

Best Practice Guidelines

FOR CHARITABLE ORGANISATIONS

Charitable Gaming Fundraising



A NEW SOUTH WALES GOVERNMENT DEPARTMENT

Best Practice Guidelines

FOR CHARITABLE ORGANISATIONS

Note to readers:

While every effort has been made to ensure the information in this book is as up-to-date as possible, readers are advised to seek expert advice when faced with specific problems. The *Best Practice Guidelines for Charitable Organisations* is intended as a guide to the law and should not be used as a substitute for professional advice when necessary.

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Foreword

The management of charitable fundraising activities requires close attention that can provide both rewards and challenges. Persons and organisations conducting such activities are assisted by an Act of Parliament, regulations and authority conditions that provide prudent controls and working methods.

The objects of the *Charitable Fundraising Act 1991* are:

- to promote proper and efficient management and administration of fundraising appeals for charitable purposes;
- to ensure proper keeping and auditing of accounts in connection with such appeals; and
- to prevent deception of members of the public who desire to support worthy causes.

By possessing an authority to fundraise, a person or organisation is entitled to appeal to the public for funds. In return that person or organisation incurs a number of obligations which are set out in the Act, the regulations and in greater detail in the authority conditions.

All these provisions operate to the benefit of the authority holder. It is essential that persons involved in the conduct of charitable fundraising activities are familiar with them.

This publication has been designed to assist authority holders in complying with the legislation, the regulations and the authority conditions. They should be a source of general reference to authority holders, and a manual of model practices and procedures for prudent conduct for the administration of charities.

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How this book is organised

These Best Practice Guidelines have been produced to explain what is involved (and required) in managing fundraising appeals for charitable purposes. More than 200 pages of important information can be rather daunting to contemplate let alone digest, so the Best Practice Guidelines are divided into logical parts.

PART 1 GENERAL INFORMATION

This part is a source of general reference to authority holders and covers issues such as the duties and responsibilities of the governing body, auditor qualifications and notification of changes of particulars which could involve traders and/or change of address.

PART 2 BEST PRACTICES

The Best Practices function as a manual of prudent practices that authority holders should adopt to ensure compliance with the legislation, the regulations and the authority conditions. A handy cross reference is provided for legal requirements. The Best Practices cover all areas of financial, fundraising and organisational accountabilities, including the keeping of records, preparation of the annual financial statements, internal controls and the conduct of appeals.

PART 3 EXTRACTS OF THE CHARITABLE FUNDRAISING ACT

The part provides relevant extracts of the Charitable Fundraising Act.

PART 4 EXTRACTS OF THE CHARITABLE FUNDRAISING REGULATIONS

This part provides relevant extracts of the Charitable Fundraising Regulations.

PART 5 AUTHORITY CONDITIONS

This part provides the authority conditions applicable to all authority holders.

PART 6 INDEX

This part provides a quick reference to these guidelines.

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GENERAL INFORMATION

This part is a source of general reference and covers issues such as the duties and responsibilities of the governing body, auditor qualifications and notification of changes of particulars which could involve traders and/or change of address.

Introduction

ROLE OF THE DEPARTMENT

The role of the Department is to ensure that persons and organisations conducting fundraising activities are operating within the framework of the law. This is achieved by:

- granting authorities to fundraise in accordance with the Act
- providing education programs for authority holders and the community
- undertaking compliance/investigation programs.

INSPECTION

The books of an authority holder are subject to inspection by officers of the Department of Gaming and Racing, the Police and the Auditor-General. An inspection program is conducted State-wide and is intended to ensure that the requirements are being met. The inspection program assists members of governing bodies and other persons involved in fundraising activities. The public funds raised must be recorded through proper accounting methods. Refer *Chapter 2, General Information, 2–800: Investigating complaints*.

PENALTIES

Penalties may be imposed for any breach of the law, and the Department may, in extreme cases, revoke the fundraising authority.

ASSISTANCE

Departmental officers are available to assist and advise with any matter connected with the requirements of the Charitable Fundraising Act.

Contact:

Office of Charities
Department of Gaming and Racing
Level 7, Corner Hay and Castlereagh Streets, Sydney
Box 7060 GPO Sydney 2001
Tel: (02) 9995 0666
Fax: (02) 9995 0611
E-mail: charity.inquiries@dgr.nsw.gov.au
Website: www.dgr.nsw.gov.au

Registered charity status

The repeal of the Charitable Collections Act, 1934 in September 1993 means:

- There is no longer a scheme called registered charity or registered as a charity.
- There is no longer a registration number scheme starting with a CC prefix.
- Authority holders should take steps to ensure that the terms registered charity or registered as a charity and any reference to a CC number are not used in any advertisement, notice or information including letterheads.

General Issues

2-100 AUTHORITY CONDITIONS

Authority conditions are imposed on the issue of fundraising authorities. Standard conditions apply to all authority holders. In certain circumstances, special conditions may be imposed because of particular circumstances, or as a result of Departmental inquiries.

Authority holders may wish to apply for modification or replacement of an authority condition where it is inappropriate to their particular circumstances. The following are circumstances in which authority conditions may be varied:

- the requirement that a separate bank, building society or credit union account must be maintained for the deposit of fundraising appeal proceeds—refer *Chapter 10: Banking Procedures*
- the place where records may be kept - that is, at other than the registered office of the authority holder—refer *Chapter 15: Keeping of Records*
- the ratio of expenses to gross proceeds obtained from fundraising appeals, especially where donor acquisition schemes are involved
- the need to issue receipts in respect of appeal day badges, medals, etc.
- the need to exempt certain persons from the need to wear an identification badge or card when they conduct or participate in an appeal, e.g., fundraising directors and chief executive officers attending meetings (corporate sponsorship, etc.), or functions (balls, dinners, etc.)—refer *Chapter 23: Authorisation of Appeals*
- certain requirements relating to the participation of children in fundraising appeals. For example, children under 8 participating in an appeal (spellathons), supervision of children at special events (fun runs), or other appeals in which the requirements are inappropriate given the type of appeal being undertaken (appeals which do not require the child to eat for a period of time) [Authority Condition 12 and the schedule of conditions relating to the participation of children in appeals]—refer

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Chapter 25: Children Participating in Appeals.

Certain requirements of the Charitable Fundraising Act cannot be negated by an authority condition. These include the keeping of records of income and expenditure, and the need to have those accounts audited.

An authority holder who is dissatisfied with an authority condition or variation of an authority condition may:

- request an internal review of the decision and/or the reasons for the decision before lodging an application with the Administration Decisions Tribunal (ADT). The application for an internal review must be lodged in writing within 28 days of receiving notice of the decision
- request the ADT to review the decision. The application for a review must be lodged in writing within 28 days of receiving notice of the internal review decision or of the original decision. The ADT may confirm the decision, reverse the decision completely or in part, substitute a new decision, or order the Department to reconsider the decision in accordance with directions or recommendations of the ADT.

Refer Part 5 for a copy of the standard authority conditions.

Request for alteration of authority conditions

In all cases, the application must be in writing and include full details of the reasons for the request. Each application will be treated on its merits.

2-200 STRUCTURAL ISSUES

2-210 Incorporation

What is an unincorporated organisation?

An unincorporated organisation is a group of individuals sharing a common cause or objective. It has no identity other than the aggregation of all its members. When a transaction is conducted or contract is entered into with an unincorporated organisation, it is in effect conducted or entered into with each individual member of the organisation.

The principal disadvantage of a charity established as an unincorporated organisation, trust, etc. is the unlimited personal liability to which the trustees, or officers, or committee members will be exposed. They personally enter into contracts on behalf of the charity, and if sued, to pay any damages. Although normally entitled to be reimbursed out of the assets of the charity, this will be limited if the charity does not have the wherewithal. Examples of such risks would be in respect of rental payments and repair obligations under a tenancy, or in respect of a hire purchase contract.

Other disadvantages compared to an incorporated structure are the absence of external statutory authority to provide support and control; expense encountered in passing the assets to new trustees; and the risks and difficulties of raising funds on loan.

However, in certain situations, where for example an organisation is set up for a limited, specific, and probably local purpose, the unincorporated structure may be adequate.

What is an incorporated organisation?

Incorporation is the creation of a legal entity which has rights and liabilities separate from its members. Incorporated organisations include companies incorporated under the *Corporations Act 2001* (C'th), associations incorporated under the *NSW Associations Incorporation Act 1984*, co-operatives under the *NSW Co-operatives Act 1992*.

Liability of the membership of these types of organisations is limited, and personal action normally cannot be taken against individual members unless they have been personally negligent.

To incorporate or not to incorporate?

It is outside the scope of the Department of Gaming and Racing to advise authority holders to incorporate or not to incorporate. This is a decision to be made by the members of an organisation on legal advice.

To incorporate as an incorporated association, contact

Department of Fair Trading

1 Fitzwilliam Street, Parramatta 2124

Telephone: 02 9895 0111

Website: www.fairtrading.nsw.gov.au

To incorporate as a company limited by guarantee, contact

Australian Securities & Investment Commission

Level 8, 55 Market Street, Sydney 2000

Telephone: 02 9911 2500 or 1300 555 600

Website: www.asic.gov.au

Amendments to constitution

- It is not necessary to seek Departmental approval for any amendments to the constitution.
- However, any changes to a charity's name, objects, non-profit or dissolution clauses, must be notified to the Department. In addition, an unincorporated charity is required to notify the Department of any amendment to its constitution.
- Changes must be notified within 28 days of the change.
- Does the amendment clause of your constitution require that any amendments to be submitted to and approved by the "Minister responsible for the administration of the Charitable Collections Act" or similar. If so, you should take appropriate action to remove such words. Ministerial approval is not required.
- Also, any reference to the Charitable Collections Act or a "registered charity" should be deleted. Such a reference may be in the dissolution or winding-up clause. Reference in the clause to the distribution of assets to a "registered charity" with similar objectives is no longer correct.

Implications under Charitable Fundraising Act

When an unincorporated authority holder becomes incorporated, it assumes a new legal status and identity. Accordingly, authority holder must notify the Department of Gaming and Racing of the change within 28 days [Regulation 12].

This notification should include:

- a photocopied extract of the Minutes at which the decision was taken to incorporate
- a photocopy of the certificate of incorporation
- the return of the existing authority to fundraise, which will need to be replaced by the Department and reissued in the incorporated name of the authority holder
- a photocopy from its constitution, rules or memorandum and articles of association of the following clauses:
 - the charitable objects or purposes of the authority holder
 - the non-profit nature of the authority holder with respect to the disposition of funds obtained from its fundraising appeals
 - the disposition of funds and assets obtained from fundraising appeals to a not-for-profit organisation with similar or identical charitable objects in the event of a winding up of the authority holder.

2-220 Constitution

The governing instrument of an authority holder may take a number of forms—a constitution, trust deed, memorandum and articles of association, or association rules. An authority holder may also be governed or administered through by-laws, standing orders, etc., which take their authority from the constitution. The constitution is essential to the orderly function and administration of the authority holder.

Where an authority holder is incorporated, the relevant statute usually imposes certain requirements on the authority holder in respect to its constitution. The statutory authority may also produce model or suggested rules for the guidance of the authority holder.

An authority holder is required to provide the Department with details of the following alterations or amendments to its constitution within 28 days of the change (or within such further time as the Department may allow):

- *where the authority holder is unincorporated*, details of any alteration or amendment to its constitution
- *if the authority holder is incorporated*, details of any changes to its constitution with respect to:
 - the charitable objects or purposes of the authority holder
 - the non-profit nature of the authority holder with respect to the disposition of funds obtained through its fundraising appeals
 - the disposition of funds and assets obtained from fundraising appeals to a not-for-profit organisation with similar or identical charitable objects in the event of a winding-up of the authority holder.

2-230 Branches

If the authority to fundraise relates to specified branches, auxiliaries, subsidiaries, etc., in New South Wales of the authority holder, this will be notified on the authority. If so, it should be noted that the grant of approval has been on the basis that the specified branch, auxiliary, subsidiary, etc., (branches) is under the direction and control of the governing body of the authority holder.

A branch may, even though it is under the direction and control of another organisation, apply for an authority to fundraise in its own right.

The authority holder must ensure proper accountability by its branches in keeping with the Best Practices. The Department is prepared to consider approaches for alternative procedures and practices where it can be demonstrated that observance of the Best Practices would be unduly burdensome and the proposed procedures involve appropriate accountability for the conduct of appeals, the receipt of monies and the expenses incurred.

If application is sought to include branches a written application must be made to the Department detailing the following:

- evidence that the specified branch is under the direction and control of the authority holder (e.g., provide a copy of the appropriate part of the branch and parent body's rules)
- in respect of each branch:
 - its full name, including the trading or business name
 - the business address, postal address, address of the registered office and telephone number.

The business address provided for each branch is for the purposes of the Act, the registered office of that branch and the place where books and records of account must be kept.

If the accounts of branches are not consolidated with the accounts of the parent body, and subject to examination by the parent body's auditor, the branch must appoint its own auditor and submit a separate audited financial report to the parent body each year.

Although these branches do not separately hold an authority to fundraise, the branches must comply with all the provisions of the Act, regulations, authority conditions as if they were the holder of an authority. The authority holder must ensure its branches comply with all the financial, fundraising and organisational accountability requirements.

An authority holder is required to notify the Department in writing within 28 days (or within such further time as the Department may allow) of any change to the following particulars of branches that do not hold a fundraising authority in their own right:

- the name, including the trading or business name of any branch
- the business address, postal address, address of the registered office and telephone number of any branch
- any branch which is no longer under the direction and control of the governing body of the applicant organisation
- any branch which has ceased to operate.

2–240 Notification of changes

Where certain changes occur in the particulars listed below, the authority holder is required to notify the Department in writing within 28 days (or within such further time as the Department may allow).

Particulars to be furnished:

- (a) details of any change to the name of the authority holder
- (b) details of any change in the business address, postal address, address of the registered office and telephone number of the authority holder
- (c) if the authority holder is a person, details of any amendment, deletion or addition to the objects or purposes for which the person wishes to raise funds under the authority
- (d) if the authority holder is an unincorporated organisation, details of any alteration or amendment to its constitution. Refer to 2–220: *Constitution*.
- (e) if the authority holder is an incorporated organisation, details of any changes to its

An authority holder must ensure its branches comply with financial, fundraising and organisational accountability requirements.

Changes to the particulars of branches must be notified to the Department within 28 days of the change.

constitution with respect to:

- the charitable objects or purposes of the authority holder
 - the non-profit nature of the authority holder with respect to the disposition of funds obtained through its fundraising appeals
 - the disposition of funds and assets obtained from fundraising appeals to a not-for-profit organisation with similar or identical charitable objects in the event of a winding-up of the authority holder
- (f) if the authority holder is an organisation with branches that do not hold a fundraising authority in their own right, details of any change to the branches particulars including its registered office. Refer to 2–230: *Branches*.
- (g) details of any change to the incorporated status of the authority holder. Refer to 2–210: *Incorporation*.
- (h) any modifications to the particulars of an existing trader, or if a new trader has been engaged. Refer *Chapter 4, Fundraising Issues, 4-120: Traders*.
- (i) details of changes to the name, address and telephone number of the auditor (but this requirement does not apply if such particulars have been previously provided as part of any other application or notification). Refer *Chapter 5, Financial Issues, 5-100: Auditors*
- (j) confirmation of any decision by the authority holder to cease conducting fundraising appeals (a return must also be lodged with the Department). Refer *Chapter 5, Financial Information, 5-400: Lodgement of Returns*, and 2–250: *Ceasing to conduct fundraising appeals and winding-up*.

The *registered office* referred to in (b) and (f) above is the address provided in the application for an authority to fundraise.

2–250 Ceasing to conduct fundraising appeals and winding-up

The Department must be advised of any decision to cease to conduct fundraising appeals, or to wind-up.

Authority holders who cease to conduct fundraising appeals or formally wind-up their organisation need to bear in mind that they not only have responsibilities under the *Charitable Fundraising Act*, but under charitable trust law, and other statutes, if incorporated.

The Act requires the authority holder to advise the Department within 28 days of any decision to cease to conduct fundraising appeals.

It is important that authority holders comply with the winding-up or dissolution clause in their constitution. This should include details of the procedures to be complied with when making the decision, and the disposal of the assets.

The Act [section 20] requires that any money or benefit received in the course of a fundraising appeal is to be applied according to the objects or purposes represented by those conducting the appeal. Proceeds obtained through the appeal may be subject to a charitable trust.

Any assets remaining at the time the authority holder is wound-up must be applied to the objects or purposes for which they were raised.

Where an authority holder ceases to function the authority must be returned within one month of having ceased to exist [Regulation 13] and a return must be lodged within 2 months [Authority Condition 5].

Where an authority holder is a person and ceases to conduct fundraising appeals, the authority holder must return the authority and submit a return within 1 month after the close of the appeal [Authority Condition 5, Regulation 13].

Refer *Chapter 5, Financial Issues, 5-400: Lodgement of Returns; Chapter 3, Management Issues, 3-500: Charitable Trusts*.

2-300 ACCESS TO INFORMATION

The Act [section 47 & Regulation 11] requires an authority holder to provide, subject to payment of a fee, the following documentation and particulars within 30 days of being requested to do so by any member of the public:

- copies of annual audited statement of accounts prepared in relation to fundraising appeals for the seven years prior to the request
- a copy of or extracts from the organisation's objects and constitution, including any amendments
- the names, qualifications and occupations of members of the governing body of the authority holder.

There is no legal obligation for the authority holder to provide any financial information in excess of that required to be provided in the annual audited financial reports. However, authority holders may consider providing separate or supplementary information where appropriate in the interests of disclosure and accountability.

The qualifications of the director or member of the governing body would normally relate to the person's academic or professional qualifications.

The maximum fee that can be charged for furnishing this information is \$6.00 for the first page and 55 cents for each additional page. The authority holder may choose to provide the information free or at a reduced fee.

If you have access to the Internet you can check whether an organisation has an authority to fundraise in NSW by going to the Department's website: www.db.dgr.nsw.gov.au/scripts/cfq.exe

The fully searchable database gives information about charities that match:

- words in the organisation's name
- words in the town or suburb part of the business (or street) address of the organisation
- postcode for the organisation's business address
- CC and Old CC Numbers (these relate to former registration under the repealed Charitable Collections Act 1934)
- Y Numbers and INC Numbers (incorporation numbers)
- the organisation's Australian Business Number (ABN)
- certain charitable purposes.

The results for a particular search are listed for further inquiry.

Particulars for an organisation include: legal name; trading or former names; particulars about branches; business and postal address; telephone and facsimile numbers; and information about an organisation's fundraising authority—including status, appeals conducted, and the charitable purposes.

The information contained in the database is based on information provided to the Department. It is suggested that you check the data relating to your organisation and if found to be inaccurate or incomplete, please advise the Department in writing of the correct particulars.

Office of Charities
 Department of Gaming and Racing
 GPO Box 7060, Sydney 2001
 E-mail: charity.inquiries@dgr.nsw.gov.au
 Facsimile: (02) 9995 0611

Authority holders must provide certain documentation and particulars within 30 days of being requested to do so by a member of the public.

2-400 EXEMPTIONS, CONCESSIONS, SUBSIDIES AND ASSISTANCE

The grant of an authority does not confer any rights or entitlements on the authority holder to obtain funding, concessions, or exemptions under any federal, state or local government legislation.

Authority holders should investigate their eligibility:

- For recurrent or capital funding from Federal, State, local government funding agencies and other funding providers [for more information refer to *Chapter 4, Fundraising Issues, 4-420: Sources of information about funding*].
- For access to the New South Wales Government's Q Stores (a business unit of the Department of Public Works and Services), which provides access to consumable products and common use items at significant savings in both direct product costs and indirect costs associated with procurement.

For more information contact Q Stores:

Website: www.qstores.dpws.nsw.gov.au/index.htm
 PO Box 77, Alexandria 1435
 Tel: (02) 9318 7888 or 1800 424 613 (freecall)
 Fax: (02) 9318 7886.

- For exemption from council rates. Inquiries should be directed to the local council.
- Concessions on utilities (water and electricity). Inquiries should be directed to the utility provider.
- Postage savings on letters. Inquires should be directed to your nearest Australian Post Office, by calling 131318, or by visiting the Australia Post website: www1.auspost.com.au/postdirect/5n.asp.
- Savings on telephone call costs. Inquiries should be directed to your telephone service provider.

2-500 TAXATION ISSUES

It is important that the management and office bearers of authority holders are aware of their taxation obligations and responsibilities, and eligibility to exemptions and concessions.

2-510 Commonwealth Government

The Australian Tax Office website at www.ato.gov.au provides authority holders with information about a range of issues, including liability for tax. The ATO can also be contacted by telephone and you should check the website or the telephone directory for current contact numbers.

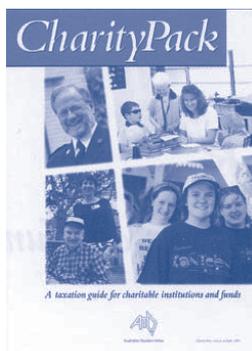
Also available on the website and from all local ATO offices, free of charge, are the following publications:

Charity Pack

Charity Pack is a taxation guide for charitable institutions and funds. It provides detailed information for charities on the following subjects.

Income Tax Exempt Charity (ITEC)

- qualifying charities are entitled to apply to the ATO for endorsement as an income tax exempt charity
- the *Charity Pack* provides information on how to apply for endorsement
- ITEC endorsement does not entitle a charity to receive income tax deductible gifts. Separate endorsement as a deductible gift recipient (DGR) is required before you can obtain that status. For further information you should obtain the *Gift Pack*



Australian Business Number (ABN)

- this is an identifier that charities use for their business dealings with the ATO
- a charity must have an ABN to be endorsed as an income tax exempt charity

Goods and Services Tax (GST)

- is a broad-based tax of 10% on the supply of most goods and services consumed in Australia
- non-commercial supplies by charities—such as charitable activities—are GST-free
- charities must register for GST if their annual turnover is \$100,000 or more; they may choose to register if their annual turnover is lower
- registered charities can claim credits for GST included in the price of goods and services they buy in providing their GST-free supplies (this could be another way for charities to raise much needed funds)

Fringe Benefits Tax (FBT)

- employers (including some charities) who provide fringe benefits to employees are subject to FBT

Pay as You Go (PAYG)

- PAYG instalments enable an organisation to provide for its final taxation liability by paying tax instalments throughout the year
- PAYG withholding is the system through which an organisation withholds tax from payments it makes. It encompasses the original Pay As You Earn (PAYE) and tax file number (TFN) withholding obligations and has three new withholding categories of importance to charities—voluntary agreements with contractors, no-ABN withholding and labour hire arrangements

Superannuation Guarantee Charge

- all charities who are employers are subject to the Superannuation Guarantee legislation
- a Superannuation Guarantee Charge must be paid if an insufficient level of superannuation support is provided for the charity's employees

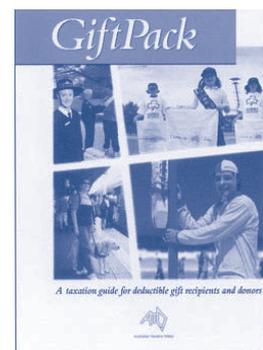
State Government taxes and duties.**Gift Pack**

This booklet provides detailed information for organisations that wish to receive income tax deductible gifts.

It explains:

- who can receive tax deductible gifts
- the new endorsement arrangements
- what types of gifts are deductible, and
- what donors have to do to claim deductions for their gifts.

If you are in any doubt you should contact the ATO or a registered tax agent or accountant for advice.

**2-520 State Government**

State taxes include stamp duty, payroll tax and land tax.

For further information about NSW state-based taxes contact:

NSW Office of State Revenue
 Locked Bag 5215, Parramatta NSW 2124
 Tel: (02) 9689 6200
 Fax: (02) 9689 6464

Contacts

Australian Taxation Office

- Endorsement as deductible gift recipient (DGR)
- Endorsement as income tax exempt charities (ITEC)
- Goods and Services Tax (GST)

www.ato.gov.au

www.taxreform.ato.gov.au

NSW Office of State Revenue

- State-based taxes and duties

www.osr.nsw.gov.au

Australian Government Business Entry Point

- Australian Business Number Register (ABN)

www.business.gov.au

Australian Securities and Investments Commission

- Registration as a company

www.asic.gov.au

Department of Fair Trading

- Registration as an association

www.fairtrading.nsw.gov.au

Legislation

- Download Australian legislation

www.austlii.edu.au

- Download NSW legislation

www.legislation.nsw.gov.au

E-mail: services@osr.nsw.gov.au

Website: www.osr.nsw.gov.au

Land tax

Landowners are generally liable for land tax when the unimproved value of taxable land exceeds certain thresholds.

Land owned and used by certain organisations may be exempt from land tax. These organisations generally include not-for-profit societies, clubs and associations, religious institutions, public benevolent institutions and charitable institutions.

Payroll tax

Payroll tax is a tax on the wages paid by employers. Employers are liable for payroll tax when their total Australian wages exceed a certain level called the 'exemption threshold'.

Certain organisations may be exempt from payroll tax provided specific qualifying conditions are satisfied. These organisations may include religious institutions, public benevolent institutions, public or not-for-profit hospitals, not-for-profit non-government schools or colleges providing education at secondary level or below, municipal councils and charitable organisations.

Stamp duty

Stamp duty is a tax on written documents ('instruments') and certain transactions including motor vehicle registrations and transfers, insurance policies, leases, mortgages, hire purchase agreements and transfers of property (such as businesses, real estate or shares).

The rate of stamp duty varies according to the type and value of the transaction involved. Depending on the nature of the transaction, certain concessions and exemptions may be available.

2-600 PRIVACY AND THE NATIONAL PRIVACY PRINCIPLES

The *Privacy Act* (C'th) which has been around since 1988, originally only affected Federal Government departments and some other bodies such as credit reporting agencies. In December 2000 the Act was amended so that it applied to private sector organisations including charities and the health industry.

The first stage of the new privacy law that took effect on 21 December 2001 affected only those private sector organisations including charities with an annual turnover of more than \$3 million, plus all health providers. Many smaller charities are also likely to be covered by the Act for various reasons—for example, because they are related to a larger organisation.

Smaller charities and other organisations that escaped the initial implementation may be affected at 21 December 2002, when the privacy law comes into force for all organisations that buy or sell personal information.

The new privacy law regulates the way charitable organisations collect, use, keep secure and disclose personal information about their staff, volunteers, members, donors, subscribers and other supporters. For the first time, it gives individuals the right to know what information organisations hold about them and a right to correct that information if it is wrong.

This means that a charity can only collect data that is for a stated Primary Purpose (e.g., the name and address necessary for issuing a receipt to a donor). Any use of this data for another or Secondary Purpose must be related to the Primary Purpose and considered reasonable. It also allows the donor, member, volunteer, etc. to know why you are collecting their personal data, how it will be used and who else will use the information.

Personal information covers such areas as: a list of names, addresses, and donation history. However, a list with the name and addresses removed is not personal information and can be used for generic data compilation and reporting.

All information regardless of its source is covered including an opinion about a donor and files on bequest prospects. It is not possible now to collect or record this information without first notifying the donor that such files are kept and also giving the option for this information not to be kept—this is called an “opt-out clause”.

Personal information at this point does not include what is in the public domain (e.g., information in the White Pages). However, at the time of publication there was a discussion paper out for consultation on “Public Domain Information” and how it is used. Public domain information would remain non-personal information even if you added to it information of a general nature (e.g., the charity’s estimate of the gross income of individual’s in a particular postcode).

The privacy law does not apply to employee records (current and past). However, care should be taken with the collection of CV’s for advertised positions and their subsequent shredding.

The National Privacy Principles (NPPs) set the baseline standards to privacy protection. Charities may choose to use this standard as their code of practice in dealing with privacy or may chose to have and enforce their own codes. If this is the case, these codes must be approved by the Privacy Commissioner as having obligations at least equivalent to the NPPs.

The NPPs are the ten principles or rules in the privacy law about how organisations must handle personal information, and cover:

- collection
- use and disclosure
- data quality
- data security
- openness
- access and correction
- identifiers
- anonymity
- trans-border flow of data
- sensitive information.

Charities that don’t comply with the privacy legislation in their collection, storage or use of personal information face major risks. It is vital that all charities assess their risk in relation to the Privacy Act and take appropriate steps to ensure compliance.

What you need to do:

- Appoint an existing staff member to be the Privacy Officer.
- Review what information you collect from donors, how you will use it and how you store it.
- Conduct training workshops for staff.
- Document your Privacy Act policies and procedures.
- Amend procedures, documentation and business practices to ensure compliance with the NPPs.
- Have an effective complaints handling process - this is an important part of managing privacy risks within a charity.
- Write disclosure documents:
 - produce a statement of the organisation’s compliance with the legislation. This statement: must be visible to all persons; is used in a detailed brochure that

must be made available to anyone that asks; is available on your website and, in a shortened format; and is used on all data collection forms. The statement must give contact particulars in case of complaint or query. The particulars would include a name or title of a position, postal, business or e-mail addresses, telephone and facsimile numbers

- produce primary purpose statements for the collection of data that relate to all aspects. These statements are delivered either verbally or in writing whenever data is collected. This statement must also give contact particulars.
- Produce standard contract clauses for inclusion in all contracts the charity has with contractors. The contractual obligations should include an indemnity provision to protect the charity against a breach of privacy by the contractor. A contractor is a person that supplies services to or on behalf of the charity.

Tips for compliance

- Is the information being held, accurate, up-to-date, secure and necessary?
- Has permission been given for the use of the information for any purpose other than that stated primary purpose or a related secondary purpose?
- Storing names on databases for a purpose other than the primary purpose is not allowed. Therefore, attendance at an event does not allow mail-outs for appeals, future events, raffle tickets, etc. However, this would not preclude general information about your charity being mailed to these people.
- Include an opt-out statement on any direct mail. This should be in a prominent place, and in the same size font as all the rest of the information.

There is a great deal of information about the privacy law and the NPPs on the Australia Privacy Commissioner's website: www.privacy.gov.au

2-700 SPECIAL BODIES & ORGANISATIONS

2-710 The Special Events Directory (NSW & ACT)

The Special Events Directory (NSW & ACT) provides the only generalist compilation of major special events in New South Wales.

An annual guide to over 2,500:

- national and international years, weeks, and days
- multicultural, health, recreational, educational and generalist listings
- city and rural events
- festivals, exhibitions, happenings, celebrations, fun things to do and see
- contact people for each event
- NSW schools terms
- public holidays
- month by month listings and an index.

The Special Events Directory (NSW & ACT) is published by *The Information and Cultural Exchange*, a community based, not-for-profit organisation.

You can use the Directory to:

- develop your fundraising campaigns around the events
- know the time frames of events ahead to plan your own events
- participate in the festivities of our culturally diverse communities
- promote your business around the events.

Your special event can be listed free of any cost. This includes the date, event and contact details. You submit information on-line at www.artfiles.com.au/sed or call (02) 9683 2173 ext. 1 to receive an event listing form by fax or post.

The deadline for listing events in the Directory is the end of October.

At the time of publication, the price of the Directory is—

- \$49.50 — includes postage, handling, GST and free monthly e-mail update bulletin
- \$27.50 — not-for-profit organisations

For further information contact:

The Information and Cultural Exchange
 PO Box 4033, Parramatta 2124
 Tel: (02) 9683 2173
 Fax: (02) 9683 2259
 E-mail: sed@pnc.com.au
 Website: www.artfiles.com.au/sed

2-720 Charities Ministerial Advisory Committee

The *Charities Ministerial Advisory Committee* offers advice to the Minister and the Department of Gaming and Racing on matters affecting charitable fundraising activities including legislation and administrative requirements.

The Committee comprises representatives from eleven charitable organisations drawn from a wide spectrum of organisations conducting fundraising appeals.

The members are:

- A representative of religious and exempt organisations
- Association for Disability Employment Placement & Training
- Australian Red Cross
- Australian Cancer Research Foundation
- Fundraising Institute - Australia Inc.
- National Heart Foundation of Australia (NSW Division)
- Quota International
- Royal Blind Society
- Sydney Legacy
- Mission Australia
- The Royal Institute for Deaf and Blind Children.

There is also a non-voting member of the Police Service. The police officer expands communication channels between the Police Service and charities.

The Department provides secretarial support to the Committee.

If you would like to have a matter discussed before the Committee, please don't hesitate to bring it to the attention of:

Secretary
 Charities Ministerial Advisory Committee
 GPO Box 7060, Sydney 2001

2-730 The Fundraising Institute–Australia

The Fundraising Institute–Australia (FIA) is the voice and support network of the fundraising profession.

FIA aims (among other aims and objectives):



- to enhance the well being and secure the future of communities and society by advancing excellence in fundraising
- to develop a fundraising education and training program that is recognised by the community and society as being provided by the peak fundraising body
- to provide the means of assisting members of the Institute in the better performance of their professional fundraising endeavours and to advance the standards of the fundraising profession.

The Institute assists its members in other professional efforts by:

- providing a forum for discussion on common concerns
- providing opportunities for continuing professional education
- researching, developing and disseminating relevant information
- representing the profession's interest within the government arena
- fostering ethical standards for the management, direction and counselling of fundraising programs.

For more information, please contact:

FIA Secretariat
 PO Box 642, Chatswood 2067
 Suite 410, 282 Victoria Avenue, Chatswood 2067
 Website: www.fia.org.au

2-740 Charity Awareness (NSW)



Charity Awareness (NSW) was established in 1988 to increase the community's awareness of the vital role that charities play in our society.

Membership covers a broad spectrum of organisations ranging from large, long established charities to newly founded, smaller ones.

The aims and objectives of Charity Awareness (NSW) Inc. are:

- to raise the level of community awareness and understanding of not-for-profit and voluntary agencies leading to increased funding and volunteer contributions for all charities
- to show a strong, cohesive, co-operative spirit amongst participating organisations, whilst clearly recognising individual organisation responsibilities
- to evoke a response and a meaningful contribution from the community, inviting people to support, directly and indirectly, a charity of their choice in any capacity throughout the year
- to strengthen the appeal for volunteer participation, developing a community responsibility to become personally committed to their chosen cause
- to develop senior management contact with all media, press, radio and television—maximising the use of community service opportunities, particularly on the electronic media.

Membership of Charity Awareness (NSW) is open for all charities at just \$175 per annum (at the time of publication).

If your organisation would like to be part of Charity Awareness Week, please contact:

The Secretary
 Charity Awareness (NSW) Inc
 PO Box A2267
 Sydney South 1235

2-800 INVESTIGATING COMPLAINTS

Charities are supported by donations, and members of the public should have confidence that their donations are applied for the purposes for which they were intended.

The Office of Charities, Department of Gaming and Racing has powers of inquiry where misconduct and wrongful use of funds and assets, or mismanagement is suspected or alleged, or where non-compliance with the law is suspected or alleged.

What complaints are looked at?

An inquiry/investigation will be undertaken where there is good reason to do so. For example, we will consider complaints supported by evidence that:

- there is misconduct or mismanagement
- the funds and assets are at risk - the funds and assets are being used or applied in breach of the purposes for which they were raised
- the public is being misled in a material way
- unlawful charitable fundraising or community gaming activities are being conducted
- a prize won is not delivered, or is different in a material way
- persons are receiving unauthorised benefits
- proper accounts are not kept
- fundraising or administrative costs are too high
- improper activities are being undertaken.

We do not investigate criminal matters, which are the responsibility of the police to investigate under the provisions of the *Crimes Act 1900*.

What happens when we are alerted?

Each complaint is reviewed and assessed against criteria to determine its priority. The Investigation Unit will evaluate the information to decide whether:

- it is a matter which we can properly investigate, and
- the matter is sufficiently serious to justify an investigation.

Inspectors are under a duty to act fairly. They are concerned solely with the best interests of the charity and its beneficiaries. They do not represent the interests of either the complainant or the management committee of the charity.

Inspectors have power to obtain and copy all relevant information and documents from the charity, advisers and bankers of the charity, which are necessary for their work.

When we investigate our main concern is to ensure that the charity suffers no financial loss or damage to its reputation as a result of anyone's misconduct. We also need to ensure that the charity will be managed properly in the future.

What action can we take to put matters right?

We can take action in many ways, if an inquiry finds misconduct or mismanagement. For example, we can:

- prohibit further fundraising
- stop further actions by the charity's management committee in dealing with the charity's property (which includes land, buildings, investments and cash)
- appoint an administrator to conduct the affairs and activities of a charity
- refer the matter to the appropriate authorities for them to consider legal proceedings
- refer the matter to the police or to other government agencies for appropriate action

We aim to help charities achieve what they want to do, within their charitable purposes and the requirements of the law.

- refer issues concerning trustees to the Attorney General's Department for consideration of matters under the *Charitable Trusts Act 1993* (suspend or remove trustees and employees, appointment of new trustees, etc.).

In less serious cases, we may simply give a charity a warning and ensure that faults are put right. If necessary, we will monitor future activities.

We aim to help charities achieve what they want to do, within their charitable purposes and the requirements of the law.

2-900 THERE'S NO SUCH THING AS SOMETHING FOR NOTHING

Scammers send out amazing offers and gifts of winning tickets and prizes in exchange for an administration or entry fee, small enough to entice people to join.

Scammers know that a number of people will send them money, either lured by the promise of gains greater than the initial outlay (*What have I got to lose?*) or because the victim is driven by a sense of obligation after receiving 'something-for-nothing'.

In most cases, the victims of this type of scam pay money in exchange for nothing in return or for things of no value.

Scammers are also known to approach charities with schemes that purport high returns. Experience has shown that these returns rarely materialise, and the charity may incur large costs to protect its integrity.

You should always ensure that you take all reasonable steps to look into the scheme being proposed and be satisfied that it is going to benefit your charity. It is an added advantage to obtain independent legal advice or to contact the Office of Charities about proposed schemes.

Sometimes, persons promoting schemes may be acting in good faith, having themselves been duped by the scammers.

Most scams offer you access to a winning ticket if you send back a sum of money, usually described as an 'administration' or 'registration' charge, to be eligible. Other scams bait you by requiring you to purchase something of alleged value 'genuine, multifaceted diamond jewellery' in order to receive the prize. Some scams claim that you have come into an inheritance from a long lost friend or relative.

Often there's no prize or any money for you. If you do get anything, it's usually sub-standard, overpriced or falsely represented.

Even where a genuine lottery product is being offered, the administration mark ups on ticket prices make local lotteries an infinitely better gamble.

Care should be exercised if you receive unsolicited printed material from persons offering to buy lottery tickets on your behalf in national lotteries with the assurance that winnings will be posted to you. Ask yourself if the tickets you have paid for will be bought in your name and whether you will be notified of and receive winnings. Once money has been sent overseas it is highly unlikely it will be returned.

Normally when you send money you don't receive a ticket of your own, you purchase a share in a ticket only. This share can range anywhere from a 250th to a 1,000th share in a single ticket. Even if you win the big prize the chance of you receiving a sizeable portion of that prize is negligible.

Warning signs for scams

- An invitation to participate in any type of lottery or competition.
- Uninvited gifts or goods from any source.
- Up front payments - even though you have 'won' a prize, you have to send money for processing.
- A request to pay a fee to receive more benefits from the same provider.

- Notices from competitions you have not entered.
- A request to send money, credit card or bank details to a post office box address. This is particularly important in relation to foreign lotteries, as tracing these funds is nearly impossible, resulting in almost certain loss of your money.
- An offer that requires you to make a decision quickly as the opportunity is only available for a limited time or to a limited number or there is a waiting list of participants.
- An offer which suggests that the chances of winning are greater than with the legitimate Australian lotteries.
- The offer of free giveaways in exchange for your personal details.
- An invitation which includes a testimonial or a letter of reference to back up claims. There is no way of checking on their legitimacy!
- A claim that the product has caused a ‘sensation’ overseas.

What should you do:

- Hold off sending money or other details until you have made inquiries.
- As a practice you should always refuse unexpected prizes and gifts.
- As a practice you should never give your credit card or bank account details to strangers.
- Attempt to establish whether the lottery exists. If it claims to represent a genuine lottery, ring the genuine lottery organiser, if in Australia, and ask for confirmation.
- Don’t ring a telephone number provided by the person making the offer. This may actually cost you money—1900-numbers and similar are not free.
- Check with the NSW Department of Fair Trading, the Australian Competition and Consumer Commission or this Department.

Ask yourself these questions:

- How did they acquire my contact details?
- Have I provided my details for a free offer recently?
- How could I win a lottery prize if I haven’t bought a ticket?
- Usually, if I win something I don’t have to pay to receive my prize.

Decide:

- Don’t write back. It only indicates you’re interested and your name may be placed on other lists for similar scams.
- If it is anything other than a known lottery or competition - say No.

Management Issues

3-100 ATTRIBUTES OF A WELL-RUN CHARITY

The charity law's aim is to promote public confidence in the integrity of charity. Public confidence sustains the position of charities, enabling them to play their vital role in our community.

The expectations of the community are that charities operate to minimum legal and regulatory requirements, and achieve high standards of practice in the management of their resources and in the delivery of their charitable services.

Our task is to supervise charities, on behalf of the public, so that these expectations are met.

It is not just a question of taking corrective action after something has gone wrong. We prefer to work with charities to make sure that problems do not arise in the first place.

On the basis of our experience, we believe that the following list best describes the attributes of a well-run charity. If a charity is achieving, or aspires to achieve, these attributes it is one in which the public can have confidence. A well-run charity attracts public support.

The Department expects every charity to aspire to high standards and to work towards ensuring that it:

- is run by a body of people who take responsibility, and are accountable, for controlling the charity so that it is effectively run according to documented aims and rules
- manages and accounts for its resources
- complies with any legal and regulatory requirements

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- fully discloses and is open in the conduct of its affairs
- carries out its purposes having regard to the needs of beneficiaries, the expectations of the community and the wishes of donors
- conducts its relations, fundraising and publicity in a way that enhances its reputation and that of charities generally.

3–200 DUTIES AND RESPONSIBILITIES OF THE GOVERNING BODY

The members of the governing body of organisations have responsibilities imposed upon them by legislation and common law. These laws have not been formulated to make things difficult, they have been put in place for the benefit of the person, the organisation and the public at large. To be effective the governing body must understand the financial, operating and regulatory framework in which the authority holder is required to operate.

Persons who occupy a position on the governing body of an organisation:

- are bound by strict rules of common law relating to conflicts of interest, and must exercise care when making decisions to ensure that no conflict of interest occurs
- must act reasonably and prudently in all matters relating to the organisation and must always consider the interests of the organisation as paramount
- should not let personal views or prejudices affect their conduct as trustees
- should exercise the same degree of care in dealing with the administration of the organisation as a prudent person would exercise in carrying out a business
- must ensure that the property of the organisation is applied for the purposes set out in the governing instrument
- are duty bound to protect the property of the organisation
- have a responsibility to ensure the continuing effectiveness of the organisation:
 - by exercising control over the organisation's financial affairs
 - by ensuring that the organisation is not open to abuse
 - by ensuring that rigorous systems of internal control are constantly maintained.

It is recommended that authority holders define the rights, duties and responsibilities of office bearers in its constitution and/or in its operating procedures manual.

3–300 REMUNERATION OF MEMBERS OF THE GOVERNING BODY

Under the *Charitable Fundraising Act* [section 48] a person is not prohibited (despite any law to the contrary) from holding office merely because the person receives any remuneration or benefit from the organisation. However, approval must be obtained from the Department.

This enables a staff elected employee or a person receiving some form of assistance from the organisation (beneficiary/consumer) to take up a position on the governing body of that not-for-profit organisation. It also enables the president or other members of the governing body of the organisation to be remunerated.

What is remuneration or benefit?

Remuneration or benefit refer to salaries, wages, commissions, fees, rewards, allowances, bonuses, profits, gain, interest, etc. However, it does not refer to the payment of out-of-pocket expenses and the payment of interest (at the rate for the time being not exceeding interest charged by bankers for overdrawn accounts on money lent).

Remuneration may be based on a prevailing award or agreement.

Key responsibilities

- Conduct fundraising appeals in accordance with legislative requirements
- Maintain records of income and expenditure relating to fundraising appeals [s.22; cl 8 of the Regulation]
- Prepare annual financial statements that comply with Authority Condition 7
- Have the annual financial statements audited by a registered company auditor or a person approved by the Department [s.24]
- The auditor's report must give specific information about the affairs of the authority holder [s.24]
- A member of the governing body must give a declaration about the affairs of the authority holder (included with financial statements) [Authority Condition 7 (4)]
- The audited financial report must be presented to the annual general meeting within 6 months after the conclusion of the financial period [Authority Condition 7 (6)]
- Unincorporated authority holders with income from fundraising appeals exceeding \$10,000 are required to lodge a return to the Department 7 months after the end of the financial period [Authority Condition 5].

For more information refer:

Chapter 37, Duties and responsibilities of the governing body

Insurance indemnity premium

For the purposes of section 48 of the Charitable Fundraising Act, an insurance premium paid in respect of a policy indemnifying a member of the governing body from any liability from the performance of their duties and responsibilities is not taken as a remuneration or benefit despite the provisions of the Corporations Act 2001 (C'th).

Legalities— Guidelines for Running a Community Organisation

Published by the Council of Social Services of NSW (NCOSS), the book is a useful source of information on this and other important subjects. Topics covered include: incorporation; dealing with money; insurance; being an employer; and the commercial environment.

The publication is available from:

NCOSS

66 Albion Street,
Surry Hills.

Telephone:
(02) 9211 2599

www.ncoss.org.au/publications/index.html

The remuneration or benefit may be directly received in the form of a fee, salary, allowance, etc., or in the form of accommodation, amenities, etc. Benefits may be given indirectly through the provision of advice giving, advocacy, support, special apparatus and in direct assistance to their lifestyles.

What are the circumstances where approval will be granted?

Although each application will be dealt with on its merits, the following are examples of the circumstances where approval will be granted:

- staff elected members and beneficiaries.
- the organisation's constitution provide that members of the governing body of the organisation may be remunerated or otherwise receive a benefit.

If an amendment to the constitution or rules of a charity is required to be made to enable members of the governing body to be remunerated or otherwise receive a benefit, it must be passed by a special resolution of members of the organisation in a general meeting. Any member of the governing body who is to be remunerated or otherwise receive a benefit must not be entitled to vote in respect of such a resolution.

The number of members on the governing body who are to be remunerated or otherwise receive a benefit would generally be limited to one, unless convincing argument is provided to the contrary.

A quorum of the meeting of the governing body of the organisation shall not be properly constituted if the number of members of the governing body being remunerated or otherwise receiving a benefit generally exceeds one-third thereof.

Members of the governing body of an organisation that are to be remunerated, or are already remunerated, must be excluded from that part of a meeting of the governing body where their appointment, conditions of service, remuneration or any proposal for the supply of goods or services by them, or their immediate family, is being considered.

The appointment, conditions of service, or remuneration of, or supply of goods or services by or in respect of a member of the governing body of an organisation must be subsequently ratified by a general meeting of the members of the organisation (or a committee to which this function has been delegated).

What information must be included in an application?

The application must be submitted by the organisation's secretary or by a person on the governing body of the organisation, but not by the person it is proposed to be remunerated.

The following information must be submitted with the written application:

Details about the proposed position or person

1. (a) The full name and address of the person proposed to be remunerated or otherwise receive a benefit; or
(b) The position, status, title or office it is proposed to be remunerated or otherwise receive a benefit.
2. Details of the skills, knowledge, expertise, experience and empathy the nominated person or position will bring to the organisation's governing body.

Financial details

3. Details of the proposed remuneration or benefit; and the period over which it is to be paid; and the method by which the remuneration or other benefit is to be calculated.
4. Details of the gross and net proceeds obtained in the past 12 months or anticipated to be obtained over a 12 month period from fundraising appeals.
5. Details of the total income obtained by the organisation in the past 12 months or anticipated to be obtained over a 12 month period.

Organisational details

6. Details of the number of persons which constitute the governing body of the organisation, and the quorum for meetings of the governing body of the organisation.

7. Details of the organisation's constitution and/or policy and procedures which must be followed to avoid conflicts of interest (including declarations, exclusion from meetings at which business involving the person is discussed and voted upon and disclosure).
8. An extract of the organisation's constitution which provides that a member of the governing body of the organisation may be remunerated or receive a benefit.

Conditions of approval

The following conditions will normally be imposed on the grant of approval:

Financial Accountability – Disclosure

The following information shall be provided in a note accompanying the statement of income and expenditure and the balance sheet:

- (a) Details of any remuneration or benefit received by a member of the governing body of the authority holder (other than reimbursement of reasonable out-of-pocket expenses), the name and position held by each recipient and details of the type and the amount of the remuneration or benefit.
- (b) For the purposes of this condition, details of the amount of remuneration or benefit is only required to be disclosed where it is received as a direct result of holding office as a member of the governing body. For example, the remuneration or benefit received is by payment of a director's fee, salary or allowance, or by the provision of free accommodation or a car.

Organisational accountability

- (a) The organisation shall not amend its constitution, policy and procedures with regard to conflicts of interest (including declarations, exclusion from meetings at which business involving the person is discussed and voted upon, disclosure, tendering, etc.), unless approved by the Minister.
- (b) The organisation shall not amend its constitution with regard to the composition of the governing body, and the quorums of meetings unless approved by the Minister.
- (c) The appointment, conditions of service, or remuneration of, or supply of goods or services by or in respect of a member of the governing body of an organisation must be subsequently ratified by a general meeting of the members of the organisation (or a committee to which this function has been delegated). [Refer *Chapter 38, Conflicts of Interest*]

3-400 FRAUD / INTERNAL CONTROL

Fraud occurs in the most unlikely places, so authority holders should not take the view that "it can't happen to us".

A common sense attitude towards the handling of cash must be adopted, and the dangers of putting too much temptation in the way of collectors, employees or office bearers should be fully appreciated.

The general conditions of an authority to fundraise require that proper and effective internal controls must be exercised by the holder of the authority over the conduct of appeals, including accountability for all income and articles received from any appeal and expenditure incurred [refer *Chapter 13, Internal Controls*].

In addition, the holder of the authority must ensure all assets obtained during, or as a result of, a fundraising appeal are safeguarded and properly accounted for [refer *Chapter 20, Safeguarding Assets*].

If, in spite of all precautions, fraud or misappropriation is discovered, the governing body is obliged to report the offence to the Police. In this respect the *Crimes Act 1900* [section 316] provides:

"If a person has committed a serious offence and another person who knows or believes that the offence has been committed and that he or she has information which might be of material assistance in securing the apprehension of the offender or the

Case Study–Chapter
13, Internal Controls

Also, refer Chapter
8, The Audit for more
information

prosecution or conviction of the offender for it fails without reasonable excuse to bring that information to the attention of a member of the Police Force or other appropriate authority, that other person is liable to imprisonment for 2 years.”

For more information refer to 3-200: *Duties and responsibilities of the governing body*; and Chapter 8, *The Audit*.

3–500 CHARITABLE TRUSTS

Funds raised by an authority holder may be subject to a trust. Some organisations are confused by the term *charitable trust*.

A *charitable trust* has a broad meaning and refers to assets that have been donated for a particular objective or purpose, and which are held in trust for the time being until applied to that purpose. Often there will be no deed of trust or trustees appointed.

Under a *charitable trust*, the executive committees of charitable organisations are responsible for ensuring that the funds raised are used according to the objects or purposes represented during the appeal process and not otherwise, and only in accordance with the objects of the authority holder.

Instances have been found where funds raised for a specific charitable purpose have been applied to other purposes, in breach of trust law. Trust law is a very complex area of the law and persons should seek competent legal advice if they are unsure of their position.

Over recent years the Department has become aware of a number of funds established by organisations for particular purposes that have either failed or have been oversubscribed. These have involved the raising of funds for purposes such as:

- a community swimming pool which failed because of the lack of support
- specific assistance for young persons such as a bone marrow transplant, a liver transplant, air fares for a holiday for a leukaemia victim which were oversubscribed or failed because the young person died before the operation could be performed.

In these circumstances trustees of the funds should approach the Attorney General (if the value of the funds is less than \$500,000) to obtain approval to apply the funds to another purpose under the *cy-pres* scheme (transfer the funds to another similar purpose) under the *Charitable Trusts Act 1993*. Alternatively, an approach may be made to the Commissioner of Dormant Funds under the *Dormant Funds Act 1942*.

Both approaches provide an efficient and inexpensive option to trustees to enable the funds to be properly distributed where the original charitable purposes of the fund are no longer relevant or appropriate.

