

(Reprint No. 1)

SOUTH AUSTRALIA

COLLECTIONS FOR CHARITABLE PURPOSES ACT, 1939

This Act is reprinted pursuant to the Acts Republication Act, 1967, and incorporates all amendments in force as at 1 July 1991.

It should be noted that the Act was not revised (for obsolete references, etc.) by the Commissioner of Statute Revision prior to the publication of this reprint.

SUMMARY OF PROVISIONS

Section	
1.	Short title
2.	Commencement
3.	Repeal
4.	Interpretation
5.	Application of Act
6.	Restriction on certain collections
7.	Restriction on holding certain entertainments
8.	Grant of authority by licensee
9.	Revocation of authority by society, etc.
11.	Application for licence
12.	Conditions of licence, etc.
14.	Licences to be issued <i>gratis</i>
15.	Statements to be furnished by licensees
16.	Transfers of moneys
17.	Vesting of funds in Minister
18.	Summary disposal of proceedings
19.	Proceedings for offences
20.	Regulations
21.	Saving provision

COLLECTIONS FOR CHARITABLE PURPOSES ACT, 1939

being

Collections for Charitable Purposes Act, 1939, No. 16 of 1939 [Assented to 22 November 1939]¹

as amended by

Collections for Charitable Purposes Act Amendment Act, 1947, No. 18 of 1947 [Assented to 6 November 1947]
Collections for Charitable Purposes Act Amendment Act, 1982, No. 21 of 1982 [Assented to 18 March 1982]²

Note: Asterisks indicate repeal or deletion of text. For further explanation see Appendix.

An Act to provide for the control of persons soliciting money or goods for certain charitable purposes, and to repeal the Collections for Unemployment Act, 1930.

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

Short title

1. This Act may be cited as the *Collections for Charitable Purposes Act, 1939*.

Commencement

2. This Act shall come into operation upon a day to be fixed by proclamation.

Repeal

3. The *Collections for Unemployment Act, 1930*, is repealed.

Interpretation

4. In this Act—

“charitable purpose” means—

- (a) the affording of relief to diseased, sick, infirm, incurable, poor, destitute, helpless, or unemployed persons, or to the dependents of any such persons:
- (b) the relief of distress occasioned by war, whether occasioned in South Australia or elsewhere:
- (c) the supply of equipment to any of His Majesty’s naval, military, or air forces, including the supply of ambulances, hospitals and hospital ships:
- (d) the supply of comforts or conveniences to members of the said forces:

¹Came into operation 1 February 1940: *Gaz.* 23 November 1939, p. 1379.

²Came into operation 1 April 1982: *Gaz.* 1 April 1982, p. 949.

- (e) the affording of relief, assistance, or support to persons who are or have been members of the said forces or to the dependents of any such persons:

“Minister” means the Minister of the Crown to whom for the time being the administration of this Act is committed by the Governor.

Application of Act

5. (1) This Act shall apply only to those parts of the State which are proclaimed by the Governor.

(2) The Governor may by proclamation declare the parts of the State to which this Act shall apply and may from time to time by proclamation declare additional areas to which this Act shall apply or declare that this Act shall cease to apply to any area to which it formerly applied.

Restriction on certain collections

6. (1) No person shall—

- (a) collect or attempt to collect any money or goods; or
- (b) obtain or attempt to obtain money by the sale of any disc, badge, token, flower, or other device,

for any charitable purpose unless he is—

- (i) the holder of a licence under this Act; or
- (ii) a member of the committee or other governing body of a society, body, or association which is the holder of a licence under this Act and who is authorized by such licensee; or
- (iii) authorized to do so by a person, society, body, or association which holds a licence under this Act,

and except in accordance with such licence and authority.

(2) Any person who commits any contravention of this section shall be guilty of an offence and liable to a penalty not exceeding one hundred dollars: Provided that it shall not be an offence for any person to collect or attempt to collect any goods for the purpose of affording any relief to any particular person or the dependents of any particular person, if the whole of the goods so collected is applied for that purpose.

(3) In any proceedings for an offence against this section the prosecution need not negative any of the matters specified in paragraphs (i), (ii), or (iii) of subsection (1) or in subsection (2) of this section, but it shall lie on the defendant to prove any of those matters on which he relies.

(4) This section shall apply whether the money or goods are collected or attempted to be collected solely for any charitable purpose or partly for any charitable purpose and partly for any other purpose.

