



2008 CHAPTER 12

PART 13

FUNDING OF CHARITABLE INSTITUTIONS

CHAPTER 2

CONTROL OF FUND-RAISING FOR CHARITABLE INSTITUTIONS

*Interpretation*

**Interpretation of Chapter 2**

**159.—(1)** In this Chapter—

“charitable contributions”, in relation to any representation made by any commercial participator or other person, means—

- (a) the whole or part of—
  - (i) the consideration given for goods or services sold or supplied by the commercial participator or other person, or
  - (ii) any proceeds (other than such consideration) of a promotional venture undertaken by the commercial participator or other person, or
- (b) sums given by the commercial participator or other person by way of donation in connection with the sale or supply of any such goods or services (whether the amount of such sums is determined by reference to the value of any such goods or services or otherwise);

“commercial participator”, in relation to any charitable institution, means any person (apart from a company connected with the institution) who—

- (a) carries on for gain a business other than a fund-raising business, but
- (b) 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 given to or applied for the benefit of the institution;

“credit card” means a card which is a credit-token within the meaning of the Consumer Credit Act 1974 (c. 39);

“debit card” means a card the use of which by its holder to make a payment results in a current account of the holder at a bank, or at any other institution providing banking services, being debited with the payment;

“fund-raising business” means any business carried on for gain and wholly or primarily engaged in soliciting or otherwise procuring money or other property for charitable, benevolent or philanthropic purposes;

“professional fund-raiser” means—

- (a) any person (apart from a charitable institution or a company connected with such an institution) who carries on a fund-raising business, or
- (b) any other person (apart from a person excluded by virtue of subsection (2) or (3)) who for reward solicits money or other property for the benefit of a charitable institution, if that person does so otherwise than in the course of any fund-raising venture undertaken by a person falling within paragraph (a);

“promotional venture” means any advertising or sales campaign or any other venture undertaken for promotional purposes;

“radio or television programme” includes any item included in a programme service within the meaning of the Broadcasting Act 1990 (c. 42).

(2) In subsection (1), paragraph (b) of the definition of “professional fund-raiser” does not apply to any of the following, namely—

- (a) any charitable institution or any company connected with any such institution;
- (b) any officer or employee of any such institution or company, or any trustee of any such institution, acting (in each case) in a capacity as such;
- (c) any person acting as a collector in respect of a public charitable collection (apart from a person who is a promoter of such a collection as defined in section 133(1));
- (d) any person who in the course of a relevant programme, that is to say a radio or television programme in the course of which a fund-raising venture is undertaken by—
  - (i) a charitable institution, or
  - (ii) a company connected with such an institution,makes any solicitation at the instance of that institution or company; or

(e) any commercial participator.

(3) In addition, paragraph (b) of the definition of “professional fund-raiser” does not apply to a person if the person does not receive—

(a) more than—

(i) £5 per day, or

(ii) £500 per year,

by way of remuneration in connection with soliciting money or other property for the benefit of the charitable institution referred to in that paragraph; or

(b) more than £500 by way of remuneration in connection with any fund-raising venture in the course of which the person solicits money or other property for the benefit of that institution.

(4) In this Chapter any reference to charitable purposes, where occurring in the context of a reference to charitable, benevolent or philanthropic purposes, is a reference to charitable purposes as defined in section 2(1).

(5) For the purposes of this Chapter a company is connected with a charitable institution if—

(a) the institution, or

(b) the institution and one or more other charitable institutions, taken together, is or are entitled (whether directly or through one or more nominees) to exercise, or control the exercise of, the whole of the voting power at any general meeting of the company.

(6) In this Chapter—

(a) “represent” and “solicit” mean respectively represent and solicit in any manner whatever, whether expressly or impliedly and whether done—

(i) by speaking directly to the person or persons to whom the representation or solicitation is addressed (whether when that or those persons are in the presence of the speaker or not), or

(ii) by means of a statement published in any newspaper, film or radio or television programme,

or otherwise, and references to a representation or solicitation shall be construed accordingly; and

(b) any reference to soliciting or otherwise procuring money or other property is a reference to soliciting or otherwise procuring money or other property whether any consideration is, or is to be, given in return for the money or other property or not.

(7) Where—

- (a) any solicitation of money or other property for the benefit of a charitable institution is made in accordance with arrangements between any person and that institution, and
- (b) under those arrangements that person will be responsible for receiving on behalf of the institution money or other property given in respect to the solicitation,

then (if that person would not be so regarded apart from this subsection) that person shall be regarded for the purposes of this Chapter as soliciting money or other property for the benefit of the institution.

(8) Where any fund-raising venture is undertaken by a professional fund-raiser in the course of a radio or television programme, any solicitation which is made by a person in the course of the programme at the instance of the fund-raiser shall be regarded for the purposes of this Part as made by the fund-raiser and not by that person (and shall be so regarded whether or not the solicitation is made by that person for any reward).

(9) In this Chapter “services” includes facilities, and in particular—

- (a) access to any premises or event;
- (b) membership of any organisation;
- (c) the provision of advertising space; and
- (d) the provision of any financial facilities;

and references to the supply of services shall be construed accordingly.

(10) The Department may by order amend subsection (3) by substituting a different sum for any sum for the time being specified there.