

Status: Point in time view as at 18/02/2011. This version of this chapter contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Charities Act (Northern Ireland) 2008, CHAPTER 1. (See end of Document for details)



2008 CHAPTER 12

PART 13

FUNDING OF CHARITABLE INSTITUTIONS

PROSPECTIVE

CHAPTER 1

PUBLIC CHARITABLE COLLECTIONS

Preliminary

Regulation of public charitable collections

131.—(1) This Chapter regulates public charitable collections, which are of the following two types—

- (a) collections in a public place; and
- (b) door to door collections.

(2) For the purposes of this Part—

- (a) “public charitable collection” means (subject to section 132) a charitable appeal which is made—
 - (i) in any public place, or
 - (ii) by means of visits to houses or business premises (or both);
- (b) “charitable appeal” means an appeal to members of the public which is—
 - (i) an appeal to them to give money or other property, or
 - (ii) an appeal falling within subsection (4),

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(or both) and 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;

- (c) a “collection in a public place” is a public charitable collection that is made in a public place, as mentioned in paragraph (a)(i);
- (d) a “door to door collection” is a public charitable collection that is made by means of visits to houses or business premises (or both), as mentioned in paragraph (a)(ii).

(3) For the purposes of subsection (2)(b)—

- (a) the reference to the giving of money is to doing so by whatever means; and
- (b) it does not matter whether the giving of money or other property is for consideration or otherwise.

(4) An appeal falls within this subsection if it consists in or includes—

- (a) the making of an offer to sell goods or to supply services, or
- (b) the exposing of goods for sale,

to members of the public.

(5) In this section—

“business premises” means any premises used for business or other commercial purposes;

“house” includes any part of a building constituting a separate dwelling;

“public place” means—

- (a) any road within the meaning of the Road Traffic (Northern Ireland) Order 1995 (NI 18), and
- (b) (subject to subsection (6)) 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
 - (ii) if within a building, is a public area within any station, airport or shopping precinct or any other similar public area.

(6) In subsection (5), paragraph (b) of the definition of “public place” does not include—

- (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.

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Charitable appeals that are not public charitable collections

132.—(1) A charitable appeal is not a public charitable collection if the appeal—

- (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,where the land is enclosed or substantially enclosed (whether by any wall or building or otherwise); or
- (c) is made on land to which members of the public have access only—
 - (i) by virtue of the express or implied permission of the occupier of the land, or
 - (ii) by virtue of any statutory provision,and the occupier is the promoter of the collection; or
- (d) is an appeal to members of the public to give money or other property by placing it in an unattended receptacle.

(2) For the purposes of subsection (1)(c) “the occupier”, in relation to unoccupied land, means the person entitled to occupy it.

(3) For the purposes of subsection (1)(d) a receptacle is unattended if it is not in the possession or custody of a person acting as a collector.

Other definitions for purposes of this Chapter

133 In this Chapter—

“prescribed” means prescribed by regulations under section 148;

“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;

“promoter”, in relation to a public charitable collection, means—

- (a) 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, or
- (b) where there is no person acting as mentioned in paragraph (a), any person who acts as a collector in respect of the collection.

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Restrictions on conducting collections

Restrictions on conducting collections in a public place

134.—(1) A collection in a public place shall not be conducted unless—

- (a) the promoters of the collection hold a public collections certificate in force under section 138 in respect of the collection, and
- (b) the collection is conducted in accordance with a permit issued under section 144.

(2) Subsection (1) does not apply to a public charitable collection which is an exempt collection by virtue of section 136 (local, short-term collections).

(3) Where—

- (a) a collection in a public place is conducted in contravention of subsection (1), and
- (b) the circumstances of the case do not fall within section 136(6),

every promoter of the collection is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Restrictions on conducting door to door collections

135.—(1) A door to door collection shall not be conducted unless—

- (a) the promoters of the collection hold a public collections certificate in force under section 138 in respect of the collection,
- (b) the collection is conducted in accordance with a permit issued under section 144; and
- (c) the promoters of the collection have within the prescribed period falling before the day (or the first of the days) on which the collection takes place—
 - (i) notified the Commission of the matters mentioned in subsection (3), and
 - (ii) provided the Commission with a copy of the certificate mentioned in paragraph (a).