Restriction on holding certain entertainments

7. (1) No person shall conduct any entertainment to which any charge for admission is made in any case where it is held out that any part of the proceeds of the entertainment are to be devoted (either wholly or partly) for any charitable purpose unless he is—

- (a) the holder of a licence under this Act; or

(b) a member of the committee or other governing body of a society, body, or association which is the holder of a licence under this Act and who is authorized by such licensee; or

(c) authorized so to do by a person, society, body, or association which holds a licence under this Act,

and except in accordance with such licence and authority.

(2) No person shall sell or attempt to sell any ticket for admission to any entertainment in any case where it is held out that any part of the proceeds of the entertainment are to be devoted (either wholly or partly) to any charitable purpose unless he is—

(a) the holder of a licence under this Act; or

(b) a member of the committee or other governing body of a society, body, or association which is the holder of a licence under this Act and who is authorized by such licensee; or

(c) authorized so to do by a person, society, body, or association which holds a licence under this Act,

and except in accordance with such licence and authority.

(3) Any person who commits any contravention of this section shall be guilty of an offence and liable to a penalty not exceeding one hundred dollars.

(4) In any proceedings for an offence against this section the prosecution need not negative any of the matters specified in paragraph (a), (b), or (c) of subsection (1) or (2) of this section, but it shall lie on the defendant to prove any of those matters on which he relies.

Grant of authority by licensee

8. (1) Any person, society, body, or association being the holder of a licence under this Act may give any authority referred to in either of the last two preceding sections by any means approved by the Minister either generally or in any particular case. Any such approval may be revoked by the Minister.

(2) The Minister may upon the application of any person, society, body, or association being the holder of a licence, by notice in writing given to the licensee, approve of money or goods being collected or entertainments being held for the purposes of the licensee, although any person collecting or attempting to collect the money or goods or conducting any entertainment or selling or attempting to sell tickets for any entertainment is not authorized so to do by the licensee, and in any proceedings against any such person for any contravention of either of the last two preceding sections, it shall be a defence to show that the person charged acted in accordance with the notice given by the Minister. Any such notice may be revoked by the Minister.

Revocation of authority by society, etc.

9. (1) Any person, society, body, or association being the holder of a licence under this Act who or which gives any authority referred to in section 6 or section 7 may revoke any such authority, and when any such authority is revoked the person to whom it was given shall, if the authority was given in writing, within seven days after notice in writing of the revocation produce and deliver the same to such first-mentioned person or to a member of the committee or other governing body of such society, body, or association.

(2) Any such person to whom such authority is given who fails to produce or deliver such authority as aforesaid shall be guilty of an offence and liable to a penalty not exceeding one hundred dollars.

* * * * *

Application for licence

11. (1) An application for a licence under this Act shall be made to the Minister.

(2) In considering any application for a licence the Minister, in addition to taking into account any other matters that he thinks fit, shall consider whether, having regard to the objects of the applicant, those objects would be more effectively or economically carried out by any other person, society, body, or association being the holder of or an applicant for a licence under this Act.

(3) The Minister may, in his discretion, grant or refuse a licence to any applicant and shall not be liable to any proceedings whatsoever as a consequence of any refusal.

Conditions of licence, etc.

12. (1) A licence under this Act may authorize collections to be made, money to be obtained, or entertainments to be conducted, for such period or for such occasions as the Minister thinks fit, or may authorize collections to be made, money to be obtained, or entertainments to be conducted, during such time as the licence remains unrevoked.

(2) A licence may be issued subject to any condition fixed by the Minister limiting the proportion of the proceeds of collections and entertainments which may be applied as remuneration to collectors or other persons concerned in the collections or entertainments and may be issued subject to any other conditions of any kind fixed by the Minister.

(3) A licence may at any time be revoked by the Minister as an administrative act.

(4) The Minister may exercise his power to revoke a licence on any of the following grounds:

(a) that donations (whether of money or goods) received for charitable purposes by the licensee have been mismanaged or misapplied;

(b) that excessive commission or remuneration has been, or is to be, paid to any person in respect of the collection of donations in pursuance of the licence out of the proceeds of the collection, or that the proportion of those proceeds that is, or is to be, applied towards charitable purposes is for any other reason inadequate;

or

(c) that any other circumstances exist that justify, in the opinion of the Minister, revocation of the licence.

