



# Charities Act 1992

## 1992 CHAPTER 41

### PART III

#### PUBLIC CHARITABLE COLLECTIONS

##### *Preliminary*

#### **65 Interpretation of Part III**

(1) In this Part—

- (a) “public charitable collection” means (subject to subsection (2)) a charitable appeal which is made—
  - (i) in any public place, or
  - (ii) by means of visits from house to house; and
- (b) “charitable appeal” means an appeal to members of the public to give money or other property (whether for consideration or otherwise) which is made in association with a representation that the whole or any part of its proceeds is to be applied for charitable, benevolent or philanthropic purposes.

(2) Subsection (1)(a) does not apply to a charitable appeal which—

- (a) is made in the course of a public meeting; or
- (b) is made—
  - (i) on land within a churchyard or burial ground contiguous or adjacent to a place of public worship, or
  - (ii) on other land occupied for the purposes of a place of public worship and contiguous or adjacent to it,being (in each case) land which is enclosed or substantially enclosed (whether by any wall or building or otherwise); or
- (c) is an appeal to members of the public to give money or other property by placing it in an unattended receptacle;

and for the purposes of paragraph (c) above a receptacle is unattended if it is not in the possession or custody of a person acting as a collector.

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- (3) In this Part, in relation to a public charitable collection—
- (a) “promoter” means a person who (whether alone or with others and whether for remuneration or otherwise) organises or controls the conduct of the charitable appeal in question, and associated expressions shall be construed accordingly; and
  - (b) “collector” means any person by whom that appeal is made (whether made by him alone or with others and whether made by him for remuneration or otherwise);

but where no person acts in the manner mentioned in paragraph (a) above in respect of a public charitable collection, any person who acts as a collector in respect of it shall for the purposes of this Part be treated as a promoter of it as well.

- (4) In this Part—
- “local authority” means the council of a district or of a London borough, the Common Council of the City of London, or the Council of the Isles of Scilly; and
  - “proceeds”, in relation to a public charitable collection, means all money or other property given (whether for consideration or otherwise) in response to the charitable appeal in question.

- (5) In this Part any reference to charitable purposes, where occurring in the context of a reference to charitable, benevolent or philanthropic purposes, is a reference to charitable purposes whether or not the purposes are charitable within the meaning of any rule of law.

- (6) The functions exercisable under this Part by a local authority shall be exercisable—
- (a) as respects the Inner Temple, by its Sub-Treasurer, and
  - (b) as respects the Middle Temple, by its Under Treasurer;
- and references in this Part to a local authority or to the area of a local authority shall be construed accordingly.

- (7) It is hereby declared that an appeal to members of the public (other than one falling within subsection (2)) is a public charitable collection for the purposes of this Part if—
- (a) it consists in or includes the making of an offer to sell goods or to supply services, or the exposing of goods for sale, to members of the public, and
  - (b) it is made as mentioned in sub-paragraph (i) or (ii) of subsection (1)(a) and in association with a representation that the whole or any part of its proceeds is to be applied for charitable, benevolent or philanthropic purposes.

This subsection shall not be taken as prejudicing the generality of subsection (1)(b).

- (8) In this section—
- “house” includes any part of a building constituting a separate dwelling;
  - “public place”, in relation to a charitable appeal, means—
    - (a) any highway, and
    - (b) (subject to subsection (9)) any other place to which, at any time when the appeal is made, members of the public have or are permitted to have access and which either—
      - (i) is not within a building, or

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- (ii) if within a building, is a public area within any station, airport or shopping precinct or any other similar public area.
- (9) In subsection (8), paragraph (b) of the definition of “public place” does not apply to—
- (a) any place to which members of the public are permitted to have access only if any payment or ticket required as a condition of access has been made or purchased; or
  - (b) any place to which members of the public are permitted to have access only by virtue of permission given for the purposes of the appeal in question.

*Prohibition on conducting unauthorised collections*

**66 Prohibition on conducting public charitable collections without authorisation**

- (1) No public charitable collection shall be conducted in the area of any local authority except in accordance with—
- (a) a permit issued by the authority under section 68; or
  - (b) an order made by the Charity Commissioners under section 72.
- (2) Where a public charitable collection is conducted in contravention of subsection (1), any promoter of that collection shall be guilty of an offence and liable on summary conviction to a fine not exceeding the fourth level on the standard scale.

