



Australian Capital Territory

# **Charitable Collections Regulation 2003**

**SL2003-33**

made under the

**Charitable Collections Act 2003**

**Republication No 6**

**Effective: 29 September 2009 – 30 June 2011**

Republication date: 29 September 2009

Last amendment made by A2009-19

Authorised by the ACT Parliamentary Counsel

## About this republication

### The republished law

This is a republication of the *Charitable Collections Regulation 2003*, made under the *Charitable Collections Act 2003* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 29 September 2009. It also includes any amendment, repeal or expiry affecting the republished law to 29 September 2009.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

### Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at [www.legislation.act.gov.au](http://www.legislation.act.gov.au)):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

### Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication includes amendments made under part 11.3 (see endnote 1).

### Uncommenced provisions and amendments

If a provision of the republished law has not commenced or is affected by an uncommenced amendment, the symbol **U** appears immediately before the provision heading. The text of the uncommenced provision or amendment appears only in the last endnote.

### Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see *Legislation Act 2001*, section 95.

### Penalties

The value of a penalty unit for an offence against this republished law at the republication date is—

- (a) if the person charged is an individual—\$100; or
- (b) if the person charged is a corporation—\$500.



Australian Capital Territory

# Charitable Collections Regulation 2003

made under the

**Charitable Collections Act 2003**

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R6  
29/09/09

Charitable Collections Regulation 2003  
Effective: 29/09/09-30/06/11

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Australian Capital Territory

# Charitable Collections Regulation 2003

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made under the

**Charitable Collections Act 2003**

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## Part 1 Preliminary

### 1 Name of regulation

This regulation is the *Charitable Collections Regulation 2003*.

### 3 Dictionary

The dictionary at the end of this regulation is part of this regulation.

*Note 1* The dictionary at the end of this regulation defines certain terms used in this regulation, and includes references (*signpost definitions*) to other terms defined elsewhere.

For example, the signpost definition '*motor vehicle*—see the *Road Transport (General) Act 1999*, dictionary.' means that the term 'motor vehicle' is defined in that dictionary and the definition applies to this regulation.

*Note 2* A definition in the dictionary (including a signpost definition) applies to the entire regulation unless the definition, or another provision of the regulation, provides otherwise or the contrary intention otherwise appears (see Legislation Act, s 155 and s 156 (1)).

### 4 Notes

A note included in this regulation is explanatory and is not part of this regulation.

*Note* See the Legislation Act, s 127 (1), (4) and (5) for the legal status of notes.



## 5 Offences against regulation—application of Criminal Code etc

Other legislation applies in relation to offences against this regulation.

*Note 1 Criminal Code*

The Criminal Code, ch 2 applies to all offences against this regulation (see Code, pt 2.1).

The chapter sets out the general principles of criminal responsibility (including burdens of proof and general defences), and defines terms used for offences to which the Code applies (eg *conduct*, *intention*, *recklessness* and *strict liability*).

*Note 2 Penalty units*

The Legislation Act, s 133 deals with the meaning of offence penalties that are expressed in penalty units.

## Part 2 Exempt collections

### 6 What are not collections—Act, s 7 (3) (h)

- (1) The following are declared not to be a collection:
- (a) the soliciting or receiving of money by a school if the money is—
    - (i) a genuine fee or charge by the school for educational purposes; or
    - (ii) a voluntary contribution to the school for educational purposes that is solicited or received from a person with parental responsibility for a child who is enrolled at the school;
  - (b) the soliciting or receiving of money by a body affiliated with a school for the educational purposes of the school;

#### Examples of bodies for par (b)

- 1 a parents and citizens association, or a parents and friends association, for the school
- 2 an association of former students, former staff, or parents of former students, of the school

*Note* An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (c) the soliciting or receiving of money or a benefit by an entity if the proceeds received from collections conducted by the entity is less than \$15 000 in a financial year;
- (d) the soliciting or receiving of money or a benefit by a non-government organisation accredited with the Australian Agency for International Development (AusAID) (whether or not the money or benefit is used, or intended to be used, solely for aid in a foreign country);

- (e) the solicitation or receipt of sponsorship from a corporation;
- (f) the soliciting or receiving of money by a trustee corporation for administering a trust fund for a charitable purpose;
- (g) the soliciting or receiving of money by, or on behalf of, an entity if the proceeds received from collections conducted by, or on behalf of, the entity are for a trust fund for a charitable purpose administered by a trustee corporation.

**Example—par (g)**

a workplace giving program, where a workplace, or an employee on behalf of the workplace, solicits and receives money for a charitable fund administered by a trustee corporation

*Note* An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (2) In this section:

***school*** means an entity that provides education at the pre-school, primary school, high school or secondary college level.

***trustee company***—see the *Trustee Companies Act 1947*, dictionary.

***trustee corporation*** means—

- (a) the Public Trustee for the ACT; or
- (b) a trustee company.