The *Dormant Funds Act* defines *charitable purpose* as including any benevolent, philanthropic or patriotic purpose. This is the same definition used in the *Charitable Fundraising Act*. This provides a wider meaning than the definition of *charitable purpose* under the common law which is used under the *Charitable Trusts Act*.

As the provisions of the *Charitable Trusts Act* require the Attorney General to apply the *cy-pres* principle in determining an appropriate scheme, it may be that the application of the *Charitable Trusts Act* will sometimes be limited. For example, funds raised to construct a community swimming pool which subsequently fails, may be difficult to apply *cy-pres*. In those cases, it would be more appropriate for an approach to the Commissioner of Dormant Funds who can establish a scheme for the distribution of the funds for other community purposes.

3–510 Powers of court to protect charitable property

The Supreme Court of NSW's powers in relation to charities are primarily a result of its general and inherent jurisdiction. The *Charitable Trusts Act* clearly identifies the court's powers without limiting the court's jurisdiction. Specifically, the Act deals with

Charitable trusts

Summary

If an authority holder finds that the purpose for which funds were raised is no longer relevant (e.g., the need no longer exists, or the project is no longer viable, etc.), the authority holder should either —

- seek legal advice
- where the assets do not exceed \$500,000 apply to the Attorney General's Department for permission under the *Charitable Trusts Act 1993* to apply it to an alternative purpose
- where the assets exceed \$500,000 apply to the Supreme Court which has the necessary powers to make a determination to transfer the assets to another similar purpose
- approach the Commissioner for Dormant Funds under the *Dormant Funds Act, 1942*. The Public Trustee is the Commissioner for Dormant Funds.

the powers of the Supreme Court to deal with misconduct or mismanagement in the administration of a charity, and gives the court the power to remove a person associated with a charity and to freeze the funds of a charity.

Under section 7 of the *Charitable Trusts Act*, if the court, in charitable trust proceedings, is satisfied that:

- (a) there has been any misconduct or mismanagement in the administration of a charitable trust; and
- (b) it is necessary or desirable to act for the purpose of protecting existing or future trust property or securing a proper application, for the purpose of the charitable trust, of existing or future trust property,

the court may, without limiting any other powers of the Court, make one or more orders.

The orders which may be made by the Court are:

- (a) an order removing any or all trustees
- (b) an order appointing a person as a trustee
- (c) an order precluding the employment or engagement of a person in the affairs of the charitable trust
- (d) an order directing any bank or person who holds property of the charitable trust not to part with the property without the approval of the court or the Attorney General or of some other person
- (e) an order restricting the transactions which may be entered into or the nature or amount of the payments which may be made, in the administration of the charitable trust, without the approval of the Court or the Attorney General or of some other person
- (f) an order appointing a receiver of the property of the charitable trust
- (g) an order which is necessary or convenient to be made for giving effect to an order referred to in this subsection.

In this context, *misconduct or mismanagement* includes the remuneration of persons acting in the affairs of the charitable trust concerned, or for other administrative purposes, by payments which are excessive in relation to the duties of the persons so acting.

3-520 Removal of trustees

Without limiting the powers of the court, the court may (under section 7 of the *Charitable Trusts Act*) remove a trustee of a charitable trust:

- (a) if the trustee has been responsible for or participated in misconduct or mismanagement in the administration of the charitable trust or has by the trustee's conduct contributed to it or facilitated it
- (b) if the trustee has been convicted, whether in New South Wales or elsewhere, of any offence involving fraud or dishonesty
- (c) if the trustee has become mentally incapacitated
- (d) if the trustee has become bankrupt, has applied to take the benefit of any law for the relief of bankrupt or insolvent debtors, has compounded with his or her creditors or has made an assignment of his or her remuneration for their benefit
- (e) if the trustee is a corporation and any of the following conditions apply:
 - (i) the corporation is in the course of being wound up
 - (ii) the corporation is under official management
 - (iii) the corporation has a receiver or manager appointed
 - (iv) the corporation has entered a scheme of arrangement with creditors
 - (v) the corporation in respect of which a writ of execution or other process has been issued on a judgment, decree or order of any court in favour

Disclosure

One of the major objectives of the Act is to promote proper and efficient management and administration of fundraising appeals. Proper disclosure is a keystone of that objective.

Proper disclosure ensures that the public is fully advised of the circumstances of an appeal so that they can make an informed decision.

of a creditor of the corporation and which has been returned unsatisfied in whole or in part.

3-600 DISPUTES AND COMPLAINTS

For more information refer:

Chapter 36,
Complaint Handling
Mechanism

Chapter 39, Internal
Disputes

It is not the role of the Department to intervene in purely internal matters or to act as an arbitrator where disputes and differences of opinion arise. Procedures at meetings, conduct of elections, and interpretation of the organisation's constitution or rules are all matters which should be resolved by the members of the authority holder, with appropriate legal advice.

In this respect the authority holder is required to have incorporated within its constitution or rules a mechanism for resolving internal disputes.

In addition, the authority holder is required to have a mechanism that will properly and effectively deal with complaints made by members of the public and grievance from employees.

3-700 WORKING WITH CHILDREN

In response to the recommendations from the 1997 Wood Royal Commission into the NSW Police Service, the NSW Parliament enacted legislation to reduce the risk of abuse of children and young people by those entrusted with their care.

In July 2000, the following legislation commenced:

- *Child Protection (Prohibited Employment) Act 1998*
- *Commission for Children and Young People Act 1998.*

These establish the Working With Children Check, an important initiative for checking paid and unpaid employees, such as volunteers, working with children and young people in New South Wales.

The child protection employment legislation prohibits convicted sex offenders from working with children and broadens the checking of those who want to work with children. The Check helps employers (including charities) engage people who are suitable for child-related employment.

Charities in child related workplaces are required to:

- Ask paid and unpaid staff such as volunteers, if they are a prohibited person (someone convicted of a serious sex offence).
- Do a mandatory background check of preferred applicants for paid positions primarily working with children, foster carers and ministers of religion.

Further information is available from:

NSW Commission for Children and Young People
Level 2, 407 Elizabeth Street
Surry Hills NSW 2010.
Website: www.kids.nsw.gov.au
Telephone: (02) 9286 7276
Fax: (02) 9286 7267
E-mail: kids@kids.nsw.gov.au

3-800 CHARITY ONLINE

Many charities have seen the opportunities offered by the Internet and have been quick to use this new medium to give information about their work and to raise money. Some may use the Internet to achieve their charitable activities.

As an emerging medium, which is yet to prove itself with the sale of standard consumer products and services, the Internet is not without its problems. The Internet

is an ideal medium for all types of scams, and it is to be expected that fundraising activities conducted by charities on the Internet will be subject to cynicism. Of course, these types of problems can also manifest themselves in other media such as radio or television.

An advantage of the Internet is that a potential supporter can use the Internet to authenticate information and statements made.

With many in the 16 to 34 age group logging online, to inspire giving and to provide information it is important to have an online presence.

Some charities may use the Internet to send standard e-mails to supporters to highlight forthcoming fundraising events and to advise of activities being undertaken with funds previously raised. There may also be encouragement for the supporter to send an e-mail to a friend or relation, with the anticipation that by doing so, it would encourage more giving.

Some charities may provide on their site a web page that allows supporters or sponsors to download banner ads, graphics and links to the charities homepage, which the supporter or sponsor can display on their own web pages.

An online presence could be seen as vital for communicating with supporters, potential supporters and people who just want to volunteer their services.

A search for the word 'charity' in any search engine will show a vast list of charities—one showing entries for half-million worldwide. Type in 'online charity' and the results on one search engine listed 125,000 entries.

Many are links to business sites trying to sell something, with an incentive to buy stating that they donate to a charity. In many cases, there is no indication of what that amount will be, and based on experience it would be extremely small. Although the intention may be honourable, the charitable connection is tenuous—profit before philanthropy.

The Internet as an information medium can do a lot to increase awareness of the problems charities are trying to address. Charities can use the Internet:

- to explain what they do and why
- to advise how the reader can help—either by volunteering of their time and experience, or by donating money
- to provide a credit card facility for making donations.

One of the objects of the fundraising law is to provide members of the community with sufficient information so that they may make an informed decision before donating. People are more inclined to give and to help if they can make an informed decision. The relatively low cost of establishing and maintaining a website, and the ease with which it can be updated, makes it an ideal medium to provide information widely and continuously.

A website can give information about what the charity is doing about the problem it is trying to address and how effective it is.

3-900 VOLUNTEER RECOGNITION

Volunteers are the most important part of any charity and its fundraising campaigns. Nothing could be accomplished without the help of these dedicated people.

They give generously of their time to the cause in spite of the fact that many of them have jobs and families.

Although the focus of charitable achievement is often through the name of the charity, it is relevant to remember that all charities are made up of people. And this support for our community is no more evident than in the enthusiastic army of volunteers who freely give of their time and effort for charitable activities to facilitate their smooth running.

Volunteers also give monetary donations, recruit other volunteers, assist with fundraising efforts and more. In fact, without the support and dedication of volunteers, many charitable activities could not happen.

It is important to recognise the efforts of volunteers. However, there is often little recognition of these efforts.

Sometimes, recognition is shown through editorials or articles in newspapers or magazines, television documentaries or current affair programs and community events. But, there are many ways to let volunteers know they are appreciated.

- They can be sent a personal thank you.
- They can be thanked publicly in a newsletter article.
- They could be sent flowers.
- A volunteer appreciation dinner or function could be hosted.
- A certificate of recognition could be given.

Volunteers, like most persons, respond positively when people let them know that they are appreciated.

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Fundraising Issues

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4-100 FUNDRAISING APPEALS

The term *fundraising appeal* under the *Charitable Fundraising Act* has quite a wide meaning at law; it is not limited to simple collections from the public.

It is defined as the soliciting or receiving of any money, property or other benefit from the public if a representation (implied or otherwise) is made that the appeal is for a charitable purpose or for the support of an organisation having a charitable object.

It does not matter whether the money or benefit concerned is solicited or received:

- in person or by other means such as by post, telephone or facsimile transmission
- as a donation or otherwise—such as by participation in a lottery [e.g., raffles, art unions] or competition; by sponsorship in connection with a walkathon, telethon or other similar event; in connection with the supply of food, entertainment (e.g., a concert) or other goods or services; or in connection with any other commercial undertaking). A membership drive undertaken by an organisation is also a fundraising appeal if one of the objects of the organisation is a charitable object.

The Department recognises that authority holders may from time to time undertake certain projects and activities which by their nature are not intended as a fundraising appeal. These may include activities such as the publication of an information handbook or the sale of equipment at cost or at a nominal mark-up (e.g., blood-testing strips to diabetics), production of stage plays by drama groups, etc. on a cost recovery basis.

These activities may constitute an appeal for purposes of the Act. If in doubt, authority holders are advised to seek a ruling from the Department about the status of these types of activities.

Once an organisation has been granted an authority to fundraise, it does not need to seek authority under the Act for individual appeals. However, some types of fundraising

appeals require authorisation under other Acts, such as the *Lotteries and Art Unions Act 1901* [refer to 4-500: *Lotteries and Games of Chance*].

4-110 Authorisation of appeals

A person or organisation conducting or participating in an appeal on behalf of the authority holder must be authorised by the authority holder. This may be accommodated through the issue of an authority in writing where the appeal is to be conducted other than face-to-face, or by the issue of an identification badge or card where the appeal is to be conducted face-to-face. Where the authority holder is to authorise a trader to conduct the appeal the authority must be in the form of a written agreement.

Some well known authority holders often receive unsolicited money from persons and organisations who have conducted fundraising appeals without the authority holder's knowledge. The authority holder should, when acknowledging receipt of the money, advise that person or organisation that prior authorisation should be sought in future.

The Act explains the terms *conducting*, *participating* and *traders* as follows:

Conducting

A person conducts a fundraising appeal if the person organises an appeal:

- whether alone or with others
- whether in person, or by an agent, or by an employee
- whether
 - on the person's own behalf
 - as an officer of an organisation
 - as a member of the governing body of an organisation.

Participating

A person participates in a fundraising appeal if the person:

- solicits or receives any money, property or other benefit in the course of the appeal
- assists in organising the appeal.

A person who participates in a fundraising appeal does not conduct the appeal if the person participates in it solely as an agent, employee or collector (whether voluntary or not) of or for another person who is conducting the appeal.

Traders

Refer to 4-120: *Traders*.

4-120 Traders

The Act, Regulations and authority conditions include a number of important requirements to be complied with in the conduct of any appeal jointly by a trader and an authority holder.

The Act [section 11 (1)] refers to a trader as a person who conducts an appeal:

- in connection with the supply of goods or services in the course of any trade or business carried on by that person
- otherwise partly for the person's benefit.

A person who simply supplies goods to an authority holder without conducting an appeal, is not a trader.

Authority holders are required to notify the Department in writing within 28 days if there is a modification to the particulars of an existing trader, or if a new trader is engaged. The details to be provided include:

- if the trader is a natural person, the person's name, business and postal address and telephone and facsimile contact numbers

Exempt fundraising appeals (sec 5 of Act)

- a request for, or the receipt of, an amount required as a genuine membership renewal fee of an organisation
- an appeal to (or the receipt of money or a benefit from) members of an organisation
- a request that any property be devised or bequeathed, or the giving of any information as to the means by which any property may be devised or bequeathed
- an appeal conducted exclusively or predominantly among persons sharing a common employer or place of work by one of those persons (being an appeal for a charitable purpose connected directly with another of those persons or any such other person's immediate family) and the receipt of money or a benefit from any such appeal
- an appeal to (or the receipt of money or a benefit from) any Commonwealth, State or local government authority
- a request for, or the receipt of, money from a person if the money is wholly payable by the person as the genuine fee or charge for the provision of:
 - (a) educational facilities or services
 - (b) child minding services
 - (c) goods and services by a supported employment service for people with disabilities
 - (d) nursing and medical services
 - (e) other care or welfare services.

More information on traders:

Chapter 23, Authorisation of appeals

Chapter 24, Appeals conducted jointly with traders

Chapter 26, Agreement with trader.

For more information on children:

Chapter 25, Children Participating in Appeals

Chapter 3, Management Issues, 3-700: Working with children

For more information:

Chapter 28, Telephone and Direct Marketing

Chapter 2, General Issues, 2-600: Privacy and the National Privacy Principles

The Department must be notified in writing within 28 days if there is a modification to the particulars of an existing trader, or if a new trader is engaged.

- if the trader is an organisation, its full name (together with any registered business names), its business and postal addresses and its telephone and facsimile contact numbers
- if the trader is an organisation, the full name of each director and owner of the business
- the period for which the trader is authorised to conduct the appeal according to the written agreement
- the type of appeal or appeals to be undertaken.

4-130 Participation of children in appeals

For the purposes of the Act, a child is a person under the age of 15 years. The minimum age for children participating in an appeal as a volunteer or receiving payment is 8 years and 13 years respectively. In both cases there must be observance of a code of practice [Schedule 2 of the Authority Conditions–Part 5]. This code specifies the conditions under which children may be used as collectors, including the degree of supervision required, conditions of employment and other obligations to protect their welfare and safety.

4-140 Telephone canvassing and direct marketing

Telephone canvassing and direct marketing is a technique of contacting potential clients directly through the establishment of a marketing database of existing and potential clients. This form of marketing is used extensively by some charitable organisations.

In recent years, rapid developments in technology have been accompanied by developments in the sophistication and variety of direct marketing methods. The methods include telephone solicitations, direct mail and the use of electronic media.

This has been facilitated through computer listings of names and addresses, and other material, which is readily available for rental and sale, or may be compiled by a charitable organisation itself.

The Department acknowledges that some people may welcome receiving promotional material or telephone calls. They may find it a convenient way to be informed and to participate in charitable fundraising activities by purchasing goods and services or by making a donation. At the same time, the practice may amount to an invasion of privacy.

Accordingly, authority conditions regulate the conduct of fundraising appeals by means of telephone, any electronic device such as facsimile machine or direct mailing. A code of practice is required to be established [Authority Condition 13], which must contain certain minimum requirements. Authority holders are not prevented from compiling marketing lists from information already in their possession as a result of earlier contacts with their clients. Authority holders may also compile lists from lists of publicly available information, such as electoral rolls, telephone books, community directories, press notices, etc., and from people who compile such lists.

The name and address of the person solicited must not be provided or sold to any other person or organisation without first providing the person with an opportunity to have his or her name deleted from the list.

For example, the authority holder during one of its mailings could indicate that the person's name may be provided to a third party and if that person has any objection to that occurring, to respond in the manner described. If the person does not respond, then the authority holder may assume that the person has no objection.

In addition, there is a responsibility on the organisation to clearly inform people on the lists of their right to have their name removed from the list, and to have the source of the addressee's name and address identified on request.

If the person being solicited requests the removal of his or her name from the list or database used for the purposes of the appeal, the request must be complied with.

The requirement to delete a name from a list relates to the authority holder's lists. The condition does not require that the authority holder delete the name from lists publicly available or from lists owned by list compilers. However, the authority holder must advise the person of the source of the list. This will enable the person to take the matter directly to the list compiler. Even though the name is sourced from an external source, the authority holder is required to delete or flag the name to ensure it does not solicit that person again.

The security and confidentiality of the data must be ensured by appropriate technological means and organisational arrangements.

4-200 MAINTAINING INTEGRITY

4-210 Bogus collectors

While reports of bogus collectors are rare, there is a need for the community to be vigilant.

The idea of charity is fundamental to a healthy society and charitable status is too important to be treated lightly.

People must be able to trust charity.

It is unfortunate that the occasional person will try and take advantage of the public's generosity for themselves rather than good causes.

By charities and the public working with the Office of Charities and the Police Service, we can fight such exploitation.

The Office of Charities and the Police will take steps to deal with dubious charity fundraisers who are brought to our attention.

Steps to protect

The following steps could protect you and the good name of charities against bogus collectors. Report anything dubious.

- Is the name used impressive or closely resembling the name of a well-known organisation?
- Ask for the charity's full name and address, if this is not obvious.
- Ask if the organisation is an authority holder under the Charitable Fundraising Act. If not, it may not be a genuine charity even though it may be supporting a good cause. Remember that some charities don't have to be registered with us.
- Ask questions about how funds collected will be used for the charity's programs. Ask about fundraising costs. Is the collector's response unclear, or evasive?
- Is the collector wearing an identification badge. If not displayed, demand identification from the collector. Check the expiry date—is the identification badge current? Does the identification badge contain the required information?
- If the collector is paid does the identification badge bear the words "Paid Collector".
- Ask if your contribution is tax deductible. Contributions to tax exempt organisations are not always tax deductible.
- Watch out for statements such as "all proceeds will go to the charity." This can mean that the money left after expenses, such as the collector's efforts, will go to the charity. These expenses can make a big difference, so check carefully.
- Is the collector using pressure tactics such as intimidation, threats, or harassment?
- Is the collector using pressure to ask for money on the spot?

Open bucket collections

The use of open buckets to collect monies, no matter where it is undertaken (e.g., a street, at a sporting ground), is prohibited under the fundraising law.

Authority condition 14 requires that collection devices must be:

- securely constructed
- properly sealed
- consecutively numbered
- clearly labelled with the name of the charity.

In addition, charities must exercise proper supervision, security and control over the use and clearance of the collection device.

- If the collection is not using a collection device, are authentic receipts given.
- Is the collection being undertaken at traffic lights? These practices are against the law and are dangerous.
- Is the collection device used an open bucket? Any collection box or device must be properly constructed, sealed, numbered and clearly labelled with the name of the charity.
- When sweets, publications, or tickets to benefit a charity are being sold, be sure to ask what the charity's share will be. Is this reasonable?

If you are concerned that a collection is not genuine, immediately report the matter to the local Police or the Office of Charities (02) 9999 0666. E-mail: charity.complaints@dgr.nsw.gov.au.

4-220 Sweet charity

To help members of the public with the task of identifying bogus collectors and inappropriate fundraising practices the Department has published a booklet called *Sweet Charity*.

The booklet is designed to inform members of the public about the charitable fundraising law and relevant issues and practices so that they may be better equipped to detect that something is wrong or inappropriate before donating.

Sweet Charity gives useful advice on the steps a member of the community may take to recognise improper practices and to avoid bogus fundraising activities. Amongst other matters it recommends that members of the public report anything dubious.

It is most likely that the booklet over a period of time will heighten the integrity of charities and result in increased giving.

If you are aware of a suitable venue to distribute *Sweet Charity*, please send an e-mail giving details of the venue to: charity.inquiries@dgr.nsw.gov.au

Sweet Charity in A4 format is also available from the Department's website: www.dgr.nsw.gov.au/html/charities/charities_fundraising.html

The Office of Charities suggests that charities with a website include a link to the Department's website. To introduce the link you may wish to use words such as:

"To help members of the public spot bogus fundraisers and inappropriate fundraising practices the NSW Office of Charities, Department of Gaming and Racing has produced a publication called *Sweet Charity*. The publication is available by contacting the Office of Charities on (02) 9995 0666 or from the Department's website: www.dgr.nsw.gov.au/html/charities/charities_fundraising.html"

4-230 Safer giving—out of the blue

Have you ever received funds out of the blue? Although you are extremely grateful for such funds, have you ever given any thought as to how you came to be in beneficial receipt of such funds.

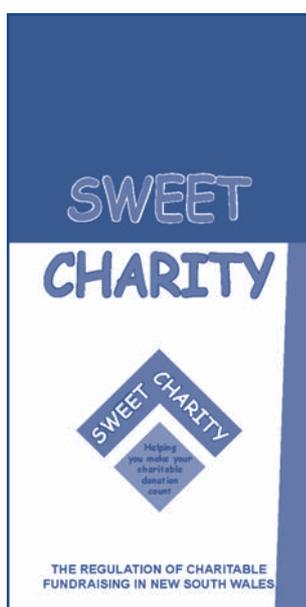
Have you asked yourself how the funds were raised? Was the name of your charity used? If so, was it used in an appropriate manner according to your organisation's philosophy?

Was there proper accountability? Did you receive all the funds? What expenses were incurred?

What identification or authority did the person or organisation use?

When you receive funds and it appears that the person who provided the funds undertook a fundraising activity, your 'thank-you' letter should also advise of the requirements of the charitable fundraising law.

Your thank-you letter should at least detail what the law requires of a fundraising appeal:



- for persons to be authorised in writing by the benefiting organisation before conducting an appeal
- for face-to-face collectors to wear an identification badge which has been issued by the benefiting organisation
- for proper and prudent accountability controls and safeguards to be implemented over the collection of funds and expenses
- for the benefiting organisation to fully document the income and expenses relating to the appeal in its financial accounts to provide proper disclosure.

Although we appreciate that many persons from whom such funds have been received voluntarily undertook the fundraising appeal with the greatest of integrity, regretfully there are some who may use your good name for personal benefit.

The purpose of the law is to provide an environment in which members of the public have reasonable certainty that their donations are going to genuine charities and used for the intended purposes.

The law attempts to protect the good name of charities. By maintaining the integrity of the charity industry, the community will retain their desire to continue their support of charities.

Some persons may be upset about having to comply with your request because they have volunteered their time and efforts to raise the funds, and do not believe it is necessary. However, most would appreciate the reasons for the controls, and of their duties and responsibilities when undertaking fundraising appeals.

The application of proper controls provides for “safer giving”.

4-240 Bitter-sweet taste

Is your fundraising marketing campaign accomplishing what it purports to do? Perhaps there is nothing illegal or dishonest about the fundraising campaign—but is it misleading?

A marketing campaign may be misleading because in the absence of any other information or disclosure donors may be led to believe that their donation will wholly or substantially help the benefiting organisation achieve its worthwhile activities, when in fact it is a very expensive and a profitable venture for the contracted marketing business.

The Office of Charities has found that expenses relating to many marketing campaigns exceed 60% of the projected income. In addition to telephone and mailing costs, there are salaries, commissions, or profits retained by the marketer (trader). These significant costs reduce the amount of money available to the benefiting charity—sometimes resulting in an extremely small percentage or no money at all to the charity.

Because some fundraising campaigns are so expensive, some charities and marketers are justifying the expense as an acquisition program. An acquisition program is perhaps one way of justifying an expensive effort to get the name and addresses of donors who can be contacted a number of times over a number of years. The ultimate success of these programs depends on a small number of donors continuing to make donations over a number of years — that is, contributing really meaningful money.

In some cases it has been observed that the marketer after 12 months has withdrawn its effort in connection with these types of programs, leaving the charity with an insignificant database. In addition, it has been known that some charities fail to make any ongoing use of the database of names.

These circumstances may occur because of one or more of the following. The charity has failed to exercise proper care and responsibility regarding the program’s structure; the charity’s contractual arrangements with the marketer are lacking adequate specifications about the program; or the charity has simply relied on the so-called expertise of the marketer because it has no fundamental competence or infrastructure to properly assess the worth of the program.

Charity auctions

Is a licence or a registered auctioneer is required to conduct an auction to raise funds for a charitable purpose?

Auctions may be for chattels of a significant value or for mystery items of low value. In many cases the items to be auctioned have been donated.

There are two pieces of law that apply to the conduct of auctions - the Auctioneers and Agents Act, and the Property, Stock Business Agents Act.

Amendments to the law in 1992 removed the need for a chattel auctioneer licence, which allowed persons to auction fine arts, motor vehicles, furniture, etc. Buyers at auctions have remedies available to them under trade practices laws, the Crimes Act and the common law.

An auctioneer licence only applies to land and livestock under the Property, Stock Business Agents Act.

For more information contact:

Licensing Division
Department of Fair Trading
Phone:
(02) 9619 8733.

A threat to life and limb

The collection of donations on public roads is banned.

Bucket collections, particularly at traffic intersections, impede traffic flow and pose a threat to life and limb to collectors, motorists and the public.

Some charities undertake collections at traffic lights. Under authority condition 27 collections cannot be undertaken by soliciting persons occupying motor vehicles while they are being driven on a public street or road including motor vehicles that are stopped at traffic lights or an intersection.

The prohibition exists for the following reasons:

- it is virtually impossible to guarantee that money collected this way is properly accounted for
- drivers and passengers have little opportunity to assess the bona fides of collectors
- collectors, motorists and the general public are at risk of accidents.

The prohibition does not cover collections associated with street parades, marches, footpath and door-to-door activities by bona fide collectors.

The Office of Charities appreciates that charities struggle to raise funds because of fierce competition, however, this situation should not give authorisation to a charity to undertake fundraising campaigns regardless of the expense of doing so, or without proper disclosure about the program to potential clients.

Given the nature of these types of fundraising campaigns the Office of Charities has an ongoing program to ensure compliance with the fundraising law.

The law requires the Office of Charities to be advised within 28 days of the engagement of a trader (marketer) by an authority holder. The law also requires certain information to be given to the public so that they can make an informed decision before donating. Compliance with these requirements is not happening in most cases.

The fundraising legislation requires that any advertisement, notice, or information concerning a fundraising campaign undertaken on behalf of a charity by a professional fundraiser or trader must provide the following particulars:

- details of the full name of the trader (the name of the trader must be in the same font size as the name of the authority holder)
- details of the trader's normal place of business and telephone number
- details of the basis on which the benefit to be received by the charity is to be calculated or provided (which cannot be expressed as a percentage of the net proceeds)
- details of the extent of the benefit to be obtained by the trader.

In addition to the above, persons participating in a fundraising appeal must provide honest answers to questions asked of them. This would include a description of how the gross proceeds obtained will be distributed.

Most people are prepared to give, however, they require more information about the costs and benefits of fundraising campaigns. Discriminating members of the community want more information about the charity and details of what their donation will provide and what percentage of their donation actually meets the objectives of the giving. Knowledgeable members of the community may decide not to support inefficient or costly fundraising campaigns.

4-300 OTHER REGULATIONS IMPACTING ON FUNDRAISING ACTIVITIES

4-310 Collections in public places

Local councils and the Police have the following powers that may be used for the regulation of charitable collections in public places. If you intend to conduct a fundraising appeal in a local government area, it is suggested that you consult the local council.

Erection of notices to regulate certain activities [section 632 of Local Government Act 1993 (NSW)]

A council may regulate solicitations and collections in public places by erecting notices where it wishes to prohibit or regulate the operation of such activities. Failure to comply with the notice is an offence.

For example, a council may erect a notice that prohibits persons soliciting or making collections in specific public places where council considers such activities are a nuisance. Alternatively, a council may limit the operational times of such activities.

Such a notice prohibits all potential collectors from operating in the particular portion of the public place. It applies equally to all activities.

Approval to sell article. [Approval F7, section 68 Local Government Act 1993 (NSW)]

Council approval must be obtained to use a standing vehicle or any article for the purpose of selling any article in a public place. Failure to obtain an approval is an offence.

The approval is required only where an organisation is selling an item, e.g., pens or raffle tickets. It does not apply in circumstances where donations are sought without offering an article in return.

Offensive conduct [section 4 of Summary Offences Act 1988 (NSW)]

The Police could take action against persons who behave in an offensive manner in a public place. The provision is aimed at the behaviour of the individual and could be used against aggressive, rude or otherwise offensive collectors.

Pedestrian not to cause a traffic hazard or obstruction [cl 236 of Australian Road Rules]

The police may prosecute persons who cause a traffic hazard by moving into the path of a driver, or unreasonably obstructing the path of any driver or another pedestrian (see also authority condition 27, soliciting from driving etc. of motor vehicles).

Offence of not crossing road (general) properly. [cl 230 of Australian Road Rules]

The police may prosecute persons for not crossing a road by the shortest safe route or for staying on the road longer than necessary to cross the road safely.

Offence of not crossing a road (lights) properly. [cl 231, 232 of Australian Road Rules]

The police may prosecute persons for crossing a road if the pedestrian lights shows a red pedestrian, or the traffic lights show a red or yellow light.

Offence of not crossing road (pedestrian crossings) properly. [cl 234 of Australian Road Rules]

The police may prosecute persons for crossing a road within 20 metre of a marked foot or pedestrian crossing on a road or for staying on a crossing on a road for longer than necessary to cross the road safely.

These Australian Road Rules could be used against persons soliciting or collecting on roads contrary to requirements for the purpose of collecting donations.

4-320 Fundraising functions

Many charities hold functions at which liquor is sold as part of their fundraising activities. The *Liquor Act 1982 (NSW)* and the regulations under the Act contain certain important provisions that apply to the operation of these types of functions. An essential requirement is that a function licence must be obtained from the Licensing Court of New South Wales.

There are two types of function licences available — a temporary function licence enables liquor to be sold at up to three functions a year, while under a permanent function licence, 26 functions can be held (the Court may vary this limit in special circumstances).

The types of functions that can be approved by the Court include dinners, balls, conventions, seminars, sporting events, race meetings, exhibitions, performances, fairs, fetes and carnivals.

Functions can only be approved by the Court where they are held under the auspices of the charity that is to hold the function licence. In other words, the licence cannot be used by other organisations or persons.

Australian Road Rules

Australian Road Rules, ISBN 0 7240 8874 1, published by the National Road Transport Commission on 19 October 1999 that comprises the road rules approved by the Australian Transport Council under the National Road Transport Commission Act 1991 of the Commonwealth on 29 January 1999 (together with the amendments to those rules approved by the Council on 30 June 1999 and 11 October 1999). Note. Copies of the Australian Road Rules, as published by the National Road Transport Commission, are available from the New South Wales Government Information Service. The latest version of the Rules is also available in electronic form on the Commission's Internet site at <http://www.nrtc.gov.au/>. However, care should be taken in consulting the latest electronic version on that site because its provisions may differ from the version of the Australian Road Rules referred to in this clause

The Australian Road Rules are to be read with, and as if they formed part of, the Road Transport (Safety and Traffic Management) (Road Rules) Regulation 1999 (NSW), in force under the Road Transport (Safety and Traffic Management) Act 1999 (NSW).

Statutory provisions are in place to ensure that liquor is sold responsibly and lawfully at functions, with the licensee and charity both liable to disciplinary action where breaches are detected.

Application for a temporary function licence must be lodged at least 4 weeks prior to the function. There is an application fee of \$50.

Application for a permanent function licence must be lodged at least 6 weeks prior to the function. Applications can only be made for functions to be held within 18 months of the application being lodged. There is an application fee of \$50 (which is deducted from the fee for a new licence, if granted, which is \$500).

Applications are available from the Principal Registrar of the Licensing Court of New South Wales or any Licensing Court registry.

Facts sheets on the legislative framework and how to apply for both permanent and temporary function licences are available from any Licensing Court registry or the Department on (02) 9995 0333.

If you need more information contact the Licensing Court of New South Wales on (02) 9995 0894.

4-400 FUNDING SOURCES

4-410 The Community Development and Support Expenditure (CDSE) scheme

The Community Development and Support Expenditure (CDSE) scheme is an initiative whereby clubs earning over \$1 million in gaming machine revenue provide funding for community projects and services. In 1999, clubs reported CDSE expenditure of \$42 million across New South Wales. In 2000, clubs reported about \$49 million.

The scheme was introduced in 1998 by the NSW Government and allows clubs to claim a 1.5% duty deduction on gaming machine revenue over \$1 million for moneys spent on community support.

Full details on the operation of the scheme are contained within the Department of Gaming and Racing's Guidelines.

There are two classes of expenditure under the scheme:

- Category 1—specific community welfare, community development, social services and employment assistance activities; and
- Category 2—other community development and support (e.g., traditional areas of club expenditure such as support for sport and recreation groups)

The CDSE Category 1 liability for the duty year ending 30 November 2001 was approximately \$19 million.

From 1 December 2000, a significant change to the operation of the scheme occurred with the establishment of CDSE Local Committees to advise clubs on the social needs within a local government area and on Category 1 funding applications. However, any decision regarding funding of CDSE activities remains with each club's Board of Directors.

The CDSE Local Committees have been established on the basis of local government areas and will have a core membership of the CDSE clubs in the area, the local council, the NSW Department of Community Services (DOCS) and the Council of Social Services New South Wales (NCOSS) or affiliate.

Councils are taking a prominent role in convening and servicing the CDSE Local Committees.

A list of CDSE qualifying clubs within each local government area can be obtained by visiting the ClubsNSW Internet website. This list also contains full details of how to apply for funding in each local government area.

The ClubsNSW website also gives information about the Guidelines and provides application forms.

For further information, contact:
 ClubsNSW
 499 Kent Street, Sydney NSW 2000
 Telephone: (02) 9268 3000
 Facsimile: (02) 9261 2506
 Website: www.clubnsw.com.au

4-420 Sources of information about funding

communitybuilders.nsw

This is an interactive website (<http://www.communitybuilders.nsw.gov.au>) where the members of the community contribute to its content and development. The Premier's Department of NSW coordinates this site as a joint government and community project.

Part of the website provides information about funding sources. The following provides information about some of those funding sources.

Australian Directory of Philanthropy

Published annually, the directory provides a list of trusts and foundations that provide grants. The information includes the purpose of the fund; target groups for funding; application procedures; and contact details. It costs approximately \$45.

Further information: Philanthropy Australia Inc, www.philanthropy.org.au

Support for the Arts Handbook

The Australia Council annually publishes the Support for the Arts Handbook which outlines the grants available under various categories.

Further information: Australia Council, www.ozco.gov.au/

Ageing and Disability Department

The NSW Department of Ageing and Disability provides grants for research and development and Seniors Week. The focus of the grants program is to facilitate the increased understanding of the needs of older people, people with disabilities and carers.

Further information: www.add.nsw.gov.au

Casino Community Benefit Fund

The Fund supports research into the social and economic impact of gambling, the promotion of awareness of problem gambling in the community and organisations that provide support for problem gamblers and their families.

Further information:

The Secretariat
 Casino Community Benefit Fund
 c/- Department of Gaming and Racing
www.dgr.nsw.gov.au

Cultural Grants Program - NSW Ministry for the Arts

The NSW Ministry for the Arts offers assistance to arts organisations through the Cultural Grants Program. The program includes funding for: capital assistance; community cultural development; dance; indigenous arts literature and history; music; and performing arts touring.

Further information: <http://www.arts.nsw.gov.au/Guidelines/guidelines.htm>

Ethnic Affairs Commission

The Commission has two grant programs: the Partnership Scheme aims to develop best practice models for responding to community issues; the Community Development

Program aims to promote community harmony and encourage participation of ethnic communities in all aspects of life.

Further information: www.eacnsw.com.au

4-500 LOTTERIES AND GAMES OF CHANCE

For more information:

Chapter 33, Lotteries and Games of Chance

Health regulations

The offer of perishable items such as green groceries, meat and fish as prizes in lotteries is regulated under the Food Act 1989.

Such prizes must comply with the same requirements that apply to food sold through normal retail outlets. These include:

- the manner of handling and packaging the food
- the manner of labelling packages of food
- the temperature at which food must be kept.

Contact the local area health service for more information.

The offer of fish prizes must also comply with the Fisheries Management Act 1994 and the Fisheries Act 1935. A special permit is required.

Contact the local fisheries officer or NSW Fisheries for more information.

Fundraising lotteries and games of chance for charitable purposes must comply with the *Lotteries and Art Unions Act, 1901*.

Minor lotteries may be conducted without the need for a permit. Although permits are not required, special conditions apply.

If a major lottery is proposed to be conducted a permit must be obtained from the Department.

To conduct fundraising games of chance—housie (bingo), lucky envelopes, chocolate wheels—application must be lodged with the Department for an authorising permit.

Permits cannot be issued authorising the conduct of odds playing games such as roulette, esmeralda, sandown, red, white and blue, ring-a-coin, punch-board, crown and anchor, two-up, hazard, baccarat, manilla, pak-a-pu, fantan and like games.

Where a trader is involved in the conduct of lotteries and games of chance proper controls and supervision should be exercised over that trader by the authority holder.

The next two pages provides a Ready Reference Guide to Fundraising Community Gaming Activities. More information on each community gaming activity is provided in separate easy to read fact sheets. These may be obtained from the Department's website www.dgr.nsw.gov.au or by telephoning (02) 9995 0666.

The Ready Reference Guide is designed to provide accurate and authoritative information in regard to the subject matter covered, and with the understanding that the Department of Gaming and Racing is not passing legal opinion or other professional advice. If you require a more detailed understanding of the legislation it is recommended that you contact your legal adviser.

The law governing the conduct of lotteries and games of chance is the *Lotteries and Art Unions Act* and the *Lotteries and Art Unions Regulation*.

Printed copies of the legislation may be obtained from the NSW Government Bookshop [Goodsell Building, 8-12 Chifley Square (cnr. Phillip and Hunter Street) Sydney]—telephone: (02) 9238 0950 or (02) 9743 7200, or if calling from outside Sydney 1800 463 955; fax: (02) 9228 7227; e-mail: gisinfo@dpws.nsw.gov.au OR from the Government Printing Service [Block V, Units 5 and 10, Regents Park]—phone: (02) 9743 8777; fax: (02) 9743 7114; e-mail: legislation@dpws.nsw.gov.au

Alternatively, Internet access to the legislation may be obtained from www.austlii.edu.au/databases.html#nsw OR from www.legislation.nsw.gov.au

READY REFERENCE GUIDE TO COMMUNITY GAMING ACTIVITIES

Position as at September 2002

Type	Permit required	Purpose	Total prize value limits	Money prize restrictions	Additional comments
Art unions	Yes (free) - if total prize pool exceeds \$25,000 (under \$25,000 treat as raffle).	Fundraising - at least 40% of gross proceeds to not-for-profit organisation.	No limit.	Total value of money prizes (excluding spending money) capped at \$5,000. Spending money limited to 20% of value of travel prize.	Expenses (including prizes) not to exceed 60% of the gross proceeds.
Raffles, guessing competitions	No.	Fundraising - at least 40% of gross proceeds to not-for-profit organisation.	\$25,000.	Total value of money prizes (excluding spending money) capped at \$5,000. Spending money limited to 20% of value of travel prize.	Expenses (including prizes) not to exceed 60% of the gross proceeds.
Scratch and break-open lotteries (no-draw lotteries)	No.	Fundraising - at least 40% of gross proceeds to not-for-profit organisation.	\$5,000	Total value of money prizes (excluding spending money) capped at \$5,000. Spending money limited to 20% of value of travel prize.	No more than 3,000 tickets may be sold in a series. The purchase price of the ticket cannot exceed \$2.00. Only one lottery may be conducted at the same time. Expenses and prizes not to exceed 60% of the gross proceeds.
Mini-number lotteries (lotto-style lotteries)	No.	Fundraising - at least 40% of gross proceeds to not-for-profit organisation.	Total value of prizes must be at least 50% of the gross proceeds, and cannot exceed \$10,000.	Total value of money prizes (excluding spending money) capped at \$5,000. Spending money limited to 20% of value of travel prize.	Persons under 18 years cannot take part. Purchase price of the ticket cannot exceed \$2. Only one lottery may be conducted at one time and in any period of 7 days. Expenses not to exceed 10% of the gross proceeds.
Charity housie, cash housie (bingo)	Yes (free).	Fundraising (charity only) - 12.5% of gross proceeds to charity.	Max. of 75% of gross proceeds. Ordinary game prize cannot exceed \$150. Max. value of jackpot prizes offered in a minor session - \$500; major session - \$2,000; super session - \$4,000.		Max. of 40 cents per ticket. Expenses (excluding prizes) not to exceed 12.5% of gross proceeds.
Chocolate wheel	Yes (free).	Fundraising (charity only) - 40% of gross proceeds to charity.	Max. \$500.		Persons under 17 years cannot take part. Expenses (including prizes) not to exceed 60% of the gross proceeds.
Lucky envelopes	Yes (free).	Fundraising (charity only) - 40% of gross proceeds to charity.	From \$40 to \$200 depending on sale price of ticket.		Persons under 17 years cannot take part. Tickets can be sold at 20 cents, 50 cents or \$1 each. Expenses (including prizes) not to exceed 60% of the gross proceeds.
Football (sports) tipping competitions	No, if value of ticket sales does not exceed \$20,000. Yes (free), if value of ticket sales exceed \$20,000.	Social entertainment or fundraising.	No limit.	Total value of money prizes (excluding spending money) capped at \$5,000. Spending money limited to 20% of value of travel prize.	Except for fundraising amount, all proceeds of ticket sales or rights to participate must be distributed back to participants as prizes. No salaries, commissions.

More information on each community gaming activity is provided in separate easy to read fact sheets. These may be obtained from the Department's website www.dgr.nsw.gov.au or by telephoning (02) 9995 0666.

Type	Permit required	Purpose	Total prize value limits	Money prize restrictions	Additional comments
Hundred clubs and similar progressive lotteries	No, if value of ticket sales does not exceed \$20,000. Yes (free) if value of ticket sales exceed \$20,000.	Social entertainment or fundraising.	No limit.	Total value of money prizes (excluding spending money) capped at \$5,000. Spending money limited to 20% of value of travel prize.	Except for fundraising amount, all proceeds of ticket sales or rights to participate must be distributed back to participants as prizes. No salaries, commissions.
Social house (bingo)	No.	Social entertainment, fundraising.	Ordinary game \$30 max. Jackpot prize - total value of prizes in session \$150 max.		Except for fundraising amount, all proceeds of ticket sales or rights to participate must be distributed back to participants as prizes. Cannot be conducted on premises of registered clubs or on licensed premises. No salaries, commissions.
Sweeps and calcuttas	No, if value of ticket does not exceed \$20,000. Yes (free) if value of ticket sales exceed \$20,000.	Social entertainment, fundraising.	Sweeps: based on ticket sales. Calcuttas: based on ticket sales and proceeds from auction.	No limit.	Except for proceeds for non-profit organisation, all proceeds of ticket sales and auction must be distributed back to participants as prizes. Can only be conducted on prescribed events.
Gratuitous lotteries	No.	Social entertainment or connected to a fundraising event.	\$5,000.	No money prizes.	Must be free of any entry fees or charges. The right to enter may be based on the purchase of a plate at a fundraising dinner function, fundraising ball, the purchase of a ticket for a seat at a particular fundraising event or function.
Two-up on Anzac Day	No.	Social entertainment, fundraising for charities.	The prize pool comprises all money invested by players.		Can only be conducted on Anzac Day (April 25). Persons under 18 years cannot take part. Subject to deduction of a fundraising amount for the benefiting charity, all bets and wagers must be given as winnings. Fundraising two-up may only be conducted on the premises of a registered club.
Gaming (casino) nights	No.	Social entertainment, fundraising for charities.	No prizes can be given or won. Persons participate for the entertainment value and with the knowledge that the proceeds will help a charity.		An admission fee or charge may be charged (the fundraising amount). Patrons cannot risk a stake on the outcome. Patrons cannot win and cannot lose anything of value. Chips/tokens - cannot be redeemed for money or anything of value; cannot be used for the purpose of bidding in an auction; cannot be used to determine the winner of a prize (e.g., person with greatest number of chips).

Notes:

- Each prize type excludes tobacco in any form; a firearm or ammunition within the meaning of the *Firearms Act 1996*; a prohibited weapon within the meaning of the *Weapons Prohibition Act 1998*; the provision of cosmetic surgery or other similar procedure the main purpose of which is to improve personal appearance or self-esteem.
- Alcohol prizes are limited to a maximum of 20 litres of the total prize pool.

More information on each community gaming activity is provided in separate easy to read fact sheets. These may be obtained from the Department's website www.dgr.nsw.gov.au or by telephoning (02) 9995 0666.

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Financial Issues

5-100 AUDITORS

The financial reports of an authority holder, in so far as they relate to receipts and expenditure in connection with fundraising appeals, must be audited annually by a registered company auditor (a person qualified to audit accounts for the purposes of the *Corporations Act 2001*) or having other qualifications or experience approved by the Department.

This requirement does not interfere with other laws under which the authority holder may be obliged to comply. For example, where an authority holder is a company under the *Corporations Act 2001* it must have its financial report audited by a registered company auditor.

The *Charitable Fundraising Act* does not include a reference to compliance with Accounting Standards, however, in the following circumstances those standards are imposed when the authority holder:

- is a company under the *Corporations Act 2001*
- is required to prepare general purpose financial accounts or comply with accounting standards under another law or funding agreement
- employs a member of the Institute of Chartered Accountants in Australia or a member of CPA Australia to prepare the financial reports
- engages a member of the Institute of Chartered Accountants in Australia or a member of CPA Australia to audit the financial reports.

Compliance with the accounting standards is mandatory for members of professional accounting bodies—imposed under *Professional Statement APS 1: Conformity with Accounting Standards and Urgent Issues Group (UIG) Consensus View*.



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Compliance with the accounting standards imposes an obligation to produce general purpose financial reports, as charities are reporting entities under *Statement of Accounting Concepts SAC 1: Definition of Reporting Entity*. By meeting the objective of general purpose financial reports the managements and governing bodies of authority holders discharge their accountability to the public.

However, the need to produce general purpose financial reports imposes additional accounting and audit costs on charities (authority holders). On a rational basis there would exist some authority holders for which there is limited justification to report through the preparation of general purpose financial reports. This is not on the basis that there exist no users who may demand information about the authority holder, but on the basis that some authority holders should be permitted to depart from the Statements of Accounting Concepts and Accounting Standards in the preparation of the financial report.

The reporting entity concept and the need to produce general purpose financial reports and the inherent cost imposed may be avoided where an authority holder:

- is not a company under the *Corporations Act 2001*
- is not required to prepare general purpose financial accounts or comply with accounting standards under another law or funding agreement
- does not employ a member of the Institute of Chartered Accountants in Australia or a member of CPA Australia to prepare the financial reports
- does not engage a member of the Institute of Chartered Accountants in Australia or a member of CPA Australia to audit the financial reports.

However, the Department's *auditor qualifications and experience policy* requires an authority holder with fundraising income or assets greater than \$100,000 to engage a member of the Institute of Chartered Accountants in Australia or a member of CPA Australia to audit the financial reports. This exists to allow smaller authority holders (those with fundraising income or assets \$100,000 and under) to avoid the additional cost burden of an audit of a general purpose financial report. It does not avoid the audit, or any costs associated with the audit.

The Department's *auditor qualifications and experience policy* allows an authority holder with fundraising income or assets between \$20,001 and \$100,000 to engage a person with formal accounting training, or if the fundraising income or assets is \$20,000 or less to engage a person who has no formal accounting training but who possesses other suitable qualifications and experience at significantly less cost.

Where the authority holder does not satisfy these criteria threshold, each case will be considered on its merits. For example, low level of income from fundraising compared to asset value over \$100,000, which exists because of a bequest; remoteness of authority holder.

The adjacent table summarises the implications of legal and accounting standard requirements, which are not affected by the *Charitable Fundraising Act*, and the implications of the Department's *auditor qualifications and experience policy*.

If a person is not a registered company auditor written application must be made to the Department for approval to engage that person as an auditor.

Application for approval to engage an auditor must contain the following information

1. The full name, accounting firm (if applicable) postal and business address and telephone number of the person for whom approval is sought.
2. Whether the proposed person is a member of the committee of the governing body of the authority holder, or related to a member of the committee of the governing body of the authority holder.
3. The name of the employer of the proposed auditor and place of business.
4. Details of the accounting qualification held by the person (e.g., degree in commerce, associated diploma or certificate in accountancy, etc.).

Changes to the particulars of auditors, or when a new auditor is engaged must be notified to the Department within 28 days of the change.

Members of the two main professional accounting bodies are reminded of their obligation to report fraud and other illegal acts under Auditing Standard AUS 210.

The Auditor: Implications of legal and accounting requirements, and section 24: Auditor Qualifications and Experience Policy									
Category / Issue	A	B	C	D	E	F			
Authority holder is a company under Corporations Act 2001		Authority holder is required to prepare general purpose financial reports or comply with accounting standards under another law or funding agreement							
							Section 24: Auditor qualifications and experience policy Authority holder must apply for approval of proposed auditor where category A or B does not apply—the following qualifications and experience criteria will apply:		
							Fundraising income average over the past two years OR value of assets		
				> \$100,000	> \$20,000 ~ ≤ \$100,000	≤ \$20,000			
Auditor	• registered company auditor	• registered company auditor	• member of either the Institute of Chartered Accountants in Australia or CPA Australia	• must be a member of either the Institute of Chartered Accountants in Australia or CPA Australia	• member of the Association of Taxation and Management Accountants • member of the National Institute of Accountants • person holds a degree, diploma or certificate in accounting from a recognised institution which make that person eligible for membership of one of the two accounting bodies or the National Institute of Accountants	• person possesses qualifications shown category E • person with experience and expertise in the field of commercial and government finance • person with sound accounting knowledge and experience (each application is considered on its merits)			
Reporting entity concept applies	Yes	Yes	Yes	Yes	No	No			
General purpose financial reports required	Yes	Yes	Yes	Yes	No	No			

5. Details of membership of any professional accounting body (e.g., Institute of Chartered Accountants, CPA Australia, Association of Taxation and Management Accountants, National Institute of Accountants, etc.).
6. The extent of experience and expertise held by the nominated person.
7. Details of the level of fundraising income raised by the authority holder in each of the past 2 years. Where the authority holder has not previously conducted fundraising appeals, an estimate of the income to be obtained from fundraising appeals in a financial year.
8. The total value of the assets including bank, building society or credit union accounts and investments at the end of the previous two financial years, if applicable.

Criteria to be applied in granting approval

If satisfied with the particulars provided in the application, the Department will normally grant approval if the nominated person holds the qualifications specified in the above table.

Cases which involve persons who do not hold these qualifications and/or where the authority holder does not satisfy the monetary thresholds, will be considered on their merits. In these cases, the application will need to provide appropriate reasons why approval is sought. The reasons may include:

- non-availability of a person with qualifications within reasonable proximity of the authority holder

- inability of the authority holder to afford the services of a person with the qualifications
- low level of annual income from fundraising appeals and/or assets
- must demonstrate that the nominated person has appropriate experience and expertise.

5-200 LAWFUL AND PROPER EXPENSES

Lawful and proper expenses may be deducted from the proceeds of a fundraising appeal [section 20].

