

## RESIDENTIAL – HOME INFORMATION PACKS

### General

Home Information Packs (so called “HIPs”) were introduced for the sale of residential property in England and Wales in 2007. They represent a very significant change in the way residential property is sold.

A Home Information Pack (HIP) is a detailed booklet of information containing prescribed information. It must be available when a property is put up for sale. The purpose is to save purchasers time in duplicating legal searches, title searches and enquiries in connection with the property.

Originally, the UK Government proposed that HIPs would have to contain a “home condition report”. This was probably the most controversial aspect of the entire proposal. A home condition report is a physical survey of the property. In anticipation of the introduction of the requirement for home condition reports, thousands of surveyors and other construction professionals trained and became designated to provide such reports. Ultimately, the mandatory requirement for a home condition report was dropped at the very last moment in 2007. It is now optional to include a home condition report but it is intended to make it mandatory at some time in the future.

Home inspectors must hold a designated qualification or certification in order to provide a valid home condition report. The home inspector's obligations include examining the inside and outside of the property, giving each part of the building a condition rating on a set scale, giving reasons for each rating and recommending further investigation of potentially serious defects. A home inspector must be a member of a Government approved certification scheme

The HIP is to be provided to prospective buyers free of charge. The purpose is to avoid surprises down the line and to enable buyers to make more informed decisions about purchasing their home.

### **Contents of HIP**

A HIP will usually run to several hundred pages. The bulk of this content will represent certain searches which can be made in the United Kingdom and which are invariably made in conveyancing transactions. Most of the searches concerned would not be possible in Ireland.

A HIP must contain the following:

- an index
- a sale statement; This must summarise the terms of sale setting out in particular the address of the property, the type of title concerned and certain other matters
- evidence of title. This will usually be a copy of the Land Registry title
- standard searches. This will be the Local Authority Search and the Drainage and Water Board Searches
- an Energy Performance Certificate
- a copy of the Lease (if applicable)

The following are optional:

- the home condition report
- guarantees and warranties
- other searches
- certain other specified information

## **HIP Obligations**

The obligation to provide a HIP falls on both sellers and estate agents. It is not possible to market a property in the United Kingdom unless a HIP is first available. Failure to have a HIP, is a criminal offence. In addition, the Trading Standards Office have the power to impose a Fixed Penalty Notice (i.e. an on the spot fine). Failure to comply with the HIP Regulations can result in an estate agent being banned from estate agency work.

If an English property is marketed in Ireland by an Irish resident individual to Irish residents only, it is debatable whether a HIP is required. The legislation does not specify the position. It is a general presumption that regulatory requirements (and in particular those carrying criminal sanctions) apply only within the jurisdiction of the country concerned. In practice however, it would be very difficult for an Irish individual to avoid complying with HIP requirements.

There are a number of exceptions to the requirement for a HIP. The requirement applies only to residential properties. The sale of certain holiday properties do not require a HIP. However, it must be a condition of the planning permission that it be occupied only for holiday accommodation. This would be unusual. Mixed commercial and residential properties will not generally require a HIP.

A sale of two or more properties which are being sold as a portfolio will not require a HIP provided certain conditions are satisfied. Unsafe, unoccupied and derelict properties which are not suitable for occupation, will not require a HIP.

Under certain circumstances it is possible to place a property on the market notwithstanding that the HIP is not yet available. The documentations must have been ordered and must be obtained afterward. The period during which this so called "first day marketing" exception applies has been recently extended to the end of 2008.

Sale of “off the plan” properties require a HIP as of May 2008. Most of the information concerned would be available as part of the pack provided by the builder. It may be necessary to update certain documents including obtaining provisional energy assessment rating. This may not have been available when the original purchase contract was signed.

The average time taken to prepare a HIP for a second hand property is ten to twenty days and the average cost is of the order of £300-£400.00 + VAT. This largely reflects the expensive cost of certain UK Searches. A UK Local Authority Search typically costs £150 or more while a Drainage and Water Search costs £50/£60.

### **Energy Performance Certificates**

European Law has introduced a requirement for energy assessment reports on property sales (and lettings). An “energy performance certificate” must be prepared which is an energy efficiency rating of property. The purpose is to reduce carbon emissions from homes by giving purchasers information about their energy efficiency. The information provided is equivalent to information on fridges, washing machines and dishwashers. The HIP must include the energy performance certificate.

The role of the domestic energy assessor is to produce the energy performance certificate. The documents will also give advice on how to make energy savings. Energy assessors are experts in energy efficiency of property. A number of bodies offer accreditation for energy assessors.

---

This Guide is intended as an overview and broad outline of the matters covered in it. Its purpose is to inform and raise awareness. We are happy to offer specific legal advice on particular circumstances.

This Guide should not be relied on as a substitute for comprehensive legal advice with reference to the particular circumstances.

While we have taken due care in the preparation of this publication, we do not accept legal liability as a result of any reliance placed on anything in this Guide. The reader should rely only on specific legal or taxation advice.

© Lavelle Coleman 2009