
STATUTORY INSTRUMENTS

1994 No. 3024

CHARITIES

The Charitable Institutions (Fund-Raising) Regulations 1994

Made - - - - 28th November 1994
Laid before Parliament 6th December 1994
Coming into force - - 1st March 1995

The Secretary of State, in exercise of the powers conferred upon him by sections 64 and 77(3) of the Charities Act 1992(1) and, having regard to the definition of “the prescribed requirements” in section 59(6), section 59 of that Act, and after such consultation as is mentioned in section 77(4) of that Act, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Charitable Institutions (Fund-Raising) Regulations 1994 and shall come into force on 1st March 1995.

(2) In these Regulations, the expression—

“bank” means—

- (a) the Bank of England; or
- (b) an institution which is authorised by the Bank of England to operate a deposit-taking business under Part I of the Banking Act 1987(2);

“building society” means a building society which is authorised by the Building Societies Commission under section 9 of the Building Societies Act 1986(3) to raise money from its members.

(3) In these Regulations, any reference, in relation to an agreement made for the purposes of section 59 of the Charities Act 1992, to a charitable institution, commercial participator or professional fund-raiser(4), shall, unless the contrary intention appears, be construed as a reference to any charitable institution, commercial participator or professional fund-raiser, respectively, which is or who is a party to the agreement.

(1) 1992 c. 41; section 77 was repealed in part by Schedule 7 to the Charities Act 1993 (c. 10).

(2) 1987 c. 22, as amended by the Banking Co-ordination (Second Council Directive) Regulations 1992 (S.I. 1992/3218).

(3) 1986 c. 53.

(4) These expressions have, by virtue of section 11 of the Interpretation Act 1978 (c. 30) the meanings assigned to them in section 58 of the Charities Act 1992 as amended by section 25 of the Deregulation and Contracting Out Act 1994 (c. 40).

Agreements between charitable institutions and professional fund-raisers

2.—(1) The requirements as to form and content of an agreement made for the purposes of section 59(1) of the Charities Act 1992 are those set out in the following provisions of this regulation.

(2) Such an agreement (hereafter in this regulation referred to as “the agreement”) shall be in writing and shall be signed by or on behalf of the charitable institution and the professional fund-raiser.

(3) The agreement shall specify—

- (a) the name and address of each of the parties to the agreement;
- (b) the date on which the agreement was signed by or on behalf of each of those parties;
- (c) the period for which the agreement is to subsist;
- (d) any terms relating to the termination of the agreement prior to the date on which that period expires; and
- (e) any terms relating to the variation of the agreement during that period.

(4) The agreement shall also contain—

- (a) a statement of its principal objectives and the methods to be used in pursuit of those objectives;
- (b) if there is more than one charitable institution party to the agreement, provision as to the manner in which the proportion in which the institutions which are so party are respectively to benefit under the agreement is to be determined; and
- (c) provision as to the amount by way of remuneration or expenses which the professional fund-raiser is to be entitled to receive in respect of things done by him in pursuance of the agreement and the manner in which that amount is to be determined.

Agreements between charitable institutions and commercial participators

3.—(1) The requirements as to form and content of an agreement made for the purposes of section 59(2) of the Charities Act 1992 are those set out in the following provisions of this regulation.

(2) Such an agreement (hereafter in this regulation referred to as “the agreement”) shall be in writing and shall be signed by or on behalf of the charitable institution and the commercial participator.

(3) The agreement shall specify—

- (a) the name and address of each of the parties to the agreement;
- (b) the date on which the agreement was signed by or on behalf of each of those parties;
- (c) the period for which the agreement is to subsist;
- (d) any terms relating to the termination of the agreement prior to the date on which that period expires; and
- (e) any terms relating to the variation of the agreement during that period.

(4) The agreement shall also contain—

- (a) a statement of its principal objectives and the methods to be used in pursuit of those objectives;
- (b) provision as to the manner in which are to be determined—
 - (i) if there is more than one charitable institution party to the agreement, the proportion in which the institutions which are so party are respectively to benefit under the agreement; and

- (ii) the proportion of the consideration given for goods or services sold or supplied by the commercial participator, or of any other proceeds of a promotional venture undertaken by him, which is to be given to or applied for the benefit of the charitable institution, or
- (iii) the sums by way of donations by the commercial participator in connection with the sale or supply of any goods or services sold or supplied by him which are to be so given or applied,

as the case may require; and

- (c) provision as to any amount by way of remuneration or expenses which the commercial participator is to be entitled to receive in respect of things done by him in pursuance of the agreement and the manner in which any such amount is to be determined.

(5) The statement of methods referred to in paragraph (4)(a) above shall include, in relation to each method specified, a description of the type of charitable contributions which are to be given to or applied for the benefit of the charitable institution and of the circumstances in which they are to be so given or applied.