A proper and lawful expense [Regulation 7] is acceptable, if:

- it is of a type and amount generally accepted as being associated with the manner of the appeal. To give some guidance, a type and amount may not be acceptable if:
 - the salary package of executive officers is disproportionate to the funds obtained from fundraising appeals if funds are not obtained from any other source (e.g., government funding)
 - the fee or commission paid or payable to a trader is grossly disproportionate to the revenue raised
 - a person conducting or participating in an appeal claims reimbursement of unauthorised entertainment expenses, excessive telephone charges, inflated rental, etc.
 - an office-bearer sells to the authority holder stationery, advertising material, equipment, etc. in connection with an appeal at an inflated price
- the ratio between the amount of the expenses and the gross proceeds is fair and reasonable.
- The authority holder is required to take all reasonable steps to ensure that the total expenses in respect of an appeal *for donations only* should not exceed 40% of the gross proceeds collected, and in all other cases the expenses should *not exceed a fair and reasonable proportion of the gross proceeds obtained* [Authority Condition 8].
- Authority holders should objectively look at the ratio which the expenses of an appeal bear to the gross proceeds obtained to ensure this is *fair and reasonable*. An example of where this might not be judged to be so is:

a ball is held by an organisation (promoter) on behalf of the authority holder. The promoter sells the tickets at \$200 each; the authority holder receives \$10 for each ticket sold. The cost of conducting the ball is estimated at \$100 per person; the promoter retains \$90 from each ticket sold as a management fee
- it is not prohibited under any other law
- it is supported by documentary evidence (or otherwise verifiable as being properly incurred)
- where the authority holder is an organisation, it has been properly authorised by or on behalf of the authority holder [see also Authority Condition 15]
- where any commission is paid as part of an appeal, it does not exceed the equivalent of one third of the gross proceeds collected
- where an expense is incurred as part of an appeal conducted jointly with a trader, it is of a type and amount provided for in a written agreement or contract executed between the parties

The written agreement must include details of the type, and any limitation on the amount of expenses to be borne by the trader and the authority holder as part of the appeal [Authority Condition 20].

Don't be Duped

They're still at it.

Charities are being targeted by overseas crime syndicates posing as solicitors and offering huge sums of money from legacies, bequests or even the funds of deposed political leaders. Although largely of West African in origin, these approaches have come from other areas.

Getting the money is conditional upon the charity sending to the so-called solicitors its details including the charity's bank details or a range of advance fees.

To our knowledge none of these approaches have ended up in money being handed over to the charity. Sending details of bank accounts could result in money being taken from the charity's bank account. Even handing over your letterhead could be asking for trouble.

Our advice is not to respond.

Budgeting is the process of preparing a financial plan for future operations with a view of enhancing performance.

It is a summary of financial expenditure and income over a specified period of time as well as totals of money allocated for a specific purpose during a specified period.

As a management tool, the scope and coverage of the budget will be determined by the extent of usage that management is willing to make of the tool and its costs of implementation.

5-300 BUDGETING

Authority holders should consider preparing an annual budget for their overall activities. This would include their fundraising appeal operations.

Budgeting perform three key roles:

Planning

budgeting helps in the planning process by ensuring thorough investigation and defining the objectives and plans to achieve these objectives

Coordination

budgeting helps ensure the most efficient allocation of scarce resources across competing objectives or programs

Control

budgeting helps avoid over spending and provides a target for spending.

The importance which management places on these roles will determine how the budget is prepared and implemented. Possible coverage includes forecasting, testing/learning, planning, recognition of constraints, controlling, focusing attention, motivation and authorising.

Learning is an important budget outcome—Why was the last budget inaccurate? What assumptions did we make that proved wrong? To what extent do they reflect normal deviations due to uncertainties and to what extent do they reflect lack of knowledge of processes? Has anything been done to improve performance? What things could be done to eliminate identified constraints or to focus on opportunities that do not give rise to constraints? Is there an identified opportunity to reassign tasks or responsibilities, or to consider further training for those persons involved in the implementation of programs?

The emphasis in recent times has been an increasingly higher expectation in the community regarding quality, performance, and greater social responsibility. This means that performance levels that were previously satisfactory will not be good enough in the future, and that managements must ensure continuous improvement in performance.

The following are two budgeting methods: a budget for estimated recurrent income and expenditure for the ensuing year, and where appropriate, a cash flow budget.

Recurrent means items of income and expenditure needed in the day to day operations of the authority holder, which is shown in the Statement of Income and Expenditure; this is distinct from capital expenditure which is shown in the Balance Sheet.

A recurrent budget brings the following advantages to an authority holder:

- informed decisions can be made on the viability of the authority holder and the extent to which it can afford to implement and maintain certain programs and activities
- the financial reports prepared by the treasurer during the course of the year can incorporate a comparative column to show how the authority holder is travelling in relation to its budget with actual income and expenditure. Comparisons of actual income and expenditure for previous years can also form part of the report
- adjustments can be made to programs during the course of the year where there is a shortfall in estimated income, or estimates of anticipated income have been exceeded
- the same applies to actual expenditure, which could exceed levels allocated in the budget (need to be curtailed or financed from another part of the budget), or conversely, expenditure in certain areas might be running well within budget and decisions made on what to do with any surplus
- budgets can serve as important performance indicators.

A cash-flow budget will allow the authority holder to:

- plan for financial commitments it must meet at a given point in time (e.g., fortnightly

- payroll, payment of end-of-month creditors, etc.)
- plan to maximise investment opportunities for funds surplus to needs.

5-400 LODGEMENT OF RETURNS

An authority holder is required to forward to the Department a return providing information about the gross amounts received from appeals, and the net amount received after the deduction of expenses—this is usually the audited financial statements for the authority holder for the specific period.

Returns are required to be sent to the Department at the following intervals [Authority Condition 5]:

- a **natural person** must send a return within one month after the close of each appeal conducted by the person.
- an **unincorporated organisation** must send a return if in any financial year the gross income from any appeals conducted by it exceeds \$20,000:
 - within 3 months after the audited financial statements are adopted at its annual general meeting, or
 - within 7 months after the conclusion of each financial year, whichever occurs sooner.
- **incorporated and unincorporated organisations** must send a return within 2 months after its authority expires or otherwise ceases to have effect or, if the authority holder ceases to conduct appeals, within 2 months after it ceases to conduct appeals.

5-500 DON'T PAY FOR ADS YOU DIDN'T ORDER

Bogus publishers find easy pickings among authority holders with loose purchasing procedures.

Authority holders that are flat out raising funds and undertaking their charitable activities are often easy targets for fraudulent activities.

The fraudulent activities include two types of publishing scams - 'telefraud' and bogus telex, fax and trade directories.

Telefraud involves applying pressure over the phone to extract payment for unauthorised advertisements in magazines. This type of scheme is also referred to as 'blowing' because operators of the scam depend on the telephone (blower) to trap their victims.

These bogus publishers are skilled confidence tricksters. They claim to represent various bodies, organisations or authorities, such as a directory compiler, a peak body or council or a government agency.

The techniques vary, but they all rely on conning people into believing they owe money for an advertisement in a magazine or journal. They play on their victim's poor purchasing procedures, good nature or fear of authority.

One common approach is to ring a charity or company asking to confirm details of an advertisement supposedly booked some time earlier. They often read out a genuine advertisement the charity published somewhere else, including in a directory.

Soon afterwards they send an invoice for several hundred dollars.

Many authority holders may fall for this simply because they don't have adequate controls or records of their advertising. The scam thrives on uncertainty. A common tactic is to intimidate people who won't pay threatening legal action.

Failure to properly account for money from support groups

Inquiries have revealed that many charitable organisations with fundraising support groups only account for the funds they receive from these organisations as a donation. Your accounts should include the total gross income and any expenses relating to that appeal.

The statement of income and expenditure produced by a charity (authority holder) should be for the consolidated operations of the organisation.

The gross aggregate income received from all fundraising appeals must include all manner of income obtained through fundraising appeals and the expenditure associated with fundraising appeals must include all expenses directly incurred in the conduct of appeals.

Failure to provide this information gives the reader of your annual financial accounts a misleading view of the cost of fundraising.

Phoney publishers also solicit entries for bogus directories. They send what appears to be an invoice for entries but are in fact disguised proposals for subscriptions. These are normally unsolicited and look like a genuine directory publisher.

A variation cons people into believing that they are responding to an offer for a free-entry. In fact they are ordering entries they have to pay for.

The best defence is just basic good business practice:

- authorise all advertising in writing and keep records
- insist on getting proof of the ad
- check invoices carefully
- limit the number of staff authorised to place or pay for advertising or invoices
- don't pay for any advertisement or directory entry you didn't authorise.

5-600 HELPING SUPPORT GROUPS

Many major authority holders take a pragmatic approach to educating fundraising support groups about the requirements of the charitable fundraising law.

They have published guidance booklets and information sheets as a tool to ensure compliance with the law.

Your organisation can also benefit immensely by developing and implementing similar guidance booklets and information sheets.

Particulars that should be incorporated into a practice document include:

- contact information
- information about conducting a successful fundraising event
- advice that prior written authorisation is required before a fundraising appeal or activity undertaken
- what details are required to be submitted to obtain authorisation—e.g., details of proposed activity including anticipated expenses
- details about the identification badge issued by the authority holder and required to be worn by collectors when undertaking face-to-face collections
- requirements relating to advertising
- the books and records to be maintained
- the format of the financial accounts
- that a separate bank account is to be maintained in the name of the authority holder with at least two signatories
- the percentage return required to be obtained from fundraising appeals.

If you require assistance in developing guidelines, please telephone: (02) 9995 0621 or e-mail: charity.inquiries@dgr.nsw.gov.au

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BEST PRACTICES

The Best Practices function as a manual of prudent practices that authority holders should adopt to ensure compliance with the legislation, the regulations and the authority conditions. A handy cross reference is provided for legal requirements. The Best Practices cover all areas of financial, fundraising and organisational accountabilities, including the keeping of records, preparation of the annual financial statements, internal controls and the conduct of appeals.

Introduction

The Best Practices are designed to assist authority holders in complying with the legislation, the Regulations and the conditions attached to the authority.

They cover all significant areas under the categories:

- Financial Accountability
- Fundraising Accountability
- Organisational Accountability.

They include the keeping of financial accounts and records, receipting requirements, internal controls, conduct of appeals, recording of minutes and audit requirements.

The Best Practices have two objectives:

- a source of general reference to authority holders
- a manual of model policies and procedures for prudent conduct and administration.

A standard condition (Authority Condition 1) attached to all authorities states:

As far as practicable, the authority holder should observe the relevant or appropriate best practice described in the publication Best Practice Guidelines for Charitable Organisations. Alternative practices may be employed where they provide similar standards of accountability.

The Best Practices provide general comments and an overview of most of the issues included in the Regulations and the authority conditions.

They also provide details of the best practices and other suggested practices.

Obviously, some practices may not be relevant to your situation.

Where appropriate the best practices include alternatives which take into account factors such as the complexity of the organisation, whether it maintains manual or computerised records or unusual situations.

The other suggested practices are optional, but are prudent practice. These should apply wherever practicable and appropriate. Where an authority holder exercises the right of employing an alternative practice, it must provide appropriate standards of accountability.

The Department will consider the question of materiality in reviewing the extent to which the best practices are not implemented - that is, whether on balance the omission is likely to adversely affect accountability and other public benefit issues.

Note: The standard authority conditions and the Regulations referred to are applicable at the date of publication of these Guidelines. Authority holders will be advised of any subsequent change to the conditions and Regulations.

The Authority Conditions are also subject to any special conditions that may be imposed on a particular authority holder.

Financial Reporting



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7-000 OBJECTIVES OF FINANCIAL REPORTING

Preparation of the financial report is a vital task to be undertaken at the conclusion of the financial year of the organisation. This financial report is required to be audited, after which it must be submitted to the annual general meeting of the authority holder. At the annual general meeting they must be formally adopted, and the motion recorded in the minutes.

The objectives of financial reporting are:

- the provision of information that is useful to users (especially members of the public) for making and evaluating decisions about scarce resources
- assisting management and governing bodies to discharge their obligations and accountabilities
- disclosing information relevant to the assessment of performance, financial position and financing and investing, including information about compliance.

A financial report comprises as a minimum the following components:

- a statement of income and expenditure (profit and loss statement, or statement of financial performance)
- a balance sheet (a statement of financial position)
- a statement of cash flows, and
- information and notes to the financial statements.

In addition to the requirements of the *Charitable Fundraising Act*, other legislation and regulatory requirements may require the preparation of financial reports:

- *Corporations Act 2001* (C'th) — applies to companies limited by guarantee

- *Associations Incorporation Act 1984* (NSW) — applies to associations
- *Co-operative Act 1992* (NSW) — applies to community advancement societies
- industrial relations legislation.

Further, the need to prepare financial reports may be a requirement of receiving government grants.

The requirements of the *Charitable Fundraising Act* does not interfere with those other requirements.

All authority holders have some form of governing instrument, whether it is a constitution, a trust deed, or rules. These normally require the preparation of financial reports.

7-100 ANNUAL REPORT

The financial reports normally form part of the annual report of an authority holder.

All authority holders are encouraged to make every effort to present their annual report in the most effective and informative manner. This provides the opportunity to create wider public awareness of the functions and achievements of the organisation.

To obtain assistance in developing the appropriate skills in this area, it is suggested that authority holders obtain details of the criteria used for judging annual reports used by the *Australasian Reporting Awards Inc. (ARA)*, and also examine the reports of past winners of the award in the *Division 2: Community and Welfare including Charities*.

In addition to the *General Criteria Applicable to all Divisions*, the *Criteria Applicable to Specific Industries (Divisions)* for 2003 are:

Division 2 – Community & Welfare including Charities

- Acknowledge the involvement of volunteers as a supplement to the efforts of paid staff. The report should make clear which roles are voluntary and which are paid positions.
- Indicate fundraising policies and results and show both the revenue received and the associated costs.
- An explanation of the statutory basis on which the organisation conducts its fundraising efforts.
- Specifically acknowledge the receipt of any government funding, conditions applying and how those conditions are met.
- Provide a statement of the statutory or other authority for the establishment and operation of the organisation, and the basis of membership.
- Include appropriate acknowledgment of the donors of cash or gifts in kind, gifts made for specific purposes and the use to which such donations were put.
- The five-year summaries should include information on the number of clients or patients by service type or activity and by region. Charts, graphs or photographs should be utilised to illustrate this information.

For further information:

Australasian Reporting Awards Inc. (ARA)
 Suite 1, Level 1, 44 Bridge Street, Sydney
 Locked Bag 17, Australia Square NSW 1215
 Tel: (02) 9241 1240
 Fax: (02) 9247 2495
 E-mail: ara@arawards.com.au
 Website: <http://www.arawards.com.au>

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Legal References

Act — section 22
 Regulation — 8
 Condition — 7

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7-200 FINANCIAL REPORT

The format and manner in which the financial report is to be prepared is specified in Authority Condition 7.

Where authority holders produce their financial report in a format required by the statutory authority under which they are incorporated (e.g., companies), the purpose of Authority Condition 7 is not to interfere with that format. In these cases, Authority Condition 7 merely requires the particulars to be provided as supplementary information and notes. Authority holders who are required to lodge a periodic (annual) return to the Department of Gaming and Racing must include a copy of their audited financial report.

Lodgement of Returns

Refer Chapter 2 for further information.

Where the authority holder is an organisation with branches which do not hold an authority to fundraise in their own right, the authority holder must ensure that the branches prepare their financial reports to comply with these requirements.

An authority holder must prepare or cause to be prepared, or ensure the following in relation to an annual financial period:

- the financial statements incorporating a statement of income and expenditure [Authority Condition 7 (1) (a), Authority Condition 7 (3)] and a balance sheet [Authority Condition 7 (1) (b)];
- information and notes to the financial statements [Authority Condition 7 (2)];
- a declaration by the president or principal officer or some other responsible member of the governing body [Authority Condition 7 (4)];
- an audit of the financial statements—an auditor's report [section 24]; and
- submit the audited financial statements to an annual general meeting of the membership of the organisation within six (6) months after conclusion of the financial period [Authority Condition 7 (6)].

The governing body of an authority holder provides the input to the financial reporting and the audit and assurance functions, and is also charged with the organisation's 'social responsibility'.

7-210 Application of accounting standards

The Charitable Fundraising Act does not include a reference to compliance with the accounting standards. However, authority holders that are companies, which are regulated under the *Corporations Act 2001* must comply with the accounting standards. Authority holders that are incorporated under other legislation may require compliance with the accounting standards. There may be a requirement to comply with accounting standards as a consequence of receiving government funding.

Notwithstanding any statutory requirement or other requirement, all persons who are members of the professional accounting bodies are obliged to comply with the standards and rules set by those bodies.

There are currently two sets of accounting standards:

- those issued by the *Australian Accounting Standards Board* (AASBs), and
- *Australian Accounting Standards* (AASs), issued by the joint accounting bodies—the *Institute of Chartered Accountants in Australia* and *CPA Australia* (formerly—*Australian Society of Certified Practising Accountants*).

Historically, the AASBs were only applicable to companies under corporations law. AASs applied to all other entities. The AASB has announced that no further AASs will be issued. AASBs issued since August 2000 apply to companies under the *Corporations Act* and all other entities preparing general purpose financial reports. The existing AASs are being progressively replaced as the corresponding AASBs are revised. Generally AASs no longer apply except where there is no equivalent AASB. AASs generally mirror the form and content of the AASB standards, however, there are additional standards that cover entities not covered by the *Corporations Act*.

7-220 General purpose financial reports

General purpose financial reporting focuses on providing information to meet the common information needs of users who are unable to command the preparation of reports tailored to their particular information needs. These users must rely on the information communicated to them by the reporting entity.

Statement of Accounting Concepts: SAC 2 encompasses general purpose financial reporting by business and non-business reporting entities in the public and private sectors. It covers general purpose financial reporting by all types of reporting entities, whether:

- legal, administrative or economic entities, and therefore encompasses all types of government entities
- investor-owned entities, including companies and unit trusts; mutual co-operative entities
- human service entities, including churches, foundations, professional associations and charities.

Reporting entities are required to prepare a general purpose financial report in accordance with all applicable accounting standards.

By meeting the objective of general purpose financial reporting the managements and governing bodies of authority holders discharge their accountability to the public and other users.

Special purpose financial report

A special purpose financial report is a financial report that is not a general purpose financial report. Accounting standards do not have to be applied in the preparation and presentation of a special purpose financial report, as the form and content of each report will be determined by users who are able to specify their information needs. However, the application of accounting standards to special purpose financial reports is encouraged.

7-230 Reporting entity concept

As previously mentioned, the accounting standards apply to entities that are reporting entities. This is a key element of the conceptual framework and is set out in the Statement of Accounting Concepts *SAC 1: Definition of Reporting Entity*.

Reporting entities are defined as all entities for which it is reasonable to expect the existence of users dependent on general purpose financial reports for information that will be useful to them in making and evaluating decisions about the allocation of scarce resources. The factors that need to be considered when identifying dependent users are outlined in SAC 1: Definition of Reporting Entity.

In relation to an entity that is a charity or an authority holder, it is unquestionably apparent there exist users (external parties comprising donors, beneficiaries, etc.) who are dependent on general purpose financial reports as a basis for making and evaluating resource allocation decisions. Authority holder make a significant impact on the welfare of external parties (users). The financial characteristic of authority holders varies considerably (for example, value of sales or assets, value of donations, or number of employees or clients). However, the amount of resources provided or allocated by members of the public to the activities conducted by charities must be considered. The larger the resources allocated, the more likely it is that there will exist users dependent on general purpose financial reports as a basis for making and evaluating resource allocation decisions.

Implications of Application of the Reporting Entity Concept

It is fundamental that those who manage resources on behalf of others (charities) should account for their performance to those who have provided the resources (donors). However, in practical terms it is worthwhile identifying charitable entities which may not be reporting entities. For example, branches established and

controlled by an authority holder may not be considered to be reporting entities where, individually, the amount of resources allocated to each is very low relative to the total resource allocation to the authority holder and, because of that and other factors, there do not exist users dependent on general purpose financial reports relating to each branch. In such circumstances, information about the branches controlled by the authority holder would be incorporated into the general purpose financial report of the authority holder. This does not mean that the authority holder will not require financial information from each of the branches for making resource allocation decisions. Rather, the implication is that financial reports prepared for this purpose by the branches would not be in the nature of general purpose financial reports, but instead would be in the nature of special purpose financial reports.

However, consideration would need to be given to the fact that some branches although established by a authority holder, may largely operate independently. That is, the authority holder may charter branches without controlling day-to-day functions, except from perhaps providing coordinating functions—financial manual, procedures. With respect to these types of branches, they could be classified as having a separate identity to the ‘parent body’ because decision-making processes, etc. are undertaken locally and therefore users of general purpose financial reports would exist at a local level. That is, at a lower level of reporting, some branches may also be defined as individual reporting entities because of their economic or political significance and/or their financial characteristics.

A charity that undertakes fundraising amongst its members would usually not be identified as a reporting entity. However, a charity which undertakes fundraising from the public will become a reporting entity because there will exist potential resource providers who require general purpose financial reports as a basis for making resource allocation decisions.

7-240 Accounting and audit relief

It is important that authority holders prepare a financial report according to the *Statements of Accounting Concepts and Accounting Standards*. However, on an efficient and rational basis, it is also important to understand that there may exist some authority holders for which there is no justification to report through the preparation of general purpose financial statements. This is not on the basis that there exist no users who may demand information about the authority holder, but on the basis that some authority holders should be permitted to depart from the Statements and Standards in the preparation of their financial reports.

The *Statements of Accounting Concepts and Accounting Standards* do not provide differential reporting. This is because the reporting entity concept embodies a concept of differential reporting in that certain entities will not be identified as reporting entities and thus would not be required to prepare general purpose financial reports or comply with *Statements of Accounting Concepts and Accounting Standards* in the preparation of other financial reports. The entities which need not prepare general purpose financial reports are those in respect of which it is reasonable to expect that users dependent upon information contained in general purpose financial reports for making and evaluating resource allocation decisions do not exist.

As previously mentioned, authority holders are invariably reporting entities and, therefore, are required to prepare general purpose financial reports that comply with the *Statements of Accounting Concepts and Accounting Standards*. This applies to an authority holder:

- that is a company under the *Corporations Act 2001*, or
- that is required to prepare general purpose financial accounts or comply with accounting standards under another law or funding agreement, or
- whose accounts are prepared by a member of the Institute of Chartered Accountants in Australia or CPA Australia, or
- whose financial reports are audited by a member of the Institute of Chartered Accountants in Australia and CPA Australia.

Professional Statement APS 1 “Conformity with Accounting Standards and UIG Consensus Views”, issued by CPA Australia and the Institute of Chartered Accountants in Australia, specifies that Accounting Standards and Urgent Issues Group consensus views are mandatory for members of those bodies and, as such, must be consistently applied in the preparation and presentation of a general purpose financial report.

Relief from the general purpose financial report requirement

If the financial report of an authority holder is prepared and audited by persons who are not members of one of the accounting bodies, then argueably there would exist no need to prepare a general purpose financial report.

Section 24 of the *Charitable Fundraising Act* requires the accounts of an authority holder (in so far as those accounts relate to receipts and expenditure in connection with fundraising appeals) to be audited by a person qualified to audit accounts for the purposes of the *Corporations Act 2001* (a registered company auditor) or having other approved qualifications or experience.

Refer to *Chapter 5, Financial Issues, 5–100: Auditor* for information on the *qualifications and experience policy*.

The effect of the "auditor qualifications and experience policy" is that an authority holder:

- that is not required by the *Corporations Act* or any other requirement to prepare general purpose financial reports, and
- which has fundraising income or assets not more than \$100,000,

may seek approval to engaged a person (that is not a member of one of the professional accounting bodies) to audit the financial report as a special purpose financial report, with a resultant reduction in the cost of the audit.

For information on the auditor qualifications and experience policy refer to Chapter 5, Financial Issues, 5–100: Auditor.

7–300 STATEMENT OF INCOME AND EXPENDITURE

Under Accounting Standards (AASB: 1018, AAS: 1) this is known as a *Statement of Financial Performance* and has been previously called a Profit and Loss Statement.

Authority Condition 7 (1) (a) requires the authority holder to prepare a Statement of Income and Expenditure of all fundraising appeals conducted during the financial year. The Statement summarises the trading activities of the authority holder.

This statement must show [Authority Condition 7 (3)]:

- (a) the aggregate gross income received
- (b) the total expenditure associated with all appeals
- (c) the net operating surplus or deficit.

The normal Statement of Income and Expenditure (Statement of Financial Performance, or Profit and Loss Statement) produced by the authority holder for the global operations of the organisation will be sufficient for this purpose if it includes the particulars required by the Authority Condition 7.

If an authority holder produces its financial report in a format required by the statutory authority under which it is incorporated (e.g., a company under the *Corporations Act 2001*), or as a consequence of obligations and responsibilities of its accountant or auditor under the *Statement of Accounting Concepts and Accounting Standards*, the purpose of Authority Condition 7 is not to interfere with that format. In these cases, Authority Condition 7 merely requires the particulars to be provided as supplementary information and notes to the financial report. For example, the particulars could be provided under an appropriate heading, such as *Information and declarations to be furnished under the Charitable Fundraising Act 1991*.

A *reporting entity* under the Statement of Accounting Concepts (SAC 1) is required to comply with the *Statement of Accounting Concepts and Accounting Standards*. In

Examples

7–910, Statement of Income and Expenditure

7–920, Statement of Financial Performance

addition, each entity that is required to comply with Chapter 2M of the Corporation Act must comply with the Statement of Accounting Concepts and Accounting Standards.

Accounting Standard *AASB 1018: Statement of Financial Performance* requires preparation of a Statement of Financial Performance. AASB 1018 is comparable with Australian Accounting Standard *AAS 1: Statement of Financial Performance*.

The following best practices do not replace the AASBs or the AASs.

Best Practices

- a. Particulars of gross fundraising income and total costs of fundraising appeals must include a breakdown of figures into different categories of appeals conducted during the year [refer Examples 7–910 and 7–920]. Authority holders may prefer to provide a further breakdown of those figures. (see g. below)
- b. Where an appeal has been conducted with a trader, these figures must include the gross proceeds and aggregate expenses of an appeal for the sale of goods (e.g., sweets sold door-to-door) or services (e.g., a concert). These figures should show the aggregate transactions in the fundraising appeal account maintained by the authority holder or the trader. It is not sufficient to merely show the net amount received by the authority holder from the sale of goods or services.
- c. The expenditure to be shown is confined wholly to the costs of fundraising—not the manner in which the net surplus from fundraising appeals is applied to the objects or purpose of the appeal (i.e., delivery of services). The manner in which funds are applied is required to be reported separately as a Note under *Authority Condition 7 (2) (c), How appeal monies applied, etc.*

Note that AASB 1018 expenses to be categorised by their function or nature.

However, the Department recommends authority holders adopt the classification of expenses by function as it provides the most relevant information about financial performance for the charity sector.

- d. The *gross aggregate income received* from all fundraising appeals would include all income obtained through fundraising appeals (e.g., donations received, corporate sponsorship, collections, fetes, raffles, housie, sale of goods and services etc.), but will exclude sources which do not constitute a fundraising appeal for purposes of the Act [refer *Chapter 4, Fundraising Issues, 4–100: Fundraising Appeals* for more information].

Under AASB 1018 revenues must not be set-off against expenses—that is, the gross amount of revenue must be shown.

- e. The *expenditure associated with fundraising appeals* must include all expenses directly incurred in the conduct of appeals.

Direct expenditure may include wages, commissions, promoters' fees, all costs incurred as a result of engaging a trader, consultancy fees, costs of supervision, advertising costs, raffle prizes, costs of printing receipt books or tickets, hall hire, transport costs, workers compensation and public risk insurance for appeal workers.

Indirect expenditure may include overheads such as: time spent by the accountant and/or office staff administering appeals; cost apportionment of certain expenses such as rental, light and power, and insurance.

Indirect expenses would only be recorded where it is the accounting policy of the organisation to cost this separately. Where this is done, the expenses shown in the Statement of Income and Expenditure (or as a note to the Statement of Financial Performance) should be distinguished between direct and indirect expenses, in addition to showing aggregate expenses.

- f. In the interests of disclosure the Statement should include comparative figures for the previous year. This is not only useful for historical purposes but also as a useful performance indicator. This should normally be done regardless of the complexity of the organisation.

Accounting Standard *AASB 1034: Financial Report Presentations and Disclosures* requires financial reports to provide comparative financial and narrative information.

Other Practices

- g. Authority holders may prefer to provide a further breakdown of income and expenditure incurred in each category of appeal. This could be done either within the Statement of Income and Expenditure, in a separate Statement of Income and Expenditure, in a Detailed Statement of Financial Performance or as a note to the financial report.
- h. Authority holders may prefer to detail moneys received from fundraising appeals in a separate Statement of Income and Expenditure/Statement of Financial Performance. If this is done the surplus (or deficit) from fundraising appeals would need to be transferred to the overall Statement of Income and Expenditure / Statement of Financial Performance.
- i. Although it is optional whether the accounts of the authority holder are maintained on a cash or accrual basis, the preferred option is the accrual method.

Example

7–930, Detailed Statement of Financial Performance

7–400 BALANCE SHEET

Under Accounting Standards (AASB: 1040, AAS: 36) this is known as a *Statement of Financial Position*.

Authority Condition 7 (1) (b) requires the authority holder to produce as part of the financial report a balance sheet, which shall include all assets and liabilities resulting from the conduct of appeals as at the end of the financial year.

This does not mean the production of a special balance sheet devoted exclusively to the assets and liabilities resulting from fundraising appeals. The authority holder's normal Balance Sheet or Statement of Financial Position containing the balances of all ledger accounts, including those that may have nothing directly to do with fundraising activities, would be sufficient.

Funds obtained from fundraising appeals may be applied in a number of ways such as: delivering of services; administrative costs; purchase of capital equipment. Unspent funds are likely either to be transferred to a provision or reserve account, or credited to the accumulated funds account as an operating surplus. This of course, renders preservation of the appeal identity of assets and liabilities extremely difficult. For that reason, the Department does not expect authority holders to separately describe or account for appeal assets and liabilities in the balance sheet — only that they be included in one form or another.

If an authority holder produces its financial report in a format required by the statutory authority under which it is incorporated (e.g., a company under the *Corporations Act 2001*), or as a consequence of obligations and responsibilities of its accountant or auditor under the Statement of Accounting Concepts and Accounting Standards, the purpose of Authority Condition 7 is not to interfere with that format. In these cases, Authority Condition 7 merely requires the particulars to be provided as supplementary information and notes to the financial report. For example, the particulars could be provided under an appropriate heading, such as *Information and declarations to be furnished under the Charitable Fundraising Act 1991*.

A reporting entity under the Statement of Accounting Concepts (SAC 1) is required to comply with the Statement of Accounting Concepts and Accounting Standards. In addition, each entity that is required to comply with Chapter 2M of the Corporation Act must comply with the Statement of Accounting Concepts and Accounting Standards.

Accounting Standard *AASB 1040: Statement of Financial Position* requires preparation of a Statement of Financial Position. AASB 1018 is comparable with Australian Accounting Standard *AAS 1: Statement of Financial Position*.

The following best practices do not replace the AASBs or the AASs.

Example

7–940, Statement of Financial Position

Best Practices

- a. The assets shown in the balance sheet would include all accounts maintained at banks, building societies and credit unions holding proceeds from fundraising appeals (including accounts maintained by fundraising auxiliaries, and where applicable, accounts jointly maintained by traders), any investments (as they relate to funds obtained from fundraising appeals), any assets purchased or acquired that have been capitalised in the accounts (e.g., buildings, motor vehicles, etc.), petty cash on hand, and stock-in-trade (where applicable).
Where the accounts are maintained on an accrual basis, amounts actually due and receivable from sundry debtors, prepayments, etc., are also required to be included.
- b. Care should be taken that the value of non-current assets (i.e., fixed assets) are not overstated. The basis on which they are valued (e.g., cost, market value, etc.) should also be shown, together with the date of valuation.
- c. The liabilities shown in the balance sheet would include any overdraft balances with banks, building societies or credit unions maintained for fundraising appeals, the balance of accumulated funds which would include a component representing past surpluses from fundraising appeals, etc.

If the accounts are maintained on an accrual basis it would need to include any accrued creditors in relation to fundraising appeals (e.g., accrued commission due to collectors, accrued fees payable to trader, etc.), and any provisions or reserves where applicable.

- d. In the interests of disclosure both for the benefit of members and the public, the balance sheet should include comparative figures for at least the previous year. This should be done regardless of the complexity of the organisation.

Accounting Standard *AASB 1034: Financial Report Presentations and Disclosures* requires financial reports to provide comparative financial and narrative information.

Other Practices

- e. Although it is mandatory that authority holders which are companies incorporated under the *Corporations Act* observe the Accounting Standards approved by the AASB, and that financial reports prepared and audited by members of the accounting bodies comply with the Accounting Standards, it is recommended that all authority holders observe the Accounting Standards as far as practicable—in particular with regard to the following:
 - providing for depreciation on all non-current assets including buildings where appropriate (*AASB 1021: Depreciation*, which is comparable with *AAS 4: Depreciation of Non-Current Assets*)
 - inclusion of a Statement of Cash Flow (*AASB 1026: Statement of Cash Flows*, which is comparable with *AAS 28*).

7-500 STATEMENT OF CASH FLOWS

Example

7-950, Statement of Cash Flows

Authority holders are not required to produce a statement of cash flows as a consequence of the *Charitable Fundraising Act 1991*.

However, an obligation exists to produce a Statement of Cash Flows under Accounting Standard *AASB 1026: Statement of Cash Flows*, if an authority holder produces its financial report in a format required by the statutory authority under which it is incorporated (e.g., a company under the *Corporations Act 2001*), or as a consequence of obligations and responsibilities of its accountant or auditor under the *Statement of Accounting Concepts and Accounting Standards*.

A *reporting entity* under the Statement of Accounting Concepts (SAC 1) is required to comply with the *Statement of Accounting Concepts and Accounting Standards*. In

addition, each entity that is required to comply with Chapter 2M of the *Corporation Act* must comply with the *Statement of Accounting Concepts and Accounting Standards*.

Accounting Standard *AASB 1026: Statement of Cash Flows* is comparable with Australian Accounting Standard *AAS 28*.

A statement of cash flows comprises:

- a reconciliation of opening and closing cash
- cash inflows and outflows classified as operating, investing and financing activities
- additional note disclosures.

7-600 NOTES TO THE FINANCIAL STATEMENTS

The notes to financial statements are an integral part of the financial report of an authority holder. They provide additional information that either clarifies or explains information in the financial statements or provides additional information that cannot be gathered from the financial statements.

The statement of income and expenditure (statement of financial performance, or profit and loss statement), the balance sheet (statement of financial position), and the statement of cash flows should be read in conjunction with the notes as they often contain disclosures which explain the numbers on those statements and aid their interpretation.

The Accounting Standards (*AASB 1034: Financial report presentation and disclosures*) stipulate the information to be disclosed in the financial statements and the information required as notes. The recommended order of presenting that information or notes (after the statement of financial performance, statement of financial position and statement of cash flows is:

- summary of accounting policies
- supporting information for items presented on the financial statements in order in which each financial statement and line item is presented
- contingencies, commitments and other financial disclosures
- non-financial disclosures.

Where the gross income from fundraising appeals exceeds \$20,000 in a financial year an authority holder is required to provide information and notes to accompany the financial statements.

The authority conditions require the following information or notes to be attached:

- details of the accounting principles and methods adopted in the presentation of the financial statements [Authority Condition 7 (2) (a)] — refer *7-610 Accounting policies* for more information
- Information on any material matter, including those of an adverse nature such as an operating loss from fundraising appeals [Authority Condition 7 (2) (b)] — refer *7-620 Information on material matter* for more information
- a statement that describes the manner in which the net surplus or deficit obtained from fundraising appeals for the period was applied, and that distinguishes between amounts spent on direct services in accordance with the charitable objects or purposes for which the authority was granted, recurrent costs of administration and any other significant purposes (including transfers to reserves or accumulated funds) [Authority Condition 7 (2) (c)] — refer to *7-630 How appeal monies applied* for more information

Examples

7-960, Statement of Significant Accounting Policies

7-970, Notes to the Financial Statements

- details of aggregate gross income and aggregate direct expenditure incurred in appeals in which traders were engaged [Authority Condition 7 (2) (d)] — refer 7–640 *Information on traders* for more information
- a list of all forms of fundraising appeals conducted by the authority holder during the period covered by the financial statements [Authority Condition 7 (2) (e)] — refer 7–650 *List of all forms of appeals* for more information
- certain comparisons expressed both as a monetary figure and as a ratio or percentage [Authority Condition 7 (2) (f)] — refer 7–660 *Comparative figures and ratios* for more information.

This information should be provided as supplementary attached to the financial report under the heading—*Information and declarations to be furnished under the Charitable Fundraising Act 1991*.

7–610 Accounting policies

Example

7–960, Statement of Significant Accounting Policies

The notes to the financial report of an authority holder must include details of the accounting principles and methods adopted in the presentation of the financial statements [Authority Condition 7 (2) (a)].

Although the legislation does not make it mandatory to comply with any particular accounting principles, methods, standards or concepts, whichever accounting principles, methods, etc. are employed must be stated in the financial report.

Accounting Standard *AASB 1001 (8.1): Accounting Policies* requires a summary of accounting policies to be presented in the initial section of the notes to the financial report. AASB 1001 is comparable with *AAS 6*. The summary must include:

- a statement that the financial report is a general purpose financial report
- a statement whether the financial report has been prepared in accordance with accounting standards
- a description of the basis of measurement used when preparing the financial report
- a description of each specific accounting policy necessary for the understanding of the financial report.

The following best practices do not replace the AASBs or the AASs.

Best Practices

- a. The authority holder must state whether the accounts are maintained on a cash or accrual basis, and whether the Accounting Standards have been observed in the preparation of the annual financial accounts.
- b. The authority holder must also report any changes to accounting principles, methods, etc. during the accounting period covered by the annual accounts, as these could seriously impact upon the operating results, valuation of assets, interpretation of the accounts, comparisons with previous years, etc.
- c. Although it is mandatory that authority holders which are companies incorporated under the *Corporations Act* observe the Accounting Standards approved by the AASB, and that financial reports prepared and audited by members of the accounting bodies comply with the Accounting Standards, it is recommended that all authority holders observe the Accounting Standards as far as practicable.

Other Practices

- d. Although it is optional whether the accounts of the authority holder are maintained on a cash or accrual basis, the preferred option is the accrual method for the following reasons:
 - it would enable the authority holder to include any income due and receivable but not actually received at balance date (e.g., rent or interest due but not

received). It also would enable the authority holder to provide for expenditure incurred but not actually paid at balance date (e.g., wages or commissions payable to collectors, etc.)

- if accruals are omitted it could distort the results for the financial period and there would not be a proper matching of income against expenditure
- comparative figures for past years are more reliable.

7-620 Information on material matter

The notes must contain information on any material matter or occurrence, including those of an adverse nature such as an operating loss from fundraising appeals [Authority Condition 7 (2) (b)].

It is important to draw such matters to the attention of members of the organisation and the public, as otherwise they may go unnoticed or unreported.

Best Practices

- Although this requirement appears to be fairly broad, it would normally include information on the following:
 - details of any significant shortfall in the return from any fundraising appeal conducted in-house or jointly with a trader which failed to meet the requirements of Authority Condition 8: *Ratio of expenses to receipts*. This could be due to a donor acquisition scheme (although in those circumstances the authority holder should obtain approval from the Department where the costs of such schemes exceeds 40% of the gross proceeds obtained). Where this involves a trader, the name of the trader is not required to be revealed
 - details of any trend in the conduct of fundraising appeals including the reasons for any reduction in net returns
 - any extraordinary item of income (e.g., profit from the sale of land or buildings), or expense which materially affected the financial outcome
 - any effect arising from a change of accounting practice, revaluation of assets, etc.
 - any factor impacting on the financial viability of operations.

7-630 How appeal monies applied

The notes to the financial report must provide a statement that describes the manner in which the net surplus or deficit obtained from fundraising appeals for the period was applied and that distinguishes between amounts spent on direct services in accordance with the objects or purposes for which the authority was granted, recurrent costs of administration, and any other significant purpose (including transfers to reserves or accumulated funds) [Authority Condition 7 (2) (c)].

Members of the public often take a close interest in how donations are used by authority holders. They are often critical that a disproportionate amount of the charity dollar is expended on administration, as opposed to the delivery of services. Therefore, this statement should provide essential information to enable a potential supporter to make an informed decision on which charities to support.

The statement will also serve as an historical record that may be used as a performance indicator against results obtained in past years. It is also directly related to the information required under Authority Condition 7 (2) (f). Refer to 7-660 *Comparative figures and ratios* for more information.

The Department appreciates that the preparation of this statement will involve interpretation and judgement by an authority holder.

Examples

7-960, Statement of Significant Accounting Policies

7-970, Notes to the Financial Statements

Examples

7-960, Statement of Significant Accounting Policies—under the heading—Fundraising Activities

7-970, Notes to the Financial Statements—Note 18: Fundraising Appeals

Best Practices

- a. The information should be provided according to the authority holder's best endeavours.
- b. The exercise will commence with identifying any surplus obtained from fundraising appeals conducted during the financial year. This would normally represent the amount available to be applied to the charitable objective or purpose for which the appeal was conducted. However, other factors may impact upon this.
- c. The authority holder should then analyse the extent to which this was applied during the year. It will involve drawing information from various parts of the accounts including recurrent and capital expenditure—distinguishing between amounts spent on the delivery of services, research, and administration.
- d. In compiling the statement it may be found that more was expended than was actually available from fundraising appeals.
This would need to be accounted for by showing that drawings were made against past surpluses, reserves, etc. It may also be partially explained by income made available from other sources such as government funding, interest on investments, etc.
- e. Conversely less may have been expended than was raised. This being the case, the statement would need to show that unapplied monies were transferred to accumulated surpluses.

Other Practices

- f. It is also suggested that this important information could be graphically displayed in the published accounts (e.g., use of pie or bar charts, etc.) showing how the net surplus from fundraising appeals was expended.

7-640 Information on traders

The notes to the financial report must contain details of aggregate gross income and aggregate direct expenditure incurred in appeals in which traders were engaged [Authority Condition 7 (2) (d)].

The disclosure of this information should enable members of the organisation and the public to evaluate the benefit of the authority holder's relationship with the trader. The requirement does not extend to identifying the trader or the number of appeals involved.

Best Practices

- a. The expenditure should include the amount distributed to the trader from which any fee or commission and various expenses are met.
The Department recognises an exception to this requirement should be made where the appeal conducted with the trader is for the collection of articles such as used clothing, where those articles become the property of the trader for purposes of sale or distribution. In those circumstances it is appropriate that only the consideration received by the authority holder should be included. However, a note to that effect should be included as part of the disclosure required by this condition.
- b. Where more than one trader is involved, and the return from any particular appeal is less than fair and reasonable, details of that result should be revealed as a *material matter* under Authority Condition 7 (2) (b).

Other Practices

- c. Although the regulation only requires that aggregate figures be shown for all appeals, the authority holder could, in the spirit of disclosure, voluntarily provide a breakdown of those aggregate figures and, or describe the type of appeals involved. This would provide a clearer insight into this area of fundraising.

Examples

7-960, Statement of Significant Accounting Policies—under the heading—Fundraising Activities

7-970, Notes to the Financial Statements—Note 18: Fundraising Appeals

7-650 List of all forms of appeals

The notes to the accounts must contain a list of all forms of fundraising appeals conducted by the authority holder during the period covered by the financial statements [Authority Condition 7 (2) (e)].

This is useful information for members of the organisation and the public. It is not necessary to include details of the appeals conducted—it is simply a list.

Best Practices

- a. Authority holders should maintain a diary or register of all types of fundraising appeals conducted for this purpose. The Fundraising Appeals Function Book described as an optional record in Chapter 15 *Keeping of Records* would be ideal for this purpose.

Other Practices

- b. In the interests of disclosure, the authority holder should consider providing details of the gross income and profit obtained from each class or category of appeal.

7-660 Comparative figures and ratios

Authority Condition 7 (2) (f) states that the notes to the accounts must contain the following comparisons (expressed in each case both as a monetary figure and as a ratio or percentage):

- a. a comparison of the total costs of fundraising to the gross income from fundraising;
- b. a comparison of the net surplus from fundraising to the gross income from fundraising;
- c. a comparison of the total costs of services provided by the authority holder to the total expenditure; and
- d. a comparison of the total costs of services provided by the authority holder to the total income received.

These comparisons reveal the cost effectiveness of operations and serve as important performance indicators.

The Department appreciates that this information is subject to interpretations and judgements of the income and expenditure to be included in each instance.

Best Practices

- a. The information should be provided according to the authority holder's best endeavours.
- b. These comparisons and ratios should be prepared in conjunction with the information that must be provided for the purposes of Authority Condition 7 (2) (c). Refer to 7-630 *How appeal monies applied* for more information.

Other Practices

- c. In the interests of disclosure, comparative monetary figures, percentages and ratios should be included for at least the previous year.
- d. It is suggested that this information be displayed graphically in the published accounts (e.g., use of pie charts, bar charts, etc.).

Examples

7-960, Statement of Significant Accounting Policies—under the heading—Fundraising Activities

7-970, Notes to the Financial Statements—Note 18: Fundraising Appeals

Example

7-970, Notes to the Financial Statements—Note 18: Fundraising Appeals

7-700 DECLARATION BY RESPONSIBLE MEMBER OF GOVERNING BODY

Example

7-980, Declaration by president of the governing body

Authority Condition 7 (4) requires that the financial report must contain a declaration by the President or principal officer or some other responsible member of the governing body stating whether, in his or her opinion:

- a. the accounts give a true and fair view of all income and expenditure with respect to fundraising appeals;
- b. the balance sheet gives a true and fair view of the state of affairs of the organisation with respect to fundraising appeals; and
- c. the provisions of the Act, the regulations under the Act and the conditions attached to the fundraising authority have been complied with by the organisation; and
- d. the internal controls exercised by the organisation are appropriate and effective in accounting for all income received and applied by the organisation from any of its fundraising appeals.

This declaration is made to ensure that responsibility in these areas has been accepted by the authority holder or an authorised representative of the authority holder. This is consistent with requirements imposed upon directors under the *Corporations Act*.

The person making the declaration is not certifying that the accounts are correct, but expressing an opinion that they give a true and fair view. Similarly, the person is also expressing an opinion that the provisions of the *Charitable Fundraising Act*, the regulations under the Act and authority conditions have been complied with and the internal controls exercised are appropriate, efficient and effective.

Best Practices

- a. The person should be conversant with legislative requirements including the conditions attached to the authority to fundraise (including the appropriate best practices included in this publication).
- b. The person making the declaration should satisfy himself or herself in these matters before making the declaration. If unable to express an opinion in the affirmative, a qualification should be made to that effect in the declaration.
- c. The person should also evaluate the effectiveness of internal controls over accountability of income obtained from fundraising appeals. This should be undertaken in consultation with the auditor.
- d. Members of the governing body are also reminded they assume certain legal obligations and responsibilities not only under the *Charitable Fundraising Act* and *Lotteries and Art Unions Act* but also under other law.

Position where authority holder is a company

If the authority holder is a company incorporated under the *Corporations Act*, the declaration required under Authority Condition 7 (4) is required in addition to the directors' declaration provided pursuant to Section 295 of the *Corporations Act* [Authority Condition 7 (5)].

7-800 SUBMISSION OF FINANCIAL REPORT TO AGM

Authority Condition 7 (6) requires that the authority holder's financial report, after being audited in accordance with the provisions of section 24 of the *Charitable Fundraising Act* or otherwise according to law, is submitted to an annual general meeting of the membership of the authority holder within six months after the conclusion of the financial year of the authority holder.

Best Practices

- a. Wherever possible, the joint task of preparing the annual accounts and auditing the accounts should not be carried out by the auditor. The auditor should adopt an independent role, which is not possible where he or she needs to make a judgement on accounts that he or she has prepared. The Department recognises that there may be circumstances in which this division of duties is not possible or practicable (e.g., the unavailability of a treasurer with the necessary expertise to prepare the final accounts).
- b. The authority holder must ensure that the accounts are audited before being submitted to an annual general meeting of the organisation.
- c. It is not sufficient that the accounts be tabled at the annual general meeting. They must be formally adopted by a resolution such as:

<p>That the audited financial report of (name of organisation) for the period ended..... be adopted.</p>
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7-900 EXAMPLES

Examples of various statements, notes and declarations are shown on the following pages:

- 7-910 Example Statement of Income and Expenditure
- 7-920 Example Statement of Financial Performance
- 7-930 Example Detailed Statement of Financial Performance
- 7-940 Example Statement of Financial Position
- 7-950 Example Statement of Cash Flows
- 7-960 Example Statement of Significant Accounting Policies
- 7-970 Example Notes to the Financial Statement
- 7-800 Example Declaration by president of the governing body

7-910 Example Statement of Income and Expenditure

The following provides an example statement of income and expenditure or profit and loss for an unincorporated organisation that is not a reporting entity under the *Statements of Accounting Concepts and Accounting Standards*.

Statement of Income and Expenditure for year ended 30 June 2002				
2001			2002	
\$	\$	REVENUE	\$	\$
85,000		Gross proceeds from fundraising appeals		100,000
	45,000	Appeal day	50,000	
	8,000	Fete	10,000	
	32,000	Housie	30,000	
	Nil	Telephone appeal	10,000	
30,000		Grants from government agencies		30,000
1,000		Membership fees		1,000
1,000		Interest received		1,500
177,000		Total Revenue		132,500
		EXPENSES		
20,000		Total costs of fundraising appeals		40,000
	2,000	Appeal day	8,000	
	1,500	Fete	2,000	
	16,500	Housie	21,000	
	Nil	Telephone appeal	9,000	
12,000		Grocery hampers supplied to clients		15,000
20,000		Cash grants to clients		10,000
500		Audit fees		500
775		Depreciation on vehicle		750
1,100		Insurances		1,200
600		Stationery		500
3,000		Telephone		3,500
1,800		Travelling expenses		2,000
40,000		Wages and salaries		45,000
1,000		Water rates		1,000
100,775		Total Expenses		119,450
16,225		Net surplus transferred to accumulated surpluses		13,050
117,000				132,500

Expenditure could be broken down either within the statement of income and expenditure, in a separate statement of income and expenditure, or as a note to the financial report. E.g., \$21,000 housie expenses could be broken down into prizes \$17,000; tickets purchased \$500; advertising \$650; hall hire \$2,500; and other \$350.

7-920 Example Statement of Financial Performance

A reporting entity under the *Statement of Accounting Concepts* (SAC 1) is required to comply with the *Statement of Accounting Concepts and Accounting Standards*. In addition, each entity that is required to comply with Chapter 2M of the *Corporations Act* must comply with the *Statement of Accounting Concepts and Accounting Standards*.

Accounting Standard *AASB 1018: Statement of Financial Performance* requires preparation of a Statement of Financial performance (this was previously called a Profit and Loss Statement, or a Statement of Income and Expenditure). The Statement summarises the trading activities of the authority holder.

Statement of Financial Performance for the year ended 30 June 2002			
	Note	2002	2001
		\$	\$
Revenues	1	419,140	437,980
Expenses classified by functional activity			
Education and Guidance		(87,130)	(68,810)
Research		(4,500)	(580)
Residential		(133,420)	(122,670)
Public Education		(88,840)	(85,590)
Donors and Supporters		(70,360)	(81,640)
Support		(19,840)	(20,380)
		(404,090)	(379,660)
Surplus from ordinary activities	2	15,050	58,310

In the above example, expenses have been classified by function. Alternatively, AASB 1018 allows expenses to be classified by their nature. However, the Department recommends authority holders adopt the classification of expenses by function as it provides the most relevant information about financial performance for the charity sector.

Although this example would satisfy the requirements of Authority Condition 7, authority holders should consider providing a detailed statement of financial performance for the information of users similar to the example as 7-930.

In this example, the revenue is shown as an aggregate amount, with a break down provided as a note (Refer Example 7, Note 1 Revenue.)

Under AASB 1018 revenues must not be set-off against expenses—that is, the gross amount of revenue must be shown. Note 1 referred to above is shown at 7-970. This gives key sources of revenue. Further analysis could be given in the detailed statement of financial performance. Also, additional information must be provided in respect of fundraising appeals in accordance with Authority Condition 7 (see examples at 7-960 and 7-970).

7-930 Example Detailed Statement of Financial Performance

The following is an example of a Detailed Statement of Financial Performance of an authority holder that is a reporting entity under the *Statement of Accounting Concepts and Accounting Standards*—it gives detailed information about the trading activities of the authority holder.

