



*Collections Act 1966*

# **Collections Regulation 2008**

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Queensland

# Collections Regulation 2008

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# Collections Regulation 2008

## Part 1 Preliminary

### 1 Short title

This regulation may be cited as the *Collections Regulation 2008*.

### 2 Commencement

This regulation commences on 1 September 2008.

### 3 Definitions

In this regulation—

*application notice* see section 4A.

*device* see section 18(7) of the Act.

## Part 2 Charities

### Division 1 Registration

#### 4 Application for registration

- (1) The governing body of an association or a person authorised by the governing body may apply for registration of the association as a charity.
- (2) The application must be made in the approved form and be accompanied by each of the following—
  - (a) a copy of the association's constitution, as in force when the application is made, certified as an accurate copy by any 2 members of the association's governing body;

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- (b) a copy of the resolution or minute of the proceedings of the association or governing body giving approval to the making of the application, certified as an accurate copy by any 2 members of the association's governing body;
- (c) if appropriate—a copy of the last balance sheet or statement of the association's financial affairs;
- (d) if made by a branch or section of an association—the written consent of the central body of the association to the making of the application.

#### **4A Chief executive must publish application notice**

The chief executive must, as soon as practicable after receiving the application, publish a notice (an *application notice*) on the department's website stating the following—

- (a) that the association has made an application for registration as a charity;
- (b) the association's name and address for service;
- (c) the day the application notice is published;
- (d) that a person may object to the registration by filing with the Minister an objection—
  - (i) in the approved form; and
  - (ii) within 1 month after the application notice is published;
- (e) that a person who files an objection must—
  - (i) within 7 days after filing the objection serve a copy of the objection on the association; and
  - (ii) give the Minister evidence the copy was served.

#### **5 Additional prescribed grounds—Act, s 21**

The following are additional grounds on which a person may object to the registration of a charity under section 21(2) of the Act—



- (a) the charity is not established in good faith as a charity;
- (b) the charity will not be properly administered;
- (c) the objects of the charity are already covered by a charity that is registered under the Act;
- (d) someone connected with the charity's management is not an appropriate person to administer its affairs.

## **6 Objections**

- (1) An objection under section 21(2) of the Act to the registration of an association as a charity under the Act must be—
  - (a) in the approved form; and
  - (b) filed with the Minister within 1 month after an application notice about the association's application for registration is published under section 4A.
- (2) An objector must, within 7 days after the filing, serve a copy of the objection on the association to which the objection relates.
- (3) The objector must also give the Minister evidence satisfactory to the Minister of the service.
- (4) Within 1 month after the day the association receives the copy, the association may file with the Minister a written statement in answer to the objection.
- (5) After considering the objection and any answer to it given under subsection (4), the Minister must decide whether to accept or reject the objection.
- (6) The chief executive must give each objector and the association written notice of the Minister's decision.

### **6A Chief executive must give notice of Minister's decision about registration**

- (1) The chief executive must give an association who applies for registration as a charity written notice of the Minister's decision to—

- (a) grant the application; or
  - (b) grant the application with conditions; or
  - (c) refuse to grant the application.
- (2) The notice must—
- (a) be given as soon as possible after the Minister makes the decision; and
  - (b) if subsection (1)(c) applies—include the Minister’s reasons for the decision.

## **Division 2                      Register of charities**

### **7                      Prescribed particulars for register—Act, s 19**

The following particulars are prescribed for section 19(1) of the Act—

- (a) the name of the association;
- (b) the charitable purpose for which the association is established;
- (c) the day the grant is made;
- (d) any conditions on which the grant is made.

### **8                      Prescribed matters for applications for removal from register—Act, s 21**

- (1) An application under section 21(2) of the Act for the removal of a charity from the register of charities must be—
  - (a) in the approved form; and
  - (b) filed with the Minister.
- (2) The applicant must serve a copy of the application on the charity to which the application relates.
- (3) The applicant must also give the Minister evidence satisfactory to the Minister of the service.

- (4) Within 1 month after the day the charity receives the copy, the charity may file with the Minister a written statement in answer to the application.
- (5) After considering the application and any answer to it given under subsection (4), the Minister must decide whether to accept or reject the application.
- (6) The chief executive must give each applicant and the charity written notice of the Minister's decision on the application.
- (7) If the Minister decides to accept the application, the charity can not reapply for registration as a charity within 1 year after the day of the decision.
- (8) If the Minister decides to reject the application, the person who made the application can not apply for removal of the charity from the register on the same or a similar ground within 1 year after the day of the decision.

