
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).