

1995 BILL 15

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Third Session, 23rd Legislature, 44 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

# BILL 15

CHARITABLE FUND-RAISING ACT

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MR. COUTTS

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First Reading .....

Second Reading .....

Committee of the Whole .....

Third Reading .....

Royal Assent .....

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## BILL 15

1995

### CHARITABLE FUND-RAISING ACT

(Assented to , 1995)

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HER MAJESTY, by and with the advice and consent of the  
Legislative Assembly of Alberta, enacts as follows:

**Interpretation     1(1) In this Act,**

- (a) “charitable organization” means
  - (i) any incorporated or unincorporated organization that is formed for a charitable purpose, or
  - (ii) a person who makes solicitations for contributions to be used for a charitable purpose and who is not connected to any incorporated or unincorporated organization that is formed for the charitable purpose for which the solicitation is made;
- (b) “charitable purpose” includes a philanthropic, benevolent, educational, health, humane, religious, cultural or artistic purpose;
- (c) “contribution” means money, goods or services or a promise or pledge to give money, goods or services;
- (d) “donor fund-raiser” means a business described in section 30;
- (e) “fund-raising agreement” means an agreement between a charitable organization and a professional fund-raiser described in section 29;
- (f) “gross contributions” means gross contributions as calculated in accordance with the regulations;
- (g) “licence” means a licence issued or renewed under this Act;
- (h) “licensed” means holding a valid and subsisting licence;
- (i) “professional fund-raiser” means a professional fund-raiser described in section 20;

- (j) “registered” means holding a valid and subsisting registration under this Act;
  - (k) “registration” means a registration made or renewed under this Act;
  - (l) “solicitation” means
    - (i) a direct or indirect request for a contribution in which it is stated or implied that the contribution will be used by a charitable organization or for a charitable purpose, or
    - (ii) a request for a contribution through a direct or indirect request to buy a good or service in which it is stated or implied that all or a portion of the purchase price will be used by a charitable organization or for a charitable purpose.
- (2) In this Act,
- (a) a reference to a solicitation made by a charitable organization means a solicitation made by the charitable organization or its employees or volunteers;
  - (b) a reference to a solicitation made on behalf of a charitable organization means a solicitation made by a professional fund-raiser on behalf of the charitable organization;
  - (c) a reference to a solicitation made by a professional fund-raiser means a solicitation made by a professional fund-raiser or the employees or volunteers of the professional fund-raiser.

**Purposes**

**2 The purposes of this Act are**

- (a) to ensure that the public has sufficient information to make informed decisions when making contributions to a charitable organization or for a charitable purpose, and
- (b) to protect the public from fraudulent, misleading or confusing solicitations and to establish standards for charitable organizations and professional fund-raisers when making solicitations.

Application

**3** This Act does not apply to

- (a) a solicitation made by a charitable organization to a person or to a member of a person's family if the person is a member of the organization when the solicitation is made,
- (b) a solicitation made by a charitable organization for goods or services that are to be used by the charitable organization for its administration or some other non-charitable purpose, or
- (c) a solicitation made in respect of an event that is authorized by the Alberta Gaming Commission.

## **PART 1**

### **SOLICITING CONTRIBUTIONS**

Application of  
Part 1

**4(1)** This Part applies only to the following solicitations and the solicitations described in subsection (2):

- (a) solicitations made by a professional fund-raiser;
- (b) solicitations made by a charitable organization that uses a professional fund-raiser to make solicitations on its behalf or to manage or be responsible for solicitations made by or on behalf of the charitable organization;
- (c) solicitations made by a charitable organization in its financial year if the charitable organization intends to raise, as a result of those solicitations, gross contributions of \$10 000 or more from persons in Alberta during that financial year.

**(2)** Regardless of a charitable organization's intent, if a charitable organization in its financial year raises, as a result of solicitations, gross contributions of \$10 000 or more from persons in Alberta, this Part applies to solicitations made by the charitable organization from the time it reaches \$10 000 in gross contributions until the end of that financial year.

Hours of  
solicitation

**5** A person making solicitations in person or by telephone may make them only between 8 a.m. and 9 p.m.

Providing  
information  
during  
solicitation

**6(1)** A person who makes a solicitation in person must, before accepting a contribution, provide the person who is being solicited with

- (a) the information required by the regulations in the manner and form required by the regulations, and
- (b) an adequate opportunity to review the information.

