



# Charities Act 1992

## 1992 CHAPTER 41

### PART II

#### CONTROL OF FUND-RAISING FOR CHARITABLE INSTITUTIONS

##### *Supplementary*

#### **64 Regulations about fund-raising.**

- (1) The [<sup>F1</sup>Secretary of State] may make such regulations as appear to him to be necessary or desirable for any purposes connected with any of the preceding provisions of this Part.
- (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 59, and
    - (ii) notices served under section 62(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 60 or 61 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,

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- 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 him 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 him 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 shall be an offence punishable on summary conviction by a fine not exceeding the second level on the standard scale.

#### Textual Amendments

- F1** Words in s. 64(1) substituted (9.11.2016) by [The Transfer of Functions \(Elections, Referendums, Third Sector and Information\) Order 2016 \(S.I. 2016/997\)](#), art. 1(2), [Sch. 2 para. 8\(3\)\(d\)](#) (with art. 12)

#### Commencement Information

- II** Pt. II (ss. 58-64) wholly in force at 1.3.1995; Pt. II not in force at Royal Assent see s. 79(2); Pt. II in force for certain purposes at 28.11.1994 and wholly in force at 1.3.1995 by [S.I. 1999/3023](#), [art. 2](#)

### [<sup>F2</sup>64A Reserve power to control fund-raising by charitable institutions

- (1) The [<sup>F3</sup>Secretary of State] may make such regulations as appear to him to be necessary or desirable for or in connection with regulating charity fund-raising.
- (2) In this section [<sup>F4</sup> and sections 64B and 64C ] “ 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.

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- (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 he is an employee or agent of—
    - (i) the institution,
    - (ii) the persons managing it, or
    - (iii) a company connected with it,
 or he 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.]

#### Textual Amendments

- F2** S. 64A inserted (27.2.2007) by [Charities Act 2006 \(c. 50\)](#), ss. 69, 79(2); S.I. 2007/309, art. 2, Sch.
- F3** Words in s. 64A(1) substituted (9.11.2016) by [The Transfer of Functions \(Elections, Referendums, Third Sector and Information\) Order 2016 \(S.I. 2016/997\)](#), art. 1(2), [Sch. 2 para. 8\(3\)\(e\)](#) (with art. 12)

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**F4** Words in s. 64A(2) inserted (31.7.2016) by Charities (Protection and Social Investment) Act 2016 (c. 4), ss. 14(4), 17(4); S.I. 2016/815, reg. 2(j)

**[<sup>F5</sup>64B Reserve power in relation to fund-raising regulators**

- (1) Regulations under section 64A may, in particular, impose on charitable institutions requirements to do any of the following—
  - (a) to comply with requirements imposed by a regulator;
  - (b) to have regard to guidance issued by a regulator;
  - (c) to pay fees to a regulator of an amount determined by the regulations or determined by the regulator in accordance with the regulations;
  - (d) to be registered with a regulator for the purpose of its regulation of charity fund-raising.
- (2) “Regulator ” means a body specified in the regulations as a regulator for the purposes of this section.
- (3) A body may be specified as a regulator for the purposes of this section only if the regulation of charity fund-raising appears to the [<sup>F6</sup>Secretary of State] to be a principal function of the body.
- (4) A body maintained out of money provided by Parliament may not be specified as a regulator (and this section does not confer power by regulations to establish a body to act as regulator).]

**Textual Amendments**

- F5** S. 64B inserted (31.7.2016) by Charities (Protection and Social Investment) Act 2016 (c. 4), ss. 14(2), 17(4); S.I. 2016/815, reg. 2(j)
- F6** Words in s. 64B(3) substituted (9.11.2016) by The Transfer of Functions (Elections, Referendums, Third Sector and Information) Order 2016 (S.I. 2016/997), art. 1(2), Sch. 2 para. 8(3)(f) (with art. 12)

**[<sup>F7</sup>64C Reserve power to confer additional powers on Charity Commission**

- (1) In the case of charity fund-raising which—
  - (a) is carried on by a charity, a person managing a charity or a person or company connected with a charity, or
  - (b) involves soliciting or otherwise procuring funds for the benefit of a charity or a company connected with a charity, or for charitable purposes,
 regulations under section 64A may, in particular, make provision conferring functions on the Charity Commission, including provision applying or reproducing, with or without modification, any provision of the Charities Act 2011.
- (2) The regulations may provide for a power that is exercisable by the Commission by virtue of the regulations to be exercisable by a person appointed by the Commission for the purpose.
- (3) Where regulations by virtue of this section apply in relation to charity fund-raising by institutions that are not charities, section 19 of the Charities Act 2011 (fees and other amounts payable to Commission) applies in relation to the regulations as it applies

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in relation to the enactments relating to charities (but that is without prejudice to the application of other provisions by virtue of this section or section 77(3)).]

**Textual Amendments**

**F7** S. 64C inserted (31.7.2016) by Charities (Protection and Social Investment) Act 2016 (c. 4), ss. 14(3), 17(4); S.I. 2016/815, reg. 2(j)

**Changes to legislation:**

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