of local authority). This form is used in cases where a local authority is asked to provide a search report and is not used by private search companies who compile the information themselves. There is no requirement to use this form but it sets out the questions in a standard format and order that is also used by private search companies providing 'personal searches'. For the sake of consistency, therefore, it is strongly recommended that search reports included in the home information pack should provide the required information in the same order. By virtue of paragraph 1(c) of Schedule 1, the questions that formed the basis of the search report should also be included in the home information pack.

Content of local enquiries and copies of documents

Paragraph 1 deals with general issues relating to the search report.

1(a) – provides that the search report may relate to the property being sold or other land or property. This allows the inclusion of a search report on neighbouring green-field land, for example, if the seller wishes to demonstrate that there are no plans to develop the land.

1(b) – provides that the search report should record the results of an inspection of the records described in paragraphs 2 to 16 of this Schedule and **1(c)** provides that the report should describe the records searched.

1(d), 1(e) – These paragraphs deal with the arrangements for copies of records, including where copies may be obtained, whether they are attached to the search report and any charging arrangements for providing copies.

Planning permissions, certificates, listed building contents

Paragraph 2 requires the inspection of records to reveal details of applications for planning permissions, certificates of lawfulness and listed building consent. A potential buyer will want to know whether any such applications have been made and whether they have been granted or refused (these matters are dealt with in questions 1.1(a), (b) and (d) of form CON.29).

In relation to these matters, the search report should say whether or not there are any applications concerning these matters and, if there are, describe them. Where appropriate the report should also say where copies of planning decisions may be obtained from and, if these are not attached to the report, the fee for providing copies.

Conservation Areas

Paragraph 3 requires the inspection of records to reveal details of whether the property is within a designated conservation area and is subject to any applications and decisions in

respect of conservation area consents (these matters are dealt with in questions 1.1(c) and 3.10 of form CON.29).

In relation to these matters, the search report should say whether or not there are any applications concerning conservation area consents and, if there are, describe them. Where appropriate the report should also say where copies of the consent (and any associated conditions) may be obtained from and, if these are not attached to the report, the fee for providing copies.

Building approvals and certificates

Paragraph 4 requires the inspection of records to reveal details of building regulation approvals that the local authority has granted or approved and whether a completion certificate has been issued (these matters are dealt with in questions 1.1(e) and 1.1(f) of form CON.29).

In relation to these matters, the search report should say whether or not there are any building regulation approvals or completion certificates relating to the property and provide further details if there are. The further details should include information on where copies can be obtained and, if these are not attached to the search report, the fee for providing copies.

Planning designations, plans and proposals

Paragraph 5 requires the inspection of plans to reveal the primary use indicated for the area in which the property is situated (e.g. 'residential', 'industrial' etc – these matters are dealt with in question 1.2 of form CON.29).

In relation to these matters, the search report should either:

- Describe the land use or uses indicated by the adopted or proposed Structure Plan, Local Plan or non non-statutory plan, or
- Include a statement that the adopted or proposed Structure Plan, Local Plan or non non-statutory plan contains no specific proposals for the property, or, if there is such a proposal, a description of the proposal.

The search report should also indicate where copies of the documents containing more details of the proposals can be obtained from.

Highways

Paragraph 6 requires the inspection of records to reveal whether roads adjoining the property are 'adopted' and maintainable at public expense or the subject to an application to become maintainable at public expense. If any roads are not adopted but subject to planned works by the local authority the search report should state whether the householders will be charged for the work and if so how much or whether the local authority may adopt the road and complete the works at no cost to the householder (these matters are dealt with in question 2 of form CON.29).

Land required for public purposes

Paragraph 7 requires the inspection of records to reveal whether the property, or a part of the property, is affected by planning provisions that provide for the land to be protected from development in the interests of the future needs of a public body or statutory undertaker, e.g. gas, water, sewage, electricity, telecommunications etc (this matter is dealt with in question 3.1 of form CON.29).

