

## **Public Charitable Collections**

Public charitable collections are a fundraising method that is the subject of specific regulations, which are administered and enforced by local authorities and by OSCR. This note sets out the effect of the regulations as they are at present. Under the Charities and Trustee Investment (Scotland) Act 2005 new regulations will be drawn up, and will be open to public consultation before they are put in place.

### **What is a public charitable collection?**

A public charitable collection is defined<sup>1</sup> as a collection from the public of money (whether given by them for consideration or not) for charitable purposes taken either in a public place or by means of visits from place to place. “Charitable purposes” means any charitable, benevolent or philanthropic purposes whether or not they are charitable within the meaning of any rule of law.

### **The need for permission**

Any person or organisation wishing to hold a public charitable collection must have permission to do so from the local authority in which they plan to hold it. Information about the procedures to be followed in order to gain permission is contained in section 119 of the Civic Government (Scotland) Act 1982. Alternatively, contact your local Council offices for information about how to apply. Anyone who organises a public charitable collection without first obtaining permission to do so from the relevant local authority or authorities is liable to a fine if convicted<sup>2</sup>.

### **Detailed requirements**

All organisers of public charitable collections should familiarise themselves with the Public Charitable Collections (Scotland) Regulations 1984<sup>3</sup>, which regulate the duties of organisers, collectors, the opening of collecting boxes and envelopes and accounting requirements in respect of public charitable collections. Organisers and collectors who breach the regulations are liable to a fine if convicted.

### **The Exempt Promoter Scheme**

Anyone organising collections over the whole or a substantial part of Scotland may apply to OSCR to be made an Exempt Promoter<sup>4</sup>. The benefit of being

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<sup>1</sup> Section 119(16) Civic Government (Scotland) Act 1982

<sup>2</sup> Section 119(1) Civic Government (Scotland) Act 1982

<sup>3</sup> Regulations 10(2)(c) and 11(5)(b) regarding the opening of collecting boxes have been amended by the Public Charitable Collections (Scotland) Amendment Regulations 1988

<sup>4</sup> The term refers to provision in Section 119(11) of the Civic Government (Scotland) Act 1982 for exemption from the liability for a fine under s119(1)

an Exempt Promoter is that it reduces the administrative burden on the organiser (“promoter”) of having to co-ordinate with many local authorities throughout Scotland when organising a public charitable collection. An Exempt Promoter does not require local authority permission to hold a public charitable collection. He or she must, however, give relevant local authorities three months’ notice of their intention to do so, and abide by the other requirements in the regulations. It should be noted that exemption is not of an organisation, but of the organiser. At the present time, all the exempt promoters are employees of specific charitable organisations using their exemption for collections organised by that organisation.

A person wishing to be an Exempt Promoter must provide OSCR with evidence that they have:

- Collected over a wide area of Scotland (at least 15 Council areas) over each of the three financial years preceding the date of application
- Collected a reasonable sum in each area in each year
- Incurred expenses in organising the public collections of not more than 30% of the total collected

In addition, the three most recent annual reports and accounts of the organisation must be submitted, as well as any agreements relating to public charitable collections in Scotland which the organisation may have with an outside professional fundraiser.

If OSCR approves an application, a formal Direction is issued which brings the exemption into force.

### **Reporting requirements**

In order to retain their exempt status, Exempt Promoters are required to submit the following information to OSCR annually:

- An audited account of the public charitable collections carried out
- A breakdown by local authority area of the amounts collected and expenses incurred
- A signed Organiser’s Statement<sup>5</sup>
- A signed Auditor’s Statement<sup>6</sup>
- A copy of a notice summarising the audited collection account published in a newspaper with a national Scottish circulation. The notice must be published within one month of submission to OSCR of the audited collection accounts and local authority breakdown

The documentation is examined once it has all been submitted. If everything is in order a formal letter is sent to the Exempt Promoter continuing the exemption.

### **Applying to be an Exempt Promoter**

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<sup>5</sup> The wording to be used is set out in the Schedule to the 1984 Regulations

<sup>6</sup> The wording to be used is set out in the Schedule to the 1984 Regulations

If you wish to apply to be an Exempt Promoter, or to have an Exempt Promoter in your organisation, please contact:

Compliance & Investigation Team  
Office of the Scottish Charity Regulator  
Quadrant House  
9 Riverside Drive  
DUNDEE  
DD1 4NY

Telephone: 01382 220446

### **Changes to the current law**

The Charities and Trustee Investment (Scotland) Act 2005 received Royal Assent on 14 July 2005. Sections 84-92 of the Act will make a number of changes to the current law relating to public charitable collections. Some of these are set out below.

- A public charitable collection will become known as a “public benevolent collection”, redefined to include the collection of promises, such as direct debits.
- The definition of a “public place” will change
- The privileges available at present to Exempt Promoters will instead be available to “Designated National Collectors”, which must be charities
- A number of detailed regulations will be updated, including those governing public benevolent collections and the duties of Designated National Collectors
- The local authority will have the power to prohibit a collection by a Designated National Collector if it would cause “undue public inconvenience”. The Designated National Collector will have the right of appeal.
- OSCR will be responsible for determining the criteria for Designated National Collectors and liaising with local authorities about their role in public benevolent collections

Most of the provisions of the Charities and Trustee Investment (Scotland) Act 2005 came into force in April 2006. However, the provisions relating to public benevolent collections and designated national collectors contained in sections 84-92 are not yet in force. Until they are, the current legislation for public charitable collections and exempt promoters as contained in the Civic Government (Scotland) Act 1982 and the Public Charitable Collections (Scotland) Regulations 1984 and 1988 remains in force.