*Permits*

**67 Applications for permits to conduct public charitable collections**

- (1) An application for a permit to conduct a public charitable collection in the area of a local authority shall be made to the authority by the person or persons proposing to promote that collection.
- (2) Any such application—
- (a) shall specify the period for which it is desired that the permit, if issued, should have effect, being a period not exceeding 12 months; and
  - (b) shall contain such information as may be prescribed by regulations under section 73.
- (3) Any such application—
- (a) shall be made at least one month before the relevant day or before such later date as the local authority may in the case of that application allow, but
  - (b) shall not be made more than six months before the relevant day;
- and for this purpose “the relevant day” means the day on which the collection is to be conducted or, where it is to be conducted on more than one day, the first of those days.
- (4) Before determining any application duly made to them under this section, a local authority shall consult the chief officer of police for the police area which comprises or includes their area and may make such other inquiries as they think fit.

## **68 Determination of applications and issue of permits**

- (1) Where an application for a permit is duly made to a local authority under section 67 in respect of a public charitable collection, the authority shall either—
  - (a) issue a permit in respect of the collection, or
  - (b) refuse the application on one or more of the grounds specified in section 69, and, where they issue such a permit, it shall (subject to section 70) have effect for the period specified in the application in accordance with section 67(2)(a).
- (2) A local authority may, at the time of issuing a permit under this section, attach to it such conditions as they think fit, having regard to the local circumstances of the collection; but the authority shall secure that the terms of any such conditions are consistent with the provisions of any regulations under section 73.
- (3) Without prejudice to the generality of subsection (2), a local authority may attach conditions—
  - (a) specifying the day of the week, date, time or frequency of the collection;
  - (b) specifying the locality or localities within their area in which the collection may be conducted;
  - (c) regulating the manner in which the collection is to be conducted.
- (4) Where a local authority—
  - (a) refuse to issue a permit, or
  - (b) attach any condition to a permit under subsection (2),they shall serve on the applicant written notice of their decision to do so and of the reasons for their decision; and that notice shall also state the right of appeal conferred by section 71(1) or (as the case may be) section 71(2), and the time within which such an appeal must be brought.

## **69 Refusal of permits**

- (1) A local authority may refuse to issue a permit to conduct a public charitable collection on any of the following grounds, namely—
  - (a) that it appears to them that the collection would cause undue inconvenience to members of the public by reason of—
    - (i) the day of the week or date on which,
    - (ii) the time at which,
    - (iii) the frequency with which, or
    - (iv) the locality or localities in which,it is proposed to be conducted;
  - (b) that the collection is proposed to be conducted on a day on which another public charitable collection is already authorised (whether under section 68 or otherwise) to be conducted in the authority's area, or on the day falling immediately before, or immediately after, any such day;
  - (c) that it appears to them that the amount likely to be applied for charitable, benevolent or philanthropic purposes in consequence of the collection would be inadequate, having regard to the likely amount of the proceeds of the collection;
  - (d) that it appears to them that the applicant or any other person would be likely to receive an excessive amount by way of remuneration in connection with the collection;

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- (e) that the applicant has been convicted—
    - (i) of an offence under section 5 of the 1916 Act, under the 1939 Act, under section 119 of the 1982 Act or regulations made under it, or under this Part or regulations made under section 73 below, or
    - (ii) of any offence involving dishonesty or of a kind the commission of which would in their opinion be likely to be facilitated by the issuing to him of a permit under section 68 above;
  - (f) where the applicant is a person other than a charitable, benevolent or philanthropic institution for whose benefit the collection is proposed to be conducted, that they are not satisfied that the applicant is authorised (whether by any such institution or by any person acting on behalf of any such institution) to promote the collection; or
  - (g) that it appears to them that the applicant, in promoting any other collection authorised under this Part or under section 119 of the 1982 Act, failed to exercise due diligence—
    - (i) to secure that persons authorised by him to act as collectors for the purposes of the collection were fit and proper persons;
    - (ii) to secure that such persons complied with the provisions of regulations under section 73 below or (as the case may be) section 119 of the 1982 Act; or
    - (iii) to prevent badges or certificates of authority being obtained by persons other than those he had so authorised.
- (2) A local authority shall not, however, refuse to issue such a permit on the ground mentioned in subsection (1)(b) if it appears to them—
- (a) that the collection would be conducted only in one location, which is on land to which members of the public would have access only by virtue of the express or implied permission of the occupier of the land; and
  - (b) that the occupier of the land consents to the collection being conducted there; and for this purpose “the occupier”, in relation to unoccupied land, means the person entitled to occupy it.
- (3) In subsection (1)—
- (a) in the case of a collection in relation to which there is more than one applicant, any reference to the applicant shall be construed as a reference to any of the applicants; and
  - (b) (subject to subsection (4)) the reference in paragraph (g)(iii) to badges or certificates of authority is a reference to badges or certificates of authority in a form prescribed by regulations under section 73 below or (as the case may be) under section 119 of the 1982 Act.
- (4) Subsection (1)(g) applies to the conduct of the applicant (or any of the applicants) in relation to any public charitable collection authorised under regulations made under section 5 of the 1916 Act (collection of money or sale of articles in a street or other public place), or authorised under the 1939 Act (collection of money or other property by means of visits from house to house), as it applies to his conduct in relation to a collection authorised under this Part, subject to the following modifications, namely—
- (a) in the case of a collection authorised under regulations made under the 1916 Act—

