

2008 No. 3107

HOUSING, ENGLAND AND WALES

**The Home Information Pack (Amendment) (No.3) Regulations
2008**

| | | |
|-------------------------------|---------|--------------------------|
| <i>Made</i> | - - - - | <i>4th December 2008</i> |
| <i>Laid before Parliament</i> | | <i>8th December 2008</i> |
| <i>Coming into force</i> | | |
| <i>Regulations 1 to 7</i> | | <i>1st January 2009</i> |
| <i>Regulations 8 to 12</i> | | <i>6th April 2009</i> |

The Secretary of State, in exercise of the powers conferred by sections 163 and 250(2) of the Housing Act 2004(a), makes the following Regulations:

In accordance with section 250(3) of that Act, the Secretary of State has consulted the Welsh Ministers(b) in relation to residential properties in Wales.

Citation and commencement

1.—(1) These Regulations may be cited as the Home Information Pack (Amendment) (No.3) Regulations 2008.

(2) Regulations 1 to 7 of these Regulations shall come into force on 1st January 2009 and regulations 8 to 12 shall come into force on 6th April 2009.

Amendment of the Home Information Pack (No.2) Regulations 2007

2. The Home Information Pack (No. 2) Regulations 2007(c) are amended in accordance with regulations 3 to 12.

Provisions to come into force on 1st January 2009

3. In regulation 8 (required pack documents), in paragraph (h)—

- (a) after sub-paragraph (i) omit “and”; and
- (b) omit paragraph (ii).

(a) 2004 c.34.

(b) The expression “the Welsh Ministers” is to be construed in accordance with section 45(2) of the Government of Wales Act 2006 (c.32). Section 250(3) of the Housing Act 2004 refers to consultation with the National Assembly for Wales. Under paragraphs 30 and 32 of Schedule 11 to the Government of Wales Act 2006 functions of the National Assembly for Wales (as constituted under the Government of Wales Act 1998 (c.38)) conferred or imposed on it by an Act are transferred to the Welsh Ministers.

(c) S.I. 2007/1667 as amended by S.I. 2007/3301, S.I. 2008/572 and S.I. 2008/1266.

4. In regulation 9 (authorised pack documents), in paragraph (1)(i) for “paragraph 3” substitute “paragraphs 1A to 3A”.

5. In the following provisions for “1st January 2009” substitute “6th April 2009”—

- (i) in paragraph (1)(a) of regulation 16 (energy information unobtainable before or at the first point of marketing);
- (ii) in paragraph (2)(a) of regulation 34 (exception - first day marketing during a temporary period)(a); and
- (iii) in paragraph 4(a) (access to local authority records) of Schedule 6(b).

6. In regulation 30 (exception for portfolios of properties), omit sub-paragraph (1)(b)(i).

7. In Schedule 5 (leasehold information)—

- (a) in paragraph 1, omit sub-paragraphs (1)(b) to (d) and (2);
- (b) after paragraph 1 omit the heading “Required leasehold information” and insert—

“Authorised leasehold information

1A. The matters referred to in regulation 9(1) (“authorised leasehold information”) are set out in paragraphs 2, 3 and 3A.”;

- (c) in paragraph 2, in sub-paragraph (1) for the words “Subject to sub-paragraph (2), the matters referred to in regulation 8(h)(ii) are” substitute “Authorised leasehold information includes”, and omit sub-paragraph (2) and the heading “Authorised leasehold information” which follows it;
- (d) in paragraph 3—
 - (i) for the words “The matters referred to in regulation 9(1) are” substitute “Authorised leasehold information includes the following matters relating to interests, rights and obligations affecting the property,”;
 - (ii) in sub-paragraph (a), after “property” insert “other than the lease which is a required document under paragraph 1,”;
- (e) after paragraph 3, insert—

“3A. Authorised leasehold information also includes the following matters relating to the management of the property—

- (a) such regulations or rules as are made for the purposes of managing the property by—
 - (i) the current lessor or proposed lessor;
 - (ii) such managing agents as are appointed or proposed for appointment by the lessor to manage the property; and
 - (iii) such other persons as manage or are likely to manage the property, and their predecessors (if any);
- (b) statements or summaries of service charges supplied in respect of the property under section 21 of the Landlord and Tenant Act 1985(c) or otherwise, and relating to the 36 months preceding the first point of marketing; and
- (c) the most recent requests for payment or financial contribution where made in respect of the property, relating to the 12 months preceding the first point of marketing, towards such of the following as are relevant to the property—
 - (i) service charges;

(a) Regulations 16(1)(a) and 34(2)(a) were amended by S.I. 2007/3301 and S.I. 2008/1266.
(b) Schedule 6 paragraph 4(a) was amended by S.I. 2008/572.
(c) 1985 c.70.