* * * * *

Licences to be issued *gratis*

14. No fee shall be charged for any licence under this Act.

Statements to be furnished by licensees

15. (1) Every person, society, body, or association to whom or to which a licence is issued under this Act who or which collects or receives any money or goods for any charitable purpose shall at the time or times (if any) fixed in the licence and also at any

other time when required by the Minister, submit to the Minister a statement setting out the money and goods so collected or received and the manner in which the same have been dealt with. The statement shall be certified as correct by statutory declaration made by such person or by the chairman and the secretary or treasurer of the society, body, or association.

(2) The accounts of all persons, societies, bodies, or associations to whom or to which licences are issued under this Act shall, if the Minister so requires, be audited by a person appointed by the Minister.

(3) Every person, society, body, or association who or which contravenes or fails to comply with the provisions of this section shall be guilty of an offence and liable to a penalty not exceeding one hundred dollars.

(4) When any society, body, or association is liable to any such penalty every member of the committee or governing body thereof or (if there is no committee or governing body thereof) every member of the society, body, or association shall be severally liable to the penalty unless he proves that the offence was committed without his knowledge or without his consent.

(5) The Minister may, from time to time, by notice in writing declare that this section shall not apply to any person, society, body, or association specified in the notice and may, by writing, revoke any such notice. During the time any such notice is unrevoked, this section shall not apply to the person, society, body, or association to which the notice relates.

Transfers of moneys

16. (1) If the Governor is satisfied that any moneys or securities for moneys held for any charitable purpose by or on behalf of any person, society, body or association to whom or to which a licence is or has been issued under this Act, are not or will not be required for that purpose, the Governor may, by proclamation, declare that the whole or any part of such moneys and securities shall be—

- (a) applied by such person, society, body or association to any other purpose; or
- (b) be vested in and transferred to the Minister to be applied to any purpose.

(2) Any such proclamation shall have the force of law, and payments and transfers shall be made to carry out the directions of the Governor thereby made.

(3) A proclamation shall not be made under this section until a resolution has been passed by both Houses of Parliament approving of the making of the proclamation.

Vesting of funds in Minister

17. (1) The Governor may, by proclamation, vest in the Minister the moneys and securities for moneys held for any charitable purpose by or on behalf of any person, society, body, or association to whom or to which a licence is or has been issued under this Act, on being satisfied—

- (a) that a majority of at least three-fourths in number of the persons who are trustees or who have the control of the moneys or securities for money have consented thereto; or
- (b) there has been maladministration of the moneys or securities.

(2) The moneys and securities vested in the Minister by a proclamation made under this section shall be held upon the trusts upon which they were held prior to being vested in the Minister: Provided that the Governor may by proclamation vary the trusts and authorize the Minister to apply the said moneys and securities or any part thereof to such charitable purposes as he may direct.

(3) Any such proclamation shall have the force of law, and payments and transfers shall be made to carry out the directions of the Governor thereby made.

(4) The receipt of the Minister shall be a sufficient discharge to the said persons as to moneys and securities paid and transferred, and the said persons shall not thereafter be liable or accountable therefor, or be bound to see to the application, distribution, or appropriation thereof.

Summary disposal of proceedings

18. Proceedings for offences against this Act shall be disposed of summarily.

Proceedings for offences

19. (1) No prosecution for an offence against this Act shall be instituted without the approval in writing of the Minister.

(2) Unless proof to the contrary is given, any document purporting to be signed by the Minister and to be an approval by the Minister under subsection (1) shall, without any further proof or proof of the signature of the Minister, be sufficient proof before any court of the giving of the approval.

Regulations

20. The Governor may make any regulations necessary or convenient for giving effect to this Act, and may by any regulation impose penalties not exceeding twenty dollars for the breach of any regulations.

Saving provision

21. The provisions of this Act are in addition to and not in substitution for any other provisions by or under which collections of money are controlled.

APPENDIX

Legislative History

Legislative history prior to 3 February 1976 appears in marginal notes and footnotes included in the consolidation of this Act contained in Volume 2 of The Public General Acts of South Australia 1837-1975 at page 202.

Section 10:	repealed by 21, 1982, s. 3
Section 11(1):	amended by 21, 1982, s. 4(a)
Section 11(2):	amended by 21, 1982, s. 4(b)
Section 11(3):	amended by 21, 1982, s. 4(c)
Section 12(4):	inserted by 21, 1982, s. 5
Section 13:	repealed by 21, 1982, s. 6