

SCHEDULE 8

General provision on searches and search reports

PART 2

Specific required search reports

Terms for the preparation of required searches

4. Any person may prepare a report required by regulation 8(m)(ii), 8(n) or 8(o), but must do so on the following terms without exclusion or limitation—

- (a) that the search report will be prepared with reasonable care and skill; and
- (b) that a responsible person may copy or issue a copy of the report for the purposes of complying with any of the following provisions—
 - (i) regulations 5, 6, 8(m)(ii), 8(n), 8(o) and 21; and
 - (ii) section 156(1), (2) and (11) of the 2004 Act.

Third party contractual rights in relation to search reports

5. The person preparing a search report required by regulation 8(m)(ii), 8(n) or 8(o) must do so on terms enabling the provisions of the contract under which the report is prepared—

- (a) to be enforced in relation to the terms mentioned in paragraph 4 of this Schedule, by—
 - (i) the seller;
 - (ii) a potential or actual buyer of the property interest; and
 - (iii) a mortgage lender in respect of the property interest; and
- (b) to be enforced by such persons in their own right, whether or not they are a party to such a contract.

Insurance cover for third party contractual rights

6. The person preparing the search reports required by regulation 8(n) or 8(o) must do so on terms ensuring that—

- (a) any liability of any type arising under paragraph 5 of this Schedule is the subject of a contract of insurance against such risk effected by, and to be carried out by persons so authorised for the purposes of the Financial Services and Markets Act 2000;
- (b) any liability for financial loss arising under paragraph 5 of this Schedule will be met by financial compensation to be paid by a person (other than the persons described in paragraph 5(a)(i) to (iii) of this Schedule) who is—
 - (i) a party to the contract of insurance; or
 - (ii) another person involved in the sale of the property; and
- (c) such financial compensation is paid by a person mentioned in sub-paragraph (a), if any person mentioned in sub-paragraph (b) fails to pay it (or no longer exists and has no successor).

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Permitted limit on liability for financial loss

7. The amount of the financial compensation referred to in paragraph 6(b) of this Schedule may be limited to the amount the potential or actual buyer reasonably believed to be the value of the property interest—

- (a) at the time the search report was completed; and
- (b) as used for residential purposes.

Inclusion of additional or more favourable terms for required search reports

8. A person may prepare the search reports required by regulation 8(m)(ii), 8(n) or 8(o) on any of the following terms—

- (a) terms additional to those described in paragraphs 4, 5 and 6 of this Schedule (without excluding or limiting them); and
- (b) terms more favourable to—
 - (i) the seller;
 - (ii) a potential or actual buyer of the property interest; or
 - (iii) a mortgage lender in respect of the property interest,than those described in paragraphs 4, 5 and 6 of this Schedule.

Less favourable terms

9. Any search report which contains terms less favourable to—

- (a) the seller;
- (b) a potential or actual buyer of the property interest; or
- (c) a mortgage lender in respect of the property interest,

than those required by this Part of this Schedule does not comply with the requirements of this Schedule.

Required searches by another name

10. Paragraph 4 of this Schedule applies to pack documents which contain the enquiries required (or enquiries to like effect) to be contained in a search report which would be included under regulation 8(m)(ii), 8(n) or 8(o), regardless of whether one or more of the following has occurred—

- (a) they are included under regulation 9(k), Schedule 11 or another provision of these Regulations; or
- (b) they are described as a local land charges search, local enquiries or drainage and water enquiries, or given similar descriptions.