



2003

THE LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY

*Charitable Collections
Regulations 2003*

EXPLANATORY STATEMENT

**Circulated by the authority of
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Minister for Urban Services**

AUSTRALIAN CAPITAL TERRITORY

CHARITABLE COLLECTIONS ACT 2003

CHARITABLE COLLECTIONS REGULATIONS 2003

SUBORDINATE LAW SL2003-33

EXPLANATORY STATEMENT

Outline

The objective of the Regulations is to establish a consistent and contemporary framework for collections conducted for charitable purposes in the ACT, under the *Charitable Collections Act 2003* (the Act).

Formal Clauses

Part 1 – Preliminary

Regulations 1 and 2 are formal requirements. They deal with the short title of the regulations and the commencement provisions.

Regulation 3 explains that the Dictionary at the end of the Regulations is part of the Regulations.

Regulation 4 states that notes included in the Regulations are only explanatory.

Regulation 5 clarifies that other legislation applies to offences in the Regulation, including the *Criminal Code 2003* and the *Legislation Act 2001*.

Part 2 – Exempt collections

Regulation 6 outlines what are not collections under section 7 (3) (g) of the Act. Exempt collections includes:

- (1) money received by a school for education purposes (eg. genuine school fee),
- (2) a voluntary contribution to a school for educational purposes,
- (3) money collected by an affiliated body (eg. P&C association or association of former students) for educational purposes,
- (4) money collected by an individual or group amounts to less than \$15 000 in a financial year,
- (5) if the individual or group receiving the money did not actively solicit the collection,
- (6) money received by a non-government organisation accredited with the Australian Agency for International Development (AusAID), and
- (7) money received as sponsorship from a corporation.

In this regulation school is used to mean a place that provides education such as a pre-school, primary school, high school or secondary college.

Part 3 – Conduct of collections

Regulation 7 explains that in Part 3 of the Act, a licensee for a collection is (1) the holder of the licence that has been issued to an individual or a corporation, or (2) the holder of the licence that has been issued to an unincorporated body.

Regulation 8 defines the information that must be displayed on identification tags worn by an individual taking part in a collection. The information that must be displayed on the tag is:

- (1) a person's surname or unique number assigned to the individual by the person or organisation conducting the collection;
- (2) the licensee's name or a logo that is recognised by the public;
- (3) the purpose of the collection, and
- (4) if the collector is a 'paid collector'. A 'paid collector' is someone who is receiving money or another benefit for taking part in the collection.

Regulation 9 outlines what information is required to be given for collections.

If the collection is being carried out in person, the individual must state the purpose of the collection; how and where the proceeds of the collection will be spent; and a business telephone number of the licensee.

If the collection is being carried out on the telephone, the individual must state the purpose of the collection; the licensee's name; if the individual is a 'paid collector'; and a business telephone number of the licensee.

If the collection is being carried out as a written request, then the licensee's name; the purpose of the collection, how and where the proceeds will be spent; and a business telephone number of the licensee must be contained in writing.

Examples of written requests include: a request personally addressed to a person; 'the occupier' or 'householder' of a premises; a pamphlet in a letterbox; a fax message; and message sent to a person over the Internet.

If the collection is being carried out through a collection bin, then the licensee's name; the purpose of the collection; and a business telephone number for the licensee must be displayed.

Regulation 10 creates the statutory conditions for children taking part in collections outlined in Schedule 1 of the Regulations.

Part 4 – Proceeds of collections

Regulation 11 outlines the provision for the issuing of receipts. It is an offence if someone (a donor) gives the collector more than \$2 in cash for the collection, and asks for a receipt and is not given one. This regulation does not apply if the donor receives goods or services of the same value (eg. the purchase price of an item of food from a fast food company that includes a donation to charity) from the collector.

In this regulation an authorised receipt is a printed receipt or anything else that is given acknowledging a donation of a particular amount. Badges of different colours or designs to indicate the amount of a donation are not a printed receipt.

A receipt only needs to be given if requested.

Regulation 12 outlines what expenses for a collection are lawful and proper. These include:

- (1) reasonable expenses incurred by the licensee in conducting and carrying out the collection; administering and distributing the proceeds of the collection; and complying with the Act, and
- (2) any other expenses the licensee stated in the application for the licence for the collection.

Regulation 13 defines what information is required for the finalised accounts about a collection. The required accounts are: the proceeds of the collection; the amount of lawful and proper expenses; the net proceeds of the collection; and the amount applied for the purposes of the collection.

The net proceeds of a collection is calculated by subtracting the amount of lawful and proper expenses from the total proceeds of the collection.

Regulation 14 outlines information that must be contained in reports made by the licensee to the chief executive. The report must contain the proceeds of the collection, the amount of lawful and proper expenses; the net proceeds of the collection; and the amount applied for the purposes of the collection. This information is the minimum that is required and not the limit to what may be required.

The net proceeds of a collection is calculated by subtracting the amount of lawful and proper expense from the total proceeds of the collection.

Regulation 15 establishes when annual audited accounts are required. Audited accounts are required:

- (1) if the proceeds from the collections in the ACT in any 12 month period is more than \$50 000,
- (2) from a licensee for the year or years in which the collections were carried out.

If the annual account includes the proceeds of collections carried out in the ACT and another state, then accounts identifying the amount collected in the ACT are not required.

Part 5 – Miscellaneous

Regulation 16 allows the chief executive to make available on an approved website. The information specified in the license application form (section 27 of the Act), and any other information the chief executive considers appropriate.

Schedule 1 – Statutory conditions about children taking part in collections

Clause 1 outlines what consent is required for children to take part in charitable collections.

A child who is younger than 12 years must only take part in a collection unless written consent has been given from a person with parental responsibility for the child.

A child who is 12 years of age must only take part in a collection if they have given their consent and a person with parental responsibility for the child has given written consent.

Clause 2 requires children less than 6 years of age to be supervised directly by a person with parental responsibility for the child when taking part in a collection.

Clause 3 outlines the requirements for supervising children who are 6 years older or older taking part in a collection.

Each child must be adequately supervised in regard to the age, sex and maturity of the child. The person supervising must be an adult and be supervising no more than 6 children. The supervisor must also ensure that each child is always accompanied by another child (who is 6 years or older) or by an adult; must be always in close proximity to each child and take reasonable steps to ensure each child does not enter a private dwelling or solicits, receives money, or any other benefit from a person in a motor vehicle.

The supervisor must make contact with each child at intervals of no longer 30 minutes.

Clause 4 requires that collection must be carried out in such a way that a person with parental responsibility for a child taking part in the collection can contact them.

Clause 5 sets out the hours in which a child must not take part in a collection. A child must not collect before 6am or sunrise (whichever is later), and after 7pm or sunset (whichever is earlier). This clause does not apply if an adult accompanies the child collecting at all times.

Clause 6 sets out the maximum periods a child can take part in a collection. A child who is under 12 years of age may only take part in a collection for 3 hours on any 1 day (including any rest breaks).

A child who is 12 years of age may only take part in a collection for 7 hours on any day (including any rest breaks), and must take at least a 30 minute rest break every 3 hours.

Dictionary – The dictionary defines terms in the regulations.

Endnotes contain notes on the meaning of penalty units as notified under the *Legislation Act 2001*.