

Charitable Collections Information for applicants

Note: The purpose of this form is to provide information about the *Charitable Collections Act 2003* (the Act) and accompanying regulations. The information summarises a number of key provisions of the Act. However, it is not an exhaustive explanation of the provisions of the Act and does not constitute legal advice. The report form provided is a consultation draft and comments on it are welcome. If you have comments send them to Charitable Collections Report Form Comments, Canberra Urban Parks and Places, PO Box 352, Civic Square Act 2608.

Further information about the Act and Best Practice Guidelines are available at:

<http://www.urbanservices.act.gov.au/charitable>

(A) Collections must be authorised under the Act

- (1) The Act makes it an offence for a person to conduct or take part in a collection unless the person is authorised to do so in accordance with the Act (see sections 14-15 of the Act).
- (2) For a person to be authorised to conduct a collection he or she must be licensed under the Act.

Note: For the definition of a collection and activities which are not “a collection”, under the Act refer to sections 7-8.

(B) Licence for Collections

(1) Application for licence

To apply for licence to undertake a charitable collection, an entity (i.e. an individual, corporation or unincorporated body) must complete in full the relevant Application for Licence form.

A single application for a licence may be made by two or more entities authorising each of them to conduct a collection. If two or more licences are required, applicants must complete one application form in full and Sections 1, 2, 6 and 7 of the relevant forms for additional licensees, which should then be attached to the fully completed form. (See sections 21 – 22 of the Act.)

(2) Amendment to licence

An entity can also apply to amend an existing licence by completing the relevant *Application for Licence* form. (See section 34 of the Act.) An amendment to the licence will take effect 14 days after the day notice of the amendment is given to the licensee, unless the notice states a later date.

(3) Conditions imposed under licence

The authorisation of a licence will be subject to the requirements of the Act and accompanying Regulations, including any condition, which may be imposed under them. (See section 24 of the Act.)

- (4) Contravention can lead to amendment, suspension or cancellation
A licence can be amended, suspended or cancelled if the licensee contravenes a condition of the licence. A licence can also be amended, suspended or cancelled if the circumstances mentioned in sections 23 (2), (3) or (4) of the Act (Decision on application for a Licence), apply in relation to the licence. (See section 35 of the Act.)

(C) Obligations of collectors in the course of collecting

- (1) ID tag
Section 16 of the Act requires a person taking part in a collection and personally soliciting or receiving money or a benefit from someone else for the purpose of a collection must display a “complying” identification tag. (NB. this does not include persons taking part in a collection by post, telephone, email, fax, internet or other electronic means.)

Note: For the definition of a complying identifying tag refer to regulation 7 of the regulations.

- (2) Making information available to those from whom money is solicited
Before receiving or soliciting the money or benefit from someone for the purpose of the benefit, the collector is required to make available or offer to make available, the required information in an approved way to the person from whom the money or benefit is solicited. (See section 17 of the Act.)

Note: *Approved way* for a collection means any way required by the conditions of the licence authorising the conduct of the collection. *Required information* for a collection is any information about the licence that are required by the conditions of the licence and any information prescribed under the regulations (refer to regulation 9).

- (3) Providing receipts
For donations of more than \$2, the collector is required to provide a receipt if asked by the donor.
- (4) Children taking part in collections
Statutory conditions apply for children taking part in a collection. Refer to schedule 1 of the regulations.

(D) Records of a collection and reporting obligations

- (1) Records to be kept
The licensee must keep records for a collection, which
- i. allow a true and fair view of income and expenditure for the collection to be worked out at any given time and are kept in a way that allows them to be properly audited; are
 - ii. are kept for 7 years after the receipt of the income or the incurring expenditure to which they relate. (See section 50 of the Act.)
- (2) Accounting information
The licensee must keep the following accounting information for each collection:
- i. the proceeds for a collection (including the amounts realised from benefits received for the purposes of the collection)

- ii. the amount of lawful and proper expenses under the Act (refer to regulation 12 of the regulations)
- iii. the net proceeds of the collection
- iv. the amount applied for the purposes of the collection. (See section 47 of the Act.)

(Note. *Net proceeds* of a collection means the amount obtained by subtracting the amount of lawful/proper expenses from the proceeds for the collection, including the amounts realised from benefits received for the purposes of the collection.

(3) Payment into an account

All proceeds received for a collection (without any deductions for expenses) must be paid into a bank account used exclusively for money received for the purposes of the collection, within 5 banking days after the licensee receives it. (See section 45 of the Act.)

(4) Report by licensee

In respect of licences issued for a period of one year or less, a report must be provided to the Chief Executive of the Department of Urban Services within 120 days after the day the licence ends.

In respect of a licence issued for a period of longer than one year, a report must be provided within 120 days after the end of each 12 month period for which the licence is in force and within 120 days after the day the licence ends.

The report must include the required information (i.e. any information about the collection required by the conditions of the licence authorising the conduct of the collection for each collection to which the licence relates), including the accounting details for each collection. (See section 48 of the Act and refer to *Licensee Report Form*)

(E) Offences

Under the Act it is an offence to:

- Provide false or misleading information about a collection (refer to section 18)
- Produce false or misleading information about a collection (refer to section 19)
- Make false or misleading statements in an application or a licensee report (refer to section 60)

(F) Review rights

Review rights apply in respect of certain decisions under the Act: These are:

- Refusing to issue a licence
- Issuing a licence subject to conditions
- Issuing a licence for less than the period applied for
- Issuing a licence for collections other than the collections applied for
- Refusing to amend a licence in the way applied for
- Amending, suspending or cancelling a licence
- Giving a direction
- Refusing to approve an auditor