Detailed Statement of Financial Performance for the year ended 30 June 2002									
	2001 \$	2002 \$	Education	Research	Residential	Public Education	Total Services	Fundraising	Support
REVENUE \$									
Bequests	950	2,870	0	0	0	0	0	2,870	0
Donations - general	21,090	20,060	840	570	0	0	840	19,210	0
Donations - restricted	560	780	210	0	0	0	780	0	0
Funds raised by participants in events	14,310	0	0	0	0	0	0	0	0
Government funding	94,870	97,480	15,470	0	82,000	0	97,480	0	0
Interest and dividends	10,860	14,780	10	0	130	0	150	0	14,630
Lotteries	244,920	289,990	0	0	0	0	0	238,990	0
Membership fees	1,240	1,120	1,120	0	0	0	1,120	0	0
Members' donations	1,410	2,350	2,350	0	0	0	2,350	0	0
Sale of fixed assets	17,760	9,830	6,140	0	30	0	6,170	1,750	1,910
Sale of goods	280	180	130	0	0	0	130	50	0
Service fees	23,870	27,820	690	0	27,130	0	27,820	0	0
Sundry income	1,350	2,880	60	0	0	0	60	0	2,820
Total revenue	433,470	419,140	27,020	570	109,300	0	136,880	262,870	19,370
COST \$									
Advertising	920	1,000	340	120	0	510	980	20	0
Book value of fixed asset sold	16,820	10,810	6,720	0	30	0	6,750	1,940	2,120
Client development activities	1,150	1,600	1,600	0	0	0	1,600	0	0
Education materials, goods, etc	7,970	8,320	1,030	0	6,720	510	8,270	40	10
Electricity, fuel	2,090	2,010	290	0	1,200	300	1,790	160	60
Functions	1,570	520	130	0	390	0	520	0	0
General expenses	4,370	1,620	370	10	280	380	1,040	330	250
Incentive prizes, participants in events	1,640	0	0	0	0	0	0	0	0
Information systems	9,230	9,250	1,220	10	80	7,200	8,500	640	110
Special event	1,450	0	0	0	0	0	0	0	0
Lottery prizes	5,070	5,080	0	0	0	2,540	2,540	2,540	0
Motor vehicle expenses	7,870	8,330	4,740	20	1,860	810	7,430	460	440
NBC Corp servicing costs	940	0	0	0	0	0	0	0	0
Postage & freight	8,950	8,750	1,190	0	40	3,790	5,020	3,680	50
Printing & stationery	13,210	12,810	2,290	10	250	5,540	8,100	4,420	290
Provision for doubtful debts	6,350	380	0	0	0	0	0	380	0
Rates and taxes	1,180	1,510	20	0	1,440	10	1,480	10	30
Rent & cleaning	23,780	32,600	7,050	40	17,730	3,610	28,430	3,310	860
Repairs, replacements, maintenance	3,440	3,480	260	10	2,580	190	3,050	150	280
Subscriptions	2,830	830	330	0	300	100	730	30	70
Telephone & fax	21,420	19,110	3,480	30	1,370	7,270	12,140	6,450	510
Travel & accommodation	1,970	3,360	2,460	100	200	90	2,840	70	440
Total general expenses	144,120	131,370	33,520	360	34,470	32,860	101,200	24,260	5,900
Audit fees	1,090	1,600	1,150	0	450	0	1,600	0	0
Bank charges	3,480	3,550	60	0	90	1,700	1,840	1,700	10
Depreciation	8,630	14,360	4,850	80	4,960	1,660	11,540	1,250	1,560
Insurance	3,170	3,750	1,220	10	1,340	430	3,000	180	570
Legal expenses	1,900	1,890	590	10	400	490	1,490	120	280
Travel research	520	3,480	0	3,480	0	0	3,480	0	0
Total administrative expenses	18,790	26,640	7,870	3,580	7,240	4,280	22,950	3,250	2,420
Contract labour & consulting	4,700	6,660	340	20	2,790	1,630	4,790	1,450	410
Employee entitlements	12,720	14,490	2,450	50	6,170	2,820	11,490	1,880	1,110
Salaries & wages	179,020	195,280	36,400	400	73,850	41,610	152,260	34,830	8,180
Staff recruitment	970	1,520	50	0	120	530	700	760	60
Superannuation	12,460	17,770	3,810	60	6,300	3,540	13,720	2,740	1,310
Staff amenities	850	1,000	140	0	130	340	620	310	60
Training - external	2,670	3,480	1,860	10	850	390	3,110	140	230
Workers' compensation insurance	3,410	3,890	690	10	1,510	840	3,050	700	140
Total employee expenses	216,800	244,090	45,740	570	91,600	51,710	189,730	42,830	11,510
Total costs	379,660	404,090	87,130	4,500	132,900	88,840	313,890	70,360	19,840
NET SURPLUS (NET OUTLAY) \$	53,810	15,050	(60,100)	(3,930)	(23,500)	(88,840)	(176,990)	192,520	(470)

7-940 Example Statement of Financial Position

A reporting entity under the Statement of Accounting Concepts (SAC 1) is required to comply with the *Statement of Accounting Concepts and Accounting Standards*. In addition, each entity that is required to comply with Chapter 2M of the *Corporations Act* must comply with the *Statement of Accounting Concepts and Accounting Standards*.

Accounting Standard *AASB 1040: Statement of Financial Position* requires preparation of a Statement of Financial Position (this was previously called a Balance Sheet). The Statement shows the financial health of the authority holder.

Statement of Financial Position for the year ended 30 June 2002			
	Note	2002	2001
		\$	\$
Current assets			
Cash assets	3	2,480	4,730
Receivables	4	6,950	1,940
Other financial assets	5	208,550	205,500
Other	6	28,150	22,480
Property, equipment and motor vehicles	7	14,170	0
Total current assets		260,310	234,650
Non-current assets			
Other financial assets	5	26,530	1,200
Property, equipment and motor vehicles	7	54,330	67,940
Total non-current assets		80,860	69,140
TOTAL ASSETS		341,170	303,790
Current liabilities			
Payables	9	23,510	8,410
Provisions	10	13,590	11,500
Other	11	30,890	26,690
Total current liabilities		67,990	49,600
Non-current liabilities			
Provisions	10	8,640	7,610
Total non-current liabilities		8,640	7,610
TOTAL LIABILITIES		76,630	54,200
NET ASSETS		264,540	249,590
Accumulated Funds			
Allocated Reserves	12	86,460	109,610
Accumulated funds at the end of the financial year	13	178,080	139,880
TOTAL ACCUMULATED FUNDS		264,540	249,490

AASB 1040 requires current assets and current liabilities to be presented separately from non-current assets and non-current liabilities unless presenting assets and liabilities in the broad order to their liquidity provides more relevant and reliable information.

AASB 1040 requires assets to be classified according to their nature or function according to one or more of the following factors—liquidity (e.g., property held for sale may be differentiated from property not held for sale); marketability (e.g., specialised equipment may be differentiated from other equipment); physical characteristics (e.g., land may be treated differently to buildings); expected timing of cash flows; and the normal purpose for which assets are used or held.

AASB 1040 requires liabilities and items of equity to be classified according to their nature according to one or more of the following factors—liquidity (e.g., term loans due on a specified date may be differentiated from bank overdrafts which are due on demand); extent to which they are secured or guaranteed (e.g., unsecured bank overdrafts may be differentiated from loans secured by mortgage); expected timing of settlement (e.g., expected date of payment); their source (e.g., creditors may be differentiated from employee entitlements); and the conditions attached to them (e.g., bank loans secured by mortgage over land and buildings may be differentiated from bank loans secured by floating charge over assets).

7-950 Example Statement of Cash Flows

A reporting entity under the *Statement of Accounting Concepts* (SAC 1) is required to comply with the *Statement of Accounting Concepts and Accounting Standards*. In addition, each entity that is required to comply with Chapter 2M of the *Corporations Act* must comply with the *Statement of Accounting Concepts and Accounting Standards*.

AASB 1026: Statement of Cash Flows requires preparation of a Statement of Cash Flows (this was previously called a Statement of the Sources and Applications of Funds). The Statement of Cash Flows details where cash has been generated and where it has been spent or allocated.

Note: Cash flows from operating activities are included in the Statement of Cash Flows on a gross basis including any GST component in accordance with *UIG 31: Accounting for the Goods and Services Tax (GST)*. This is in contrast to the need to prepare all other statements in the financial report on a net basis (excluding GST) pursuant to the Accounting Standards. Differences between the statements would reflect the GST effect.

Statement of Cash Flows for the year ended 30 June 2002			
	Note	2002 \$ Inflow (Outflow)	2001 \$ Inflow (Outflow)
Cash flows from operating activities			
Cash receipts in the course of operations		415,010	403,680
Cash payments in the course of operations		(386,980)	(355,080)
Dividends received		60	80
Interest received		13,930	10,880
Net cash provided by (used in) operating activities	A	42,020	59,560
Cash flows from investing activities			
Proceeds from sale of investments		10,250	125,120
Proceeds from sale of property, equipment & motor vehicles		9,830	17,760
Purchase of investments		(25,330)	(540)
Purchase of property, equipment & motor vehicles		(25,710)	(41,770)
Net cash provided by (used in) investing activities		(30,960)	(100,570)
Net increase (decrease) in cash and cash equivalents		11,060	160,130
Cash and cash equivalents at the beginning of the financial year		199,980	39,850
Cash and cash equivalents at the end of the financial year	B	211,040	199,980
Notes to the Statement of Cash Flows			
A. Reconciliation of cash flows from operating activities with Operating surplus			
Operating surplus		15,050	58,310
Non-cash flows in operating surplus			
Depreciation and amortisation		14,360	8,630
Net loss (gain) on sale of property, equipment & motor vehicles		970	(950)
Net increase (decrease) in provision for			
Employee entitlements		3,120	(430)
Doubtful debts		380	6,350
Changes in assets and liabilities			
(Increase) decrease in current receivables		(5,390)	(5,360)
(Increase) decrease in prepayments		(5,780)	1,060
Increase (decrease) in creditors and accruals		15,110	(2,580)
Increase (decrease) in income received in advance		4,190	(5,470)
Net cash provided by (used in) operating activities		42,020	59,560
B. Reconciliation of cash			
<small>For the purposes of this Statement, cash includes (i) cash in hand and in at call deposits with banks or financial institutions, net of bank overdrafts; and (ii) investments in money market instruments maturing within 30 days.</small>			
Cash at the end of the financial year is shown in the balance sheet as			
Cash on hand		80	60
Cash at bank		2,400	4,670
Investments			
At call deposits with financial institutions		11,050	5,340
Money market instruments maturing within 30 days		197,500	189,910
Cash and cash equivalents at the end of the financial year		211,040	199,980

7-960 Example Statement of Significant Accounting Policies

BASIS OF ACCOUNTS

The *name of authority holder* is a company limited by guarantee under the Corporations Act. The financial report is a general purpose financial purpose financial report that has been prepared in accordance with Australian Accounting Standards, Urgent Issues Group Consensus Views and other authoritative pronouncements of the Australian Accounting Standards Board, the Corporations Act and the NSW Charitable Fundraising Act and Regulations. The financial report has been prepared on an accruals basis and is based on historical costs and does not take into account changing money values or, except where stated, current valuations of non-current assets. Cost is based on the fair values of the consideration given in exchange for assets. The following is a summary of material accounting policies adopted by the Company in the preparation of the financial report. The accounting policies have been consistently applied, unless otherwise stated.

COMPARATIVE FIGURES

Where required by accounting standards, comparative figures have been adjusted to conform with changes in presentative for the current financial year.

PROPERTY, EQUIPMENT AND MOTOR VEHICLES

Property, equipment and motor vehicles are brought to account at cost less, where applicable, any accumulated depreciation or amortisation. The carrying amount of property, equipment and motor vehicles is reviewed annually by the Directors to ensure that it is not in excess of the recoverable amount from those assets. The recoverable amount is assessed on the basis of the expected net cash flows which will be received from the asset's employment and subsequent disposal. The expected net cash flows have not been discounted to present values in determining recoverable amounts.

Depreciation: the depreciable amount of all fixed assets including buildings, but excluding freehold land, is depreciated on a straight line or diminishing value basis over their estimated useful lives commencing from the time the asset is held ready for use. Leasehold improvements are depreciated over the shorter of either the unexpired period of the lease or the estimated useful lives of the improvements.

The depreciation rates used for each class of depreciable assets are:

Class of fixed asset	Straight Line Depreciation Rate	Diminishing Value Depreciation Rate
Buildings	2.5%	--
Furniture, fittings and equipment	10 - 33%	7.5 - 30%
Leasehold improvements	14.3 - 20%	--
Motor vehicles	--	10 - 20%

REVENUE

Revenue from the sale of goods is recognised upon the delivery of the goods to clients. Interest revenue is recognised on a proportional basis taking into account the interest rates applicable to the financial assets. Revenue from the rendering of a service is recognised upon the delivery of the service to the client. Government grants are recognised in the period to which the funding agreement relates. Dividend revenue is recognised and brought to account when the right to receive a dividend has been established. Reimbursement from the Australian Tax Office (ATO) of dividend imputation credits is recognised and brought to account when the right to receive the dividend imputation credits

has been established. All revenue is stated net of the amount of GST.

INVESTMENTS

Non-current investments are measured on the cost basis. The carrying amount of non-current investments is reviewed annually by Directors to ensure it is not in excess of the recoverable amount of these investments. The recoverable amount is assessed from the quoted market value for listed investments. The expected net cash flows from investments have not been discounted to their present value in determining the recoverable amounts.

DISPOSAL OF SURPLUS

Annual surplus: Rule # of the Company's Constitution prohibits the distribution of any surplus to Members. All income must be applied solely towards the promotion of the objects of the Company.

Surplus on liquidation: as required by the Charitable Fundraising Act 1991, the Income Tax Assessment Act 1997 and Tax Ruling TR 2000/12 and Rule # of the Constitution, any assets remaining upon the winding up of the Company must be applied to the objects or purposes for which they were raised.

RESTRICTED/UNRESTRICTED FUNDS

Restricted Funds are funds received or reserves held that must be spent on the purpose for which they were received or are held. They comprise:

- Government funding and related interest that must be spent in accordance with the terms of a funding agreement
- donations and bequests where the donor indicates a preference for the use to which the funds are to be used
- donations received in response to specific purpose appeals
- provisions for statutory entitlements due to employees.

All other funds are unrestricted in that Directors have discretion to spend them on purposes for which the charity is established.

EMPLOYEE ENTITLEMENTS

Wages and salaries: a liability is recognised and is measured as the amount unpaid at balance date at current pay rates in respect of employees' services up to balance date.

Annual and long service leave: provision is made for the Company's liability for employee entitlements arising from services rendered by employees to balance date. Employee entitlements expected to be settled within one year, together with entitlements arising from wages, salaries and annual leave which will be settled after one year, have been measured at their nominal amount. Other employee entitlements payable later than one year have been measured at the present value of the estimated future cash outflows to be made for those entitlements. Contributions are made by the Company to superannuation funds nominated by employees and are expensed when incurred.

TAXES

Income Tax: Under the New Tax System, the Company was endorsed on 1 July 2000 by the ATO as an income tax exempt charity.

Fringe benefits tax: the Company, as a public benevolent institution, was exempt from fringe benefits tax under Section 57A, Fringe Benefits Tax Assessment Act 1986. Grossed up value of specified fringe benefits to individual employees has been included on each employee's Statement of Earnings as required by

law. From 1 April 2001 this exemption ceased for certain fringe benefits paid to employees in excess of \$30,000 grossed up value for each employee.

Capital gains tax: the Company, as a public benevolent institution, is exempt from capital gains tax under Section 50-5, Income Tax Assessment Act 1997.

Payroll tax: the Company, as a public benevolent institution, is exempt from payroll tax under Section 10 (1) (a2), Payroll Tax Act 1971.

Land tax: the Company, as a charitable institution, is exempt from land tax under Section 10(d), Land Tax Act.

Stamp duties and charges: the Company, as a public benevolent institution and the holder of an Authority to Fundraise under the Charitable Fundraising Act 1991 has a general exemption from paying stamp duty and charges under Section 275 of the NSW Duties Act 1997.

Goods and services tax: the Company, as a public benevolent institution is registered for the goods and services tax (GST) applicable from 1 July 2000. The tax is paid on revenues from competitive commercial activities and sponsorship. Most input taxes charged are credited except for expenses related to non-creditable transactions. Note 4, revenues, costs and assets are recognised net of the amount of GST except:

- i) where the amount of GST incurred is not recoverable from the ATO, it is recognised as part of the cost of acquisition of an asset or as part of an item of cost; or
- ii) for receivables and payables which are recognised inclusive of GST.

The net amount of GST recoverable from, or payable to, the ATO is included as part of receivables or payables.

FUNDRAISING ACTIVITIES

Charitable Fundraising Act 1991: this Act and supporting Charitable Fundraising Regulation prescribe the manner in which fundraising appeals are conducted, controlled and reported in NSW. The amounts shown in Note 18 are in accordance with Authority Condition 7, which is issued to the Company under section 19 of the Act.

Donations and bequests: are returned as income as and only when received at the Company's administration offices or deposited to the Company's bank account. As specified in the Act, unsolicited donations, members' donations and bequests are not treated as fundraising income when determining information required under the Act. They are treated as gifts under the tax legislation and deposited in the Gift Fund bank account.

Cost of fundraising: costs used in Note 18 include all direct fundraising costs in accordance with the Act. The inclusion of indirect costs is discretionary. Indirect costs excluded, include overheads such as the time spent by accounting or office staff administering appeals, cost apportionment of rent, light and power, and insurance. Exclusion of the indirect costs decreases the cost of fundraising and increases the margins from fundraising shown in Note 18.

Education cost allocation: all fundraising activities are structured for dual purposes; to raise funds for expenditure on various services and to educate target groups, the Company and the services provided by the Company, which are themselves services. Costs of each activity are allocated between both purposes on the basis of an assessment of the emphasis given to fundraising and education. The allocations to education used for appeals for year ended 30 June 2002 were:

Lottery – July 50%
 Mail appeal - September 60%
 Mail appeal - Christmas 40%
 Mail appeal - March 40%

Mail appeal - June 60%

Members' Cost allocations: mail appeals are targeted at both Members and non-members. When determining information required under the Act, revenue is excluded, as required by the Act, on the basis of actual revenue received from Members and a share of costs of appeals is attributed to Members on the basis of the number of Members and non-members mailed. The allocations of costs to Members for year ended 30 June 2002 were:

Mail appeal - September 1.28%
 Mail appeal - Christmas 5.6 1%
 Mail appeal – March 1.99%
 Mail appeal - June 6.93%

No costs were attributed to Members for a share of lottery expenses, even though some Members purchased tickets. Ticket revenue from Members is included with the lottery. The impact on the results is not considered material.

Mail appeal revenue allocations: money received from designated mail appeals is allocated against that appeal if received within 6 weeks of mailing. Money received on a specific mail appeal printed advice after 6 weeks is attributed to that appeal only if it is clearly evident from the return that the money is in direct response to the appeal, otherwise money received is allocated to general fundraising on the basis that the money is as much likely to be a response by the donor to a general desire to assist the Company as a specific response to the named appeal.

Donor acquisition: the primary method of donor acquisition is through direct lottery appeal activities as an alternative to lottery sales. All costs associated with donor acquisition are charged against lottery costs and are taken into account at the completion of the lottery. This Overstates the cost of the lottery but the amount is minor. When a lottery is sold in 2 accounting years, it is brought to account in the second year when it is drawn, e.g. the figures for Lottery 20, which began in May 2002 and was drawn on 24 August 2002, will be reported in the accounts for year ending 30 June 2003, the year when most of the proceeds were received. Revenue from such donor acquisition is accounted for as a donation to the lottery for calculating ratios. Revenue from the new donor can be expected to flow in future years as a benefit offsetting the recruitment expense incurred in the initial year. At present, there is insufficient data regarding the future payment patterns of new donors to determine an appropriate amortisation period for the cost of donor acquisition.

General fundraising: costs charged to general fundraising relate to processing unsolicited donations and the planning and development of future fundraising activities. Once a decision is taken to proceed with a specific fundraising appeal, relevant costs are allocated to the specific appeal. Revenue from unsolicited donations is credited to general fundraising.

DONATED SERVICES

Various services are donated to the Company. No assessment of the value of those services is included in the accounts, although an estimate of the value is given elsewhere in this Report.

LEASE PAYMENTS

Lease payments for operating leases, where substantially all the risks and benefits remain with the lessor, are charged as expenses in the periods in which they are incurred.

7-970 Example Notes to the Financial Statements

A reporting entity under the *Statement of Accounting Concepts* (SAC 1) is required to comply with the *Statement of Accounting Concepts and Accounting Standards*. In addition, each entity that is required to comply with Chapter 2M of the *Corporations Act* must comply with the *Statement of Accounting Concepts and Accounting Standards*.

Accounting Standard *AASB 1034 (4.5): Financial Report Presentation and Disclosures* requires notes in the financial statements to be presented in a systematic manner, with each item presented in the financial statement cross-referenced to any directly related information contained in the notes. The notes must appear after the statements. The summary of accounting policies (refer 7-960 Example) is treated as a note and would appear before the supporting information as provided in this example.

The notes to the financial statements are an integral part of the annual financial statements of an authority holder. The statement of financial performance, the statement of financial position and the statement of cash flows should be read in conjunction with the notes as they often contain disclosures which give explanation and aid interpretation.

Authority Condition 7 does not interfere with the format required by AASB 1034. Special notes required to be attached to the statements could be provided under the heading *Fundraising—Information to be furnished under the Charitable Fundraising Act, 1991*.

Note 1: Revenue

Gives details of the key sources of revenue.

	Unrestricted Funds	Restricted Funds	2002	2001
	\$	\$	\$	\$
Operating activities				
Major				
Donations and bequests	25,280	780	26,060	24,020
Fees for services	28,940	--	28,940	25,120
Fundraising	239,990	--	238,990	259,230
Government funding	--	97,480	97,480	94,870
Minor				
Dividends-other corporations	650	--	650	80
Interest - other corporations	13,990	150	14,130	10,780
Sundry	3,060	--	3,060	--
	310,910	98,400	409,310	414,090
Non-operating activities				
Proceeds on disposal of property, equipment & motor vehicles	9,830	--	9,830	17,760
	320,740	98,400	419,140	431,850

Note 2: Surplus from Ordinary Activities

Gives details of various non-operating revenues and costs taken into account in determining the surplus. Provision expenses represent money put aside for the allocation of long-term expenses; they do not represent an immediate cash drain.

Operating surplus from ordinary activities has been determined after				
Costs				
Depreciation of non-current assets				
Buildings	60	--	60	60
Furniture, fittings & equipment	4,820	--	4,820	4,200
Motor vehicles	6,320	--	6,320	3,210
Total depreciation	11,200	--	11,200	7,470
Amortisation of non-current assets				
Leasehold improvements	3,160	--	3,160	1,160
Total amortisation	3,160	--	3,160	1,160
Doubtful debts	380	--	380	6,350
Remuneration of auditors	1,600	--	1,600	1,090
Net loss on disposal of property, equipment & motor vehicles	970	--	970	--
Rental expense on operating leases	30,900	--	30,910	19,170
Revenue and net gains	--	--	--	--
Dividends from other corporations	650	--	650	80
Interest from other corporations	13,990	150	14,130	10,780
Net gain on disposal of property, equipment & motor vehicles	--	--	--	950

Note 3: Cash Assets**Note 4: Receivables**

Lists money owed to the authority holder. Provision for doubtful debt exists because it is unlikely to recover the money owed by NBC Corp.

Note 5: Other Financial Assets

In this example, investments are predominantly liquid bank instruments. Maturity dates would be based on cash needs and assessment of interest rate movements.

Investments should be through an investment manager, rather than direct through the Australian Stock Exchange.

Note 6: Other Assets (Prepayments)

These expenses relate to activities that carry over two financial years and are accounted for in the second year.

Note 7: Property, Equipment and Motor Vehicles

Freehold land and buildings must be valued in accordance with Accounting Standard AASB 1034. The basis of the value should be given (e.g. estimated current market value) and how often (e.g. every 3 years).

In this case an option exercisable in the 2002-03 year is held for the sale of the land and buildings.

	Unrestricted Funds \$	Restricted Funds \$	2002 \$	2001 \$
Cash				
Cash at bank	80	--	80	60
Cash at bank - cheque and cash management accounts	2,400	--	2,400	4,670
	2,480	--	2,480	4,730
Sundry debtors and accrued income				
NBC Corp	19,650	--	19,650	19,270
Less: Provision for doubtful debts	19,650	--	19,650	19,270
	--	--	--	--
Investment income receivable	1,570	--	1,570	780
Other debtors	5,380	--	5,380	1,160
	6,950	--	6,950	1,940
Other financial assets as at 30 June 2002				
Current				
Maturity	Where	Instrument	Rate %	
1-Jul-02	FinBank	24 hr call	4.15	11,050
2-Jul-02	FinBank	1 mth bill	4.78	135,980
27-Jul-02	FinBank	1 mth bill	4.94	59,480
				2,040
Total				206,520
				2,040
				208,550
				--
Total 30 June 2001				206,600
Non-current				
Listed investments at cost				
	Shares in other corporations		1,600	--
	Units in property trusts		24,930	--
Total			26,530	--
				2,040
				26,530
				1,200
Market value of listed investments				
	Shares in other corporations		1,900	--
	Units in property trusts		25,040	--
Total			26,940	--
				1,810
				26,940
				1,810
Prepayments				
Prepaid events				
	Lottery		18,940	--
	Other		9,210	--
			28,150	--
				15,020
				7,360
				22,380
Current				
Freehold land and buildings at cost				
			16,310	--
	Less: Accumulated depreciation		2,150	--
Total current			14,170	--
Non-current				
Freehold land and buildings at cost				
			--	16,310
	Less: Accumulated depreciation		--	2,080
Total current			--	14,230
Leasehold improvements at cost				
			10,170	--
	Less: Accumulated amortisation		2,710	--
Total leasehold improvements			7,460	--
				8,250
				1,160
				7,090
Furniture, fittings and equipment at cost				
			37,220	--
	Less: Accumulated depreciation		24,180	--
				31,860
				19,710

	Unrestricted Funds \$	Restricted Funds \$	2002 \$	2001 \$
Total furniture, fittings and equipment	13,030	--	13,030	12,150
Motor vehicles at cost	42,490	--	42,490	39,090
Less: Accumulated depreciation	8,650	--	8,650	4,630
Total motor vehicles	33,840	--	33,840	34,470
Total non current	54,330	--	54,330	67,940
Total property, equipment and motor vehicles	68,490	--	68,490	67,940

Movements in carrying amounts

	Freehold land and Buildings	Leasehold Improve- ments	Furniture, Fittings & Equipment	Motor Vehicles	Total
Balance at beginning of year	14,230	7,090	12,150	34,470	67,940
Additions	--	3,520	5,930	16,260	25,710
Disposals	--	--	(240)	(10,570)	(10,810)
Depreciation expense	(60)	(3,160)	(4,810)	(6,320)	(14,350)
Carrying amount at end of year	14,170	7,450	13,030	33,840	68,490

Note 8: Financial Instruments

No particulars provided in this example. Accounting Standard AASB 1033: *Presentation and Disclosure of Accounting Instruments* sets out the disclosure requirements for accounting instruments. To comply with AASB 1033 the following information for each class of financial asset, financial liability or equity instrument the following information should be disclosed:

- the accounting policies and methods adopted, including the criteria for recognition and measurement basis used (such as cost or net fair value; and if for example, carried at net fair value it would be necessary to show how determined, such as market prizes or discounted cash flow); and
- information about the nature and extent of the underlying financial instruments, including significant terms and conditions that may have an impact on the amount, timing and certainty of future cash flows.

Exposure to interest rate risk (fluctuations in value of instrument) and credit risk should be disclosed. For example, disclose particulars about the credit risk exposure to the NBC Corp as particularised in Note 4.

Note 9: Payables**Payables**

Sundry creditors and accrued expense	23,510	--	23,510	8,410
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Note 10: Provisions

These are amounts required by law under leave legislation.

Non-current long-service leave relates to leave that cannot be taken until employed for 10 years, but may be paid in some circumstance after 5 years.

Provisions**Current****Provision for employee entitlements**

Holiday leave	--	11,870	11,870	9,740
Long-service leave	--	1,720	1,720	1,760
	--	13,590	13,590	11,500
Non-current	--	--	--	--
Long-service leave	--	8,640	8,640	7,610
--	8,640	8,640	7,610	--
Aggregate employee entitlements	--	22,230	22,230	19,110

			No.	No.
Number of employees, full time, at year end			5	6

Note 11: Other Liabilities

Mostly income from lottery to be drawn in August 2002 with sale starting in May 2002. Funds in trust arose from bequest.

Other liabilities

Income received in advance	28,850	--	28,850	26,690
Funds held in trust	--	2,040	2,040	--
	28,850	2,040	30,890	26,690

Note 12: Allocated Reserves

For each reserve the following must be disclosed. A description of the nature of the reserve and purpose of the reserve; the amount at the beginning of the reporting year; the nature and amount of each increase or decrease during the year, and the balance amount at the reporting date (AASB 1040, AASB 1012).

Note 13: Accumulated Funds

This was previously called the Operating Statement. It summarises the result of trading activities. Details of the financial performance that resulted in the surplus are given in 7-730 Example.

Note 14: Leases

AASB 1008: Leases does not specifically require the disclosure of accounting policies relating to leases. However, it recommends that policies adopted in respect of material lease transactions be disclosed. E.g. the basis for accounting for finance leases and operating leases; and the basis for amortisation of lease assets.

Note 15: Interest Income

Authority holders should exercise the prudent person principle (Trustee Act) when investing funds not immediately required for to finance activities. The interest return will reflect the safe investment basis of this principle.

Note 16: Insurance Cover

This relates to compulsory insurance and insurance required under funding agreements. Other insurance cover is considered following risk assessment.

	Unrestricted Funds \$	Restricted Funds \$	2002 \$	2001 \$			
Allocated reserves							
The allocations to reserves may be at the discretion of the Board of Directors of the authority holders. A general principle could be that where an operating surplus is in excess of \$100,000 the excess is allocated to reserves to offset net expenditure on the various activities of the authority holder. The allocation could be on the basis of 10% to general reserve and 30% to each of Service expansion, Funding Development and Research to provide a balance in development.							
	Balance 1 July 2001	National Allocations from Surplus	Interest Allocations	Expenditure Applicable to Activities	Support Costs	Balance 30 June 2002	Net movement in Reserves
	\$	\$	\$	\$	\$	\$	\$
Service expansion	xxx	xxx	xxx	xxx	xxx	xxx	xxx
xxxx	xxx	xxx	xxx	xxx	xxx	xxx	xxx
	109,610	xxx	xxx	xxx	xxx	86,460	(23,150)
Accumulated funds for year ended 30 June							
Accumulated funds at the beginning of the year						139,880	111,310
Operating surplus						15,050	58,310
Accumulated funds available for appropriation						154,930	169,620
Aggregate of amounts transferred to allocated reserves						--	29,740
Aggregate of amounts transferred from allocated reserves						23,150	--
Accumulated funds at the end of the financial year						178,080	139,880
Operating lease commitments on offices, photocopiers, and telephone							
Payable:	Not later than 1 year					40,010	21,540
	Later than 1 year and not later than 5 years					131,610	69,410
	Later than 5 years					43,570	5,140
						215,190	96,090
Interest income							
Trading account	--	--	--	--	--	--	--
Cash management account	90	150	230	330			
Motor vehicles	13,900	--	13,900	10,450			
	13,990	150	14,130	10,780			
Insurance premiums paid							
Workers' compensation insurance	3,890	--	3,890	3,410			
Comprehensive motor vehicle	1,220	--	1,220	740			
Member Accident Insurance Scheme	800	--	800	860			
Other	2,950	--	2,950	2,310			
	8,860	--	8,860	7,320			
With the exception of workers' compensation insurance and motor vehicle third party insurance where the rates are set externally, the extent and value of the cover is reviewed every year.							

	Unrestricted Funds \$	Restricted Funds \$	2002 \$	2001 \$
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Note 17: Related Parties

Related parties

The names of the Directors of the Company who have held office during the financial year are: A Able, B Brown, C Christenson, D Donaldson, E Ready and F Wheeler.

Directors are not entitled to and did not receive benefits during the year. There were no loans in existence during the year or at balance date that were made, guaranteed or secured by the Company to the Directors, their partners, relatives under their control or significant influence.

Transactions by the Company with Directors or entities under their control or significant influence:

Transaction type	Director				
Legal services from Legal Eagle & Co	E Ready	2,650	--	2,650	1,380

Legal services were provided by solicitors at Legal Eagles & Co were for the proposed sale of the real estate property, office leases, website service contracts, and recovery of NBC Corp debt. E Ready does not charge for advice provided in his capacity as a Director.

Note 18: Fundraising Appeals

For the purposes of the Charitable Fundraising Act excludes bequests, unsolicited donations and donations from existing members, but not new members.

Example 6, *Statement of Significant Accounting Policies* gives more information on the allocation of revenue and costs.

Example 3, *Detailed Statement of Financial Performance* gives further information regarding revenue and costs of fundraising appeals.

Fundraising income and expenses

Details of aggregate gross income and total expenses in fundraising appeals

Gross proceeds from fundraising appeals	255,620	780	256,400	277,010
Less: Total costs of fundraising	55,340	--	55,340	67,390
Net surplus from fundraising	200,280	780	201,060	209,620

Information on material matters

Gross results, and the results of all appeals achieved the target returns under the Charitable Fundraising Act. The Statement of Significant Accounting Policies, page 76, give further details. The Annual Report at pages ## and ## discuss the operating facts, performance and strategies.

Application of funds for charitable purposes

During the year the Company achieved a net surplus of \$201,060 (2000, \$209,620) from fundraising activities defined under the Charitable Fundraising Act. Of this surplus, \$88,840 (2000 \$39,270) was used to fund the public education programs and \$60,100 (2000 \$85,590) the operating deficit in Education and Guidance programs, \$24,117 (2000 \$14,780) was used to fund the Residential Services program operating deficit, \$9,010 (2000 \$11,600) was used to help fund support costs and the balance was transferred to reserves for future expenditure on services, \$9,800 (2000 \$13,110) to the general reserve and \$9,180 (2000 \$45,260) to allocated reserves (Note 12) from which \$3,930 (2000 \$60) was used to fund research. The Detailed Statement of Financial Performance on page 73 details the expenditure.

Fundraising conducted jointly with traders

No appeals were conducted jointly with traders in year ended 30 June 2002.

Revenue	--	4,450
Total payments to trader	--	1,180
Fundraising payments to trader	--	300
Other direct expenses	--	230
Gross contribution	--	3,930

Fundraising appeals as classified by the Charitable Fundraising Act conducted during the financial year

Lottery 17, 18 & 19

Mail appeal - September, Christmas, March, June

Note: Lucky Strike Lottery 20 commenced in May 2002 and was drawn on 24 August 2002.

Unaudited gross proceeds were \$83,680. Because most of the proceeds were received in the year ending 30 June 2002, the results will be in the year 2002 accounts. Donations and fees from new members of \$840 (2000 \$270) were treated as donations to general fundraising. The bulk of costs in procuring these members are included in the above appeals (see page 77).

continued next page...

Gross comparisons					
A divided by B	A	B	Surplus	2002	2001
	\$	\$	\$	%	%
Total cost of fundraising / Gross proceeds from fundraising	55,340	256,400	201,060	22	24
Net surplus from fundraising / Gross proceeds from fundraising	201,060	256,400		78	76
Total cost of services / Expenditure	307,720	394,250		78	74
Total cost of services / Income	307,720	409,310		75	63
Specific appeal comparisons (Total cost / Gross proceeds)					
Lottery No 17 (2001, Lottery 14)	16,120	78,310	62,190	21	25
Lottery No 18 (2001, Lottery 15)	20,020	86,910	66,890	23	26
Lottery No 19 (2001, Lottery 16)	17,930	81,100	63,170	22	22
Mail appeal - September	320	1,620	1,300	20	17
Mail appeal - Christmas	460	3,070	2,610	15	14
Mail appeal - March	240	1,650	1,410	15	28
Mail appeal - June	240	2,900	2,660	8	9
Special event 2001 (not including sale of lottery tickets by participants)	--	--	--	na	32
Special event 2001 (a)	--	--	--	na	20
New members contributions	--	840	840	--	--
Gross comparisons including fundraising not covered by the Charitable Fundraising Act (includes unsolicited and members' donations and bequests)					
Total cost of all fundraising / Gross proceeds from all fundraising	61,830	265,100	203,170	23	25
	Unrestricted Funds	Restricted Funds	2002	2001	
	\$	\$	\$	\$	
Note 19: Members					
Members					
Membership fees (excludes initial fees)	1,120	--	1,120	1,240	
Donations by members (excludes donations with initial fees)	3,190	--	3,190	1,410	
	4,210	--	4,210	2,650	
Information could be provided on the number of members by categories (e.g. ordinary members, life members, associate members, honorary members, etc. with a comparison to the previous year.					
Information could be given on the number of members by those paying and those not paying (e.g. life and honorary) members.					
Information could be given on membership duration categorised by periods of time.					
Note 20: Directors' and employees remuneration					
Remuneration to employees					
Staff are employed on individual management contracts, and under awards. Superannuation is paid in accordance with awards, management contracts or the superannuation guarantee legislation. At 30 June 2002, cars were provided under the management contract with ## staff and were predominantly used for work purposes. Individual management contracts provide for salary sacrifice payments in accordance with the Fringe Benefits Tax Assessment Act 1986. The effect of the salary sacrifice payments is to make salary packages to staff more comparable to equivalent remuneration to staff employed in for-profit organisations.					
The number of contract and award employees whose total actual remuneration including superannuation and retirement payments, but excluding the effect of salary sacrifice arrangements, fell within the following bands.					
Remuneration band		No.	No.		
\$... to \$...		1	2		
~		2	2		
\$... to \$...		2	2		
Total number of employees		5	6		
Total remuneration to these employees		\$155,860	\$132,210		

7-980 Example Declaration by the president of the governing body

All companies under the *Corporations Act 2001* must prepare a directors' declaration about the financial statements. The declaration must state:

- that the financial statements and related notes comply with accounting standards
- that the financial statements give a true and fair view of the financial position and performance of the company
- whether, in the directors' opinion, there are reasonable grounds to believe that the company will be able to pay its debts as and when they become due and payable
- whether, in the directors' opinion, the financial statements and notes have been prepared in accordance with the *Corporations Act*

This declaration is to be made in accordance with a resolution of the Board of Directors.

In addition to the declaration above (refer Authority Condition 7 (5)), or if the authority holder is not a company under the *Corporations Act*, the *Charitable Fundraising Act* requires the president or principal officer or some other responsible member of the governing body of the organisation to prepare a declaration under Authority Condition 7 (4). The following is an example of such a declaration:

PRESIDENT'S DECLARATION UNDER THE CHARITABLE FUNDRAISING ACT

Declaration to be furnished under the Charitable Fundraising Act 1991. This declaration is made in accordance with Authority Conditions 7(4) and 7(5) issued by the Minister under Section 19 of the Charitable Fundraising Act 1991.

I, (name), President of the (name of authority holder) declare that in my opinion:

- a) the financial statements (accounts) give a true and fair view of all income and expenditure of the (name of authority holder) with respect to fundraising appeals; and
- b) the Statement of Financial Position (balance sheet) gives a true and fair view of the state of affairs with respect to fundraising appeals; and
- c) the provisions of the Charitable Fundraising Act 1991, the Regulations under the Act and the conditions attached to the authority have been complied with; and
- d) the internal controls exercised by the (name of authority holder) are appropriate and effective in accounting for all income received and applied by the (name of authority holder) from any of its fundraising appeals.

Signature of president

*Variation: The person making the declaration is not satisfied in one of these areas. For example:
(d) the internal controls exercised by (name) are not appropriate and effective in accounting for all income received.*

The Audit

8-100 INTRODUCTION

There is significant public interest in the accountability of authority holders because of the purposes of their existence—to serve some public need as opposed to a business for profit. Accordingly, the financial report of an authority holder, in so far as it relates to receipts and expenditure in connection with fundraising appeals, must be audited annually [section 24 (1)] by a person holding the prescribed qualifications [refer *Chapter 9, The Auditor* for more information].

Significant diversity does exist with authority holders in their activities and operations, size, and legal structures. Authority holders can operate under a variety of legal structures—including, a company limited by guarantee, a trust, an incorporated or unincorporated association, Royal Charter—each of which may impose specific financial reporting and auditing requirements. The authority holder’s governing instrument or constitution may also impose financial requirements.

The audit plays a vital role in confirming the reliability of a financial report. It is not restricted to assessing the reliability of financial information; it is also concerned with ensuring that the contents of the financial report can be verified and are free from bias. In addition, the audit ensures that the authority holder is keeping proper financial accounts in connection with fundraising appeals.

The auditor is required to report to the Department [section 24 (3)] if there has been a contravention of the *Charitable Fundraising Act* or the Regulations under the Act, and the circumstances are such that, in the auditor’s opinion, the matter has not been or will not be adequately dealt with by comment in the auditor’s report or by bringing the matter to the notice of the person concerned or of the trustees or members of the governing body of the authority holder concerned.

Where the authority holder is incorporated, the audit report prepared for the purposes of the *Charitable Fundraising Act* may be included in the auditor’s report prepared for the *Corporations Act* or any other law that incorporates the authority holder.



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Legal References

Act — sections 3 and 24



Read this Chapter In conjunction with—

- Chapter 7, Financial Reporting
- Chapter 9, The Auditor
- Chapter 13, Internal Controls



The audit of an authority holder raises a number of specific issues for auditors, a significant one relates to forming a conclusion about the completeness of revenue from fundraising sources. There can often be uncertainty about whether an authority holder has obtained all fundraising revenue to which it has a right to receive. An auditor may be limited in the performance the tests that are necessary to reduce audit risk. When this limitation exists, the auditor considers expressing a qualified opinion. However, this qualified opinion should not occur as a matter of course.

Auditing Guidance Standard (AGS 1054, *Auditing Revenue of Charitable Entities*) provides guidance to auditors on the factors to be considered when determining whether sufficient audit evidence can be obtained to provide an objective basis for forming an opinion about the completeness of fundraising revenue.

8-200 AUDIT OBJECTIVES

For purposes of the *Charitable Fundraising Act* [section 24] the objectives of the audit would be to examine the records of the authority holder in order to form an opinion as to:

- whether the accounts show a true and fair view of the financial result of fundraising appeals for which they relate
- whether the accounts and associated records have been properly kept in accordance with the legislation
- whether money received as a result of fundraising appeals conducted during that year has been properly accounted for
- the solvency of the authority holder.

Members of the CPA Australia and the Institute of Chartered Accountants in Australia are expected to comply with ethical requirements and conduct audits in accordance with the Auditing Standards. The Auditing Standards contain the basic principles and essential procedures, and guidance to be applied in the audit of the financial report.

Auditing Standard AUS 202 *Objective and Principles Governing an Audit of a Financial Report* defines the objectives of an audit as:

.02 *The objective of an audit of a financial report is to enable the auditor to form an opinion whether the financial report is prepared, in all material respects, in accordance with an identified financial framework.*

The auditor must adopt an attitude of scepticism when objectively evaluating the audit evidence obtained.

8-300 AUDIT SCOPE

Where an audit is undertaken by a member of one of the professional bodies, an audit would need to be undertaken in accordance with the auditing standards, which would provide reasonable assurance as to whether the financial report is free from material misstatement. In such cases, the audit procedures should be determined by the auditor having regard to the requirements of auditing standards, legislation, regulations and, where appropriate, the terms of the audit engagement and reporting requirements. The auditor collects evidence on which to draw a conclusion while recognising the inherent limitations—in testing, internal controls and collusion—of the audit procedures.

Management is responsible for the preparation and presentation of the financial report. The auditor should not accept responsibility for this task.

Although section 24 establishes an audit scope for the purposes of the Act, it is appreciated that the auditor will have wider responsibilities to his or her client (i.e. the authority holder).

The best practices outlined below will represent only part of the entire program performed by the auditor in discharging his or her duties and responsibilities.

Reporting entity

The Department is of the opinion that the financial statements of authority holders meet the definition of a *reporting entity* under Statements of Accounting Concepts and Accounting Standards.

This is due to the existence of users dependent on general purpose financial reports and information for making and evaluating the performance of the governing body.

These users are not confined to members of the authority holder.

A general purpose financial report must meet the information needs common to all users including the requirements of authority condition 7.

Refer to *Chapter 7, Financial Reporting, 7-200, Financial report* for more information.

The auditor must form an opinion as to [section 24]

- whether the accounts show a true and fair view of the financial result of fundraising appeals for which they relate
- whether the accounts and associated records have been properly kept in accordance with the legislation
- whether money received as a result of fundraising appeals conducted during that year has been properly accounted for
- the solvency of the authority holder.

Internal control

The assessment of the internal control structure may be affected by the following factors:

- limited resources available to achieve desirable internal control objectives
- involvement of volunteers in the authority holder's management, operations, accounting and fundraising
- the authority holder's culture—attitudes to the importance of accountability, the assignment of responsibility and authority, and personnel management practices and policies.

Best Practices

For the purposes of the *Charitable Fundraising Act*, the scope of the audit should include the following:

- a. Identify the statutory requirements imposed on the client by the Act and any other legislation particularly in respect to the maintenance of financial accounts and prescribed records, and any reporting requirements.
- b. Be aware of any conditions attached to the grant of the authority to conduct fundraising appeals and verify compliance.
- c. Identify all methods of fundraising employed by the authority holder and the records maintained for that purpose.
- d. Establish whether returns from all fundraising appeals, especially where appeals are conducted jointly with a commercial fundraiser (i.e. a trader for the purposes of section 11 of the Act), satisfy the legislative requirements that:
 - all reasonable steps were taken to ensure that the total expenses payable in respect to the collection of monies house to house, in a street or road, in a public place or by telephone canvassing or otherwise do not exceed 40% [Authority Condition 8 (1)]
 - in all other cases, all reasonable steps were taken to ensure the total expenses did not exceed a fair and reasonable proportion of the gross proceeds [Authority Condition 8 (2)].
- e. Include a review of any fundraising through raffles, housie, and other games of chance regulated under the *Lotteries and Art Unions Act 1901 (NSW)*. Ensure that any relevant permits are obtained and the client is complying with the legislation and any permit conditions applicable.
- f. Ensure that books of account and record required to be maintained by the Act, the Regulations under the Act, the authority conditions and the guidelines are kept in the manner prescribed.
- g. Examine relevant records and documentation including authorisation or ratification of payments through the minute book where this is necessary [refer *Chapter 11, Expenditure*]. Test checking or sampling may be sufficient where proper controls and procedures are observed.
- h. Where a commercial fundraiser/trader is engaged, examine the terms of the written contract to confirm these are being complied with. The auditor should also identify the records maintained by the trader as part of the audit process and to conduct a sample check as appropriate.
- i. Review assets and liabilities of the authority holder resulting from fundraising appeals to confirm they are accounted for and included in the balance sheet (e.g. verification of major assets and sample checking of other assets to ledger and assets register).
- j. Review and evaluate the internal controls employed by the authority holder, especially in accounting for the proceeds obtained from fundraising appeals. Maintenance of proper registers for receipt books, tickets, etc. is considered to be an essential element of control and accountability in this context. Details of any omissions or weaknesses detected should be referred to the authority holder and where appropriate referred to in the audit report.
- k. If the accounting system is computerised, the auditor should familiarise himself or herself with the essential features of the program and evaluate the effectiveness of controls (i.e., access, division of duties etc.).
- l. The auditor should satisfy himself or herself that the Statement of Income and Expenditure (Statement of Financial Performance), the Balance Sheet (Statement of Financial Position) and the attached notes required under Authority Condition 7 (*Annual financial accounts*) have been complied with. The auditor should also ensure that these, together with his auditor's report form part of the published annual audited accounts of the authority holder.

- m. Where the auditor is a member of either the CPA Australia or the Institute of Chartered Accountants in Australia, the methodology and scope of the audit would also need to comply with the requirements of the Statement of Auditing Standards.

Other Practices

- n. It is recommended that the authority holder furnish the auditor with a letter of engagement which will indicate the scope of the audit.

8-400 AUDIT REPORT

The audit report must include the particulars required under section 24.

The auditor needs to express an opinion concerning the financial report of the authority holder. The opinion expressed in the audit report should be either:

- (a) **unqualified**, or
- (b) **qualified**, which should be expressed as:
- (i) **an “except for” opinion**—this is when the auditor concludes that an unqualified opinion is inappropriate because of a disagreement with management, a conflict between financial reporting frameworks, or a scope limitation, the effect of which are not of such a magnitude or so fundamental as to require the expression of an adverse opinion
 - (ii) **an adverse opinion (material but not extreme cases)**—this is when the effects of a disagreement with the management or a conflict between financial reporting frameworks or the scope limitation are of such a magnitude or so fundamental that the financial report taken as a whole is, in the auditor’s opinion, misleading or of little use
 - (iii) **an inability to form an opinion (extreme cases)**—this is when a scope limitation exists and sufficient audit evidence to resolve the uncertainty resulting from the limitation cannot be reasonably obtained.

When the auditor obtains sufficient audit evidence to conclude that the authority holder’s financial report is, in all material respects, presented fairly (and where the audit is undertaken by a member of one of the professional accounting bodies, in accordance with Accounting Standards and other professional reporting requirements), the auditor can issue an unqualified audit report. This may be case, provided the audit evidence finds only an immaterial proportion of revenue may not have been received.

However, if the auditor assesses that a material proportion of revenue is from sources for which limited controls exist (as it may be impracticable to maintain effective controls prior to the recording of the revenue), it may be impossible to obtain reasonable assurance about the completeness of revenue from these sources. In these cases, because the auditor is unable to obtain sufficient audit evidence, he or she would report a scope limitation exists and express a qualified opinion (refer above) [Refer Auditing Standards AUS 702, *The Audit Report on a General Purpose Financial Report* for more information].

Best Practices

- a. The audit report should contain a clear written expression of opinion as to whether the prescribed information on fundraising appeals required to be shown in the Statement of Income and Expenditure (Statement of Financial Performance) and the Balance Sheet (Statement of Financial Position) represent a true and fair view.
- b. As the auditor’s client is the membership of the authority holder, the report attached to the annual accounts must be directed to those members. Where the auditor considers it appropriate to issue a management letter in preference to qualifying his or her audit report, the issues canvassed should not be of a material nature.
- c. Where an auditor brings certain significant matters to the attention of the

The audit assessment

In forming an opinion on whether the financial report properly reports all fundraising revenue, the auditor should assess:

- **inherent risk and control risk** (Auditing Standard AUS 402, *Risk Assessment and Internal Controls*)—the auditor assesses inherent risk (susceptibility of account balance to misstatement) and obtains an understanding of the internal controls to assess risk, and to determine whether the evaluation and testing of controls and the application of substantive tests will reduce the audit risk to an acceptably low level
- **materiality of the revenue** (Auditing Standard AUS 306, *Materiality*)—qualitative materiality considerations are significant. Public perception of any misappropriation of donated funds due to lack of internal controls over collection or accounting for funds, or misuse of funds, may breach the donor’s trust, even if immaterial amounts are involved
- **the evidence** (Auditing Standard AUS 502, *Audit Evidence*)—the sufficiency of the audit evidence provides a basis on which to conclude whether the reported revenue is, in all material respects, complete, or materially understated.

The auditor is required to report

to the Department where in the auditor's opinion:

- there has been a contravention of the Act, the Regulations under the Act, or the authority conditions, &
- the circumstances are such that the matter has not or will not be adequately dealt with:
- by comment in the auditor's report
- by bringing the matter to the attention of the governing body of the authority holder.

management committee by means of a management letter, there must also be reference in these matters in the audit report where they are not resolved, or the auditor is of the opinion that the matters are not going to be resolved, to his or her satisfaction.

- Where disclaimers are included as part of the report such as *"in view of the nature of the income received it was not possible to account for this prior to it being banked and recorded in the books of account"* the report should go on to express an opinion as to the effectiveness of internal controls and procedures in accounting for appeal monies as the interests of the public are involved.
- Money unaccounted for through alleged fraud or misappropriation would normally constitute a material fact to be mentioned in the notes attached to the annual accounts, and in the auditor's report. Care should be taken, however, not to mention any particular person or office bearer directly or by inference to the alleged perpetrator.
- Authority holders and auditors who become aware of a fraud or misappropriation should weigh carefully any obligation by law to report the offence to the Police under section 316 (1) of the *Crimes Act, 1900 (NSW)*.

Other Practices

- Whenever possible the auditor should attend the annual general meeting of the authority holder.

The following are example controls for improving control over the collection of revenue from the identified sources.

However, overall control is enhanced if the governing body implements policies governing the undertaking of fundraising activities, establishes operational and financial controls for fundraising and has in place procedures to ensure compliance therewith.

