
STATUTORY INSTRUMENTS

2007 No. 1667

The Home Information Pack (No. 2) Regulations 2007

PART 9

HOME CONDITION REPORT REGISTER

CHAPTER 1

Interpretation

Interpretation of this Part

40.—(1) In this Part—

“agent” includes a person who—

- (a) provides advice to another in a professional capacity; or
- (b) acts on behalf of another with their authority;

“automated valuation supplier” means a person who carries out valuations of properties for the purposes of their sale other than by means of a visual inspection of the property;

“keeper of the register” means the Secretary of State or persons keeping the register or any part of the register on behalf of the Secretary of State;

“primary disclosure” means one or more of the following disclosures—

- (a) an inspection of the register or a home condition report entered onto the register;
- (b) the taking or giving of electronic or paper copies of the register or a home condition report entered onto the register; or
- (c) the giving of information contained in or derived from the register or a home condition report entered onto the register;

“report reference number” means the number assigned to a home condition report in accordance with regulation 41;

“request” includes an electronic or automated request;

“register” means the register of home condition reports described in section 165 of the 2004 Act and further described in this Part, and includes parts of the register;

“secondary disclosure” means a disclosure of a home condition report or its contents where that information has been obtained by virtue of a primary disclosure; and

“seller” does not include former sellers.

(2) In this Part, references to a home condition report include—

- (a) part of a home condition report; and
- (b) a summary or explanation of a home condition report.

(3) In this Part, references to the obtaining, keeping or storing of a document or information include the obtaining, keeping or storing of such a document or information in any form.

- (4) In this Part, a disclosure includes—
- (a) a primary or secondary disclosure; and
 - (b) leaving or storing information in a place where it may be visible to another person⁽¹⁾.

CHAPTER 2

ARRANGEMENTS FOR KEEPING THE REGISTER

Registration of home condition reports

41. Each home condition report entered onto the register—
- (a) shall be registered under a report reference number; and
 - (b) shall not be altered once so registered.

Retention of home condition reports

42.—(1) Subject to paragraph (2), a home condition report entered onto the register must be cancelled from the register in the event that a person operating an approved certification scheme informs the keeper of the register that there is an inaccuracy in the report.

(2) Except in the circumstances described in paragraph (1), a home condition report entered onto the register must be kept on the register for no less than 15 years from the date on which it is entered onto the register.

Restrictions on disclosure by the keeper of the register in pursuance of a seller's instructions

43.—(1) This regulation applies to home condition reports prepared for the purposes of the sale of the property interest by the seller.

(2) A home inspector may inform the keeper of the register in writing, pursuant to the seller's instruction, that the seller does not wish the keeper to make a primary disclosure of a home condition report to which this regulation applies, to—

- (a) all persons; or
- (b) all mortgage lenders or automated valuation suppliers.

(3) Nothing in this Part authorises the primary disclosure of a home condition report in contravention of such an instruction.

Other registers

44. For the purposes of these Regulations and section 165 of the 2004 Act—
- (a) any other archive of home condition reports, or information obtained from a home condition report, is derived from the register whether or not obtained directly from the keeper of the register; and
 - (b) the restrictions on disclosures or the permitted disclosures set out in Chapters 3 and 4 of this Part shall apply—
 - (i) to such archives derived from the register as they apply to the register; and
 - (ii) to the keeper of such an archive as they apply to the keeper of the register.

(1) By virtue of section 165(7) of the Housing Act 2004, a disclosure not made in accordance with these Regulations contravenes section 165(4) and a person making such a disclosure is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

CHAPTER 3

DISCLOSURE - GENERAL PROVISIONS

Section 157 conditions

45. Nothing in this Part authorises a disclosure where the person who proposes to make the disclosure is aware that a condition exists under section 157(3) of the 2004 Act which prohibits the proposed disclosure.

Suspicion of unauthorised use

46. Nothing in this Part authorises a disclosure where the person who proposes to make a disclosure or requested to make a disclosure, believes that it is likely to result in a disclosure not authorised by this Part.

Commercial use by the keeper of the register

47. Nothing in this Part authorises the commercial use of the register by the keeper of the register, otherwise than in accordance with the provisions of this Part.

Responsibility for proving purposes of disclosure

48. Where this Part refers to the purposes of a disclosure, it shall be the responsibility of the person seeking the disclosure to prove those purposes to the satisfaction of the person from whom disclosure is sought.

Responsibility for proving agency

49. Where this Part authorises the disclosure to the agent of a person, it shall be the responsibility of the purported agent to prove the existence of an agency arrangement to the satisfaction of the person from whom the disclosure is sought.

Possession of report reference number

50.—(1) Before a primary disclosure authorised by this Part is made, the keeper of the register may require the person seeking the disclosure to provide the relevant report reference number.

(2) The keeper of the register may presume that any person who is in possession of a report reference number is lawfully in possession of such a number, unless the contrary is proved.