Land to be acquired for Road Works

Paragraph 8 requires the inspection of records to reveal whether the property, or a part of the property, is affected by road proposals approved by the local authority or notified to it by the Secretary of Stat and which might involve the compulsory purchase of the property or part of the property (this matter is dealt with in question 3.2 of form CON.29).

Classification and creation of roads

Paragraph 9 requires the inspection of records to reveal whether the property, or a part of the property, is affected by road proposals approved by the local authority or notified to it by the Secretary of Stat and which might involve the compulsory purchase of the property or part of the property (this matter is dealt with in question 3.2 of form CON.29).

Road improvement or alteration

Paragraph 10 requires the inspection of records to reveal whether certain changes have been approved by the local authority, but not yet implemented, which affect roads within 200 metres of the property (this matter is dealt with in question 3.6 in form CON.29). The changes are as follows:

- permanent stopping up or diversion
- waiting or loading restrictions
- one way driving
- prohibition of driving
- pedestrianisation
- vehicle width or weight restriction
- traffic calming works e.g. road humps
- residents parking controls
- minor road widening or improvement
- pedestrian crossings
- cycle tracks
- bridge construction

Nearby railway schemes

Paragraph 11 requires the inspection of records to reveal whether the property lies within 200 metres of a proposed railway, tramway, light railway or monorail (this matter is dealt with in question 3.5 in form CON.29).

Building regulations enforcement

Paragraph 12 requires the inspection of records to reveal whether the local authority has authorised proceedings for infringement of the building regulations in respect of the property (this matter is dealt with in question 3.8 of form CON.29).

Planning enforcement

Paragraph 12 requires the inspection of records to reveal action taken or proposed to be taken by the local authority in respect of any breaches of planning control affecting the property. It whether the local authority has authorised proceedings for infringement of the building regulations in respect of the property (this matter is dealt with in question 3.8 of form CON.29).

SCHEDULE 13 – Drainage and Water Enquiries

Regulation 8(q) provides that the home information pack must include a search report which complies with both Schedule 11 (General provision on searches and search reports) and Schedule 13 which concerns enquiries on drainage and water matters.

This information is commonly provided in response to an application by a buyer's solicitor to the company supplying water and drainage services in a particular areas and such an application will use the Law Society form CON.29 DW (standard drainage and water enquiries). Unlike local enquiries, personal search companies do not usually provide drainage and water searches, although it should be noted that the source of the records from which drainage and water enquiries are derived is not prescribed in these Regulations.

Like Schedule 12, Schedule 13 does not specify a particular form which must be used when making a search request for drainage and water enquiries, nor the form of the search results or report. However, Schedule 13 does prescribe the content of a search report that is equivalent to the CON 29 Part DW (although it should be noted that they are not identical). Paragraph 1(c) of Schedule 11 provides that the questions which formed the basis of the search must be included in the search report, and together with Schedule 13, this means that a CON DW plus model answers (which have been agreed by the all the water companies, the Law Society and consumer representatives) would satisfy these requirements of the Regulations. For the sake of consistency and ease of use by legal advisers, it is strongly recommended that the drainage and water enquiries which must be included in the home information pack under regulation 8(q) are composed of:

- the CON.29 DW and model answers;
- or an alternative that provides the questions to and results of the search in the same order as they appear in the CON.29 DW and model answers,

together with the other information required under Schedules 11 and 13 to the Regulations.

NB The matters in Schedule 13 incorporate revisions to CON.29 DW that have been agreed but not yet implemented. These revisions include the addition of questions relating to the risk of internal flooding due to overloaded public sewers.

Content of drainage and water enquires and copies of documents

Paragraph 1 deals with general issues relating to the search report (these are the same as those for the local enquiries search set out in schedule 12).

1(a) – provides that the search report may relate to the property being sold or other land or property.

1(b) – makes provision that the search report should record the results of an inspection of the records described in paragraphs 2 to 16 of this Schedule and **1(c)** provides that the report should describe the records searched.

1(d), 1(e) – These paragraphs deal with the arrangements for copies of records, including where copies may be obtained, whether they are attached to the search report and any charging arrangements for providing copies.