Revenue and Risk	Methods of Collection	Example Controls	Indicative Audit Procedures
Cash donations —inherent risk is high—highly susceptible to inadvertent misplacement, or loss through fraud or theft; control risk associated with completeness cannot usually be assessed as low	Direct cash donations (e.g., collections in public places, door-to-door collections, small special events)	<ul style="list-style-type: none"> • Issue receipts, where appropriate (refer Chapter 19) • Establish controls over collection devices (refer Chapter 30) • Require collectors to work in pairs so that one collector is able to observe the actions of the other • Where collections undertaken in geographical areas, require a report on the response of each collection unit 	<ul style="list-style-type: none"> • Review and test procedures implemented • Design analytical procedures for each different source or geographical area (e.g., compare cash donations from particular activity or area with previous years or budget)
	Postal donations	<ul style="list-style-type: none"> • Segregate mailing opening and bank deposit functions (refer Chapters 19 and 10) • Ensure immediate recording of donations on opening of mail or receipt • Agree bank paying-in slips with a record of receipts by an independent person 	<ul style="list-style-type: none"> • Observe procedures • Analyse donations received to donations requested, and compare to previous years or other statistics
Fundraising campaigns and other special events —each will have its own inherent risk and control risk, though like cash donations, audit risk on completeness of revenue is usually high	<ul style="list-style-type: none"> • Telemarketing campaigns • Social events • Large appeals • Lotteries (e.g., raffles, housie) 	<ul style="list-style-type: none"> • Establish procedures to ensure compliance with any regulatory requirements that pertain specifically to the fundraising event • Ensure persons responsible for handling collections from sales account for each sale (e.g., pre-numbered receipts) and provides a reconciliation to the quantity offered for sale • Independent person to reconcile tickets issued against tickets sold or returned unsold, with the person being segregated from the person responsible for counting and depositing monies received 	<ul style="list-style-type: none"> • Review compliance with any regulatory requirements • To determine completeness of revenue recorded from social events, assess the reasonableness of related expenditure, compare amounts recorded with past revenue and budget • For each fundraising event, review procedures adopted for capturing and recording revenue
Donated material —inherent risk in estimating the fair value of donated materials; lack of evidence as to existence due to possible prior use		<ul style="list-style-type: none"> • Develop policies to ensure immediate recording of donated materials, with periodic review of policies • Segregate incompatible tasks, such as between receipting and recording • Supervise collections to prevent collusion or theft 	<ul style="list-style-type: none"> • Test the extent and effectiveness of accounting policies and internal controls • Compare data collected with budget and previous years • Consider confirming contributions from significant donors

EXAMPLE OF AN UNQUALIFIED AUDIT REPORT

TO THE MEMBERS OF THE (*name of authority holder*)

SCOPE

We have audited the financial report, being the *Directors' Declaration, Statement of Financial Performance, Statement of Financial Position, Statement of Cash Flows and Notes to the Financial Statements* of the (*name of authority holder*) for the financial year ended 30 June 2002. The company's directors are responsible for the financial report. We have conducted an independent audit of this financial report in order to express an opinion on it to the members of the company.

Our audit has been conducted in accordance with Australian Auditing Standards to provide reasonable assurance whether the financial report is free of material misstatement. Our procedures included examination, on a test basis, of evidence supporting the amounts and other disclosures in the financial report, and the evaluation of accounting policies and significant accounting estimates. These procedures have been undertaken to form an opinion whether, in all material respects, the financial report is presented fairly in accordance with Accounting Standards and other mandatory professional reporting requirements and statutory requirements so as to present a view which is consistent with our understanding of the company's financial position, and performance as represented by the results of its operations and its cash flows.

The audit opinion expressed in this report has been formed on the above basis.

AUDIT OPINION

In our opinion, the financial report of the *name of authority holder* is in accordance with:

- (a) the Corporations Act 2001, including:
 - (i) giving a true and fair view of the company's financial position as at 30 June 2001 and of its performance for the year ended on that date; and
 - (ii) complying with Accounting Standards and the Corporations Regulations; and
- (b) other mandatory professional reporting requirements.

We also report that:

- (a) the financial statements show a true and fair view of the financial result of fundraising appeals conducted during the year;
- (b) the accounting and associated records have been properly kept during the year in accordance with the Charitable Fundraising Act 1991 and the Regulations;
- (c) money received as a result of fundraising appeals conducted during the year has been properly accounted for and applied in accordance with the Charitable Fundraising Act 1991 and the Regulations; and
- (d) at the date of this report, there are reasonable grounds to believe that the company will be able to pay its debts as and when they fall due.

EXAMPLE OF A QUALIFIED (SCOPE LIMITATION) AUDIT REPORT

TO THE MEMBERS OF THE (*name of authority holder*)

SCOPE

We have audited the financial report, being the *Directors' Declaration, Statement of Financial Performance, Statement of Financial Position, Statement of Cash Flows and Notes to the Financial Statements* of the (*name of authority holder*) for the financial year ended 30 June 2002. The company's directors are responsible for the financial report. We have conducted an independent audit of this financial report in order to express an opinion on it to the members of the company.

Our audit has been conducted in accordance with Australian Auditing Standards to provide reasonable assurance whether the financial report is free of material misstatement. Our procedures included examination, on a test basis, of evidence supporting the amounts and other disclosures in the financial report, and the evaluation of accounting policies and significant accounting estimates. These procedures have been undertaken to form an opinion whether, in all material respects, the financial report is presented fairly in accordance with Accounting Standards and other mandatory professional reporting requirements and statutory requirements so as to present a view which is consistent with our understanding of the company's financial position and performance as represented by the results of its operations and its cash flows.

The audit opinion expressed in this report has been formed on the above basis.

QUALIFICATION

[Identify source(s) of revenue (e.g., cash donations)] are a significant source of revenue for the company. The company has determined that it is impracticable to establish control over the collection of [identify source(s) of revenue (e.g., cash donations)] prior to entry into its financial records. Accordingly, as the evidence available to us regarding revenue from this source was limited, our audit procedures with respect to the [identify source(s), e.g., cash donations] had to be restricted to the amounts recorded in the financial records. We therefore are unable to express an opinion whether [identify source(s) of revenue, e.g., cash donations] the company obtained are complete.

QUALIFIED AUDIT OPINION

In our opinion, except for the effects on the financial report for such adjustments, if any, as might have been required had the limitation on our audit procedures referred to in the qualification paragraph not existed the financial report of the *name of authority holder* is in accordance with: etc (see above example).

The Auditor

9-000 INTRODUCTION

The financial report of an authority holder, in so far as they relate to receipts and expenditure in connection with fundraising appeals, must be audited annually [section 24 (1)] by a person holding the prescribed qualifications.

The auditor plays a vital role in confirming the reliability of a financial report. He or she is not restricted to assessing the reliability of financial information, but also concerned with ensuring that the contents of the financial report can be verified and are free from bias. In addition, the auditor ensures that the authority holder is keeping proper financial accounts in connection with fundraising appeals.

The auditor is required to report to the Department [section 24 (3)] if there has been a contravention of the *Charitable Fundraising Act* or the Regulations under the Act, and the circumstances are such that, in the auditor's opinion, the matter has not been or will not be adequately dealt with by comment in the auditor's report or by bringing the matter to the notice of the person concerned, or of the trustees or members of the governing body of the organisation concerned.

9-100 AUDITOR QUALIFICATIONS

As discussed in *Chapter 7, Financial Reporting, 7-200: Financial report* authority holders are invariably reporting entities and, therefore, are required to prepare general purpose financial reports that comply with the Statements of Accounting Concepts and Accounting Standards. This applies to an authority holder:

- that is a company under the *Corporations Act 2001*, or
- that is required to prepare general purpose financial accounts or comply with accounting standards under another law or funding agreement, or

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Legal References

Act — section 24
Regulation 12 (1) (i)

Read this Chapter in conjunction with—

Chapter 8, The Audit
Chapter 5, Financial Issues, 5-100: Auditors

- whose accounts are prepared by a member of the Institute of Chartered Accountants in Australia or CPA Australia, or
- whose financial reports are audited by a member of the Institute of Chartered Accountants in Australia and CPA Australia.

Professional Statement APS 1 “Conformity with Accounting Standards and UIG Consensus Views”, issued by CPA Australia and the Institute of Chartered Accountants in Australia, specifies that Accounting Standards and Urgent Issues Group consensus views are mandatory for members of those bodies and, as such, must be consistently applied in the preparation and presentation of a general purpose financial report.

Relief from the general purpose financial report requirement

If the financial report of an authority holder is prepared and audited by persons both of whom are not members of one of the accounting bodies, then argueably there would exist no need to prepare a general purpose financial report.

Section 24 of the *Charitable Fundraising Act* requires the financial report of an authority holder (in so far as they relate to receipts and expenditure in connection with fundraising appeals) to be audited by a person qualified to audit accounts for the purposes of the *Corporations Act 2001 (C'th)* (a registered company auditor) or having other approved qualifications or experience. Refer to *Chapter 5, Financial Issues, 5–100: Auditors* for information on the qualifications and experience policy.

The effect of the "auditor qualifications and experience policy" is that an authority holder that is not required by the *Corporations Act* or any other law or requirement to prepare general purpose financial reports, and which has fundraising income or assets not more than \$100,000, may seek approval to engage a person (that is not a member of one of the professional accounting bodies) to audit the financial report as a special purpose financial report, with a resultant reduction in the cost burden of the audit.

The "auditor qualifications and experience policy" cannot overrule any legislative (e.g. a company under the *Corporations Act*) or other requirement that stipulates that auditor be a registered company auditor or hold some other acceptable qualification.

Where entitled, an authority holder seeks approval to engage a person as an auditor who is not a registered company auditor, by writing to the Department and providing certain particulars. Refer to *Chapter 5, Financial Information, 5–100: Auditors* for more information on this process.

The authority holder must notify the Department in writing of any change to the name, address and telephone number of the auditor within 28 days (does not apply if such particulars have been previously provided as part of any other application or notification).

Best Practices

Unless the constitution otherwise provides, the appointment of the auditor should be determined at the annual general meeting of the membership.

9–300 ROLE OF THE AUDITOR

The auditor exercises a vital role by offering an independent opinion on whether the financial report gives a true and fair view. Although performance of the audit will require the auditor to have dealings with the executive and governing body of the organisation, his or her obligation is to report to the general membership.

The auditor is also required to report certain matters to the Department [section 24 (3)].

Best Practices

- a. The auditor should be objective, impartial and free of any conflicts of interest in the performance of his or her duties. For that reason, the auditor should not be a member

Registered Company Auditor?

You can search the Australia Securities and Investment Commission's website to determine whether an auditor is a registered company auditor.

www.search.asic.gov.au/pro.html

Reporting entity:

The Department is of the opinion that the financial statements of authority holders meet the definition of a *reporting entity* under Statements of Accounting Concepts and Accounting Standards.

This is due to the existence of users dependent on general purpose financial reports and information for making and evaluating the performance of the governing body.

These users are not confined to members of the organisation.

A general purpose financial report must meet the information needs common to all users including the requirements of authority condition 7.

Refer to *Chapter 7, Financial Reporting, 7–200, Financial report* for more information.

The authority holder must notify the Department in writing of any change to the name, address and telephone number of the auditor within 28 days of the change.

of the committee or closely related to a committee member.

- b. Where occasional conflicts of interest may arise (e.g. where the auditor has two clients involved in the same property transaction), the auditor should declare that interest as soon as he or she becomes aware of it, and also record details in the audit report.
- c. As a general principle, the dual task of compiling the financial report and conducting the audit process should not be carried out by the same person. The main function of the auditor is to express an independent opinion on the financial report which is not possible if he or she was directly involved in their preparation.

Auditing Standard AUS 202.14 states: *The auditor should not accept responsibility for the preparation and presentation of the financial report. The responsibility for the preparation and presentation of the financial report is that of management of the entity. The audit of the financial report does not relieve management of its responsibilities.*

- d. The auditor is reminded that his or her client is the general membership of the authority holder (and indirectly, the public), and not the committee or governing body of that organisation. The audit report must therefore be directed to the membership, and the auditor must be prepared to criticise the committee for its administration when this is appropriate and necessary.
- e. Auditors should also be aware of the need to ensure that the records, controls and accountability of their clients are consistent with the spirit of the objects of the *Charitable Fundraising Act* which are:
 - to promote proper and efficient management and administration of fundraising appeals for charitable purposes
 - to ensure proper keeping and auditing of accounts in connection with such appeals
 - to prevent deception of members of the public who desire to support worthy causes.

The auditor has obligations to the public as the funds raised are public monies, and may be subject to a charitable trust.

- f. The Institute of Chartered Accountants in Australia and CPA Australia issue Auditing Standards (AUS) to prescribe the basic principles that govern the responsibilities of an auditor. They are applicable to all audits carried out by members of those bodies, not merely to those carried out under the provisions of the *Corporations Act 2001*.

Miscellaneous Professional Statement *APSI.1: Conformity with Auditing Standards* provides that application of Australian Auditing Standards is mandatory for all members.

- g. Auditing Standard *AUS 702: The Audit Report on a General Purpose Financial Report* requires an auditor to express an opinion in the audit report where *there has been a departure from a relevant statutory or other requirement affecting the form or content of the financial report*. This will of course include the provisions of the *Charitable Fundraising Act* and the *Lotteries and Art Unions Act*.
- h. Although it is perceived by many people that the main function of an auditor is to detect and prevent fraud and error, in reality it is primarily to examine the financial report of the client in order to form an opinion on whether these represent a true and fair view of the financial affairs and transactions of the client's business. If in the process of conducting the audit, error or possible fraud or misappropriation is detected, this will naturally distort the financial picture presented by the financial report. For that reason, any significant error, alleged fraud or misappropriation must be reported and/or dealt with as appropriate in the circumstances.

Other Practices

- i. Where possible the auditor should attend the annual general meeting of the authority holder, not only to answer questions in relation to the accounts and the audit report but also to formally accept nomination for appointment to the position in the ensuing

year.

- j. It is suggested that any auditor who is not a member of one of the two professional accounting bodies should obtain a copy of the current Australian Auditing Standards, including *AUS 202: Objective and General Principles Governing and Audit of a Financial Report* for information and guidance on the duties and obligations of an auditor. However, these standards are not binding on those persons.
- k. Members of the two professional accounting bodies are reminded that under Auditing Standard *AUS 210: Irregularities, Including Fraud, Other Illegal Act and Errors*, an effective internal control structure is one of the main methods available to the governing body for preventing fraud and irregularities. The auditor should have an understanding of the internal control structure, along with an assessment of the inherent risk, to enable the auditor to identify the types of potential material misstatements that could occur in the financial report.

9-400 INTEGRITY AND OBJECTIVITY

The independence of the auditor is a key governance issue for any authority holder, playing an important role in promoting integrity and confidence in financial reporting.

Best Practices

- a. The auditor should not be a committee member or a person closely related to a committee member. This is based on the principles of objectivity and integrity. Relationships between auditors and the authority holder client can impact on auditor independence. These include a financial or business relationship, and an employment and other family relationship.
- b. Auditors who are members of the CPA Australia and the Institute of Chartered Accountants in Australia must comply with the *Code of Professional Conduct* provides at *Professional Statement F.1, Professional Independence*:
 1. *Professional independence is a concept fundamental to the accounting profession requiring a member to observe integrity in and an objective approach to professional work.*
 2. *In each professional assignment undertaken, a member in public practice must both be and be seen to be free of any interest which is incompatible with objectivity. This is self evident in the exercise of the reporting function but also applies to all other professional work. In determining whether a member in public practice is or is not seen to be free of any interest which is incompatible with objectivity, the criterion should be whether a reasonable person, having knowledge of the relevant facts and taking into account the conduct of the member and the member's behaviour under the circumstances, could conclude that the member has placed himself or herself in a position where his or her objectivity would or could be impaired.*
 3. *A member not in public practice has a duty to be objective in carrying out his or her professional work whether or not the appearance of professional independence is attainable. Thus a member performing professional work in commerce, industry or the public service must recognise the problems created by personal relationships or financial involvements which by reason of their nature or degree might threaten his or her objectivity.*
- c. The practice is maintained to ensure integrity of the audit and the operations of charitable bodies. There is no discretion under the *Charitable Fundraising Act* to approve anything that would conflict with the standard. The Act merely deals with the qualifications of the auditor. Thus, any request for advice is more properly directed to the ethics section of the relevant body.

Banking Procedures

Money received in the course of a fundraising appeal is required to be banked immediately, without deduction, into an account with a bank, building society or credit union [section 20 (6)].

The Act does not require a separate account for each fundraising appeal, but it does require that monies raised from a fundraising appeal must be paid into a fundraising account, which consists of no other income.

If an authority holder or authority holder's branch wishes to deposit appeal monies into an account that is not a separate account [e.g., the authority holder's general fund], written application for a change to the authority holder's authority conditions must be made. Each case will be considered on its merits.

Branches of an authority holder which have been authorised by the authority holder to conduct one or more fundraising appeals may operate their own accounts.

The title of the account into which the gross proceeds from any appeal are to be paid must include the name of the authority holder [Authority Condition 6 (1)].

If the fundraising appeal is conducted jointly with a trader, and the trader maintains an account for purposes of section 20 (6) of the Act, the account is to include the name of the authority holder in the title of the account and must consist only of money raised in the appeal conducted on behalf of that authority holder [Authority Condition 6 (2)].

Disbursements from the account in amounts of \$200 or more must be by cheque drawn on the account unless the particular conditions of the authority provide otherwise [Authority Condition 6 (3)].

Authority Condition 15 requires that all expenditure must be properly authorised by or on behalf of the authority holder.



Legal References

Act — section 20(6)

Conditions — 6(1) and (3), 15



Read this Chapter in conjunction with:

Chapter 11, Expenditure

Chapter 14, Investment of Funds

Chapter 15, Keeping of Records, 15–210: Cash Book

Chapter 15, Keeping of Records, 15–230: Register of Receipt Books

Chapter 15, Keeping of Records, 15–240: Register of Tickets

Chapter 15, Keeping of Records, 15–290: Register of Collection Devices

Chapter 19, Receipting Requirements.



Best Practices

- a. The gross proceeds from appeals must be deposited intact, that is, banked as it is received. The person(s) conducting or participating in the appeal should not substitute a personal cheque for any cash collected. Where this principle is broken, financial accountability is lost or diminished.
- b. Proceeds from an appeal should not be banked into a private account under any circumstances.
- c. Expenses must not be paid from the proceeds of the appeal before the proceeds are deposited into the bank account. Any payments must be by cheque, petty cash (maximum of \$200) or from a special float established for that purpose. Floats should be re-banked intact.
- d. Wherever possible at least two persons should be involved in counting the proceeds of fundraising appeals, issuing receipts and making up deposits.
- e. Subject to Authority Condition 9 receipts should clearly show the date, the name of the donor, the amount in words and figures and the purpose of the payment received. Manual receipts should be written in ink, not in pencil.
- f. Where a master receipt covering field or subsidiary receipts is issued, the face of the receipt must show details of the range of receipt numbers included in the master receipt.
- g. Any cheques received should be stamped not negotiable for security purposes.
- h. The range of receipt numbers included in each banking must be shown in the receipt number column of the cash book.
- i. The cash book or other computerised accounting system must clearly distinguish between the income and expenditure of each appeal (e.g., separate analysis columns for each appeal).
- j. Where an account is maintained by the trader for goods sold door to door, the gross proceeds should be banked without deduction to that account. This account will then operate as a holding account from which cheques will be drawn in favour of the authority holder on a regular basis for his or her entitlement of the gross proceeds, and the trader for the balance in accordance with the terms of the written agreement.
- k. As part of banking preparation, receipts should be totalled and reconciled against cash and cheques on hand. A summary in similar fashion to that shown below should be shown on the reverse side of the last receipt included in the banking:

Banked	23/3/2002
Receipt No's.....	13 to 34
Amount	\$1286.34

This will be of assistance to the treasurer and the auditor.

How often should we bank any monies collected, bearing in mind we are 50 kms from the bank and the amount involved may only be say \$20?

The Act requires that any fundraising money must be banked immediately. The word "immediately" means "without delay" or "without lapse of time".

Prudently, authority holders must employ a practice that ensures the immediate banking of any proceeds. The practice must be practicable and appropriate, but provide appropriate standards of accountability. The practice should consider the amount of money involved and the location of the banking facilities.

The question of materiality will be considered by the Department when it reviews the practice employed — that is, whether on balance the practice adversely affects accountability.

It should be pointed out that many financial institutions have agents with which funds can be deposited.

Expenditure

To ensure proper accountability and protection of persons conducting and participating in appeals, it is essential that the gross proceeds received in the course of a fundraising appeal are banked immediately into a separate account [refer *Chapter 10, Banking Procedures*].

However, the account may be utilised to meet payments associated with the appeal, subject to the following provisions.

Expenses must not be paid from the proceeds of the appeal before the proceeds are deposited into the bank account.

Disbursements from the account in amounts of \$200 or more must be by cheque drawn on the account, unless the particular conditions of the authority otherwise provide. [Authority Condition 6 (3)]

All expenditure incurred and drawings on the bank account must be properly authorised by or on behalf of the organisation, and must be verifiable as being properly incurred (e.g. supported by documentary evidence). Cheques must be signed by not fewer than two persons jointly. [Section 20 (6); Regulation 7; Authority Condition 15]

The authority holder must exercise proper and effective control over all expenditure incurred. [Authority Condition 2]

Best Practices

- a. An official order book or purchase book should be used as far as practicable.
- b. Authorities for persons to operate as signatories to the fundraising account must be formally approved at a meeting of the governing body and recorded in the minutes. A photocopy of the authority lodged with the bank should be retained for historical reference and for information of the auditor.

It is the Department's usual policy that members of the same family should not be co-signatories on the bank account of an authority holder. This is based on

Legal References

Act — section 20 (6)

Regulation 7

Conditions — 2, 6 (3), 8 and 15

Read this Chapter in conjunction with

Chapter 5, Financial Issues

Chapter 15, Keeping of Records, 15–210: Cash Book

Chapter 15, Keeping of Records, 15–250: Petty Cash Book

Chapter 15, Keeping of Records, 15–260: Minute Book

Chapter 17, Petty Cash System

the principles of integrity and objectivity. In addition, members of the public may perceive it to be inappropriate for members of the same family to be signatories on a bank account containing public monies.

- c. The following controls should be exercised in respect of cheques:
- all cheques must be printed or stamped "NOT NEGOTIABLE"
 - blank cheques must never be pre-signed by the signatories to the account
 - where the payee of a not negotiable cheque requests that the cheque be opened up (that is, the words "PLEASE PAY CASH" included as an instruction to the bank on the face of the cheque), the instruction to the bank should be signed by two signatories and details of the circumstances written into a special register used for that purpose
 - cancelled cheques must be suitably and permanently retained with their butt. Computer generated cheques which are cancelled must be retained. In each case the cheque must have the word "CANCELLED" written on the face of the cheque and the cheque butt and the signatories torn off.
- d. Where a trader maintains the account, one of the two signatories required conjointly to operate the account should in all cases include a representative of the authority holder.
- e. The pricing and computations shown on all invoices and supporting documentation for goods or services received should be checked, and details verified against the original order form or quotation.
- f. Invoices should be checked against creditors statements. Balances brought forward as accounts rendered and final balances should also be verified.
- g. Payment must be based on invoices and not a monthly statement.
- h. Payment to a creditor should be accompanied by a photocopy of the invoice, a pro forma remittance advice, or a remittance advice which was provided by the creditor as part of the invoice. Payment must not be accompanied by the original invoice. The invoice forms part of the documentary evidence that verifies that expenditure is properly incurred.
- i. Once invoices are paid they should be marked *paid* by hand or with a rubber stamp to avoid duplication of payment. (See 'm.')
- j. Where credit cards are used for expense accounts or motor vehicle expenses, etc. proper policy and procedures should be established which would include the following:
- conditions must be set for user (e.g., circumstances under which it may be used, restrictions on private use, documentation to be handed in on a daily or weekly basis, etc.)
 - the user should receive and sign for a copy of these conditions
 - credit cards should be reconciled against the supplier's statement at not greater than monthly intervals.
- k. All payments relating to fundraising appeals must be authorised or ratified through the minutes of the governing body of the authority holder, except where delegation has been made to office bearers or officers of the authority holder to incur expenditure. If ratifying payments previously made during the month, the preferred form of motion to be included in the minutes would be:

That payment of cheque no's (from).....(to)
drawn on (name of account)
from to(dates)
totalling \$..... as per schedule of payments tabled at meeting
incorporated in Minutes, be ratified.

Problem areas

- Cheques are not being co-signed by two signatories.
- Signatories to the bank account are related.
- Expenses—including commissions—are paid from the proceeds of an appeal before the proceeds are deposited into a bank account.

A copy of the schedule of cheque payments, which would include details of the date of each payment, name of payee, and the purpose and amount of cheque, should be distributed to all members of the committee, and incorporated in or attached in the minutes for historical reference and audit verification.

As an alternative to producing a schedule of payments, the authority holder could table the cash book at the meeting, or furnish a photocopy of the relevant folios from the cash book to each member of the governing body.

- l. Where office bearers or officers of the authority holder are delegated authority to incur expenditure the following should apply:
 - the authority holder's constitution should provide for the ability to delegate this function and power
 - the governing body should establish appropriate policies and procedures with regard to the exercise of such delegations, including:
 - setting a monetary ceiling above which authority for expenditure must be submitted to the governing body or the general membership for approval (refer "k." above)
 - ensuring there is proper accountability and safeguards over the exercising of the delegations
 - authorisation of each item of expenditure by the delegated person must be in writing (e.g. signing the order form, voucher or invoice)
 - each authorisation should be countersigned or initialled by a second person.
- m. As part of the payment procedure all paid invoices or supporting documentation on which payment is made should bear the following particulars:

..... (cheque no.) \$..... (amount of cheque)(date of payment)
--

They should then be sorted into cheque number payment order. This will enable paid accounts to be located quickly and will be of assistance in the audit process.

- n. Authority holders should investigate their eligibility for goods and services at subsidised prices. Refer *Chapter 2, General Issues, 2-400: Exemptions, concessions, subsidies and assistance* for more information.
- o. Authority holders should investigate their eligibility for exemption from State and Commonwealth taxation. Refer *Chapter 2, General Issues, 2-500: Taxation issues* for more information.

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Insurance

Authority holders which are incorporated may be required to take out certain types of insurance. Also insurance may be required under other statutes—such as workers’ compensation for employees, and third party insurance on motor vehicles.

Under the *Associations Incorporation Act 1984 (NSW)* it is no longer compulsory for an incorporated association to take out public liability insurance. The removal of this requirement does not mean that associations are immune from public liability claims.

Irrespective of any statutory requirements, it is prudent for authority holders to obtain proper insurance coverage for all risks to which they are exposed.

The authority conditions require that in certain instances insurance must be taken out when children are involved in fundraising appeals [Authority Condition 6 of Schedule 2 of the Authority Conditions]; and when traders conduct appeals [Authority Condition 20].

The absence of appropriate insurance could result in funds raised through fundraising appeals being absorbed by claims made against the authority holder.

Where the authority holder is not incorporated, proper and adequate insurance cover is particularly important, as the committee and general membership may be held jointly and/or singularly responsible - i.e., personal liability may be incurred by the individual members.

Best Practices

- a. Due to the complexity of insurance matters, guidance should be obtained from a person with the necessary expertise
- b. The authority holder must comply with any insurance requirements imposed by the *Charitable Fundraising Act*, and with other statutory requirements (e.g., industrial relations legislation).

Legal References

Condition — 3 and 20 (e)

Condition — 6 of Schedule 2

Read this Chapter in conjunction with

Chapter 15, Keeping of Records, 15–450: Register of Insurances

Chapter 37, Duties and Responsibilities

- c. The authority holder should identify all areas of exposed risk to loss or liability. This is likely to include: public liability, third party property, workers' compensation insurance for employees, accident insurance for voluntary workers, fire and all risks insurance on buildings, contents, plant and equipment, theft and burglary, sale of defective goods, fidelity guarantee insurance over office bearers or employees, cash in transit, and professional indemnity.
- d. The authority holder should prioritise insurance risks. No cover should be omitted before receiving expert advice on the subject. This applies particularly to areas of liability such as public risk, workers' compensation, accident insurance, etc. (e.g., a person who the authority holder considers to be a contractor may in fact fall into the category of an employee for workers' compensation purposes). Any claims in this area for which cover is deliberately omitted or accidentally overlooked could financially cripple an authority holder.
- e. The authority holder must ensure there is appropriate insurance cover for all assets obtained during, or as a result of, a fundraising appeal. Assets for this purpose include proceeds obtained from appeals (e.g., cash in transit, held in bank or building society, etc.).
- f. Assets should be insured for their current or replacement value, rather than their book value. This would apply particularly where the value of a certain asset recorded in the books of account was shown at its historical cost (i.e., its original cost) or its depreciated value, either of which could be significantly less than its actual value.
- g. The value of assets for insurance purposes should be reviewed annually—particularly in the case of freehold buildings.
- h. Care must be taken to ensure over-insurance or under-insurance does not occur.
- i. Prices or quotations should be obtained from more than one insurance company to minimise costs.
- j. A review must be conducted of all insured items, risks and conditions at the time each policy is renewed. It is also prudent to conduct a global review of all policies annually.
- k. The authority holder should obtain a temporary cover note from an insurance company, pending a final decision being made to finalise coverage, or pending completion of the policy.
- l. Details of all policies should be recorded in a register of insurance policies.
- m. Renewal of policies should be flagged or diarised in some way to ensure they are not overlooked.

Other Practices

- n. It is prudent that cover be taken out on all assets regardless of the source of funds from which they were financed.
- o. Consideration should be given to what steps might be taken to reduce risks—these are examples of the types of steps that might be considered:
 - recruitment of persons with business or professional acumen
 - training
 - clear internal (general and financial) procedures
 - clear management structures and controls.
- p. It is impossible to list the types and actions or circumstances which an insurance policy would cover. Each authority holder must consider its own position and assess its potential liabilities in a realistic way. Different insurers will offer different policies and so more than one insurance company should be consulted.
- q. In considering whether or not certain types of insurance is justified, the authority holder should take into account:
 - the degree of risk to which they are exposed
 - the value of the insurance required
 - the cost of the insurance premiums
 - whether the insurance is likely to be in the interest of the authority holder.

Internal Controls

It is important that the governing body and management of an authority holder maintains an effective internal control structure over their activities. The governing body and management have a responsibility to ensure that proper and effective controls are applied to the organisation's activities and administration.

Internal controls are the governing body's and management's philosophy and operating style, and all the policies and procedures adopted by management to assist in achieving the authority's holder's objectives.

The internal control structure goes beyond those matters that relate to the financial report and consist of three elements: the control environment; the information system; and control procedures.

It is of concern to the Department that significant deficiencies in internal controls have been identified in some authority holders, and that the authority holder's auditor has often failed to report these deficiencies.

Authority holders should peruse the relevant requirements of the Regulations and Authority Conditions in this area.

Proper and effective controls must be exercised over the conduct of appeals including accountability for all income or articles received from any appeal and expenditure incurred.

The legislation and authority conditions provide a number of specific controls for the conduct of appeals and accountability for income and expenditure (e.g., maintenance of registers for receipt books and tickets, proper supervision, security and control to be exercised over the use and clearance of collection box devices, receipt to be issued for monies received from fundraising appeals, etc.).

Best practices included in these guidelines also include certain controls under the various subjects covered (e.g., newsagent style receipt books must be authorised for use by the governing body, more than one person should be involved in counting proceeds of fundraising appeals, blank cheque forms must not be pre-signed, etc.).

Legal References

Conditions — 2 and 7(4)(d)

Read this Chapter in conjunction with

Chapter 7, Annual Financial Accounts, 7-700: Declaration by responsible member of governing body

Chapter 11, Expenditure
Chapter 18, Policies and Procedures

Chapter 19, Receipting Requirements

Although these requirements are primarily concerned with fundraising appeals, authority holders should apply efficient and effective internal controls in all areas of their activities.

Best Practices

- a. Authority holders should consult their auditor for advice on this important subject.
- b. The auditor should evaluate internal controls and report any significant deficiencies in the audit report for the information of the membership. The auditor must also report any serious concerns to the Department.
- c. Controls should be based on prudent practice rather than reliance on trust of the individual.
- d. As far as practicable, authority holders should develop an accounting procedures manual which incorporates proper and effective internal controls. This should be reviewed regularly.
- e. Authority holders with branches or affiliates should ensure that written guidelines are available on internal controls.
- f. Wherever appropriate, authority holders should ensure:
 - there is a proper subdivision of financial tasks and responsibilities to minimise the opportunity for fraud or misappropriation
 - financial staff are rotated
 - more than one person should be involved in the counting and the banking of appeal monies
 - where wages are paid, the preparation of the payroll and payment of employees should be checked and verified by a second person
 - where authorisation for incurring of expenditure is delegated to certain office-bearers or staff, it should be limited to a maximum amount and clearly defined in the organisation's constitution, minutes, procedures manual or delegation schedule
 - where authorisation for the payment of accounts is delegated to certain individuals, this should be clearly defined in the organisation's constitution or procedures manual
 - there should be a proper tendering process for the purchase of goods or services.
- g. Where computerised records are maintained, computer access should be restricted wherever possible (e.g., use of passwords).
- h. The authority holder should ensure that fundraising operations are assessed to ensure that the controls are effective and adequate.

Investment of Funds

Money received in the course of a fundraising appeal which is not immediately required to be applied to the purposes of the appeal may be invested only in the manner for the time being authorised by law for the investment of trust funds [section 21]. This is subject to any Act which confers special powers of investment on the person or organisation concerned.

It should be noted that funds obtained from fundraising appeals would normally be subject to a charitable trust [for more information refer *Chapter 3, Management Issues, 3–500: Charitable Trusts*].

Under the *Trustee Act 1925 (NSW)* trustees are required to exercise their power of investment in accordance with the *prudent person rule*. That is, trustees may invest funds in any investment provided that due care, diligence and skill are exercised.

The *Trustee Act* sets out a range of matters to which trustees must have regard when exercising this power and those matters are set out in this Chapter.

The Act provides that, in proceedings against a trustee for a breach of trust, the court may take certain matters into account, including:

- the nature and purpose of the trust
- whether the trust investments were made pursuant to an investment strategy formulated in accordance with the trustee's equitable duties
- the extent to which the trustee acted on independent and impartial advice.

Regulations under the *Trustee Act* provide guidelines for the investment by trust funds. These guidelines are not mandatory and are primarily designed to assist non-professional trustees administering small trusts.

The investment needs of authority holders vary and the application of the *prudent person rule* may be inappropriate in many cases. In order to meet the needs of many authority holders, non-professional trustees and their advisers, clause 4 of the *Trustee Regulation 2000 (NSW)* provides guidance to persons with respect to the investment



Legal References

Act — section 20(6)

Act — section 21

Condition — 3, 4(1)(b)



Read this Chapter in conjunction with

Chapter 10, Banking Procedures

Chapter 15, Keeping of Records, 15–430: Register of Investments.



of trust funds where the total value of the funds subject to the trust does not exceed \$50,000 (refer next page).

This provides guidance for investing relatively small amounts of money for short periods of time, and may obviate the need for the trustees to obtain expensive professional advice.

Best Practices

- a. Trustees must have regard to factors such as the risk of capital or income loss or depreciation, taxation liability, the nature of the trust and the need to maintain the real value of the capital or income of the trust. In this context, the *Trustee Act* enables trustees to obtain independent investment advice and recoup the cost of doing so from the trust funds.
- b. Trustees must exercise a power of investment in accordance with any provision of the instrument (if any) creating the trust.
- c. At least once in each year, trustees must review the performance of the trust investment, individually and as a whole.
- d. The manner in which investments can be made should either be defined in the authority holder's constitution or by a policy and procedure formally adopted by the authority holder.
- e. Decisions on the placing of investments, roll-overs and maturity of investments should be authorised by the governing body and recorded in the Minutes. The information in the Minutes should include details of the investment number, the amount, rate of interest, maturity date and the name of the institution.
- f. Where authority is delegated to an officer of the organisation to invest monies without reference to the governing body, the relevant details should be reported and recorded in the Minutes.
- g. Details of investments should be recorded in a Register of Investments [refer *Chapter 15, Keeping of Records, 15–430: Register of Investments*].

Best Practices — Exercising Investment Powers

- h. Trustees (authority holders) must, so far as they are appropriate to the circumstances of the trust, have regard to the following matters when exercising investment powers:
 - the purposes of the trust
 - the desirability of diversifying trust investments
 - the nature of, and the risk associated with, existing trust investments
 - the need to maintain the real value of the capital or income of the trust
 - the risk of capital or income loss or depreciation
 - the potential for capital appreciation
 - the likely income return and the timing of income return
 - the length of the term of the proposed investment
 - the probable duration of the trust
 - the liquidity and marketability of the proposed investment
 - the aggregate value of the trust estate
 - the effect of the proposed investment in relation to the tax liability of the trust
 - the likelihood of inflation affecting the value of the proposed investment
 - the costs (including commissions, fees, charges and duties payable) of making the proposed investment.

Trustee Act

Printed copies of the legislation may be obtained from:

- NSW Government Bookshop [Goodsell Building, 8-12 Chifley Square (cnr. Phillip and Hunter Street) Sydney]
Phone: (02) 9238 0950 or (02) 9743 7200, or if calling from outside Sydney 1800 463 955
Fax: (02) 9228 7227
E-mail: info@dpws.nsw.gov.au
- Government Printing Service [Block V, Units 5 and 10, Regents Park]
Tel: (02) 9743 8777
Fax: (02) 9743 7114
E-mail: legislation@dpws.nsw.gov.au

Alternatively, Internet access to the legislation may be obtained from:

- www.austlii.edu.au/databases.html#nsw
- www.legislation.nsw.gov.au

Best Practices — Trustee Act Guidelines for Trustees where value of funds does not exceed \$50,000

- i. A trustee/authority holder might reasonably consider the following appropriate for the investment of trust funds:
 - any public funds or Government stock or Government securities of the Commonwealth or any State of the Commonwealth
 - any debentures or securities guaranteed by the Government of New South Wales
 - any debentures or securities:
 - issued by a public or local authority, or a statutory body representing the Crown, constituted by or under any law of the Commonwealth, of any State of the Commonwealth, of the Northern Territory or of the Australian Capital Territory, and
 - guaranteed by the Commonwealth
 - interest bearing deposits in a bank
 - any deposit with, withdrawable shares in, or loan of money to, an authorised deposit-taking institution.
- j. Investing funds in accordance with these guidelines does not necessarily mean compliance with the *Trustee Act*. The obligations of a trustee are set out in that Act and in other rules and principles of law and equity.

Harvard College v Amory (1830)

All that can be required of a trustee is that he shall conduct himself faithfully and exercise sound discretion. He is to observe how men of prudence, discretion and intelligence manage their own affairs, not in regard to speculation, but in regard to permanent disposition of their funds, considering the probable outcome as well as the probable safety of the capital to be invested.

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Keeping of Records

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15-000 INTRODUCTION

An authority holder must keep financial and other records that correctly record and explain transactions and its financial performance and position. The records must be sufficient to enable the preparation of true and fair financial statements and the audit of such financial statements. The *Charitable Fundraising Act* makes it clear that records of income and expenditure in relation to fundraising appeals must be maintained.

Location of records

Subject to the conditions of the authority, the records must be kept at all times at the registered office of the authority holder. This is the address notified to the Department in the application for an authority. The Department must be notified of any change to this address [Regulation 12].

If certain records are to be maintained at a place other than the registered office of the authority holder or at the authority holder's branch, approval must be sought from the Department for a variation to the authority conditions.

The records may be removed from the registered office for the following reasons: if they are to be taken into the custody of the auditor for purposes of audit; or any other purpose required by law or by a condition of the authority.

Period of time for which records must be kept

All entries made in any record required to be kept under the authority conditions must be kept for a period of at least 7 years for accounting records, and 5 years for all other records.

For the purpose of these guidelines, records to be maintained are divided into two categories:

Category A

Records that must be maintained. Refer 15–200.

Category B

Optional records—records which are considered prudent to keep in the observance of proper accountability, controls and safeguards. Refer 15–400.

15–100 RECORDS GENERALLY

The following best practices and other practices should apply to the keeping of records generally.

Best Practices

- a. Records should be entered (written up) on a regular basis.
- b. Where practicable, authority holders should develop an accounting procedures manual to define tasks, procedures, controls etc. which should be subjected to regular review. It is recommended that authority holders should consult their auditor for advice in this matter.
- c. Treasurers should provide the committee with financial reports on a regular basis to enable it to make informed decisions.
- d. Where manual records are maintained:
 - entries should be made in ink, not in pencil
 - although totals of columns may be entered in pencil as part of the interim process of reconciling cross additions across the page, these figures must be inked in at the end of the month to minimise the possibility of fraudulent changes
 - if an entry needs to be altered a line should be drawn through it and the correct figure inserted above it. Correction fluid (e.g., White out, Cover Up, Liquid Paper) should not be used. If a page is spoilt, don't tear it out, put a line through it and start again.
- e. Where computerised records are maintained:
 - computer access should be restricted (e.g., by the use of passwords) to minimise opportunities for unauthorised use, fraud, defalcations or misappropriation of funds, and to assist in the identification of the perpetrator
 - the program should not include the facility to edit any general ledger transactions. Any correction must be made by journal entry
 - data entry sheets must be used as a primary record of all transactions and postings. These must be retained as a permanent record for future reference and audit purposes
 - computerised journal entries must accurately describe the reason and purpose of the entry
 - hard copies of printouts of cash book transactions, journal entries, etc., and updated ledger accounts must be retained as a permanent record
 - hard copies of trial balances, statements of income and expenditure and balance sheets must be generated monthly and retained as a permanent record.
 - backups should be made daily, and to avoid loss by fire should be stored at another location.
- f. Where loose leaf systems or records are maintained, each folio must be consecutively numbered, and proper and effective controls exercised over the storage of issued and unused folios.
- g. Where journal entries are made they should accurately describe the reason for the

Legal References

Act — section 22

Regulation — 8 and 12

Conditions — 2, 3, 4, 10, 12, 17, 18, 20, 22, 23 and 26

Read this Chapter in conjunction with

Chapter 16, Keeping of Records, Traders

You are required to keep certain records for reporting to the Australian Taxation Office. They include:

- **sales receipts** (these may also include your sales for goods and services (GST) purposes)—invoices, vouchers, statements, bank deposit books, etc.
- **purchase/expense receipts** (these also include your purchases for GST purchases)—invoices, receipts, cheque butts, etc.
- **records relating to the payment to employees and other workers**—worker payment records, tax file number declarations, PAYG summaries, superannuation records, records of fringe benefits

Continued next page

Cash Payments Book (includes GST transactions)

Date	Details	Payment type	Total payments	GST amount	Raffles	Wages Commission	Sundries
2002 July							
5	Raffle books	Chq.5836	\$110.00	\$10.00	\$100.00		
5	Letter of solicitation-B Brown	Cash	\$40.90	\$4.10			\$45.00
6	Raffle prizes-C Store	EFTPOS	\$55.00	\$5.00	\$50.00		
7	Wages & commission	Chq.5837	\$210.00			\$210.00	
7	Bank charges	Direct DR	\$10.00				\$10.00
	Monthly totals		\$425.90	\$19.10	\$150.00	\$210.00	\$55.00
	Year to date totals						

Cash books are sometimes referred to as journals. For example, a cash receipts books may also be referred to as a cash receipts journal.

The cash book is generally in two parts:

- a section for payments (the money going out), and
- a section for receipts (the money coming in).

It is up to the authority holder to decide whether to keep records of payments and receipts in one book or two separate records.

Best Practices

- The transactions should be entered on a regular basis, preferably daily.
- The cash book should be reconciled with the account at least monthly. Where there is a manual cash book, the reconciliation statement should be written into the book. Where the cash book is computerised, the manual reconciliation, or the computerised print out should be stored for future reference.
- In the case of a manual cash book, the receipts section of the book must include details of the date, receipt numbers and amounts, analysis columns which identify the particular appeal, or source of income etc., and a banking column.
The payments section of the book must include details of the date of payment, the name of the payee, a description of the transaction and analysis columns which dissect the type of payment.
- A self-carbonising multi recording system cash book journal which incorporates the simultaneous issuing of custom-printed, pre-numbered loose-leaf receipt forms and/or custom-printed, pre-numbered loose cheque forms is acceptable if the system:
 - provides the details referred to in 'c.' above
 - the cash book folios are numbered and stored in a secure binder after use
 - there is proper control over the purchase and issue of the cash book stationery including the receipts and cheque forms. These controls will include the supplier showing details of the range of receipt and cheque numbers on the invoice, and these details being recorded in a special bound register maintained on identical lines to 15–230: *Register of receipt books*.
- Where a computerised cash book is used:
 - the cash book journal should provide a full listing of all transactions (i.e., not posted in total). A hard copy of each month's transactions should also be retained

GST implications

A charity must register for GST if its annual turnover is \$100,000 or more. If its turnover is less, it can elect to register.

GST-registered charities can claim credits for GST they pay for acquisitions used in making their GST-free and taxable supplies (input tax credits). They include 10 per cent GST on their taxable supplies. When the input tax credits are greater than the GST included, the charity will receive a refund or have the credit applied to other tax debts, if they have any.

Non-GST-registered charities do not include the 10 per cent GST on their supplies, and are not able to claim input tax credits for the GST they have paid on their purchases.

Is it worthwhile for a charity with turnover under \$100,000 to register?

The decision to elect to register is one that will be based on a charity's administrative needs.

If a charity is registered for GST, a credit can

Continued next page

Cash Receipts Book (includes GST transactions)

Date	Details	Invoice or receipt no.	Total receipts	GST amount	Raffles	Donation	Bank
2002 July	Totals brought forward						\$1,000.00
5	Raffle sales- Jones	101	\$55.00		\$55.00		
5	Donations-various	102~5	\$120.00			\$120.00	\$175.00
6	Raffle sales-Smith	106	\$20.00		\$20.00		\$20.00
	Monthly totals		\$195.00		\$75.00	\$120.00	\$195.00
	Year to date totals						

Register of Assets

Date of purchase of acquisition	Description of asset	Cost or valuation	Disposal Date	Disposal Manner	Consideration Received

Continued from previous page

be claimed for the GST included in the price of purchases that are made for the organisation (an input tax credit).

While the record keeping for GST and completion of the Business Activity Statement (BAS) have been greatly simplified, it still is a business decision whether on balance it is better to forgo input tax credits that may be available, against the obligations that registration places on small charities such as:

- paying GST on memberships
- paying GST on other supplies (unless they are GST-free or input taxed)
- completing the BAS and keeping accurate records.

To be read in conjunction with:

Chapter 20, Safeguarding Assets

GST implications

Many supplies made by GST-registered charities are GST-free including:

- all charitable activities provided for no cost
- most education, childcare and health services
- basic food
- non-commercial supplies
- supplies of donated second-hand goods (not reprocessed), and
- raffles and bingo.

for audit reference

- with payments, the journal should include the date of payment, the name of the payee, the cheque number and amount of the cheque. The entry should also bear a chart of accounts allocation code
- with receipts, the journal should include the date it was received, the donor or payer, the receipt number and amount of payment received. The entry should also bear a chart of accounts allocation code
- if the computerised records consist entirely of a spreadsheet for the cash book (i.e., not a proper accounting package) the authority holder should also maintain a manual cash book, as spreadsheet entries may be edited at any time
- hard copies of data entry input sheets should be retained in a properly secured binder for audit reference.

15-220 Register of assets

Authority Condition 4 (1) (b) requires that a register of assets be maintained to properly account for all non-current assets obtained during, or as result of, the conduct of any fundraising appeal.

Best Practices

- All non-current assets purchased or acquired as a result of a fundraising appeal must be recorded in a register of assets maintained for that purpose, where they are not capitalised or included in the balance sheet. The Department will not normally object to a minimum threshold being established for assets to be included (refer 'g.' below).
- The register may either be in manual or computerised form.
- Where it is a manual register, it should be in bound form, or properly secured.
- The register must provide the following particulars:
 - the date the asset was purchased or acquired
 - a description of the asset, including the model number and serial number
 - the purchase price, or where the asset was donated, its estimated value
 - details of the date the asset was eventually disposed of and the manner of disposal (i.e., sold, traded-in or scrapped)
 - where the asset was sold or traded in, the consideration received.
- The assets should be physically checked against the register at intervals not greater than 12 monthly.
- A record should also be maintained of assets on loan or hire.

Other Practices

- Consideration may be given by the authority holder to setting a minimum practical threshold of say \$500 for inclusion of any particular asset for the purpose of this requirement.
- Either the assets register, or a register separately maintained for that purpose should record details of assets rented out, or on loan, etc.

Register of Receipt Books

BOOKS RECEIVED					BOOKS ISSUED				
Date	Supplier	Receipt Nos		Book No. Allocated	Date	To Whom Issued	Signature	Date Complete	Auditor's Initial
2002		Com- mence	Conclude		2002			2002	
15 Mar	ABC Printers (5 books @ 100) Inv. A352- 14/3/02	10001	10100	1	1 Mar	J Brown		1 Jun	
		10101	10200	2	1 Mar	S Smith		1 Jul	
		10201	10300	3	1 Jun	J Brown			
		10301	10400	4	1 Jul	S Smith			
		10401	10500	5					

15–230 Register of receipt books

Authority Condition 4 (1) (c) requires that a register recording details of receipt books or computerised receipt stationery be maintained.

Best Practices

- a. The register should record the following particulars:
 - the date, name of the supplier, invoice number and the quantity and range of numbers of each book or series supplied
 - the book number allocated to each book of receipts (where in book form) – refer *f.* below
 - the date on which each book or series was issued, the signature of the person issuing it and the name and signature of the person receiving it
 - the date on which the books or series were completed and the signature of the person returning it
 - a column should be maintained for the auditor's verification.
- b. Where the register of receipts is maintained in computerised form, a hard copy must be retained, and provision must also be made for signatures referred to in *a.* above.
- c. When purchasing receipt books, forms, etc., the authority holder should require the supplier to show details of the range of receipt numbers and quantities on the purchase invoice. This enables the auditor to verify the proper accounting for the supplied receipt books, forms, etc.
- d. Details should be entered into the register immediately receipt books (or computerised receipt stationery) are received from the suppliers.
- e. Where pre-numbered computerised receipt stationery is used:
 - each package of forms received from the supplier must be entered into the register showing the date, name of the supplier, invoice number and the number of packages and the range of numbers they contain
 - when issued for use, relevant details, including the date should be recorded in the register.
- f. Where receipts are in book form, the book should be allocated a sequential book number to assist in its identification.
- g. Where receipt books are issued to a trader, the trader shall maintain a subsidiary register of receipts mirroring details of the books issued to him or her and recorded in the authority holder's register.
- h. Where the trader in turn issues books of receipts to collectors, the trader must maintain a permanent record of the date the person was issued with the book and the last completed number of the receipt in the book handed to the collector and the last number of the receipt book when it is returned by the collector.
- i. Verification should be made of the stock of unissued receipt books and stationery,

To be read in
conjunction with:

Chapter 19,
Receipting
Requirements

- expenditure—sufficient analysis columns should be included for recurring expenses and a sundries column.
- c. cash on hand should be reconciled against the balance shown in the petty cash book at regular intervals (including when responsibility is passed to another person), and on each occasion a claim is made to reinstate the petty cash float.

15–260 Minute book

Authority Condition 4 (2) requires that where the authority holder is an organisation it must maintain a minute book. The minute book is to record all business relating to fundraising appeals transacted by the governing body of the organisation (or by any subcommittee of that governing body) and any general or extraordinary meeting of its general membership.

To be read in conjunction with:
Chapter 35, Meetings

Best Practices

- a. The authority holder should ensure that the book in which the minutes are recorded is of a type that provides proper security against loss or alteration. A bound book with numbered folios is preferred for this purpose. A loose leaf system would be acceptable where the folios are consecutively numbered and are identifiable as being the authorised copy by an original signature of the chairperson of the meeting at which they are formally adopted.
- b. The names of the members present at the meeting must be recorded in the minutes. Alternatively, the number of members present and their names must be recorded in an attendance record and signed by the chairperson.
- c. Minutes should be accurate, clear and unambiguous. Although they need not record details of all discussion held, they must include all motions and decisions and an overview of each subject discussed.
- d. The minutes should be written up without delay when details are fresh in the mind of the minute secretary and the office bearer who will read the proof copy.
- e. All reports and submissions adopted at a meeting form part of the minutes. They should be signed and dated by the chairperson and where possible included with the minutes. Where the reports are too bulky for inclusion they should be stored in an official file maintained for that purpose.
- f. Except where expenditure is delegated to officers of the organisation, all payments made from the account maintained for fundraising appeals should be authorised or ratified through the minutes. The manner in which this should be recorded is described in *Chapter 11, Expenditure*.
- g. The minutes of the annual general meeting of the authority holder should include a motion formally adopting the audited annual accounts of the authority holder and also record evidence of elections and appointments required under the constitution.