(2) Subsection (1) does not apply to a door to door collection which is an exempt collection by virtue of section 136 (local, short-term collections).

(3) The matters referred to in subsection (1)(c)(i) are—

- (a) the purpose for which the proceeds of the appeal are to be applied;
- (b) the prescribed particulars of when the collection is to be conducted;
- (c) the locality within which the collection is to be conducted; and
- (d) such other matters as may be prescribed.

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(4) Where—

- (a) a door to door collection is conducted in contravention of subsection (1), and
- (b) the circumstances of the case do not fall within section 136(6),

every promoter of the collection is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

This is subject to subsection (5).

(5) Where—

- (a) a door to door collection is conducted in contravention of subsection (1),
- (b) the appeal is for goods only, and
- (c) the circumstances of the case do not fall within section 136(6),

every promoter of the collection is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(6) In subsection (5) “goods” includes all personal chattels other than things in action and money.

Exemption for local, short-term collections

136.—(1) A public charitable collection is an exempt collection if—

- (a) it is a local, short-term collection (see subsection (2)), and
- (b) the promoters notify the Commission of the matters mentioned in subsection (3) within the prescribed period falling before the day (or the first of the days) on which the collection takes place,

unless, within the prescribed period beginning with the date when it is so notified, the Commission serves a notice under subsection (4) on the promoters.

(2) A public charitable collection is a local, short-term collection if—

- (a) the appeal is local in character; and
- (b) the duration of the appeal does not exceed the prescribed period of time.

(3) The matters referred to in subsection (1)(b) are—

- (a) the purpose for which the proceeds of the appeal are to be applied;
- (b) the date or dates on which the collection is to be conducted;
- (c) the place at which, or the locality within which, the collection is to be conducted; and
- (d) such other matters as may be prescribed.

(4) Where it appears to the Commission—

- (a) that the collection is not a local, short-term collection, or
- (b) that the promoters or any of them have or has on any occasion—

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(i) breached any provision of regulations made under section 148, or
(ii) been convicted of an offence within section 139(2)(a)(i) to (v),
the Commission shall serve on the promoters written notice of its decision to that effect and the reasons for its decision.

(5) That notice shall also state the right of appeal conferred by section 147(1) and the time within which such an appeal must be brought.

(6) Where—

(a) a collection in a public place is conducted otherwise than in accordance with section 134(1) or a door to door collection is conducted otherwise than in accordance with section 135(1), and

(b) the collection is a local, short-term collection but the promoters do not notify the Commission as mentioned in subsection (1)(b),

every promoter of the collection is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Public collections certificates

Applications for certificates

137.—(1) A person or persons proposing to promote public charitable collections (other than exempt collections) may apply to the Commission for a public collections certificate in respect of those collections.

(2) The application shall be made—

(a) within the specified period falling before the first of the collections is to commence, or

(b) before such later date as the Commission may allow in the case of that application.

(3) The application shall—

(a) be made in such form as may be specified,

(b) state the period for which the certificate is sought (which must be no more than 5 years), and

(c) contain such other information as may be specified.

(4) An application under this section may be made for a public collections certificate in respect of a single collection; and the references in this Chapter, in the context of such certificates, to public charitable collections are to be read accordingly.

(5) In subsections (2) and (3) “specified” means specified in regulations made by the Commission after consulting such persons or bodies of persons as it considers appropriate.

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(6) In this section “exempt collection” means a public charitable collection which is an exempt collection by virtue of section 136.

Determination of applications and issue of certificates

138.—(1) On receiving an application for a public collections certificate made in accordance with section 137, the Commission may make such inquiries (whether under section 140 or otherwise) as it thinks fit.

(2) The Commission shall, after making any such inquiries, determine the application by either—

- (a) issuing a public collections certificate in respect of the collections, or
- (b) refusing the application on one or more of the grounds specified in section 139(1).