Sewer maps

Paragraph 2 requires the search report to include an extract of the public sewer map unless there are no public sewers in the vicinity of the property, in which case the report should include a statement to this effect. Where a map is provided it should:

- show the location (or expected location if it has not yet been built) of the property;
- state whether there is, or is expected to be, a public sewer within the boundaries of the property;
- state whether the property is, or is expected to be, within 31 metres of any living accommodation that is part of the property.

Such sewer maps should also be available for public inspection at a local authority in the area. The equivalent questions are dealt within in sections 1.1, 2.1 and 2.2 of CON.29 DW.

Public adoption of sewers

Paragraph 3 requires that records are inspected to reveal any agreement made under section 104(1) of the Water Industry Act 1991 and whether any such agreement is likely to be made. This enquiry is of interest to purchasers of new homes who will want to know whether or not the property will be linked to a public sewer. The equivalent questions are dealt within in section 1.4 of CON.29 DW.

Sewage treatment works

Paragraph 4 requires that an inspection of the records is undertaken to reveal the distance between the property and the nearest sewage treatment works, or if such works are planned what their distance would be from the property. The equivalent question is dealt with in section 8.1 of CON.29 DW.

Foul drainage and surface water

Paragraph 5 requires the inspection of records to reveal whether or not foul drainage and surface water drains, or will drain, from the property to the public sewer. The equivalent questions are dealt with in sections 1.2 and 1.3 of CON.29 DW.

Surface water charges

Paragraph 6 requires the inspection of records to determine whether or not surface water charges are, or will be, payable for the property. If so the search will be to provide details of the amount to be paid. Any potential buyer would want to know what charges they would be liable for if they should purchase a property. The equivalent question is dealt with in section 4.2 of CON.29 DW.

Drainage agreements

Paragraph 7 requires that a search is undertaken to reveal any agreement or consent to the construction of a building or an extension either over or in the vicinity of a:

- drain or;
- sewer or;
- disposal main.

The equivalent question is dealt with in section 2.3 of CON.29 DW.

Public water mains maps

Paragraph 8 requires the inspection of the records to find out whether there is a public water mains map. Where such a map is available the HIP should:

- include a copy of the map, or relevant extract, which marks where the property is, or will be, situated;
- state whether there is, or will be, a public water mains or assets within the property;
- state the name of the person appointed under section 6 of the Water Industry Act 1991(a) to be the water and sewerage undertaker in the area.

The equivalent question is dealt with in section 3.4 of CON.29 DW.

Water supply

Paragraph 9 requires that records are inspected to ascertain:

- the name of the person holding the water supply licence under section 17A of the Water Industry Act 1991 (b) for the area; and
- whether or not the property is, or will be, connected to the mains water supply.

The equivalent question is dealt with in section 3.3 of the CON.29 DW.

Water meters

Paragraph 10 requires the inspection of records to reveal whether property is, or will be, fitted with a water meter and if so where the meter is/will be located. The equivalent question is dealt with in section 4.3 of CON.29 DW.

Overloaded public sewers and poor water pressure

Paragraph 11 sets out that the inspection of records should take place to reveal whether the property:

- has flooded as a result of a overloaded public sewer;
- is at risk of flooding as a result of an overloaded sewer;
- has experienced poor water pressure as a result from the public water supply; and
- is at risk of experiencing poor water pressure as a result from the public water supply.

Where the search uncovers a risk of either flooding as a result of an overloaded sewer or of poor water pressure the mitigating action has been taken against either possibility by the water or sewerage undertaker for that area must also be sought.

The equivalent questions are dealt with in sections 5.1, 5.2, 6.1 and 6.2 of the CON.29 DW form.

Water quality

Paragraph 12 requires that records should be inspected to find out whether the water supplied or due to be supplied to the property:

- can be regarded as wholesome and
- is subject to an authorisation granted by the Secretary of State responsible for the wholesomeness and other such standards for water.