Other Practices

- h. An agenda should be prepared for distribution before the meeting and controversial issues are best included as a notice of motion so members are aware the subject is to be debated. It is common practice for the agenda to be incorporated into the minute book.
- i. Authority holders should give consideration to developing their own procedures for the conduct of meetings, including proxy voting, and notice of meetings. This could then be included in their own policy and procedures manual, or alternatively, incorporated in their constitution or articles of association, etc. This will also be helpful in dealing with internal conflicts that might arise regarding meeting legalities.

There are a number of definitive reference books available on this subject.

Joske's Law and Procedure at Meetings in Australia published by The Law Book Company Limited is a handy reference for advice on the conduct of meetings.

- the date it was returned and the signature of the person to whom it was returned where the boxes are placed in shops or places of business etc.
 - the date, the name of the supplier, the invoice number and the quantity of devices supplied
 - the serial number of the device, the date and the name and address of the shop or place of business at which the device is placed. A signature from the owner of the business verifying receipt of the device
 - the date the device was returned and allocated to its new location
- where the boxes are in the form of canisters in which sweets/confectionery or other such articles are placed for sale
- the date, the name of the supplier, the invoice number and the quantity of devices supplied
 - the number of the canister, the date and the name and address of the shop or place of business at which the canister is placed. A signature from the owner of the business verifying receipt of the canister
 - the date the canister was returned and allocated to its new location.
- b. Where the register is maintained in computerised form a hard copy must be retained, and provision must also be made for signatures referred to in 'a.' above.
 - c. Verification should be made of the stock of unissued devices and issued devices at regular intervals.
 - d. Where collection box devices are used by a trader, the boxes must only be those issued to the trader by the authority holder and must be recorded in a register by the trader.

15–300 Record of employment of children participating

To be read in
conjunction with:

15–420 Wages Book

Authority Condition 18 of Schedule 2 of the authority conditions requires that a record of employment is to be maintained where a child is in receipt of wages or commission or some other material benefit (other than reimbursement of reasonable out-of-pocket expenses).

Best Practices

- a. In addition to complying with the requirements of *15–420: Wages Book*, the record of employment should include the following particulars:
 - the child's full name, residential address and telephone number
 - the child's date of birth
 - description of the nature of the employment
 - details of any consent provided by the child's parents or guardian (any written documentation to be retained)
 - the name, address and telephone number of the person immediately responsible for the child during the appeal.
- b. The records must also comply with any additional requirements under any industrial award or enterprise agreement.

15–310 Register of pecuniary interests

Authority Condition 23 requires that where conflicts of interest arise involving members of the governing body of the authority holder, or an employee of the authority holder a register of pecuniary interests must be maintained.

Register of Pecuniary Interests

Name	Position Held	Date Effective from	Details of interest	Date Approved by Committee
J Smith	Treasurer	2002, Sept 15	XYZ Helpers entered into a contract with Mr J Smith's family company, Smith Enterprises, to supply medical supplies. Public tenders were invited, and tenders received from Smith Enterprises, ABC Enterprises, and Brown Enterprises. These were considered by the management committee in the absence of Mr J Smith and the decision taken on July 31st.	2002, Jul 31

Best Practices

a. Where a register of pecuniary interests is maintained it should include the following:

- the name (and position held), of any member of the committee receiving any remuneration or benefit from the authority holder other than reasonable out-of-pocket expenses
- details of the person's interest
- the date, the particulars and the amount of any payment or benefit received
- details of the minutes of the meeting of the committee at which the decision to provide the payment or the benefit was taken
- the date prior approval was received from the Department for the payment or benefit under section 48 of the Act
- the name of any member of the committee who has conducted, or intends to conduct any business transactions with the authority holder. This may be either directly, or indirectly through a family business or company, or through a company in which the person is a director or shareholder, or a member of the person's family who is a director or shareholder.

In these circumstances the register should record:

- details of the person's interest
- the date, the particulars and the amount of any payment or benefit received
- details of the minutes of the meeting at which approval was given by the authority holder
- details of the tendering process, if any, which was observed
- the name of any employee of the authority holder who has conducted, or intends to conduct any business transactions with the authority holder. This may be either directly, or indirectly through a family business or company, or through a company in which the person is a director or shareholder, or a member of the person's family who is a director or shareholder.

In these circumstances the register should record:

- details of the interest involved
- the date, the particulars and the amount of any payment or benefit received
- details of the minutes of the meeting at which approval was given by the authority holder for the payment or benefit
- details of the tendering process, if any, which was observed.

b. The maintenance of this register should be accompanied by the observance of a proper tendering process.

c. Where the register is maintained in computerised form a hard copy must be kept.

To be read in conjunction with:

Chapter 38, Conflicts of Interest

Chapter 3, Management Issues, Remuneration of Members of the Governing Body

15-400 OPTIONAL RECORDS

Although the following list of books of account and record are optional, it is considered prudent that these be maintained where practicable to ensure proper accountability, controls and safeguards:

- 15-410 Register of members
- 15-420 Wages book
- 15-430 Register of investments
- 15-440 Register of encumbrances
- 15-450 Register of insurances
- 15-460 Fundraising appeals function book
- 15-470 Motor vehicle log book
- 15-480 Property register
- 15-490 Mail inwards register
- 15-500 Postage book

15-410 Register of members

Maintenance of this register will be required either by the authority holder's constitution, or where the organisation is incorporated, by the statute under which it is incorporated.

Where there is no such requirement it is prudent to maintain the register as it will assist in communicating with members and identify if a member is financial at a given time.

Best Practices

- a. Unless otherwise required by the constitution or separate legislation, the register should provide as follows:
 - each member should be allocated a membership reference number
 - the name, address and telephone number of each member
 - the date membership commenced and the date it ceased, or will cease
 - details of any joining or entrance fee due and paid
 - details of the date the annual subscription is due, and the amount
 - the date the annual subscription is paid and the receipt number reference.
- b. Where the register is maintained in computerised form a hard copy should be kept.

15-420 Wages book

Industrial relations legislation usually requires that wage records be maintained for employees. Where employees or staff are outside the award system it would be prudent to maintain those records.

Best Practices

- a. The authority holder must establish wage records regardless of whether or not such records are required to be maintained under any separate legislation.
- b. Where a manual wages book is kept, consideration should be given to purchasing the standard commercial type wages book available from most stationers. Where an alternative book is used it should incorporate the same features and basic particulars. Where a computerised payroll system is employed, the program should incorporate at least those same particulars, with the exception of hours worked each day (total

To be read in conjunction with:

Chapter 22, Wages and Salaries

hours for the period would be sufficient).

- c. Particulars recorded in the wages book for each pay period should include:
 - hours worked on each day, hours on leave (e.g., annual, sick etc.)
 - hourly rates applicable for ordinary time, overtime (if applicable) etc.
 - figures for gross wages, annual leave, leave loading (if any) etc.
 - PAYG tax deducted
 - other deductions made (e.g., superannuation, medical etc.)
 - net wages.
- d. Employment record cards should also be maintained recording all relevant details of each employee including taxation file number, date of appointment, positions held, award applicable (if any), hourly rates of pay, cumulative sick, annual and long service leave, etc. Where bundy cards are not used, time sheets or an attendance record book should also be maintained.
- e. Where wages are paid directly to employees, the employee should sign an appropriate receipt. Where paid by direct deposits no signature is required (deposit receipt will suffice).
- f. Monetary details of each employee should be transposed from the wages book to a separate payroll schedule (i.e., name of employee, gross, tax, other deductions and net) for each pay period. This then becomes the work sheet on which cheques may then be drawn. The payroll schedule is retained for reference purposes, and audit verification.
- g. The computations in the wages book and the transposed figures shown in the payroll schedule should be test checked by an independent person.
- h. Where a computerised payroll system is used, the program should also incorporate year-to-date figures for each employee. The program and internal controls employed should also provide proper safeguards against possible fraud, collusion, etc.
- i. The authority holder should ensure:
 - aggregate gross wages shown in the wages book or computerised payroll are reconciled against the wages ledger account at regular intervals and in particular with the figure shown as wages in the annual audited accounts
 - aggregate group tax remitted to the Australian Taxation Office each period is reconciled with the wages book or payroll record on a regular basis, and specifically at the end of the fiscal year before payment summaries are issued to employees.

Other Practices

- j. In all instances where an employee is not covered by an award or enterprise agreement, a contract or letter of employment should be drawn up which clearly defines all conditions of employment including any provisions relating to termination of employment or resignation.

15-430 Register of investments

It is prudent to maintain a register of investments. It is important for financial administration, audit and historical purposes, and will prove useful in preparing cash flow budgets, etc. Investments are also less likely to be overlooked on maturity when decisions need to be made regarding roll-overs, reinvestment, etc.

To be read in
conjunction with:

Chapter 14,
Investment of Funds

Best Practices

- a. The register of investments should include the following particulars:
 - the certificate number of any term deposit, debenture, etc. in which monies were invested
 - the name, address and branch of the institution with which the investment was

Register of Investments

FINANCIAL INSTITUTION: INVESTBANK, SYDNEY

Date	Principal		New / Rollover	Cert. No.	Interest		Maturity Date	Comments / Instructions
	Invested	Redeemed			%	\$		
2002							2002	
Feb 1	\$20,000	\$20,000	New	186732	5	\$250.00	Apl 30	Rolled-over (excluding interest).
May 1	\$20,000		Rollover	186732	5		Jul 30	
May 15	\$10,000		New	197231	5.5		Nov 15	

made

- the amount of the principal, rate of interest receivable and any other pertinent information relating to the investment
 - the fund from which, and the purpose for which the investment was made
 - the date the investment was taken out, and the date on which it will mature
 - details of the manner in which the investment was dealt with on maturity (i.e., rolled-over, actual interest received, break-up of deposit credited to bank account, etc.)
- b. As appeal monies may be subject to a charitable trust, care should be taken by the authority holder to comply with the prudent person rule [refer *Chapter 14, Investment of Funds*].

15-440 Register of encumbrances

It is prudent to maintain a register of encumbrances to record any long term liabilities such as hire purchase agreements, leases, any assets over which mortgages, etc. are held. The register is important for financial administration, audit and historical purposes.

Best Practices

The register of encumbrances should include the following particulars:

- a description of any mortgage, hire purchase agreement, lease held, lien, guarantee, contingent liability, etc. for which the authority holder is currently liable or may be liable in the future
- the details, conditions, amount and period for which the liability will apply
- a description of the assets, if any, secured under mortgage, etc.
- where the encumbrance is over property, the location of the title deeds.

15-450 Register of insurances

It is prudent to maintain a register of insurance policies in order that assets are fully protected, and perceived risks in relation to public and personal liability are not overlooked. The maintenance of the register would also flag the assets for revaluation, diarising of renewals, etc.

Best Practices

- a. The register of insurance policies should include the following particulars:
- a separate section for all types of insurance considered appropriate and necessary in the interests of the authority holder. These would probably include, but not be restricted to: fire & all risks on any buildings and contents, theft and burglary, public liability, worker's compensation, voluntary workers, comprehensive motor vehicle, cash in transit, loss of profits and fidelity guarantee
 - the policy number, name of the insurance company, description of interest covered, value of cover, period of cover and expiry date

To be read in conjunction with:

Chapter 12,
Insurance

- details of any previous losses or claims made against policies (often requested in a proposal form)
 - details of renewals (dates, etc.).
- b. Care should be taken to ensure no renewals are overlooked (should be diarised).

15-460 Fundraising function book

It is important to maintain a functions book in which the authority holder could summarise details of all fundraising appeals (including raffles and games of chance) conducted during the year. This will be useful for administrative and audit purposes, as well as preparing the notes attached to the authority holder's financial report [refer *Chapter 7, Financial Reporting*].

Best Practices

The fundraising appeals functions book is not a financial journal. It is a book of record only and should contain the following particulars:

- it should be maintained in chronological (date) order so that functions held are not overlooked
- where a permit was required to conduct a particular appeal (e.g., lucky envelopes, art union, etc.), the date, permit number, etc.
- a summary of each function/appeal, including a description of the event, a breakdown of the gross proceeds obtained, a summary of the expenses involved, and the net profit obtained
- where tickets are sold, the series involved, the range and quantity of tickets issued, sold, cancelled or returned
- where applicable, the names of the winners of each prize, advertising of results, etc.

15-470 Motor vehicle log book

The maintenance of a motor vehicle log book is an important control measure where an organisation has a number of motor vehicles for which users should be accountable. It often identifies or discourages unauthorised use or overuse. A log book would not normally be kept where an employee received unlimited use of a motor vehicle as part of a salary package.

Best Practices

- a. A log book must be maintained for each vehicle.
- b. The log would normally include:
 - columns recording the date, the point of departure, the destination, the opening odometer reading, the closing odometer reading, distance travelled, the purpose of the journey and the signature of the driver
 - details of petrol purchases (date, garage location, odometer reading, number of litres, costs, means of payment).
- c. The log book should be examined regularly to detect overuse or misuse, trends, etc.
- d. Where credit cards are used for petrol purchases, see *Chapter 11, Expenditure*.

15-480 Property register

Many larger organisations which own or lease land and buildings keep this form of register. Such a register is useful for current administrative purposes and as a source of historical reference.

Best Practices

- a. The property register would include the following, as applicable:
 - separate sections maintained for land and buildings. These in turn would distinguish between freehold and leasehold
 - particulars on freehold land would include details of the title deeds (i.e., type of title, certificate of title, etc.), date purchased or acquired, former owner, cost of purchase, location and measurements, name in which ownership registered, date and amount of latest valuation, if encumbered (e.g. by mortgage)
 - particulars on buildings would include description of building, date of purchase or acquisition, former owners, cost of purchase, details of description and costs of any additions, latest valuation, insurance arrangements, and encumbrances such as mortgages
- b. particulars on leasehold land or buildings would include details such as the name of the lessor (or lessee if the authority holder is renting it out), term of the lease, rate of rental, right to renewal, and tenancy rights in respect to lease improvements.
- b. Date lease or insurance expires should be diarised.
- c. The register should be reviewed on an ongoing basis.

Other Practices

- d. Photographs of the property may also be included.

15–490 Mail inwards register

It is prudent to maintain a register of mail inwards as a control measure in order that all mail received is identified and documented. This is particularly important where donations (cheque, money orders and cash) are received through the mail.

Best Practices

- a. The mail inwards register should include the date, name of the sender and a column for any donation or payment received.
- b. Wherever possible mail should be opened by two persons, and the details entered and signed by those persons.
- c. Where cheques or cash received through the mail are handed on to another person for issuing receipts (e.g., treasurer or accountant), this should be signed for in the register.

15–500 Postage book

Many organisations maintain a postage book. It sometimes goes under the name of an outward mail register. It serves two purposes—as a book accounting for the costs of postage; and a specific record of the persons and organisations to which letters were dispatched. It is often useful for verifying that a letter was dispatched on a certain date.

Best Practices

- a. The book would normally contain the following particulars:
 - columns for the date, cash received for stamp purchases, stamps purchased, addressees and the cost of individual postage. It may also include a cumulative balance (i.e., stamps and cash on hand)
 - depending upon the organisation's policy, the names of sendees may be shown in all instances, or selectively. For instance, it would be impracticable to list sendees where a common pro forma letter is dispatched in bulk from a data base.
- b. it should be reconciled periodically (i.e., cash and postage on hand brought forward, cash received, total mail dispatched and cash and postage on hand).

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Keeping of Records– Traders

The requirement to keep records of income and expenditure in relation to appeals also applies to traders jointly conducting a fundraising appeal with an authority holder.

Where under the terms of the agreement entered into, a trader is required to maintain certain records relating to a fundraising appeal, and these records are to be maintained at a place other than the registered office of the authority holder, approval must be sought from the Department for a variation to the authority conditions [Authority Condition 20].

The requirements to keep certain books of account and record impact on the trader in circumstances such as where the trader:

- maintains the bank account into which fundraising monies are required to be paid
- engages or supervises persons participating in appeals
- is responsible for issuing receipts or tickets to participants (collectors).

Where a trader uses receipts or tickets as part of an appeal, these must be authorised and issued by the authority holder. Details must be recorded in a register of receipt books/register of tickets [Authority Condition 9].

A trader conducting an appeal for donated goods or material must keep a register of bins/collection bags, and also a record of aggregate gross weight of unsorted clothing (Authority Condition 17). Similarly, a trader who sells goods or services is to maintain a record of goods and services sold, etc. [Authority Condition 18].

The written agreement between the trader and the authority holder must include details of any records and documentation to be maintained by the trader (including those required by or under the *Charitable Fundraising Act*) and the requirement that the trader keep these at the registered office of the holder of the authority, unless provided for otherwise by a condition attached to the authority.



Legal References

Act - section 22

Regulation 8

Conditions - 2, 3, 4, 9,
10, 12, 17, 18 and 20



Read this Chapter in conjunction with

Chapter 15, Keeping of
Records

Chapter 24, Appeals
conducted jointly with
traders



A trader conducting an appeal jointly with an authority holder is required to observe the following practices in the maintenance of books of account and record.

Best Practices

- a. Where the agreement or contract requires the trader to maintain certain records (and the Department has granted approval for them to be kept at a place other than the registered office of the authority holder), those records must be made available to the authority holder upon request.
- b. Where the trader maintains a bank account into which any money received in the course of a fundraising appeal is deposited, the trader must maintain a cash book of that account in the manner described under *Chapter 15, Keeping of Records, 15–210: Cash Book*.
- c. Where the trader uses receipts or tickets as part of an appeal, it shall only be those authorised and issued to the trader by the authority holder. Details must be recorded in a register of receipt books/register of tickets maintained by the trader. These registers must be maintained in the form and manner described under *Chapter 15, Keeping of Records, 15–230: Register of Receipt Books & 15–240: Register of Tickets*.
- d. Where the trader uses a collection device, a register of such devices must be maintained in the form and manner described under *Chapter 15, Keeping of Records, 15–290: Register of Collection Devices*.
- e. Where the trader engages collectors as part of the appeal, the trader must maintain a *Register of Participants (Collectors)* in the form and manner described under *Chapter 15, Keeping of Records, 15–270: Register of Participants*.
- f. Where the trader conducts an appeal for the collection of donated goods, the trader must observe the following in respect to the record of bins, and record of collections bags required under Authority Condition 17 (1):
 - where the collection is by means of bins, the record must include particulars of the date, the number and location of each bin. The record must be updated immediately any bin is shifted to a new location. The trader must also forward a full listing of the details from this register to the authority holder at not greater than monthly intervals. This list should be certified as being correct by the trader
 - where the collection is by means of collection bags, the record must include the date, the locality and number of bags distributed as part of the appeal. The record must be updated whenever bags are distributed. The trader must also forward an extract of these details from the record to the authority holder at not greater than monthly intervals. This extract should be certified as being correct by the trader
 - where the collection is for clothing, an additional record must be maintained which includes the date and aggregate gross weight of unsorted clothing obtained from the appeal. The trader must forward a written report of these details to the authority holder at intervals not greater than monthly intervals. The report should be certified as being correct by the trader.
- g. Where the trader conducts an appeal for the sale of goods or services, the trader must in addition to maintaining a record of goods (i.e., date and number of units purchased or and services sold required by Authority Condition 18 manufactured together with their cost, the date and number of units sold and the gross proceeds obtained) comply with the following:
 - if the appeal is ongoing, the trader must forward a written report based on the particulars shown in the record at not greater than monthly intervals. This report must be certified as being correct by the trader
 - if the appeal is not ongoing, the trader must forward a written report based on the particulars shown in the record at not greater than monthly intervals while the appeal is being conducted, and a final report within one month after its completion. This report must be certified as being correct by the trader

Bitter–sweet taste

Is your fundraising marketing campaign accomplishing what it purports to do?

Refer to *Chapter 4, Fundraising Issues, 4–240: Bitter–sweet taste*.

- h. Where a trader employs children under the age of 15 years, the trader must maintain a record of employment in respect to each child in accordance with the best practices described at *Chapter 15, Keeping of Records, 15–300: Record of Employment of Children Participating & 15–420: Wages Book*.

This is in addition to any additional records required by other statutory requirements (e.g., industrial awards) which would include wages records.

- i. All records maintained by the trader as part of an appeal conducted jointly with an authority holder must be made available to the authority holder's auditor upon request for audit verification.

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Petty Cash System

Where a petty cash system is used, a petty cash book must be maintained.

Best Practices

- a. Where a petty cash system is used it should be based on an imprest system.
 - The principle behind an imprest system is that a petty cash float of a fixed amount (say, \$100) is established by the treasurer or accountant initially drawing a cheque in favour of *petty cash* which is handed to the person responsible for maintaining it. The proceeds from the cheque are then used to meet small cash expenses such as postage or stationery purchases. When it is necessary to replenish petty cash, a claim is submitted to the treasurer containing a summary of how the money was spent (with supporting documentation attached). The treasurer then draws a cheque for this amount which reinstates the float to its former balance.
 - The advantage in this system is that although the original float will always appear in the accounts at that amount (in this case, \$100), it will enable an immediate allocation to be made of the type of expenses involved at the time each subsequent cheque is drawn (details recorded on butt of the cheque).
- b. The authority holder should ensure proper controls are exercised over the maintenance of the petty cash system. This will include limiting access to the petty cash funds, ensuring payments must be approved by at least one responsible officer and spot reconciliations are carried out to verify there are no shortages, or unauthorised borrowings. The petty cash should be reconciled before it is handed onto another person.
- c. A voucher system should be used for all petty cash disbursements to which supporting documentation such as an invoice, a cash sales docket, etc. is attached. These vouchers should be signed by the claimant and include a signature from one or more persons authorised to approve the payment.

Legal References

Conditions - 4 and 6(3)

Read this Chapter in conjunction with

Chapter 11, Expenditure

Chapter 15, Keeping of Records, 15–250: Petty Cash Book

- d. Claims submitted for replenishment of the petty cash float should be in writing and include a breakdown of the expenses involved. The claimant should also conduct a reconciliation of the petty cash book and cash on hand on each occasion he or she submits a claim.
- e. The petty cash book should be maintained and reconciled in the form described in *Chapter 15, Keeping of Records, 15–250: Petty Cash Book*.

Policies and Procedures

It is prudent that all authority holders establish proper policies and procedures in many aspects of their administration and activities.

Best Practices

- a. Authority holders should establish policies and procedures in significant areas of financial and general administration. These should be approved by the governing body and recorded in the minutes.
- b. Where appropriate, these policies and procedures should form part of a manual of operating procedures. Extracts of the Best Practice Guidelines (BPG) could be used as a basis for that manual. An electronic version of the BPG is available at a reasonable cost. Please telephone the Department for more information.
- c. Policies and procedures should be reviewed on an ongoing basis.



Legal References

Conditions — 2, 3, and 7



Read this Chapter in conjunction with

Chapter 5, Financial
Issues, 5–600: Helping
Support Groups

Chapter 13, Internal
Controls

Chapter 20, Safeguarding
Assets



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Receipting Requirements

19-000 INTRODUCTION

Proper and effective controls must be exercised by the authority holder over the conduct of all appeals, including accountability for all money or articles received from any appeal.

A receipt must be written or issued immediately for all monies received in an appeal, even when not requested, with the exception of donations made through a collection box device, or where the money is received through the supply of goods or services or the authority conditions provide otherwise.

Special requirements apply where money is received through a payroll deduction scheme, a periodical payment facility through a donor's financial institution, or a direct deposit to a special account at a financial facility [refer to Authority Condition 9 (7), (8) and (9)].

Where the authority holder conducts badge appeal days or similar, it will need to apply to the Department for exemption from the need to issue receipts for each badge sold. The written application will need to include details of the controls to be exercised over the purchase, issue, sale and custody of the badges. Once granted, approval is provided on an ongoing basis.

19-100 CONTROLS OVER PURCHASE, ISSUE AND CUSTODY OF RECEIPTS

Proper controls must be exercised over the purchase, issue and custody of receipts.



In this Chapter

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Legal References

Conditions — 2, 4, 9 and 10



Read this Chapter in conjunction with

Chapter 10, Banking Procedures

Chapter 15, Keeping of Records, 15-230: Register of Receipt Books



Best Practices

- a. Receipt books and computerised pre-numbered receipt stationery must not be printed in house.
- b. All receipts used in any appeal must be authorised by the governing body of the authority holder.
- c. Receipts books should be allocated a sequential book number to assist in its identification.
- d. All stocks of receipts must be purchased or acquired directly by the authority holder (i.e., not by a person or organisation conducting or participating in an appeal).
- e. The stock of unused receipts must remain in the custody of the authority holder.
- f. All stocks of used receipts must be returned to, and remain in the custody of the authority holder.

19–200 FORM OF RECEIPT

All receipts must be consecutively numbered as part of an ongoing series, and must have the name of the authority holder printed on the face of the receipt and each copy of the receipt [Authority Condition 9 (1)].

Receipts or tickets used by a trader must be only those authorised and issued to the trader by the authority holder [Authority Condition 9 (2)].

Best Practices

- a. Receipt books or computer receipt stationery must not be printed in house.
- b. Computerised receipt stationery should be pre-numbered by the printer. The receipt number generated by the computer must be synchronised to that printed number when issued. Where computerised receipt stationery is not pre-numbered by the printer, the internal controls and procedures must prevent the issue of unauthorised receipts.
- c. Receipts should be either of a carbon type in book form or computer-generated.
- d. Where receipts are in book form the books should be numbered in sequence to facilitate identification.
- e. Self-carbonising, loose-leaf custom printed, pre-numbered receipts which incorporate the simultaneous recording of the cash book journal (i.e., commonly referred to as a *multi-recording* system) are acceptable if the form of the receipt and the procedures employed are in accordance with the best practices described here and *Chapter 15, Keeping of Records, 15–210: Cash Book*.
- f. Receipt books purchased from a newsagent or stationer may be used by authority holders where their income from fundraising is not expected to exceed \$5,000 p.a., subject to the following conditions:
 - the governing body of the authority holder must authorise their use
 - the name of the authority holder must be placed on each original receipt and each copy of the original receipt. A rubber stamp may be used for this purpose
 - the receipt book should be made unique from other receipt books of this type by placing an alphabetical letter before or after each receipt number
 - a sequential letter should be used for each book – e.g., book 5, E1-EI00, book 6, F1-F100
 - the letter prefix or suffix applied to the receipt book must be recorded in the cash book and the register of receipt books
 - the following certification must be inscribed on the inside cover of the book by the treasurer or other office bearer.

This receipt book has been authorised for use on behalf of _____ (the authority holder) _____ <div style="display: flex; justify-content: space-around; margin-top: 5px;"> Treasurer Date </div>	
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- g. The use of fixed denomination, tear off receipts (non carbonised) may be used where controls, safeguards and accountability are adequate and effective.

For instance, the book of receipts should be commercially printed (not printed in house), details of the numbered series and quantity of books supplied should be shown on the supplier's invoice, each receipt should be pre-numbered as part of an ongoing series, each book must contain a constant number of tear out receipts, receipts in each book must be of a uniform aggregate value and proper controls exercised over partially sold books.

- h. Authority holders should investigate their eligibility to obtain Deductible Gift Recipient (DGR) status for donations of \$2 and over made to their organisations. This must be taken up directly with the Australian Taxation Office which will advise authority holders on the criteria that must be met. [Refer *Chapter 2, General Issues, 2–500: Taxation Issues*]

Other Practices

- i. In certain circumstances, the authority holder may consider introducing two forms of receipts: a field receipt and a master receipt.

Circumstances where this might be appropriate would be where collectors return with their book of receipts and donations at the end of the day. After the proceeds are counted, the authority holder will need to issue an over-all receipt to the collector (showing the commencing and concluding receipt number in the collector's book).

If this is done, the authority holder has the choice of having two distinctive types of books printed, or stamping the second book of receipts as a master receipt.

- j. A variation on this would be where interim receipts are issued which have no official status and must be replaced by an official receipt. This particular system can be fairly cumbersome, as it involves issuing official receipts for all interim receipts.

It is essential that interim receipts issued to a donor are clearly described in that manner so double counting is avoided. This would apply especially where the donor may be entitled to tax deductibility for the donation.

19–300 PROCEDURES AND CONTROLS IN ISSUING RECEIPTS

Authority Condition 9 requires that a receipt must be written forthwith for all monies received in an appeal, even when not requested, with the exception of donations made through collection box devices, money received for the supply of goods or services, or the authority conditions provide otherwise.

Best Practices

- a. Receipts, with the exception of fixed denomination tear-off type receipts, must show the name of the donor (where it is known), the date, the amount of the donation both in words and figures, and the purpose where it differs to the general purpose for which the appeal was conducted.
- b. Receipts must be written in ink, not pencil.
- c. Cancelled receipts (original and duplicates) must be retained in the receipt book. Cancelled computer generated receipts must be also retained.
- d. Where collection box devices are employed, it will be sufficient to issue only one

receipt for the total proceeds cleared from the device

- e. Where a person participates in an appeal, the gross monies received by that person shall be counted in the presence of that person for which a receipt must then be issued.
- f. Where receipts are computer-generated:
 - proper and effective controls must be exercised over the issuing of computer-generated receipts
 - the data input sheets should include all relevant data including the date, the name of the donor (where it is known), the amount of the donation, and the purpose where it differs to the general purpose for which the appeal was conducted. They must be written onto the sheets in ink, not in pencil
 - the program must not include the facility to edit a receipt once the transaction is completed. Any correction must be made by journal entry. Where an alternative practice is employed involving the editing of the name of the person shown on the original receipt, strict controls should be exercised over the procedure. This would include special authorisation, cancellation of the original receipt and its retention for audit purposes
 - there should be a matching of the pre-printed number on the receipt blank to the computer generated number
 - a hard copy of all receipts issued by computer should be retained
 - the data entry sheets and the hard copy of receipts issued must be retained for the seven years required by section 22 (2) (d) of the Act, or such shorter period as may be approved.
- g. Where the donation to the authority holder is by means of an article (e.g., furniture, motor vehicle, etc.), the article donated should be acknowledged in written form, and its value recorded in the books of account by journal entry. This requirement would exclude:
 - clothing received as part of a clothing appeal
 - items of insignificant value.

Other Practices

- h. Where tax deductibility for donations of \$2 and over has been conferred on an authority holder [Deductible Gift Recipient (DGR) status] by the Australian Taxation Office, special care must be exercised in the issuing of receipts to ensure:
 - a distinction is clearly made between interim and official receipts
 - proper and effective controls are exercised to avoid any fraudulent practices.

Electronic Transactions Act 2000

The object of this Act is to provide a regulatory framework that facilitates the use of electronic transactions.

The Act establishes a general rule that, for the purposes a law of NSW, a transaction is not invalid because it took place wholly or partly by means if one or more electronic communications.

The following requirements, imposed under a law of NSW, can be generally met in electronic form, with the consent of the recipient:

- a requirement to record information
- a requirement to retain a document
- a requirement to give information in writing
- a requirement to provide a signature
- a requirement to produce a document.

For the purposes of a law of NSW, the Act also makes provision for determining the time and place of the dispatch and receipt of an electronic communication.

Safeguarding Assets

The authority holder must ensure all assets obtained during, or as a result of, a fundraising appeal are safeguarded and properly accounted for. In addition, a register of assets must be maintained.

Although this condition refers only to those assets obtained during, or as a result of, a fundraising appeal, it is prudent practice to extend this to all assets of the authority holder regardless of the manner in which they were obtained.

Best Practices

- a. A register of assets must be maintained in the form referred to under *Chapter 15, Keeping of Records, 5–220: Register of assets*. The register should be updated on a regular basis.
- b. Proper and effective controls should be exercised to ensure all assets are safeguarded and accounted for.
- c. Proper and adequate all risk insurance cover should be obtained over all assets. The insurer should be kept informed of any additions and subtractions from the assets insured, and temporary cover notes obtained from the insurer where appropriate.
- d. Where articles are donated to the authority holder which are to be retained as an asset by the authority holder, their value should be provided for in the books of account (i.e., journalised) and the register of assets. Where articles received are for resale, they should be included in the value of stock-in-trade.
- e. A record should be maintained of all assets on loan (including date of loan, person concerned and date of return).
- f. Depreciation should be provided for non-current assets such as plant and equipment, office furniture, motor vehicles, etc. in accordance with Accounting Standards.
- g. Where appropriate, depreciation should also be provided on buildings in accordance with Accounting Standard AASB 1021.

Legal References

Conditions — 2, 3 and 4(1)(b)

Read this Chapter in conjunction with

Chapter 15, Keeping of Records, 15–220: Register of assets

Chapter 19, Receipting Requirements

Chapter 21, Stock-in-trade

- h. Where an authority holder sells goods as part of an appeal (in house or jointly with a trader), the best practices referred to under *Chapter 21, Stock-in-trade* should be complied with. This includes the requirement that the value of closing stock-in-trade should be included in the balance sheet.
- i. Where assets are sold, a fair and equitable price should be obtained. Where appropriate this should include advertising the sale.

Other Practices

- j. Where appropriate the authority holder may consider setting a threshold (say \$500) below which assets need not be itemised in this register of assets.

Stock-in-trade

The authority holder must ensure all assets obtained during, or as a result of, a fundraising appeal are safeguarded and properly accounted for.

These assets would include any stock of goods purchased or manufactured by the authority holder to be sold as part of a fundraising appeal.

Best Practices

- a. Where an authority holder manufactures goods for sale, or purchases goods from a supplier to sell as part of an appeal, the authority holder must:
 - maintain a record of the number of articles purchased or received, the number issued and the name and signature of the person receiving the goods for resale
 - maintain a proper inventory of stock (valued at the lower of cost or market)
 - conduct a physical stock-take at regular intervals to verify the inventory
 - exercise proper and effective internal controls over stock, including that it be stored in a secure manner.
- b. Where clothing is received as part of an appeal, and it is not practicable to keep an inventory of stock, there should be proper and effective controls over the stock issued to opportunity shops.
- c. Where a trader is involved in the sale of goods as part of an appeal, the trader must maintain a record which must include the date and number of units purchased or manufactured together with their cost, the date and number of units sold and the gross proceeds obtained.
- d. The value of closing stock should be included in the authority holder's balance sheet where this is practicable.

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Legal References

Condition — 3

◆ ◆ ◆ ◆

Read this Chapter in conjunction with

Chapter 20, Safeguarding
Assets

Chapter 32, Sale of Goods
and Services



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Wages and Salaries

Authority holders who have paid employees, commission collectors, etc. are required to maintain proper records of employment which include a wages book or computerised payroll. Under section 48 of the Act, the Department's approval must be obtained before remunerating members of the governing body.

Best Practices

- a. The authority holder should establish what requirements need to be complied with in respect to employees under the Act, the regulations under the Act or authority conditions - or under any other legislation (e.g., industrial relations/awards).
- b. The authority holder should maintain records of employment and wages or salaries paid [refer *Chapter 15, Keeping of Records, 15–420: Wages Book*].
- c. Where employees or staff are outside the award system or enterprise agreements, their conditions of employment should be specified in a formal contract or letter of appointment.
- d. To avoid confusion over executive employees' entitlements on resignation or termination of service, these should be agreed to at the commencement of service.
- e. Authorisation must be given by the governing body for all increases to salaries, fringe benefits and conditions for executives or employees not covered by awards or for above award payments.
- f. Although confidentiality may be preserved in respect to executive officers, the full extent of their entire package must be understood by members of the governing body in arriving at their decision.
- g. A recruitment policy which ensures advertisement, competition and selection on merit should be established.
- h. All placements must be made in accordance with the formally approved and documented recruitment policy.



Legal References

Act — section 22

Regulation — 7

Conditions — 2, 4(1)
and 15



Read This Chapter In Conjunction With —

Chapter 15, Keeping
of Records, 15–420:
Wages Book

Chapter 25, Children
Participating in Appeals

Chapter 26, Agreement
with Trader



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Authorisation of Appeals

23-000 INTRODUCTION

A person or organisation conducting or participating in an appeal for an authority holder must be authorised in writing by that authority holder.

Where the appeal is conducted face-to-face, this authority must be in the form of a consecutively numbered identification badge or card which includes the name and contact telephone number of the authority holder, the name of the bearer, and its issue and expiry date. The badge must be worn by all volunteers or persons in receipt of a wage, fee or commission. Where the collector is in receipt of remuneration the badge must also prominently display the words PAID COLLECTOR.

Where the appeal is not conducted face-to-face, the authority must be in writing and include details of the name of the authorised person, the terms and conditions under which the authorisation is granted, a description of the appeal, and the specific period of the authority. It must also be signed and dated by the holder of the authority or a person delegated to do so.

23-100 AUTHORITY IN WRITING

Authority Condition 11 (2) provides that a person or organisation conducting or participating in a fundraising appeal on behalf of an authority holder must be authorised in writing, except where the appeal is conducted face-to-face.

Best Practices

- a. The authority must include all particulars referred to in Authority Condition 11 (2).
- b. As an important control measure, the authority must be in an original printed form and not a photocopied document.



In this Chapter

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22-200 Identification badge for face-to-face collectors	148
23-300 Trader may be the signatory	149



Legal References

Regulation - 9
Conditions - 11 and 20



Read this Chapter in conjunction with

Chapter 15, Keeping of Records, 15-280: Record of Identification Badges
Chapter 29, Collections



- c. Where the authority holder authorises an organisation, other than a trader, to conduct an appeal on its behalf, the authorisation would take the form of a letter.
- d. No authority should be issued for a period longer than 12 months. Wherever possible it should be restricted to a much shorter period.
- e. The format of the authority should not be expressed in such a way as to mislead the public. The information should be shown in a manner which does not misrepresent the role of the person to whom the authority is issued, the purpose of the appeal and the terms under which it is conducted.
- f. Although the condition allows the authority holder to delegate the signing and dating of such authorities to a trader, this should only be done in exceptional circumstances and where the authority holder is completely satisfied as to the trader's integrity. It would also be necessary for the trader to account fully for any authorisations issued under such delegation.

22-200 IDENTIFICATION BADGE FOR FACE-TO-FACE COLLECTORS

Authority Condition 11 (3) requires that any person participating in a face-to-face appeal must wear an identification badge.

Badges must be recovered from collectors as soon as that person's involvement in an appeal is finished.

Best Practices

- a. The identification badge must include all particulars referred to in Authority Condition 11 (3).
- b. As a control measure, the authority must be in original printed form and not be a photocopied document.
- c. The badge should have its expiry date stamped in conspicuous print size.
- d. All badges should be accountable items. Care should be exercised over their purchase, issue and custody.
- e. The format of the badge should be expressed in such a way as not to mislead the public or misrepresent the role of the person to whom the authority is issued and the purpose of the appeal.
- f. For larger organisations, identification badges issued to collectors in receipt of a wage, commission or fee could be in laminated form, and include a photograph and signature of the bearer.

False and misleading information

Any advertisement, notice or information must be based on fact and must not be false or misleading (*condition 16*).

Also, where a participant in a fundraising appeal is paid a wage, etc. for doing so, that participant must disclose that he or she is employed and the name of the employer.

For example, where a participant is employed by a trader, it would be false and misleading for a participant to state "*I am (name), from the (name) charity.*"

Sample ID Badge — collector employed by a trader

PAID COLLECTOR	
The bearer..... John Smith	
whose signature appears below, is authorised to solicit and receive any money or other benefit on behalf of	
XYZ Helpers Inc	
The bearer is employed by—	
ABC Fundraisers Pty Ltd	
Inq. John Jones (02) 9999 8888	
Collector Number 12345	authorised by
	Issued: 1/12/02.....
	bearer's signature
	Expires: 14/12/02

When do I need to wear an ID badge?

Do I need to wear an ID badge when selling raffle tickets on a Saturday morning to shoppers?

An identification badge needs to be worn in connection with any face-to-face appeal to the public. An appeal includes the sale of raffle tickets or products.

23–300 TRADER MAY BE THE SIGNATORY

Authority Condition 11 (4) provides that where authorised to do so in a written agreement, the trader may sign the identification referred to in Authority Condition 11 (2) and Authority Condition 11 (3).

Best Practices

- a. This must only be done where a representative of the authority holder cannot be made available (e.g., collections conducted in country areas).
- b. Proper controls must be exercised over the trader by the authority holder to ensure this facility is not abused (e.g., limited supply of blank authorisations or identification badges provided to trader at any one time; authority holder to reconcile stocks on a regular basis).
- c. A proper register must be maintained by the trader.
- d. The trader must recover all expired authorisations and identification badges.

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Appeals Conducted Jointly with Traders

CHAPTER 24

The *Charitable Fundraising Act*, the regulations under the Act and authority conditions include a number of important requirements to be complied with in the conduct of any appeal conducted jointly by a trader and an authority holder.

This has been necessary to ensure that traders provide a fair return to authority holders and are held accountable through the maintenance of records and accurate disclosure in advertising. Traders are persons who undertake fundraising appeals (a) in the course of their trade or business; or (b) for their benefit.

Where a trader is to conduct an appeal, it must be conducted jointly with the authority holder under a written agreement.

Advertising undertaken by the trader must comply with a number of requirements. The format and text of any written or printed advertisement must be approved by the authority holder. It must state certain particulars including the full name under which the trader operates and place of business and telephone number, details of the basis on which the benefit to be received by the authority holder and trader is calculated, and the date on which the appeal commenced and the date it ends.

Best Practices

- a. The authority holder must exercise proper and effective controls over the trader and take all reasonable steps to ensure the trader complies with the Act, the regulations under the Act, authority conditions and best practices.
- b. The authority holder must not delegate authority to the trader to purchase stocks of such items as receipt books, raffle tickets, housie tickets and identification cards or badges (i.e., accountable items).
- c. The authority holder must keep custody of the stock of unused accountable items. When these are issued to the trader, the authority holder and the trader must maintain registers in the form, and according to the best practices, described in *Chapter 15, Keeping of Records*.



Legal References

Act — section 11

Regulation — 7

Conditions — 2, 3, 4, 6, 7, 8, 9, 11, 12, 13, 16, 17, 18 and 20



Read this Chapter in conjunction with

Chapter 15, Keeping of
Records

Chapter 16, Keeping of
Records—Traders



- d. These registers should show mirror entries of movements of these items between the authority holder and trader.
- e. The authority holder must ensure that the trader does not issue false or misleading advertising. The text of any advertising must receive prior approval from the authority holder in accordance with Authority Condition 16 (4) (b).
- f. Where the trader is responsible for supervising volunteers or employees participating in the appeal, the authority holder should prepare written directions and instructions to be observed by these participants.
- g. The authority holder should hold the trader responsible where any participants under his/her supervision breach the Act, the regulations under the Act or authority conditions. Where this occurs, the authority holder should place the trader on notice. It is not sufficient for the trader to say the participant acted contrary to his or her instructions.
- h. The authority holder must regularly examine the records maintained by the trader to ensure they are kept correctly and are accurate. These records should also be included in the scope of the audit conducted over the authority holder's accounts and records.
- i. The authority holder must take all reasonable steps to ensure that the benefit obtained from the appeal is fair and reasonable. Where an appeal is for donations only (that is, not associated with the supply of goods or services) the authority holder must take all reasonable steps to ensure that the expenses payable in respect of the appeal do not exceed 40% of the gross proceeds obtained. The expenses would include any expenses borne by the authority holder and those by a trader. In other words, the authority holder must receive at least 60% of the gross proceeds.
- j. The authority holder must receive the best possible deal from traders. Failure to do so may place members of the governing body in breach of their duty to act responsibly and in the best interests of the organisation.
- k. The authority holder must ensure that the written agreement required to be entered into with the trader covers all minimum requirements [refer Authority Condition 20].
- l. The authority holder must ensure that the contract requires the trader to provide detailed financial reports on a regular basis.

Common Problems

- Trader advertisements, information and notices fail to disclose the benefit to the authority holder.
- Trader fails to provide a periodic return to the authority holder which gives details of the appeal outcomes.
- Failure to exercise adequate or suitable control over the activities of the trader.
- Appeal funds are banked into the trader's bank account.
- Expenses paid by the trader are not verified as being properly incurred.
- Accountable items are not returned to the authority holder.

Authority holders must avoid the attitude that some return is better than no return.

A CASE STUDY

An art union was conducted by a trader on behalf of a major charity. The Department advised the charity to ensure it exercised appropriate supervision over the trader.

The contract between the charity and the trader stipulated that the trader would receive the first \$295,000 in ticket sales after which the charity would begin to receive a benefit. It was anticipated that the art union would gross over \$800,000.

The Department monitored the conduct of the art union and was concerned that it may not return a profit. It was also found that the charity was not exercising proper control or supervision over its conduct. These matters were brought to the attention of the charity and the trader. However, the charity was of the belief that the Department's concerns were unjustified.

Ticket sales were far less than expected and the trader went into liquidation. The charity did not receive any funds from the art union and was required to purchase the prizes (\$100,000) so that they could be awarded to the winners. The exercise resulted in the charity being out-of-pocket.

The good name of a charity must be protected by appropriate controls and procedures including the proper supervision of persons or organisations undertaking fundraising appeals on its behalf.

Also, a charity must not rely on the advice of traders about the success of such ventures without first making its own analysis and perhaps seeking an independent opinion.

Children Participating in Appeals

There are concerns within the community for the safety and well being of children participating in appeals.

The Regulations define a child as a person under the age of 15 years.

The minimum age for children participating in an appeal as a volunteer or receiving payment is 8 years, and 13 years respectively. In both cases there must be observance of a code of practice (*Schedule 2 of Authority Conditions*). This code specifies the conditions under which children may be used as collectors, including the degree of supervision required, conditions of employment and other obligations to protect their welfare and safety.

Where an authority holder seeks to engage children less than 8 years of age as volunteers in an appeal it may be possible to obtain a variation to the standard authority conditions. This may include younger children participating in fun-runs, and other types of special events.

Similarly, authority holders may wish to seek approval to vary their authority conditions in respect of special events— e.g., the supervision requirement may be inappropriate at a fun-run or the need to take all reasonable steps to ensure a child receives food and drink, may be inappropriate given the type of appeal being undertaken— e.g., an appeal which requires participants not to eat for a period of time.

Best Practices

- a. Authority holders should prepare a list of written instructions both for the children participating in the appeal and for supervisors.
- b. Authority holders engaging children of less than 8 years as volunteers or less than 13 years as paid collectors, or seeking to vary the conditions imposed in *Parts A or B of Schedule 1 to the Authority Conditions*, must write to the Department to obtain prior approval stating their reasons.

Legal References

Condition 12

Schedule 2 of the authority conditions

Read this Chapter in conjunction with

Chapter 3, Management Issues, 3–700: Working with Children

Chapter 27, Advertising and Disclosure

Chapter 29, Collections

Chapter 32, Sale of Goods and Services

- c. Where children are engaged by a trader, the authority holder must:
 - ensure that the contract executed with the trader includes a copy of authority condition 12 (or any other special conditions relating to children imposed on the authority) and the relevant schedule as an annexure to the contract
 - ensure that the trader is complying with these requirements by random observations in the field.
- d. Where there is doubt about the age of any child the authority holder (or trader where applicable) should seek confirmation of age by sighting a birth certificate or other form of identification.
- e. A supervisor should be a person over the age of 17 years.

Other Practices

- f. Although these requirements are not imposed on children above the age of 14 years, authority holders are urged to adopt similar conditions as appropriate for children of the age of 15 and 16 years.

Agreement with Trader

It is prudent business practice to enter into written, rather than verbal, contracts or agreements.

Where a fundraising appeal is conducted jointly with a trader, it must be governed by a written agreement between the two parties.

The expenses of an appeal conducted jointly with a trader must be lawful and proper, as well as of a type and amount provided for, or described in, a written agreement between the authority holder and the trader.

Best Practices

- a. An agreement must be executed wherever a person (or organisation) conducts an appeal by supplying goods or services in the course of his/her (its) trade or business. For example, a restaurant chain advertising that a specific monetary value of each meal or particular product sold would go to a charitable organisation or purpose (i.e., an authority holder).
- b. The authority holder should not simply accept a draft agreement from a trader without negotiating favourable terms and seeking proper advice.
- c. The authority holder should not be pressured into signing an agreement until completely satisfied with its suitability.
- d. The agreement must include all the minimum specifications referred to in Authority Condition 20 (see over page).
- e. Details such as controls and safeguards should be quite specific and not expressed in general or vague language (e.g., it is not acceptable merely to say that *the trader will be responsible for applying proper controls and safeguards*— these must be clearly described).
- f. Every care must be taken to ensure that the agreement entered into is fair and equitable and provides a reasonable return to the authority holder.



Legal References

Regulation — 7

Conditions — 8, 11 and 20



Read this Chapter in conjunction with

Chapter 24, Appeals Conducted Jointly with Traders

Chapter 25, Children Participating in Appeals

Chapter 27, Advertising and Disclosure

Chapter 28, Telephone and Direct Marketing

Chapter 29, Collections

Chapter 31, Appeals for Donated Goods

Chapter 32, Sale of Goods and Services

Chapter 33, Lotteries and Games of Chance



- g. The period covered by the agreement should not normally exceed 12 months (perhaps the agreement should specify a trial period of 3 months).
- h. The agreement should specify the grounds on which the agreement can be terminated by the authority holder. The authority holder should not become locked into a long term unfavourable relationship which may be difficult to break.
- i. The authority holder should seek character references or testimonials in respect of the trader and details of past business connections and activities.
- j. The agreement must be approved by the governing body of the authority holder before being signed and executed.

Other Practices

- k. It is suggested that authority holders should seek the advice of other authority holders with experience in the preparation of such agreements and also their legal adviser.

Agreement with trader — specifications (condition 20)

If a fundraising appeal is conducted jointly with a trader it must be governed by a written agreement between the holder of the authority and the trader, which must include at least the following specifications:

1. the amount of the return to be obtained by the holder of the authority from the appeal, or the basis or method by which this will be calculated, and the manner in which payment will be effected;
2. details of any commission, wage or fee payable to the trader and any other person from the proceeds of the appeal;
3. details of the type, and any limitation on the amount of expenses to be borne by the trader and the holder of the authority as part of the appeal;
4. the basic rights, duties and responsibilities of both parties;
5. insurance risks to be covered by each party (eg. public liability, worker's compensation for employees, personal accident insurance for volunteers, third party property insurance);
6. details of any records and documentation to be maintained by the trader (including those required by or under the Act) and the requirement that the trader keep these at the registered office of the holder of the authority, unless provided for otherwise by a condition attached to the authority;
7. details of the specific internal controls and safeguards to be employed to ensure proper accountability for all proceeds obtained during the appeal;
8. the process to be followed in resolving disputes between the parties to the contract or agreement, complaints from the public and grievances from employees;
9. the reporting requirements imposed on the trader;
10. an undertaking by the trader to comply with the provisions of the Charitable Fundraising Act 1991 and the regulations under the Act and the conditions of the authority;
11. a mechanism to deal with the effect on the contract of any subsequent addition, variation or deletion of an existing condition of the authority;
12. the circumstances in which the contract is or may be terminated.

Advertising & Disclosure

Any advertisement, notice or information must comply with certain standards and satisfy basic minimum requirements.

These may be summarised as follows:

- any advertising, notice or information:
 - must clearly and prominently disclose the name of the authority holder
 - must be conducted in accordance with decency, dignity and good taste
 - must be based on fact, not be false, deceptive or misleading
 - must conform strictly to the provisions of any relevant law
- a person who participates in an appeal other than by face-to-face solicitations (e.g., by telephone or mail) and receives a wage, commission or fee is required to disclose that he or she is employed and the employer's name for the purposes of the appeal
- a person who participates in an appeal which is conducted face-to-face, that participant is obliged to wear a badge or card which includes the name and contact telephone number of the authority holder, the name of the bearer, and its issue and expiry date. Where the participant is in receipt of remuneration the badge must also prominently display the words PAID COLLECTOR, and the name of the employer for the purposes of the appeal
- persons should use their best endeavours to provide honest answers to questions asked of them. This would include a description of how the gross proceeds or articles obtained in the appeal will be distributed
- where an appeal is conducted jointly with a trader any written or printed advertisement, notice or information must include:
 - details of the full name under which the trader operates for purposes of the appeal, and details of the trader's normal place of business and telephone number
 - details of the basis on which the benefit to be received by the authority holder

Legal References

Act — sections 11 and 12

Regulation — 10

Conditions — 11, 16 and 17

is to be calculated or provided (not to be expressed as a percentage of the net proceeds)—there are special requirements concerning advertising on clothing bins and rag bags (refer to *Chapter 31, Appeals for Donated Goods*)

- details of the extent of the benefit to be obtained by the trader
- the date on which the appeal will commence and the date it will end.

