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STATUTORY INSTRUMENTS

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**2006 No. 1503**

**The Home Information Pack Regulations 2006**

**PART 5**

**EXCEPTIONS**

**Meaning of “non-residential premises”**

**22.**—(1) In this Part “non-residential premises” includes—

- (a) premises where the most recent use of the premises, is or was primarily non-residential; and
- (b) any dwelling-house where it is clear from the manner in which it is marketed that it is due to be converted for primarily non-residential use by the time its sale is completed, and all the relevant—
  - (i) planning permissions; and
  - (ii) listed building consents,exist in relation to the conversion.

(2) For the purposes of this Part, where a question arises as to whether premises are—

- (a) non-residential premises; or
- (b) residential property by virtue of being ancillary land<sup>(1)</sup>,

the premises may be treated as non-residential premises if the conditions in paragraph (3) are met.

(3) The conditions referred to in paragraph (2) are that—

- (a) the total area of the land is 5 hectares or more; and
- (b) the most recent use of the land is or was primarily for one or more of the following purposes—
  - (i) horticulture or cultivation;
  - (ii) the breeding or keeping of animals or livestock; or
  - (iii) the use of land as grazing land or woodlands.

**Exclusion from meaning of “non-residential premises”**

**23.** In this Part, “non-residential premises” do not include—

- (a) premises due to be converted to a dwelling-house by the time the sale of the property interest is complete; or
- (b) a dwelling-house or a building ancillary to a dwelling-house used for either or both of the following purposes—

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(1) Under section 148(1) of the 2004 Act, “residential property” consists of a single dwelling-house, including any ancillary land. “Ancillary land” is defined in section 177(1) as meaning in relation to a dwelling-house or a sub-divided building “any land intended to be occupied and enjoyed together with that dwelling-house or building”.

- (i) letting under a lease; or
- (ii) home working.

**Exception for seasonal and holiday accommodation**

24. The duties under sections 155 to 159 of the 2004 Act do not apply in relation to a property where—

- (a) the dwelling-house which is or forms part of the property is subject to a condition imposed under section 72(1)(a) of the Town and Country Planning Act 1990 regulating the use of the dwelling-house to either or both of the following—
  - (i) occupation for less than 11 months in any 12 month period; or
  - (ii) use only for holiday accommodation; and
- (b) that regulation of the use of the dwelling-house is clear from the manner in which the property is marketed.

**Exception for mixed sales**

25. The duties under sections 155 to 159 of the 2004 Act do not apply in relation to a property where—

- (a) it is to be sold with one or more non-residential premises;
- (b) the dwelling-house which is or forms part of the property is ancillary to those non-residential premises;
- (c) at the time the first point of marketing would have otherwise occurred, the seller does not intend to accept an offer to buy the property in isolation from any one of those non-residential premises; and
- (d) it is clear that he would not do so from the manner in which the property is marketed.

**Exception for dual use of a dwelling-house**

26. The duties under sections 155 to 159 of the 2004 Act do not apply in relation to a property where—

- (a) the dwelling-house which is or forms part of that property was most recently used for both residential and non-residential purposes; and
- (b) the manner in which it is marketed suggests it is suitable for—
  - (i) non-residential use; or
  - (ii) both residential and non-residential use.

**Exception for portfolios of properties**

27.—(1) Subject to paragraph (2), the duties under sections 155 to 159 of the 2004 Act do not apply in relation to a property where—

- (a) the dwelling-house which is or forms part of that property is to be sold with one or more other dwelling-houses;
- (b) the dwelling-houses mentioned in sub-paragraph (a) are not dwelling-houses to which Part 5 of the 2004 Act applies by virtue of section 171(2) of that Act;
- (c) at the time the first point of marketing would have otherwise occurred, the seller does not intend to accept an offer to buy any one of those dwelling-houses in isolation from another; and

(d) it is clear that he would not do so from the manner in which the dwelling-houses are marketed.

(2) Paragraph (1) does not apply to one or more dwelling-houses which are ancillary to a principal dwelling-house.

#### **Exception for unsafe properties**

**28.** The duties under sections 155 to 159 of the 2004 Act do not apply in relation to a property—

- (a) which is unoccupied;
- (b) whose condition poses a serious risk to the health or safety of its occupants or visitors; and
- (c) where the manner in which the property is marketed suggests it is unsuitable for occupation in that condition.

#### **Exception for properties to be demolished**

**29.**—(1) The duties under sections 155 to 159 of the 2004 Act do not apply in relation to a property where—

- (a) it is clear from the manner in which the property is marketed that—
  - (i) the dwelling-house which is or forms part of the property is suitable for demolition; and
  - (ii) the resulting site is suitable for re-development;
- (b) all the relevant—
  - (i) planning permissions;
  - (ii) listed building consents; and
  - (iii) conservation area consents,exist in relation to the demolition; and
- (c) in relation to the re-development—
  - (i) either outline planning permission or planning permission exists, or both; and
  - (ii) where relevant, listed building consent exists.

(2) In paragraph (1)(c)(i), “outline planning permission” means a planning permission for the erection of a building, which is granted subject to a condition requiring the subsequent approval of the local planning authority with respect to one or more of the following matters—

- (a) siting;
- (b) design;
- (c) external appearance;
- (d) means of access; or
- (e) the landscaping of the site.

#### **Exception – 1st June 2007 to 31st October 2007**

**30.**—(1) In this regulation, “transitional period” means the period starting with 1st June 2007 and ending with 31st October 2007.

(2) Subject to paragraph (4), a seller or a person acting as an estate agent for a seller is not a responsible person in relation to a property by virtue of action taken during the transitional period,

by him or on his behalf, which makes public the fact that the property is on the market<sup>(2)</sup> where, before that period begins—

- (a) the property was put on the market; and
- (b) further action was taken by him or on his behalf to market the property.

(3) Subject to paragraph (4), the duties under sections 155 to 159 of the 2004 Act do not apply in relation to a property which is put on the market during the transitional period where—

- (a) it was put on the market by or on behalf of the seller before that period begins;
- (b) it remained on the market until it was taken off the market because the seller accepted an offer to buy the property; and
- (c) it is put back on the market within 28 days of that offer being withdrawn or its acceptance repudiated.

(4) Paragraphs (2) and (3) cease to apply at the end of the transitional period.

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(2) See sections 151, 152(1)(b) and 153(1)(b) of the 2004 Act.