



Collections Act 1966

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Queensland

Collections Act 1966

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Collections Act 1966

An Act relating to collections from the public for purposes of charity and otherwise of the community, and for other purposes

Part 1 Preliminary

1 Short title

This Act may be cited as the *Collections Act 1966*.

5 Meaning of terms

(1) In this Act—

accounts includes financial statements.

advertisement, for the definition *appeal for support*, includes any method of conveying information to the public, whether by writing or pictorially or otherwise, including by any circular, leaflet, newspaper, publication, or other document, by any placard, poster, or sign, or by any public announcement made by means of producing or transmitting light or sound.

amendment of the constitution includes any addition to or omission from or alteration of the constitution.

appeal for support, used in relation to any purpose, means any invitation (expressed or implied, and whether made verbally, or by writing or conduct, or by any advertisement), to the public, which is designed to obtain money or articles for that purpose, including—

(a) any collection for that purpose;

- (b) any advertisement of any art union or the selling or offering for sale of any ticket or chance in any art union promoted or conducted for that purpose;
- (c) any notification to the public expressly or impliedly indicating that any proceeds of, or any moneys from, or any collections at, any dance, concert, social entertainment, bazaar, fair, fete, carnival, show, sport, game, or other diversion, activity, or function (whether of the classes previously enumerated or not) are intended or are to be appropriated for that purpose;
- (d) the holding of any dance, concert, social entertainment, bazaar, fair, fete, carnival, show, sports, game, or other diversion, activity, or function (whether of the classes previously enumerated or not) any proceeds of which, or any moneys from which, or any collections at which are appropriated or intended for that purpose;
- (e) any notification to the public expressly or impliedly indicating that any proceeds of, or any moneys from, the sale of any articles or the supplying of any service are intended or are to be appropriated for that purpose;
- (f) the sale of any articles or the supplying of any service, any proceeds of, or any moneys from which are appropriated or intended for that purpose;
- (g) any notification to the public, expressly or impliedly indicating that the whole or part of any fees for membership of any association are intended for or are to be appropriated for that purpose;
- (h) anything prescribed to be an appeal for support.

appropriately qualified, for a person to whom a power under this Act may be delegated, includes having the qualifications, experience or standing to exercise the power.

Example of standing—

a person's classification level in the public service

approved form see section 42A.

art union has the meaning given by the *Charitable and Non-Profit Gaming Act 1999*.

Note—

See the *Charitable and Non-Profit Gaming Act 1999*, section 6.

association means any association of persons, and includes any society, institution, undertaking, organisation, company, or body, by whatever name called, and whether incorporate or unincorporate.

charitable purpose means any 1 or more of the following purposes—

- (a) a purpose which is exclusively charitable according to the law (other than statute law) of Queensland;
- (b) the supplying of help, aid, relief, or support to, or the education or instruction (whether spiritual, mental, physical, technical, social, or otherwise) of, or the care, housing, or assistance otherwise of, any persons in distress;
- (c) the aiding in any manner howsoever, of any hospital or ambulance or nursing service in the State, whether established or proposed to be established;
- (d) any charity;
- (e) any purpose which, pursuant to subsection (2), the Minister determines to be a charitable purpose;
- (f) a purpose declared under a regulation to be a charitable purpose for this Act.

charity means any association established for any charitable purpose, and includes any association which, pursuant to subsection (2), the Minister determines to be a charity as well as associations declared to be charities under a regulation, but does not include any association established for any charitable purpose as well as some other purpose, nor any association established for the purpose of making 1 appeal for support only.

collection, used in relation to any appeal for support for any purpose, means the collecting of donations by the public of money or articles for the purpose.

community purpose means any 1 or more of the following purposes (other than any charitable purpose)—

- (a) any purpose which promotes or assists in promoting, or is devoted or directed to the promotion of, the general welfare of the public, at large or in a particular locality, including, but without limiting the generality of the foregoing, the construction, carrying out, provision, maintenance, or repair of buildings, works, parks, recreation grounds, or other places (or of amenities therein) for the purpose of use or enjoyment by members of the public;
- (b) the objects of an association prescribed under a regulation for the provisions of this Act stated in the regulation;
- (c) the objects of any association where such objects comprise both charitable and community purposes;
- (d) any purpose which, pursuant to subsection (2) the Minister determines to be a community purpose;
- (e) a purpose declared under a regulation to be a community purpose for this Act or particular provisions of this Act;

but does not include—

- (f) the objects of an association declared under a regulation not to be a community association for this Act or particular provisions of this Act; and
- (g) a purpose declared under a regulation not to be a community purpose for this Act or particular provisions of this Act.

constitution, in relation to any association, includes the rules or by-laws of the association.

Court means the Supreme Court or any judge thereof.

financial statements includes statements of receipts and expenditure, balance sheets, and such other financial statements as prescribed either generally or in the particular case.

governing body, in relation to any association, means the committee or other persons having the general control and management of the administration of the association, and, in the case of an association which is incorporated, includes the managing director, manager, or other governing officer by whatever name called, and, in the case of an association having any local or affiliated branch or section of the association, means the governing body of the central body except—

- (a) in the case of a charity registered under this Act, where separate registration under this Act has been granted, with the consent of the central body of that registered charity, to any local or affiliated branch or section—the term means, in relation to the application of this Act to that local or affiliated branch or section separately registered, the governing body of that local or affiliated branch or section;
- (b) in the case where, with the consent of the central body of an association whose objects are a community purpose, a sanction is given under this Act to any local or affiliated branch or section of that association for the purpose of making appeals for support for the objects, which are a community purpose, of that local or affiliated branch or section—the term means, in relation to the application of this Act to that local or affiliated branch or section, the governing body of that local or affiliated branch or section.

inspector means a person appointed, or deemed to be appointed, as an inspector under this Act, and includes any person authorised in writing by the Minister to act as an inspector for the purpose of making any inquiry, investigation, or audit pursuant to that authority for the purposes of any provision of this Act.

notification, for the definition *appeal for support*, includes statement or representation, whether made verbally or by writing or by advertisement.

persons in distress, for the purposes of the term *charitable purpose*, means any persons in distress by reason of the death or disability of another or others on whom they were wholly or partly dependent, or by reason of disease, sickness, age, any physical or mental infirmity, indigence, unemployment, or other reason, or by reason of fire, flood, cyclone, drought, war, or any other emergency or catastrophe, and includes any dependants of any such persons; and **persons** for these purposes includes children as well as persons of a particular class, whether of a localised section of the community or otherwise or whether of a substantial body of the public or not, any particular individuals, and any fluctuating body of persons of a special class or of particular individuals.

promoter, in relation to an appeal for support for any purpose, means the person or persons making the appeal.

records includes accounts, minutes, agreements, books, documents, vouchers, correspondence, and other writings whatsoever and any copies thereof.

religious denomination means a religious body or religious organisation declared by the Governor-General by proclamation pursuant to the *Marriage Act 1961* (Cwlth) to be a recognised denomination for the purposes of the Commonwealth Act.

the public includes any member of the public.

- (2) Any question arising under or for the purposes of all or any of the provisions of this Act as to whether a purpose is a charitable purpose or a community purpose or not or whether any association is a charity or not shall be determined by the Minister whose decision thereon shall be final.

6 Application of this Act

- (1) Unless otherwise herein indicated, the provisions of this Act shall be in addition to and not in substitution for or diminution

of the provisions of any Act or of any regulation or rule thereunder.

- (2) This Act shall not apply to any appeal for support solely for the advancement of religion by or on behalf of any religious denomination.
- (3) Unless herein otherwise expressly provided, this Act shall not apply to any appeal for support for any purpose to which part 3 applies, made by or on behalf of any religious denomination.
- (4) Nothing in this Act and no assignment under section 16 shall prejudice or otherwise affect any of the provisions of any other Act or the provisions of any regulation or local law relating to the regulation or control of traffic or to public health or to the powers, functions, authorities, or duties of any local government or local governments or to the regulation or control of some other matter or thing, save that where a day or days are assigned under section 16 for the making of any street collection then no licence or permit shall be issued pursuant to or under the authority of such other Act or such regulation or local law which would enable the holding of any other street collection in the locality, street, city or town in respect of which that assignment was made.

Part 2 Administration

7 Administration of this Act

- (1) Unless otherwise herein indicated, this Act shall be administered by the Minister.
- (2) Inspectors and other officers necessary for this Act are to be employed under the *Public Service Act 2008*.

8 Delegation by Minister

- (1) The Minister may delegate the Minister's powers under this Act to the chief executive.
- (2) The chief executive may subdelegate the delegated power to an appropriately qualified public service officer.

8A Delegation by chief executive

The chief executive may delegate the chief executive's powers under this Act to an appropriately qualified public service officer.