(3) A public collections certificate—

- (a) shall specify such matters as may be prescribed, and
- (b) shall (subject to section 142) be in force for—
 - (i) the period specified in the application in accordance with section 137(3)(b), or
 - (ii) such shorter period as the Commission thinks fit.

(4) The Commission may, at the time of issuing a public collections certificate, attach to the certificate such conditions as it thinks fit.

(5) Conditions attached under subsection (4) may include conditions prescribed for the purposes of that subsection.

(6) The Commission shall secure that the terms of any conditions attached under subsection (4) are consistent with the provisions of any regulations under section 148 (whether or not prescribing conditions for the purposes of that subsection).

(7) Where the Commission—

- (a) refuses to issue a certificate, or
- (b) attaches any condition to it,

it shall serve on the applicant written notice of its decision and the reasons for its decision.

(8) That notice shall also state the right of appeal conferred by Schedule 3 and the time within which such an appeal must be brought.

Grounds for refusing to issue a certificate

139.—(1) The grounds on which the Commission may refuse an application for a public collections certificate are—

- (a) that the applicant has been convicted of a relevant offence;

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- (b) where the applicant is a person other than a charitable institution for whose benefit the collections are proposed to be conducted, that the Commission is 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 collections;
 - (c) that it appears to the Commission that the applicant, in promoting any other collection authorised under this Chapter, failed to exercise the required due diligence;
 - (d) that the Commission is not satisfied that the applicant will exercise the required due diligence in promoting the proposed collections;
 - (e) that it appears to the Commission that the amount likely to be applied for charitable, benevolent or philanthropic purposes in consequence of the proposed collections would be inadequate, having regard to the likely amount of the proceeds of the collections;
 - (f) that it appears to the Commission that the applicant or any other person would be likely to receive an amount by way of remuneration in connection with the collections that would be excessive, having regard to all the circumstances;
 - (g) that the applicant has failed to provide information—
 - (i) required for the purposes of the application for the certificate or a previous application, or
 - (ii) in response to a request under section 140(1);
 - (h) that it appears to the Commission that information so provided to it by the applicant is false or misleading in a material particular;
 - (i) that it appears to the Commission that the applicant or any person authorised by the applicant—
 - (i) has breached any conditions attached to a previous public collections certificate, or
 - (ii) has persistently breached any conditions attached to a permit issued under section 144;
 - (j) that it appears to the Commission that the applicant or any person authorised by the applicant has on any occasion breached any provision of regulations made under section 148(1)(b).
- (2) For the purposes of subsection (1)—
- (a) a “relevant offence” is—
 - (i) an offence under section 5 of the 1916 Act;
 - (ii) an offence under the 1952 Act;
 - (iii) an offence under this Chapter;
 - (iv) an offence involving dishonesty; or

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(v) an offence of a kind the commission of which would, in the opinion of the Commission, be likely to be facilitated by the issuing to the applicant of a public collections certificate; and

(b) the “required due diligence” is due diligence—

(i) to secure that persons authorised by the applicant to act as collectors for the purposes of the collection were (or will be) fit and proper persons;

(ii) to secure that such persons complied (or will comply) with the provisions of regulations under section 148(1)(b); or

(iii) to prevent badges or certificates of authority being obtained by persons other than those the applicant had so authorised.

(3) Where an application for a certificate is made by more than one person, any reference to the applicant in subsection (1) or (2) is to be construed as a reference to any of the applicants.

(4) Subject to subsections (5) and (6), the reference in subsection (2)(b)(iii) to badges or certificates of authority is a reference to badges or certificates of authority in a form prescribed by regulations under section 148(1)(b).

(5) Subsection (2)(b) applies to the conduct of the applicant (or any of the applicants) in relation to any public charitable collection authorised—

(a) 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

(b) under the 1952 Act (collection of money or other property by means of visits from house to house),

as it applies to the conduct of the applicant in relation to a collection authorised under this Chapter, but subject to the modifications set out in subsection (6).