Best Practices

- Authority holders should develop policies and procedures to ensure all advertising and information used in a fundraising appeal are approved and authorised.
- Authority holders should ensure that any volunteers, employees, or traders (and their staff, if any) comply with the provisions of the Act, the regulations under the Act and authority conditions in respect to any advertising, notice or information provided as part of a fundraising appeal.
- In all cases where a person solicits for support from the public, whether face-to-face (e.g., collections, sale of goods door to door, etc.), by telephone or any other means, the authority holder should furnish that person with written instructions on the information they are to provide to potential donors.
- In addition to ensuring that the requirements of Authority Condition 16 (3) are complied with, the authority holder should:
 - approve of any written or verbal instructions given to persons participating in an appeal with regard to the information they are to provide to members of the public
 - make it clear where a trader conducts the appeal jointly with the authority holder, the trader will be held accountable for any deception in advertising caused by persons under the trader's control and direction.
- The authority holder should develop a policy to deal with collectors, salespersons, trader's staff, etc. who offend by providing false or misleading information in an appeal (the Department will hold authority holders and traders responsible for such deceptions which may be grounds for revoking an authority).

Other Practices

- The authority holder should conduct an ongoing surveillance program in the field to detect any deceptions in advertising by persons or organisations authorised to participate in an appeal. This would include observations of collectors' or sellers' techniques and printed notices on clothing bins.
- Consideration could be given to printing a letter, pamphlet or flyer containing relevant information on the purpose of the appeal and the authority holder's activities which could be produced to potential donors for their information.
- Where the appeal is conducted jointly with a trader for collection of articles (e.g., clothing), the particulars shown on the clothing bin or on a flyer attached to a collection bag should be based on a similar format to the sample at *Chapter 31, Appeals for Donated Goods*.

False and misleading information

Any advertisement, notice or information must be based on fact and must not be false or misleading [Authority Condition 16].

Also, where a participant in a fundraising appeal is paid a wage, etc. for doing so, that participant must disclose that he or she is employed and the name of the employer.

For example, where a participant is employed by a trader, it would be false and misleading for a participant to state "*I am (name), from the (name) charity.*"

It would also be false and misleading for a participant to answer a question that he or she is not remunerated for the purposes of the appeal, when in fact that person is remunerated by a trader

Telephone and Direct Marketing

Further information on this topic is provided in the *Chapter 4, Fundraising Issues, 4–140: Telephone Canvassing and Direct Marketing*.

Best Practices

- a. The code of practice required by Authority Condition 13 should also incorporate the advertising and disclosure requirements of Regulation 10, *Obligations of Participants* and Authority Condition 16, *Advertisements, notices and information*.
- b. The code should be subject to ongoing review.
- c. The code should include printed instructions to be complied with by all persons participating in the appeal. These instructions should include the manner in which participants must comply with the advertising and disclosure requirements of Regulation 10 and Authority Condition 16.
- d. Where a trader conducts a telemarketing appeal jointly with an authority holder the written agreement entered into should include reference to the code of practice and the need to comply with it. The trader must also take responsibility for any participants under his or her supervision or control.



Legal References

Regulation — 10

Conditions — 2, 6, 7, 8,
13, 16, 18 and 20



Read this Chapter in conjunction with

Chapter 5, Financial
Issues, 5–200: Lawful and
Proper Expenses

Chapter 13, Internal
Controls

Chapter 24, Appeals
Conducted Jointly with
Traders

Chapter 27, Advertising
and Disclosure

Chapter 34, Return from
Fundraising

Chapter 36, Complaint
Handling Mechanism



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Collections

Appeals through face-to-face collections are a common method of obtaining support from the public and a significant source of fundraising income for many charitable organisations.

They may be conducted door to door, in a street, public place, or a place of entertainment. They may be based on a receipting system or a collection box device.

Participants may volunteer their services or receive a wage, commission or fee. They may also be conducted in-house or jointly with a trader.

Face-to-face collections are a common source of complaint. Where complaints are of a serious nature they may not only reflect poorly on the integrity and reputation of the organisation directly, but also on the charity industry generally.

Authority holders (and traders, if applicable) should closely study the relevant requirements of the Regulations and authority conditions impacting upon collections.

If a collection is to be undertaken in any public road or place an authority holder should contact the local government council(s) where the collection is to be conducted, to determine whether the written approval of council is required. This especially applies if a stall, stand or similar device is to be used in connection with the collection appeal. [Refer *Chapter 4, Fundraising Issues, 4–300: Other regulations impacting on fundraising activities* for more information].

Best Practices

- a. The authority holder should establish appropriate procedures and internal controls to ensure accountability and to minimise opportunities for misappropriation, etc. This should form part of a general procedures manual.
- b. A set of written or printed instructions should be issued to all face-to-face collectors. These instructions should include the manner in which participants must comply with the advertising and disclosure requirements of Regulation 10 and Authority

Legal References

Regulations — 7, 9 and 10

Conditions — 4, 8, 9, 10, 11, 12, 13, 14, 16, 25 and 27

Read this Chapter in conjunction with

Chapter 10, Banking Procedures

Chapter 15, Keeping of Records

Chapter 19, Receipting Requirements

Chapter 23, Authorisation of Appeals

Chapter 25, Children Participating in Appeals

Chapter 27, Advertising and Disclosure

Chapter 30, Collection Devices

Condition 16.

- c. Authority holders must comply with the requirements of Authority Condition 11 in respect to the issuing and wearing of an identification badge [refer *Chapter 23, Authorisation of Appeals*].
- d. Authority holders must ensure that all participants, including volunteers, wear the identification card or badge. It is important that this badge be worn by volunteers so that members of the public are aware of the identity and status of any person soliciting support.
- e. Where collection box devices are used, authority holders must comply with the best practices referred to in *Chapter 30, Collection Devices*.
- f. In order to comply with section 20 (6) of the Act regarding the banking of the gross proceeds intact, the authority holder must establish a system of paying wages or commission by cheque on a weekly or fortnightly basis. Where a particular collector requires to be paid at the end of the day this should be by way of cheque or through a petty cash system.

The authority holder should read this practice in conjunction with *Chapter 10, Banking Procedures*.

- g. An authority holder (or a trader) must not attempt to circumvent the minimum return of 60% on *donation only* appeals by providing a badge, sticker, token or other thing in acknowledgment of the person's donation. These do not constitute supply of goods [refer Authority Condition 8].
- h. Where a trader is responsible for controlling a collection, the authority holder must ensure effective controls are in place to provide proper accountability. If the authority holder or the authority holder's representative cannot be in attendance each day of the appeal when collectors are handed their receipt books or collection boxes and the proceeds are brought in at the end of the day, the authority holder should attend on a random basis. The authority holder should also observe collection procedures in the field to identify compliance with the legislation and policy.

Other Practices

- i. The authority holder should carry out regular surveillance in the field to ensure that participants (and traders, if any) are complying with the legislation, authority conditions and any issued instructions.
- j. Consideration could be given to printing a letter, pamphlet or flyer containing relevant information on the purpose of the appeal and the authority holder's activities which could be produced to potential donors for their information.

Collections at traffic lights

The conduct of collections at traffic lights impede traffic flow, and places collectors, motorists and the public at risk.

Under authority condition 27 collections cannot be undertaken by soliciting persons occupying motor vehicles while they are being driven on a public street or road including motor vehicles which are stopped at traffic lights or an intersection.

Collection Devices

Collection devices are widely used for fundraising purposes. They may either be hand held or placed in shops or businesses. These devices also include a canister placed on shop counters selling sweets/confectionery and food products.

Authority holders (and traders, if applicable) should closely study the requirements of the relevant authority conditions. These include that the collection device must be securely constructed, properly sealed, consecutively numbered and be clearly labelled with the name of the authority holder. Proper supervision, security and control must be exercised over its use and clearance.

Authority holders must bear in mind that open bucket collections, coin trains or bridges, etc. fail to comply with requirements and lack accountability.

Best Practices

- a. The authority holder should establish appropriate procedures and internal controls to ensure accountability and to minimise opportunities for theft or misappropriation of proceeds obtained from these devices.
- b. Written or printed instructions should be issued to all face-to-face collectors using hand held collection devices. These instructions should include the manner in which participants must comply with the advertising and disclosure requirements of Regulation 10 and Authority Condition 16.
- c. Where a donor requires a receipt for a donation, these proceeds must be separately accounted for and not placed in the collection device.
- d. Collection devices may be of a type that can only be opened once (e.g., a metal tin with a slit for insertion of the donation), or if reusable, is secure.
- e. Where the device is not reusable:
 - it must either have the advertising material printed on it at point of manufacture, or if a label is used it should be of a type, once used, that cannot be peeled off

Legal References

Act — section 20(6)

Regulations — 7 and 9

Conditions — 4, 8, 9, 10, 11, 12, 14, and 20

Read this Chapter in conjunction with

Chapter 10, Banking Procedures

Chapter 19, Receipting Requirements

Chapter 15, Keeping of Records, 15–290: Register of Collection Devices

Chapter 25, Children Participating in Appeals

Chapter 27, Advertising and Disclosure

Chapter 29, Collections

for reuse

- the number allocated to the device must be printed on the device or the label at point of manufacture. The range of numbers for the batch supplied by the manufacturer should then be shown on the supplier's invoice. These numbered devices or labels then become accountable items
 - as far as possible, labels should be of a nature that would not lend themselves to wrongful duplication.
- f. Where the device is reusable:
- it must be secured in a manner which prevents opening by an unauthorised person. This may consist of a lock, a seal or secured in some other manner which prevents unauthorised opening
 - if the security device is a lock there should be strict control over the custody of the key, etc.
 - if the security device is a seal it must be numbered by the manufacturer, and of a type that once broken, cannot be reused. The range of seal numbers supplied should be included on the manufacturer's invoice. A register of these seals should also be maintained.
- g. Where collection box devices are placed in shops (and similar locations):
- a printed sheet should be issued to the shopkeeper providing an overview of the appeal and the procedures and controls that apply
 - when the devices are cleared, either the device should be replaced in its entirety and the proceeds counted back at the authority holder's premises, or the device opened up and the contents counted in the shopkeeper's presence and recorded in a register (the shopkeeper would countersign the register for the amount collected)
 - where the devices are taken back to the authority holder's premises to be opened and counted, the withdrawal of that device and the issue of a new one would need to be recorded in the register and signed for by the shopkeeper. When the device is opened back at the premises of the authority holder, this should be done in the presence of at least two persons. The money should be counted, and the amount recorded against that device in the register.
- h. Where the collection box devices are hand held, at the end of the day the device should be opened, and the contents counted in the presence of the collector and recorded in a register. The collector would countersign the register against the amount collected.
- i. Where a trader is involved in the use of collection devices:
- the trader must not be involved in the purchase of the collection devices, or the labels or any seals to be attached to the devices
 - the stock of such items must remain in the custody of the authority holder at all times
 - details of devices issued to the trader for distribution must be recorded not only in the register maintained by the authority holder, but also in a register maintained by the trader
 - the authority holder should require the trader to observe established practices and controls which should be incorporated in the written agreement required under Authority Condition 20.

Other Practices

- j. The authority holder and traders should carry out regular surveillance in the field to ensure that participants are complying with the legislation, authority conditions and previously issued instructions.

Open bucket collections

The use of open buckets to collect monies is prohibited.

Open buckets fail the test of authority condition 14.

Clearance of collection boxes

The clearance of a collection box in a shop would be dependent on the amount of money involved. In some cases, clearance should occur weekly or more often; in other cases, it should happen at least monthly.

Whatever practice is employed must be practicable, appropriate, and must provide for proper standards of accountability.

Appropriate procedures and internal controls must be established to ensure accountability and to minimise opportunities for theft or misappropriation of the proceeds. This should be part of a procedures manual.

Appeals for Donated Goods

Appeals for donated goods cover a range of recycled goods, including used clothing, furniture, bottle and can collections and newspapers.

Appeals conducted by traders (especially clothing collections) have been an area of concern to sections of the charity sector, the media and the community. Some of the allegations include benefiting charitable organisations are being passively exploited by lending their names to the appeal in return for which they receive a nominal donation. It is alleged that this is accompanied by false and deceptive advertising.

Appeals must comply with the requirements of Authority Condition 16 on accurate disclosure in information and advertising, and Authority Condition 17, which concerns appeals for donated goods.

Authority holders and traders should closely study the relevant requirements of the regulations under the Act and standard authority conditions on this subject which include that all reasonable steps must be taken to ensure that total expenses do not exceed a fair and reasonable proportion of the gross proceeds.

The Department provides the following example of what it considers to be an unsatisfactory return:

An appeal in which 200 clothing bins are distributed, yields the trader several hundred thousand dollars per annum. The return to the authority holder is a mere \$1,000 per annum.

Any written or printed advertisement, notice or information in connection with the appeal must include particulars of what will happen to the goods or materials collected [Authority Condition 16 (5)]. Examples:

Where an authority holder conducts a clothing appeal:

Example 1. Donated clothing is given away to needy people or sold. The proceeds of sales are paid into the funds of the charity to enable it to undertake its welfare projects.

Legal References

Conditions - 8, 16, 17 and 20

Read this Chapter in conjunction with

Chapter 16, Keeping of Records—Traders

Chapter 24, Appeals Conducted Jointly with Traders

Chapter 27, Advertising and Disclosure

Example 2. On average 5% of the donated clothing is in good condition and is given away to needy people or sold in opportunity shops; 95% is reprocessed into a variety of different items which are sold and the proceeds (after deducting collection and reprocessing costs) paid into the funds of the charity to enable it to undertake its welfare projects and to pay for administrative overheads.

Example 3. All the donated goods and services will be sold to Charity Family Industries Inc., to be reprocessed into a variety of different items such as industrial or domestic wipes, or sound absorbing wadding in vehicles.

Where a trader conducts a clothing appeal on behalf of an authority holder—

Example 4. The donated goods and materials become the property of, will be sold by, and the proceeds of sale paid to ABC Traders Pty Ltd. From these proceeds ABC Traders Pty Ltd will pay \$... per bin per month to XYZ Charity Inc.

Any advertising, notice or information must provide a specific description of the benefit to be obtained by an authority holder that is jointly conducting a clothing appeal with a trader [Authority Condition 16 (6)]. This requirement provides meaningful information to the community so that they may make informed decisions. The benefit to the authority holder must be expressed as:

- (a) an average overall percentage benefit to the authority holder expressed as a percentage of the gross income derived from the goods or materials collected, and
- (b) an average dollar amount per bin per month where the collection device is a bin.

(By way of example only, “The return to XYZ Charity Inc from the sale of donated goods or materials yields \$50 per bin per month which is equivalent to 25% of the gross income from the clothing bin. These figures are based on the financial position in respect of the 12 month period ended 31 October 1998”).

In addition, there is a requirement that a sign or notice bearing the words CHARITY OPERATED OR COMMERCIALY OPERATED must be placed on the chute of clothing bins or on rag bags. These must be of a certain size [refer—Authority Condition 16 (7) and Authority Condition 16 (8)].

Best Practices

Where appeals are conducted jointly with a trader, the authority holder should ensure:

- the consideration received is fair and reasonable (i.e., nominal donations not acceptable)
- proper reporting requirements are placed on the trader through the written contract or agreement
- field inspections are carried out to verify accuracy of information, accuracy of advertising literature, etc.

SAMPLE CLOTHING BIN ADVERTISEMENT — COMMERCIALY (TRADER) OPERATED



**COMMERCIALY
OPERATED**

CLOTHING APPEAL



to assist
XYZ Helpers Inc

XYZ Helpers Inc.
55 Faith Street, Sydney
(Ph.02-9555 5555)

Conducted by
ABC Traders Pty Ltd
33 Trade Street, Sydney
(Ph.02-9333 3333)

- o The donated goods and materials become the property of ABC Traders Pty Ltd.
- o They will be sold by ABC Traders Pty Ltd to be reprocessed into a variety of different items such as industrial wipes, and will retain the gross proceeds of any sales. ABC Traders Pty Ltd bears all expenses.
- o The average monetary benefit paid by ABC Traders Pty Ltd to XYZ Helpers is \$8 per bin per month. This is 5% of the gross income derived from the sale of the clothing. This information is based on the financial position in respect of the 12 month period ended 31 March 2003.

Bin No: 134 of 205
(total number of bins used in connection
with this appeal as at 31 March 2003)

Appeal
started 31 March 2003 and
concludes 31 March 2004

**SAMPLE CLOTHING BIN ADVERTISEMENT
— CHARITY OPERATED**



**CHARITY
OPERATED**

CLOTHING APPEAL

to assist
XYZ HELPERS INC

XYZ Helpers Inc.
55 Faith Street, Sydney
(Ph.02-9555 5555)

Your donation of clothing, sheets, blankets, etc. helps XYZ Helpers Inc to achieve its charitable activities. Clothing is given away to needy people or sold. The proceeds of sales are paid into the funds of the charity to enable it to undertake its welfare activities including providing support and resources to ...

Bin No: 34

Sale of Goods and Services

The sale of goods and services includes selling goods door to door (e.g., packets of sweets/confectionery), selling goods through a retail outlet, concerts, sale of publications and advertising space. It may be conducted in house or externally involving a trader.

For the purposes of the Act, a request for, or the receipt of, money from a person does not constitute a fundraising appeal if the money is wholly payable by the person as the genuine fee or charge for the provision of:

- (a) educational facilities or services
- (b) child-minding services
- (c) goods or services supplied through a supported employment service for people with disabilities
- (d) nursing or medical services
- (e) other care or welfare services.

This provision does not exclude fees or charges which include a donation component.

Where an appeal is connected with the sale of goods or the provision of services and is conducted in conjunction with a trader, there is heavy reliance on disclosure [Authority Condition 18].

Authority holders and traders should peruse the relevant requirements of the Act, the regulations under the Act and the standard authority conditions on this subject which include:

- proper and effective internal controls must be exercised
- disclosure of the gross proceeds and total expenditure of any appeal when an appeal is jointly conducted with a trader
- all reasonable steps are taken to ensure that total expenses do not exceed a fair

Legal References

Section 5 (3)

Regulation 5

Conditions — 2, 3, 6, 7, 8, 11, 12, 16,17 and 20

Read this Chapter in conjunction with

Chapter 5, Financial Issues, 5–200: Lawful and Proper Expenses

Chapter 10, Banking Procedures

Chapter 21, Stock-in-Trade

Chapter 24, Appeals Conducted Jointly with Traders

Chapter 27, Advertising and Disclosure

Chapter 34, Return from Fundraising

and reasonable proportion of the gross proceeds.

The Department recognises that certain types of activities in which a product is sold or tickets sold, may not be devised as a fundraising appeal but merely to provide information or entertainment (e.g., an information booklet for use of members with disabilities, a play put on by an amateur theatre group, etc.). In those circumstances it would not be appropriate for the Department to enforce the requirements of Authority Condition 8(2).

If an appeal involving the sale of goods and services is to be undertaken in any public road or place an authority holder should contact the local government council(s) where the appeal is to be conducted, to determine whether the written approval of council is required. This especially applies if a stall, stand, or similar device is to be used in connection with the appeal. (Refer *Chapter 4, Fundraising Issues, 4–300: Other regulations impacting on fundraising activities* for more information).

Best Practices

- a. Where participants receive a wage, commission or fee for selling goods or services, the authority holder must issue a set of written or printed instructions to the participants. These instructions should include the manner in which participants must comply with the advertising and disclosure requirements of Regulation 10 and Authority Condition 16.
- b. Where goods or merchandise are sold, a stock inventory record must be maintained [refer *Chapter 21, Stock-in-trade*] in addition to any other records prescribed under the legislation or authority conditions.
- c. Where goods and merchandise are sold through canisters, boxes and similar devices which have been placed in shops (e.g., chocolates, sweets), the best practices described in *Chapter 30, Collection Devices* would apply.
- c. Records of the appeal must be examined by the auditor (including sample testing of transactions) as part of the audit process. The auditor should also review the effectiveness of controls and procedures.
- d. Where the appeal involves a concert or similar entertainment, any advertising or information provided on the appeal must describe as accurately as possible the manner in which the proceeds will be distributed including the return to the authority holder.
- e. Where the appeal is conducted jointly with a trader the account into which the gross proceeds of the appeal are deposited must be maintained by the authority holder unless the trader is authorised to do so by the written contract or agreement. There must also be full accountability for merchandise and proceeds obtained [see *Chapter 24, Appeals Conducted Jointly with Traders*].
- f. Where children (i.e., persons under the age of 15 years) are used as sales persons, there must be strict compliance with the requirements of Authority Condition 12.
- g. Authority holders should also determine whether the sale of goods and services comply with the requirements of the *Fair Trading Act 1987* (NSW) and the *Door to Door Sales Act 1967* (NSW) administered by the Department of Fair Trading.

Other Practices

- h. Where goods are sold on shop premises (e.g., op-shops, etc.) a cash register should be used to ensure there is greater control and accountability.

Lotteries and Games of Chance

Lotteries and other games of chance (minor gaming activities) are a significant source of fundraising income for many authority holders.

They include raffles, lucky envelopes, housie, sweeps and art unions. The games may be conducted in house or externally involving a trader. This form of appeal must comply with the *Lotteries and Art Unions Act 1901*, the *Charitable Fundraising Act 1991*, and the *Unlawful Gambling Act 1998*.

Chapter 4, Fundraising Issues, 4–500: Lotteries and Games of Chance provides a *Ready Reference Guide* to the types of minor gaming activities that may be undertaken for the purpose of raising funds. The *Ready Reference Guide* identifies whether a permit must be obtained before the activity is conducted, and in general terms the conditions upon which the activity must be conducted.

More information on each minor gaming activity is provided in separate easy to read fact sheets, which may be obtained from the Department's website www.dgr.nsw.gov.au or by telephoning (02) 9995 0666.

Authority holders and traders should closely study the relevant requirements of the standard authority conditions attached to the authority to fundraise on this subject which include:

- Authority Condition 2 — Proper and effective internal controls to be exercised
- Authority Condition 3 — Ensure all assets accounted for
- Authority Condition 4 — To maintain a register recording details of tickets or computerised computer stationery
- Authority Condition 7 (2) (e) — All forms of fundraising appeals to be listed in annual audited accounts
- Authority Condition 9 (2) — Tickets used by a trader must only be those authorised and issued to the trader by the authority holder



Legal References

Conditions — 2, 3, 4, 7, 9, 11 and 19



Read this Chapter in conjunction with

Chapter 4, Fundraising
Issues, 4–500: Lotteries
and Games of Chance



- Authority Condition 11 (3) and Regulation 9 — Identification card or badge to be worn in face to face appeals
- Authority Condition 19 — Authority holders to comply with the relevant requirements of the Lotteries and Art Unions Act 1901
- Authority Condition 20 — A written agreement to be executed.

Best Practices

- a. Authority holders must obtain information of the legislative requirements to be complied with under the *Lotteries and Art Unions Act*.
- b. Authority holders must establish whether a permit is required for the conduct of the lottery or game of chance and identify records, if any, that are required to be maintained by the permit conditions or legislation.
- c. Where participants receive a wage, commission or fee for selling tickets, the authority holder must issue a set of written or printed instructions to the participants. These instructions should include the manner in which participants must comply with the advertising and disclosure requirements of clauses 9 and 10 of the Regulation and Authority Condition 16.
- d. Raffle tickets, art union tickets, lucky envelopes, etc. should not be printed in-house by the authority holder.
- e. Details of the quantity and range of numbers of tickets supplied by the printer should be shown on the supplier's invoice and included in the Register of Tickets [refer *Chapter 15, Keeping of Records*].
Raffle tickets of a type sold by newsagents or stationers may be used for minor raffles only.
- g. The cash book should distinguish between the gross proceeds and the expenses of each separate raffle and game of chance.
- h. The auditor should examine the records relating to lotteries or fundraising games of chance as part of the audit process (sample testing would be normally sufficient). The auditor should also be satisfied on the effectiveness of internal controls employed.
- i. Where a trader jointly conducts the lottery or game of chance, the authority holder must ensure proper controls are exercised over the trader [refer *Chapter 24, Appeals Conducted Jointly with Traders*].
The authority holder should take all reasonable steps to ensure that the expenses do not exceed a fair and reasonable proportion of the gross proceeds obtained.

Other Practices

- j. Details of any lottery or fundraising game of chance should be recorded in a Fundraising Appeals Function Book [refer *Chapter 15, Keeping of Records*].

Return from Fundraising

There is a community expectation that any donation or contribution made during an appeal should result in a fair and reasonable return to the authority holder.

The Act requires that the proceeds from an appeal are applied to the purposes or objects of the appeal, and that any expense deducted from the proceeds should be lawful and proper.

The broad parameters of what would normally constitute a lawful and proper expense is provided by Regulation 7. It indirectly provides some guidance by stating that the ratio and amount of any expense to the gross proceeds from an appeal should be reasonable in the circumstances.

However, Authority Condition 8 requires:

- that any person or organisation conducting a fundraising appeal for *donations only* (that is, without any associated supply of goods or services) must take all reasonable steps to ensure that the expenses payable do not exceed 40% of the gross proceeds obtained (i.e., a minimum profit of 60%)
- that in all other cases, (that is, appeals associated with the supply of goods and services) the person conducting the appeal must take all reasonable steps to ensure that the expenses payable do not exceed a *fair and reasonable proportion of the gross proceeds obtained*.

The *Lotteries and Art Unions Act 1901* requires that where fundraising lotteries and games of chance such as raffles, charity houses, lucky envelopes, art unions, etc. are conducted it should achieve a minimum return of 40% (12.5% for charity houses).

Best Practices

- a. Authority holders are obliged to maximise returns obtained from fundraising appeals in satisfying the expectations of the community.
- b. All reasonable steps should be taken to ensure total expenses in respect of a



Legal References

Act — section 20(6)

Regulation 7

Conditions — 2, 6(3), 8 and 15



Read this Chapter in conjunction with

Chapter 5, Financial Issues, 5–200: Lawful and Proper Expenses

Chapter 24, Appeals Conducted Jointly with Traders

Chapter 26, Agreement with Traders

Chapter 27, Advertising and Disclosure

Chapter 28, Telephone and Direct Marketing

Chapter 29, Collections

Chapter 32, Sale of Goods and Services



“donations only” appeal do not exceed 40% of the gross proceeds, and that the expenses of all other forms of appeals do not exceed a fair and reasonable proportion of the gross proceeds. Action should be taken to:

- structure the appeal to maximise income, and minimise expenses
 - prepare an appeal budget
 - monitor and assess progress of the appeal (e.g., regular financial reports) with the view to instituting modifications or amendments to the appeal process
 - establish proper and effective controls over the conduct of the appeal to ensure accountability.
- c. Where the budget for a planned donations only appeal, or a review of a running appeal by means of telephone or mail solicitations indicates the total expenses will exceed 40% of the gross proceeds obtained, the authority holder must remedy the situation by exercising one of the following options:
- review the expenditure incurred or to be incurred to avoid the shortfall
 - write to the Department explaining the circumstances (e.g., a *donor acquisition* scheme), and seeking approval for variation of the benchmark set by the authority condition [refer to *Chapter 2, General Issues, 2–100: Authority Conditions*]
 - where the spirit of the authority condition cannot be met, to consider abandoning or terminating the type of appeal.
- d. Where a trader is involved, all reasonable steps must include:
- the terms and conditions of the written agreement are fair (i.e., the authority holder is not exploited)
 - the commissions, fees and expenses incurred are justifiable
 - good value is obtained from the trader’s services
 - the authority holder exercises proper controls and supervision over the trader
 - the authority holder spends time in the field ensuring all monies are being accounted for in a proper manner.

Meetings

If the holder of the fundraising authority is an organisation, a minute book must be kept containing minutes of all business transacted relating to fundraising appeals by the governing body of the organisation (or by any sub-committee of that governing body) and any general or extraordinary meeting of its general membership. This does not just relate to the conduct of the appeal, but also to the manner in which the funds and articles obtained from the appeal are applied.

The conduct of meetings including the accuracy of minutes, and eligibility to vote is often an area that produces conflict between individuals. However, these are matters for the members to resolve, and the Department will only become involved in exceptional circumstances.

The persons involved in these types of disputes often resort to civil litigation to resolve their differences. For that reason authority holders must develop mechanisms which will quickly resolve these difficulties.

Best Practices

- a. The authority holder should develop policies and procedures for the conduct of meetings by means of the constitution, standing orders or by-laws, etc. Subjects to be covered are suggested under 'g.' below.
- b. The best practices which should be employed in the maintenance of minutes is covered in *Chapter 15, Keeping of Records, 15–260: Minute Book*.
- c. The secretary or person authorised to convene meetings should give written notice in accordance with requirements of the constitution and any legislation under which the organisation is incorporated.
- d. Business should be transacted at the annual general meeting in accordance with the requirements of the authority holder's constitution. This must include adoption of the audited financial report [Authority Condition 7 (6)].



Legal References

Act — section 20(6)

Regulation 7

Conditions — 2, 6(3), 8 and 15



Read this Chapter in conjunction with

Chapter 11, Expenditure

Chapter 15, Keeping of Records, 15–260: Minute Book

Chapter 39, Internal Disputes



Other Practices

- e. It is suggested that authority holders obtain a definitive reference book on the subjects of the conduct of meetings, proceedings at meetings and the recording of minutes.
- f. An agenda should be prepared for distribution before the meeting, and controversial issues are best included as a notice of motion so members are aware of the subject to be debated. It is common practice for the agenda to be incorporated into the minute book.
- g. Aspects of meetings to be defined referred to in 'a.' above should include:
 - notice of meetings
 - election of office-bearers, including chairperson
 - power, responsibilities and duties of chairperson
 - recording attendances
 - quorums required for ordinary meetings and general meetings, etc.
 - voting (right to vote, method, proxies, etc.)
 - conduct of debate (points of order, right to speak, in-camera debates, etc.)
 - motions (notice, form of motions and amendments)
 - types of meetings (committee, annual general, extraordinary, telephonic link-ups, etc.)
 - recording of minutes
 - adoption of minutes.
- h. The auditor should attend the annual general meeting to personally table his or her audit report and answer any questions.
- i. Where special meetings involving practices such as telephonic link-ups are employed, these should be authorised in the constitution. It is also suggested that some appropriate means be established of adopting the minutes as a true record (e.g., each person involved to receive a copy of minutes in mail which they must individually sign and return as a true and correct copy).

Joske's Law and Procedure at Meetings in Australia published by The Law Book Company Limited is a handy reference for advice on the conduct of meetings.

Problems with Minutes

- Persons attending and apologies not recorded.
- Lack of detail.
- Attachments not retained.
- Elections not properly recorded.
- Expenditure not ratified/approved.
- Minutes not adopted, signed and dated.
- Lack of adequate security over their custody.

Complaint Handling Mechanism

Authority Condition 25 requires that the authority holder provide *a mechanism that will properly and effectively deal with complaints made by members of the public and grievances from employees.*

Many charitable organisations recognise the need to establish a positive and effective mechanism to deal with these complaints, others respond in an ad hoc fashion which often lacks consistency and purpose. Not dealing quickly and effectively with complaints often reflects on the integrity and reputation of the particular authority holder concerned, and can have implications for the wider charity sector.

Staff grievances often affect the morale and efficiency of an organisation, particularly if management is slow to react.

All complaints received from the public and/or staff should be viewed as a type of performance indicator for the organisation.

Best Practices

- a. The mechanism for handling complaints should include the following features:
 - one particular person should be appointed to be responsible for investigating all complaints
 - a register should be maintained which includes the date the complaint was made, the name, address and telephone number of the complainant, the nature of the complaint, the name of the person or persons who were the subject of the complaint, action taken to investigate it, details of the findings and the date and manner by which the complainant was informed of the outcome
 - where the complaint requires investigation, a pro forma action sheet should be developed which would include details of any interviews with the person or persons who were the subject of the complaint
 - where the organisation was at fault, steps should be taken to avoid a recurrence



Legal References

Condition 25



- appropriate action should be taken where a particular individual has been the offender in more than one complaint
 - where the complaint resulted from false or misleading information being provided to the complainant, the organisation must accept full responsibility. If the person responsible continues to offend, appropriate disciplinary action must be taken
 - a monthly report should be submitted to the governing body of the organisation summarising details of all complaints received
 - complaints should be analysed to reveal any recurrences or trends in the form of complaints received.
- b. The mechanism should be developed in consultation with staff representatives.
- c. Where the complaint involves the supply of goods or services it may be appropriate to refer the complaint to the Consumer Claims Tribunal administered by the Department of Fair Trading for a resolution. This facility is provided at a low cost.

Duties and Responsibilities

The duties and responsibilities of the governing body of the authority holder may be broadly categorised under the following:

- common law duties (built up by case law, i.e., made by judges)
- statutory duties (contained in legislation, e.g., *Corporations Act 2001* (C'th), *Associations Incorporation Act 1984* (NSW), *Co-operatives Act 1992* (NSW), *Charitable Fundraising Act 1991*).

Members of the governing body of the authority holder should be selected on the basis of their relevant experience and skills and in the knowledge that they will take an active part in the management of the organisation.

Members of the governing body should not be appointed solely on their status or position in the community; this is the function of patrons.

Best Practices

- a. Every member of the governing body of the organisation should study the instruments governing the organisation. This includes the organisation's constitution (rules, memorandum and articles of association, etc.), trust documents, and statutory requirements (*Corporations Act*, *Co-operatives Act*, *Associations Incorporation Act*). They should also be aware of their possible liabilities under other legislation (Stamp Duty, Payroll Tax, Land Tax, GST, Income Tax, etc.).
- b. New members of the governing body should meet with their co-members and anyone else concerned with the management of the organisation in order to be briefed about its activities, its funding and the nature and condition of its property. Every member of the governing body of the organisation should continue to undertake these actions on an on going basis.
- c. Every member of the governing body of the organisation should ensure that the property of the organisation is properly vested in the name of the organisation



Legal References

Act — sections 20 and 48

Condition — 21



Read this Chapter in conjunction with

Chapter 3, Management Issues

Chapter 13, Internal Controls

Chapter 15, Keeping of Records, 15–310: Register of Pecuniary Interests

Chapter 38, Conflicts of Interest



(subject to the terms of the governing instrument — e.g., a trust deed).

- d. Every member of the governing body of the organisation should peruse the accounts of the organisation, and where necessary obtain explanations.
- e. Members of the governing body of the organisation must meet regularly if they are to manage the organisation properly. The frequency of meetings will depend upon the size and nature of the organisation. This may be specified in the organisation's constitution.
- f. Meetings of the members of the governing body of the organisation must be properly constituted by a quorum. The governing instrument or instruments of the organisation will possibly stipulate the minimum number of persons who must be present at meetings.

It should be noted that Authority Condition 21 requires that the organisation must be managed by a responsible committee of not fewer than three persons.

- g. Members of the governing body of the organisation must act reasonably and prudently in all matters relating to the organisation and must always bear in mind the interests of the organisation. They should not let their personal views or prejudices affect their decisions and conduct.
- h. Members of the governing body of the organisation should exercise the same degree of care in dealing with the management of the organisation as a prudent person would exercise in carrying out their own business affairs.
- i. The property of the organisation must be applied for the purposes set out in the governing instrument or instruments. Section 20 of the Act requires that any money or benefit received in the course of a fundraising appeal must be applied according to the objects or purposes represented by or on behalf of the persons conducting the appeal as the purposes or objects of the appeal.

If members of the governing body of the organisation have doubts concerning the exercise of their discretion they should seek competent legal advice.

- j. Decisions must be taken by the members acting together. They can invite some of their number to look into particular issues and to make recommendations, but the decision whether to act on the recommendations is for the members of the governing body to make together.
- k. Members of the governing body of the organisation, because of the scale or nature of the organisation, may of necessity have to delegate to officers or employees decisions on day-to-day management matters. The members should ensure that the governing instrument(s) provides this power. The scope of the delegation must be clearly laid down in writing including that decisions on important matters should be reported to the members of the governing body of the organisation. The members of the governing body of the organisation remain legally responsible and must supervise and control the work of the officers (refer *Chapter 13, Internal Controls* for more information).
- l. Members of the governing body of the organisation cannot be remunerated or otherwise receive any benefit for the services they provide other than reasonable and necessary out-of-pocket expenses. In special circumstances the Department may authorise a member of the governing body of the organisation to be remunerated or otherwise receive a benefit (refer *Chapter 3, Management Issues, 3–300: Remuneration of Members of the Governing Body*).

Closely related members of the governing body

Members of the same family or closely related people should not represent a significant proportion (normally not more than one third) of the total membership of the governing body.

The aim of the policy is to overcome any scope (both real and perceived) for persons to manipulate the affairs of the organisation for their own benefit; to overcome any potential conflict of interest; and is in the public interest.

Conflicts of Interest

The Department often detects conflicts of interest within an organisation which reflect not only on the integrity of the office-bearer or person concerned, but also the organisation itself. These problems could often be avoided by developing appropriate policies and procedures.

Examples of conflicts of interest of a monetary kind include:

- where goods and services are supplied to the organisation by a member of the governing body or a salaried officer. The person may also benefit if the supplier is a family business or family company. Alternatively, this type of conflict may not directly benefit the person, but another member of the person's family
- where an asset belonging to the organisation is sold to a member of the governing body
- where a voting member of the governing body of the organisation is in receipt of a salary, fee or some other benefit (other than reimbursement for reasonable out-of-pocket expenses).

Examples of conflicts of a non-monetary kind include:

- where a voting member of the governing body votes on a matter which directly affects that person
- where the auditor, solicitor or other professional person is on the governing body of the organisation or related to a member of the governing body
- where the auditor acts on behalf of two clients which have common property dealings.

Approval by the Department is required where an office-bearer or member of the governing body receives *any remuneration or benefit* from the organisation. The grant of approval is subject to conditions. Refer to *Chapter 3, Management Issues, 3–300: Remuneration of Members of the Governing Body* for more information.



Legal References

Act — section 48

Condition — 23



Read this Chapter in conjunction with

Chapter 15, Keeping of Records, 15–310: Register of Pecuniary Interests



A mechanism must be provided by the authority holder that will properly and effectively deal with any conflicts of interest which may occur involving a member of the governing body or an office-holder or employee of the organisation. This includes the establishment of a register of pecuniary interests.

Best Practices

- a. The authority holder's constitution must contain at least an outline of the mechanism by which conflicts of interest should be dealt with. Where the specific procedures to be followed are not included in the constitution, they must be developed as a specific policy and procedure.
- b. Where goods or services are provided by a member of the governing body of the organisation, an office-bearer or employee, a proper tendering process should be established which includes obtaining at least three competitive quotations.
- c. Members of the governing body should absent themselves from proceedings at meetings where decisions are taken which benefits themselves or any member of the member's family (including family companies).
- d. A permanent register of pecuniary interests must be maintained where appropriate in accordance with *Chapter 15, Keeping of Records*.
- e. Where it is intended that a member of the governing body of an authority holder receive a salary, fee or some other benefit (other than reimbursement for reasonable out-of-pocket expenses) application must be lodged in writing [refer to *Chapter 3, Management Issues, 3–300: Remuneration of members of the Governing Body*].
- f. A person should not accept the office of auditor, solicitor etc. where he or she serves on the governing body of the organisation or is directly related to a member of the governing body or an office-bearer of the organisation.

One of the usual ethical responsibilities of professional persons is to avoid conflicts of interest. In addition, the adoption of the practice ensures the integrity of the audit and the operations of the organisation.

The usual ethical conduct of professional persons require such persons to be seen to be free of an interest incompatible with objectivity.

However, it is recognised that from time to time conflicts of interest are unavoidable. In such cases a full and frank disclosure of the conflict is required to be reported and appropriate measures adopted to overcome the conflict (including not voting on matters concerning appointment and fees).

Other Practices

- g. Where an auditor acts on behalf of two clients (one of which is an authority holder) involved in a common transaction of a significant nature (e.g., sale of land or buildings from one client to the other), the auditor should:
 - provide frank and full disclosure of that conflict to both clients
 - disclose that conflict in the audit report of the authority holder.

Internal Disputes

The Department is often called upon to mediate in internal disputes within an organisation. These disputes or disagreements may involve the current committee, former office-bearers or committee members, and/or the wider membership.

Although they sometimes involve breaches of the legislation, they more often relate to matters outside the jurisdiction of the Department such as the conduct of meetings, voting rights, and alleged breaches of the constitution.

In extreme cases, parties to the dispute seek to resolve the problem through civil litigation. Where the acrimony generated becomes public it may reflect adversely on the reputation and standing of the organisation.

Obviously such disputes are disruptive and wasteful of resources.

Authority Condition 24 requires that where the authority holder is an organisation *its constitution must provide a mechanism for resolving internal disputes within the membership of the organisation.*

This is similar to a requirement in the *Associations Incorporation Act 1984* (NSW).

Best Practices

- a. The authority holder's constitution must contain at least an outline of the mechanism by which internal disputes should be resolved. Where the specific procedures to be followed are not included in the constitution, they must be developed as a specific policy and procedure.
- b. The mechanism and procedures should include:
 - appointment of a independent person to arbitrate on the dispute
 - a process to bring the parties together to help resolve the dispute at an early stage
 - a process to ensure that all parties receive a full and fair opportunity of

Legal References

Condition — 24

presenting their case

- provision for ultimate referral of unresolved disputes to a Community Justice Centre which functions as a centre for dispute settlement.
- a review of policies and procedures which may have contributed to the dispute in order to minimise a recurrence (e.g., review the manner in which meetings are conducted, voting procedures, recording of minutes, election of office bearers etc.)
- where all attempts to resolve the dispute have failed, and the parties decide to pursue it through civil litigation, formulation of a policy on the payment of legal expenses of parties to a dispute (perhaps the policy may be to not meet such expenses).

COMMUNITY JUSTICE CENTRES

Dispute Resolution Services

CJC Directorate

Level 8, Goodsell Building, 8-12 Chifley Square, Sydney 2000
Phone: (02) 9228 7455
Fax: (02) 9228 7456
Website: www.cjc.nsw.gov.au
E-mail: cjc_info@agd.nsw.gov.au

Sydney

Level 13, 227 Elizabeth Street, Sydney 2000
Phone (02) 9262 7844
Fax: (02) 9262 7526
Toll free: 1800 671 694
TTY: 1800 671 694
E-mail: cjc_info@agd.nsw.gov.au

CJC Western Region

Level 1, Dan Allam House, 311 High Street, Penrith 2750
PO Box 168, Penrith 2750
Phone: (02) 4732 1933
Fax: (02) 4731 3578
E-mail: cjc_info@agd.nsw.gov.au

CJC Northern Region

Bolton Street (corner Church Street), Newcastle 2300
Phone: (02) 4929 1211
Fax: 4926 2420
Toll free: 1800 990 777
E-mail: cjc_info@agd.nsw.gov.au

CJC Southern Region

2nd Floor, Transport House, 1 Rawson Street, Wollongong 2500
Phone: (02) 4228 0433
Fax: (02) 4266 3630

EXTRACTS OF THE ACT

Extracts of the Act

4 Definitions

(1) In this Act:

authorised inspector means a person appointed under this Act as an inspector or a person authorised by or under this Act to exercise the functions of an authorised inspector;

authority means an authority in force under Part 2;

charitable purpose includes any benevolent, philanthropic or patriotic purpose;

conducting a fundraising appeal is defined in section 6;

fundraising appeal is defined in section 5;

organisation includes any board of trustees or other body of persons, whether incorporated or unincorporated;

participating in a fundraising appeal is defined in section 6;

registered office of a person or organisation, or branch of an organisation, that conducts fundraising appeals pursuant to an authority means the address stated in the application form referred to in section 15.

5 Meaning of fundraising appeal

(1) For the purposes of this Act, the soliciting or receiving by any person of any money, property or other benefit constitutes a fundraising appeal if before or in the course of any such soliciting or receiving, the person represents:

- (a) that the purpose of that soliciting or receiving; or
- (b) that the purpose of an activity or enterprise of which that soliciting or receiving is a part, is or includes a charitable purpose.

(2) It does not matter whether the money or benefit concerned is solicited or received:

- (a) in person or by other means (such as by post, telephone or facsimile transmission); or

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- (b) as a donation or otherwise (such as by participation in a lottery, art union or competition; by sponsorship in connection with a walkathon, telethon or other similar event; in connection with the supply of food, entertainment or services; or in connection with any other goods or commercial undertaking).
- (3) The following does not, however, constitute a fundraising appeal for the purposes of this Act:
 - (a) a request for, or the receipt of, an amount required in good faith as the fee for renewal fee of membership of an organisation;
 - (b) an appeal by an organisation to (or the receipt of money or a benefit from) members of an organisation;
 - (c) a request that any property be devised or bequeathed, or the giving of any information as to the means by which any property may be devised or bequeathed;
 - (d) an appeal conducted exclusively or predominantly among persons sharing a common employer or place of work by one of those persons (being an appeal for a charitable purpose connected directly with another of those persons or any such other person's immediate family) and the receipt of money or a benefit from any such appeal;
 - (e) an appeal to (or the receipt of money or a benefit from) any Commonwealth, State or local government authority;
 - (f) any other thing prescribed by the regulations.

6 Meaning of “conducting” or “participating in” a fundraising appeal

- (1) For the purpose of this Act, a person conducts a fundraising appeal if the person organises the appeal, whether alone or with others, whether in person or by an agent or employee and whether on his or her own behalf or as an officer or member of the governing body of an organisation.
- (2) For the purposes of this Act, a person participates in a fundraising appeal if the person solicits or receives any money, property or other benefit, in the course of the appeal, or assists in organising the appeal.
- (3) For the purposes of this Act, a person who participates in a fundraising appeal does not conduct the appeal if the person participates in it solely as the agent, employee or collector (whether voluntary or not) of another person who is conducting the appeal.
- (4) For the purposes of this Act, a person does not participate in an appeal merely because the person gives any money or benefit in the course of the appeal.

11 Appeals conducted by persons engaged in business or otherwise deriving benefit

- (1) A person (in this section called a “trader”) must not conduct a fundraising appeal:
 - (a) in connection with the supply of goods or services in the course of any trade or business carried on by the person; or
 - (b) otherwise partly for the person's benefit,
 except in accordance with this section.
 Maximum penalty: 50 penalty units.
- (2) Such an appeal may be conducted in accordance with the following conditions:
 - (a) the appeal must be conducted jointly by the trader and a person or organisation that holds an authority to conduct the appeal;
 - (b) any advertisement, notice or information concerning the appeal must identify the trader and the holder of the authority;
 - (c) any such advertisement, notice or information must give details (to the extent required by the conditions of the authority) of the intended distribution of funds raised in the appeal or of any guaranteed minimum payment, or proportion of profits, to be paid by the trader to any person or organisation as a result of the appeal.

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A penalty unit = \$110

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- (3) Nothing in this section affects the Minister's discretionary power to attach any other condition to an authority.

13 False statements etc.

- (1) A person who:
- in an application or notice made or given under this Act; or
 - in any record or document relating to a fundraising appeal, makes any statement that the person knows, or could reasonably be expected to know, is false or misleading in a material particular is guilty of an offence.

Maximum penalty: 50 penalty units or imprisonment for 6 months, or both.

- (2) A person:
- who is conducting or is proposing to conduct a fundraising appeal; or
 - who is acting on behalf of a person who is conducting or is proposing to conduct a fundraising appeal, must not represent to an employee, agent or collector (whether voluntary or not) that any thing required or permitted by this Act to be done, or any condition precedent to a fundraising appeal to be complied with, has been done or complied with when in fact it has not.

Maximum penalty: 50 penalty units or imprisonment for 6 months or both.

18 Duration of authority

- Unless sooner revoked, an authority remains in force for the period specified in the authority.
- If the authority does not specify such a period, the authority remains in force until revoked.

19 Conditions of authority

- The Minister may attach to an authority any condition that, having regard to the purposes of this Act and the public interest, the Minister thinks ought to be imposed in the particular case.
- The conditions for the time being attached to an authority may be varied by the Minister by notice in writing served on the holder of the authority.
- For the purposes of this Act:
 - the imposition of a condition on an authority to which no conditions were previously attached; or
 - the imposition of any new condition on an authority; or
 - the amendment of a condition of an authority; or
 - the removal of a condition of an authority, is a variation of its conditions.

20 Proceeds of appeal

- Any money or benefit received in the course of a fundraising appeal conducted by the holder of an authority is to be applied according to the objects or purposes represented by or on behalf of the persons conducting the appeal as the purposes or objects of the appeal.
- Subsection (1) does not operate:
 - so as to prevent the deduction of lawful and proper expenses in accordance with the authority under which the appeal is conducted; or
 - so as to prejudice the operation of the Dormant Funds Act 1942 or of any Act or law relating to the cy pres application or other application of trust money.
- The regulations may specify, or make provision for or with respect to the determination (by the decision of the Minister or otherwise) of, what constitutes a lawful and proper expense in connection with particular fundraising appeals or any class or description of fundraising appeals or fundraising appeals generally.
- Any Act or law relating to the cy pres application or other application of trust money applies to any money (not being trust money) that is subject to subsection (1).
- Money or any benefit received in the course of a fundraising appeal may be applied

outside New South Wales except to the extent that:

- (a) to apply it in that way would contravene subsection (1) or any other law; or
 - (b) the Minister, having regard to the public interest, prohibits the application of any such money or benefit by a condition of an authority authorising the appeal concerned.
- (6) Any money received in the course of a fundraising appeal, before the deduction of any expenses, is to be paid immediately into an account at a bank or building society or at any other institution prescribed (or of a class prescribed) by the regulations. The account is to consist only of money raised in the fundraising appeal concerned, or in that and other such appeals conducted by the same persons. The account is to be kept in the name of or on behalf of the person conducting the appeal and is to be operated by not fewer than 2 persons jointly. This subsection, however, has effect subject to the conditions of any particular authority.
- (7) A person conducting a fundraising appeal, or any member of the governing body of an organisation on whose behalf such an appeal is conducted, who:
- (a) by act or omission is in any way directly or indirectly concerned in or party to a contravention of this section; or
 - (b) aids, abets, counsels or procures a contravention,
- is guilty of an offence.
- Maximum penalty: 50 penalty units or imprisonment for 6 months, or both.
- (8) A person convicted of an offence under this section in connection with a fundraising appeal conducted on behalf of an organisation is, in addition to any liability for the offence, liable to the organisation for the loss incurred by the organisation as a result of the offence.
- (9) An amount for which a person is liable under subsection (8) may be recovered by the organisation concerned as a debt in any court of competent jurisdiction.

21 Investment

- (1) Money received in the course of fundraising appeal which is not immediately required to be applied to the purposes or objects of the appeal may be invested only in a manner for the time being authorised by law for the investment of trust funds.
- (2) This section is subject to the provisions of the Public Authorities (Financial Arrangements) Act 1987 or any other Act which confers special powers of investment on the person or organisation concerned.

22 Keeping of records

- (1) A person or organisation that conducts or has conducted a fundraising appeal must keep, in accordance with this section, records of income and expenditure in relation to each such appeal.
- (2) The records must:
 - (a) be kept in writing in the English language or so as to enable the records to be readily accessible and readily convertible into writing in the English language; and
 - (b) include any particulars required by the regulations; and
 - (c) subject to the conditions of any authority, be kept at all times at the registered office of the person conducting the appeal; and
 - (d) be kept for a period of at least 7 years (or such shorter period as the Minister may approve) after the receipt of the income or the incurring of the expenditure to which they relate.
- (3) A person or organisation that contravenes this section is guilty of an offence. In the case of an unincorporated organisation, every trustee or other person who is a member of the governing body of the organisation is guilty of an offence.

Maximum penalty: 50 penalty units.

23 Periodic return by holder of authority (other than incorporated organisation)

- (1) A natural person or unincorporated organisation that for the time being holds an authority to conduct a fundraising appeal must send to the Minister returns giving details of the application of the proceeds of any fundraising appeals conducted by the person or organisation since the last such return was furnished (or, if no such return have lodged previously, since the authority was granted).
- (2) The returns are to be sent at such intervals as may be specified in the authority, at such time as the authority may be so specified (or within such further time as the Minister may allow).
- (3) Each such return is to be in a form approved by the Minister and must show:
 - (a) the gross amounts received from each such appeals; and
 - (b) the net amount received after the deduction of expenses.
- (4) A person or organisation that contravenes this section is guilty of an offence. In the case of an unincorporated organisation, every trustee or every other person who, at the time of the offence, was a member of the governing body of the organisation is guilty of an offence.

