

CHARITIES ACT
(CHAPTER 37, SECTION 48)

CHARITIES
(FUND-RAISING APPEALS)
REGULATIONS

ARRANGEMENT OF REGULATIONS

Regulation

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[1st May 2007]

Citation

1. These Regulations may be cited as the Charities (Fund-Raising Appeals) Regulations.

Definitions

2. In these Regulations, unless the context otherwise requires —
- “charity” does not include any exempt charity or any charity that is an institution of a public character;
- “commercial fund-raiser” means any person who for reward solicits or otherwise procures money or other property for, or purportedly for, the benefit of a charity or any charitable, benevolent or philanthropic purpose;

“fund-raising appeal” has the same meaning as in section 39 (1) of the Act;

“institution of a public character” has the same meaning as in section 40A of the Act;

“person” includes any company or association or body of persons, corporate or unincorporate, but excludes any charity within the meaning of the Act;

“Sector Administrator” —

(a) in relation to a charity, whether established before, on or after 1st May 2007, means —

(i) where a Sector Administrator has been appointed under section 40B of the Act to supervise the sector that the charity is in, that Sector Administrator; or

(ii) in any other case, the Commissioner;

(b) in relation to a commercial fund-raiser conducting a fund-raising appeal for, or purportedly for, the benefit of a charity, means —

(i) where a Sector Administrator has been appointed under section 40B of the Act to supervise the sector that the charity is in, that Sector Administrator; or

(ii) in any other case, the Commissioner;

(c) in relation to any other commercial fund-raiser or any person conducting a fund-raising appeal, means the Commissioner.

Application

3.—(1) Nothing in these Regulations shall apply to any fund-raising appeal by —

(a) any institution of a public character;

(b) any commercial fund-raiser for, or purportedly for, the benefit of any institution of a public character; or

(c) any exempt charity.

- (2) For the avoidance of doubt, a fund-raising appeal by —
- (a) any institution of a public character, including any charity within the meaning of the Act that is also an institution of a public character; or
 - (b) any commercial fund-raiser for, or purportedly for, the benefit of any institution of a public character,

shall be governed by the Charities (Institutions of a Public Character) Regulations (Rg 5).

Duty to donors

4.—(1) A charity, commercial fund-raiser or person conducting a fund-raising appeal shall ensure that —

- (a) any information provided to donors or to the general public is accurate and not misleading;
- (b) the following information is disclosed to every person from whom a donation is solicited —
 - (i) the name of the charity or the person to which the donation will be given;
 - (ii) the purpose for which the donation will be used; and
 - (iii) whether any commercial fund-raiser has been engaged in soliciting the donation;
- (c) any information relating to donors is kept confidential, and no information relating to a donor is given to any other organisation or individual without the consent of the donor; and
- (d) any arrangement to solicit donations has adequate control measures and safeguards to ensure proper accountability and to prevent any loss or theft of donations.

(2) Where any commercial fund-raiser is engaged by a charity or a person to solicit donations —

- (a) the total amount of all donations collected by the commercial fund-raiser shall be paid directly to the charity or the person;
- (b) any payment due to the commercial fund-raiser from the charity or the person shall be paid separately by the charity or the person; and

- (c) the commercial fund-raiser shall not deduct or set off any payment or expenses due to him from the donations collected.

Use of donations

5.—(1) A charity or person receiving a donation shall use the donation in accordance with this regulation.

(2) Where the donor has specified an intention that the donation should be used for any specified lawful purpose, the donation shall be used for that purpose.

(3) Where the donor has not specified such an intention, the donation shall be used according to the purpose communicated to the donor under regulation 4 (1) (b) (ii).

(4) Where no purpose referred to in paragraph (2) or (3) has been specified or communicated respectively, the donation may be used by a charity to fund any activity carried out by the charity that meets its purposes under its governing instruments.

(5) A charity may invest any donation that is not immediately required for use for any purpose or activity referred to in paragraphs (2) to (4) in such investments as are permitted by law.

(6) Where a donation, or any part of it, cannot be used by a charity under paragraphs (2) to (5), or by a person under paragraph (2) or (3), the charity or the person shall —

- (a) refund the amount to the donor; or
- (b) use the amount for such other purpose as may be approved by the Sector Administrator.