CHAPTER 4

AUTHORISED DISCLOSURES

Internal processing of information

51. Any person may make a primary or secondary disclosure, where necessary for the purposes of processing information—

- (a) within a body of persons corporate or unincorporate;
- (b) between principal and agent;
- (c) between an employer and employee; or
- (d) in order to manage the register.

Sellers and their agents

52.—(1) The keeper of the register may make a primary disclosure to a seller or his agent.

(2) Before making a disclosure in accordance with paragraph (1), the keeper of the register may require the person seeking that disclosure to prove that he is the seller or his agent.

(3) Where the home condition report to be disclosed was entered onto the register for the purposes of the sale of the property interest by that seller—

- (a) a seller may make a secondary disclosure to any person; and
- (b) the seller's agent may make a secondary disclosure to a person only if the seller has authorised the agent to make that disclosure.

Potential buyers and their advisers

53.—(1) The keeper of the register may make a primary disclosure to an actual or potential buyer or his agent.

(2) Before making a disclosure in accordance with paragraph (1), the keeper of the register may require the person seeking that disclosure to prove one or more of the following matters—

- (a) that he is an actual or potential buyer or his agent;
- (b) that the request relates to a home condition report for a property the buyer is genuinely interested in buying; or
- (c) that the request is made for the purposes of—
 - (i) checking the authenticity of a home condition report; or
 - (ii) checking whether any home condition reports not included in the home information pack have been completed for the purposes of the sale of the property interest by the seller.

Mortgage lenders or automated valuation suppliers

54.—(1) The keeper of the register may make a primary disclosure to a mortgage lender, an automated valuation supplier or their agents.

(2) Before making a disclosure in accordance with paragraph (1), the keeper of the register may require the person seeking that disclosure to prove one or more of the following matters—

- (a) that they are a mortgage lender, automated valuation supplier or their agent;
- (b) that the request relates to a report for a property that the mortgage lender or automated valuation supplier has been asked to consider by or on behalf of an actual or potential buyer; or
- (c) that the request is made for the purposes of—
 - (i) checking the authenticity of that report;
 - (ii) valuing the property; or
 - (iii) appraising the suitability of the property as security for mortgage or loan.

Approved certification schemes or complaints against home inspectors

55.—(1) The keeper of the register may make a primary disclosure to a person operating an approved certification scheme or a person dealing with complaints against home inspectors.

(2) Before making a disclosure in accordance with paragraph (1), the keeper of the register may require the person seeking that disclosure to prove one or more of the following matters—

- (a) that they operate an approved certification scheme or deal with complaints against home inspectors;
- (b) that the request is made for the purposes of —
 - (i) any complaint or disciplinary procedure relating to a home inspector; or
 - (ii) monitoring or assessing the work of home inspectors; or
- (c) that any request made by a person operating an approved certification scheme is made for the purposes of replacing archives of home condition reports prepared by its members, which—
 - (i) have been destroyed; and
 - (ii) were kept (and will be kept) for monitoring or assessing the work of members of that scheme.

Enforcement officers

56.—(1) The keeper of the register may make a primary disclosure to an authorised officer of an enforcement authority.

(2) Before making a disclosure in accordance with paragraph (1), the keeper of the register may require the person seeking that disclosure to prove one or more of the following matters—

- (a) that he is an authorised officer of an enforcement authority;
- (b) that the request is made for the purposes of the enforcement by enforcement authorities of—
 - (i) the duties under sections 155 to 159 and 167(4) of the 2004 Act; or
 - (ii) any duty imposed under section 172(1) of that Act.

Office of Fair Trading

57.—(1) The keeper of the register may make a primary disclosure to the Office of Fair Trading.

(2) Before making a disclosure in accordance with paragraph (1) in response to a request, the keeper of the register may require the Office of Fair Trading to prove that the request is made for the purposes of the enforcement by the Office of Fair Trading of its functions under the Estate Agents Act 1979(2) or the 2004 Act.

Information from which no particular property is identifiable

58. Any person may make a primary or secondary disclosure where no particular property would be identifiable in doing so.

Disclosures for the purposes of the 2004 Act or these Regulations

59. Any person may make a primary or secondary disclosure for the purposes of—

- (a) section 156(1), (2) and (11) of the 2004 Act; or
- (b) regulations 5, 6, 9(a) and 24.

Prevention of crime

60. Any person may make a primary or secondary disclosure for the purposes of or to facilitate—

- (a) the prevention or detection of crime; or

- (b) the apprehension or prosecution of offenders.

Legal proceedings and court orders

- 61.** Any person may make a primary or secondary disclosure for the purposes of—
- (a) the establishment, exercise or defence of legal rights; or
 - (b) an order of a court.

CHAPTER 5

FEES

Fees

- 62.**—(1) The fee prescribed under section 165(3) of the 2004 Act is £1.15 (one pound and fifteen pence).
- (2) No fee may be charged for a primary disclosure.