Part 3 Authorisation of appeals for support for certain purposes

9 Application of part 3

This part applies only to appeals for support for any 1 or more of the following purposes—

- (a) any charity;
- (b) any charitable purpose other than a charity;
- (c) any charitable purpose joined with any other purpose, whether community purpose or not;
- (d) any community purpose;
- (e) any community purpose joined with any other purpose, whether a charitable purpose or not;
- (f) any commercial undertaking or purpose of private gain joined with any purpose as aforementioned;
- (g) any fund by whatever name called, established or to be established for the payment therein of moneys collected or of moneys received upon the disposal of articles collected and for the payment thereout, whether at times

certain or uncertain, of moneys for any purpose or purposes as aforementioned.

10 Conducting of unlawful appeals for support

- (1) No person shall make or cause to be made or assist in making any appeal for support for any purpose to which this part applies unless—
 - (a) where the appeal for support is made for the purpose of a charity only—that charity is then registered as such under this Act;
 - (b) where the appeal for support is made for the purpose referred to in section 9(b) to (g)—that purpose is then sanctioned under this Act.
- (2) Any person guilty of an offence against this section shall be liable—
 - (a) for the first offence—to a fine not exceeding 20 penalty units or to imprisonment for a term not exceeding 3 months;
 - (b) for a second or subsequent offence—to a fine not exceeding 40 penalty units or to imprisonment for a term not exceeding 6 months.

11 Conditions to be observed in connection with appeals for support

- (1) The following conditions shall be observed in connection with every appeal for support—
 - (a) made for any charity registered under this Act—
 - (i) the appeal shall be authorised in writing by the governing body of the charity or by some person authorised either generally or in the particular case in that behalf by the said governing body;
 - (ii) all the conditions (if any) subject to which that authority is given shall be complied with in every respect;

- (iii) the promoter of the appeal shall be named in that authority;
 - (iv) the name of the charity and the fact that it is registered under this Act shall be specified at all times when making the appeal;
 - (v) the conditions (if any) to which the registration of the charity is subjected under this Act shall be complied with in every respect;
 - (vi) the provisions of this Act relating to the appeal shall be complied with in every respect;
- (b) made for any purpose sanctioned under this Act—
- (i) all the conditions (if any) subject to which that sanction is given shall be complied with in every respect;
 - (ii) the promoter of the appeal shall be the person named in the sanction as such unless some other person is approved in writing by the Minister when that other person shall so act, or, where no person is named in the sanction as promoter and the appeal is not exempted by this Act from the application of this provision, the promoter shall be the person authorised to act as such in accordance with the conditions subject to which the sanction is given;
 - (iii) the purpose for which the appeal is made as set forth in the sanction and the fact that the purpose is sanctioned under this Act shall be specified at all times when making the appeal, but it shall be sufficient for these purposes where an appeal for support is made for a purpose which consists of the objects of any association only or of the objects of any association joined with any other purpose, to name, so far as concerns the objects of that association, that association, without referring to the objects of the association and to specify that the objects of the association are sanctioned under this Act;

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- (iv) the provisions of this Act relating to the appeal shall be complied with in every respect.
- (2) If any condition required to be observed by this section in respect of any appeal for support is contravened, the following persons shall be guilty of an offence against this Act—
- (a) every person who is a party to the contravention;
 - (b) where the appeal for support is made for a charity or other association whatsoever—each member of the governing body of that association;
 - (c) in every case—the promoter of the appeal for support.
- (3) A person charged with such an offence by reason of the person being a member of the governing body of a charity or other association or by reason of the person being a promoter shall not be convicted thereof if the Court is satisfied that the contravention occurred without the person's consent and connivance and that the person exercised all due diligence to prevent it.

12 Sanctions under this Act

- (1) The Minister may from time to time sanction any purpose to which this part applies as a purpose for which any appeal or appeals for support may be made and may subject every such sanction to such conditions as the Minister thinks fit.
- (2) A sanction for such a purpose may be in force at the same time as a sanction for that purpose joined with some other purpose.
- (3) Any such sanction may be given for an indefinite duration of time or for such period as may be specified therein.
- (4) However, a sanction for an indefinite duration of time shall not be given for a purpose consisting of the objects of an association which, in the opinion of the Minister, does not continuously make appeals for support for that purpose.
- (5) Where a sanction is given for an indefinite duration of time, it shall remain in force until revoked under this Act.

- (6) Conditions (if any) imposed by the Minister in respect of the giving of a sanction under this Act, shall not be inconsistent with those prescribed with respect thereto and every condition so imposed shall be set out in the sanction.
- (7) While a sanction remains in force then, subject to this Act and the conditions to which the sanction is subjected, any appeal for support for the purpose sanctioned may be made.
- (8) The Minister may at any time while it remains in force revoke any sanction given under this Act if at any time the Minister is of the opinion—
 - (a) that any condition subject to which the sanction is given has been contravened; or
 - (b) that in relation to any appeal for support for the purposes sanctioned there has been misconduct of such a nature that the appeal for support should not continue or that future appeals for support should not be made; or
 - (c) that subsequently to the giving of the sanction and in connection therewith or in connection with any appeal for support for the purpose sanctioned, any failure, without reasonable excuse having been shown to the Minister's satisfaction, has occurred in answering any question, supplying any information, producing any record or lodging any return, in accordance with any requirement, direction, or order, notified, given, or made under and for the purposes of this Act; or
 - (d) that, where the sanction is given for a purpose consisting of the objects of any association, that association has ceased to exist or has ceased to operate, or is not complying with any of the provisions of this Act, or is not being properly administered; or
 - (e) that for any other reason such sanction should be revoked.
- (9) The Minister may, under subsection (8), revoke any such sanction by giving the prescribed notice and the Minister may by notice in writing, first require the person to whom the sanction is given or some other interested person to show,

within the period stated in the notice, cause why the sanction should not be revoked.

- (10) The revocation of a sanction in pursuance of subsection (8) shall not prejudice or affect any proceedings brought or that may be brought in respect of any matter or thing in consequence of which the sanction was revoked.
- (11) Applications for sanctions under this Act may be made and may be granted at any time after the passing of this Act for the purpose of those sanctions being in force upon the commencement of this Act and for the purpose of giving effect to this subsection—
- (a) all relevant provisions of this Act shall be deemed to come into operation upon the passing of this Act; and
 - (b) all relevant regulations made under or for the purposes of this Act shall be deemed to come into operation upon the making thereof.

13 Art union authorities to be treated as sanctions

For this part, if an appeal for support for a purpose consists only of conducting a game under the *Charitable and Non-Profit Gaming Act 1999*, the Minister is taken to have given a sanction under this Act for the purpose.

13A Parent and citizens associations

For this part, the objects of a parent and citizens association under the *Education (General Provisions) Act 2006* are taken to be sanctioned under this Act.

Part 4 **Control of door-to-door appeals and street collections**

14 **Definitions for part**

In this part—

door-to-door appeal, in relation to any purpose to which this part applies, means any appeal for support for such purpose made by visiting any places of residence or places of employment or both, one after another, and there—

- (a) making a collection; or
- (b) making or distributing any invitation; or
- (c) selling or offering for sale any tickets or chances in any art union; or
- (d) distributing or disposing of any device within the meaning of section 18 in connection with the appeal for support; or
- (e) doing anything else declared under a regulation to be a door-to-door appeal;

or doing more than 1 of these things, but does not include the visiting of places of residence or of employment or both for the purpose of leaving, collecting, or obtaining moneys from collecting boxes, or for the purpose of leaving, collecting, or obtaining articles from collecting receptacles, there used or to be used in accordance with this Act for the purposes of an appeal for support for any purpose to which part 3 applies.

invitation means any invitation (expressed or implied, and whether made verbally or by conduct, or by any advertisement) designed to obtain money or articles.

street means any road within the meaning of the *Transport Operations (Road Use Management) Act 1995*, including any place to which the public have access and which adjoins any road as aforesaid, and includes a part of a street.

street collection, in relation to any purpose to which this part applies, means any appeal for support for such purpose made in any street, and there—

- (a) making a collection; or
- (b) making or distributing any invitation; or
- (c) distributing or disposing of any device within the meaning of section 18 in connection with the appeal for support; or
- (d) doing anything else declared under a regulation to be a street collection;

or doing more than 1 of these things.

14A Application of part 4

This part applies to door-to-door appeals and street collections for any purpose to which part 3 applies including any door-to-door appeal or street collection for any such purpose made by or on behalf of any religious denomination.

