

South Australia

# Collections for Charitable Purposes Act 1939

An Act to provide for the control of persons soliciting money or goods for certain charitable purposes.

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**The Parliament of South Australia enacts as follows:**

### **1—Short title**

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

### **4—Interpretation**

In this Act—

**body** means a body whether corporate or unincorporate;

**charitable purpose** means—

- (a) the affording of relief to diseased, disabled, 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;
- (e) the affording of relief, assistance, or support to persons who are or have been members of the armed forces of Australia or to the dependents of any such persons;
- (f) the provision of welfare services for animals;

**collection contract** means a contract under which a person or body (the **collector**) agrees with a person, society, body or association (the **charity**) for valuable consideration to—

- (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 a charitable purpose on behalf of the charity;

**Minister** means the Minister of the Crown to whom for the time being the administration of this Act is committed by the Governor;

**section 6 licence** means a licence granted under this Act for the purposes of section 6;

**section 6A licence** means a licence granted under this Act for the purposes of section 6A;

**section 7 licence** means a licence granted under this Act for the purposes of section 7.

**Note—**

For definition of divisional penalties (and divisional expiation fees) see Appendix.

## 6—Restriction on certain collections

- (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 section 6 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 section 6 licence under this Act and who is authorised by such licensee; or
  - (iii) authorised to do so by a person, society, body, or association which holds a section 6 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 division 6 fine: 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 paragraph (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.

#### **6A—Collector to hold licence in certain circumstances**

A person or body who has entered into a collection contract with a charity as a collector for the charity must not employ another person (whether or not for valuable consideration)—

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

in performance of the collector's obligations under the contract unless the collector is the holder of a section 6A licence granted under this Act.

Penalty: Division 6 fine.

#### **7—Restriction on holding certain entertainments**

- (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 section 7 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 section 7 licence under this Act and who is authorised by such licensee; or
- (c) authorised so to do by a person, society, body, or association which holds a section 7 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 section 7 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 section 7 licence under this Act and who is authorised by such licensee; or
- (c) authorised so to do by a person, society, body, or association which holds a section 7 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.

Penalty: Division 6 fine.

- (4) In any proceedings for an offence against this section the prosecution need not negative any of the matters specified in paragraph (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.

## **8—Grant of authority by licensee**

- (1) Any person, society, body, or association being the holder of a section 6 or 7 licence under this Act may give any authority referred to in section 6 or 7 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 section 6 or 7 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 authorised so to do by the licensee, and in any proceedings against any such person for any contravention of sections 6 or 7, 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.

## **9—Revocation of authority by society etc**

- (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.

Penalty: Division 6 fine.

## **11—Application for licence**

- (1) An application for a licence under this Act shall be made to the Minister.
- (2) In considering any application for a section 6 or 7 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.

## **12—Conditions of licence etc**

- (1) A section 6 or 7 licence may authorise 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 authorise collections to be made, money to be obtained, or entertainments to be conducted, during such time as the licence remains unrevoked.

- (1a) A section 6A licence is in force during such period or periods as are specified in the licence.
- (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.
- (2a) Without limiting subsection (2), a licence may be issued subject to a condition requiring the licensee to comply with the provisions of a code of practice issued 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; or
  - (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
  - (ba) the licensee's contravention of or failure to comply with a condition of the licence; or
  - (c) that any other circumstances exist that justify, in the opinion of the Minister, revocation of the licence.

#### **14—Licences to be issued *gratis***

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

#### **15—Statements to be furnished by licensees**

- (1) A person, society, body or association to whom a licence has been granted under this Act must keep proper accounts of the receipt and payment of money collected or received by it for charitable purposes and of the receipt and disposal of goods collected or received by it for charitable purposes.
- (2) 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, the manner in which they have been dealt with and such other information as is required by the Minister to be included in the statement. The statement shall be certified as correct by statutory declaration made by such person or by the chairman and the secretary or treasurer, or at least two members of the governing body, of the society, body, or association.