Duty to maintain accounting records

6.—(1) A charity, commercial fund-raiser or person conducting a fund-raising appeal shall maintain accounting records which shall contain entries showing —

- (a) all the donations received and disbursed; and
- (b) details of all the income received and the expenses incurred.

(2) A charity, commercial fund-raiser or person shall maintain every accounting record for a minimum period of 5 years from the end of the financial year to which the accounting entry relates.

Fund-raising expenses

7.—(1) The total relevant fund-raising expenses of a charity for the financial year ending on or after 1st April 2008, and for every subsequent financial year, shall not exceed 30% of the total relevant receipts from fund-raising and sponsorships for that financial year, as determined by the following formula:

$$\frac{(E + S)}{(R + S)} \times 100\% \leq 30\%$$

where E refers to the total expenses relating to fund-raising for the financial year, including —

- (a) direct and material indirect expenses of any kind; and
- (b) payments made to commercial fund-raisers engaged by the charity,

but excluding, in a case of the sale of goods by or on behalf of the charity for fund-raising (and not trading), the cost of the goods sold;

R refers to —

- (a) in a case of the sale of goods by or on behalf of the charity for fund-raising (and not trading), the total receipts from such sale (after excluding only the cost of the goods sold); and
- (b) the total gross receipts from any other fund-raising for that financial year; and

S refers to the total amount of sponsorships in cash received by the charity relating to fund-raising for that financial year that is conditioned upon the provision of direct or indirect commercial benefit to the sponsors.

(2) The computation of the formula in paragraph (1) shall be done in accordance with such directions as may be issued by the Commissioner relating to the manner of computation of the various items in the formula.

Requirements relating to financial statements and audits of charities, and fund-raising appeals of \$1 million or more by charities

8.—(1) A charity shall disclose in its financial statements the total amount of donations received for the period to which the financial statements relate.

(2) The charity shall disclose in its financial statements for the financial year ending on or after 1st April 2008, and for every subsequent financial year, the total amount of sponsorships in cash and the total cost or value of the sponsored property, goods and services it paid or received, as the case may be, during the period to which the financial statements relate in accordance with receipts or other documentary evidence presented to the charity if, and only if, such documentary evidence is available.

(3) A charity shall ensure that for the financial year commencing on or after 1st May 2007, and for every subsequent financial year, an auditor approved by the Sector Administrator certifies in the auditor's report whether the charity has complied with the requirements of regulation 7.

(4) Where the total gross receipts of a charity from any single fund-raising appeal are not less than \$1 million, the charity shall —

- (a) maintain separate financial accounts in respect of that fund-raising appeal; and
- (b) at the end of the financial year, disclose on its own Internet website or, where it does not have its own Internet website, on the Internet website of the Sector Administrator —
 - (i) the total gross receipts from the fund-raising appeal;
 - (ii) the total expenses incurred in the fund-raising appeal; and
 - (iii) the purposes for which the funds raised in the fund-raising appeal were used or will be used.

Power of Sector Administrator to inspect records

9. A Sector Administrator —

- (a) shall at all times have full and free access to the accounting records of a charity, commercial fund-raiser or person conducting a fund-raising appeal; and

- (b) may, without fee or reward, inspect, copy or make extracts from any such records.

Power of Sector Administrator to give directions in relation to receipts from fund-raising appeal

10. A Sector Administrator may give directions to a charity or a person conducting a fund-raising appeal —

- (a) to refund all or any part of the receipts from the fund-raising appeal to all or any of the donors; or
- (b) to use all or any part of the receipts from the fund-raising appeal for such other charitable purpose as may be approved by the Sector Administrator,

where the Sector Administrator is satisfied that —

- (i) the fund-raising appeal has not been conducted in good faith for charitable, benevolent or philanthropic purposes;
- (ii) the fund-raising appeal has been improperly administered;
- (iii) in connection with the fund-raising appeal conducted, the provisions of the Act or the regulations or the conditions imposed by the Commissioner were not complied with by any person conducting or participating in the appeal; or
- (iv) it is desirable to do so in the public interest on any other ground.

Offences

11. Any charity, commercial fund-raiser or person who contravenes any provision of these Regulations shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 12 months or to both and, in the case of a continuing offence, to a further fine not exceeding \$50 for every day or part thereof during which the offence continues after conviction.

[G.N. Nos. S 176/2007; S 156/2008]