(6) The modifications are—

(a) in the case of a collection authorised under regulations made under the 1916 Act—

(i) the reference in subsection (2)(b)(ii) to regulations under section 148(1)(b) is to be construed as a reference to the regulations under which the collection in question was authorised, and

(ii) the reference in subsection (2)(b)(iii) to badges or certificates of authority is to 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 1952 Act—

(i) the reference in subsection (2)(b)(ii) to regulations under section 148(1)(b) is to be construed as a reference to regulations under section 4 of that Act, and

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(ii) the reference in subsection (2)(b)(iii) to badges or certificates of authority is to be construed as a reference to badges or certificates of authority in a form prescribed by such regulations.

(7) In subsections (1)(c) and (5) a reference to a collection authorised under this Chapter is a reference to a public charitable collection that—

(a) is conducted in accordance with section 134 or 135 (as the case may be), or

(b) is an exempt collection by virtue of section 136.

(8) In this section—

“the 1916 Act” means the Police, Factories &c. (Miscellaneous Provisions) Act 1916 (c. 31); and

“the 1952 Act” means the House to House Collections Act (Northern Ireland) 1952 (c. 6).

Power to call for information and documents

140.—(1) The Commission may request—

(a) any applicant for a public collections certificate, or

(b) any person to whom such a certificate has been issued,

to provide it with any information in the possession of that applicant or person, or document in the custody or under the control of that applicant or person, which is relevant to the exercise of any of its functions under this Chapter.

(2) Nothing in this section affects the power conferred on the Commission by section 23.

Transfer of certificate between trustees of unincorporated charity

141.—(1) One or more individuals to whom a public collections certificate has been issued (“the holders”) may apply to the Commission for a direction that the certificate be transferred to one or more other individuals (“the recipients”).

(2) An application under subsection (1) shall—

(a) be in such form as may be specified, and

(b) contain such information as may be specified.

(3) The Commission may direct that the certificate be transferred if it is satisfied that—

(a) each of the holders is or was a trustee of a charity which is not a body corporate;

(b) each of the recipients is a trustee of that charity and consents to the transfer; and

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(c) the charity trustees consent to the transfer.

(4) Where the Commission refuses to direct that a certificate be transferred, it shall serve on the holders written notice of—

- (a) its decision, and
- (b) the reasons for its decision.

(5) That notice shall also state the right of appeal conferred by Schedule 3 and the time within which such an appeal must be brought.

(6) Subsection (5) of section 137 applies for the purposes of subsection (2) of this section as it applies for the purposes of subsection (3) of that section.

(7) Except as provided by this section, a public collections certificate is not transferable.

Withdrawal or variation, etc. of certificates

142.—(1) Where subsection (2), (3) or (4) applies, the Commission may—

- (a) withdraw a public collections certificate,
- (b) suspend such a certificate,
- (c) attach any condition (or further condition) to such a certificate, or
- (d) vary any existing condition of such a certificate.

(2) This subsection applies where the Commission—

- (a) has reason to believe there has been a change in the circumstances which prevailed at the time when it issued the certificate, and
- (b) is of the opinion that, if the application for the certificate had been made in the new circumstances, it would not have issued the certificate or would have issued it subject to different or additional conditions.

(3) This subsection applies where—

- (a) the holder of a certificate has unreasonably refused to provide any information or document in response to a request under section 140(1), or
- (b) the Commission has reason to believe that information provided to it by the holder of a certificate (or, where there is more than one holder, by any of them) for the purposes of the application for the certificate, or in response to such a request, was false or misleading in a material particular.

(4) This subsection applies where the Commission has reason to believe that there has been or is likely to be a breach of any condition of a certificate, or that a breach of such a condition is continuing.

(5) Any condition imposed at any time by the Commission under subsection (1) (whether by attaching a new condition to the certificate or by varying an existing condition) must be one that it would be appropriate for the

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Commission to attach to the certificate under section 138(4) if the holder was applying for it in the circumstances prevailing at that time.

(6) The exercise by the Commission of the power conferred by paragraph (b), (c) or (d) of subsection (1) on one occasion does not prevent it from exercising any of the powers conferred by that paragraph on a subsequent occasion; and on any subsequent occasion the reference in subsection (2)(a) to the time when the Commission issued the certificate is a reference to the time when it last exercised any of those powers.