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- (i) the reference in sub-paragraph (ii) to regulations under section 73 below shall be construed as a reference to the regulations under which the collection in question was authorised, and
- (ii) the reference in sub-paragraph (iii) to badges or certificates of authority shall be construed as a reference to any written authority provided to a collector pursuant to those regulations; and
- (b) in the case of a collection authorised under the 1939 Act—
  - (i) the reference in sub-paragraph (ii) to regulations under section 73 below shall be construed as a reference to regulations under section 4 of that Act, and
  - (ii) the reference in sub-paragraph (iii) to badges or certificates of authority shall be construed as a reference to badges or certificates of authority in a form prescribed by such regulations.

(5) In this section—

“the 1916 Act” means the Police, Factories, &c. (Miscellaneous Provisions) Act 1916;

“the 1939 Act” means the House to House Collections Act 1939; and

“the 1982 Act” means the Civic Government (Scotland) Act 1982.

## **70 Withdrawal etc. of permits**

- (1) Where a local authority who have issued a permit under section 68—
  - (a) have reason to believe that there has been a change in the circumstances which prevailed at the time when they issued the permit, and are of the opinion that, if the application for the permit had been made in the new circumstances of the case, the permit would not have been issued by them, or
  - (b) have reason to believe that any information furnished to them by the promoter (or, in the case of a collection in relation to which there is more than one promoter, by any of them) for the purposes of the application for the permit was false in a material particular,
 then (subject to subsection (2)) they may—
  - (i) withdraw the permit;
  - (ii) attach any condition to the permit; or
  - (iii) vary any existing condition of the permit.
- (2) Any condition imposed by the local authority under subsection (1) (whether by attaching a new condition to the permit or by varying an existing condition) must be one that could have been attached to the permit under section 68(2) at the time when it was issued, assuming for this purpose—
  - (a) that the new circumstances of the case had prevailed at that time, or
  - (b) (in a case falling within paragraph (b) of subsection (1) above) that the authority had been aware of the true circumstances of the case at that time.
- (3) Where a local authority who have issued a permit under section 68 have reason to believe that there has been or is likely to be a breach of any condition of it, or that a breach of such a condition is continuing, they may withdraw the permit.
- (4) Where under this section a local authority withdraw, attach any condition to, or vary an existing condition of, a permit, they shall serve on the promoter written notice of their decision to do so and of the reasons for their decision; and that notice shall also

state the right of appeal conferred by section 71(2) and the time within which such an appeal must be brought.

- (5) Where a local authority so withdraw, attach any condition to, or vary an existing condition of, a permit, the permit shall nevertheless continue to have effect as if it had not been withdrawn or (as the case may be) as if the condition had not been attached or the variation had not been made—
- (a) until the time for bringing an appeal under section 71(2) has expired, or
  - (b) if such an appeal is duly brought, until the determination or abandonment of the appeal.