(2) A person who makes a solicitation by telephone must, before accepting a contribution, provide the person who is being solicited with the information required by the regulations in the manner and form required by the regulations.

(3) A person who makes a solicitation through printed material, television or other media must provide the information required by the regulations in the manner and form required by the regulations.

**Duty to maintain records**

**7** Every charitable organization and professional fund-raiser who makes solicitations must maintain in Alberta

- (a) complete and accurate financial records of its operations for at least 3 years after the solicitations are made,
- (b) records regarding the solicitations for at least 3 years after the solicitations are made, and
- (c) other records and documents described in the regulations for the period described in the regulations.

**Financial statements and reports**

**8** If solicitations are made by or on behalf of a charitable organization in a financial year, the charitable organization must prepare for that financial year audited financial statements or financial information returns as specified by the regulations that meet the requirements of the regulations.

**General information**

**9(1)** If solicitations are made by or on behalf of a charitable organization, the charitable organization must provide the following information to any person who requests it:

- (a) a copy of the most recent audited financial statements or financial information report that the charitable organization is required to prepare under section 8;
- (b) the portion of gross contributions received during the charitable organization's last financial year that were used directly for charitable purposes and not for the administration of the charitable organization or other purposes and an estimate of the portion of gross contributions received in its current financial year that will be used directly for charitable purposes and not for the

administration of the charitable organization or other purposes;

(c) reasonable detail about where and how the contributions received as a result of the solicitations will be spent;

(d) the information that must be provided under section 6.

(2) Despite subsection (1)(a), a charitable organization may establish a reasonable fee for providing a copy of its audited financial statements or financial information report that is based on the cost of reproducing the documents, and postage if the documents are to be mailed, and the charitable organization may refuse to provide a copy of the documents unless the fee is paid.

**Receipts**

**10(1)** A person making a solicitation must give to each person making a monetary contribution a receipt for the contribution.

(2) This section does not apply to a solicitation that involves a direct or indirect request to buy a good or service.

**Holding  
contributions  
in trust**

**11(1)** Every professional fund-raiser and every employee of a professional fund-raiser who receives contributions on behalf of a charitable organization holds the contributions in trust for the charitable organization.

(2) The trustee has no power to invest monetary contributions received on behalf of a charitable organization and must, within 2 days of receiving the monetary contributions, not including Saturdays and holidays, deposit the money, without making any deductions, into an account held in a bank, trust corporation, credit union or treasury branch in Alberta.

(3) The account must be in the name of the charitable organization that is the beneficiary and be under the sole control of the charitable organization.

(4) The trustee must comply with any requirements established for the trust by the regulations.

(5) The *Trustee Act* does not apply to the trust.



**PART 2**  
**CHARITABLE ORGANIZATIONS**  
**AND PROFESSIONAL FUND-RAISERS**

**Charitable Organizations**

- Solicitations to individuals**     **12(1)** No charitable organization may make a solicitation to an individual unless the charitable organization is registered.
- (2)** For the purposes of this section, a solicitation made to an individual
- (a)** includes a solicitation made to an individual who operates a sole proprietorship or is a partner in a partnership, and
  - (b)** does not include a solicitation made to a corporation or a government.
- (3)** Subject to subsection (4), this section does not apply to a charitable organization during its financial year if the solicitations it makes to individuals in Alberta or to individuals and others in Alberta are intended to raise gross contributions that have a value of less than \$10 000 during that financial year.
- (4)** Regardless of a charitable organization's intent, if a charitable organization in its financial year raises, as a result of solicitations, gross contributions of \$10 000 or more from individuals in Alberta or individuals and others in Alberta, the charitable organization must be registered within 45 days after the gross contributions reach \$10 000.
- Use of professional fund-raisers**     **13** No charitable organization may use a professional fund-raiser
- (a)** to make solicitations on its behalf, or
  - (b)** to manage or be responsible for solicitations made by or on behalf of the charitable organization
- unless the charitable organization is registered.
- Registration**     **14** A charitable organization that wishes to be registered or to have its registration renewed must provide the Minister with
- (a)** the information required under the regulations, and
  - (b)** the fee established under the regulations.

Grounds for  
refusing  
registration,  
terms and  
conditions

**15(1)** In this section, “conviction” means a conviction for

- (a) an offence under this Act, or
- (b) an offence under any criminal or other law in force in Alberta or elsewhere that, in the Minister’s opinion, indicates that the person convicted is unsuitable to deal with contributions or to make solicitations.