HOME CONDITION REPORT [November 2005]

The role of the home inspector and the home condition report

Introduction & terms on which report is prepared

To sell your home you must have a home information pack that includes a home condition report. This home condition report is produced by a home inspector, who is licensed by [Certification Scheme Name] (a government-approved certification scheme).

The home inspector has a duty to provide an objective opinion about the condition of the property which the buyer, the seller and the buyer's mortgage company can rely on and use.

To get a licence from [Certification Scheme Name] a home inspector has to:

- pass an assessment of skills, in line with National Occupational Standards; and
- have insurance that covers negligence.

Home inspectors must follow the necessary standards and [Certification Scheme Name's] code of conduct.

A home condition report is not valid unless it has been produced by a home inspector who is licensed by a government-approved scheme, and it has been entered on the Central Register of Home Condition Reports.

The home condition report is in a standard format and is based on these terms, which set out what you should expect of both the Home inspector and the home condition report. Neither you nor the home inspector can amend these terms.. Any further services the home inspector may provide are not covered by these terms and so must be covered by a separate contract.

If you have any complaint about this report, you can complain by following the complaints procedure, which is explained in more detail at the end of this document.

What this report tells you

This report tells you:

- about the construction and condition of the home on the date it was inspected; and
- if necessary, whether further enquiries or investigations are needed.

The report's main aim is to tell you about defects that need urgent attention or are serious. It also tells you about things that need further investigation to prevent damage to the structure of the building and are on a set list of threats to personal safety.

The report gives 'condition ratings' to the major parts of the main building (it does not give condition ratings to outbuildings). However, the report does not mention minor defects that do not need building work to put them right.

The report contains an energy performance certificate that tells you about the energy and environmental performance of the home and suggests improvements that you can make.

What this report does not tell you

This report does not tell you

- The value of your home or cover things that are more specifically considered when a valuation is provided, such as the locality of the home or the availability of public transport or facilities.
- It does not tell you about any minor defects that would not normally have any effect on a buyer's decision to buy.
- This report does not warn you about any health and safety risks to people using or visiting the property, unless the risks are such that repair or building work is needed. The report does not contain advice on the cost of any repair work or the methods of repair which should be used.

The report is not an asbestos inspection within the meaning of the Control of Asbestos at Work Regulations 2002.

A seller, buyer or lender who needs advice on subjects that are not covered by the home condition report must arrange for it to be provided separately.

What is inspected?

The home inspector inspects the inside and outside of the main building and all permanent outbuildings, and the visible parts of the services gas, electricity and water and drainage services.

The inspector gives each part of the structure of the main building a condition rating, to make the report easy to follow. The Condition Ratings are as follows,

Condition rating	Definition
Not inspected	Not inspected
1	No repair is currently needed. Normal maintenance must be carried out.
2	Repairs or replacements are needed but the home inspector does not consider these to be serious or urgent.
3	These are defects which are either serious and/or require urgent repair or replacement.

Important note

The inspection is ‘non-invasive’. This means that the home inspector does not take up carpets, floor coverings or floorboards, move furniture or remove the contents of cupboards. Also, the home inspector does not remove secured panels or undo electrical fittings.

The home inspector will say at the start of sections D, E and F of the report where it was not possible to inspect any parts of the home that are normally reported on.

Where the home inspector has reason to be concerned about these parts, the report will tell you about any further investigations that are needed. The home inspector does not report on the cost of any remedial work or how repairs should be carried out.

Section A: General information

Home condition report

Address of the property that has been inspected:

Property reference number (if known):

Home inspector’s name:

Home inspector’s licence number:

Company name:

Company address and postcode:

Company email address:

Company telephone number:

Company fax number:

Date of the inspection:

Report Reference Number:

The Report Reference Number(s) of Home condition reports written for this property in the last 12 months:

[Disclosure on related parties
*This is a prompt – these words will not appear on the face of the report]

NOTE: Statements e.g. ‘Date of the inspection’ will appear on public version. However, questions, identified in brackets below) are prompts for completion of the form but will not appear on the public version.

