

# PROGRESS

an industry update on Home Information Packs

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## In this Issue

[New regulations coming into force for new homes](#)  
[Commissioning of HIPs](#)  
[HIPs for part exchange properties](#)  
[HIPs for shared ownership sales](#)  
[The use of Land Registry documents in HIPs](#)  
[Estate Agent redress](#)  
[Financial support for improving your home's energy efficiency](#)  
[EPCs and climate change](#)

## New regulations coming into force for new homes

The Housing Act 2004 (Commencement No.11) (England and Wales) Order 2008 was made on 13 March and comes into force on 6 April 2008. This completes the application of HIPs to all new build properties. The HIP duties currently apply to all types of property sale, including the sale of new homes but excluding homes built under the most recent Building Regulations (i.e. Regulation 17C of the Building Regulations 2006). We have previously announced the intention to extend the HIP duties to these properties from 6th April, when the requirement under the 2007 EPBD Regulation for all new homes to have a SAP-based EPC on construction come into effect, and the Order achieves this.

### Key facts

- From the 6 April 2008 all new homes will require an EPC and Recommendation Report when physically complete.
- The EPC will be based on the SAP rating which is currently required to comply with Building Regulations. This demonstrates that new homes meet the targets for energy performance that are part of the Building Regulations.
- The EPC must be produced by an Energy Assessor who is accredited for On Construction Energy Assessment. The EPC is based on SAP rather than RdSAP which is used for existing homes.
- When the home is physically complete, an EPC should be produced and given to the owner of the home. Building Control will not issue a completion certificate until they are sure this has been done.
- If you are marketing a home off-plan, you will need to have a PEA (Predicted Energy Assessment) in the HIP to provide to potential buyers. Once the home is physically complete the PEA in the HIP should be replaced with an EPC and Recommendation Report.



- PEAs should be based on the predicted SAP rating for the home. This will be available from calculations done at the design stage and is a number between 1 and 100. A spreadsheet template is available to be able to represent the rating in a graphical form for potential buyers.
- Each building within a development will require its own EPC (although reports can be cloned for identical dwellings and will not need to be inspected individually).

Read the leaflet: Energy Performance Certificates (EPCs) and New Homes: A Builder's Guide at <http://www.home-information.info/doc?id=135>

## Commissioning of HIPs

Currently, marketing may start without a HIP being in place but only where one has been requested. Where this exception applies the duty to have a pack begins when the EPC is received.

Some agents are said to be sending 'bogus' requests for HIPs but never make payment and the HIPs are never produced. This may happen with or without the co-operation of the pack provider. In other cases, the agent may only order a partial pack and leave the request for some documents, the searches for example, until later in the process.

Regulation 34 provides that marketing may start without a HIP being in place but only where all the conditions described in the regulation are met. In particular, a request for all the required documents must have been delivered before the property is put on the market and the request must comply with regulation 18(1).

This regulation provides that the request must be made in writing to a person who would normally deal with such requests (e.g. a pack provider company). It should be made in the appropriate format together with any payment or commitment to pay that is normally required. There should also be an expectation that the documents will be made available within 28 days of the first point of marketing and all reasonable efforts should be made to obtain the documents before then. Where the documents cannot be obtained within 28 days, the responsible person must continue to make reasonable efforts to obtain them as soon as possible.

## HIPs for part exchange properties



Where a builder agrees to take a property in part exchange, they will often agree with the owner that their property is marketed before contracts are exchanged on the sale of the new home. In these circumstances, a HIP would be required and the builder would become the seller/owner once the purchase was complete. We have been asked whether, in cases where the property came with a HIP, a new pack would be required.

A HIP would need to be present or have been requested when the property was put on the market by the builder. If he received a HIP from the original seller a new index and sale statement would be needed in all cases. However, he could probably recycle some of the content — the EPC for example and land registry documents if they were still in date at the new first point of marketing (i.e. no more than 12 months old for the EPC and three months for the evidence of title). It is unlikely that the searches could be re-used, however, even if they were in date, as the liability under the search that must pass from seller to buyer (i.e. the builder in this case) under the regulations will not necessarily extend beyond this to a subsequent purchaser. If the builder chooses to market the property with the previous title documents (rather than wait for Land Registry to record the change of ownership) this discrepancy would need to be recorded in the sale statement.

## HIPs for shared ownership sales

The fact that a home is being sold on shared ownership terms does not exempt it from the HIP duties. If it was being sold to a sitting tenant it would be exempt, on the grounds that no marketing would have taken place and the property would not be conveyed with vacant possession. However, if it is an ordinary open market sale on shared ownership terms then a HIP would be needed unless some other exception applied.

## The use of Land Registry documents in HIPs

Regulation 8(e) of the Home Information Pack (No.2) Regulations 2007 requires that the following documents be included in the Pack where the property (or part of it) is registered at Land Registry:

- an official copy of the individual register relating to the property (made up of a property register, proprietorship register and typically a charges register); and
- an official copy of the title plan relating to the property.

For further information on what constitutes an 'official copy', go to <http://www.home-information.info/doc?id=137>

## Estate Agent redress

The Office of Fair Trading (OFT) recently announced that it has amended its criteria for approving redress schemes under the Consumers, Estate Agents and Redress Act 2007.

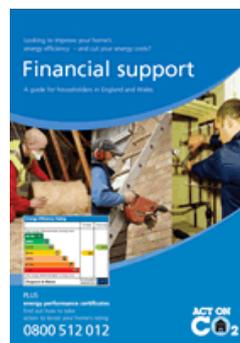
Applicants have until 10 April to reconsider their applications and make representations. The Department for Business, Enterprise and Regulatory Reform (BERR) expect to commence a redress scheme order on 1 October 2008, unless consultation with industry stakeholders presents a case for doing so earlier.

Until the order is commenced, all estate agents marketing homes with HIPs are still required to comply with the Housing Act 2004 and join an approved HIPs redress scheme.

For further information go to <http://www.home-information.info/doc?id=138>

## Financial support for improving your home's energy efficiency

CLG and the Energy Saving Trust have produced a short guide for householders in England and Wales on ways to reduce energy bills and the financial support available for implementing energy saving improvements in their homes. This includes advice on the discounts and grants available for acting on recommendations in the EPC, including the role of the new Green Homes Service in making offers of discounted help to all home owners with properties that get an F or G rating. We are keen to ensure that consumers take full advantage of the support available. We therefore encourage domestic energy assessors to stock up on these leaflets and drop them off with property owners when they carry out the energy performance assessment. We also encourage estate agents to keep a stock of these leaflets in their offices and HIP providers to make them available alongside (but not inside) the HIP. Order your free leaflets now from CLG Publications, quoting product code EST/HIP/08.



phone: 0870 1226 236  
e-mail: [communities@twoten.com](mailto:communities@twoten.com)

You can read the financial support leaflet online, or download a PDF copy, at <http://www.home-information.info/doc?id=136>

## EPCs and climate change

*The EPC is an important part of the HIP and underlines the Government's commitment to cut carbon emissions. Here we feature some core facts about energy savings and how EPC recommendations can help cut fuel bills.*



### ***Did you know?***

**Around 1/3 of the heat lost in an uninsulated Cavity wall insulation is a fantastic way to sig energy you need to heat your home. In fact, betv households installed cavity wall insulation, and i saved nearly 400,000 tonnes of CO<sub>2</sub> — enough t**  
**47 times.**

[Source: Energy Savings Trust]

For more information on EPCs and green issues visit:  
<http://www.communities.gov.uk/epbd>  
<http://www.energysavingstrust.org.uk>