

ACT 59

PUBLIC COLLECTIONS ACT, 1961

ARRANGEMENT OF SECTIONS

SECTION

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ACT 59

PUBLIC COLLECTIONS ACT, 1961¹

AN ACT to consolidate the law relating to public collections of money or in kind, and to provide for related matters.

1. Public appeals for donations in money or in kind restricted

(1) Subject to this Act it is unlawful to make an appeal to the public or a part or class of it for donations in money or in kind for an object, except where registration of the public collection has been effected in accordance with this Act.

(2) A payment of money in exchange for a token or an article of token value only, or for an article or benefit the value of which is substantially less than the value of the payment shall be deemed to be a donation for the purposes of this section.

(3) Where an appeal for donations to be applied to a particular object is made to five or more members of the public, the burden of proving, in any criminal or civil proceedings taken in relation to the appeal, that it was not an appeal to the public within the meaning of this section shall be on the defendant in the proceedings.

1. The Act was assented to on 29th May, 1961 and came into force on 1st July, 1961.

2. Application to collections begun before the commencement of this Act

An appeal for donations made before the commencement of this Act which would, if made after the commencement of this Act, be subject to this Act shall, if donations continue to be solicited or made after the commencement of this Act, be considered as a public collection to which of this Act applies.

3. Exemptions

This Act does not apply to

- (a) a collection made at divine service in a place of public worship for charitable, benevolent or philanthropic purposes;
- (b) requests made by or on behalf of the committee of any club, association or trade union to members of a sub-club, association or union for subscriptions;
- (c) collections of a purely parochial character made in good faith for the benefit of a local church, school, sports club or charity, or a project in the interests of local public welfare;
- (d) collections made in good faith among a limited class of persons for the purpose of making a presentation to a person on a special occasion;
- (e) collections in respect of customary ceremonial rites; or
- (f) a person or class of person exempted by order of the Minister in relation to a collection for an object specified in the order.

4. Registration of public collections

(1) A person who desires to promote a public collection shall make an application for registration in the prescribed form to the registration authority for the area within which the collection is to be made.

(2) The application shall, in addition to any other particulars that may be prescribed, contain a full and accurate statement of the objects to which the proceeds of the collection are to be applied.

(3) The registration authorities for each Region shall be the persons that the Minister may appoint.

(4) The registration authority shall not refuse registration, or, where registration has been effected, shall not revoke it, unless it appears that

- (a) any of the stated objects is or are illegal;
- (b) the applicant or the promoter is not a qualified person to be registered by reason of the fact that the applicant or promoter has been convicted of an offence, the conviction for which necessarily involved a finding that the applicant or promoter acted fraudulently or dishonestly;
- (c) the applicant or the promoter, in promoting a public collection, has failed to exercise due diligence to secure that collectors who authorised the applicant or promoter to assist in making the collection, are the applicant or promoter persons, to secure compliance on the part of collectors with the provisions of this Act or to prevent certificates of authority being obtained by persons other than duly authorised collectors;
- (d) the applicant or the promoter has been convicted of an offence against a provision of this Act; or

- (e) remuneration which is excessive in proportion to the total amount likely to be collected is to be or has been retained or received out of the proceeds of the collection by a person.

(4) Where the registration authority refuses registration, or if the registration authority revokes registration, the registration authority shall immediately give written notice to the applicant or promoter, stating the grounds on which registration has been refused or revoked, and informing the applicant or promoter of the right of appeal given by this section, and the applicant or promoter may appeal by petition to the Minister against the refusal or revocation of registration.²

(5) The appeal shall be brought within twenty-one days from the date on which notice is given under subsection (4).

(6) Where the Minister decides that the appeal should be allowed, the registration authority shall immediately with effect, allow the registration or cancel the revocation, in accordance with the decision of the Minister.

5. Method, effect and duration of registration

(1) Except where registration is refused under section 4, the registration authority shall cause the prescribed particulars, which shall include the stated objects, to be entered in the register, and the promoter may then make a public collection for the stated objects within the area in which registration has been effected.

(2) A registration effected under this section, shall, unless revoked, remain in force until the 31st day of December in the year in which it is effected.

6. Power of the registration authority to call for books of account

The registration authority may, by notice in writing, call on the promoter of a public collection to produce, to the person named and at the time and place specified in the notice, the books of account and any other documents relating to the collection for examination or audit.

7. Collectors

(1) A promoter may authorise a number of qualified persons to assist the promoter in making a public collection for the stated objects.

(2) Each collector shall be supplied by the promoter with a certificate of authority which shall specify fully and accurately the stated objects of the collection, and a collector shall produce the certificate of authority on demand to a police officer in uniform or to a person to whom the promoter has made an appeal for a donation.

8. Proceeds of collection considered to be received for stated objects

(1) The proceeds of a public collection shall, for the purposes of civil or criminal proceedings, be considered to be received by the promoter and collectors for the purpose of applying them to the stated objects.

(2) Where a reasonable proportion of the proceeds of a public collection is applied to the expenses of administration of the public collection, it shall be considered to have been applied to the stated objects.

2. The words "and the decision of the Minister shall be final" have been omitted as being unconstitutional in view of article 125 of the Constitution.

(3) For the purposes of subsection (2), the determination of what is a reasonable proportion is a question of fact in each case.

9. Offences and penalties

A person who contravenes a provision of section 1 (1), or any of the terms of a notice given under section 6, or who makes an application for registration under section 4 knowing it to be false in a material particular, commits an offence, and is liable on summary conviction to a fine not exceeding two hundred penalty units or to a term of imprisonment not exceeding six months, or to both, and, for a second or subsequent offence, to a fine not exceeding two hundred and fifty penalty units or to a term of imprisonment not exceeding twelve months, or to both the fine and the imprisonment.

10. Legal proceedings

A prosecution for an offence against this Act shall not be instituted except by, or with the written consent of the Attorney-General.

11. Regulations

The Minister may by legislative instrument, make Regulations for carrying into effect the provisions of this Act.

12. Interpretation

(1) In this Act, except where the context otherwise requires,

“**collector**” means a person duly authorised under section 7 to assist in making a public collection;

“**Minister**” means the Minister responsible for the Interior;

“**promoter**” means a person duly registered under section 5 as the promoter of a public collection;

“**stated objects**” means the full and accurate statement of the objects referred to in subsection (1) of section 4.

(2) For the purposes of sections 1, 2 and 7,

“**appeal**” means a request or invitation however conveyed, whether by actions, in words, pictorially or in writing, and whether made in public, through the press, or electronic media, in conversation, by house to house visiting or through the post.

13. Repeal

*Spent.*³

14. Commencement

*Spent.*⁴

3. The section provided that

(1) The Public Collections Ordinance (Cap. 45) is repealed.

(2) Every statutory instrument made under the repealed Ordinance and in force immediately before the commencement of this Act shall continue in force as if made under the corresponding provision of this Act.

4. The section provides that the Act shall come into force are provided for by the Minister by legislative instrument. The Public Collections Act, 1961 (Commencement) Instrument, 1961 (L.I. 124) appointed the 1st day of July, 1961 as the date on which the Act shall come into force.