

# **Charities (Fund-raising Appeals) Regulations**

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### **CHARITIES ACT CHAPTER 37, SECTION 48**

# CHARITIES (FUND-RAISING APPEALS) REGULATIONS

Rg 8

G.N. No. S 176/2007

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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