



2008 CHAPTER 12

PART 13

FUNDING OF CHARITABLE INSTITUTIONS

CHAPTER 2

CONTROL OF FUND-RAISING FOR CHARITABLE INSTITUTIONS

*Control of fund-raising*

**Professional fund-raisers, etc. required to indicate institutions benefiting and arrangements for remuneration**

**151.**—(1) Where a professional fund-raiser solicits money or other property for the benefit of one or more particular charitable institutions, the solicitation shall be accompanied by a statement clearly indicating—

- (a) the name or names of the institution or institutions concerned;
- (b) if there is more than one institution concerned, the proportions in which the institutions are respectively to benefit; and
- (c) the method by which the fund-raiser's remuneration in connection with the appeal is to be determined and the notifiable amount of that remuneration.

(2) Where a professional fund-raiser solicits money or other property for charitable, benevolent or philanthropic purposes of any description (rather than for the benefit of one or more particular charitable institutions), the solicitation shall be accompanied by a statement clearly indicating—

- (a) the fact that the professional fund-raiser is soliciting money or other property for those purposes and not for the benefit of any particular charitable institution or institutions;

- (b) the method by which it is to be determined how the proceeds of the appeal are to be distributed between different charitable institutions; and
- (c) the method by which the professional fund-raiser's remuneration in connection with the appeal is to be determined and the notifiable amount of that remuneration.

(3) Where any representation is made by a commercial participator to the effect that charitable contributions are to be given to or applied for the benefit of one or more particular charitable institutions, the representation shall be accompanied by a statement clearly indicating—

- (a) the name or names of the institution or institutions concerned;
- (b) if there is more than one institution concerned, the proportions in which the institutions are respectively to benefit; and
- (c) the notifiable amount of whichever of the following sums is applicable in the circumstances—
  - (i) the sum representing so much of the consideration given for goods or services sold or supplied by the commercial participator as is to be given to or applied for the benefit of the institution or institutions concerned,
  - (ii) the sum representing so much of any other proceeds of a promotional venture undertaken by the commercial participator as is to be so given or applied, or
  - (iii) the sum of the donations by the commercial participator in connection with the sale or supply of any such goods or services which are to be so given or supplied.

(4) In subsections (1) to (3) a reference to the “notifiable amount” of any remuneration or other sum is a reference—

- (a) to the actual amount of the remuneration or sum, if that is known at the time when the statement is made; and
- (b) otherwise to the estimated amount of the remuneration or sum, calculated as accurately as is reasonably possible in the circumstances.

(5) If any such solicitation or representation as is mentioned in any of subsections (1) to (3) is made—

- (a) in the course of a radio or television programme, and
- (b) in association with an announcement to the effect that payment may be made, in response to the solicitation or representation, by means of a credit or debit card,

the statement required by virtue of subsection (1), (2) or (3) (as the case may be) shall include full details of the right to have refunded under section 154(1) any payment of £50 or more which is so made.

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*Status: This is the original version (as it was originally enacted).*

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(6) If any such solicitation or representation as is mentioned in any of subsections (1) to (3) is made orally but is not made—

(a) by speaking directly to the particular person or persons to whom it is addressed and in the presence of that person or those persons, or

(b) in the course of any radio or television programme,

the professional fund-raiser or commercial participator concerned shall, within 7 days of any payment of £50 or more being made to the professional fund-raiser or commercial participator in response to the solicitation or representation, give to the person making the payment a written statement—

(i) of the matters specified in paragraphs (a) to (c) of that subsection; and

(ii) including full details of the right to cancel under section 154(2) an agreement made in response to the solicitation or representation, and the right to have refunded under section 154(2) or (3) any payment of £50 or more made in response thereto.

(7) In subsection (6) the reference to the making of a payment is a reference to the making of a payment of whatever nature and by whatever means, including a payment made by means of a credit card or a debit card; and for the purposes of that subsection—

(a) where the person making any such payment makes it in person, it shall be regarded as made at the time when it is so made;

(b) where the person making any such payment sends it by post, it shall be regarded as made at the time when it is posted; and

(c) where the person making any such payment makes it by giving, by telephone or by means of any other electronic communications apparatus, authority for an account to be debited with the payment, it shall be regarded as made at the time when any such authority is given.

(8) Where any requirement of subsections (1) to (6) is not complied with in relation to any solicitation or representation, the professional fund-raiser or commercial participator concerned is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(9) It shall be a defence for a person charged with any such offence to prove that that person took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

(10) Where the commission by any person of an offence under subsection (8) is due to the act or default of some other person, that other person is guilty of the offence; and a person may be charged with and convicted of the offence by virtue of this subsection whether or not proceedings are taken against the first-mentioned person.

(11) In this section “the appeal”, in relation to any solicitation by a professional fund-raiser, means the campaign or other fund-raising venture in the course of which the solicitation is made.