Section B: Summary

Date of the inspection:

Full address and postcode of the property:

Weather conditions:

The state of property when inspected.
(Was the property furnished or unfurnished?)

Approximated year of construction
(When was the property built?)

Approximate year when the property was extended.
(When was the extension built?)

When was the property converted?

Type of property:

Are there any signs of tenants living in the property?

Is the property in an area occupied primarily by tenants?

Is the property in a conservation area or likely to be listed?
Listing grade (if known):

For flats and maisonettes

Position of the flat in the block
(Which floor is the flat on and how many floors are there in the block?)

(Number of flats in the block?)

(Is the property purpose-built or converted?)

(Is there a lift to the flat?)

(What commercial uses are there within the block?)

(What percentage of the building has commercial use?)

(Where in the building is the commercial use?)

Accommodation

Storey	Living rooms	Bedrooms	Bath/or shower	Separate toilet	Kitchen	Utility Room	Conservatory (hot or cold)	Other	Name of "other"
Lower ground									
Ground									
First									
Second									
Third									
Fourth									
Roof space									
Totals									

House only: Gross external floor area (in square metres)

Reinstatement cost

Flat only: Gross internal floor area (in square metres)?

Note: This reinstatement cost is the estimated cost of completely rebuilding the property. It represents the sum at which the home should be insured against fire and other risks. It is based on building and other related costs and does not include the value of the land the home is built on. It does not include leisure facilities such as swimming pools and tennis courts. The figure should be reviewed regularly as building costs change. **Importantly, it is not a valuation of the property.**

If the property is very large or historic, or if it incorporates special features or is of unusual construction and a specialist would be needed to assess the reinstatement cost, no cost figure is provided and the report says that a specialist is needed.

Construction

A short general description of the construction:

(Is the property of system built construction?)

(If it is please advise the name of the system:] These two boxes will not appear on the report)

Main Services

The ticked boxes indicate that mains services are connected

Drainage	Gas	Electricity	Water
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

If no gas drainage, electricity or water is provided, please say what services there are? (This is a prompt box] and will not appear on the public report)

Central heating

(Does the property have central heating?)

(Type of Fuel)

(Full or partial system)
(These are prompt boxes that will not appear on the report)

Outside facilities

(Is a garage provided?)

(Is the garage on or off the site?)

(Is the garage part of the building?)

(Is the garage a single, double or more?)

(Is there a carport?)

(Number of allocated parking spaces)

(Are these on or off the site?)

(Are there any gardens which are part of the property?)

(Are the gardens to the front, side or back?)

(Are there any outbuildings with the property?)

(Number of outbuildings?)

(How the outbuildings are used)

(Are the roads and footpaths made up?)

Summary of ratings and condition

(This is generated by the system from the information the inspector provides).

Section of the report	Part number	Part name	Identifier (if there is more than one entry in the table)	Rating
D: Outside	D1	Chimney stacks		
	D2	Roof coverings		
	D3	Rainwater pipes and gutters		
	D4	Main walls		
	D5	Windows		
	D6	Outside doors		
	D7	All other woodwork		
	D8	Claddings		
	D9	Outside decoration		
	D10	Other external detail		
E: Inside Condition	E1	Roof structure		
	E2	Ceilings		
	E3	Inside walls		
	E4	Floors		
	E5	Fireplaces and chimney breasts		
	E6	Built in fittings – please give an example		
	E7	Inside woodwork		
	E8	Bathroom fittings		
	E9	Dampness		
	E10	Other inside detail		
F: Services	F1	Electricity		
	F2	Gas		
	F3	Water		
	F4	Heating		
	F5	Drainage		

Widespread problems that affect many parts of the property.

Summary of structural movement

Further investigation

Recommended investigation of defects
seen or suspected:

Section C: Conveyancing, and health and safety issues

Issues for conveyancers

The home inspector does not act as 'the conveyancer'. However, if during the inspection, the inspector identifies issues that the conveyancers advising the buyer and seller may need to investigate further, the inspector will refer to these in the report. This is to draw the issues to the attention of others to improve the quality of the information in the home information pack. The inspector will not have seen the legal and other documents in the home information pack.