15 Control of door-to-door appeals

- (1) This section applies only to cities or towns, or cities and towns in a part of the State, specified under a regulation.
- (2) Any city or town or part of the State so specified and the boundaries thereof may be specified in such a manner as the Governor in Council considers sufficient for identification.
- (3) For the purpose of controlling door-to-door appeals in any city or town to which this section applies, the Minister may from time to time nominate localities therein, in such a manner as the Minister considers sufficient for the identification of each locality.
- (4) In relation to the area of any locality so nominated in any city or town, or where no locality is nominated in any city or town, then in relation to the whole of the area of the city or town in which this section is in force, the Minister may—

- (a) from time to time fix the maximum number of days on which door-to-door appeals for any of the purposes to which this part applies may be made during a period specified by the Minister;
 - (b) in relation to any such period—fix a day on or before which applications may be made under this Act to have a day assigned whereon a door-to-door appeal for any such purpose may be made;
 - (c) assign to any applicant from time to time a day (but so that the total number of days assigned do not exceed in number the maximum number fixed by the Minister) during any period so specified on which a door-to-door appeal for any such purpose may be made.
- (5) Any day so assigned may be a different day from that applied for.
- (6) The Minister may refuse to assign a day to any applicant.
- (7) In assigning days in accordance with subsections (4) to (6), the Minister shall first consider the applications of those persons who made application to the Minister on or before the day fixed by the Minister pursuant to subsection (4)(b).
- (8) No person shall make or cause to be made or assist in making or take part in any door-to-door appeal for any purpose to which this part applies—
- (a) in the area of any locality nominated under this section in any city or town; or
 - (b) where no locality is so nominated in any city or town—in the whole of the area of any city or town;

where this section is in force in any period specified under this section in relation to the area of that locality or, as the case may be, the whole of the area of that city or town on a day other than a day assigned under this section for the making of that appeal.

16 Control of street collections

- (1) This section applies only to cities or towns, or cities and towns in a part of the State, specified under a regulation.
- (2) Any city or town or part of the State so specified and the boundaries thereof may be specified in such a manner as the Governor in Council considers sufficient for identification.
- (3) For the purposes of controlling street collections in any city or town to which this section applies, the Minister may from time to time nominate localities or streets therein, in such a manner as the Minister considers sufficient for the identification of each locality or street, as the case may be.
- (4) In relation to all streets in any locality or to any street so nominated in any city or town, or where no locality or street is nominated in any city or town, then in relation to all streets in the city or town in which this section is in force, the Minister may—
 - (a) from time to time fix the maximum number of days on which street collections for any of the purposes to which this part applies may be made during a period specified by the Minister;
 - (b) in relation to any such period—fix a day on or before which applications may be made under this Act to have a day assigned whereon a street collection for any such purpose may be made;
 - (c) assign to any applicant from time to time a day (but so that the total number of days assigned do not exceed in number the maximum number fixed by the Minister) during any period so specified on which a street collection for any such purpose may be made.
- (5) Any day so assigned may be a different day from that applied for.
- (6) The Minister may refuse to assign a day to any applicant.
- (7) In assigning days in accordance with subsections (4) to (6), the Minister shall first consider the applications of those

persons who made application to the Minister on or before the day fixed by the Minister pursuant to subsection (4)(b).

- (8) Where a day is assigned under this section for the making of any street collection—
- (a) in any locality or street nominated under this section in any city or town; or
 - (b) where no locality or street is so nominated in the city or town—in any city or town;

in which this section is in force for any purpose, then no person shall make or cause to be made or assist in making or take part in any street collection for any other purpose, whether a purpose to which this part applies or not, in that locality or street or city or town, as the case may be, on that day.

17 Conditions to be observed in connection with door-to-door appeals and street collections

- (1) This section applies with respect to every door-to-door appeal and street collection for any purpose to which this part applies whether made, in the case of a door-to-door appeal, within or without a city or town to which section 15 applies or, in the case of a street collection, within or without a city or town to which section 16 applies.
- (2) In addition to the conditions prescribed for the appeal for support by section 11, there shall be observed in connection with each door-to-door appeal or street collection to which this section applies, the conditions particularly prescribed for door-to-door appeals or, as the case may be, street collections.
- (3) The provisions of section 11(2) shall apply in relation to any contravention of any condition required by subsection (2) of this section to be observed in connection with any such door-to-door appeal or street collection as if a condition referred to in the section 11(2) were a condition referred to in subsection (2) of this section.

determination under this Act of any question as to whether that body is a charity or not for the purposes of all or any of the provisions of this Act.

- (6) Where the exclusive right to distribute or dispose of any device is continued or is assigned by or under this Act to any charity or association in connection with all or any appeals for support made in the State or any part of the State for that charity or purpose of that association, as the case may be, then no person shall distribute or dispose of any such device (or any device so nearly resembling the same as is likely to deceive or is intended to deceive) in connection with any appeal for support for any purpose whatsoever in any part of the State or, as appropriate, in that part of the State, save in connection with an appeal for support for the charity or objects of the association, as the case may be, to which that device is for the time being assigned by or under this Act.

- (7) In this section—

device means badge, emblem, disc, token, artificial flower, or other device, and any reference herein to the distribution or disposal of any device shall include a reference to the distribution or disposal of any article bearing, containing, or being in any manner whatsoever a representation of such device.

Part 6 Registration of charities

19 Registration of charities

- (1) There shall be a register of charities containing all charities for the time being registered under this Act and in which there shall be entered with respect to such charities such particulars as may be prescribed.
- (5) For the purposes of this Act, the registration of an association as a charity shall embrace every local or affiliated branch or section of the association unless, with the consent of the

central body, any such local or affiliated branch or section applies for and is granted registration separately.

- (6) Where a local or affiliated branch or section of a charity which is registered separately from the central body as a charity, is subsequently removed from the register of charities then until the Minister otherwise directs no appeal for support shall be made for that local or affiliated branch or section or for its objects as distinct from an appeal for support for the central body or for the objects of the central body.
- (7) While a charity remains registered under this Act then, subject to this Act and the conditions to which the registration is subjected, any appeal for support for the charity may be made.
- (8) A charity may apply to the chief executive for registration under this Act.
- (9) With every such application there shall be supplied to the chief executive such documents and information as may be prescribed or as the chief executive may require for the purpose of the application.
- (10) The Minister may, before granting any application, make such inquiries with respect to the charity as the Minister thinks fit.
- (11) Every member of the governing body and every officer and member of the charity and any other person shall supply or cause to be supplied all documents in his or her possession or under his or her control or all information within his or her knowledge as is required by the Minister in any inquiry made under subsection (10).
- (12) Upon consideration of an application under this section, the Minister in the Minister's discretion may—
 - (a) grant the application; or
 - (b) grant the application subject to such conditions as the Minister thinks fit; or
 - (c) refuse the application.
- (13) However, without derogating from subsection (12), the Minister before refusing any application under this section shall take into consideration whether the association is a

charity, whether the charity is established in good faith as a charity, whether there is a likelihood of its complying with the provisions of this Act including the conditions imposed by or under this Act, whether the charity is or will be properly administered, whether the proposed objects of the charity are already covered by a charity which is registered under this Act, and whether it would be in the public interest to grant such application.

- (14) The Minister may at any time, if the Minister thinks fit, limit the registration under and for the purposes of this Act of any charity to such activity of the charity as relates to or is concerned with any specified object, area, period of time, or manner of making an appeal for support, and where any such conditions are fixed the charity shall comply in every respect therewith.
- (15) The Minister shall cause to be given to every charity registered under this Act a certificate in or to the effect of the approved form, and, subject to this Act, every such certificate while it continues in force under this Act, shall be evidence of the matter certified to therein.
- (16) Every charity registered under this Act shall comply in every respect with the provisions of this Act, and the conditions subject to which its registration is granted.
- (17) The register of charities (including the entries cancelled when associations are removed from the register) shall be open to public inspection at all reasonable times and copies of entries therein or of extracts therefrom may be made available in accordance with the regulations.

20 Restriction on use of charity names

- (1) A charity shall not use or permit or suffer the use of any name, other than its name appearing for the time being in the register of charities, in connection with any appeal for support made for the charity or for the charity and any other purpose.
- (2) For the purpose of the registration of a charity, the name of the charity shall be such as, in the opinion of the Minister—

- (a) is not undesirable; or
 - (b) is not likely to be confused with or mistaken for a name which already appears for the time being in the register of charities of a charity registered under this Act.
- (3) Notwithstanding anything to the contrary in any other Act or any rule of law, the name appearing in the register of charities of a charity registered under this Act may be identical with or similar to the name of a charity which is not so registered.
- (4) No charity or association shall use or cause or permit to be used as its name, a name identical with or similar to the name of a charity registered under this Act or a name calculated to mislead the public into believing or to induce the public to believe, that it is one and the same as the charity so registered or that it is associated with the charity so registered.

21 Effect of, and claims and objections to, registration

- (1) Any association shall for all purposes be presumed to be or have been a charity at any time when it is or was on the register of charities.
- (2) Any person who is or may be affected by the registration of an association as a charity, may, on the ground that it is not a charity or on any other ground prescribed by the regulations, lodge with the Minister an objection to its registration or may apply to the Minister for it to be removed from the register; and provision may be made by the regulations as to the manner and time in which any such objection or application is to be made, prosecuted, or dealt with.

