Draft Regulations laid before Parliament under section 150(6) of the Local Government and Housing Act 1989, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2008 No.

HOUSING, ENGLAND

The Local Authorities (England) (Charges for Property Searches) Regulations 2008

Made - - - - ***

Coming into force in accordance with regulation 1(2)

The Secretary of State makes the following Regulations in exercise of the powers conferred by section 150 of the Local Government and Housing Act 1989(**1**), and having, in accordance with section 152(6) of that Act, consulted such representatives of local government as appear to be appropriate:

In accordance with section 150(6) of that Act, a draft of this instrument was laid before Parliament and approved by a resolution of each House of Parliament.

Citation, commencement and application

1.—(1) These Regulations may be cited as the Local Authorities (England) (Charges for Property Searches) Regulations 2008.

(2) These Regulations shall come into force seven days after the day on which they are made.

(3) These Regulations apply only to local authorities in England.

Interpretation

2.—(1) In these Regulations, "access to property records" means access to property records granted by a local authority in any of the following ways—

(a) allowing a person to inspect or search property records at a place designated by the authority for doing so;

(b) allowing the making of or providing copies of, property records; or

(c) the electronic transmission of property records, or copies of such records,

(**1**) 1989 c. 42. The powers under sections 150 and 152 of the Act are exercisable in relation to Wales, by the Welsh Ministers; see the reference to the Local Government and Housing Act 1989 in Schedule 1 to the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672), and paragraphs 30 and 32 of Schedule 11 to the Government of Wales Act 2006 (c.32).

and in these Regulations, the expression "access to property records" is to be construed accordingly.

(2) In these Regulations, a reference to a local authority "answering enquiries about a property" means—

(a) the answering by the authority of any specific oral or written enquiries from a person about a property or property records; or

(b) the carrying out by the authority of any activities for the purposes of answering such enquiries.

(3) In these Regulations—

"financial year" means a period of twelve consecutive months ending with 31st March;

"free statutory information" means information required to be provided by a local authority under an enactment, where that enactment expressly—

(a) prohibits a local authority from making a charge for doing so; or

(b) requires that the authority provides the information free of charge;

"local authority" means—

(a) a county council;

(b) a district council;

(c) a London Borough Council;

(d) the Common Council of the City of London; and

(e) the Council of the Isles of Scilly;

"internal transaction" means the granting of access to property records by one department of a local authority to another department of that authority;

"property" means a specified building or structure or specified land in relation to which property records are held by a local authority;

"property records"—

(a) includes documents, registers, files and archives (held in any form by the local authority), which relate to a property;

(b) includes information derived from such documents, registers, files and archives; but

(c) excludes the local land charges register kept under section 3(2) of the Local Land Charges Act 1975(**2**);

"request" includes a written, oral, electronic or automated request; and

"unit charge" means the charge described in regulation 6(2).

Revocation and transitional provision

3.—(1) Subject to paragraph (3), the Local Authorities (Charges for Land Searches) Regulations 1994(**3**) are revoked in relation to England.

(2) These Regulations apply where a local authority receives—

(a) a request for access to property records; or

(b) enquiries about a property,

on or after the date these Regulations come into force.

(**2**) 1975 c. 76.
(**3**) S.I. 1994/1885.

(3) The Local Authorities (Charges for Land Searches) Regulations 1994 continue to apply where a local authority receives—

(a) a request for access to property records; or

(b) enquiries about a property,

before the date these Regulations come into force.

Scope of regulations 5 and 8

4.—(1) Subject to paragraphs (2) and (3), regulations 5 and 8 apply in respect of a local authority —

(a) granting access to property records; or

(b) answering enquiries about a property,

whether it does so under a power or duty, created or imposed by any enactment.

(2) Regulations 5 and 8 do not apply—

(a) to anything in respect of which a local authority may or must impose a charge apart from these Regulations; or

(b) in respect of access to free statutory information, except to the extent that a local authority is providing a service which is supplementary or incidental to that described in the enactment in question.

(3) Regulations 5 and 8 do not apply in respect of anything done in the course of exercising an excepted function.

Charges for access to property records

5.—(1) This regulation applies where a local authority grants access to property records to a person (including to another local authority).

(2) The authority may impose a charge on that person for granting such access if it makes or proposes to make an internal recharge (analogous to a charge) for internal transactions.

(3) The charges and recharges made under this regulation must be calculated in accordance with regulations 6 and 7.

Calculation of charges for access to property records

6.—(1) This regulation and regulation 7 make provision for the charges and internal recharges made under regulation 5(2) to be no more than the costs to the local authority of granting access to property records.

(2) Subject to paragraph (3), each charge or recharge (the "unit charge") for access to property records made during a financial year must be calculated by—

(a) dividing a reasonable estimate of the likely total costs to the local authority in granting access to property records (and performing internal transactions) during the financial year; by

(b) a reasonable estimate of the number of requests for access to property records likely to be received (from another person or different departments of the authority) over that same financial year.

(3) A local authority must take all reasonable steps to ensure that over the course of any period of three consecutive financial years, the total income (including notional income from internal transactions) from such charges and recharges does not exceed the total costs of granting access to property records.