## **9 Removal from register**

- (1) If the Minister proposes to remove a charity from the register of charities under section 22(1)(a) or (b) of the Act, the Minister must give written notice to the charity's governing body—
  - (a) stating the Minister proposes to remove the charity from the register and the grounds for removal; and
  - (b) inviting the charity to show cause within a stated period, of at least 14 days, why it should not be removed from the register.
- (2) If, after considering all written representations made within the stated period, the Minister still considers a ground exists to remove the association from the register, the Minister may remove it from the register.

## **10 Chief executive must publish notice of removal from register**

- (1) This section applies if the Minister decides to remove a charity from the register of charities under section 22(1) of the Act.
- (2) The chief executive must publish a notice on the department's website stating—
  - (a) the charity's name; and
  - (b) that the charity has been removed from the register of charities and the day it was removed.

## **Division 3 Miscellaneous**

### **11 Certificate of registration to be returned**

- (1) Subsection (2) applies if a charity has stopped being involved, and has decided it will no longer be involved, in making appeals for support.
- (2) The person who was the secretary of the governing body of the charity on the day the decision was made must, within 1 month after that day, return the certificate of registration of the charity to the chief executive, unless the person has a reasonable excuse.

Maximum penalty—1 penalty unit.

- (3) If a charity has been removed from the register of charities, the secretary of the charity's governing body must, within 1 month after the date of the Minister's decision to remove the charity from the register, return to the chief executive the certificate of registration, unless the person has a reasonable excuse.

Maximum penalty—1 penalty unit.

- (4) It is a reasonable excuse for subsections (2) and (3) that the certificate of registration has been lost, destroyed or otherwise can not be located.

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## Part 3 Sanctions

### 12 Application for sanction

- (1) An application for a sanction under section 12 of the Act must be in the approved form and accompanied by—
  - (a) if the purpose to be sanctioned is an object of the association—
    - (i) a copy of the constitution of the association to which the application relates, as in force when the application is made and certified as an accurate copy by 2 members of the association’s governing body; and
    - (ii) a copy of the resolution or minute of the proceedings of the association or its governing body giving approval to the making of the application, and certified as an accurate copy by 2 members of the association’s governing body; and
    - (iii) if appropriate—a copy of the last balance sheet or statement of the association’s financial affairs; and
  - (b) if the application is made by a branch or section of an association whose objects are a community purpose—the written consent of the central body of the association to the making of the application.
- (2) The application must be made by the governing body of the association or a person authorised by the association to make the application.

### 13 Notice of decision

- (1) The chief executive must give each applicant written notice of the Minister’s decision—
  - (a) to sanction a purpose for which an appeal for support may be made, subject to the conditions, if any, stated in the sanction; or

- (b) to refuse to sanction the purpose.
- (2) If the Minister sanctions a purpose, the chief executive must, as soon as practicable, give the applicant a sanction in the approved form.

#### **14 Prescribed notice of revocation of sanction—Act, s 12**

A notice of the revocation of a sanction under section 12(9) of the Act must be written stating the grounds of the revocation and the day the revocation takes effect.

#### **15 Sanction to be returned**

- (1) This section applies if a sanction expires or is revoked.
- (2) The promoter of an appeal for support for the purpose to which the sanction relates must return the sanction to the chief executive within the following period, unless the promoter has a reasonable excuse for not returning it within the period—
  - (a) if the sanction expires—1 month after its expiry;
  - (b) if the sanction is revoked—1 month after the date of the Minister’s decision to revoke it.

Maximum penalty—1 penalty unit.

- (3) It is a reasonable excuse for subsection (2) that the sanction has been lost, destroyed or otherwise can not be located.

#### **16 Register of sanctions**

- (1) The chief executive must keep a register of sanctions.
- (2) The register must include the following particulars for each application for a sanction under the Act—
  - (a) the name of the applicant;
  - (b) if the sanction is given—
    - (i) the purpose for which it is given; and
    - (ii) the day it is given; and

- (iii) any conditions on which it is given;
- (c) if the sanction is revoked—the day the revocation takes effect;
- (d) whether the application is refused.

## Part 4 Door-to-door appeals and street collections

### 17 Prescribed cities and towns—Act, ss 15 and 16

Sections 15 and 16 of the Act apply to all cities and towns.

### 18 Appeals for support

- (1) The governing body of an association proposing to make a door-to-door appeal or street collection, or a person authorised by the governing body, must issue to each collector a distinctive armlet or badge (an *association armlet or badge*), and an authority in the approved form.

Maximum penalty—6 penalty units.

- (2) The governing body of the association must keep a record of each person to whom it issues an association armlet or badge.

