

2023 No. 467

CHARITIES, ENGLAND AND WALES

The Charities (Dispositions of Land: Designated Advisers and Reports) Regulations 2023

Made - - - - - *24th April 2023*

Laid before Parliament *26th April 2023*

Coming into force in accordance with regulation 1(2)

The Secretary of State makes these Regulations in exercise of the powers conferred by sections 119(3)(a) and (4)(a) and 347(3)(b) of the Charities Act 2011(b).

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Charities (Dispositions of Land: Designated Advisers and Reports) Regulations 2023.

(2) These Regulations come into force on the day on which sections 19 and 20 of the Charities Act 2022(c) come into force.

(3) These Regulations extend to England and Wales.

Interpretation

2. In these Regulations—

“the 2011 Act” means the Charities Act 2011;

“the adviser” means the person from whom a report is being obtained for the purposes of section 119(1) of the 2011 Act;

“relevant land” means the land in respect of which a report is being obtained for the purposes of section 119(1) of the 2011 Act.

Designated advisers

3.—(1) An other requirement that may be satisfied for the purposes of section 119(3)(a) of the 2011 Act is that the person is—

(a) a fellow of the Central Association of Agricultural Valuers; or

(b) a member of NAEA PropertyMark at fellow grade.

(a) The function under section 119(3)(a) was transferred to the Secretary of State by article 10 of S.I. 2016/997. Section 119 is amended by S.I. 2016/977 and by sections 19 and 20 of the Charities Act 2022 (c. 6).

(b) 2011 c. 25.

(c) 2022 c. 6.

(2) In this regulation—

“NAEA Propertymark” means the professional membership scheme for estate agents run by the private company limited by guarantee registered as Propertymark Ltd under company number 00897907.

Matters to be dealt with in the designated adviser’s report

4.—(1) A report prepared for the purposes of section 119(1) of the 2011 Act must deal with the following matters—

- (a) the value of the relevant land;
- (b) any steps which could be taken to enhance that value;
- (c) whether and, if so, how the relevant land should be marketed;
- (d) anything else which could be done to ensure that the terms on which the disposition is made are the best that can reasonably be obtained for the charity; and
- (e) any other matters which the adviser believes should be drawn to the attention of the charity trustees.

(2) The report must also include a statement by the adviser that—

- (a) the adviser has ability in, and experience of, the valuation of land of the particular kind, and in the particular area, in question; and
- (b) the adviser has no interest which conflicts, or would appear to conflict, with that of the charity.

Revocation of the Charities (Qualified Surveyors’ Reports) Regulations 1992

5. The Charities (Qualified Surveyors’ Reports) Regulations 1992(a) are revoked.

Transitional and saving provision

6. Regulations 4 and 5 do not have effect where the adviser is instructed by the charity trustees to prepare a report for the purposes of complying with section 119(1) of the 2011 Act before the day these Regulations come into force, but the disposition of the relevant land takes place after these Regulations have come into force.

24th April 2023

Stuart Andrew
Parliamentary Under Secretary of State
Department for Culture, Media and Sport

(a) S.I. 1992/2980. S.I. 1992/2980 was made under section 32(4) of the Charities Act 1992 (c. 41). Section 32(4) was repealed and re-enacted in the Charities Act 1993 (c. 10) as section 36(4) and then that section was in turn repealed and re-enacted by the Charities Act 2011 as section 119(4).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations relate to the reports that charity trustees must obtain in order to meet requirements under section 119 of the Charities Act 2011 (“the 2011 Act”) before they may dispose of land held by or in trust for the charity.

Regulation 3 relates to who may prepare such a report under section 119(3)(a) of the 2011 Act. It allows the person preparing the report to be a fellow of the Central Association of Agricultural Valuers or a member of NAEA Propertymark at fellow grade as an alternative to being a fellow or professional associate of the Royal Institution of Chartered Surveyors.

Regulation 4 relates to what the report must contain and sets out a series of matters that must be covered, as well as requiring the inclusion of a statement by the person preparing the report that they have suitable ability and expertise and no interests that conflict with those of the charity.

Regulation 5 revokes the Charities (Qualified Surveyors' Reports) Regulations 1992 (“the 1992 Regulations”) which set down the previous required content of reports and which are now replaced by these Regulations.

Regulation 6 sets out the transitional arrangements for reports that were commissioned before these Regulations came into force but where the disposition of the land takes place after these Regulations come into force. For those reports, the content requirements under the 1992 Regulations will still apply, rather than new requirements.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary sector or community bodies is foreseen.

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