(2) The Minister may refuse to register or renew the registration of a charitable organization and the Minister may impose terms and conditions on a registration when registering or renewing the registration of a charitable organization if the charitable organization or any of its principals, directors or managers, within the 5 years preceding the application for registration or renewal,

- (a) is convicted of an offence referred to in subsection (1) or is serving a sentence imposed under a conviction,
- (b) fails to pay a fine imposed under a conviction or fails to comply with an order made in relation to a conviction, or
- (c) is subject to an order made under the *Unfair Trade Practices Act*, the making of which, in the Minister’s opinion, indicates that the person who is subject to the order is unsuitable to deal with contributions or to make solicitations.

(3) The Minister may also refuse to register or renew the registration of a charitable organization if the Minister has reasonable grounds to believe that the charitable organization or any of its principals, directors or managers will contravene this Act.

Notice to  
applicant

**16(1)** Before refusing to register or renew the registration of a charitable organization or imposing a term or condition on the registration, the Minister must

- (a) notify the charitable organization of the reasons why the registration may be refused or the proposed terms and conditions and the reasons why they may be imposed, and
- (b) provide the charitable organization with an opportunity to make representations to the Minister’s designate.

(2) If, after subsection (1) has been complied with, the Minister decides to refuse to register or renew the registration of a charitable organization, the Minister must give written reasons for the decision to the charitable organization.

Expiration of registration	<b>17</b> The registration of a charitable organization is for the time period established under the regulations.
Changes in information	<p><b>18(1)</b> A charitable organization must inform the Minister of any change in the information provided under section 14 within 30 days of the change.</p> <p><b>(2)</b> This section applies to changes in information occurring when the charitable organization is registered or when the registration is suspended and 30 days after the charitable organization's registration expires or is cancelled.</p>
Financial year	<p><b>19</b> For the purposes of this Act, the financial year of a charitable organization that is not a corporation is</p> <p>(a) the calendar year, or</p> <p>(b) if the charitable organization requests the Minister to establish another time period, a period of 12 consecutive months specified by the Minister.</p>

### **Professional Fund-raisers**

Meaning of professional fund-raiser	<p><b>20(1)</b> For the purposes of this Act, a professional fund-raiser</p> <p>(a) is a person who, for money or other consideration, makes solicitations on behalf of a charitable organization or manages or is responsible for solicitations made by or on behalf of a charitable organization, or</p> <p>(b) is an agent of a person referred to in clause (a) who makes solicitations on behalf of the charitable organization and receives contributions for the charitable organization.</p> <p><b>(2)</b> Despite subsection (1), the following persons are not professional fund-raisers:</p> <p>(a) an employee or volunteer of a person or agent referred to in subsection (1);</p> <p>(b) an employee or volunteer of a charitable organization who makes solicitations for the charitable organization.</p>
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Solicitations  
by  
professional  
fund-raisers

**21** No professional fund-raiser may make a solicitation on behalf of a charitable organization or manage or be responsible for solicitations made by or on behalf of a charitable organization unless the professional fund-raiser is licensed.

Licensing

**22** A professional fund-raiser who wishes to be licensed or to have its licence renewed must provide the Minister with

- (a) the information required under the regulations,
- (b) the fee established under the regulations, and
- (c) a security that meets the requirements of the regulations and that is in an amount specified by the Minister.

Grounds for  
refusing a  
licence, terms  
and conditions

**23(1)** In this section, “conviction” means a conviction for

- (a) an offence under this Act, or
- (b) an offence under any criminal or other law in force in Alberta or elsewhere that, in the Minister’s opinion, indicates that the person convicted is unsuitable to deal with contributions or to make solicitations.

**(2)** The Minister may refuse to issue or renew a licence and the Minister may impose terms and conditions on a licence when issuing or renewing the licence if a professional fund-raiser or any of its principals, directors or managers, within the 5 years preceding the application for the licence or renewal of the licence,

- (a) is convicted of an offence referred to in subsection (1) or is serving a sentence imposed under a conviction,
- (b) fails to pay a fine imposed under a conviction or fails to comply with an order made in relation to a conviction, or
- (c) is subject to an order made under the *Unfair Trade Practices Act*, the making of which, in the Minister’s opinion, indicates that the person who is subject to the order is unsuitable to deal with contributions or to make solicitations.