Maximum penalty—6 penalty units.

- (3) A person other than the person to whom an association issues an association armlet or badge must not use an association armlet or badge.

Maximum penalty—6 penalty units.

- (4) A collector to whom an association armlet or badge, or authority is issued must—

- (a) sign the written authority and produce it if a police officer, inspector or other person asks to see it during the collection; and
- (b) if possible, sign the armlet or badge; and

- (c) wear the armlet or badge prominently when collecting; and
- (d) keep the authority and armlet or badge in his or her possession and return it to the promoter—
  - (i) if the authority or the armlet or badge is replaced; or
  - (ii) when the collector has finished collecting; or
  - (iii) if the promoter asks the collector to return it; and
- (e) return to the collection's promoter the collecting box (with the seal unbroken) or the receipt book issued to the collector (with an amount equalling the total of the contributions entered in the receipt book)—
  - (i) when the collecting box is full or all receipts in the receipt book are used; or
  - (ii) if the promoter asks for the collecting box or receipt book to be returned; or
  - (iii) if the collector does not want to act as a collector; or
  - (iv) when the collector has finished collecting.

Maximum penalty—3 penalty units.

- (5) A collection's promoter must take all reasonable steps to ensure that each written authority, armlet or badge obtained by the promoter for the collection is kept in safe custody when it is no longer required for the collection or a further collection the promoter has been authorised to promote for the same purpose.

Maximum penalty—6 penalty units.

## **19 Assigning days for collections**

- (1) An application to have a day assigned for a door-to-door appeal or a street collection must be in the approved form.
- (2) The application must be made—



- (a) for a street collection—at least 14 days before the collection day; or
  - (b) for a door-to-door appeal—within 1 year before the appeal day.
- (3) Failure to comply with subsection (2) does not prevent the Minister from assigning a day.
  - (4) The chief executive must give the applicant notice in the approved form of the Minister’s decision to assign a day or refuse to assign a day.
  - (5) If the assignment is given on conditions, the notice must state the conditions.

## **20 Notice of paid collector’s itinerary**

- (1) This section applies if an association or a collection’s promoter employs a paid collector.
- (2) The association or promoter must give the chief executive a written itinerary showing particulars of—
  - (a) the towns or suburbs proposed to be visited by the collector for the collection; and
  - (b) the proposed dates for the visits.
- (3) The association or promoter must give the itinerary under subsection (2) at least 14 days before the proposed start of the visits.

Maximum penalty for subsection (3)—1 penalty unit.

## **21 Prescribed additional conditions for collection—Act, s 17**

For section 17(2) of the Act, the additional conditions for a door-to-door appeal or a street collection are in schedule 1.

## **22 Envelope collection**

- (1) This section applies if an appeal for support is conducted by way of an envelope collection.

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- (2) An association conducting the appeal for support or the promoter of the appeal must ensure each envelope used for the collection has a gummed flap by which it can be securely closed.

Maximum penalty—4 penalty units.

- (3) A collector for the appeal for support must not receive a contribution other than in an envelope that has been closed.

Maximum penalty—4 penalty units.

- (4) In this section—

*envelope collection* means a collection made by a person calling from door-to-door, distributing envelopes in which an amount may be placed, and later collecting the envelopes.

## Part 5 Distribution of devices

### 23 Register of devices

- (1) This section applies if, under section 18 of the Act, the Minister—
- (a) assigns to a charity registered under the Act, or an association whose objects are a community purpose sanctioned under the Act, the exclusive right to distribute or dispose of a device when making an appeal for support; or
  - (b) grants an application for the alteration of a device assigned to a charity or association.
- (2) The chief executive must keep a register of devices assigned or altered under the Act.
- (3) The register must include the following particulars—
- (a) a description of the device and any alteration to it;
  - (b) the date of the assignment;
  - (c) the period for which the assignment is made;

- (d) any conditions imposed by the Minister.

## **24 Duties of governing body**

- (1) The governing body of a charity or association to which an exclusive right to distribute or dispose of a device has been assigned is responsible for the proper control of the distribution and disposal of the device when conducting an appeal.
- (2) The governing body must—
  - (a) keep a record of all devices acquired, distributed, sold or unsold; and
  - (b) give the Minister, within 1 month after the end of the appeal, a certified copy of the record mentioned in paragraph (a).

Maximum penalty—6 penalty units.

## **25 Unauthorised distribution of devices**

A person must not distribute or dispose of a device that is intended to be offered for sale, other than—

- (a) to the governing body of the charity or association that has been granted the exclusive right to distribute or dispose of the device; or
- (b) in accordance with this regulation.