Maximum penalty: 50 penalty units

24 Audit

- (1) The accounts of any person or organisation that for the time being holds an authority to conduct a fundraising appeal, in so far as those accounts relate to income and expenditure in connection with any such appeals, must be audited annually by a person qualified to audit accounts for the purposes of the Corporations Act 2001 of the Commonwealth or having other qualifications or experience approved by the Minister.
- (2) The auditor must report on:
 - (a) whether the accounts show a true and fair view of the financial result of fundraising appeals for the year to which they relate; and
 - (b) whether the accounts and associated records have been properly kept during the year in accordance with this Act and the regulations; and
 - (c) whether money received as a result of fundraising appeals conducted during that year has been properly accounted for and applied in accordance with this Act and the regulations; and
 - (d) the solvency of the person or organisation.
- (3) If the auditor, in the course of the performance of his or her duties for the purposes of this section, is satisfied that:
 - (a) there has been a contravention of this Act or the regulations; and
 - (b) the circumstances are such that, in his or her opinion, the matter has not been or will not be adequately dealt with by comment in the auditor's report on the accounts or by bringing the matter to the notice of the person concerned or of the trustees or members of the governing body of the organisation concerned (as the case may be), the auditor must immediately report the matter to the Minister.
- (4) A person or organisation that fails to have accounts audited as required by this section is guilty of an offence. In the case of an unincorporated organisation, every trustee or other person who, at the time of the offence, was a member of the governing body of the organisation is guilty of an offence.

Maximum penalty: 50 penalty units.

- (5) The requirements of this section are in addition to the requirement of any other law (including the Corporations Act of the Commonwealth).
- (6) The whole or any part of a report prepared for the purposes of this section in respect of a corporation may be included in an auditor's report prepared for the purposes of the Corporations Act of the Commonwealth or any other law in respect of the corporation.

- (7) Nothing in subsection (6) is intended to provide for the inclusion of any matter in an auditor's report for the purposes of the Corporations Act 2001 of the Commonwealth or any other law of the Commonwealth if the inclusion of that matter would be contrary to the provisions of the Act or law.

26 Minister may inquire into fundraisers

- (1) The Minister may, with respect to any matter arising under this Act, inquire into any person or organisation that:
- (a) is conducting or has conducted, or is participating or has participated in, a fundraising appeal; or
 - (b) the Minister has reason to believe is conducting or has conducted, is participating or has participated in, a fundraising appeal.
- (2) The Minister may cause an inquiry under this section to be made by an authorised inspector, either with respect to a particular matter or with respect to any matter.

27 Power of Minister to require accounts etc.

- (1) For the purposes of any inquiry under this Part, the Minister or an authorised inspector may require any person to do any one or more of the following:
- (a) to furnish accounts and statements in writing with respect to any matter in question at the inquiry, being a matter about which the person has or can reasonably obtain information;
 - (b) to provide answers in writing to any questions addressed to the person on any such matter;
 - (c) to verify any such account, statement or answer by statutory declaration;
 - (d) to attend at a specified time and place and give evidence or produce documents in the person's custody or under the person's control which relate to any matter in question at the inquiry;
 - (e) to furnish copies of or extracts from any document in the person's custody or under the person's control which relates to any matter in question at the inquiry or to make any such document available for inspection.
- (2) Any requirement under this section is to be made by notice in writing served on the person concerned and specifying a reasonable time within which the requirement is to be complied with.
- (3) For the purposes of any inquiry under this Part, evidence may be taken on oath and the person conducting the inquiry may for the purpose administer oaths.
- (4) The person conducting the inquiry may take possession of the documents produced for such period as the person considers necessary for the purposes of the inquiry and may make copies of or take extracts from them. During that period the person conducting the inquiry must permit a person who would be entitled to inspect any one or more of those documents if they were not in the possession of the person conducting the inquiry to inspect at all reasonable times such of those documents as that person would be entitled to inspect.

28 Power of entry and inspection

- (1) If an authorised inspector believes on reasonable grounds that any documents relevant to an inquiry under this Part are likely to be found on any premises, an authorised inspector may:
- (a) enter the premises; and
 - (b) require production of the documents, and
 - (c) take copies of or extracts from the documents or take possession of the documents for such period as he or she considers necessary for the purposes of the inquiry.
- (2) Section 27(4) applies to documents taken under subsection (1)(c).
- (3) A power conferred by this section:
- (a) may not be exercised in relation to any premises used as a dwelling, or in relation to a part of any premises so used, except with the consent of the occupier of the

A penalty unit = \$110

- premises or part or by the authority of a search warrant; and
- (b) may be exercised only at reasonable times and on reasonable notice to the occupier of any affected premises, except where the Minister has certified that, in the circumstances, the power may be otherwise exercised (in which case it may be exercised in accordance with the Minister's directions).
- (4) A power conferred by this section may not be exercised unless the person exercising it is in possession of a certificate issued by the Minister which:
- states that it is issued under this Act; and
 - gives the name of the person to whom it is issued; and
 - describes the nature of the powers conferred; and
 - bears the signature of the Minister.
- (5) A person exercising a power to enter premises must produce his or her certificate to the occupier of the premises.
- (6) If damage is caused by a person exercising a power to enter premises, a reasonable amount of compensation is recoverable as a debt owed by the Crown to the owner of the premises unless the occupier hindered or obstructed the exercise of the power.

30 Offences in relation to inquiries

A person who:

- neglects or fails to comply with a requirement duly made by a notice under this Division within the time specified in the notice; or
- alters, destroys or conceals any document referred to in section 27(1)(e); or
- refuses to take an oath required to be taken under this Division; or
- hinder or obstructs the Minister or any authorised inspector in the exercise of his or her functions under this Division, is guilty of an offence.

Maximum penalty: 50 penalty units or imprisonment for 6 months, or both.

31 Revocation of authority

- The Minister may, by order published in the Gazette, revoke an authority if the Minister is satisfied:
 - that any fundraising appeal conducted by the holder of the authority has not been conducted in good faith for charitable purposes; or
 - that any of the persons who have conducted a fundraising appeal by virtue of the authority, or any persons associated with any such appeal, are not fit and proper persons to administer, or to be associated with, a fundraising appeal for charitable purposes; or
 - that any fundraising appeal conducted by virtue of the authority has been improperly administered; or
 - that, in connection with any fundraising appeal conducted by virtue of the authority, the provisions of this Act, or the regulations or any condition of the authority were not complied with by any person conducting or participating in the appeal; or
 - that the holder has not conducted a fundraising appeal within the previous 24 months; or
 - that, in the public interest, the authority should be revoked.
- The revocation of an authority is not stayed by lodgment of an appeal against the revocation.
- The revocation of an authority does not have effect until notice of the revocation, and of the reasons for it, is served on the holder of the authority.
- Notice of the revocation of an authority is to be published by the Minister in one or more newspapers circulating throughout New South Wales.
- If the Minister has revoked an authority, the Minister may subsequently, if the Minister thinks fit, issue a further authority (whether in the same terms or otherwise)

to the same person without the need for further application.

33 Appointment of administrator

- (1) The Minister may, by instrument in writing, appoint an administrator:
 - (a) to conduct the affairs and activities of any non-profit organisation that is conducting or has conducted one or more fundraising appeals, or that has or had as one of its objects a charitable purpose; or
 - (b) to conduct such of the affairs and activities of any other organisation that is conducting or has conducted one or more fundraising appeals as relate to the administration, application and management of funds raised in any such appeal.
- (2) An administrator is not to be appointed unless the Minister believes on reasonable grounds that,
 - (a) after the organisation has been notified by the Minister of any contravention of a provision of this Act, or a condition imposed on the organisation by or under this Act:
 - (i) the organisation has failed to remedy the contravention to the extent that it is capable of remedy; or
 - (ii) the organisation has committed a further contravention of the provision or condition; or
 - (iii) the contravention of the provision or condition has continued; or
 - (b) an examination or inquiry under this Act in relation to the organisation has disclosed reasonable grounds to suspect a misappropriation of funds of the organisation or of mismanagement of the organisation; or
 - (c) for any other reason it is in the public interest that the administrator be appointed.

34 Notice of appointment

- (1) The Minister must serve notice of the appointment of an administrator on the organisation concerned.
- (2) When a notice under this section is served on a non-profit organisation:
 - (a) the members of the governing body of the organisation cease to hold office; and
 - (b) if the notice so provides, all contracts of employment with the organisation are terminated; and
 - (c) if the notice so provides, all contracts for the provision of secretarial or administrative services to the organisation are terminated.

35 Administration

- (1) An administrator has the function of the governing body of the organisation and no appointment of a person to that body may be made while the administrator holds office, except as required by this section.
- (2) Before revoking the appointment of an administrator for an organisation (otherwise than for the purpose of appointing a new administrator), the Minister must:
 - (a) ensure that the members of the governing body of the organisation have been appointed in accordance with the constitution of the organisation; or
 - (b) appoint those members.
- (3) Members of the governing body of an organisation appointed by the Minister under this section are to be taken to have been appointed in accordance with the constitution of the organisation.
- (4) Any members so appointed:
 - (a) take office on revocation of the appointment of the administrator; and
 - (b) hold office in accordance with the constitution of the organisation concerned.

42 Appeal against refusal to grant authority or against conditions imposed on authority

An applicant for an authority who is dissatisfied with any decision of the Minister with respect to the application may apply to the Administrative Decisions Tribunal

A penalty unit = \$110

for a review of the decision.

44 Appeal against variation of authority

A person or organisation who holds an authority may apply to the Administrative Decisions Tribunal for a review of any variation of the conditions attached to the authority.

45 Hearing of appeals

The Administrative Decisions Tribunal in determining a review under this Act, is to inquire into and decide the appeal having regard to the provisions of this Act and the public interest.

47 Public access to information

- (1) A person or organisation that is (or, within the previous 12 months, was) the holder of an authority must, within 30 days after being requested to do so by any person, furnish the person with:
 - (a) any audited financial statements requested by the person concerning fundraising appeals conducted by the person or organisation concerned during its last financial year and, to the extent that the regulations so require, during previous financial years; and
 - (b) in the case of an organisation - such information as the regulations may prescribe concerning the objects and constitution (including the names and addresses of members of the governing body of the organisation) of the organisation.

Maximum penalty: 5 penalty units.

- (2) Any such information and financial statement may, at the request of any person, be supplied to the person by or on behalf of the Minister.
- (3) A person is not entitled to be supplied with information or financial statements under this section unless the person has paid any relevant fee prescribed by the regulations.

48 Remuneration of board members of charitable organisations

- (1) A person is not prohibited (despite any law to the contrary) from holding office or acting as a member of the governing body of a non-profit organisation having as one of its objects a charitable purpose merely because the person receives any remuneration or benefit from the organisation if:
 - (a) the Minister, by order published in the Gazette, has declared this section applies to that office; or
 - (b) the Minister has approved of a person who receives any such remuneration or benefit holding that office or acting in that capacity; or
 - (c) the person concerned holds that office or acts in that capacity by virtue of his or her office as a minister of religion or as a member of a religious order.
- (2) An approval under this section is subject to any conditions imposed by the Minister when giving the approval.
- (3) An approval under this section is to be in writing. Applications for such approvals must be addressed in writing to the Minister by the organisation concerned.
- (4) For the purposes of this section, every body, organisation or office referred to in section 7 (1) is taken to be a non-profit organisation having among its objects one or more charitable purposes.

49 Authorised inspectors

- (1) The Minister may appoint any person to be an inspector for the purposes of this Act.
- (2) The Minister may authorise a police officer or other person to exercise such of the functions of an authorised inspector under this Act as the Minister may direct.
- (3) The regulations may authorise police officers of or above any specified rank to exercise all or any specified functions of an authorised inspector under this Act.

51 Offences by corporations

- (1) If a corporation contravenes any provision of this Act or the regulations, each person who is a director of the corporation or who is concerned in the management of the

corporation is taken to have contravened the same provision if the person knowingly authorised or permitted the contravention.

- (2) A person may be proceeded against and convicted under a provision pursuant to subsection (1) whether or not the corporation has been proceeded against or convicted under that provision.
- (3) Nothing in this section affects any liability imposed on a corporation for an offence committed by the corporation against this Act or the regulations.

EXTRACTS OF THE REGULATION

Extracts of the Regulation

3 Definitions

In this Regulation:

authorised fundraiser, in relation to a fundraising appeal, means a person or organisation that holds an authority authorising the conduct of the appeal.

child means a person under the age of 15 years.

face-to-face collector means a person who participates in a fundraising appeal by face-to-face solicitation.

financial year, in relation to an organisation, means the financial year fixed for the organisation by its constitution or, if no financial year is fixed, the year commencing 1 July.

the Act means the *Charitable Fundraising Act 1991*.

trader means a person so described in section 11 of the Act.

5 Meaning of fundraising appeal

For the purposes of section 5 (3) (f) of the Act, a request for, or the receipt of, money from a person does not constitute a fundraising appeal if the money is wholly payable by the person as the genuine fee or charge for the provision of:

- (a) educational facilities or services, or
- (b) child-minding services, or
- (c) goods or services supplied through a sheltered workshop or through supported employment services for people with disabilities, or
- (d) nursing or medical services, or
- (e) other care or welfare services.

7 Lawful and proper expenses

(1) For the purposes of section 20 (3) of the Act, lawful and proper expenses in



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connection with fundraising appeals are those that comply with this clause.

- (2) The Minister may, subject to this clause, decide what constitutes a lawful and proper expense in respect of particular fundraising appeals or any class or description of fundraising appeals or fundraising appeals generally.
- (3) The Minister, in deciding what constitutes a lawful and proper expense, must have regard to the provisions of this clause and to:
 - (a) the type and amount of expenses generally accepted as being associated with the manner of appeal concerned, and
 - (b) whether the ratio that the amount of the expense in question bears to the gross proceeds from the appeal is reasonable in the circumstances.
- (4) The Minister's decision has effect with respect to an authorised fundraiser when it is notified to the authorised fundraiser or when it is notified in the Gazette, whichever first occurs.
- (5) An expense is not a lawful and proper expense:
 - (a) if it is prohibited under any law, or
 - (b) if it is not supported by documentary evidence or is not otherwise verifiable as being properly incurred, or
 - (c) in the case of an expense paid or incurred by an organisation that is an authorised fundraiser, if it was not properly authorised by or on behalf of the organisation.
- (6) Commissions paid or payable to any person as part of a fundraising appeal must not exceed one-third of the gross money obtained by that person in the appeal.
- (7) If a fundraising appeal is conducted with a trader, in addition to complying with the requirements of this clause, expenses must be of a type and amount provided for, or described in, a written agreement between the authorised fundraiser and the trader.

8 Particulars to be shown in records of income and expenditure

The following particulars are to be included in the records kept under section 22 of the Act in relation to each fundraising appeal:

- (a) particulars of all items of gross income received or receivable,
- (b) particulars of all items of expenditure incurred, including particulars of the application or disposition of any proceeds obtained from the appeal.

9 Identification of face-to-face collectors

While participating in a fundraising appeal, a face-to-face collector must prominently display the identification card or badge issued to the person for the purposes of the appeal.

Maximum penalty: 5 penalty units.

10 Obligations of participants

A person:

- (a) who conducts or participates in a fundraising appeal otherwise than as a face-to-face collector, such as by telephone or by mail, and
- (b) who receives a wage, commission or fee for doing so, must, whether or not required to do so by the person being solicited, disclose to that person the fact that he or she is so employed and the name of his or her employer for the purposes of the appeal.
- (c) Maximum penalty: 5 penalty units.

11 Public access to information

- (1) On request by any person under section 47 of the Act, an authorised fundraiser is required to furnish to that person a copy of the annual audited statements of fundraising appeals conducted by the authorised fundraiser during the 7 years prior to the request.
- (2) If the authorised fundraiser is an organisation, the following must also be furnished on request:

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- (a) a copy of or extract from the organisation's objects and constitution, including any amendments,
 - (b) the names, qualifications and occupations of members of the governing body of the organisation.
- (3) The maximum fee that may be charged by an authorised fundraiser for furnishing financial statements or information under section 47 of the Act is \$5.50 for the first page and 50 cents for each additional page.
 - (4) The fee for furnishing financial statements or information by or on behalf of the Minister under section 47 of the Act is \$5.50 for the first page and 50 cents for each additional page.

12 Notification of changes to particulars of authorised fundraiser

- (1) An authorised fundraiser must furnish to the Minister in writing:
 - (a) details of any change in the name, including the trading or business name, of the authorised fundraiser, and
 - (b) details of any change in the business address, postal address, address of the registered office or telephone or facsimile number of the authorised fundraiser, and
 - (c) if the authorised fundraiser is a natural person, details of any amendment, deletion or addition to the charitable objects or purposes for which the person wishes to raise funds under its authority, and
 - (d) if the authorised fundraiser is an unincorporated organisation, details of any alteration or amendment to its constitution, and
 - (e) if the authorised fundraiser is an incorporated organisation, details of any changes to its constitution with respect to:
 - (i) the charitable objects or purposes of the organisation, or
 - (ii) the non-profit nature of the organisation with respect to the disposition of funds obtained through its fundraising appeals, or
 - (iii) the disposition of funds and assets obtained from fundraising appeals to a non-profit organisation with similar or identical charitable objects or purposes in the event of a winding-up of the organisation, and
 - (f) if the authorised fundraiser is an organisation with branches that are not authorised fundraisers in their own right, details of any change in the following particulars:
 - (i) the name, including the trading or business name, of any branch,
 - (ii) the business address, the postal address, the address of the registered office and the telephone and facsimile numbers of any branch,
 - (iii) any branch that is no longer under the direction and control of the governing body of the applicant organisation,
 - (iv) any branch that has ceased to operate, and
 - (g) details of any change to the incorporated status of the authorised fundraiser, and
 - (h) the following details if there have been any modifications to the particulars of an existing trader, or if a new trader has been engaged:
 - (i) if the trader is a natural person, the person's name, business and postal address and telephone and facsimile numbers,
 - (ii) if the trader is an organisation, its full name (together with any trading or business name), its business and postal addresses and its telephone and facsimile numbers,
 - (iii) if the trader is an organisation, the full name of each director and owner of the trade or business,
 - (iv) the period for which the trader is authorised to conduct the appeal according to the written contract,

- (v) the type of appeal or appeals to be undertaken, and
- (i) details of any change in the name, address or telephone or facsimile number of the auditor (but this requirement does not apply if such particulars have been previously provided as part of any other application or notification), and confirmation of any decision by the authorised fundraiser to cease to conduct fundraising appeals.

Maximum penalty: 20 penalty units.

- (2) An authorised fundraiser must furnish any information required by this clause within 28 days (or within such further time as the Minister may allow) after the change or event requiring the furnishing of the information.

Maximum penalty: 20 penalty units.

- (3) This clause does not require an authorised fundraiser to notify the Minister of any change that has previously been notified, whether in a notice furnished under this clause or in the authorised fundraiser's most recent application for an authority.

13 Return of authority to Minister

A person or organisation having possession of an authority must return the authority to the Minister in either of the following circumstances:

- (a) if the authority has been revoked, in which case it is to be returned not later than one month after the date of the decision to revoke it,
- (b) if the authorised fundraiser has ceased to exist, in which case it must be returned not later than one month after the fundraiser has ceased to exist.

Maximum penalty: 20 penalty units.

14 Police authorised to act as inspectors

For the purposes of section 49 (3) of the Act, any police officer:

- (a) who holds rank of sergeant or above, or
- (b) who acts in the capacity of a police officer holding rank of sergeant or above, is authorised to exercise the functions of an authorised inspector under the Act.

AUTHORITY CONDITIONS

Standard Authority Conditions

SCHEDULE 1: CONDITIONS APPLYING TO CERTAIN AUTHORITIES

1 Compliance with best practice guidelines

As far as practicable, the authority holder should observe the relevant or appropriate best practice described in the publication *Best Practice Guidelines for Charitable Organisations*. Alternative practices may be employed where they provide similar standards of accountability.

2 Internal controls

Proper and effective controls must be exercised by an authority holder over the conduct of all fundraising appeals, including accountability for all income or articles received from any appeal and expenditure incurred.

3 Safeguarding of assets

An authority holder must ensure that all assets obtained during, or as a result of, a fundraising appeal are safeguarded and properly accounted for.

4 Maintenance of proper books of account and records

- (1) An authority holder must maintain such books of account and records as are necessary to ensure proper accountability for all fundraising appeals, including the following documents:
 - (a) a cash book for each account held with a bank, building society or credit union (including any passbook account) into which proceeds from any fundraising appeal are deposited or invested,
 - (b) a register of assets,
 - (c) a register recording details of receipt books or computerised receipt stationery,
 - (d) a register recording details of tickets or computerised ticket stationery,

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- (e) a petty cash book (if petty cash is used).
- (2) If the authority holder is an organisation, a minute book must be kept containing minutes of all business relating to fundraising appeals that is transacted by the governing body of the organisation (or by any subcommittee of that governing body) and any general or extraordinary meeting of its general membership.
- (3) If the authority holder engages persons to participate (whether on a paid or voluntary basis) in a fundraising appeal, it must keep a register of participants.

5 Report on outcome of appeal or appeals

- (1) An authority holder that is a person must send a section 23 return to the Minister within one month after the close of each appeal conducted by the person.
- (2) An authority holder that is an unincorporated organisation must send a section 23 return to the Minister if in any financial year the gross income from appeals conducted by it exceeds \$20,000:
- (a) within 3 months after the audited financial statements are adopted at its annual general meeting, or
- (b) within 7 months after the conclusion of each financial year, whichever occurs sooner.
- (3) An authority holder that is an incorporated or unincorporated organisation must send a return to the Minister within 2 months after its authority expires or otherwise ceases to have effect or, if the organisation ceases to conduct appeals, within 2 months after it ceases to conduct appeals.
- (4) In this clause, *section 23 return* means a return referred to in section 23 of the Act.

6 Maintenance of an account

- (1) The title of the account into which the gross proceeds from any fundraising appeal are to be paid in accordance with section 20 (6) of the Act must include the name of the authority holder.
- (2) If a fundraising appeal is conducted jointly between the authority holder and a trader, and the trader maintains an account for the purposes of section 20 (6) of the Act, the account is to consist only of money raised in the fundraising appeal conducted on behalf of that fundraiser and no other.
- (3) Disbursement from the account in amounts of \$200 or more must be by cheque drawn on the account, unless the particular conditions of the authority otherwise provide.

7 Annual financial accounts

- (1) The annual accounts of an authority holder that is an organisation must contain:
- (a) a statement of income and expenditure of all fundraising appeals conducted during the financial year, and
- (b) a balance sheet that includes all assets and liabilities resulting from the conduct of fundraising appeals as at the end of the financial year.
- (2) The annual accounts of an authority holder that is an organisation must also contain the following information as notes accompanying the statement of income and expenditure and the balance sheet if in any financial year the gross income from fundraising appeals exceeds \$20,000:
- (a) details of the accounting principles and methods adopted in the presentation of the financial statements,
- (b) information on any material matter or occurrence, including those of an adverse nature such as an operating loss from fundraising appeals,
- (c) a statement:
- (i) that describes the manner in which the net surplus or deficit obtained from fundraising appeals for the period was applied, and
- (ii) that distinguishes between amounts spent on direct services in accordance with the charitable objects or purposes for which the authority was granted, recurrent costs of administration and any other significant purposes (including

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- transfers to reserves or accumulated funds),
- (d) details of aggregate gross income and aggregate direct expenditure incurred in appeals in which traders were engaged,
 - (e) a list of all forms of fundraising appeals conducted by the authority holder during the period covered by the financial statements,
 - (f) the following comparisons (expressed in each case both as a monetary figure and as a ratio or percentage):
 - (i) a comparison of the total costs of fundraising to the gross income from fundraising,
 - (ii) a comparison of the net surplus from fundraising to the gross income from fundraising,
 - (iii) a comparison of the total costs of services provided by the authority holder to the total expenditure,
 - (iv) a comparison of the total costs of services provided by the authority holder to the total income received.
- (3) The statement of income and expenditure for fundraising appeals must show:
 - (a) the aggregate gross income received, and
 - (b) the total expenditure associated with all fundraising appeals, and
 - (c) the net operating surplus or deficit.
 - (4) The annual accounts of an authority holder that is an organisation are to include a declaration by the President or principal officer or some other responsible member of the governing body of the organisation stating whether, in his or her opinion:
 - (a) the accounts give a true and fair view of all income and expenditure of the organisation with respect to fundraising appeals, and
 - (b) the balance sheet gives a true and fair view of the state of affairs with respect to fundraising appeals conducted by the organisation, and
 - (c) the provisions of the Act, the regulations under the Act and the conditions attached to the authority have been complied with by the organisation, and
 - (d) the internal controls exercised by the organisation are appropriate and effective in accounting for all income received and applied by the organisation from any of its fundraising appeals.
 - (5) If the organisation is a company incorporated under the *Corporations Act*, the declaration above is required in addition to the directors' declaration provided under section 295 of the *Corporations Act*.
 - (6) The annual accounts of an authority holder that is an organisation, after being audited in accordance with the provisions of section 24 of the Act or otherwise according to law, are to be submitted to an annual general meeting of the membership of the organisation within 6 months after the conclusion of the financial year.
 - (7) The requirements of this clause do not oblige an authority holder that is an organisation to reproduce information that is already contained in its annual financial statements, but merely requires the information to be separately itemised or to be shown as notes to its profit and loss accounts or its balance sheets.
 - (8) The requirements of this clause are subject to the particular conditions of the authority concerned.

8 Ratio of expenses to receipts

- (1) An authority holder conducting a fundraising appeal for donations only (that is, without any associated supply of goods or services) must take all reasonable steps to ensure that the expenses payable in respect of the appeal do not exceed 40 per cent of the gross proceeds obtained, whether the appeal is conducted house-to-house, in a public place, by telephone canvassing or in any other manner.
- (2) An authority holder conducting a fundraising appeal otherwise than for donations only (that is, with associated supply of goods or services) must take all reasonable

steps to ensure that the expenses payable in respect of the appeal do not exceed a fair and reasonable proportion of the gross proceeds obtained.

- (3) For the purposes of this clause, giving a person who donates to a fundraising appeal a badge, sticker, token or other thing in acknowledgment of the person's donation is not a supply of goods.

9 Receipting requirements

- (1) Receipts are to be written or issued immediately for all money received, even when not requested by the donor, except where:
- (a) the money is received through a collection box or similar device, or
 - (b) the money is received through the supply of goods or services, or
 - (c) the particular conditions of the authority provide otherwise.
- (2) Receipts used by a trader must be only those authorised and issued to the trader by the authority holder, details of which must be recorded in registers maintained by the trader and the authority holder.
- (3) Effective controls must be exercised over the custody and accountability of receipts, including the following documents:
- (a) each receipt must be consecutively numbered as part of an ongoing series,
 - (b) each receipt (not being a ticket) must have the name of the authority holder printed on it.
- (4) If collection boxes or similar devices are employed for monetary donations, it is sufficient to issue a single receipt for the total proceeds cleared from each such box or device.
- (5) The gross money received by any participant in a fundraising appeal must be counted in the presence of the participant and a receipt must then be issued to the participant for that amount.
- (6) For the purposes of this clause, giving a person who donates to a fundraising appeal a badge, sticker, token or other thing in acknowledgment of the person's donation is not a supply of goods.
- (7) If the money is received through a payroll deduction scheme, it is sufficient to issue a receipt to the donor for the aggregate of money received during the preceding period at intervals not greater than 12 months provided the following procedures and controls are complied with:
- (a) the amount of money deducted through the payroll deduction scheme is recorded by the employer on the employee's payroll advice slip together with the name of the authority holder, and
 - (b) the employer must immediately remit the amount so deducted to the authority holder together with a statement showing the name of the employee and the amount, and
 - (c) after receiving the money from the employer, the authority holder must immediately write or issue a receipt to the employer for that money (the receipt must show the name of the employer and explain that it is for money received under a payroll deduction scheme), and
 - (d) the authority holder must maintain a record of donations received from each donor under the payroll deduction scheme, which must be reconciled on a regular basis to the total amount received.
- (8) If the money is deposited directly by the donor into a special account established at a bank, building society or credit union or at any other institution prescribed (or of a class prescribed) by the regulations, it is sufficient for the receipt to take the form of a deposit slip which is issued by the receiving bank, building society or credit union or any other prescribed institution provided the following procedures and controls are complied with:
- (a) the deposit slip shows the name of the bank, building society or credit union or any other prescribed institution, and

- (b) the deposit slip shows the donor's name and address, the date of receipt, and the amount of money received, and
 - (c) at regular intervals, the bank, building society or credit union or any other prescribed institution provides to the authority holder a verification schedule which details the name and address of the donor, the date and the amount of money received.
- (9) If the money is received directly by means of a periodical payment authorised through a donor's bank, building society or credit union or any other prescribed institution, it is sufficient for the authority holder to issue a receipt to the donor for the aggregate amounts received through the periodical payment at intervals not greater than 12 months.
- (10) For the purposes of this clause, a receipt is taken to include a ticket.

10 Record systems for items used in fundraising appeals

A record system must be instituted and maintained for:

- (a) all identification cards or badges issued to participants in a fundraising appeal, by which a number assigned to and shown on each card or badge is correlated with the name of the person to whom it was issued, the date of issue and the date it was returned, and
- (b) all receipt books used in a fundraising appeal, by which a number assigned to and shown on each book is correlated with the name of the person to whom it was issued, the date of issue and the date it was returned, and
- (c) all collection boxes or similar devices used in a fundraising appeal for monetary donations, by which a number assigned to and shown on each box or device is correlated with the name of the person to whom it was issued, the location of the box or other device, the date of issue and the date it was returned.

11 Persons conducting or participating in a fundraising appeal on behalf of an authority holder

- (1) This clause applies when an authority holder authorises a member, employee or agent as mentioned in section 9 (1) (b) of the Act.
- (2) The authorisation for a person who conducts or participates in a fundraising appeal otherwise than as a face-to-face collector:
 - (a) must be in writing, and
 - (b) must include the person's name, and
 - (c) must include the terms and conditions under which the authorisation is granted, and
 - (d) must include a description of the appeal or appeals to be undertaken, and
 - (e) must indicate the specific period for which the authorisation will apply, including the issue and expiry dates, and
 - (f) must be signed and dated by the authority holder (or a delegate of the authority holder or its governing body), and
 - (g) must be recovered by the authority holder from the person as soon as the person's authorised involvement in the appeal has ended.
- (3) The authorisation for a person who participates in a fundraising appeal as a face-to-face collector:
 - (a) must be in the form of an identification card or badge, and
 - (b) must be consecutively numbered, and
 - (c) must include the name of the authority holder and a contact telephone number, and
 - (d) must include the name of the face-to-face collector, and
 - (e) if the face-to-face collector is in receipt of a wage, commission or fee for services, must include the words "paid collector" and the name of the collector's employer, and

- (f) must indicate its issue and expiry dates, and
 - (g) must be signed and dated by the authority holder (or a delegate of the authority holder or its governing body), and
 - (h) must be of sufficient size to ensure that the particulars on it may be easily read by members of the public, and
 - (i) must be recovered by the authority holder from the face-to-face collector as soon as the face-to-face collector's authorised involvement in the appeal is ended.
- (4) In an appeal conducted jointly with a trader, the person signing the authorisation for the purposes of subclause (2) (f) or (3) (g) may be the trader, but only if the trader is authorised to do so under a written agreement between the trader and the authority holder.
- (5) For the purposes of condition 11(3), members of the following community service organisations, Apex, Country Women's Association, Lions, Quota, Rotary, and Soroptimist, may use their distinctive membership badges in a fundraising appeal as a face-to-face collector, provided:
- (a) the activity is of a type generally associated with the community service organisation, and
 - (b) the name and contact telephone number of the community service organisation is appropriately shown on a banner, sign or printed information at the place of solicitation, and
 - (c) the community service organisation maintains a register of badges in accordance with clause 10(a), and
 - (d) the community service organisation recovers the badge from the member as soon as his or her involvement with the organisation is concluded.

12 Participation of children in fundraising appeals

Children may be authorised to participate in a fundraising appeal only if:

- (a) in the case of children who do not receive any wages or commission or some other material benefit (other than reimbursement for reasonable out-of-pocket expenses):
 - (i) the child has attained the age of 8 years, and
 - (ii) Part 1 of Schedule 2 is complied with, and
- (b) in the case of children who are in receipt of wages or commission or some other material benefit (other than reimbursement for reasonable out-of-pocket expenses):
 - (i) the child has attained the age of 13 years, and
 - (ii) Parts 1 and 2 of Schedule 2 are complied with.

13 Fundraising through telephone canvassing or other direct marketing

- (1) If a fundraising appeal is conducted by soliciting through "direct marketing" by means of a telephone, electronic device (such as a facsimile machine) or direct mailing, a code of practice must be established and observed by the authority holder conducting the appeal.
- (2) In all cases, the code of practice must include the following precepts:
- (a) that the authority holder must nominate a person to be responsible for ensuring the code of practice is complied with,
 - (b) that, when requested, the authority holder must identify the source from which the name, telephone number or address of the person being solicited was obtained,
 - (c) that, if any person being solicited requests the removal of his or her name from the list or database used for the purposes of the appeal, the request must be promptly complied with,
 - (d) that the name, address and telephone number of the person solicited must not be

provided or sold to any other person or organisation without first providing the person with an opportunity to refuse permission for this to be done,

- (e) that precautions must be taken to ensure that lists are securely stored and not misused and that unauthorised access to them is barred by some effective means.
- (3) If solicitation is by telephone:
- (a) unless by prior arrangement, calls may be made only between the hours of 8.00 am and 9.00 pm, and may not be made on any day observed as a public holiday throughout New South Wales, and
 - (b) callers should freely offer to call back at a more convenient time when requested to do so, and
 - (c) calls should not be made under false pretences, such as in the guise of research or market surveys, when the intent of the call is to solicit for donations or to sell goods or services, and
 - (d) callers must at all times answer honestly any questions asked of them or arrange to find answers to those questions they are unable to answer, and
 - (e) callers must provide the person being solicited a clear opportunity to accept or decline the invitation or offer and must courteously and promptly accept any refusal of the invitation or offer.
- (4) If solicitation is by means of material distributed by direct mail:
- (a) the material must indicate the source of the addressee's name and address or include a code which would facilitate the identification of that source if requested, and
 - (b) the material should contain a statement of the addressee's right to have his or her name removed from the mailing list and to have the source from which the addressee's name and address was obtained identified on request.

14 Use of collection boxes for monetary donations

- (1) If a collection box or similar device is used for monetary donations, it must be:
- (a) securely constructed, and
 - (b) properly sealed, and
 - (c) consecutively numbered, and
 - (d) clearly labelled with the name of the authority holder.
- (2) Proper supervision, security and control must be exercised over the use and clearance of the box or device.

15 Authorisation of expenditure

If the authority holder is an organisation, all payments made in connection with:

- (a) any expenditure involved with the conduct of a fundraising appeal, and
- (b) any disposition of funds and profits resulting from a fundraising appeal, must be properly authorised by or on behalf of the organisation.

16 Advertisements, notices and information

- (1) Any advertising, notice or information provided as part of a fundraising appeal:
- (a) must clearly and prominently disclose the name of the authority holder, and
 - (b) must be conducted in accordance with decency, dignity and good taste, and
 - (c) must be based on fact and must not be false or misleading, and
 - (d) must conform strictly to the provisions of any relevant law.
- (2) When requested, any person conducting or participating in a fundraising appeal must use his or her best endeavours, at all times, to answer honestly any question relating to the purpose of the appeal or the details of the appeal or to arrange to find answers to questions that he or she is unable to answer.
- (3) In particular, information is to be given as to how the gross proceeds or articles obtained in the appeal will be distributed and on other matters referred to in subclause (4) (a).

- (4) If a fundraising appeal is jointly conducted with a trader, the following additional requirements must be complied with:
- (a) any written or printed advertisement, notice or information must include:
 - (i) the full name under which the trader operates for purposes of the appeal, and details of the trader's normal place of business and telephone and facsimile numbers, and
 - (ii) details of the basis on which the benefit to be received by the authority holder is to be calculated or provided (not to be expressed as a percentage of the "net" proceeds from the appeal), and
 - (iii) details of the extent of the benefit to be obtained by the trader from the appeal (*not to be expressed as a percentage of the "net" proceeds from the appeal*), and
 - (iv) the date on which the appeal commenced, or will commence, and the date on which it will end,
 - (b) in respect of any advertisement, notice or information provided or displayed:
 - (i) the format and text of any advertisement or any notice must be approved by the authority holder, and
 - (ii) if the name of the trader is shown, it must be in the same print size as the name of the authority holder, and
 - (iii) if the logo of the authority holder is displayed, it must appear once only, and represent not more than 10 per cent of the surface area,
 - (c) for the purposes of subclause 4(b)(iii), any graphic or water mark is to be treated as a logo.
- (5) If a fundraising appeal involves the collection of donated goods or materials any written or printed advertisement, notice or information in connection with the appeal must include particulars of what will happen to the goods or materials collected.
- (The following are by way of example only —*
- Where an authority holder conducts a clothing appeal —*
- Example 1. Donated clothing is given away to needy people or sold. The proceeds of sales are paid into the funds of the charity to enable it to undertake its welfare projects.*
- Example 2. On average 5% of the donated clothing is in good condition and is given away to needy people or sold in opportunity shops; 95% is reprocessed into a variety of different items which are sold and the proceeds (after deducting collection and reprocessing costs) paid into the funds of the charity to enable it to undertake its welfare projects and to pay for administrative overheads.*
- Example 3. All the donated goods and services will be sold to Charity Family Industries Inc., to be reprocessed into a variety of different items such as industrial or domestic wipes, or sound absorbing wadding in vehicles.*
- Where a trader conducts a clothing appeal on behalf of an authority holder —*
- Example 4. The donated goods and materials become the property of, will be sold by, and the proceeds of sale paid to ABC Traders Pty Ltd. From these proceeds ABC Traders Pty Ltd will pay \$... per bin per month to XYZ Charity Inc.)*
- (6) If a fundraising appeal is jointly conducted with a trader and involves the collection of donated goods or materials, for the purposes of subclause (4)(a)(ii) the benefit to the authority holder is to be expressed as:
- (a) an average overall percentage benefit to the authority holder expressed as a percentage of the gross income derived from the goods or materials collected, and
 - (b) an average dollar amount per bin per month where the collection device is a bin, and
 - (c) when describing the percentage and the amount required under subclauses (a) and (b), there must also be a description of the period of time for which those

figures have been calculated, and

(By way of example only, “The return to XYZ Charity Inc from the sale of donated goods or materials yields \$50 per bin per month which is equivalent to 25% of the gross income from the clothing bin. These figures are based on the financial position in respect of the 12 month period ended 31 October 1998”).

- (d) these references must be reviewed and updated whenever there is a significant change, but otherwise at intervals of not greater than 12 months after the commencement of the appeal.
- (7) If a fundraising appeal involves the collection of donated goods or materials, the following additional requirements apply where a clothing collection uses a clothing collection bin:
- (a) where the clothing collection is conducted by the authority holder jointly with a trader:
- (i) a notice which bears the logo of the Department of Gaming and Racing must be continuously displayed on the chute of the bin stating the words “COMMERCIALY OPERATED”, and
- (ii) the notice to be displayed must be only of the type that is purchased from the Department of Gaming and Racing, or
- (b) where a clothing collection is conducted by the authority holder:
- (i) a notice which bears the logo of the Department of Gaming and Racing must be continuously displayed on the chute of the bin stating the words “CHARITY OPERATED”, and
- (ii) the notice to be displayed must be only of the type that is obtained from the National Association of Charitable Recycling Organisations or purchased from the Department of Gaming and Racing.
- (8) If a fundraising appeal involves the collection of donated goods or materials, the following additional requirements apply where a clothing collection uses a rag bag:
- (a) where the clothing collection is conducted by the authority holder jointly with a trader:
- (i) the wording on the bag or on a leaflet distributed with the bag must include the words “COMMERCIALY OPERATED”, and
- (ii) must be displayed in such a place on the bag or the leaflet distributed with the bag that it would be reasonable to expect that a person reading the bag or the leaflet would notice, or
- (b) where a clothing collection is conducted by the authority holder:
- (i) the wording on the bag or on a leaflet distributed with the bag must include the words “CHARITY OPERATED”, and
- (ii) must be displayed in such a place on the bag or the leaflet distributed with the bag that it would be reasonable to expect that a person reading the bag or the leaflet would notice, and
- (c) for the purposes of subclauses (a) and (b) the words “COMMERCIALY OPERATED” and “CHARITY OPERATED” must be printed with the following character specifications:
- (i) font style — helvetica, arial or similar font,
- (ii) case — all capitals,
- (iii) size — not less than 5 millimetres in height, and
- (d) the notice and words described in subclauses (a) and (b) must be in the following form, and must be printed in black and white:

**COMMERCIALY
OPERATED**

**CHARITY
OPERATED**

17 Appeals for donated goods

- (1) If a fundraising appeal involves the collection of donated goods or material jointly with a trader, the following requirements must be complied with:
 - (a) if the collection device is a bin:
 - (i) each bin must be consecutively numbered, and the number displayed in a prominent manner on the bin, and
 - (ii) if there is more than one bin used in connection with the appeal, there must be a reference on the bin to the total number of bins currently used in connection with the appeal, and this reference must be reviewed and updated whenever there is a significant change in the number of bins in use but otherwise at intervals of not greater than 12 months after the commencement of the appeal, and
 - (iii) a record of bins must be maintained by the trader that includes the date, number and location of each bin, and
 - (iv) at least once a month, a report that schedules the date, number and location of each bin is required to be provided by the trader to the authority holder,
 - (b) if the collection device is a collection bag:
 - (i) a record must be maintained by the trader that includes the date, the locality and the number of bags distributed as part of the appeal, and
 - (ii) at least once a month, a report that schedules the date, the locality and the number of bags distributed as part of the appeal is required to be provided by the trader to the authority holder.
- (2) If the appeal is for the collection of articles of clothing, a record of the appeal must be maintained by the trader, which must include the date and aggregate gross weight of unsorted clothing obtained from the appeal, particulars of which must be included in a monthly report to the authority holder.

18 Appeal connected with sale of goods or provision of services

If a trader conducts a fundraising appeal involving the supply of goods or services, records of the goods and services supplied must be maintained by the trader, which (in the case of goods for sale) must include the date and number of units purchased or manufactured, together with their cost, the date and number of units sold and the gross proceeds obtained.

19 Lotteries and games of chance

If a fundraising appeal involves a lottery or game of chance, in addition to complying with the requirements of the Act and the conditions of the authority, the authority holder must also comply with the provisions of the *Lotteries and Art Unions Act 1901* and any regulations under that Act.

20 Agreement with trader

- (1) If a fundraising appeal is conducted jointly with a trader, the return to the authority holder must be fair and reasonable and governed by a written agreement between the authority holder and the trader.
- (2) Such an agreement must include at least the following particulars:
 - (a) the amount of the return to be obtained by the authority holder from the appeal, or the basis or method by which this will be calculated, and the manner in which payment will be effected,
 - (b) details of any commission, wage or fee payable to the trader and any other persons from the proceeds of the appeal,
 - (c) details of the type, and any limitation on the amount, of expenses to be borne by the trader and the authority holder as part of the appeal,
 - (d) the basic rights, duties and responsibilities of both parties,
 - (e) insurance risks to be covered by each party (for example, public liability, workers compensation for employees, personal accident insurance for volunteers, third party property insurance),
 - (f) details of any records and documentation to be maintained by the trader

Extracts of the Road Transport (General) Act

road means an area that is open to or used by the public and is developed for, or has as one of its main uses, the driving or riding of motor vehicles.

road related area means:

3 (1) (a) an area that divides a road, or

(b) a footpath or nature strip adjacent to a road, or

(c) an area that is open to the public and is designated for use by cyclists or animals, or

(d) an area that is not a road and that is open to or used by the public for driving, riding or parking vehicles, or

(e) a shoulder of a road, or

(f) any other area that is open to or used by the public and that has been declared under section 9 to be an area to which specified provisions of this Act or the regulations apply.

9 (1) The Minister may declare, by order published in the Gazette, that the road transport legislation, or any specified provision of the road transport legislation:

(a) applies to a specified area of the State that is open to or used by the public, or

(b) does not apply to a specified road or road related area.

(2) The declaration has effect until it is revoked, or for the period specified in the declaration..

(including those required by or under the Act) and the requirement that the trader keep these at the registered office of the authority holder, unless provided for otherwise by a condition attached to the authority,

- (g) details of the specific internal controls and safeguards to be employed to ensure proper accountability for all proceeds obtained during the appeal,
- (h) the process to be followed in resolving disputes between the parties to the contract or agreement, complaints from the public and grievances from employees,
- (i) the reporting requirements imposed on the trader, an undertaking by the trader to comply with the provisions of the Act, the regulations under the Act and the conditions of the authority,
- (k) a mechanism to deal with the effect on the contract of any subsequent addition, variation or deletion of an existing condition of the authority,
- (l) the circumstances in which the contract is or may be terminated.

21 Management

If the authority holder is an organisation:

- (a) it must be administered by a governing body of not fewer than 3 persons, and
- (b) all business transacted by the governing body must be properly recorded in the organisation's minutes.

22 Circumstances under which records may be kept at a place other than the registered office

Records may be removed from the registered office for either of the following reasons:

- (a) to be taken into the custody of the auditor for purposes of audit,
- (b) any other purpose required by law or by a condition of the authority.

23 Conflicts of interest

If the authority holder is an organisation, it must establish:

- (a) a register of pecuniary interests, and
- (b) a mechanism for dealing with any conflicts of interest that may occur involving a member of the governing body or an office-holder or employee of the organisation.

24 Internal disputes

If the authority holder is an organisation, its constitution must establish a mechanism for resolving internal disputes within the membership of the organisation.

25 Complaint handling mechanism

The authority holder must provide a mechanism that will properly and effectively deal with complaints made by members of the public and grievances from employees.

26 Retention of records

Unless otherwise approved by the Minister, all entries made in any record required to be kept by this Schedule must be maintained:

- (a) in the case of accounting records, for a period of at least 7 years, and
- (b) in any other case, for a period of at least 5 years.

27 Soliciting from occupants of motor vehicles

- (1) A fundraising appeal must not be conducted by soliciting persons occupying motor vehicles while they are being driven on a road or road related area (including motor vehicles that are temporarily stopped for any reason, such as at traffic lights or at an intersection).
- (2) In this clause:

road means a road within the meaning of the *Road Transport (General) Act 1999* (other than a road that is the subject of a declaration made under section 9 of that Act).

road related area means a road related area within the meaning of the *Road*

Transport (General) Act (other than a road related area that is the subject of a declaration made under section 9 of that Act).

SCHEDULE 2—CONDITIONS RELATING TO PARTICIPATION OF CHILDREN IN FUNDRAISING APPEALS

Part 1 General

1 Application of this Part

- (1) In this Schedule, a child who participates in a fundraising appeal is referred to as a *child participant*.
- (2) This Part prescribes conditions with respect to the participation of children in fundraising appeals, whether or not a child participant receives a wage or commission or is in receipt of some other material benefit (other than reimbursement of reasonable out-of-pocket expenses) in respect of the appeal.
- (3) An authority holder conducting an appeal:
 - (a) must ensure that the requirements of this Schedule are complied with in relation to any child participating in the appeal, and
 - (b) must take all reasonable steps to ensure that any child participating in the appeal complies with the requirements of this Schedule.

2 Parental consent and contact

- (1) An authority holder that proposes to allow a child to participate in an appeal conducted by it:
 - (a) must take all reasonable steps to notify a parent of the child of its proposal before allowing the child to participate in the appeal, and
 - (b) must not allow the child to participate in the appeal if a parent of the child notifies it that the parent objects to the child participating in the appeal.
- (2) The person or organisation conducting the appeal must take all reasonable steps to ensure that a child participant is able to contact his or her parents, guardian or any other person responsible for the child during the appeal.
- (3) In this clause, *parent*, in relation to a child, includes any guardian or other person responsible for the child.

3 Supervision

- (1) A child participant must be adequately supervised having regard to the age, sex and degree of maturity of the child.
- (2) A supervisor may supervise no more than 6 children.
- (3) A supervisor must be in close proximity to a child participant, must know the whereabouts of the child and must make contact with the child at intervals not greater than 30 minutes.
- (4) In the case of a child participant less than 11 years of age, the supervisor must be in constant contact with the child.

4 Working in pairs

Children participating in a fundraising appeal must work at least in pairs.

5 Endangering of child

An authority holder conducting an appeal must ensure that the physical and emotional well-being of a child participant are not put at risk.

6 Insurance

Appropriate insurance must be secured for a child participant, together with any other insurance required to protect the interests of the child against any claim which could be brought against the child for property damage, public risk liability and other such risks.

7 Entry of private homes, and dealing with persons in motor vehicles, prohibited

An authority holder conducting an appeal must take all reasonable steps to ensure that a child participant:

- (a) does not enter a private dwelling when soliciting door-to-door, and
- (b) does not solicit, sell or collect from a person in a motor vehicle.

8 Hours of participation

- (1) A child participant may not participate in a fundraising appeal for more than 4 hours on any school day (that is, a day on which the child is required to attend school).
- (2) On days other than school days, a child participant must not participate in a fundraising appeal for more than 6 hours.
- (3) A child participant must not participate in a fundraising appeal on more than 5 days per week.
- (4) If participating in a fundraising appeal outdoors, a child participant must not start before sunrise and must not finish later than sunset.
- (5) A child participant must not be required or permitted to participate in a fundraising appeal later than 8.30 pm if the following day is a school day.

9 Minimum breaks between successive shifts etc

A child participant must not be required or permitted to participate further in a fundraising appeal without receiving a minimum break of 12 hours.

10 Maximum loads for lifting

A child participant must not be required or permitted to lift any weight that, having regard to the age and condition of the child, would be likely to be dangerous to the health of the child.

11 Food and drink

- (1) An authority holder conducting an appeal must take all reasonable steps to ensure that a child participant receives appropriate and sufficient nutritious food.
- (2) Food should be available to a child participant at reasonable hours and drinking water at all times.

12 Toilet facilities

Toilet, hand-washing and hand-drying facilities must be accessible to each child participating in a fundraising appeal.

13 Travel

- (1) A child participant must be accompanied:
 - (a) by a person responsible for the child, or
 - (b) by an adult authorised by a person responsible for the child, when the child is travelling home after his or her participation in the appeal is finished.
- (2) This clause does not apply:
 - (a) if the child is more than 12 years old, and
 - (b) if the distance to the child's home is less than 10 kilometres, and
 - (c) if public transport is available, and
 - (d) if the journey is to be completed within daylight hours.

14 Protection from the elements

A child participant is to be adequately clothed and otherwise protected from extremes of climate or temperature.

15 Punishment prohibited

A child participant is not to be subjected to any form of corporal punishment, social isolation or immobilisation or subjected to any other behaviour likely to humiliate or frighten the child.

Part 2 Additional requirements-if child receives a wage or other benefit

16 Application of this Part

This Part prescribes additional conditions with respect to the participation of children in fundraising appeals, in circumstances in which a child participant receives a wage or commission or is in receipt of some other material benefit (other than reimbursement of reasonable out-of-pocket expenses) in respect of the appeal.

17 Letter of appointment

- (1) A letter of employment or engagement must be issued to a child participant, being a letter containing details of the terms and conditions under which he or she is employed or engaged.
- (2) The letter must include:
 - (a) details of the basis or method on or by which payment of wages or commission or some other material benefit will be calculated or provided, including details of any guaranteed minimum payment or benefit, and
 - (b) the method by which payment will be effected, and
 - (c) the general conditions of employment, and
 - (d) the rights of the employee.

18 Record of employment

- (1) A record of employment must be maintained for each child participant employed or engaged.
- (2) The record must include the following particulars with respect to the child:
 - (a) the child's full name, residential address and telephone number (if any),
 - (b) the child's date of birth,
 - (c) a description of the nature of the employment,
 - (d) details of any consent provided by the child's parents or guardian (any written documentation to be retained),
 - (e) the name and address of the person immediately responsible for the child during the appeal.
- (3) If the employer is a trader, the employer must make the records available to the authority holder.

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