## Part 3 Conduct of collections

### 7 Meaning of *licensee* for pt 3

In this part:

*licensee*, for a collection, means—

- (a) if the licence to conduct the collection is issued to an individual or a corporation—the holder of the licence; or
- (b) if the licence to conduct the collection is issued to an unincorporated body—the body.

*Note* Under the Act, the licensee for an unincorporated body is the nominated person for the body (see the Act, s 31).

### 8 Complying identifying tags—Act, s 16 (4), def *complying identifying tag*, par (b)

*Note* The requirements below are additional to anything else required by the conditions of the licence for the collection, see the def, par (a).

The following requirements are prescribed for a person taking part in a collection:

- (a) the person's surname or a unique number given to the person by a person who conducts the collection;
- (b) either—
  - (i) the licensee's name; or
  - (ii) if the licensee has a logo that is reasonably well known by the general public—the logo;
- (c) if the applicable information mentioned in paragraph (b) does not indicate the purpose of the collection—the purpose of the collection;

- (d) if the person has received, or will receive, money or a benefit for taking part in the collection—a statement that the collector is a ‘paid collector’.

**9 Information to be given for collections—Act, s 17 (3), def required information, par (b)**

*Note* The requirements below are additional to anything else required by the conditions of the licence for the collection, see the def, par (a).

- (1) The following information is required for a collection carried out personally:
  - (a) the purpose of the collection;
  - (b) how and where the net proceeds of the collection will be spent;
  - (c) a business telephone number for the licensee.
- (2) The following information is required for a collection carried out by telephone:
  - (a) the purpose of the collection;
  - (b) if the purpose of the collection does not indicate the licensee’s name—the licensee’s name;
  - (c) if the person soliciting or receiving money or a benefit for the purposes of the collection has received, or will receive, money or a benefit for taking part in the collection—the person is a ‘paid collector’;
  - (d) how and where the net proceeds of the collection will be spent;
  - (e) a business telephone number for the licensee.
- (3) The following information is required for a collection carried out by a written request:
  - (a) the licensee’s name;
  - (b) the purpose of the collection;

- (c) how and where the net proceeds of the collection will be spent;
- (d) a business telephone number for the licensee.

**Examples of written requests**

- 1 a request personally addressed to a person
- 2 a request sent to ‘The Occupier’ or ‘The Householder’ of premises
- 3 a pamphlet asking for donations handed to a person or left in a person’s letterbox
- 4 a fax sent to a person or an entity
- 5 a message sent to a person over the internet

*Note 1* **Writing** includes any way of representing or reproducing words in visible form (see Legislation Act, dict, pt 1, def *writing*).

*Note 2* An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (4) The following information is required for a collection carried out from or through a web site:
  - (a) the licensee’s name;
  - (b) the purpose of the collection;
  - (c) how and where the net proceeds of the collection will be spent;
  - (d) a business telephone number for the licensee.
- (5) The following information is required for a collection carried out through a collection bin:
  - (a) the licensee’s name;
  - (b) if the purpose of the collection is not indicated by the licensee’s name—the purpose of the collection;
  - (c) a business telephone number for the licensee.
- (6) In this section:  
**net proceeds**, of a collection—see section 13 (2).

**10 Statutory conditions about children taking part in collections—sch 1**

A licence, or a document stated by the licence to form part of the licence, may indicate that the conditions mentioned in schedule 1 apply to a collection conducted under the licence.

*Note* For provisions about the employment of children, see the *Children and Young People Act 2008*, ch 21.

## Part 4 Proceeds of collections

### 11 Issue of receipts

- (1) A person who is taking part in a collection (the *collector*) commits an offence if—
  - (a) someone else (the *donor*) personally gives the collector more than \$2 in cash for the purposes of the collection (the *donation*); and
  - (b) the donor asks the collector for a receipt for the donation; and
  - (c) the collector does not give the donor an authorised receipt for the amount of the donation.

Maximum penalty: 10 penalty units.

- (2) This section does not apply if the donor receives goods or services of substantially the same value as the amount given to the collector.

#### **Example**

the purchase price of an item of food from a fast food company that includes a donation to a charity

*Note* An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (3) An offence against this section is a strict liability offence.
- (4) In this section:

*authorised receipt* means a printed receipt or anything else given to the collector by a person conducting the collection for the purpose of acknowledging a donation of a particular amount.

#### **Example of something that is not a printed receipt**

badges of different colours or designs to indicate the amount of a donation



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**12 Lawful and proper expenses—Act, s 44 (4)**

The following are lawful and proper expenses for a collection:

- (a) the reasonable expenses incurred by the licensee in—
  - (i) conducting and carrying out the collection; and
  - (ii) administering and distributing the proceeds of the collection; and
  - (iii) complying with this Act; and
- (b) any other expenses stated in the application for the licence for the collection.