Maximum penalty—2 penalty units.

# **Part 6 Investigations and records**

## **26 Attendance before inspector**

- (1) This section applies if an inspector requires a person to attend before the inspector to be examined about an appeal for support.

*Note—*

For the power to require the person's attendance, see section 26 of the Act.

- (2) The inspector must give the person a written notice stating—
  - (a) when and where the examination is to take place; and
  - (b) the matters relating to the appeal about which the person is to be examined; and
  - (c) the records the person must produce.

## **27 Seizure of records**

If a person who has the custody or control of a record relating to an appeal for support fails to do either of the following, the inspector may seize the record for inspection, examination and audit—

- (a) produce the record to an inspector for inspection, examination or audit;
- (b) produce the record under a notice under section 26.

## **28 Prescribed travelling expenses and attendance allowance—Act, s 26**

- (1) The amount of the travelling expenses payable to a person under section 26(2) of the Act is—
  - (a) the amount actually and properly paid as fares; or
  - (b) if there is no public transport available—an amount worked out at the rate of 10c for every kilometre actually travelled.
- (2) However, if more than 1 person travels in a private vehicle, only 1 payment is payable for travelling in the vehicle.
- (3) Travelling expenses are not payable if no expense is incurred in travelling to attend before an inspector.
- (4) The amount payable as an allowance for any loss of earnings or other expenses incurred by the person while the person is

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necessarily absent from his or her place of employment or residence for attending before an inspector is \$10.50 for each day or part of a day.

**29 Prescribed period for retention of record of appeal—Act, s 30**

For section 30(1)(e) of the Act, a promoter of an appeal for support must keep in his or her custody the following records for the period stated for the records—

- (a) receipt books, receipts, cancelled cheques and correspondence about accounts—6 years;
- (b) correspondence other than about accounts—1 year.

Maximum penalty—6 penalty units.

## **Part 7 Financial matters**

**30 Exempt class of association or charity—Act, s 5**

- (1) This section prescribes—
  - (a) a class of association, whose objects are a community purpose sanctioned under the Act, as an exempt class for section 5 of the Act, definition *exempt class*, paragraph (a); and
  - (b) a class of charity registered under the Act as an exempt class for section 5 of the Act, definition *exempt class*, paragraph (b).
- (2) The prescribed class of an entity mentioned in subsection (1) is the class made up of each of the entities that satisfies the criteria mentioned in subsections (3) to (5).
- (3) The entity must be a charity registered under the *Australian Charities and Not-for-profits Commission Act 2012* (Cwlth).
- (4) The entity must be in compliance with each of the following requirements under the *Australian Charities and*

*Not-for-profits Commission Act 2012* (Cwlth), chapter 3, part 3-2, division 60—

- (a) the requirement to give the ACNC commissioner an information statement for a relevant reporting period;
  - (b) if relevant—the requirement to give the ACNC commissioner—
    - (i) a financial report for a relevant reporting period; and
    - (ii) an auditor’s report or reviewer’s report for the relevant reporting period;
  - (c) another requirement relevant to a matter mentioned in paragraph (a) or (b), including any requirement made of the entity by the ACNC commissioner.
- (5) The entity must ensure the entity’s state registration number is stated on an information statement mentioned in subsection (4)(a).
- (6) Despite subsection (2), the prescribed class does not include an entity if—
- (a) under the *Australian Charities and Not-for-profits Commission Act 2012* (Cwlth), section 40-10, the ACNC commissioner has excluded or removed relevant financial information about the entity from the ACNC register; or
  - (b) the entity is a member of a reporting group under the *Australian Charities and Not-for-profits Commission Act 2012* (Cwlth), section 60-95.
- (7) In this section—

**ACNC 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).

**ACNC register** means the Australian Charities and Not-for-profits Register under the *Australian Charities and Not-for-profits Commission Act 2012* (Cwlth).

***relevant financial information***, about an entity, means information relating to a financial matter in an information statement, financial report, auditor's report or reviewer's report the entity has given the ACNC commissioner under the *Australian Charities and Not-for-profits Commission Act 2012* (Cwlth), chapter 3, part 3-2, division 60.

***relevant reporting period*** means a period equivalent to the reportable financial period of the entity.

***state registration number***—

- (a) of an entity that is an association mentioned in subsection (1)(a)—means the unique identifying number, however described, given to the association by the chief executive; or

*Note—*

The number is commonly designated by the letters 'CP' and known as the 'CP number'.

- (b) of an entity that is a charity mentioned in subsection (1)(b)—means the unique identifying number, however described, for the charity stated in the register of charities under the Act.

