
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for the regulation of fundraising by professional fundraisers, commercial participators and benevolent fundraisers.

Regulation 2 sets out the requirements as to the form and content of the agreements required by section 81(1) of the Charities and Trustee Investment (Scotland) Act 2005 (“the 2005 Act”), between professional fundraisers or commercial participators and the benevolent bodies they fundraise for.

Regulation 3(1) provides that professional fundraisers, commercial participators and benevolent fundraisers must accompany their fundraising with a written statement including information on the benevolent body or on the charitable, benevolent or philanthropic purposes which they are fundraising for, how the fundraising proceeds are to be distributed and whether or not the fundraiser is to be remunerated. This information may be provided orally if the fundraising is in person. Benevolent fundraisers who are volunteers are not required to provide this information when fundraising.

Regulation 3(4) provides that benevolent fundraisers who are employees of benevolent bodies or companies connected with benevolent bodies are not required to state whether or not they receive remuneration, if they are fundraising on behalf of benevolent bodies in writing.

Regulation 3(5) provides that if a professional fundraiser or commercial participator fundraises on radio or on television, they must also state that any person making a payment of £100 or more by credit or debit card, has a right to have that payment refunded, provided they exercise that right within 7 days of the fundraising. Regulation 3(6) provides that if a professional fundraiser or commercial participator fundraises orally but not by speaking directly to the person to whom it is addressed and in that person’s presence or on radio or television (for example by telephone), they must also state that any person making a payment of £100, or entering an agreement to make a payment of £100 or more has a right to have that payment refunded or to cancel that agreement, provided they exercise that right within 7 days of the fundraising.

Regulation 4 requires professional fundraisers and commercial participators to provide further information in relation to their remuneration, in the written statements provided under regulation 3. Where the solicitation or representation is made orally the professional fundraiser or commercial participator must inform the person making the payment that this further information on remuneration is available in writing and provide them with a written copy, if requested. Benevolent fundraisers are not required to provide further information about any remuneration they receive.

Regulation 5 gives persons making a payment of £100 or more by debit or credit card, in response to fundraising on TV or radio, or persons making a payment of £100 or more or entering into an agreement to make a payment of £100 or more, in response to fundraising in person but not on TV or radio (eg by telephone), a right to a refund or to cancel any agreement.

Regulation 6 requires professional fundraisers and commercial participators to pay money, promises of money or other benevolent contributions to the benevolent body as soon as reasonably practicable after its receipt and not later than 28 days after its receipt.

Regulation 7 requires professional fundraisers and commercial participators to make available any book, document or other record which relates to the benevolent body and which are kept for the purposes of the agreement required by section 81(1) of the 2005 Act, to any benevolent body they are party to an agreement with.

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

Regulation 8 provides that it is an offence, liable on summary conviction to a fine not exceeding level 5, to fail without reasonable excuse to comply with the requirements of regulations 2(1), 3(1), (5) and (6), 4(1) to (4), 5(5), 6 or 7(1).