**Example of other expenses for par (b)**

how a commercial fundraisers fee is calculated

*Note* An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

**13 Finalised accounts—Act, s 47 (6), def *required accounts*, par (b)**

- (1) The required accounts for a collection are accounts that show the following:
  - (a) the proceeds of the collection (including any amounts realised from benefits received for the purposes of the collection);
  - (b) the amount of lawful and proper expenses under the Act, section 44 (3) for the collection;
  - (c) the net proceeds of the collection;
  - (d) the amount applied for the purposes of the collection.

- (2) In this section:

*net proceeds*, of a collection, means the amount obtained by subtracting the expenses mentioned in subsection (1) (b) from the proceeds mentioned in subsection (1) (a).

**14 Reports by licensee to chief executive—Act, s 48 (5), def required information**

- (1) The required information for a report to the chief executive about a collection is a statement of the following amounts for the collection:
- (a) the proceeds of the collection (including any amounts realised from benefits received for the purposes of the collection);
  - (b) the amount of lawful and proper expenses under the Act, section 44 (3) for the collection;
  - (c) the net proceeds of the collection;
  - (d) the amount applied for the purposes of the collection.

- (2) To remove any doubt, subsection (1) does not limit the information that may be included in the report to the chief executive.

- (3) In this section:

*net proceeds*, of a collection, means the amount obtained by subtracting the expenses mentioned in subsection (1) (b) from the proceeds mentioned in subsection (1) (a).

**15 When annual audited accounts are required**

- (1) This section applies to a licensee if the proceeds received in the ACT by the licensee from collections carried out completely or partly in the ACT is, in any 12-month period, more than \$50 000.
- (2) The licensee must give the chief executive audited annual accounts for the year or years in which the collections were carried out.

- (3) However, if the annual accounts include the proceeds of collections carried out in both the ACT and a State, the accounts need not separately identify the amount collected in the ACT.

## **Part 5 Miscellaneous**

### **16 Internet access to material on register of licences**

- (1) The chief executive may arrange for the material mentioned in the Act, section 40 (2) and (3) to be accessible on a web site approved by the chief executive.
- (2) Access under subsection (1) is to be provided without charge by the Territory.

## Schedule 1      Statutory conditions about children taking part in collections

(see s 10)

### 1.1      Consent to take part in collections

- (1) A child who is under 12 years old must not take part in a collection unless a person with parental responsibility for the child has given written consent to the child taking part in the collection.
- (2) A child who is at least 12 years old must not take part in a collection unless—
  - (a) the child has given his or her written consent to taking part in the collection; and
  - (b) a person with parental responsibility for the child has given written consent to the child taking part in the collection.

### 1.2      Supervision of children under 6 years old

A child under 6 years old who is taking part in a collection must be directly supervised by a person with parental responsibility for the child.

### 1.3      Supervision of children 6 years old or older

- (1) This section applies in relation to a child who is 6 years old or older who is taking part in a collection.
- (2) The child must be adequately supervised having regard to the age, sex and maturity of the child.
- (3) The person supervising the child (the *supervisor*) must be an adult.
- (4) The supervisor must—
  - (a) supervise no more than 6 children; and

- (b) ensure that each child is accompanied by another child who is at least 6 years old or by an adult; and
  - (c) be in close proximity to each child being supervised; and
  - (d) know the whereabouts of each child; and
  - (e) take all reasonable steps to ensure that each child does not—
    - (i) enter a private dwelling; or
    - (ii) solicit or receive money or a benefit from a person in a motor vehicle; and
  - (f) make contact with each child at intervals of not longer than 30 minutes.
- (5) Subsection (4) does not apply if a child is accompanied by an adult while taking part in the collection.

**1.4 Contact by person with parental responsibility**

A collection must be carried out in such a way as to give a person with parental responsibility for a child taking part in the collection a reasonable opportunity to contact the child.

**1.5 Hours of participation**

- (1) A child must not take part in a collection—
  - (a) before 6 am or sunrise (whichever is later); and
  - (b) after 7 pm or sunset (whichever is earlier).
- (2) This section does not apply if a child is accompanied by an adult while taking part in the collection.

**1.6 Maximum periods**

- (1) A child under 12 years old must not take part in a collection for more than 3 hours (including any rest breaks) on any 1 day.

- (2) A child who is at least 12 years old—
- (a) must not take part in a collection for more than 7 hours (including any rest breaks) on any 1 day; and
  - (b) must not take part in a collection for more than 3 hours without a rest break of at least 30 minutes.

## Dictionary

(see s 3)

*Note 1* The Legislation Act contains definitions and other provisions relevant to this regulation.

*Note 2* For example, the Legislation Act, dict, pt 1, defines the following terms:

- adult
- body
- chief executive
- financial year
- foreign country
- penalty unit (see s 133)
- State
- writing.