*Note—*

The number is commonly designated by the letters 'CH' and known as the 'CH number'.

### **30A Reportable financial period—Act, s 5**

For section 5 of the Act, definition *reportable financial period*, the period prescribed for an entity is—

- (a) for an entity that is an association whose objects are a community purpose sanctioned under the Act or a promoter of an appeal for support for a purpose sanctioned under the Act—the last financial year or the part of that year during which the sanction was in force; or

- (b) for an entity that is a charity registered under the Act—the last financial year or the part of that year during which the registration was in effect.

### **30B Financial records—Act, ss 31 and 47**

- (1) For section 31(3) of the Act, an entity mentioned in section 31(1) of the Act or, for section 47 of the Act, a promoter of an appeal for support, must keep the following financial records—
  - (a) a cash book or statement of amounts received and paid;
  - (b) a petty cash book;
  - (c) any other records required to be kept under subsection (2).

Maximum penalty—6 penalty units.

- (2) If the chief executive considers it appropriate because of the nature or size of the operations of a person conducting an appeal for support, the chief executive may also require the person to keep all or any of the following records—
  - (a) a ledger;
  - (b) a receipt book of receipt forms;
  - (c) if tickets are sold—a register of bulk tickets;
  - (d) if collecting boxes are used—a register of collecting boxes;
  - (e) if devices are sold—a record of devices;
  - (f) a register of assets.
- (3) Unless a receipt book mentioned in subsection (2)(b) is kept by way of a computer system record, it must—
  - (a) contain receipt forms printed in duplicate and consecutively numbered; or
  - (b) be kept on the numbered butt principle.



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**30C Way for auditing financial statement—Act, s 32**

For section 32(3)(c) of the Act, the way prescribed for auditing a financial statement is auditing by an independent entity holding any of the following qualifications—

- (a) registration as an auditor under the Corporations Act;
- (b) membership of Chartered Accountants Australia and New Zealand and an entitlement to use the letters ‘CA’ or ‘FCA’;
- (c) membership of CPA Australia and an entitlement to use the letters ‘CPA’ or ‘FCPA’;
- (d) membership of the Institute of Public Accountants and an entitlement to use the letters ‘MIPA’ or ‘FIPA’;
- (e) another qualification the chief executive considers appropriate.

**30D Period for lodging particular documents—Act, s 32**

- (1) For section 32(6)(a) of the Act, this section prescribes the period within which an entity to which section 32 of the Act applies is required to lodge the documents mentioned in section 32(5) of the Act.
- (2) The period prescribed is the first of the following periods to end—
  - (a) 7 months after the end of the last financial year;
  - (b) if the entity is an association whose objects are a community purpose that is sanctioned under the Act for a specified period—1 month after the end of the specified period;
  - (c) if the entity is a promoter of an appeal for support for a purpose that is sanctioned under the Act for a specified period—1 month after the end of the specified period;
  - (d) if the entity has stopped being involved, and has decided it will no longer be involved, in making appeals for support—1 month after the day the decision was made.

**30E Information to be contained in return—Act, s 33**

For section 33(3) of the Act, the information prescribed is a return of office bearers in the approved form.

**30F Period for lodging return—Act, s 33**

- (1) For section 33(4) of the Act, this section prescribes the period within which an entity to which section 33 of the Act applies is required to lodge a return.
- (2) The period prescribed is the first of the following periods to end—
  - (a) 7 months after the end of the last financial year;
  - (b) if the entity is an association whose objects are a community purpose that is sanctioned under the Act for a specified period—1 month after the end of the specified period;
  - (c) if the entity is a promoter of an appeal for support for a purpose that is sanctioned under the Act for a specified period—1 month after the end of the specified period;
  - (d) if the entity has stopped being involved, and has decided it will no longer be involved, in making appeals for support—1 month after the day the decision was made.

**30G Appropriately qualified person—Act, s 33A**

For section 33A(2)(d) of the Act, a person is prescribed as an appropriately qualified person if the person—

- (a) is registered as an auditor under the Corporations Act; or
- (b) is a member of Chartered Accountants Australia and New Zealand and is entitled to use the letters 'CA' or 'FCA'; or
- (c) is a member of CPA Australia and is entitled to use the letters 'CPA' or 'FCPA'; or
- (d) is a member of the Institute of Public Accountants and is entitled to use the letters 'MIPA' or 'FIPA'; or

- (e) has another qualification the chief executive considers appropriate.

