



# Housing (Scotland) Act 2006

## 2006 asp 1

### PART 3

#### PROVISION OF INFORMATION ON SALE OF HOUSE

##### *Duty to have or provide information about houses on the market*

#### **98 Duty to have information about a house which is on the market**

A person who is responsible for marketing a house which is on the market must possess the prescribed documents in relation to the house.

#### **99 Duty to provide information to potential buyer**

- (1) A person who is responsible for marketing a house which is on the market must comply with any request by a potential buyer for a copy of any or all of the prescribed documents in relation to the house.
- (2) Such a request must be complied with within such period as the Scottish Ministers may by regulations specify (“the permitted period”).
- (3) The duty under subsection (1) does not apply if the person responsible for marketing the house reasonably believes that the person making the request—
  - (a) is unlikely to have sufficient means to buy the house in question,
  - (b) is not genuinely interested in buying the house, or
  - (c) is not a person to whom the seller is likely to be prepared to sell the house.
- (4) Nothing in subsection (3) authorises the doing of anything which is an unlawful act of discrimination.
- (5) Subsection (3) does not apply if the person responsible for marketing the house knows or suspects that the person making the request is an officer of an enforcement authority.
- (6) The person responsible for marketing the house may charge a sum not exceeding the reasonable cost of making and, if requested, sending a paper copy of any prescribed documents requested under subsection (1).

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*Status: This is the original version (as it was originally enacted).*

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- (7) If the person responsible for marketing the house ceases to be so responsible before the end of the permitted period (whether because the house has been sold, taken off the market or for any other reason), that person ceases to be under any duty to comply with a request made under subsection (1).
- (8) A person does not comply with the duty under subsection (1) by providing a copy in electronic form unless the potential buyer consents in writing to receiving it in that form.

## **100 Imposition of conditions on provision of information**

- (1) A potential buyer who has made a request to which section 99(1) applies may be required to comply with either or both of the following conditions before a copy is provided.
- (2) The potential buyer may be required to pay a charge authorised by section 99(6).
- (3) The potential buyer may be required to accept any terms specified in writing which—
  - (a) are proposed by the seller or in pursuance of the seller’s instructions, and
  - (b) relate to the use or disclosure of the copy (or any information contained in or derived from it).
- (4) A condition is effective only if it is notified to the potential buyer before the end of the permitted period.
- (5) Where the potential buyer has been so notified of either or both of the conditions authorised by this section, the permitted period for the purposes of section 99(2) is to run afresh beginning with—
  - (a) where one condition only is involved, the day on which the potential buyer complies with it by making the payment demanded or, as the case may be, accepting the terms proposed (or such other terms as may be agreed between the seller and the potential buyer in substitution for those proposed), or
  - (b) where both conditions are involved, the day on which the potential buyer complies with them or, where each condition is complied with on a different day, the later of those days.

## **101 Other duties of person acting as agent for seller**

- (1) This section applies to a person acting as agent for the seller of a house where—
  - (a) the house is not on the market, or
  - (b) the house is on the market but the person so acting is not responsible for marketing the house.
- (2) A person to whom this section applies must possess the prescribed documents in relation to a house when any qualifying action is taken by or on behalf of that person.
- (3) In subsection (2) “qualifying action” means action taken with the intention of marketing the house which—
  - (a) communicates to any person the fact that the house is or may become available for sale, but
  - (b) does not put the house on the market.

## **102 Acting as agent**

- (1) A person acts as agent for the seller of a house if the person does anything in the course of a business in pursuance of marketing instructions from the seller.
- (2) In subsection (1) “marketing instructions” means instructions to carry out any activities with a view to—
  - (a) effecting the introduction to the seller of a person wishing to buy the house, or
  - (b) selling the house by auction.

## **103 Duty to ensure authenticity of documents held under section 98 or 101**

- (1) This section applies to a person who is subject to the duty in section 98 or 101(2).
- (2) Where such a person—
  - (a) provides a potential buyer with, or
  - (b) allows a potential buyer to inspect,a copy of a prescribed document (or a part of such a document), that person must ensure that the copy is authentic.