

---

STATUTORY INSTRUMENTS

---

**1992 No. 2980**

**CHARITIES**

**The Charities (Qualified Surveyors' Reports) Regulations 1992**

*Made* - - - - - *29th November 1992*  
*Laid before Parliament* *8th December 1992*  
*Coming into force* - - *1st January 1993*

In exercise of the powers conferred upon me by sections 32(4) and 77(3) of the Charities Act 1992(1), I hereby make the following Regulations:

1.—(1) These Regulations may be cited as the Charities (Qualified Surveyors' Reports) Regulations 1992 and shall come into force on 1st January 1993.

(2) In these Regulations—

“relevant land” means the land in respect of which a report is being obtained for the purposes of section 32(3) of the Charities Act 1992; and

“the surveyor” means the qualified surveyor from whom such a report is being obtained.

2. A report prepared for the purposes of section 32(3) of the Charities Act 1992 (requirements to be complied with in respect of the disposition of land held by or in trust for a charity otherwise than with an order of the court or of the Charity Commissioners or where section 32(5) of that Act applies) shall contain such information and deal with such matters as are prescribed by the Schedule to these Regulations (together with such other information and such other matters as the surveyor believes should be drawn to the attention of the charity trustees).

Home Office  
29th November 1992

*Kenneth Clarke*  
One of Her Majesty's Principal Secretaries of  
State

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

## SCHEDULE

### INFORMATION TO BE CONTAINED IN, AND MATTERS TO BE DEALT WITH BY, QUALIFIED SURVEYORS' REPORTS

- 1.—(1) A description of the relevant land and its location, to include—
  - (a) the measurements of the relevant land;
  - (b) its current use;
  - (c) the number of buildings (if any) included in the relevant land;
  - (d) the measurements of any such buildings; and
  - (e) the number of rooms in any such buildings and the measurements of those rooms.(2) Where any information required by sub-paragraph (1) above may be clearly given by means of a plan, it may be so given and any such plan need not be drawn to scale.
2. Whether the relevant land, or any part of it, is leased by or from the charity trustees and, if it is, details of—
  - (a) the length of the lease and the period of it which is outstanding;
  - (b) the rent payable under the lease;
  - (c) any service charge which is so payable;
  - (d) the provisions in the lease for any review of the rent payable under it or any service charge so payable;
  - (e) the liability under the lease for repairs and dilapidations; and
  - (f) any other provision in the lease which, in the opinion of the surveyor, affects the value of the relevant land.
3. Whether the relevant land is subject to the burden of, or enjoys the benefit of, any easement or restrictive covenant or is subject to any annual or other periodic sum charged on or issuing out of the land except rent reserved by a lease or tenancy.
4. Whether any buildings included in the relevant land are in good repair and, if not, the surveyor's advice—
  - (a) as to whether or not it would be in the best interests of the charity for repairs to be carried out prior to the proposed disposition;
  - (b) as to what those repairs, if any, should be; and
  - (c) as to the estimated cost of any repairs he advises.
5. Where, in the opinion of the surveyor, it would be in the best interests of the charity to alter any buildings included in the relevant land prior to disposition (because, for example, adaptations to the buildings for their current use are not such as to command the best market price on the proposed disposition), that opinion and an estimate of the outlay required for any alterations which he suggests.
6. Advice as to the manner of disposing of the relevant land so that the terms on which it is disposed of are the best that can reasonably be obtained for the charity, including—
  - (a) where appropriate, a recommendation that the land should be divided for the purposes of the disposition;
  - (b) unless the surveyor's advice is that it would not be in the best interests of the charity to advertise the proposed disposition, the period for which and the manner in which the proposed disposition should be advertised;

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

- (c) where the surveyor's advice is that it would not be in the best interests of the charity to advertise the proposed disposition, his reasons for that advice (for example, that the proposed disposition is the renewal of a lease to someone who enjoys statutory protection or that he believes someone with a special interest in acquiring the relevant land will pay considerably more than the market price for it); and
- (d) any view the surveyor may have on the desirability or otherwise of delaying the proposed disposition and, if he believes such delay is desirable, what the period of that delay should be.

7.—(1) Where the surveyor feels able to give such advice and where such advice is relevant, advice as to the chargeability or otherwise of value added tax on the proposed disposition and the effect of such advice on the valuations given under paragraph 8 below.

(2) Where either the surveyor does not feel able to give such advice or such advice is not in his opinion relevant, a statement to that effect.

8. The surveyor's opinion as to—

- (a) the current value of the relevant land having regard to its current state of repair and current circumstances (such as the presence of a tenant who enjoys statutory protection) or, where the proposed disposition is a lease, the rent which could be obtained under it having regard to such matters;
- (b) what the value of the relevant land or what the rent under the proposed disposition would be—
  - (i) where he has given advice under paragraph 4 above, if that advice is followed; or
  - (ii) where he has expressed an opinion under paragraph 5 above, if that opinion is acted upon; or
  - (iii) if both that advice is followed and that opinion is acted upon;
- (c) where he has made a recommendation under paragraph 6(a) above, the increase in the value of the relevant land or rent in respect of it if the recommendation were followed;
- (d) where his advice is that it would not be in the best interests of the charity to advertise the proposed disposition because he believes a higher price can be obtained by not doing so, the amount by which that price exceeds the price that could be obtained if the proposed disposition were advertised; and
- (e) where he has advised a delay in the proposed disposition under paragraph 6(d) above, the amount by which he believes the price which could be obtained consequent on such a delay exceeds the price that could be obtained without it.

9. Where the surveyor is of the opinion that the proposed disposition is not in the best interests of the charity because it is not a disposition that makes the best use of the relevant land, that opinion and the reasons for it, together with his advice as to the type of disposition which would constitute the best use of the land (including such advice as may be relevant as to the prospects of buying out any sitting tenant or of succeeding in an application for change of use of the land under the laws relating to town and country planning etc.).

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

---

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

Section 32(2) of the Charities Act 1992 disappplies the requirement in section 32(1) of that Act that no land held by or in trust for a charity is to be sold, leased or otherwise disposed of without an order of the court (as defined by section 46 of the Charities Act 1960 (c. 58)) or of the Charity Commissioners. Section 32 comes into force on 1st January 1993 by virtue of article 4 of, and Schedule 3 to, the Charities Act 1992 (Commencement No. 1 and Transitional Provisions) Order 1992 (S.I.1992/1900 (C.64)). One of the conditions for the disapplication of the requirements in section 32(1) is that the requirements in section 32(3) are satisfied.

The first requirement in section 32(3) is that, before the charity trustees enter into an agreement for the sale or (as the case may be) for a lease or other disposition, of the land, they must obtain and consider a report on the proposed disposition from a surveyor who satisfies the requirements of section 32(4) and who is instructed by them and acts exclusively for the charity. The report prepared for these purposes must contain such information, and deal with such matters, as may be prescribed by regulations (section 32(4)). These Regulations (which extend to England and Wales only) exercise that power and the Schedule to these Regulations sets out the matters to be covered in the report.

Those matters include a description of the land (paragraph 1 of the Schedule), whether it is leased by or from the charity trustees (paragraph 2), the easements or covenants to which the land is subject or the benefit of which it enjoys (paragraph 3), whether or not any buildings in it are in good repair (paragraph 4), whether alterations to any such buildings are desirable (paragraph 5), advice as to the way the proposed disposition of the land is to be conducted (paragraph 6), advice about value added tax (paragraph 7), the surveyor's opinion about the value of the land (paragraph 8) and, where appropriate, his suggested alternative ways of disposing of the land (paragraph 9).