22 Removal from the register etc.

- (1) Any association (including any charity) shall be removed from the register of charities and shall thereupon cease to be a charity registered under this Act if at any time—
- (a) it appears to the Minister that it is no longer a charity within the meaning of this Act, or that it should not have

- been registered as a charity or that it has ceased to exist or has ceased to operate; or
- (b) the Minister is satisfied that it is not being carried on in good faith as a charity or is not complying with any of the provisions of this Act including any of the conditions imposed by or under this Act, or that it is not being properly administered, or that any failure, without reasonable excuse having been shown to the Minister's satisfaction has occurred in answering any question, supplying any information, producing any record or lodging any return in accordance with any requirement, direction, or order, notified, given, or made under and for the purposes of this Act, or that it would be in the public interest to remove it from the register; or
 - (c) it makes application in writing to the Minister to be removed from the register of charities and the Minister grants that application.
- (2) Without limiting the power to make regulations under section 47 for these purposes, the regulations may prescribe the manner, notices and conditions, or any of these, which shall have application with respect to any removal from the register of charities.

23 Effect on certificate of removal from register

Where any association (including any charity) is removed under this Act from the register of charities the certificate of registration given under section 19(15) shall cease to be in force.

community purpose, verbally or by notice in writing, may require any person specified in subsection (3)—

- (a) to answer any question or to supply such information as required;
 - (b) produce all or any records as required;
 - (c) lodge all or any returns as required.
- (3) Any requirement under subsection (2) may be addressed to any of the following persons—
- (a) where the appeal for support is made for a charity or the purpose of any association or where an association is the promoter or in the case of any charity or any association as aforesaid—any person who is or at any time was a member of the governing body thereof;
 - (b) in the case of any appeal for support—the promoter and any person assisting or who has assisted in the making of, or is taking part or has taken part in, the appeal for support;
 - (c) any person who is or was a trustee of moneys or property resulting from the appeal;
 - (d) any person who is or was handling moneys or property received in the appeal;
 - (e) any person who is or was in the beneficial receipt of any moneys or property from the appeal;
 - (f) the manager or other principal officer of any financial institution with which any moneys received in or resulting from the appeal or with which any moneys of the charity or association, as the case may be, are or have been deposited;
 - (g) in any case—any other person who, in the opinion of the Minister, chief executive or inspector may be in a position to answer the question or supply the information;
 - (h) where any record is required to be produced—any person having the custody or control of the record;

- (i) where any return is required to be lodged—any person liable or who, in the opinion of the Minister, chief executive or inspector, is in a position to lodge the return.

26 Further powers of inspector

- (1) Without derogating from an inspector's powers under any other provision of this Act, an inspector for the purposes of this Act may at any time and from time to time—
 - (a) enter any premises from which any appeal for support for any purpose referred to in section 25(2) is being made or to be made or where any record relating to that appeal is or is reasonably suspected to be;
 - (b) make such examination and inquiry as the inspector considers necessary to ascertain whether the provisions of this Act and any determination, direction, or requirement thereunder are being complied with;
 - (c) require any person who has the custody or control of any record relating to any appeal for support as aforesaid to produce for the inspector's inspection, examination, or audit that record;
 - (d) require the manager or other principal officer of any financial institution with which any moneys received in or resulting from any such appeal for support are deposited, whether such moneys are deposited in a separate account or in an account with other moneys, to disclose each and every such account to the inspector and to permit the inspector to inspect and make and take away with the inspector a copy of or an extract from each and every such account;
 - (e) require any person concerned in making any appeal for support as aforesaid or any person referred to in section 25(3) to attend before the inspector at a time and place named and then and there to be examined in relation to all or any matters whatsoever relating to the appeal for support;

- (f) examine any person attending pursuant to paragraph (e) and any person voluntarily attending before the inspector;
 - (g) call to the inspector's aid any person the inspector may think competent to assist the inspector in the exercise of any power aforesaid;
 - (ga) require any person in possession of money or property raised by or resulting from an appeal for support or used in the conduct of an appeal for support to produce that money or that property;
 - (gb) require any person in possession of any document, money, property, item of value or other thing which, in any case, the inspector has reason to believe, may be required as evidence in proceedings for an offence to produce that document, money, item of value or other thing;
 - (gc) seize and remove any document, money, property, item of value or other thing—
 - (i) which in any case, the inspector has reason to believe, may be required as evidence in proceedings for an offence;
 - (ii) raised by or resulting from or used in the conduct of an appeal for support;
 - (h) exercise such other powers as may be prescribed.
- (2) No person shall be obliged to travel to attend before an inspector more than 16km from the person's place of abode without previously having been tendered such sum as is prescribed for the person's travelling expenses and attendance.
- (3) Without limiting the power to make regulations under section 47, the regulations may prescribe rates of allowances for travelling expenses and attendance of any persons who are required to attend before an inspector.
- (4) The power of entry conferred by subsection (1) does not include power to enter a building used solely as a private

residence or to enter any part of a building that is so used save under the authority of a warrant.

26A Warrant to enter premises

- (1) A justice of the peace who is satisfied upon a complaint on oath that there is reasonable ground for suspecting that an offence against this Act is being, has been or is about to be committed on any premises may issue a warrant authorising an inspector to enter the premises specified in the warrant.
- (2) A warrant shall be, for a period of 14 days from the date of its issue, sufficient authority—
 - (a) for an inspector—
 - (i) to enter the premises specified in the warrant; and
 - (ii) to exercise therein in relation thereto the powers conferred by section 26;and for those purposes to use such force as is reasonable; and
 - (c) to use such force as may be reasonably necessary to perform any of the things referred to in this section.

27 Investigations

- (1) The Minister may at any time and from time to time cause an investigation to be made into—
 - (a) any charity, including the nature and objects and administration thereof, and the application of the estates, funds, property, and income belonging thereto;
 - (b) any association for the objects of which any appeal for support has been or is sanctioned under this Act, including the nature and objects and administration thereof, and the application of the estates, funds, property, and income belonging thereto;
 - (c) any appeal for support for any purpose referred to in section 25(2).

- (2) The Minister may cause any such investigation to be made by an inspector or by any other person (who shall for the purposes thereof have all the powers of and shall be deemed an inspector) appointed in writing by the Minister in that behalf.
- (3) At the conclusion of any investigation pursuant to this section, the person conducting the investigation shall make a report in writing thereon to the Minister who may publish such report and in such manner as the Minister thinks fit.

28 Powers in relation to records produced

The Minister, chief executive, inspector or other person to whom any record or return is produced or lodged pursuant to any requirement or direction or order under this Act, save where under the circumstances the person producing or lodging the record or return is not entitled to have it returned to the person, may—

- (a) examine the same and take copies thereof, or make extracts therefrom;
- (b) retain the same for such time as the person considers sufficient to enable it to be examined by any other person the person thinks competent to do so, or for any purpose as specified in paragraph (a), or for the purpose of making further inquiries in relation thereto, or retain the same for the purpose of any legal proceedings.

29 Constitution of charity etc.

- (1) Every application for the registration under this Act of a charity, and every application by an association whose objects are a community purpose, for the sanctioning under this Act of that community purpose, shall be accompanied by an up-to-date copy of the constitution thereof certified to in writing as a true and correct copy thereof by any 2 members of the governing body thereof.

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- (2) The governing body of each charity registered under this Act and the governing body of each association whose objects are a community purpose which is sanctioned under this Act shall—
- (a) lodge with the chief executive every amendment proposed of the constitution of the charity or association, as the case may be, before the proposed amendment is resolved by the charity or association including by any meeting of any members thereof;
 - (b) lodge with the chief executive a copy, certified to in writing as a true and correct copy thereof by any 2 members of the governing body, of every amendment of the constitution of the charity or association forthwith after the amendment is made by the charity or association, and no amendment of the constitution of the charity or association shall have any force and effect unless and until that amendment is approved by the Minister.
- (3) The governing body of each charity registered under this Act and the governing body of each association whose objects are a community purpose which is sanctioned under this Act shall lodge with the chief executive if and when required, an up-to-date copy of the constitution of the charity or association certified to in writing as a true and correct copy thereof by any 2 members of the governing body of the charity or association.
- (4) The constitution of each charity registered under this Act, and of each association whose objects are a community purpose that is sanctioned under this Act, must provide that—
- (a) income and property of the charity or association must be applied in promotion of its objects and not distributed among members; and
 - (b) dividends must not be paid to members.
- (5) Subsection (4) does not apply to a charity listed in the schedule.

- (6) Also, subsection (4)(a) does not apply to a charity or an association if the charity's or association's constitution authorises the charity or association to distribute income and property among members who are themselves charities or associations, whether in Queensland or another State.

