



2008 CHAPTER 12

PART 13

FUNDING OF CHARITABLE INSTITUTIONS

CHAPTER 2

CONTROL OF FUND-RAISING FOR CHARITABLE INSTITUTIONS

Supplementary

Regulations about fund-raising

157.—(1) The Department may make such regulations as appear to it to be necessary or desirable for any purposes connected with any of the preceding provisions of this Chapter.

(2) Without prejudice to the generality of subsection (1), any such regulations may—

- (a) prescribe the form and content of—
 - (i) agreements made for the purposes of section 150, and
 - (ii) notices served under section 155(3);
- (b) require professional fund-raisers or commercial participators who are parties to such agreements with charitable institutions to make available to the institutions books, documents or other records (however kept) which relate to the institutions;
- (c) specify the manner in which money or other property acquired by professional fund-raisers or commercial participators for the benefit of, or otherwise falling to be given to or applied by such persons for the benefit of, charitable institutions is to be transmitted to such institutions;

- (d) provide for any provisions of section 153 or 154 having effect in relation to solicitations or representations made in the course of radio or television programmes to have effect, subject to any modifications specified in the regulations, in relation to solicitations or representations made in the course of such programmes—
 - (i) by charitable institutions, or
 - (ii) by companies connected with such institutions,and, in that connection, provide for any other provisions of this Part to have effect for the purposes of the regulations subject to any modifications so specified;
 - (e) make other provision regulating the raising of funds for charitable, benevolent or philanthropic purposes (whether by professional fund-raisers or commercial participators or otherwise).
- (3) In subsection (2)(c) the reference to such money or other property as is there mentioned includes a reference to money or other property which, in the case of a professional fund-raiser or commercial participator—
- (a) has been acquired by the professional fund-raiser or commercial participator otherwise than in accordance with an agreement with a charitable institution, but
 - (b) by reason of any solicitation or representation in consequence of which it has been acquired, is held by the professional fund-raiser or commercial participator on trust for such an institution.
- (4) Regulations under this section may provide that any failure to comply with a specified provision of the regulations is an offence punishable on summary conviction by a fine not exceeding level 2 on the standard scale.

Reserve power to control fund-raising by charitable institutions

158.—(1) The Department may make such regulations as appear to it to be necessary or desirable for or in connection with regulating charity fund-raising.

(2) In this section “charity fund-raising” means activities which are carried on by—

- (a) charitable institutions,
- (b) persons managing charitable institutions, or
- (c) persons or companies connected with such institutions,

and involve soliciting or otherwise procuring funds for the benefit of such institutions or companies connected with them, or for general charitable, benevolent or philanthropic purposes.

But “activities” does not include primary purpose trading.

(3) Regulations under this section may, in particular, impose a good practice requirement on the persons managing charitable institutions in circumstances where—

- (a) those institutions,
- (b) the persons managing them, or
- (c) persons or companies connected with such institutions,

are engaged in charity fund-raising.

(4) A “good practice requirement” is a requirement to take all reasonable steps to ensure that the fund-raising is carried out in such a way that—

- (a) it does not unreasonably intrude on the privacy of those from whom funds are being solicited or procured;
- (b) it does not involve the making of unreasonably persistent approaches to persons to donate funds;
- (c) it does not result in undue pressure being placed on persons to donate funds;
- (d) it does not involve the making of any false or misleading representation about any of the matters mentioned in subsection (5).

(5) The matters are—

- (a) the extent or urgency of any need for funds on the part of any charitable institution or company connected with such an institution;
- (b) any use to which funds donated in response to the fund-raising are to be put by such an institution or company;
- (c) the activities, achievements or finances of such an institution or company.

(6) Regulations under this section may provide that a person who persistently fails, without reasonable excuse, to comply with any specified requirement of the regulations is to be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(7) For the purposes of this section—

- (a) “funds” means money or other property;
- (b) “general charitable, benevolent or philanthropic purposes” means charitable, benevolent or philanthropic purposes other than those associated with one or more particular institutions;
- (c) the persons “managing” a charitable institution are the charity trustees or other persons having the general control and management of the administration of the institution; and
- (d) a person is “connected” with a charitable institution if the person is an employee or agent of—
 - (i) the institution,

(ii) the persons managing it, or

(iii) a company connected with it,

or the person is a volunteer acting on behalf of the institution or such a company.

(8) In this section “primary purpose trading”, in relation to a charitable institution, means any trade carried on by the institution or a company connected with it where—

(a) the trade is carried on in the course of the actual carrying out of a primary purpose of the institution; or

(b) the work in connection with the trade is mainly carried out by beneficiaries of the institution.

(9) No regulations shall be made under this section unless a draft of the regulations has been laid before and approved by a resolution of the Assembly.