Roads and footpaths
Drainage
Water
Planning and any other permission needed
Freehold owner consents
Flying freeholds
Mining
Rights of way
Boundaries (including Party Walls)
Easements
Repairs to shared parts
Previous structural repairs
New building warranties
Building insurance [ongoing claims]
Tree preservation orders
Property let

Dangerous materials and contaminated land, subsidence and flooding

The home inspector assumes that:

- The home is not built with nor contains hazardous materials; and it is not built on contaminated land. However if any of these materials are found during the inspection, or if the Home inspector finds evidence to suspect that the land may be contaminated, this will be shown on the report along with recommendations for further investigations.

Contamination	
Subsidence	
Flooding	

Health and safety risks

The home inspector will draw your attention to items from a set list of health and safety issues if they are seen at the property.

The inspector does not have to identify risks which have existed in the property for a long time, and which cannot reasonably be changed. As an example, the inspector will not draw your attention to uneven floor surfaces that have existed for decades.

Section D: Outside condition

The inspector carried out a non-invasive inspection (see the important note on page 3 for an explanation of ‘non-invasive’) of the outside of the main building and permanent outbuildings. They made this inspection from various points within the boundaries of the property and from public areas such as footpaths and open spaces, using binoculars where necessary. The inspector did not stand on walls or enter neighbouring private property. They examined roofs, chimneys and other external surfaces of the building from the ground. They inspected flat roofs to single-storey buildings from a ladder, where the surface of the roof was not more than three-metres above ground level. They did not inspect features above this level that cannot be seen from any point. Because of the risk of causing damage, the inspector did not walk on flat roofs. They assessed rainwater fittings (gutters and downpipes) only if there was heavy rain at the time of inspection.

The inspector looked at the overall condition and the state of repair of the outside parts of the property. The report does not reflect every minor blemish and does not point out each individual minor defect in the outside walls. However, where there are so many minor defects that together they are serious, the report will say this.

Flats: outside inspection

When inspecting blocks of flats, it is often difficult to see the whole outside of a building or block, and its maintenance is rarely the responsibility of one person. The inspector only carried out a non-invasive inspection to the level of detail set out above, to the main walls, windows and roof over the flat.

The inspector did not inspect the rest of the block to this level of detail; but instead has formed an opinion based on a general inspection of the rest of the block. They provide information about the outside and shared parts so that the conveyancer can check whether the maintenance clauses in the lease or other title documents are adequate.

The inspector inspected the shared access to the flat together with the area where car parking and any garage for the flat are, along with the access to that area. They did not inspect other shared parts, such as separate halls, stairs and access ways to other flats in the block, the lift motor room and cleaning cupboards.

I could not inspect the [describe], because [.....].	
D1 Chimney stacks	
<i>Identifying name for the part (where more than one is recorded)</i>	
<i>Condition rating</i>	

<i>Justification for the rating and comments</i>	
D2 Roof coverings	
<i>Identifying name for the part (where more than one is recorded)</i>	
<i>Condition rating</i>	
<i>Justification for the rating and comments</i>	
D3 Rain water pipes and gutters	
<i>Identifying name for the part (where more than one is recorded)</i>	
<i>Condition rating</i>	
<i>Justification for the rating and comments</i>	
D4 Main walls	
<i>Identifying name for the part (where more than one is recorded)</i>	
<i>Condition rating</i>	
<i>Justification for the rating and comments</i>	
D5 Windows	
<i>Identifying name for the part (where more than one is recorded)</i>	
<i>Condition rating</i>	
<i>Justification for the rating and comments</i>	
D6 External doors (including patio doors)	

<i>Identifying name for the part (where more than one is recorded)</i>	
<i>Condition rating</i>	
<i>Justification for the rating and comments</i>	
D7 All other woodwork	
<i>Identifying name for the part (where more than one is recorded)</i>	
<i>Condition rating</i>	
<i>Justification for the rating and comments</i>	
D8 Outside decoration	
<i>Identifying name for the part (where more than one is recorded)</i>	
<i>Condition rating</i>	
<i>Justification for the rating and comments</i>	
D9 Other outside detail	
<i>Identifying name for the part (where more than one is recorded)</i>	
<i>Condition rating</i>	
<i>Justification for the rating and comments</i>	

Section E: Inside condition

The inside of the property (Section E)

The home inspector carried out a non-invasive inspection of all the parts of the home they could see without causing damage. However, if the inspector could not see a part of the home without the risk of damage, and they suspect that there could be a problem, the report will say this and include recommendations on the need for further investigation.