30 Records of appeals for support

- (1) Except as prescribed or where the appeal for support consists only of an art union authorised under the *Charitable and Non-Profit Gaming Act 1999*, the promoter of each appeal for support for any purpose to which part 3 applies shall keep and retain in the promoter's custody until such time as the promoter is directed or authorised by or under this Act to destroy, hand over, or otherwise dispose of that record, a record of the appeal for support in writing consisting of or showing—
- (a) the purpose for which the appeal was made;
 - (b) the full name and address of the promoter and the promoter's authority for acting as promoter;
 - (c) an accurate statement showing full details, of all income and expenditure associated with the appeal (in the approved form) and of the moneys and property raised by or resulting from the appeal and of the disposal of all such moneys and property;
 - (d) the audit report or a copy thereof, if such a report is received by the promoter, in relation to the appeal for support;
 - (e) such other matters as may be prescribed in that behalf.
- (2) Where any appeal for support is made for a charity registered under this Act or for an association whose objects are a community purpose which is sanctioned under this Act, the promoter may, and if so required by that governing body, the Minister, chief executive or any inspector shall, hand over his or her record of the appeal for support to the governing body of the charity or association and the governing body shall thereupon cause to be kept and retained in the custody of a

responsible officer that record until such time as it is directed or authorised by or under this Act to destroy, hand over, or otherwise dispose of that record.

31 Financial statements and audit

- (1) Every charity, every association whose objects are a community purpose, and every promoter of an appeal for support for any purpose to which part 3 applies—
- (a) on the close of each prescribed period of time, in relation to that period;
 - (b) in the case of an appeal for support the purpose of which has been sanctioned under this Act for a specified period of time—on the close of the period for which the sanction is given, in relation to that period;
 - (c) in every case—if and when so required by the Minister, in relation to the period stated in that requirement;
- shall forthwith—
- (d) cause such financial statements in respect of the charity, association, or appeal for support, as the case may be, and containing such information as prescribed or, in the case of a requirement under paragraph (c), as so required, to be prepared;
 - (e) comply with the provisions of this Act relating to the manner of preparing and dealing with those financial statements and of allowing them to be inspected, whether by the public or members of the charity or association or otherwise, and of the lodgement of copies thereof where prescribed or required under this Act with the chief executive;
 - (f) cause the accounts (including the financial statements), moneys and property of the charity or association or, in the case of an appeal for support, raised by or resulting from the appeal for support to be audited by—
 - (i) a person registered as an auditor under the Corporations Act; or

- (ii) a member of CPA Australia who is entitled to use the letters 'CPA' or 'FCPA'; or
 - (iii) a member of The Institute of Chartered Accountants in Australia who is entitled to use the letters 'CA' or 'FCA'; or
 - (iv) a member of the Institute of Public Accountants who is entitled to use the letters 'MIPA' or 'FIPA'; or
 - (v) a person who the chief executive considers has appropriate qualifications.
- (2) For the purposes of subsection (1)(c) the Minister may at any time and from time to time require the accounts, moneys and property of any charity or association whose objects are a community purpose, or the accounts, moneys and property relating to or raised by or resulting from any appeal for support for any purpose to which part 3 applies, to be audited by any of the persons set forth in subsection (1)(f)(i) to (iv).
- (3) Every person conducting an audit pursuant to subsection (1)—
- (a) shall, for the purposes of the audit, have the powers conferred by this Act on an inspector;
 - (b) shall forthwith upon the completion of the audit lodge with the chief executive a report, or as the circumstances require, a copy of the person's report in writing of the result of the audit accompanied by the prescribed documents.

32 Returns

- (1) Every charity, every association whose objects are a community purpose, and every promoter of an appeal for support for any purpose to which part 3 applies—
- (a) on the close of each prescribed period of time, in relation to that period;

- (b) in the case of an appeal for support the purpose of which has been sanctioned under this Act for a specified period of time—on the close of the period for which the sanction is given, in relation to that period;
- (c) in every case—if and when so required by the Minister in relation to the period stated in that requirement;

shall forthwith lodge with the chief executive a return in respect of the charity, association or appeal for support, as the case may be, containing such information as may be prescribed in relation thereto.

- (2) For the purposes of subsection (1)(c), the Minister may at any time and from time to time require any charity, association, or promoter as aforesaid, to so lodge such a return.

Part 8 Miscellaneous

34 Power to act for the protection of the public etc.

- (1) Where the Minister is satisfied that in relation to the promotion or conduct of any appeal for support for any purpose to which part 3 applies, there has been any misconduct or mismanagement the Minister may do any 1 or more of the following things—
 - (a) direct that the appeal for support be discontinued;
 - (b) direct that no future appeals for support for the purpose be made;
 - (c) direct any financial institution or person who holds property raised by or resulting from the appeal for support not to part with the property without the prior approval of the Minister.
- (2) No person shall knowingly make or cause to be made or assist in making or take part in any appeal for support in contravention of any such direction, or otherwise contravene

any such direction, unless and until that direction is revoked by the Minister.

- (3) The Minister may at any time revoke any direction given under this section.
- (4) The provisions of this section shall not be read as limiting or restricting any other provision of this Act or as prohibiting any action being taken thereunder or any proceedings being taken for any non-compliance with this Act or any other Act.

35 Vesting of property in the public trustee

- (1) This section applies if the chief executive is satisfied—
 - (a) that in any case set forth in the *Charitable Funds Act 1958*, section 5 the property in any fund or any part or residue thereof raised by or resulting from any appeal for support for any purpose to which part 3 applies may be dealt with under this section; or
 - (b) that any property (whether derived from funds received or held before or after the passing of this Act) of or held for or on behalf of any charity which is unable to make any lawful appeal for support under this Act may be dealt with under this section; or
 - (c) that any property (whether derived from funds received or held before or after the passing of this Act) of or held by or on behalf of any association, whose objects are a community purpose, which is unable to make any lawful appeal for support under this Act may be dealt with under this section; or
 - (d) that the Minister has given a direction in respect of any property pursuant to section 34(1); or
 - (e) that any property (whether derived from funds received or held before or after the passing of this Act) is held on behalf of any charity, or is held on behalf of any association whose objects are or were a community purpose, which has ceased to exist or ceased to operate; or

- (f) that there has been maladministration in respect of any property raised by or resulting from any appeal for support for any purpose to which part 3 applies and held by or on behalf of any charity or any association whose objects are a community purpose; or
 - (g) that a majority of at least three-quarters of the governing body or of the persons who are trustees or who have the control of any property raised by, or resulting from any appeal for support for any charitable purpose or community purpose, have consented to any or all of the property being vested in the public trustee.
- (2) The chief executive may, by gazette notice, vest all or any of the property in the public trustee.
 - (3) Subject to subsection (4), the property vested in the public trustee is held upon the trusts and for the purposes upon or for which they were held prior to being vested in the public trustee.
 - (4) A gazette notice may amend the trusts or purposes and vest the property, or part of the property, in a person for charitable or community purposes.
 - (5) The receipt of the public trustee shall be a sufficient discharge to any persons paying or transferring any property under the gazette notice, and the said persons shall not thereafter be liable or accountable therefor or be bound to see to the application, distribution, or appropriation thereof.
 - (6) This section applies to any property, charity, or association as aforesaid, irrespective of any action or proceedings taken in respect of such property, charity, or association under any other provision or provisions of this Act.

35A Disaster appeals trust fund and committee

- (1) The public trustee shall establish and keep in the accounts of the public trustee an account titled the disaster appeals trust fund.

- (2) There is hereby established a committee to be called the ‘disaster appeals trust fund committee’, hereinafter in this section and in section 35B referred to as the *committee*.
- (3) The public trustee and the chief executive are, ex officio, members of the committee.
- (4) The chief executive must appoint 3 other members of the committee (each an *appointed member*).
- (5) Subject to this section, the appointed members shall hold office for 3 years and shall be eligible for reappointment.
- (6) An appointed member is to be paid the remuneration and other allowances decided by the chief executive.
- (7) The public trustee may appoint a person employed in the public trustee’s office to represent the public trustee on the committee.
- (8) The chief executive is the chairperson of the committee.
- (9) The members of the committee shall elect from among their number a person to be deputy chairperson of the committee and, where the member so elected is one of the appointed members and whilst the member remains a member of the committee, the member shall be deputy chairperson during the member’s term of office, but the member may resign office as deputy chairperson by signed notice addressed to and delivered to the Minister.
- (10) A member of the committee who is one of the appointed members shall be deemed to have vacated the member’s office if the member—
 - (a) dies;
 - (b) resigns office by signed notice addressed to and delivered to the Minister;
 - (c) is absent from 3 consecutive meetings of the committee and is not excused by the committee for the absence, either in advance or at its meeting next following the third absence;
 - (d) is removed from office by the chief executive.

- (11) The chief executive may, for any cause that appears to the chief executive to be sufficient, remove a member of the committee who is one of the appointed members from office as such a member.
- (12) When a vacancy occurs in the office of any of the appointed members of the committee before the expiration of the member's term of office, the chief executive shall appoint another person to hold office, subject to this section, either for 3 years or until the time when the person's predecessor's term would have expired, and in either case the appointee shall be eligible for reappointment.
- (13) The committee shall meet at such times and places and conduct its business in such manner as it determines from time to time and, without limiting the foregoing, the chairperson of the committee or the deputy chairperson or, if neither of them is available, the Minister may convene a meeting of the committee.
- (14) The chairperson or, if the chairperson is not present, the deputy chairperson shall preside at all meetings of the committee, but if neither of them is present at a meeting, the members present at that meeting shall elect a member from among those present to preside at the meeting during the absence of the chairperson and the deputy chairperson, and the person so elected shall have, during such absence, all the powers of the chairperson.
- (15) Any 3 members of the committee shall be a quorum for the purposes of a meeting of the committee and shall be competent to transact the business of the committee and to perform its functions pursuant to this section.
- (16) Any matter before a meeting of the committee shall be determined by vote of the majority of the members of the committee (being a quorum) present at the meeting, and in the event of an equality of votes upon any matter the person who presides at the meeting at the time of the taking of the vote shall have a second or casting vote.