(7) Where the Commission—

- (a) withdraws or suspends a certificate,
- (b) attaches a condition to a certificate, or
- (c) varies an existing condition of a certificate,

it shall serve on the holder written notice of its decision and the reasons for its decision.

(8) That notice shall also state the right of appeal conferred by Schedule 3 and the time within which such an appeal must be brought.

(9) If the Commission—

- (a) considers that the interests of the public require a decision by it under this section to have immediate effect, and
- (b) includes a statement to that effect and the reasons for it in the notice served under subsection (7),

the decision takes effect when that notice is served on the holder.

(10) In any other case the certificate shall continue to have effect as if it had not been withdrawn or suspended or (as the case may be) as if the condition had not been attached or varied—

- (a) until the time for bringing an appeal has expired, or
- (b) if such an appeal is duly brought, until the determination or abandonment of the appeal.

(11) A certificate suspended under this section shall (subject to any appeal and any withdrawal of the certificate) remain suspended until—

- (a) such time as the Commission may by notice direct that the certificate is again in force, or
- (b) the end of the period of 6 months beginning with the date on which the suspension takes effect,

whichever is the sooner.

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Permits

Applications for permits to conduct public charitable collections

143.—(1) A person or persons proposing to promote a public charitable collection (other than an exempt collection) may apply to the Commission for a permit to conduct that collection.

(2) The application shall be made within the prescribed period falling before the day (or the first of the days) on which the collection is to take place, except as provided in subsection (4).

(3) The application shall—

- (a) specify the date or dates in respect of which it is desired that the permit, if issued, should have effect (which, in the case of two or more dates, must not span a period of more than 12 months);
- (b) be accompanied by a copy of the public collections certificate in force under section 138 in respect of the proposed collection; and
- (c) contain such information as may be prescribed.

(4) Where an application (“the certificate application”) has been made in accordance with section 137 for a public collections certificate in respect of the collection and either—

- (a) the certificate application has not been determined by the end of the period mentioned in subsection (2), or
- (b) the certificate application has been determined by the issue of such a certificate but at a time when there is insufficient time remaining for the application mentioned in subsection (2) (“the permit application”) to be made by the end of that period,

the permit application shall be made as early as practicable before the day (or the first of the days) on which the collection is to take place.

(5) In this section “exempt collection” means a collection which is an exempt collection by virtue of section 136.

Determination of applications and issue of permits

144.—(1) On receiving an application made in accordance with section 143 for a permit in respect of a collection in a public place, the Commission shall determine the application within the prescribed period by either—

- (a) issuing a permit in respect of the collection, or
- (b) refusing the application on the ground specified in section 145(1).

(2) Where the Commission issues such a permit, it shall (subject to section 146) have effect in respect of the date or dates specified in the application in accordance with section 143(3)(a).

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(3) At the time of issuing a permit under this section, the Commission may attach to it such conditions within paragraphs (a) to (d) below as the Commission thinks fit, having regard to the local circumstances of the collection—

- (a) conditions specifying the day of the week, date, time or frequency of the collection;
- (b) conditions specifying the locality or localities in which the collection may be conducted;
- (c) conditions regulating the manner in which the collection is to be conducted;
- (d) such other conditions as may be prescribed for the purposes of this paragraph.

(4) The Commission shall secure that the terms of any conditions attached under subsection (3) are consistent with the provisions of any regulations under section 148 (whether or not prescribing conditions for the purposes of that subsection).

(5) Where the Commission—

- (a) refuses to issue a permit, or
- (b) attaches any condition to it,

the Commission shall serve on the applicant written notice of its decision and the reasons for its decision.

(6) That notice shall also state the right of appeal conferred by section 147(2) and the time within which such an appeal must be brought.

Refusal of permits

145.—(1) The only ground on which the Commission may refuse an application for a permit to conduct a public charitable collection is that it appears to the Commission that the collection would cause undue inconvenience to members of the public or the occupants of houses or business premises (or both) by reason of—

- (a) the day or the week or date on or in which,
- (b) the time at which,
- (c) the frequency with which, or
- (d) the locality or localities in which,

it is proposed to be conducted.