The home inspector checked for damp in vulnerable areas by using a moisture-measuring meter.

They inspected the roof structure from inside the roof space where it was accessible but did not move or lift insulation material, stored goods and other contents. The inspector did not walk around the space if there was a risk to safety (for example, where insulation covers the ceiling joists), instead they inspected the roof from the access point.

They opened some of the windows and all the doors,

They inspected floor surfaces and under-floor spaces where they were readily accessible, they did not move or lift furniture, floor coverings or other contents.

The home inspector has not commented on sound insulation or chimney flues (or both), because it is rarely practical to do so without using specialist equipment that home inspectors do not carry.

Flats; Inside condition

The home inspector inspected the inside of the flat in the same way as is described under 'The inside of the property' in section C. However, they inspected the roof space only where they could get safe access from within the flat itself. The inspector did not go into the roof space if access was only possible from the shared parts or from within another flat.

I could not inspect the [describe] because:	
E1 Roof coverings	
<i>Identifying name for the part (where more than one is recorded)</i>	
<i>Condition rating</i>	
<i>Justification for the rating and comments</i>	
E2 Ceilings	

Identifying name for the part <i>(where more than one is recorded)</i>	
Condition rating	
Justification for the rating and comments	
E3 Internal walls & partitions & plasterwork	
Identifying name for the part <i>(where more than one is recorded)</i>	
Condition rating	
Justification for the rating and comments	
E4 Floors	
Identifying name for the part <i>(where more than one is recorded)</i>	
Condition rating	
Justification for the rating and comments	
E5 Fireplaces and chimney breasts (and the outside of flues)	
Identifying name for the part <i>(where more than one is recorded)</i>	
Condition rating	
Justification for the rating and comments	
E6 Built in fittings (built in kitchen and other fittings, not including the appliances)	
Identifying name for the part <i>(where more than one is recorded)</i>	
Condition rating	
Justification for the rating and comments	
E7 Inside woodwork (staircase, joinery and so on)	

Identifying name for the part <i>(where more than one is recorded)</i>	
Condition rating	
Justification for the rating and comments	
E8 Bathroom fittings	
Identifying name for the part <i>(where more than one is recorded)</i>	
Condition rating	
Justification for the rating and comments	
E9 Dampness	
Identifying name for the part <i>(where more than one is recorded)</i>	
Condition rating	
Justification for the rating and comments	
E10 Other issues	
Identifying name for the part <i>(where more than one is recorded)</i>	
Condition rating	
Justification for the rating and comments	

Section F: Services

Services are generally hidden within the construction of the property; for example, pipes are beneath the floors and wiring is within the walls. As a result only the visible parts of the available services can be inspected. Specialist tests were not carried out. The visual inspection does not assess the services to make sure they work properly and efficiently and meet modern standards. If any services (such as the boiler or mains water) are turned off, the home inspector will state that in the report and will not turn them on.

Otherwise, the home inspector turned on some taps on appliances and, where safe and practical to do so, lifted the covers on the drainage inspection chambers.

The home inspector reports only on the services covered in this section (electricity, gas, oil, water, heating and drainage). All other services and domestic appliances are not included in the reporting: for example security and door-answering systems, smoke alarms, television, cable, wireless and satellite communication systems, cookers, hobs, washing machines and fridges (even where built-in).

The report gives some general advice on safety and the importance of maintaining the services in the home.

