

SCHEDULE 7

regulations 9(k)(ii), 9(l) 9(m), 10(m) and
10(n)

General provision about searches and search reports

PART 1

All search reports (other than official search
certificate of the local land charges register)

General requirements

1. A search report must contain the following information—
 - (a) the address of the premises in respect of which the search is conducted;
 - (b) a statement of whether the following persons have any personal or business relationship with any person involved in the sale of the property—
 - (i) a person who conducted the search; and
 - (ii) a person who prepared the search report;
 - (c) such enquiries as formed the basis of the search and the information sought;
 - (d) subject to paragraph 3, the results of the search;
 - (e) the date on which the search was completed;
 - (f) a description of the records searched, and the name and address of the person who holds them;
 - (g) if the records searched are derived from other records, a description of those other records and the name and address of the person who holds them;
 - (h) a description of how relevant documents can be obtained (if they are not included in the home information pack under regulation 10(o) or otherwise);
 - (i) the names and addresses of the parties to the arrangements—
 - (i) under which the search was conducted; and
 - (ii) if different, under which the search report was prepared;
 - (j) the name of the persons liable in each of the following events—
 - (i) any negligent or incorrect entry in the records searched;
 - (ii) any negligent or incorrect interpretation of the records searched; and
 - (iii) any negligent or incorrect recording of that interpretation in the search report;
 - (k) a description of such complaints or redress procedures as exist in relation to the report; and
 - (l) the terms on which the report is made, including—
 - (i) the terms required by paragraphs 5, 6 and 7; and
 - (ii) the names of the persons who are liable to make the payments described in paragraphs 4(g), 4(h)7(b) and 7(c).

Additional search information

2. A search report complying with this Part may contain or be accompanied by documents containing all or any of the following information—
 - (a) information which identifies the search or the search report;

Status: This is the original version (as it was originally made).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

- (b) information which explains the results of the search, the search report or the enquiries or matters to which the results of the search relate; and
- (c) information which identifies services or features local to the property, but not including any advertising or marketing information about them.

Unavailable search results

3. Subject to paragraph 4, the results of the search included in a search report under paragraph 1(d) must not fail to answer such enquiries as formed the basis of the search, nor fail to give the information originally sought, unless—

- (a) a record from which the answer or result could be deduced is not held by or obtainable under any circumstances from—
 - (i) a local authority in the case of a search report required by regulation 9(k)(ii) (personal search of the local land charges register) or 9(l) (local enquiries), or authorised by regulation 10(m)(i) (supplementary local enquiries); or
 - (ii) any person in the case of any other search report, and
- (b) a statement is also included in the search report indicating—
 - (i) that a particular result is not included; and
 - (ii) the reason under sub-paragraph (a) for failing to include the result.

PART 2

Specific required search reports

Access to local authority records

4. The results of the search included in the search report required by regulation 9(l) (local enquiries) may fail to answer the enquiries set out in Part 2 of Schedule 8, in the following circumstances—

- (a) the first point of marketing falls before 1st April 2008 (except where a further first point of marketing arises under regulation 4(4) or Part 5);
- (b) a record from which the answer or result could be deduced is held by a local authority;
- (c) that local authority has a policy of not allowing other persons to inspect such records;
- (d) a local authority is not requested to provide the search report;
- (e) any enquiries not answered are the subject of a contract of insurance against the liabilities that if they had been answered, they would have affected—
 - (i) an actual buyer's decision to buy the property; or
 - (ii) the price an actual or potential buyer would be prepared to pay for it, and result in financial loss;
- (f) such a contract of insurance is effected by, and to be carried out by persons so authorised for the purposes of the Financial Services and Markets Act 2000;
- (g) any liability for financial loss arising under paragraph (e) will be met by financial compensation to be paid by a person (other than the persons described in paragraph 6(a) (i) to (iii)) who is—
 - (i) a party to the contract of insurance; or
 - (ii) another person involved in the sale of the property; and

- (h) such financial compensation is paid by a person mentioned in sub-paragraph (f) if any person mentioned in sub-paragraph (g) fails to pay it (or no longer exists and has no successor); and
- (i) the search report—
 - (i) contains a description of the terms and effect of the insurance described in this paragraph; and
 - (ii) identifies which enquiries have not been answered and in respect of which the insurance has been obtained.

Terms for the preparation of required searches

5. Any person may prepare a report required by regulation 9(k)(ii) (personal search of the local land charges register), 9(l) (local enquiries) or 9(m) (drainage and water enquiries), 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 6, 7, 9(k)(ii), 9(l), 9(m) and 25; and
 - (ii) section 156(1), (2) and (11) of the 2004 Act.

Third party contractual rights in relation to search reports

6. The person preparing a search report required by regulation 9(k)(ii) (personal search of the local land charges register), 9(l) (local enquiries) or 9(m) (drainage and water enquiries) 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 5, 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

7. The person preparing the search reports required by regulation 9(l) (local enquiries) or 9(m) (drainage and water enquiries) must do so on terms ensuring that—

- (a) any liability of any type arising under paragraph 6 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 6 will be met by financial compensation to be paid by a person (other than the persons described in paragraph 6(a) (i) to (iii)) 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

8. The amount of the financial compensation referred to in paragraphs 4(g) and 7(b) 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) for the purposes of residential use.

Inclusion of additional or more favourable terms for required search reports

9. A person may prepare the search reports required by regulation 9(k)(ii) (personal search of the local land charges register), 9(l) (local enquiries) or 9(m) (drainage and water enquiries) on any of the following terms—

- (a) terms additional to those described in paragraphs 5, 6 and 7 (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 5, 6 and 7.

Less favourable terms

10. 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 is not made in accordance with this Schedule.

Required searches by another name

11. This Schedule applies in relation 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 9(k)(ii), 9(l) or 9(m), regardless of whether one or more of the following has occurred—

- (a) they are included under regulation 10(m), 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.