



# Charities Act 2006

## 2006 CHAPTER 50

### PART 3

#### FUNDING FOR CHARITABLE, BENEVOLENT OR PHILANTHROPIC INSTITUTIONS

### CHAPTER 1

#### PUBLIC CHARITABLE COLLECTIONS

##### *Public collections certificates*

#### **51 Applications for certificates**

- (1) A person or persons proposing to promote public charitable collections (other than exempt collections) may apply to the Charity Commission for a public collections certificate in respect of those collections.
- (2) The application must 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 must—
  - (a) be made in such form as may be specified,
  - (b) specify 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.

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- (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.
- (6) Regulations under subsection (5)—
  - (a) must be published in such manner as the Commission considers appropriate,
  - (b) may make different provision for different cases or descriptions of case, and
  - (c) may make such incidental, supplementary, consequential or transitional provision as the Commission considers appropriate.
- (7) In this section “exempt collection” means a public charitable collection which is an exempt collection by virtue of section 50.

## **52 Determination of applications and issue of certificates**

- (1) On receiving an application for a public collections certificate made in accordance with section 51, the Commission may make such inquiries (whether under section 54 or otherwise) as it thinks fit.
- (2) The Commission must, 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 53(1).
- (3) A public collections certificate—
  - (a) must specify such matters as may be prescribed, and
  - (b) shall (subject to section 56) be in force for—
    - (i) the period specified in the application in accordance with section 51(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 it 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 must secure that the terms of any conditions attached under subsection (4) are consistent with the provisions of any regulations under section 63 (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 must serve on the applicant written notice of its decision and the reasons for its decision.
- (8) That notice must also state the right of appeal conferred by section 57(1) and the time within which such an appeal must be brought.

### **53 Grounds for refusing to issue a certificate**

- (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;
  - (b) where the applicant is a person other than a charitable, benevolent or philanthropic 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 or under section 119 of the 1982 Act, 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 54(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 him—
    - (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 59;
  - (j) that it appears to the Commission that the applicant or any person authorised by him has on any occasion breached any provision of regulations made under section 63(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 1939 Act;
    - (iii) an offence under section 119 of the 1982 Act or regulations made under it;
    - (iv) an offence under this Chapter;
    - (v) an offence involving dishonesty; or
    - (vi) 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—

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- (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 63(1)(b) of this Act 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 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 63(1)(b) of this Act or (as the case may be) under section 119 of the 1982 Act.
- (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 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 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 63(1)(b) of this Act 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 1939 Act—
    - (i) the reference in subsection (2)(b)(ii) to regulations under section 63(1)(b) of this Act is to be construed as a reference to regulations under section 4 of that Act, and
    - (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 48 or section 49 (as the case may be), or
  - (b) is an exempt collection by virtue of section 50.
- (8) In this section—

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

“the 1939 Act” means the House to House Collections Act 1939 (c. 44); and

“the 1982 Act” means the Civic Government (Scotland) Act 1982 (c. 45).

#### **54 Power to call for information and documents**

- (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 his possession, or document in his custody or under this control, 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 9 of the 1993 Act.

#### **55 Transfer of certificate between trustees of unincorporated charity**

- (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) must—
  - (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
  - (c) the charity trustees consent to the transfer.
- (4) Where the Commission refuses to direct that a certificate be transferred, it must serve on the holders written notice of—
  - (a) its decision, and
  - (b) the reasons for its decision.
- (5) That notice must also state the right of appeal conferred by section 57(2) and the time within which such an appeal must be brought.
- (6) Subsections (5) and (6) of section 51 apply for the purposes of subsection (2) of this section as they apply for the purposes of subsection (3) of that section.
- (7) Except as provided by this section, a public collections certificate is not transferable.

#### **56 Withdrawal or variation etc. of certificates**

- (1) Where subsection (2), (3) or (4) applies, the Commission may—
  - (a) withdraw a public collections certificate,
  - (b) suspend such a certificate,

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- (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 54(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 Commission to attach to the certificate under section 52(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 subsection 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 must serve on the holder written notice of its decision and the reasons for its decision.
- (8) That notice must also state the right of appeal conferred by section 57(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 under section 57(3) 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 six months beginning with the date on which the suspension takes effect,
- whichever is the sooner.

## **57 Appeals against decisions of the Commission**

- (1) A person who has duly applied to the Commission for a public collections certificate may appeal to the Charity Tribunal (“the Tribunal”) against a decision of the Commission under section 52—
- (a) to refuse to issue the certificate, or
  - (b) to attach any condition to it.
- (2) A person to whom a public collections certificate has been issued may appeal to the Tribunal against a decision of the Commission not to direct that the certificate be transferred under section 55.
- (3) A person to whom a public collections certificate has been issued may appeal to the Tribunal against a decision of the Commission under section 56—
- (a) to withdraw or suspend the certificate,
  - (b) to attach a condition to the certificate, or
  - (c) to vary an existing condition of the certificate.
- (4) The Attorney General may appeal to the Tribunal against a decision of the Commission—
- (a) to issue, or to refuse to issue, a certificate,
  - (b) to attach, or not to attach, any condition to a certificate (whether under section 52 or section 56),
  - (c) to direct, or not to direct, that a certificate be transferred under section 55,
  - (d) to withdraw or suspend, or not to withdraw or suspend, a certificate, or
  - (e) to vary, or not to vary, an existing condition of a certificate.
- (5) In determining an appeal under this section, the Tribunal—
- (a) must consider afresh the decision appealed against, and
  - (b) may take into account evidence which was not available to the Commission.
- (6) On an appeal under this section, the Tribunal may—
- (a) dismiss the appeal,
  - (b) quash the decision, or
  - (c) substitute for the decision another decision of a kind that the Commission could have made;
- and in any case the Tribunal may give such directions as it thinks fit, having regard to the provisions of this Chapter and of regulations under section 63.

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- (7) If the Tribunal quashes the decision, it may remit the matter to the Commission (either generally or for determination in accordance with a finding made or direction given by the Tribunal).