**(3)** The Minister may also refuse to issue or renew a licence if the Minister has reasonable grounds to believe that the professional fund-raiser or any of its principals, directors or managers will contravene this Act.

Notice to  
applicant

**24(1)** Before refusing to issue or renew a licence of a professional fund-raiser or imposing a term or condition on the licence, the Minister must

(a) notify the professional fund-raiser of the reasons why the licence may be refused or the proposed terms and conditions and the reasons why they may be imposed, and

(b) provide the professional fund-raiser with an opportunity to make representations to the Minister's designate.

(2) If, after subsection (1) has been complied with, the Minister decides to refuse to issue or renew a licence of a professional fund-raiser, the Minister must give written reasons for the decision to the professional fund-raiser.

Expiration of  
licence

**25** A licence is issued for the time period established under the regulations.

Changes in  
information

**26(1)** A professional fund-raiser that has been issued a licence must inform the Minister of any change in the information provided under section 22 within 30 days of the change.

(2) This section applies to changes in information occurring when the licence is in force or when it is suspended and 30 days after the licence expires or is cancelled.

Security

**27** A professional fund-raiser must stop its activities for which it is required to be licensed if the security that the professional fund-raiser has provided to the Minister under this Act is not in force.

### **Fund-raising Agreements**

Duty to enter  
into  
agreement

**28(1)** No charitable organization may use a professional fund-raiser to make solicitations on its behalf or to manage or be responsible for solicitations made by or on behalf of the charitable organization unless the charitable organization and the professional fund-raiser have entered into a fund-raising agreement that meets the requirements of section 29 and the agreement is in force.

(2) No professional fund-raiser may make a solicitation on behalf of a charitable organization or manage or be responsible for solicitations made by or on behalf of a charitable organization unless the professional fund-raiser and the charitable organization have entered into a fund-raising agreement that meets the requirements of section 29 and the agreement is in force.

(3) The references to professional fund-raiser in this section do not include an agent referred to in section 20(1)(b).

**Requirements**    **29(1)** A fund-raising agreement must be in writing and must include

- (a) all the terms and conditions between the parties respecting the fund-raising, including the duties and responsibilities of both parties;
  - (b) the estimated amount of contributions to be received and an estimate of expenses and costs;
  - (c) provisions dealing with the creation, use and ownership of a list of persons who may provide contributions;
  - (d) the methods of soliciting contributions to be used;
  - (e) if the solicitations will involve selling goods or services, a description of the goods or services and the specific price for which the goods or services will be sold;
  - (f) the location of the account of the charitable organization into which monetary contributions are to be deposited;
  - (g) the charitable organization's business address and the name and telephone number of the contact person for the charitable organization;
  - (h) the professional fund-raiser's business address and the name and telephone number of the contact person for the professional fund-raiser;
  - (i) any matter provided for in the regulations.
- (2) A fund-raising agreement must establish the remuneration of the professional fund-raiser, and the remuneration must be
- (a) a specific amount of money,
  - (b) a specified percentage of gross contributions, or
  - (c) a combination of a specific amount of money and a specified percentage of gross contributions.

### **PART 3**

#### **DONOR FUND-RAISERS**

Meaning of  
donor fund-  
raiser

**30** A donor fund-raiser is an incorporated or unincorporated business that is formed to make a profit and that makes a direct or indirect request to buy a good or service normally produced or provided by the business in which it is stated or implied that all or a portion of the purchase price will be donated to a charitable organization or be used for a charitable purpose.

Meaning of  
solicitation

**31** For the purposes of this Act, the request to buy the good or service referred to in section 30 is not a solicitation.

Duty

**32** A donor fund-raiser that makes a representation that all or a portion of the purchase price of the goods or services it sells will be donated to a charitable organization or be used for a charitable purpose must

- (a) donate all or a portion of the purchase price, as the case may be, to the charitable organization, or
- (b) use all or a portion of the purchase price, as the case may be, for the charitable purpose.

Information

**33(1)** Subject to subsection (2), a donor fund-raiser must provide on the request of any person the information required by the regulations relating to its donations to the charitable organization or money it used for a charitable purpose.

**(2)** A donor fund-raiser may establish a reasonable fee for providing the information that is based on the cost of reproducing the information, and postage if the information is to be mailed, and the donor fund-raiser may refuse to provide the information unless the fee is paid.