*Note 3* Terms used in this regulation have the same meaning that they have in the *Charitable Collections Act 2003* (see Legislation Act, s 148). For example, the following terms are defined in the *Charitable Collections Act 2003*, dict:

- benefit
- collection
- commercial fundraiser
- conducts, for a collection
- licence
- proceeds, of a collection
- takes part, in a collection.

***licensee***, for part 3 (Conduct of collections)—see section 7.

***motor vehicle***—see the *Road Transport (General) Act 1999*, dictionary.



***parental responsibility***—a person has parental responsibility for a child if the person has parental responsibility for the child under the *Children and Young People Act 2008*, division 1.3.2.

## Endnotes

1 About the endnotes

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## Endnotes

### 1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws and expiries are listed in the legislation history and the amendment history. These details are underlined. Uncommenced provisions and amendments are not included in the republished law but are set out in the last endnote.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

### 2 Abbreviation key

am = amended	ord = ordinance
amdt = amendment	orig = original
ch = chapter	par = paragraph/subparagraph
def = definition	pres = present
dict = dictionary	prev = previous
disallowed = disallowed by the Legislative Assembly	(prev...) = previously
div = division	pt = part
exp = expires/expired	r = rule/subrule
Gaz = gazette	renum = renumbered
hdg = heading	reloc = relocated
IA = Interpretation Act 1967	R[X] = Republication No
ins = inserted/added	RI = reissue
LA = Legislation Act 2001	s = section/subsection
LR = legislation register	sch = schedule
LRA = Legislation (Republication) Act 1996	sdiv = subdivision
mod = modified/modification	sub = substituted
o = order	SL = Subordinate Law
om = omitted/repealed	<u>underlining</u> = whole or part not commenced or to be expired

### 3 Legislation history

This regulation was originally the *Charitable Collections Regulations 2003*. It was renamed under the *Legislation Act 2001*.

#### **Charitable Collections Regulation 2003 SL2003-33**

notified LR 22 September 2003

s 1, s 2 commenced 22 September 2003 (LA s 75 (1))

remainder commenced 9 October 2003 (s 2 and see Charitable Collections Act 2003 A2003-17, s 2 and LA s 79)

as amended by

#### **Children and Young People (Consequential Amendments) Act 2008 A2008-20 sch 3 pt 3.3, sch 4 pt 4.2**

notified LR 17 July 2008

s 1, s 2 commenced 17 July 2008 (LA s 75 (1))

s 3 commenced 18 July 2008 (s 2 (1))

sch 3 pt 3.3 commenced 27 October 2008 (s 2 (4) and see Children and Young People Act 2008 A2008-19, s 2 and CN2008-13)

sch 4 pt 4.2 commenced 27 February 2009 (s 2 (5) and see Children and Young People Act 2008 A2008-19, s 2 and CN2008-17 (and see CN2008-13))

#### **Charitable Collections Amendment Regulation 2009 (No 1) SL2009-36**

notified LR 13 July 2009

s 1, s 2 commenced 13 July 2009 (LA s 75 (1))

remainder commenced 14 July 2009 (s 2)

#### **Justice and Community Safety Legislation Amendment Act 2009 (No 2) A2009-19 pt 4**

notified LR 1 September 2009

s 1, s 2 commenced 1 September 2009 (LA s 75 (1))

pt 4 commenced 29 September 2009 (s 2)

### 4 Amendment history

#### **Name of regulation**

s 1 am R2 LA

## Endnotes

### 5 Earlier republications

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**Commencement**

s 2 om LA s 89 (4)

**What are not collections—Act, s 7 (3) (h)**

s 6 am SL2009-36 s 4, s 5; A2009-19 s 8; pars renum R6 LA

**Statutory conditions about children taking part in collections—sch 1**

s 10 am A2008-20 amdt 4.5

**Statutory conditions about children taking part in collections**

sch 1 ss renum R2 LA

**Dictionary**

dict def *parental responsibility* sub A2008-20 amdt 3.4

## 5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (\*) in column 1. Electronic and printed versions of an authorised republication are identical.

<b>Republication No and date</b>	<b>Effective</b>	<b>Last amendment made by</b>	<b>Republication for</b>
R1 9 Oct 2003	9 Oct 2003– 2 Nov 2004	not amended	new regulation
R2 3 Nov 2004	3 Nov 2004– 26 Oct 2008	not amended	includes editorial amendments under Legislation Act
R3 27 Oct 2008	27 Oct 2008– 26 Feb 2009	<u>A2008-20</u>	amendments by A2008-20
R4 27 Feb 2009	27 Feb 2009– 13 July 2009	A2008-20	amendments by A2008-20
R5 14 July 2009	14 July 2009– 28 Sept 2009	SL2009-36	amendments by SL2009-36

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