[s 35B]

- (17) A member of the committee who, being present at a meeting and entitled to vote on a matter, abstains from voting on that matter shall be taken to have voted in the negative.
- (18) An officer of the public service may be appointed a member of the committee and may hold office as such member in conjunction with the officer's holding office as an officer of the public service.

35B Disaster relief funds and their application

- (1) In this section—

disaster relief fund means any fund raised by or resulting from any appeal for support for the purpose of assisting persons suffering distress, whether physical, mental or financial, as a result of any catastrophe or disaster arising from natural causes, inevitable accident, wilful act or negligence.

- (2) In any case where the Governor in Council is satisfied that—

- (a) a fund is a disaster relief fund;
- (b) no payment has been made from moneys (whether invested or not) in or belonging to that fund for a period of 1 year or more;
- (c) those moneys do not appear likely to be applied for the benefit or relief of any of the persons for whose benefit or relief that fund was established;

a regulation may vest all or any of such moneys (whether invested or not) in the public trustee who shall—

- (d) in the case of moneys not invested—pay such moneys to the credit of the disaster appeals trust fund (the *trust fund*);
- (e) in the case of invested moneys—realise the investments when directed to do so by the committee and pay the proceeds of such realisation to the trust fund, and in the meantime hold such investments on behalf of the trust fund.

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- (4) Moneys vested in the public trustee under this section shall vest freed and discharged from all trusts to which they are or may be subject.
- (6) If a regulation is made under this section about a fund declared, under a regulation, to be a disaster relief fund and—
- (a) there is an insubstantial variation between the name of the fund indicated in the regulation and the name in which the fund is held; and
 - (b) the public trustee is satisfied that the fund indicated in the regulation is the same fund as that so held;

a certificate under the hand and seal of the public trustee that, in the circumstances as aforesaid, the funds so named are one and the same fund shall, until the contrary is proved, be sufficient evidence of the matters stated and be acted upon by any person required to make any payment or transfer with respect thereto.

- (7) In subsection (6)—
- the name in which the fund is held*** includes the name—
- (a) of any account relating to the fund; and
 - (b) in which any fund moneys are invested; and
 - (c) in which any security is held in respect of moneys so invested.
- (8) The receipt of the public trustee shall be a full and sufficient discharge to any governing body or any persons paying or transferring any moneys or investments in pursuance of this section as to the moneys or investments made or transferred, and such governing body or persons shall not thereafter be liable or accountable therefor or be bound to see to the application, distribution or appropriation thereof.
- (9) The committee may from time to time direct the public trustee (who shall comply with such direction)—
- (a) to invest any moneys standing to the credit of the trust fund in any authorised trustee investment nominated by the committee;

- (b) to realise any investment so made;
and income arising from any such investment shall be paid into and form part of the trust fund.
- (10) The committee may from time to time, with the approval of the Governor in Council, direct the public trustee to pay or apply the whole or any part of the moneys standing to the credit of the trust fund, including moneys derived from the realisation of investments—
 - (a) for the benefit or relief of any of the persons for whose benefit or relief a fund referred to in subsection (2) was established; or
 - (b) to or for the use or benefit of any other fund that in the opinion of the committee is a disaster relief fund;and in any such case the public trustee shall pay or apply the moneys the subject of the direction in accordance with the terms of such direction.

35C Donations to disaster relief funds

- (1) In this section—
 - disaster* means any catastrophe or disaster arising from natural causes, inevitable accident, wilful act or negligence.
 - disaster relief fund* has the same meaning as that assigned to it by section 35B(1).
- (2) Where a disaster occurs moneys may be donated to the disaster appeals trust fund for payment to any disaster relief fund that has been or may be established in respect of the disaster.
- (3) The public trustee shall as soon as possible forward those moneys to the governing body of or persons raising the disaster relief fund for payment into the fund.
- (4) Where—

- (a) moneys are donated to the disaster appeals trust fund for payment to a disaster relief fund that as far as the public trustee can ascertain has ceased to exist or operate; or
- (b) it is not clear to which disaster relief fund a donor of moneys to the disaster appeals trust fund intended the moneys to be paid and the public trustee is unable to clarify the intention; or
- (c) a disaster occurs and a disaster relief fund in respect of the disaster is not established within 1 month after the occurrence of the disaster and moneys are donated to the disaster appeals trust fund for the benefit or relief of persons suffering distress, whether physical, mental or financial, as a result of the disaster;

those moneys shall as from a date declared by the public trustee under the public trustee's hand and seal form part of the disaster appeals trust fund as if they had vested in the public trustee under section 35B(2) freed and discharged from all trusts to which they are or may be subject.

35D Donations for future disasters

- (1) Any person desiring to donate moneys (including any moneys invested in any authorised trustee investment) for the benefit or relief of persons suffering distress whether physical, mental or financial, as a result of any future catastrophe or disaster arising from natural causes, inevitable accident, wilful act or negligence may pay moneys or provide by way of will or trust or otherwise for the payment of moneys to the disaster appeals trust fund.
- (2) Section 35B shall apply to such moneys as if they had vested in the public trustee under section 35B(2) and the moneys shall vest in the public trustee on the day they are paid into the disaster appeals trust fund.

35E Disclosure of information to Commissioner of the ACNC

- (1) For the purpose of enabling or assisting the commissioner to perform or exercise any of the functions or powers of the commissioner, the chief executive may—
 - (a) enter into an arrangement with the commissioner; and
 - (b) under the arrangement, disclose information obtained under this Act about an ACNC registered entity to the commissioner.
- (2) In this section—

ACNC registered entity means a charity registered under the *Australian Charities and Not-for-profits Commission Act 2012* (Cwlth).

commissioner means the Commissioner of the Australian Charities and Not-for-profits Commission under the *Australian Charities and Not-for-profits Commission Act 2012* (Cwlth).

36 Enforcement of orders

Without limit or prejudice to any other means of enforcing the requirement, direction or order, or any proceeding for failure to comply therewith, a person failing to comply with any requirement notified, or direction given, or order made under this Act, may on the application on behalf of the Minister to the Court, which application may be so made whether or not the requirement, direction or order was notified, given or made by the Minister, be dealt with as for disobedience to an order of the Court.

37 Failure to comply with lawful requirements etc.

- (1) Every person who—
 - (a) being required under this Act to supply any information, produce any record, or lodge any return, fails, without reasonable excuse the proof whereof shall lie upon the person, to supply that information, produce that record,

or lodge that return, as the case may be, in accordance with that requirement;

- (b) being required under this Act to disclose any account or permit any inspector to inspect or make and take away a copy or extract of that account, fails, without reasonable excuse the proof whereof shall lie upon the person, to disclose that account, or to permit the inspector to inspect that account or to make and take away a copy or extract of that account, as the case may be;
- (c) being required under this Act by any inspector to attend before the inspector and to be examined by the inspector fails, without reasonable excuse the proof whereof shall lie upon the person, to attend before the inspector or refuses to take an oath or affirmation or declaration instead of an oath, or refuses, without reasonable excuse the proof whereof shall lie upon the person, to answer any question put to the person by the inspector;
- (d) being required under this Act to produce any money or property, fails, without reasonable excuse the proof whereof shall lie upon the person, to produce that money or property, as the case may be, in accordance with that requirement;
- (e) being required under this Act to produce any document, money, property, item of value or other thing which may be required for evidence, fails, without reasonable excuse the proof whereof shall lie upon the person, to produce that document, money, property, item of value or other thing, as the case may be, in accordance with that requirement;
- (f) being required under this Act to answer any question, fails, without reasonable excuse the proof whereof shall lie upon the person, to answer that question or gives any answer which the person knows to be false;
- (g) assaults, resists, or obstructs an inspector in the exercise of powers or in the discharge of duties under this Act, or attempts so to do;

shall be guilty of an offence against this Act.

- (2) Every person who in relation to the making of any appeal for support—
- (a) for a charity, specifies that the charity is registered under this Act when it is not so registered;
 - (b) for any purpose, specifies that the purpose is sanctioned under this Act when that purpose is not so sanctioned;
- shall be guilty of an offence against this Act and shall be liable to a penalty not exceeding 20 penalty units.