- (3) A person, society, body or association must appoint a registered company auditor, a member of the Australian Society of Certified Practising Accountants, a member of The Institute of Chartered Accountants in Australia or some other person, or some other person of a class, approved by the Minister to audit—
  - (a) the accounts referred to in subsection (1) in each financial year; and
  - (b) each statement submitted to the Minister under subsection (2).
- (4) 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.  
Penalty: Division 6 fine.
- (5) 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.
- (6) 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.

## **16—Application of money and goods for other charitable purposes**

- (1) Where, in the opinion of the Minister, it is impracticable to apply money or goods collected or received pursuant to a licence under this Act or to apply the proceeds of an entertainment conducted pursuant to a licence under this Act for the charitable purpose for which the money or goods were collected or received, or to which the proceeds of the entertainment were to be devoted, the Governor may, by proclamation made on the recommendation of the Minister, direct the person, society, body or association concerned to apply the money or goods for a similar charitable purpose specified in the proclamation or to give them to another person, society, body or association to be applied for that charitable purpose.
- (2) In subsection (1)—  
**money** includes money accruing from investment of money referred to in that subsection.

## **17—Vesting of funds in Minister**

- (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 authorise 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.

## **18—Summary disposal of proceedings**

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

## **19—Proceedings for offences**

- (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.

## **20—Regulations**

- (1) The Governor may make such regulations as are contemplated by this Act or are necessary or expedient for the purposes of this Act.
- (2) Without limiting subsection (1), the regulations may—
  - (a) require information of a kind prescribed by the regulations to be displayed on receptacles that are left in public places to enable members of the public to make gifts of goods for charitable purposes or to dispose of unwanted goods;
  - (b) prohibit the display of information of a kind prescribed by the regulations on receptacles referred to in paragraph (a);
  - (c) regulate the form in which information may be displayed on receptacles referred to in paragraph (a);
  - (d) impose a fine (not exceeding a division 7 fine) for breach of, or non-compliance with, the regulations.

## **21—Saving provision**

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.

## Legislative history

### Notes

- Amendments of this version that are uncommenced are not incorporated into the text.
- Please note—References in the legislation to other legislation or instruments or to titles of bodies or offices are not automatically updated as part of the program for the revision and publication of legislation and therefore may be obsolete.
- Earlier versions of this Act (historical versions) are listed at the end of the legislative history.
- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or [www.legislation.sa.gov.au](http://www.legislation.sa.gov.au).

### Legislation repealed by principal Act

The *Collections for Charitable Purposes Act 1939* repealed the following:

*Collections for Unemployment Act 1930*

### Principal Act and amendments

New entries appear in bold.

Year	No	Title	Assent	Commencement
1939	16	<i>Collections for Charitable Purposes Act 1939</i>	22.11.1939	1.2.1940 ( <i>Gazette 23.11.1939 p1379</i> )
1947	18	<i>Collections for Charitable Purposes Act Amendment Act 1947</i>	6.11.1947	6.11.1947
1982	21	<i>Collections for Charitable Purposes Act Amendment Act 1982</i>	18.3.1982	1.4.1982 ( <i>Gazette 1.4.1982 p949</i> )
1995	66	<i>Collections for Charitable Purposes (Licensing and Miscellaneous) Amendment Act 1995</i>	17.8.1995	2.11.1995 ( <i>Gazette 2.11.1995 p1232</i> )
1999	14	<i>Collections for Charitable Purposes (Definition of Charitable Purpose) Amendment Act 1999</i>	1.4.1999	1.4.1999
2007	41	<i>Collections for Charitable Purposes (Miscellaneous) Amendment Act 2007</i>	25.10.2007	1.9.2008 ( <i>Gazette 3.7.2008 p3203</i> )

### Provisions amended since 3 February 1976

- 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.

New entries appear in bold.

Entries that relate to provisions that have been deleted appear in italics.