- (ii) ground rent;
- (iii) insurance against damage for the building in which the property is situated (if made separately from the request relating to service charges included under sub-paragraph (i)); and
- (iv) insurance for any person in respect of personal injury or death caused by or within the building in which the property is situated (if made separately from the request relating to service charges included under sub-paragraph (i)).”

Provisions to come into force on 6th April 2009

8. In regulation 2(1) (interpretation-general provisions)—

- (a) in the definition of “new home”(a), for “regulation 8(ca) and (cb)” substitute “regulation 8(ca), (cb), (m) and (n) and Schedule 12”;
- (b) after the definition of “property” insert—
““property information questionnaire” means the document required by regulation 8(m) or (n), as the case may be;”.

9. In regulation 8 (required pack documents)—

- (a) after paragraph (k) omit “and”; and
- (b) after paragraph (l), add—
“(m)where the property is not a new home, a property information questionnaire complying with Schedule 11; and
(n) where the property is a new home, a property information questionnaire complying with Schedule 12.”.

10. After Schedule 10, insert—

“SCHEDULE 11

Regulation 8(m)

Property Information Questionnaire

PART 1

General

1.—(1) The property information questionnaire (“PIQ”) required by regulation 8(m) must contain—

- (a) the title and statement in paragraph 2 of Part 2 of this Schedule;
- (b) the information in paragraph 3 of Part 2;
- (c) the questions in paragraph 3 of Part 2 in the manner prescribed by the paragraph; and
- (d) the responses to the questions completed by the seller.

(2) Where the property interest is or includes the whole or part of a leasehold interest, the PIQ must also contain—

- (a) the information and questions set out in Part 3 of this Schedule in the manner prescribed by that paragraph; and
- (b) the responses to the questions completed by the seller.

(a) The definition of “new home” was inserted by S.I. 2008/572, regulation 3(b).

PART 2

Information required in respect of all properties

General information

2. The PIQ must contain the following at the start of the document—

- (a) the title “Property Information Questionnaire” and below it “Part 1”; and
- (b) the following statement—

“About this form—

This form should be completed by the seller. The seller may be the owner or owners; a representative with the necessary authority to sell the property for an owner who has died; a representative with the necessary authority to sell the property for a living owner (e.g. a power of attorney) or be selling in some other capacity. The form should be completed and read as though the questions were being answered by the owner.

If you are the seller, you should be aware that—

Answers given in this form should be truthful and accurate to the best of your knowledge. The questions have been designed to help the smooth sale of your home. Misleading or incorrect answers are likely to be exposed later in the conveyancing process and may endanger the sale.

Information included in this form does not replace official documents or legal information. You should be prepared to provide such documents on request in support of the answers given in this form.

If you hold any guarantees for work on your property, your buyer’s conveyancer is likely to ask for evidence, which it is in your interests to make available as soon as possible.

If anything changes to affect the information given in this form prior to the sale of your home, you should inform your conveyancer or estate agent immediately.

If you are an estate agent, you should be aware that—

This form should be completed by the seller but it is your responsibility to ensure that it is included in the Home Information Pack.

The Property Misdescriptions Act 1991 does not apply where the form has been completed solely by the seller.

If you are the buyer, you should be aware that—

The information contained in this document should have been completed truthfully and accurately by the seller. However, the information only relates to the period during which the seller has owned the property (see question 1) and does not replace official documents or legal information and you should confirm any information with your conveyancer.

The seller must provide the information set out in Part 1 of this questionnaire.

Where the property being sold is a leasehold property, the seller must also complete Part 2 of this questionnaire.”.

3. Part 1 of the PIQ must contain the following information—

- (a) the postal address of the property;

- (b) the name of the seller; and
- (c) the date the PIQ was completed.