(2) In making a decision under subsection (1), the Commission may have regard to the fact (where it is the case) that the collection is proposed to be conducted—

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- (a) wholly or partly in a locality in which another public charitable collection is already authorised to be conducted under this Chapter, and
 - (b) on a day on which that other collection is already so authorised, or on the day falling immediately before, or immediately after, any such day.
- (3) The Commission shall not, however, have regard to the matters mentioned in subsection (2) if it appears to the Commission—
- (a) that the proposed collection would be a collection in a public place and would be conducted only in one location, which is on land to which members of the public would have access only—
 - (i) by virtue of the express or implied permission of the occupier of the land, or
 - (ii) by virtue of any statutory provision, and
 - (b) that the occupier of the land consents to that collection being conducted there;
- and for this purpose “the occupier”, in relation to unoccupied land, means the person entitled to occupy it.
- (4) In subsection (3) a reference to a collection in a public place authorised under this Chapter is a reference to a collection in a public place that—
- (a) is conducted in accordance with section 134, or
 - (b) is an exempt collection by virtue of section 136.

Withdrawal or variation, etc. of permits

- 146.**—(1) Where subsection (2), (3) or (4) applies, the Commission may—
- (a) withdraw the permit,
 - (b) attach any condition (or further condition) to the permit, or
 - (c) vary any existing condition of the permit.
- (2) This subsection applies where the Commission—
- (a) has reason to believe that there has been a change in the circumstances which prevailed at the time when it issued the permit, and
 - (b) is of the opinion that, if the application for the permit had been made in the new circumstances, the Commission would not have issued the permit or would have issued it subject to different or additional conditions.
- (3) This subsection applies where the Commission has reason to believe that any information provided to it by the holder of a permit (or, where there is more than one holder, by any of them) for the purposes of the application for the permit was false or misleading in a material particular.

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(4) This subsection applies where the Commission has reason to believe that there has been or is likely to be a breach of any condition of a permit issued by it, or that a breach of such a condition is continuing.

(5) Any condition imposed at any time by the Commission under subsection (1) (whether by attaching a new condition to the permit or by varying an existing condition) must be one that it would be appropriate for the Commission to attach to the permit under section 144(3) if the holder was applying for it in the circumstances prevailing at that time.

(6) The exercise by the Commission of the power conferred by paragraph (b) or (c) of subsection (1) on one occasion does not prevent the Commission from exercising any of the powers conferred by that paragraph on a subsequent occasion; and on any subsequent occasion the reference in subsection (2)(a) to the time when the Commission issued the permit is a reference to the time when it last exercised any of those powers.

(7) Where under this section the Commission—

- (a) withdraws a permit,
- (b) attaches a condition to a permit, or
- (c) varies an existing condition of a permit,

the Commission shall serve on the holder written notice of its decision and the reasons for its decision.

(8) That notice shall also state the right of appeal conferred by section 147(3) and the time within which such an appeal must be brought.

(9) Where the Commission under this section withdraws a permit, attaches any condition to a permit, or varies an existing condition of a permit, the permit shall 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 varied—

- (a) until the time for bringing an appeal under section 147(3) has expired, or
- (b) if such an appeal is duly brought, until the determination or abandonment of the appeal.

Appeals against decisions of Commission

147.—(1) A person who, in relation to a public charitable collection, has duly notified the Commission of the matters mentioned in section 136(3) may appeal to a court of summary jurisdiction against a decision of the Commission under section 136(4)—

- (a) that the collection is not a local, short-term collection, or
- (b) that the promoters or any of them has breached any such provision, or been convicted of any such offence, as is mentioned in paragraph (b) of that subsection.

Status: Point in time view as at 18/02/2011. This version of this chapter contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Charities Act (Northern Ireland) 2008, CHAPTER 1. (See end of Document for details)

(2) A person who has duly applied to the Commission for a permit to conduct a public charitable collection may appeal to a court of summary jurisdiction against a decision of the Commission under section 144—

- (a) to refuse to issue a permit, or
- (b) to attach any condition to it.