Provision	How varied	Commencement
Long title	amended under <i>Legislation Revision and Publication Act 2002</i>	
<i>ss 2 and 3</i>	<i>omitted under Legislation Revision and Publication Act 2002</i>	
s 4		
body	inserted by 66/1995 s 3(a)	2.11.1995
charitable purpose	amended by 66/1995 s 3(b), (d) (c) and (d) deleted by 66/1995 s 3(c)	2.11.1995
	amended by 14/1999 s 2	1.4.1999
collection contract	inserted by 66/1995 s 3(e)	2.11.1995
section 6 licence	inserted by 66/1995 s 3(f)	2.11.1995
section 6A licence	inserted by 66/1995 s 3(f)	2.11.1995
section 7 licence	inserted by 66/1995 s 3(f)	2.11.1995
s 5	<i>deleted by 66/1995 s 4</i>	2.11.1995
s 6		
s 6(1)	amended by 66/1995 s 5(a)	2.11.1995
s 6(2)	amended by 66/1995 s 5(b)	2.11.1995
s 6(3)	amended by 66/1995 s 5(c)	2.11.1995
s 6A	inserted by 66/1995 s 6	2.11.1995
s 7		
s 7(1)	amended by 66/1995 s 7(a)	2.11.1995
s 7(2)	amended by 66/1995 s 7(b)	2.11.1995
s 7(3)	amended by 66/1995 s 7(c)	2.11.1995
s 7(4)	amended by 66/1995 s 7(d)	2.11.1995
s 8		
s 8(1) and (2)	amended by 66/1995 s 8	2.11.1995
s 9		
s 9(2)	amended by 66/1995 s 9	2.11.1995
<i>s 10</i>	<i>deleted by 21/1982 s 3</i>	1.4.1982
s 11		
s 11(1)	amended by 21/1982 s 4(a)	1.4.1982
s 11(2)	amended by 21/1982 s 4(b)	1.4.1982
	amended by 66/1995 s 10	2.11.1995
s 11(3)	amended by 21/1982 s 4(c)	1.4.1982
s 12		
s 12(1)	amended by 66/1995 s 11(a)	2.11.1995
s 12(1a)	inserted by 66/1995 s 11(b)	2.11.1995
s 12(2a)	inserted by 66/1995 s 11(c)	2.11.1995
s 12(4)	inserted by 21/1982 s 5	1.4.1982
	amended by 66/1995 s 11(d)	2.11.1995

s 13	<i>deleted by 21/1982 s 6</i>	1.4.1982
s 15		
s 15(1)	inserted by 66/1995 s 12(a)	2.11.1995
s 15(2)	s 15(1) redesignated as s 15(2) by 66/1995 s 12(b)	2.11.1995
	amended by 66/1995 s 12(c), (d)	2.11.1995
s 15(3)	s 15(2) redesignated as s 15(3) by 66/1995 s 12(b)	2.11.1995
	substituted by 66/1995 s 12(e)	2.11.1995
<b>s 15(4)</b>	<b>s 15(3) redesignated as s 15(4) by 66/1995 s 12(b)</b>	<b>2.11.1995</b>
	<b>amended by 66/1995 s 12(f)</b>	<b>2.11.1995</b>
s 16	substituted by 66/1995 s 13	2.11.1995
s 20	substituted by 66/1995 s 14	2.11.1995

## Historical versions

Reprint No 1—1.7.1991

Reprint No 2—2.11.1995

## Appendix—Divisional penalties and expiation fees

At the date of publication of this version divisional penalties and expiation fees are, as provided by section 28A of the *Acts Interpretation Act 1915*, as follows:

Division	Maximum imprisonment	Maximum fine	Expiation fee
1	15 years	\$60 000	—
2	10 years	\$40 000	—
3	7 years	\$30 000	—
4	4 years	\$15 000	—
5	2 years	\$8 000	—
6	1 year	\$4 000	\$300
7	6 months	\$2 000	\$200
8	3 months	\$1 000	\$150
9	—	\$500	\$100
10	—	\$200	\$75
11	—	\$100	\$50
12	—	\$50	\$25

*Note: This appendix is provided for convenience of reference only.*