Questions

4. Part 1 of the PIQ must reproduce the following questions and statements in the order that they are set out—

“All properties

1. When was the property purchased?

Answer—this should be the month and year.

2. Is your property a listed building or contained in a listed building?

Answer—should be “yes”, “no” or “don’t know” as appropriate.

3. What council tax band is the property in? [Note: Buyers should be aware that improvements carried out by the seller may affect the property’s council tax banding following a sale.]

Answer—should be A, B, C, D, E, F, G or H as appropriate.

4. What parking arrangements exist at your property?

Answer—should be “garage”, “allocated parking space”, “driveway”, “on street”, “resident permit”, “metered parking”, “shared parking” or specify other.

Other issues affecting the property

5. Has there been any damage to your property as a result of storm or fire since you have owned it?

Answer—should be “yes”, “no” or “don’t know” as appropriate.

(a) If “yes”, please give details.

6. If you have answered “yes” to question 5, was the damage the subject of an insurance claim?

Answer—should be “yes”, “no” or “don’t know” as appropriate.

(a) If “yes”, please state whether any of these claims are outstanding.

7. Are you aware of any flooding at your property since you have owned it or before?

Answer—should be “yes” or “no” as appropriate.

(a) If “yes”, please give details.

8. Have you checked the freely available flood risk data at the Environment Agency’s website (<http://www.environment-agency.gov.uk/subjects/flood/>)?

Answer—should be “yes”, “no” or “don’t know” as appropriate.

(a) If “yes”, please give details.

(b) If “no”, the buyer is advised to check the Environment Agency website for an indication of flood risk in the area.

9. Has there been any treatment of or preventative work for dry rot, wet rot or damp in the property since you have owned the property?

Answer—should be “yes”, “no” or “don’t know” as appropriate.

(a) If “yes”, please give details of any guarantees relating to the work and who holds the guarantees.

Utilities and services

10. Is there central heating in your property?

Answer—should be “yes”, “no” or “don’t know” as appropriate.

- (a) If “yes”, please give details of the type of central heating (examples: gas-fired, oil fired, solid fuel, liquid gas petroleum).

11. When was your central heating or other primary heating system last serviced?

Answer—should be details of year and whether a report is available or “not serviced” or “don’t know” as appropriate.

12. When was the electrical wiring in your property last checked?

Answer—should be details of year and whether a report is available or “not checked” or “don’t know” as appropriate.

13. Please indicate which services are connected to your property.

Answer—

| <i>Services</i> | <i>Connected</i> |
|--|------------------|
| Electricity | |
| Gas | |
| Water mains or private water supply | |
| Drainage to public sewer (If not connected, please indicate whether there is a cesspool or septic tank.) | |
| Telephone | |
| Cable TV or satellite | |
| Broadband | |

Changes to the property

14. Have you carried out any structural alterations, additions or extensions (e.g. provision of an extra bedroom or bathroom) to the property?

Answer—should be “yes”, “no” or “don’t know” as appropriate.

- (a) If “yes”, please give details of the nature of the work.
(b) Was building regulation approval obtained?

Answer—should be “yes”, “no” or “don’t know” as appropriate.

- (c) Was planning permission obtained?

Answer—should be “yes”, “no” or “don’t know” as appropriate.

- (d) Was listed building consent obtained?

Answer—should be “yes”, “no” or “don’t know” as appropriate.

If the response was “no” for any of (b) to (d), please state why not (e.g. “not required” or “work completed under approved person scheme”).

15. Have you had replacement windows, doors, patio doors or double glazing installed in your property?

Answer—should be “yes”, “no” or “don’t know” as appropriate.

- (a) If “yes”, please give details of changes and guarantees, if held.

Access

16. Do you have right of access through any neighbouring homes, buildings or land?

Answer—should be “yes”, “no” or “don’t know” as appropriate.

(a) If “yes”, please give details.

17. Does any other person have a right of access through your property?

Answer—should be “yes”, “no” or “don’t know” as appropriate.

(a) If “yes”, please give details.

Leasehold properties

18. Is your property a leasehold property?

If “yes”, please complete Part 2 of this questionnaire. If “no”, there is no need to complete Part 2 of this questionnaire.”.