38 Falsifying books etc.

Any person who with intent to defraud or deceive any other person—

- (a) alters or falsifies or destroys any record, return, or other document whatsoever relating to any appeal for support for any purpose to which part 3 applies, or any property or income whatsoever of a charity or association whose objects are a community purpose; or
- (b) makes or concurs in the making of any entry in any such record, return, or other document; or
- (c) omits or concurs in omitting any material particular from any such record, return, or other document;

shall be guilty of an offence against this Act and shall be liable on conviction on indictment to imprisonment for a term not exceeding 5 years, or on summary conviction to imprisonment for a term not exceeding 12 months.

39 Converting moneys etc.

Any person making or causing to be made or assisting to make or taking part in any appeal for support for any purpose to which part 3 applies, or in the management, supervision, administration or control of any property or income of a charity or association whose objects are a community purpose, who converts unlawfully to the person's own use or fails to account properly for any money or articles obtained in

the course of such appeal for support or for any such property or income shall be guilty of an offence against this Act and shall be liable on conviction on indictment to imprisonment for a term not exceeding 5 years, or on summary conviction to imprisonment for a term not exceeding 12 months.

39A Trading by reference to charities prohibited

- (1) A person who save in accordance with an authority to make or assist in making an appeal for support in accordance with the provisions of this Act, or save in connection with an appeal for support to which this Act is expressed not to apply—
 - (a) sells, offers to sell or procures any other person to sell any article; and
 - (b) in connection with such sale or offer for sale makes or procures another to make any representation expressed or implied and whether made verbally, or by writing or conduct, that the proceeds of such sale or any part thereof will be contributed to charities in general, a particular charity, or any community purpose whether upon the fulfilment of a further condition or otherwise;is guilty of an offence against this Act.
- (2) Any person guilty of an offence against this section shall be liable—
 - (a) for the first offence to a fine not exceeding 20 penalty units or to imprisonment for a term not exceeding 3 months;
 - (b) for a second or subsequent offence to a fine not exceeding 40 penalty units or to imprisonment for a term not exceeding 6 months.

40 Offences and penalties

- (1) Any person who contravenes or fails to comply with any provision of this Act shall be guilty of an offence.

- (2) Any person guilty of an offence against this Act shall be liable, unless some specific penalty is prescribed by this Act for such offence, to a penalty not exceeding 20 penalty units.
- (3) Subject to the provisions of this Act relating to the prosecution upon indictment for certain offences hereunder, any offence against this Act may be prosecuted in a summary way under the *Justices Act 1886*.
- (4) Nothing in this Act contained shall render any person compellable to answer any question incriminating or tending to incriminate himself or herself.

41 Saving of remedies

No proceeding or conviction for any offence against this Act shall affect any civil right or remedy to which any person aggrieved by the offence may be entitled.

42 Service of notices etc.

Unless otherwise indicated by this Act, any requirement, direction, determination, approval, order, notice, or other authority under or for the purposes of this Act, may be given, served, made known, or published—

- (a) by delivering or giving the same to the person concerned personally; or
- (b) by prepaid post letter containing the same, addressed to the person concerned at the person's last known or usual business or residential address and sent by ordinary post; or
- (c) by prepaid telegram, or registered letter or certified mail letter containing the same, sent or addressed to the person concerned at the person's last known or usual business or residential address; or
- (d) by such other means as the Minister may direct.

42A Approval of forms

The chief executive may approve forms for use under this Act.

43 Facilitation of proof

- (1) In any proceedings under or for the purposes of this Act—
- (a) it shall not be necessary to prove the appointment of the chief executive or of any inspector or other officer appointed under this Act;
 - (b) a signature purporting to be that of the Minister or of the chief executive or of any inspector or other officer appointed under this Act shall be taken to be the signature it purports to be until the contrary is proved;
 - (c) it shall not be necessary to prove the limits of any city or town or part of the State specified, or of any locality or street nominated, under or for the purposes of this Act, but this paragraph shall not prejudice the right of any defendant to prove those limits;
 - (d) a document purporting to be signed by the chief executive or by a prescribed person and purporting to be a copy of or extract from any entry in the register of charities under this Act or purporting to be a copy of any application, certificate, determination, sanction, order, direction, request, or requirement under this Act shall, upon its production in evidence be evidence of the matters contained therein, and in the absence of evidence in rebuttal thereof shall be conclusive evidence thereof;
 - (e) a document purporting to be signed by the chief executive and stating that at any specified time there was or there was not in force a sanction under this Act as stated therein, or that any sanction was or was not issued subject to conditions, shall upon its production in evidence be evidence of the matters contained in that document and in the absence of evidence in rebuttal thereof shall be conclusive evidence of such matter or matters;

- (f) the allegation in the indictment or complaint that any association is or is not a charity, or association whose objects are a community purpose, or that any specified purpose is or is not a charitable purpose or community purpose or a purpose to which part 3 applies or that any charity is or is not registered as such under this Act or that an appeal for support for a purpose specified or that a specified person made or caused to be made or assisted in making or took part in an appeal for support specified shall be evidence of the matter alleged and, in the absence of evidence in rebuttal thereof, shall be conclusive such evidence;
 - (g) a document purporting to be signed by the chief executive stating that at a specified time or during a specified period there was or was not in force an authority under this Act, as described in the document, issued to a specified person and that such authority was or was not subject to the terms, conditions or restrictions set out in the document shall, upon its production, be evidence, and in the absence of evidence to the contrary conclusive evidence, of the matters contained in that document;
 - (h) an allegation or averment in the indictment or complaint that at the time when a person committed the act or acts of which the complaint is made that person was not acting in connection with an appeal for support to which this Act is expressed not to apply shall be evidence, and, in the absence of evidence to the contrary, conclusive evidence of that allegation or averment.
- (2) Any determination, approval, registration, sanction, assignment, nomination, requirement, direction, order, or other act of authority, made, given, or issued by the Minister under or for the purposes of this Act may be notified by the Minister in the gazette and thereupon the same shall be judicially noticed.

44 Persons to perform duties

Where by any provision of this Act a duty is cast upon a charity or association or where by or under any provision of this Act any charity or association is ordered, directed, requested or required to do or omit to do any act or thing or to observe any condition or other matter but no reference is made in such provision, order, direction, request, or requirement to any person or class of persons who shall act on behalf of the charity or association in the performance of that duty or in the compliance with such provision, order, direction, request or requirement or in the observance of such condition or other matter then each member of the governing body of the charity or association, as the case may be, shall perform that duty, or comply with such provision, order, direction, request, or requirement, or observe such condition or other matter as the case requires.

45 Constitution not to provide defence etc.

- (1) Where proceedings as for an offence may be taken under this Act against more than 1 of a number of persons, the proceedings may be taken against any of those persons.
- (2) It shall be no defence to any proceedings under this Act against any person as for an offence against this Act to allege that by the constitution of any charity or association any duties which may be material to those proceedings are required to be performed by some other person or persons.

46 Limitation of actions

No matter or thing done by the Minister or by the chief executive, or by any inspector, or by any police officer or by any other person, in good faith and without negligence for the purpose of executing this Act or in the execution of his or her powers and duties under this Act, shall subject the Crown, or the Minister, or the chief executive, inspector, or police officer, or other person as aforesaid to any liability in respect thereof.

47 Regulations

- (1) The Governor in Council may make regulations under this Act.
- (2) The approval by the Minister, pursuant to regulations made under the authority of subsection (3)(q), of a contract or agreement in relation to an appeal for support, or the making of the appeal under and in compliance in every respect with the terms and conditions of the contract or agreement so approved, shall not authorise, justify or excuse any act or omission which is an offence against this Act.
- (3) Regulations may be made for or in respect of all or any of the following purposes, matters and things—
 - (b) prescribing the persons by and to whom applications under this Act shall be made and to whom certificates, sanctions, approvals, and other authorities under this Act shall be issued, given, or granted;
 - (c) prescribing any matters or things with respect to the giving, serving, making known, publishing, and recording of any revocations, removals, requirements, directions, orders, determinations, approvals, notices, and other acts of authority under or for the purposes of this Act including, but without limiting the generality of the foregoing, the manner thereof and the persons to and on whom the acts of authority shall be given, served, or made known;
 - (d) prescribing the occasions on which the Minister may require, direct, or order any action to be taken or thing to be done under and for the purposes of this Act;
 - (e) prescribing, in relation to local or affiliated branches or sections of any associations and the central bodies of those associations, the duties of the governing bodies of the local or affiliated branches or sections and of the governing body of the central body of each association respectively for the purposes of all or any of the provisions of this Act or with respect to any appeals for support made by or on behalf of or for the purposes of

the association or of the local or affiliated branch or section;