### **31 Investing assets**

- (1) The *Trusts Act 1973*, part 3, other than section 22(1), applies in relation to a charity or association as if—
  - (a) the charity or association were a trustee; and
  - (b) the assets of the charity or association were trust funds.
- (2) A charity or association must, in exercising a power of investment—
  - (a) if the profession, business or employment of a member of the governing body of the charity or association is, or includes, acting as a trustee or investing money for other persons—exercise the care, diligence and skill a prudent person engaged in that profession, business or employment would exercise in managing the affairs of other persons; or
  - (b) if the profession, business or employment of a member of the governing body of the charity or association is not, or does not include, acting as a trustee or investing money for other persons—exercise the care, diligence and skill a prudent person of business would exercise in managing the affairs of other persons.
- (3) However, a charity or association may—
  - (a) continue to hold an investment held before 1 March 1975; and
  - (b) accept any investment as a gift; and
  - (c) in relation to any investment accepted as a gift, exercise any option or right in relation to the investment and deal with the investment in the way required by the exercise of the option or right.

## **32 Accounting requirements**

For section 47(3)(o) of the Act, the accounting requirements for a charity or association are in schedule 2.

# **Part 8 General provisions about appeals for support**

## **33 Agreements to be approved**

- (1) A charity or association must not allow a person to make, allow to be made or assist in making, an appeal for support for the charity or association for commission or in expectation of reward unless—
- (a) the charity or association and the person enter into a written agreement to do so; and
  - (b) the agreement has been approved by the Minister.

Maximum penalty—6 penalty units.

*Note—*

Under schedule 1 of the *Acts Interpretation Act 1954*, *person* includes an individual and a corporation.

- (2) Subsection (1) does not apply—
- (a) if the person is an employee who participates in the appeal in the course of his or her employment, unless the employee's principal duties are fundraising; or
  - (b) to an appeal for support under which a benefit is offered to a contributor of an amount to the appeal for support if the person making the appeal—
    - (i) provides the benefit as an undertaking in the ordinary course of the person's business; and
    - (ii) demonstrates that making or assisting in making the appeal for support is an undertaking that is ancillary to providing the benefit and is outside the ordinary course of the person's business.

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## 34 Dealing with amounts collected

- (1) A charity or association must ensure that—
- (a) amounts collected from an appeal for support are, as soon as practicable, paid to the credit of a separate account at a financial institution in the name of the charity or association; and
  - (b) amounts payable to any person for commission, expenses or otherwise relating to the appeal for support are paid from the amounts collected by cheque drawn on, or electronic funds transfer from, the separate account; and
  - (c) a cheque mentioned in paragraph (b) is signed by at least 2 persons who are authorised in writing by the governing body of the charity or association for which the appeal for support is made to sign cheques from the separate account.

Maximum penalty—6 penalty units.

- (2) Subsection (1) does not apply to an appeal for support if—
- (a) the charity or association has, under section 33, entered into a written agreement in relation to the appeal with a person; and
  - (b) the person undertakes responsibility for providing any benefit, including the payment of expenses, offered to a contributor of an amount to the appeal; and
  - (c) the agreement does not state that the amounts collected because of the appeal are to be paid to the charity's or association's separate account.

## 35 Advertising

A person must not distribute a leaflet or publish an advertisement about an appeal for support the subject of an agreement under section 33 unless—

- (a) the leaflet or advertisement contains the following—

[s 36]

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- (i) the name and address of the promoter of the appeal and the charity or association;
  - (ii) a statement showing particulars of the arrangements made under the agreement about the beneficial entitlements of the promoter and the charity or association; and
- (b) before the leaflet or advertisement is distributed or published—a copy of the leaflet or advertisement is given to and approved by the chief executive.

Maximum penalty—6 penalty units.

### **36 Other offences for pt 8**

- (1) A person making an appeal for support under an agreement that is approved by the Minister under section 33 must comply with the agreement, unless the person has a reasonable excuse for not complying with it.

Maximum penalty—6 penalty units.

- (2) If a person makes an appeal for support for a charity or association on the understanding that the person is not entitled to commission or reward, the charity or association may only pay the person for expenses actually incurred by the person in making the appeal.

Maximum penalty—6 penalty units.

## **Part 9 Miscellaneous**

### **37 Inspections and copies**

- (1) A person may, on payment of the relevant fee under schedule 3, do any of the following—
- (a) inspect a register or list kept under the Act;
  - (b) inspect an audited financial statement filed with the chief executive;

- (c) obtain a list of registered charities or of associations refused registration;
- (d) obtain an extract, copy or certified copy of any of the following—
  - (i) a register, part of a register or list kept under the Act;
  - (ii) a certificate of registration or sanction;
  - (iii) the name of a member of the governing body;
  - (iv) the constitution and objects of a charity or association;
  - (v) the name and address of the financial institution handling the business of a charity or association and the designation of the financial institution account;
  - (vi) an audited financial statement filed by a charity or association.
- (2) A charity, association or promoter of an appeal for support must make the charity's, association's or promoter's financial statements available for inspection by the public or members of the charity or association at all reasonable times on payment to the charity, association or promoter of the prescribed inspection fee.