PART 3

Information required in respect of leasehold properties

5. Part 2 of the PIQ must reproduce the following questions and statements in the order that they are set out—

“PART 2

Only complete this part if the property is a leasehold property.

If the lease is a new one and has not yet been granted, please answer the questions based on the draft terms of the lease.

Before entering into a binding commitment, buyers should confirm any matter relating to the leasehold ownership by reading the lease and checking the position with their conveyancer.

Additional information for leasehold properties

19. What is the name of the person or organisation to whom you pay—

(a) ground rent; and

(b) service charges (if different from (a) above)?

20. How many years does your lease have left to run?

21. How much is your current annual ground rent?

22. How much is your current annual service charge?

23. How much is your current annual buildings insurance premium (if not included in the service charge)?

24. Are you aware of any proposed or ongoing major works to this property?

Answer—should be “yes”, “no” or “don’t know” as appropriate.

(a) If “yes”, what type of works are they and what is the expected cost relating to this property (if known)?

25. Does the lease prevent you from—

- (a) sub-letting?

Answer—should be “yes”, “no” or “don’t know” as appropriate.

- (b) keeping pets?

Answer—should be “yes”, “no” or “don’t know” as appropriate.

26. Does the lease allow you to—

- (a) use a car park or space?

Answer—should be “yes”, “no” or “don’t know” as appropriate.

- (b) have access to a communal garden (where applicable)?

Answer—should be “yes”, “no” or “don’t know” as appropriate.

27. Leases often permit or prevent certain types of activity relating to the use of the property, those referred to in question (25) are examples. Are there any other conditions or restrictions in the lease which could significantly impact on a person’s use of the property?

- (a) If “yes”, please specify.

Explanatory Notes to Numbered Items

19. The landlord will normally be the person to whom the ground rent is payable, although it is possible that an agent may be employed to collect this on the landlord’s behalf. The person or the organisation to whom the service charge is payable may be your landlord or head landlord or a residents’ management company – you should find the landlord’s details on your latest service charge demand. It is also possible that an agent has been employed to collect service charges on their behalf.

20. The number of years is calculated by taking the original number of years the lease was granted for and deducting the number of years that have expired since the lease was first granted.

21. This information will be found in the lease.

22. This information should be found on the previous year’s service charge demands.

24. Leaseholders should have been notified of this as part of the required consultation process where their contribution towards the work exceeds £250.

Please note : All leaseholders should have their own copy of the lease although sometimes this is held by the mortgage lender or the conveyancer who handled the purchase. A copy can normally be obtained from the Land Registry – www.landregisteronline.gov.uk. It is unlikely that the managing agent will be able to provide a copy of the lease.”.

Property Information Questionnaire (New Homes)

PART 1

General

1.—(1) The property information questionnaire (“PIQ”) required by regulation 8(n) must contain—

- (a) the title and statement in paragraph 2 of Part 2 of this Schedule;
- (b) the information in paragraph 3 of Part 2;
- (c) the questions in paragraph 4 of Part 2 in the manner prescribed by the paragraph; and
- (b) the responses to the questions completed by the seller.

(2) Where the property interest is or includes the whole or part of a leasehold interest, the PIQ must also contain—

- (a) the information and questions set out in Part 3 of this Schedule in the manner prescribed by that part; and
- (b) the responses to the questions completed by the seller.

PART 2

Information required in respect of all properties

General information

2. The PIQ must contain the following at the start of the document—

- (a) the title “Property Information Questionnaire” and below it “Part 1”; and
- (b) the following statement—

“About this form—

This form should be completed by the seller. The seller may be the owner or owners; a representative with the necessary authority to sell the property for an owner who has died; a representative with the necessary authority to sell the property for a living owner (e.g. a power of attorney) or be selling in some other capacity. The form should be completed and read as though the questions were being answered by the owner.

If you are the seller, you should be aware that—

Answers given in this form should be truthful and accurate to the best of your knowledge. The questions have been designed to help the smooth sale of your home. Misleading or incorrect answers are likely to be exposed later in the conveyancing process and may endanger the sale.

Information included in this form does not replace official documents or legal information. You should be prepared to provide such documents on request in support of the answers given in this form.