## **71 Appeals**

- (1) A person who has duly applied to a local authority under section 67 for a permit to conduct a public charitable collection in the authority's area may appeal to a magistrates' court against a decision of the authority to refuse to issue a permit to him.
- (2) A person to whom a permit has been issued under section 68 may appeal to a magistrates' court against—
- (a) a decision of the local authority under that section or section 70 to attach any condition to the permit; or
  - (b) a decision of the local authority under section 70 to vary any condition so attached or to withdraw the permit.
- (3) An appeal under subsection (1) or (2) shall be by way of complaint for an order, and the Magistrates' Courts Act 1980 shall apply to the proceedings; and references in this section to a magistrates' court are to a magistrates' court acting for the petty sessions area in which is situated the office or principal office of the local authority against whose decision the appeal is brought.
- (4) Any such appeal shall be brought within 14 days of the date of service on the person in question of the relevant notice under section 68(4) or (as the case may be) section 70(4); and for the purposes of this subsection an appeal shall be taken to be brought when the complaint is made.
- (5) An appeal against the decision of a magistrates' court on an appeal under subsection (1) or (2) may be brought to the Crown Court.
- (6) On an appeal to a magistrates' court or the Crown Court under this section, the court may confirm, vary or reverse the local authority's decision and generally give such directions as it thinks fit, having regard to the provisions of this Part and of regulations under section 73.
- (7) It shall be the duty of the local authority to comply with any directions given by the court under subsection (6); but the authority need not comply with any directions given by a magistrates' court—
- (a) until the time for bringing an appeal under subsection (5) has expired, or
  - (b) if such an appeal is duly brought, until the determination or abandonment of the appeal.

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### *Orders made by Charity Commissioners*

## **72 Orders made by Charity Commissioners**

- (1) Where the Charity Commissioners are satisfied, on the application of any charity, that that charity proposes—
  - (a) to promote public charitable collections—
    - (i) throughout England and Wales, or
    - (ii) throughout a substantial part of England and Wales,
 in connection with any charitable purposes pursued by the charity, or
  - (b) to authorise other persons to promote public charitable collections as mentioned in paragraph (a),
 the Commissioners may make an order under this subsection in respect of the charity.
- (2) Such an order shall have the effect of authorising public charitable collections which—
  - (a) are promoted by the charity in respect of which the order is made, or by persons authorised by the charity, and
  - (b) are so promoted in connection with the charitable purposes mentioned in subsection (1),
 to be conducted in such area or areas as may be specified in the order.
- (3) An order under subsection (1) may—
  - (a) include such conditions as the Commissioners think fit;
  - (b) be expressed (without prejudice to paragraph (c)) to have effect without limit of time, or for a specified period only;
  - (c) be revoked or varied by a further order of the Commissioners.
- (4) Where the Commissioners, having made an order under subsection (1) in respect of a charity, make any further order revoking or varying that order, they shall serve on the charity written notice of their reasons for making the further order, unless it appears to them that the interests of the charity would not be prejudiced by the further order.
- (5) In this section “charity” and “charitable purposes” have the same meaning as in the Charities Act 1960.

### *Supplementary*

## **73 Regulations**

- (1) The Secretary of State may make regulations—
  - (a) prescribing the information which is to be contained in applications made under section 67;
  - (b) for the purpose of regulating the conduct of public charitable collections authorised under—
    - (i) permits issued under section 68; or
    - (ii) orders made by the Charity Commissioners under section 72.
- (2) Regulations under subsection (1)(b) may, without prejudice to the generality of that provision, make provision—
  - (a) about the keeping and publication of accounts;



- (b) for the prevention of annoyance to members of the public;
  - (c) with respect to the use by collectors of badges and certificates of authority, or badges incorporating such certificates, and to other matters relating to such badges and certificates, including, in particular, provision—
    - (i) prescribing the form of such badges and certificates;
    - (ii) requiring a collector, on request, to permit his badge, or any certificate of authority held by him for the purposes of the collection, to be inspected by a constable or a duly authorised officer of a local authority, or by an occupier of any premises visited by him in the course of the collection;
  - (d) for prohibiting persons under a prescribed age from acting as collectors, and prohibiting others from causing them so to act.
- (3) Regulations under this section may provide that any failure to comply with a specified provision of the regulations shall be an offence punishable on summary conviction by a fine not exceeding the second level on the standard scale.

## **74 Offences**

- (1) A person shall be guilty of an offence if, in connection with any charitable appeal, he displays or uses—
- (a) a prescribed badge or a prescribed certificate of authority which is not for the time being held by him for the purposes of the appeal pursuant to regulations under section 73, or
  - (b) any badge or article, or any certificate or other document, so nearly resembling a prescribed badge or (as the case may be) a prescribed certificate of authority as to be likely to deceive a member of the public.
- (2) A person guilty of an offence under subsection (1) shall be liable on summary conviction to a fine not exceeding the fourth level on the standard scale.
- (3) Any person who, for the purposes of an application made under section 67, knowingly or recklessly furnishes any information which is false in a material particular shall be guilty of an offence and liable on summary conviction to a fine not exceeding the fourth level on the standard scale.
- (4) In subsection (1) “prescribed badge” and “prescribed certificate of authority” mean respectively a badge and a certificate of authority in such form as may be prescribed by regulations under section 73.