### **38 Giving notice of changes in register particulars**

Within 1 month after a change happens in a particular entered in a register kept under the Act, the secretary, treasurer, president, trustee, or other responsible officer of the charity or association to which the particular relates must give the chief executive written notice of the change.

Maximum penalty—2 penalty units.

### **39 Establishing a new branch or section**

Within 1 month after a registered charity or an association whose objects are a community purpose sanctioned under the Act establishes a new branch or section, the governing body of the charity or association must give the chief executive written notice of the establishment of the branch or section.

### **40 Responsibilities of promoter, charity or association in relation to a quest**

- (1) This section applies if an appeal for support is made by conducting a competition called a quest.
- (2) The promoter must ensure each competitor is made fully aware of the conditions under which the competition is conducted and the prizes awarded.

Maximum penalty—6 penalty units.

- (3) The charity or association must ensure the prizes are awarded in accordance with the conditions of the competition.

Maximum penalty—6 penalty units.

### **41 False advertising**

- (1) A person must not falsely represent in an advertisement that the person is conducting an appeal for support on behalf of a charity or association, unless the person is authorised in writing by the governing body of the charity or association to conduct the appeal.

Maximum penalty—6 penalty units.

- (2) A person must not, in an advertisement relating to an appeal for support on behalf of a charity or association, make a statement or representation that is false in a material particular.

Maximum penalty—6 penalty units.



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## **42 Fees**

The fees payable under the Act are in schedule 3.

### **42A Property vested in the public trustee—Act, s 35**

- (1) The property held by the unincorporated association called the ‘Foundation of Public Safety Professionals’ is vested in the public trustee under section 35(1)(d) of the Act.

*Note—*

The Minister gave a direction under the Act, section 34(1) about the property held by the Foundation of Public Safety Professionals on 18 August 2009.

- (2) Immediately after the property has vested in the public trustee under subsection (1), the property is vested in the Australian Red Cross Society for the charitable purposes of that society.

### **42AA Rounding of amounts expressed as numbers of fee units**

- (1) This section applies for working out the amount of a fee expressed in this regulation as a number of fee units.
- (2) For the purpose of the *Acts Interpretation Act 1954*, section 48C(3), the amount is to be rounded to the nearest multiple of 5 cents (rounding one-half upwards).

*Example—*

If a fee were 35 fee units and the value of a fee unit were \$1.015, the number of dollars obtained by multiplying 35 by \$1.015 would be \$35.525. Because \$35.525 is halfway between \$35.50 and \$35.55, it is rounded upwards, so the amount of the fee would be \$35.55.

## **Part 10 Repeal**

### **43 Repeal of Collections Regulation 1998**

The Collections Regulation 1998, SL No. 152 is repealed.

## **Part 11**                      **Transitional provisions**

### **Division 1**                      **Transitional provision for SL No. 287 of 2008**

#### **44**                      **References to Collections Regulation 1998**

A reference in any document to the repealed *Collections Regulation 1998* is, if the context permits, taken to be a reference to this regulation.

### **Division 2**                      **Transitional provision for Collections (Notifications) Amendment Regulation 2019**

#### **45**                      **Particular applications for registration made before the commencement**

- (1) This section applies if, before the commencement—
  - (a) an application for registration as a charity was made; and
  - (b) notice of the application was given under former section 4(3); and
  - (c) the chief executive had not given the applicant a written notice under former section 4(7).
- (2) Former part 2, division 1 continues to apply in relation to the application as if the *Collections (Notifications) Amendment Regulation 2019* had not commenced.
- (3) In this section—

*former*, in relation to a provision of this regulation, means the provision as in force from time to time before the commencement.