The [describe service] was [describe]:	
F1 Electricity	
Identifying name for the part (where more than one is recorded)	<i>Safety warning: Periodic inspection and testing of electrical installations is important to protect your home from damage and to ensure the safety of the occupants. Guidance published by the Institute of Electrical Engineers recommends that inspections and testing are undertaken at least every 10 years and on change of occupancy. All electrical installation work undertaken after 1st January 2005 should be identified by an Electrical Installation Certificate.</i>
Condition rating	
Justification for the rating and comments	
F2 Gas/Oil	
General Advice endorsed by CORGI General advice endorsed by OFTEC (Oil Firing Technical Association)	<i>Safety Warning – GAS – Regular servicing of the gas installation and all gas appliances is important to ensure you protect your home from damage and to ensure the safety of the Occupants. This MUST be carried out by a CORGI registered installer. If there is no current certificate relating to an</i>

	<p><i>appliance installation, a CORGI registered installer should check and test the installation.</i></p> <p><i>Safety Warning – OIL – Periodic inspection and testing of equipment connected with oil installations is important to protect your home and environment and to reduce risks from fire, carbon monoxide poisoning and pollution from leaks. Full advice can be obtained from OFTEC. All installation work undertaken after 1st April 2005 should be identified by an OFTEC Certificate or Building Control completion certificate.</i></p>
Condition rating	
Justification for the rating and comments	
F3 Water	
Condition rating	
Justification for the rating and comments	
F4 Heating	
Condition rating	
Justification for the rating and comments	
F5 Drainage	
Condition rating	
Justification for the rating and comments	

Section G: Grounds

The inspector inspected the condition of the boundary walls, outbuildings and shared facilities.

To inspect these areas the home inspector walked around the grounds. The report provides a summary of the general condition of any garden walls, fences, and permanent outbuildings. Conservatories with translucent or clear roofs attached to the main buildings are treated as outbuildings, as are garages and permanent store sheds. Buildings containing swimming pools and sports facilities are also treated as outbuildings, but the home inspector does not report on the leisure facilities, such as the pool itself and its equipment.

The inspector did not inspect leisure facilities, landscaping and other facilities, including swimming pools and tennis courts, and non-permanent outbuildings

<i>Comments on garages</i>	
<i>Comments on permanent sheds</i>	
<i>Comments on other permanent outbuildings</i>	
<i>Comments on boundary walls</i>	
<i>Comments on other walls</i>	
<i>Comments on paved areas</i>	
<i>Comments on shared facilities</i>	
<i>Comments on detached conservatories</i>	
<i>Comments on other structures</i>	

Section H: Energy performance certificate

Home inspector's signature

(Note: Facsimile signature taken from in the database)

Inspector's licence number:

Name:

Qualifications:

Address:

Phone number:

Fax number:

E-mail address:

Date of making the report:

When the report is complete

All home condition reports are held on an electronic register run by [state name]. You can see a copy of this report on-line at [www.....].

What to do if you have a complaint

If you have a complaint about this home condition report or the home inspector who carried it, out you should follow the procedures set out below.

- Ask the company who provided the report, (the company named on the front of the report) or the home inspector who carried it out to give you a copy of their complaints handling procedure. All companies must have a written procedure and make it available to you if you ask.
- Follow the guidance given in the document, which includes making a formal complaint.
- Companies that provide home condition reports must handle your complaint in accordance with their procedure.

You may ask [scheme name] to investigate the complaint if:

- your complaint is about an allegation of criminal activity;
- the company fails to handle your complaint in line with their procedure; or
- you are not happy with how they have handled your complaint.

You can write to them at [address].

[The Certification Scheme's procedures for dealing with consumer complaints will be outlined here when they are finalised.]

What to do if you are the seller and believe that the report is incorrect.

If you believe that the report is incorrect, you should report this to the company that provided the report (or the home inspector who carried out the inspection).

If the company or the inspector agrees that details are not correct, they will give a corrected report and ask for the inaccurate report to be removed from the register of home condition reports.

If the company or inspector do not agree, you may complain to [scheme name] and apply to have the report removed from the register of home condition reports.