If anything changes to affect the information given in this form prior to the sale of your home, you should inform your conveyancer or estate agent immediately.

If you are an estate agent, you should be aware that—

This form should be completed by the seller but it is your responsibility to ensure that it is included in the Home Information Pack.

The Property Misdescriptions Act 1991 does not apply where the form has been completed solely by the seller.

If you are the buyer, you should be aware that—

The information contained in this document should have been completed truthfully and accurately by the seller. However, the information does not replace official documents or legal information, you should confirm any information with your conveyancer.

The seller must provide the information set out in Part 1 of this questionnaire.

Where the property being sold is a leasehold property, the seller must also complete Part 2 of this questionnaire.”.

3. Part 1 of the PIQ must contain the following information—

- (a) the postal address or proposed address (which may include a plot number);
- (b) the name of the seller; and
- (c) the date the PIQ was completed.

Questions

4. Part 1 of the PIQ must reproduce the following questions and statements in the order that they are set out—

“All properties

1. Is the property a listed building or contained in a listed building?

Answer—should be “yes” or “no”.

2. Has the property received building regulation approval?

Answer—should be “yes” or, “no”. If “yes”, please give details.

3. Has the property received a building regulation completion certificate?

Answer—should be “yes” or “no”. If “no”, please give details.

4. Is the property sold with a warranty?

Answer—should be “yes” or “no”. If “yes”, please give the name of the provider.

5. What parking arrangements exist or are planned for the property?

Answer—should be “garage”, “allocated parking space”, “driveway”, “on street”, “resident permit”, “metered parking”, “shared parking” or specify other.

Other matters affecting the property

6. Has there been any damage to the property as a result of storm or fire since you have owned it?

Answer—should be “yes” or “no” as appropriate. If “yes”, please give details.

7. Are you aware of any flooding at the property since you have owned it or before?

Answer—should be “yes”, “no” or “don’t know” as appropriate. If “yes”, please give details. (Note: The buyer is advised to check the Environment Agency website for an indication of flood risk in the area.)

8. Has there been or is there any preventative work planned for dry rot, wet rot or damp in the property?

Answer—should be “yes”, “no” or “don’t know” as appropriate. If “yes” please give details.

- (a) If the answer to 8 was “yes”, are there any guarantees relating to this work? If “yes”, please give details.

Utilities and services

9. Is there or will there be central heating in the property?

Answer/response—should be “yes”, “no” or “don’t know” as appropriate. If “yes” please give details of the type of central heating.

10. Please indicate which services are or will be connected to the property.

| <i>Services</i> | <i>Connected</i> | <i>To be connected</i> |
|--|------------------|------------------------|
| Electricity | | |
| Gas | | |
| Water mains or private water supply | | |
| Drainage to public sewer (If not connected, please indicate whether there will be a cesspool or septic tank) | | |
| Telephone | | |
| Cable TV or satellite | | |
| Broadband | | |

Access

11. Is there a right of access through any neighbouring homes, buildings or land?

Answer—should be “yes”, “no” or “don’t know” as appropriate. If “yes” please give details.

12. Does any other person have a right of access through the property?

Answer—should be “yes”, “no” or “don’t know” as appropriate. If “yes” please give details.

Leasehold properties

13. Is the property a leasehold property?

If “yes”, please complete Part 2 of this questionnaire. If “no”, there is no need to complete Part 2 of this questionnaire.”.

PART 3

Information required in respect of leasehold properties

5. Part 2 of the PIQ must reproduce the following questions and statements in the order that they are set out—

“PART 2

Only complete this part if the property is a leasehold property.

If the lease is a new one and has not yet been granted, please answer the questions based on the draft terms of the lease.

Before entering into a binding commitment, buyers should confirm any matter relating to the leasehold ownership by reading the lease, if one is available, and checking the position with their conveyancer.

Additional information for leasehold properties

14. Is there a lease for the property?

Answer/response—should be “yes” or “no”.

- (a) If “yes” please answer the remaining questions.
- (b) If “no”, please answer the remaining questions to the extent that the information is available.

15. What is the name of the person or organisation to whom the following will be paid?

- (a) ground rent
- (b) service charges (if different from (a) above)

16. What is the length of the lease?

17. How much is the proposed ground rent?

18. How much is the proposed annual service charge?

19. How much is the proposed annual buildings insurance premium (if not included in the annual service charge)?

20. Does the lease prevent—

- (a) subletting?

