



# Housing Act 2004

## 2004 CHAPTER 34

### PART 5

#### HOME INFORMATION PACKS

##### *Enforcement*

#### **166 Enforcement authorities**

- (1) Every local weights and measures authority is an enforcement authority for the purposes of this Part.
- (2) It is the duty of each enforcement authority to enforce—
  - (a) the duties under sections 155 to 159 and 167(4), and
  - (b) any duty imposed under section 172(1),in their area.

#### **167 Power to require production of home information packs**

- (1) An authorised officer of an enforcement authority may require a person who appears to him to be or to have been subject to the duty under section 155 or 159(2), in relation to a residential property, to produce for inspection a copy of, or of any document included in, the home information pack for that property.
- (2) The power conferred by subsection (1) includes power—
  - (a) to require the production in a visible and legible documentary form of any document included in the home information pack in question which is held in electronic form; and
  - (b) to take copies of any document produced for inspection.
- (3) A requirement under this section may not be imposed more than six months after the last day on which the person concerned was subject to the duty under section 155 or 159(2) in relation to the property (as the case may be).

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*Status: This is the original version (as it was originally enacted).*

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- (4) Subject to subsection (5), it is the duty of a person subject to such a requirement to comply with it within the period of 7 days beginning with the day after that on which it is imposed.
- (5) A person is not required to comply with such a requirement if he has a reasonable excuse for not complying with the requirement.
- (6) In this section “the home information pack” means—
  - (a) where a requirement under this section is imposed on a person at a time when he is subject to the duty under section 155 or 159(2), the home information pack intended by him to be the one he is required to have at that time; or
  - (b) in any other case, the home information pack intended by the person concerned, when he was last subject to the duty under section 155 or 159(2), to be the one he was required to have at that time.

### **168 Penalty charge notices**

- (1) An authorised officer of an enforcement authority may, if he believes that a person has committed a breach of—
  - (a) any duty under sections 155 to 159 and 167(4), or
  - (b) any duty imposed under section 172(1),
 give a penalty charge notice to that person.
- (2) A penalty charge notice may not be given after the end of the period of six months beginning with the day (or in the case of a continuing breach the last day) on which the breach of duty was committed.
- (3) Schedule 8 (which makes further provision about penalty charge notices) has effect.

### **169 Offences relating to enforcement officers**

- (1) A person who obstructs an officer of an enforcement authority acting in pursuance of section 167 is guilty of an offence.
- (2) A person who, not being an authorised officer of an enforcement authority, purports to act as such in pursuance of section 167 or 168 is guilty of an offence.
- (3) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

### **170 Right of private action**

- (1) This section applies where a person (“the responsible person”) has committed a breach of duty under section 156 by failing to comply with a request from a potential buyer of a residential property for a copy of a prescribed document.
- (2) If the potential buyer commissions his own version of the prescribed document at a time when both of the conditions mentioned below are satisfied, he is entitled to recover from the responsible person any reasonable fee paid by him in order to obtain the document.
- (3) The first condition is that—
  - (a) the property is on the market; or

- (b) the potential buyer and the seller are attempting to reach an agreement for the sale of the property.
- (4) The second condition is that the potential buyer has not been provided with an authentic copy of the prescribed document.
- (5) A copy of a prescribed document is not authentic for the purposes of subsection (4) unless—
  - (a) it is a copy of a document included in the home information pack for the property as it stands at the time the copy is provided to the potential buyer; and
  - (b) the document so included complies with the requirements of any regulations under section 163 at that time.
- (6) In subsection (5) “the home information pack” means the home information pack intended by the responsible person to be the one required by section 155.
- (7) In this section “prescribed document” means a document (being one required to be included in the home information pack by regulations under section 163) which is prescribed by regulations made by the Secretary of State for the purposes of this section.
- (8) It is immaterial for the purposes of this section that the request in question did not specify the prescribed document but was for a copy of the home information pack or a part of the pack which included (or ought to have included) that document.