(3) A person to whom a permit has been issued may appeal to a court of summary jurisdiction against a decision of the Commission under section 146—

- (a) to withdraw the permit,
- (b) to attach a condition to the permit, or
- (c) to vary an existing condition of the permit.

(4) An appeal under subsection (1), (2) or (3) shall be by way of complaint under Part 8 of the Magistrates' Courts (Northern Ireland) Order 1981 (NI 26).

(5) 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 136(4), section 144(5) or (as the case may be) section 146(7); and for the purposes of this section an appeal shall be taken to be brought when the complaint is made.

(6) On an appeal under this section, the court may confirm, vary or reverse the Commission's decision and generally give such directions as it thinks fit, having regard to the provisions of this Chapter and of any regulations under section 148.

(7) On an appeal against a decision of the Commission under section 136(4), directions under subsection (6) may include a direction that the collection may be conducted—

- (a) on the date or dates notified in accordance with section 136(3)(b), or
- (b) on such other date or dates as may be specified in the direction;

and if so conducted the collection is to be regarded as one that is an exempt collection by virtue of section 136.

(8) It shall be the duty of the Commission to comply with any directions given by the court under subsection (6); but the Commission need not comply with any directions given by a court of summary jurisdiction—

- (a) until the time for bringing an appeal against the court's decision has expired, or
- (b) if such an appeal is duly brought, until the determination or abandonment of the appeal.

Status: Point in time view as at 18/02/2011. This version of this chapter contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Charities Act (Northern Ireland) 2008, CHAPTER 1. (See end of Document for details)

Supplementary

Regulations

148.—(1) The Department may make regulations—

- (a) prescribing the matters which the Commission is to take into account in determining whether a collection is local in character for the purposes of section 136(2)(a);
- (b) for the purpose of regulating the conduct of public charitable collections;
- (c) prescribing anything falling to be prescribed by virtue of any provision of this Chapter.

(2) The matters which may be prescribed by regulations under subsection (1) (a) include—

- (a) the extent of the area within which the appeal is to be conducted;
- (b) whether the appeal forms part of a series of appeals;
- (c) the number of collectors making the appeal and whether they are acting for remuneration or otherwise;
- (d) the financial resources (of any description) of any charitable institution for whose benefit the appeal is to be conducted;
- (e) where the promoters live or have any place of business.

(3) Regulations under subsection (1)(b) may 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, including, in particular, provision—
 - (i) prescribing the form of such badges and certificates;
 - (ii) requiring a collector, on request, to permit a badge, or any certificate of authority held by the collector of the purposes of the collection, to be inspected by a constable or a duly authorised officer of the Commission, or by an occupier of any premises visited by the collector 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.

(4) Nothing in subsection (2) or (3) prejudices the generality of subsection (1)(a) or (b).

(5) Regulations under this section may provide that any failure to comply with a specified provision of the regulations is to be an offence punishable on summary conviction by a fine not exceeding level 2 on the standard scale.

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Changes to legislation: There are currently no known outstanding effects for the Charities Act (Northern Ireland) 2008, CHAPTER 1. (See end of Document for details)

(6) Before making regulations under this section the Department must consult such persons or bodies of persons as it considers appropriate.

Offences

149.—(1) A person commits an offence if, in connection with any charitable appeal, that person displays or uses—

- (a) a prescribed badge or prescribed certificate of authority which is not for the time being held by that person for the purposes of the appeal pursuant to regulations under section 148, 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 commits an offence if—

- (a) for the purposes of an application made under section 137 or section 143, or
- (b) for the purposes of section 135 or section 136,

that person knowingly or recklessly [^{F1}provides] any information which is false or misleading in a material particular.

(3) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 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 148.

Textual Amendments

- F1** Word in s. 149(2) substituted (19.1.2013) by [Charities Act \(Northern Ireland\) 2013 \(c. 3\)](#), s. 10(1), [Sch. 1 para. 6\(3\)](#)

Status:

Point in time view as at 18/02/2011. This version of this chapter contains provisions that are prospective.

Changes to legislation:

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