Answer—should be “yes”, “no” or “don’t know” as appropriate. If “yes” please give details.

- (b) keeping pets?

Answer—should be “yes”, “no” or “don’t know” as appropriate. If “yes” please give details.

21. Does the lease allow—

- (a) the use of a car park or space?

Answer—should be “yes”, “no” or “don’t know” as appropriate. If “yes” please give details.

- (b) access to a communal garden (where applicable)?

Answer—should be “yes”, “no” or “don’t know” as appropriate. If “yes” please give details.

22. Leases often permit or prevent certain types of activity relating to the use of the property, those referred to in question (20) are examples. Are there any other conditions or restrictions in the lease which could significantly impact on a person’s use of the property? If “yes”, please specify.”

Order of pack documents

11. In regulation 13 (order of pack documents)—

(a) after paragraph (a) insert—

“(aa) secondly—

(i) the document required by regulation 8(m)(PIQ for a property that is not a new home); or

(ii) the document required by regulation 8(n)(PIQ for a property that is a new home);”;

(b) in paragraph (b) for “secondly” substitute “thirdly”; and

(c) in paragraph (ba)(a) for “thirdly” substitute “fourthly”.

Time at which PIQs are to be included in the pack documents

12. In regulation 14 (time at which pack documents are to be included), after paragraph (3) add—

“(4) The pack documents required by these Regulations to be included in the home information pack under regulation 8(m) and (n) must be included where the first point of marketing is on or after 6th April 2009.”.

Signed by authority of the Secretary of State for Communities and Local Government

Margaret Beckett
Minister of State for Housing

4th December 2008

Department for Communities and Local Government

(a) Regulation 13(ba) was inserted by S.I. 2008/572, regulation 3(d).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Home Information Pack (No. 2) Regulations 2007 (SI 2007/1667) (“the principal Regulations”). Under sections 155 to 159 of the Housing Act 2004, a home information pack must comply with the principal Regulations.

The provisions contained in regulations 1 to 7 come into force on 1st January 2009 and the provisions contained in regulations 8 to 12 come into force on 6th April 2009.

Regulation 3 amends regulation 8 (required pack documents) of the principal Regulations, so that the leasehold documents previously referred to in regulation 8 are omitted and are no longer required pack documents.

Regulation 4 amends regulation 9 (authorised pack documents) of the principal Regulations to include leasehold documents set out in Schedule 5 of the principal Regulations as authorised pack documents. Schedule 5 (leasehold information) of the principal Regulations is amended by regulation 7 to include leasehold documents that may be authorised pack documents.

Regulation 5 amends regulation 16(1)(a) (energy information unobtainable before or at the first point of marketing); regulation 34(2)(a) (exception - first day marketing during a temporary period) and paragraph 4(a) of Schedule 6 (general provisions about searches and search reports – specified required search reports) of the principal Regulations to extend until 6th April 2009 the exemptions set out in those regulations.

Regulation 6 amends regulation 30 (exception for portfolios of properties) of the principal Regulations to omit the requirement that all properties sold as a portfolio of properties must be vacant.

Regulation 8 amends regulation 2 (interpretation – general provisions) of the principal Regulations by applying the meaning of new homes to additional provisions and inserting definitions for the “property information questionnaire”.

Regulation 9 amends regulation 8 of the principal Regulations to add a property information questionnaire (“PIQ”) as a required pack document. The PIQ must comply with either Schedule 11 or Schedule 12 of the principal Regulations, which are inserted by regulation 10 of these Regulations.

Regulation 11 amends regulation 13 of the principal Regulations requiring the PIQ to be the second document in the home information pack.

Regulation 12 amends regulation 14 of the principal Regulations to provide that PIQs must be included in home information packs for properties where the first point of marketing is on or after 6th April 2009.

A full impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is available at www.communities.gov.uk and is annexed to the Explanatory Memorandum which is available alongside the instrument on the OPSI website.

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STATUTORY INSTRUMENTS

2008 No. 3107

HOUSING, ENGLAND AND WALES

The Home Information Pack (Amendment) (No.3) Regulations
2008

£5.00