- (f) prescribing any matter or thing for the purpose of distinguishing, in the application of any of the provisions of this Act, between appeals for support made by any local or affiliated branch or section for its own objects and the objects generally of the association;
- (g) prescribing conditions to which any registration, sanction, or other act of authority granted, given, or issued shall be subjected and conditions subject to which all or any appeals for support for any purpose may be permitted;
- (h) prescribing, regulating, and controlling any matters or things necessary or desirable with respect to the recording of all sanctions given under this Act, including of the conditions to which any sanctions are subjected, of sanctions revoked, and of applications for sanctions refused, and of permits and registrations which by this Act are regarded as sanctions given under this Act;
- (i) with respect to the keeping of true and correct records and the division of the records of sanctions given between sanctions of various classes;
- (j) prescribing the person by whom or the place where those records are to be kept, the particulars to be entered therein;
- (k) providing for, regulating and controlling alterations of any sanctions or of any particulars in any record, the informing of the public of any information relating to those sanctions and of applications therefor, and the inspection by the public of those records;
- (l) prescribing the occasions when fees shall be payable for furnishing copies of or extracts from any record and prescribing those fees;
- (m) prescribing for the Minister to have authority to approve, at the Minister's discretion, the destruction of

records held in relation to a sanction issued under this Act for a specific period of time for a purpose to which this Act applies;

- (n) prescribing, regulating and controlling all or any matters necessary or desirable with respect to the giving of sanctions the revocation or surrender of sanctions, and the amendment by the issuing authority of any sanctions given;
- (o) prescribing, regulating and controlling the making of all or any appeals for support for any purpose, whether a purpose to which part 3 applies or not, including such provisions as are necessary or desirable for safeguarding the public from fraud or deceit or cheating, the ensuring of the true and correct accounting for and recording of all moneys and property received in and resulting from the appeals, the true and correct accounting for and recording of all expenditure incurred in connection with the appeals, and the handing over to the purpose for which the appeals are made all moneys and property resulting from the appeals;
- (p) prescribing, regulating and controlling all or any of the expenses, including the amount thereof, (and including salaries, commissions, wages and fees and other remuneration of promoters, agents, collectors, and other persons) in relation to all or any appeals for support for any purpose to which part 3 applies;
- (q) prescribing, regulating, and controlling all or any agreements or contracts between all or any commercial undertakings, associations, persons or individuals and all or any charities or associations in relation to all or any appeals for support for any purpose to which part 3 applies;
- (r) requiring, in relation to all or any such appeals, that all or any such contracts or agreements shall be approved by the Minister and, where such approval of a contract or agreement relating to an appeal is so required, prohibiting any person from making the appeal except

- under and in compliance in every respect with the terms and conditions of an agreement or contract so approved;
- (s) prescribing special provisions, including the conditions under which such appeals may be permitted, in relation to door-to-door appeals and street collections for the purposes of part 4 and for safeguarding the public and to ensure true and correct accounting and records in relation to those classes of appeals;
 - (t) providing for payment without deduction of all moneys raised by or resulting from any appeal for support including door-to-door appeals and street collections for any purpose to which part 3 applies to separate accounts in financial institutions carrying on business in Queensland and regulating and controlling names in which those accounts shall be opened and kept, and the manner by which and with respect to which payments and orders and requests for payments from such accounts may be made;
 - (u) ensuring that moneys or property resulting from all or any appeals for support are applied for the purpose for which the appeals are made;
 - (v) prescribing for the purposes of section 17 the conditions under which persons may be permitted to make or cause to be made door-to-door appeals and street collections;
 - (w) regulating and controlling for the purposes of section 18, the distribution and disposal of any device within the meaning of that section;
 - (x) regulating and controlling the investment of moneys, for the purpose for which they are raised or vested, resulting from any appeals for support, by charities and associations;
 - (y) regulating and controlling the manner of conversion of articles and other property resulting from any appeals for support, into moneys;

- (z) prescribing the form of register of charities to be kept for the purposes of this Act, and the particulars to be entered therein;
- (za) providing for a record of applications for registration refused and of removals from the register, and with respect to parents and citizens associations established under the *Education (General Provisions) Act 2006* which by this Act are deemed to be charities registered under this Act;
- (zb) providing for the keeping of a true and correct register, and of true and correct records;
- (zc) providing for, regulating and controlling the alteration of all or any of those particulars required by this Act to be entered in the register of charities, and for the informing of the public of the names and objects of charities registered under this Act and of any other information relating thereto and of applications for registration and of removals from the register;
- (zd) prescribing the occasions when fees shall be payable for furnishing copies of, or extracts from, any entries in the register and prescribing those fees;
- (ze) prescribing all or any matters and things considered necessary or desirable with respect to the surrender by any charities of their certificates of registration under this Act and to the consequent removal of those charities from the register of charities and providing for, regulating and controlling the disposal or distribution of the moneys or property of any charity removed from the register of charities;
- (zf) providing for any matters or things relating to the division of charities registered under this Act into the classes of exempted charities and non-exempted charities, including the returns to be lodged by charities of each class;
- (zg) providing for, regulating and controlling any matters or things considered necessary or desirable in relation to

inquiries and investigations under or for the purposes of this Act;

- (zh) (with respect to all or any charities, all or any associations whose objects are a community purpose, and all or any appeals for support for any purpose to which any of the provisions of this Act applies) prescribing the records to be kept, the mode of keeping and maintaining those records, providing for the handing over and destruction of those records;
- (zi) prescribing the financial statements to be prepared, the times for and the manner of the preparation of those statements, the form of and the information to be contained in such statements, providing for the laying of those statements at meetings and otherwise for the publication thereof, providing for their inspection, whether by the public or others, providing for the lodgement with the chief executive of copies thereof, and providing for the dealing with those statements otherwise;
- (zj) providing for the lodgement with the chief executive of returns and the times for their lodgement, prescribing the form of returns and the information to be contained therein, and providing otherwise in respect of those returns;
- (zk) providing all or any matters and things necessary or desirable in relation to the audit of the records, moneys and property before the financial statements are dealt with or the returns lodged with the chief executive, as prescribed;
- (zl) providing for, regulating and controlling the inspection, examination, and audit connected with any such inspection or examination, of any record, moneys, and property under and for the purposes of this Act;
- (zm) providing for, and regulating and controlling the seizure of any records and other things upon any contravention of this Act or otherwise for the purposes of this Act;

- (zn) prescribing, regulating and controlling the powers, functions, and duties of the chief executive, the public trustee, clerks of the courts, inspectors and other officers for the purposes of any of the provisions of this Act;
- (zo) prescribing the amount of any penalty or other punishment for any offence against any regulation, provided that any such penalty shall not exceed 6 penalty units and any such punishment by imprisonment shall not exceed a term of 3 months;
- (zq) regulating and controlling advertisements of all or any appeals for support for all or any purposes;
- (zr) defining any term or expression in and for the purposes of this Act;
- (zs) prescribing the conditions under which collecting boxes for moneys and collecting receptacles for articles may be permitted to be left for use at or in places of residence, places of employment, places of public resort, public places, and other places in connection with all or any appeals for support for any purpose, including the conditions subject to which those boxes and receptacles may be used, and moneys and articles therefrom collected;
- (zt) prescribing the conditions under which all or any collections may be permitted to be made;
- (zu) prescribing, regulating and controlling the use of boxes and receptacles in making collections, including the standards of construction of all or any such boxes and receptacles;
- (zv) prohibiting the use of any box or receptacle which does not comply with the prescribed standards;
- (zw) providing for the notification of any change in the membership of the governing body of any charity or association whose objects are a community purpose and otherwise for the enabling of a true and correct record to be kept by the chief executive of the governing body and

of such other officers as may be prescribed of those charities and associations.

Part 9 Transitional provisions

Division 1 Transitional provision for Audit Legislation Amendment Act 2006

48 Transitional provision for Audit Legislation Amendment Act 2006

- (1) This section applies if—
 - (a) before the commencement—
 - (i) a charity or association appointed a person mentioned in pre-amended section 31(1)(f)(ii) or (iii) to audit the accounts, moneys and property of the charity or association; or
 - (ii) a promoter of an appeal for support appointed a person mentioned in pre-amended section 31(1)(f)(ii) or (iii) to audit the accounts, moneys and property raised by or resulting from the appeal for support; and
 - (b) the person has not performed the audit before the commencement.
- (2) For the purpose of the person performing the audit, pre-amended section 31(1)(f)(ii) or (iii) continues to apply as if the *Audit Legislation Amendment Act 2006* had not commenced.
- (3) In this section—

commencement means commencement of this section.

pre-amended, in relation to section 31(1)(f)(ii) or (iii), means the provision as in force before the commencement.

Division 2

Transitional provisions for Associations Incorporation and Other Legislation Amendment Act 2020

50 Members of disaster appeals trust fund committee

- (1) This section applies if, immediately before the commencement, a person held office under section 35A as a member of the disaster appeals trust fund committee.
- (2) The person is taken to hold office under section 35A as in force after the commencement.
- (3) If, immediately before the commencement, the person held office under section 35A(7) as chairperson of the committee, the person stops holding office as chairperson on the commencement.

51 Disclosure of information to Commissioner of the ACNC

- (1) The power of the chief executive under section 35E to enter into an arrangement with, or disclose information to, the commissioner applies in relation to information obtained under this Act whether before or after the commencement.
- (2) In this section—
commissioner see section 35E(2).

Schedule

**Section 29(5) registered
charities**

section 29(5)

Earth Share Australia Foundation