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## **Schedule 1      Additional conditions for door-to-door and street collections**

### section 21

- 1 An authority must clearly state the period, of not more than 2 months, for which it is in force and indicate that—
  - (a) the association is a charity registered under the Act; or
  - (b) the objects of the association are a community purpose sanctioned under the Act.
- 2 The collector must give each person giving an amount to the association, whether in exchange for articles or otherwise, a ticket or receipt issued to the collector by the governing body of the association, unless the amount is given in exchange for a device, or a collecting box is used.
- 3 Receipts for all donations must be issued on the carbon copy or numbered butt principle.
- 4 The governing body of the association must take reasonable steps to ensure all amounts collected are properly and promptly accounted for by the collector.
- 5 A child under 15 must not act as a collector without the previous written consent of 1 of the child's parents or guardians and, if the consent is given, the child must be accompanied by an adult.
- 6 A collector must not, for an appeal, visit any house before 9.00a.m. or after 5.00p.m. on any day.
- 7 A collector must not—
  - (a) by words or conduct, unreasonably annoy any person approached during a collection; or
  - (b) stay in, or at the door of, any place of residence or place of employment if asked to leave by any occupant of the place.

Schedule 1

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- 8 A collector must not intimidate any person so as to cause the person to make a donation or buy anything the person otherwise may not have made or bought.
- 9 Each collecting box issued to a collector by the governing body of an association must be—
  - (a) securely constructed to avoid tampering; and
  - (b) sealed before its issue to a collector; and
  - (c) clearly numbered for identification; and
  - (d) clearly labelled with the association's name.
- 10 A seal on a collecting box may only be broken by a person authorised by the governing body of the association to break the seal.
- 11 The governing body must supervise properly the issue and opening of collecting boxes and accounting for the contents of collecting boxes.
- 12 A collecting box left at a place of residence or employment must be collected or emptied at least once a month and the amount removed from the collecting box must be accounted for.
- 13 Each device offered for sale must—
  - (a) have the price clearly marked on it or on a distinctive tab firmly attached to it; or
  - (b) if the Minister considers it is impracticable to have the price marked in accordance with paragraph (a)—be offered for sale in a way that the Minister considers clearly indicates the price to a potential buyer.
- 14 The governing body of the association must keep a record of all devices acquired, distributed, sold or unsold.
- 15 The governing body of an association must give the chief executive, within 1 month after the day of the appeal, a statement of receipts and expenditure of the appeal.
- 16 A collector must not take part in a collection commonly known as a 'hijack' collection, or wear a mask or use a toy firearm while collecting.

- 17 The governing body of an association must, at least once a month, collect and account for donations invited by association signs at a wishing well or other similar thing.

## **Schedule 2      Accounting requirements**

### section 32

- 1 Orders for goods must be on the charity's or association's usual order form, and must be signed by an official appointed by the governing body of the charity or association.
- 2 Expenditure over \$100 must be approved or ratified by the governing body of the charity or association, and the approval or ratification must be recorded in the minute book.
- 3 Payments of more than \$100 must be made by cheque or electronic funds transfer.
- 4 Cheques, other than cheques for wages, allowances and petty cash recoupment, must be crossed 'not negotiable'.
- 5 Payments made by the association must be supported by documentary evidence and, if a receipt is received, the receipt must be kept.
- 6 Amounts received must as soon as practicable be—
  - (a) deposited into the charity's or association's account with a financial institution; and
  - (b) entered into the charity's or association's cash book.
- 7 The cash book must be balanced and a reconciliation made between the cash book and account balances regularly, and the reconciliation must be shown in the cash book.
- 8 Payments of less than \$100 may be made from a petty cash account that must be kept on the imprest system, and full details of the payments must be recorded in a petty cash book.
- 9 A register of assets must be kept if a charity, an association or promoter has assets, other than cash in hand or in a financial institution, which are not recorded in the books of accounts.
- 10 An income and expenditure account must be prepared from the books of the charity, association or promoter.

- 11 The accounts of a continuing charity, association or promoter must be audited at least once a year.
- 12 Tickets and receipts used by a charity, an association or promoter, or for an appeal for support by a charity or association must be—
- (a) authorised by the governing body of the charity or association; and
  - (b) consecutively numbered; and
  - (c) recorded in—
    - (i) for tickets—if a register of bulk tickets is kept by the charity, association or promoter—the register; or
    - (ii) for receipts—the register of receipt books.

*Note—*

For the requirement to keep a register of receipt books, see section 30B.

- 13 Receipts issued to a collector must—
- (a) be in bound book form; and
  - (b) state the full name of the charity, association or promoter issuing the receipts; and
  - (c) be kept on the carbon copy or numbered butt principle.

## Schedule 3 Fees

sections 37 and 42

	<b>Fee units</b>
1 Inspecting a register or a document under section 37	7.95
2 Obtaining a list of registered charities under section 37(1)(c)	13.70
3 Obtaining a list of associations refused registration under section 37(1)(c)	3.70
4 Obtaining an extract, copy or certified copy under section 37(1)(d)—	
(a) from the register; or	
(b) of a document, for each page	3.70