

## SCHEDULE 6

### Exception from home condition report for specific new homes warranties

## PART 2

### Arrangements for entering into specific new homes warranties

#### **Existence of insurance and regulation of warranty provider**

**3.**—(1) Any liability of any type arising under a new homes warranty which complies with this Schedule must be the subject of a contract of insurance against such risk to be effected by and to be carried out by persons so authorised for the purposes of the Financial Services and Markets Act 2000<sup>(1)</sup>.

(2) Where a warranty provider—

- (a) effects the contract of insurance which is the subject of the new homes warranty;
- (b) carries out such a contract;
- (c) deals with such a contract as an agent;
- (d) makes arrangements for another person (whether as principal or agent) to buy, sell, subscribe for or underwrite such a contract;
- (e) makes arrangements with a view to a person who participates in such arrangements buying, selling, subscribing for or underwriting such a contract (whether as principal or agent);
- (f) assists in the administration and performance of such a contract;
- (g) advises a person (in that person's capacity as a policy-holder or potential policy-holder) on the merits of such a contract; or
- (h) agrees to carry out the activities specified in sub-paragraphs (a) to (g),

it must be authorised to do so under the Financial Services and Markets Act 2000.

#### **Cover notes**

**4.** Prior to the commencement date, a warranty provider must provide the potential policy-holder with a document confirming that—

- (a) it has conducted a final inspection under paragraph 9(a) of this Schedule; and
- (b) it intends to enter into the new homes warranty with the potential policy-holder.

#### **Commencement date**

**5.** The commencement date for the new homes warranty must be no earlier than the day the sale of the property is completed.

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(1) 2000 c. 8. Section 33 of that Act defines “authorised persons” for the purposes of the Act. Under section 19 of that Act, no person may carry on a regulated activity in the United Kingdom or purport to do so unless he is an authorised person or an exempt person, and section 31 defines authorised persons. Under section 22(1), an activity is a regulated activity for the purposes of that Act if it is an activity described in an order made by the Treasury and the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (S.I.2001/544) was made accordingly. Article 10(2) of that Order provides that carrying out a contract of insurance as a principal is a described kind of activity. Articles 21, 25(1), 25(2), 39A, 53 and 64 specify other relevant activities.