Notice prior to injunction to prevent unauthorised fund-raising

4. A notice served under subsection (3) of section 62 of the Charities Act 1992 shall, in addition to satisfying the requirements of that subsection, specify the circumstances which gave rise to the serving of the notice and the grounds on which an application under that section is to be made.

Availability of books, documents or other records

5.—(1) A professional fund-raiser or commercial participator who is a party to an agreement made for the purposes of section 59 of the Charities Act 1992 shall, on request and at all reasonable times, make available to any charitable institution which is a party to that agreement any books, documents or other records (however kept) which relate to that institution and are kept for the purposes of the agreement.

(2) In the case of any record which is kept otherwise than in legible form, the reference in paragraph (1) above to making that record available shall be construed as a reference to making it available in legible form.

Transmission of money and other property to charitable institutions

6.—(1) Any money or other property acquired by a professional fund-raiser or commercial participator for the benefit of, or otherwise falling to be given to or applied by such a person for the benefit of, a charitable institution (including such money or other property as is referred to in section 64(3) of the Charities Act 1992) shall, notwithstanding any inconsistent term in an agreement made for the purposes of section 59 of that Act, be transmitted to that institution in accordance with the following provisions of this regulation.

(2) A professional fund-raiser or commercial participator holding any such money or property as is referred to in paragraph (1) above shall, unless he has a reasonable excuse—

- (a) in the case of any money, and any negotiable instrument which is payable to or to the account of the charitable institution, as soon as is reasonably practicable after its receipt and in any event not later than the expiration of 28 days after that receipt or such other period as may be agreed with the institution—
 - (i) pay it to the person or persons having the general control and management of the administration of the institution; or

- (ii) pay it into an account held by a bank or building society in the name of or on behalf of the institution which is under the control of the person, or any of the persons, specified in sub-paragraph (i) above; and
- (b) in the case of any other property, deal with it in accordance with any instructions given for that purpose, either generally or in a particular case, by the charitable institution:

Provided that—

- (i) any property in the possession of the professional fund-raiser or commercial participator either pending the obtaining of such instructions as are referred to above or in accordance with such instructions shall be securely held by him;
- (ii) the proceeds of the sale or other disposal of any property shall, from the time of their receipt by the professional fund-raiser or commercial participator, be subject to the requirements of sub-paragraph (a) above. Fund-raising for charitable etc.

purposes otherwise than by professional fund-raisers or commercial participators

7.—(1) This regulation applies to any person who carries on for gain a business other than a fund-raising business but, in the course of that business, engages in any promotional venture in the course of which it is represented that charitable contributions are to be applied for charitable, benevolent or philanthropic purposes of any description (rather than for the benefit of one or more particular charitable institutions).

(2) Where any person to whom this regulation applies makes a representation to the effect that charitable contributions are to be applied for such charitable, benevolent or philanthropic purposes as are mentioned in paragraph (1) above he shall, unless he has a reasonable excuse, ensure that the representation is accompanied by a statement clearly indicating—

- (a) the fact that the charitable contributions referred to in the representation are to be applied for those purposes and not for the benefit of any particular charitable institution or institutions;
- (b) (in general terms) the method by which it is to be determined—
 - (i) what proportion of the consideration given for goods or services sold or supplied by him, or of any other proceeds of a promotional venture undertaken by him, is to be applied for those purposes, or
 - (ii) what sums by way of donations by him in connection with the sale or supply of any such goods or services are to be so applied,as the case may require; and
- (c) the method by which it is to be determined how the charitable contributions referred to in the representation are to be distributed between different charitable institutions.

Offences and penalties

8.—(1) Failure to comply with any of the provisions of these Regulations specified in paragraph (2) below shall be an offence punishable on summary conviction by a fine not exceeding the second level on the standard scale.

(2) The provisions referred to in paragraph (1) above are—

- (a) regulation 5(1);
- (b) regulation 6(2); and
- (c) regulation 7(2).

Home Office

28th November 1994

Blatch
Minister of State

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which extend to England and Wales only, are made in pursuance of sections 59 and 64 of the Charities Act 1992 (“the 1992 Act”) for purposes connected with certain other provisions of Part II of that Act (control of fund-raising for charitable institutions).

Regulations 2 and 3 prescribe the form and content of agreements made for the purposes of section 59 of the 1992 Act by, respectively, professional fund-raisers and commercial participators. Regulation 4 prescribes the content of notices served under section 62(3) of the 1992 Act (unauthorised fund-raising).

Regulations 5 and 6 provide, respectively, for the making available of books, documents and other records, and the transmission of money and other property, to charitable institutions. Regulation 7 exercises the power in section 64(2)(e) of the 1992 Act to make provision regulating the raising of funds for charitable, benevolent or philanthropic purposes otherwise than by professional fund-raisers or commercial participators and regulation 8 exercises the power in section 64(4) to provide that failure to comply with any of the provisions of these Regulations which are specified in paragraph (2) of that regulation shall be a summary offence punishable by a fine not exceeding level 2 on the standard scale.