Representations

**34** No donor fund-raiser may

- (a) make a representation that an individual or corporation sponsors, endorses or approves of a charitable organization or a charitable purpose unless the individual or corporation has given prior written consent allowing the use of the individual's or corporation's name for those purposes;
- (b) make a representation that all or a portion of the purchase price of the goods or services it sells will be donated to a charitable organization or use any emblem or printed

matter belonging to or associated with a charitable organization or substantively similar to such emblem or printed matter unless the charitable organization has given its prior written consent.

## **PART 4**

### **ENFORCEMENT**

#### **Inspections and Investigations**

- Inspectors**      **35** The Minister may appoint one or more inspectors for the purposes of this Act and the regulations.
- Inspection**      **36(1)** An inspector may enter and inspect the premises of a charitable organization or a professional fund-raiser to ensure compliance with this Act and the regulations.
- (2)** An inspection under subsection (1) may be conducted only if
- (a) the charitable organization or professional fund-raiser is given reasonable notice of the inspection, and
- (b) the inspection is conducted at a reasonable time.
- (3)** When acting under the authority of this section, an inspector must carry identification and present it on request to the owner or occupant of the premises referred to in subsection (1).
- (4)** An inspector who makes an inspection under subsection (1) may inspect, examine and make copies of or temporarily remove
- (a) books, records or documents required to be kept under this Act, and
- (b) books, records or documents relating to the collection, expenditure and distribution of contributions, including the records pertaining to accounts referred to in section 11.
- (5)** When an inspector removes any books, records or documents under subsection (4), the inspector
- (a) must give to the person from whom they were taken a receipt for them,
- (b) may make copies of, take photographs of or otherwise record them, and



- (c) must, within a reasonable time, return them to the person to whom the receipt was given.

Order allowing  
inspection

**37(1) If a person**

- (a) refuses to allow an inspector to enter the premises of a charitable organization or a professional fund-raiser, or
- (b) refuses to produce anything requested by the inspector to assist in an inspection under section 36,

the inspector may apply to the Court of Queen's Bench by originating notice for an order under subsection (2).

**(2) The Court may make an order**

- (a) restraining a person from preventing entry by the inspector or from interfering with the inspector's inspection, and
- (b) requiring the production of anything to assist in the inspection.

**(3)** The order may be granted without notice if the Court is satisfied that giving notice would result in the loss or destruction of evidence.

Initiating  
investigation

**38** The Minister may on receipt of a complaint, or when the Minister considers it necessary without a complaint, direct an inspector to investigate

- (a) any matter concerning the administration of this Act or the regulations, or
- (b) the circumstances surrounding any solicitation or other matter or thing done by a charitable organization, professional fund-raiser or donor fund-raiser.

Order to assist  
investigation

**39(1)** When a person is being investigated, an inspector may apply to the Court of Queen's Bench by originating notice for an order

- (a) compelling the person or the person's agent to allow the inspector to enter the person's or agent's premises for the purposes of the investigation and requiring the person or agent to produce for the inspector's examination the person's or agent's books, records or documents relevant to the investigation and authorizing the inspector to copy them or remove them on such terms as the Court considers appropriate;

- (b) authorizing the inspector to inquire into and examine the business affairs of the person or the person's agent and directing the person or person's agent to co-operate with the investigation on such terms as the Court considers appropriate.
- (2) The Court may grant an order under subsection (1) if satisfied on evidence under oath by an inspector that there are reasonable grounds to believe
- (a) that the person being investigated or the person's agent has not co-operated or likely will not co-operate with the investigation, and
  - (b) that the order is appropriate in the circumstances.
- (3) The order may be granted without notice if the Court is satisfied that giving notice could result in the loss or destruction of evidence.

### **Ministerial Powers**

**Ministerial  
powers**

- 40(1)** In the circumstances referred to in subsection (2), the Minister may do any or all of the following:
- (a) apply to the Court of Queen's Bench by originating notice for the appointment of a receiver, receiver-manager or trustee to hold or manage all or part of the funds, securities and property of a charitable organization or professional fund-raiser,
  - (b) direct any person having on deposit or under the person's control or for safekeeping any funds or securities of a charitable organization or professional fund-raiser to hold those funds or securities,
  - (c) direct a charitable organization or professional fund-raiser or other person to refrain from withdrawing funds or securities referred to in clause (b) from any person who has them on deposit, under control or for safekeeping, or
  - (d) direct a person to hold in trust any contributions or funds related to a charitable organization or professional fund-raiser for a receiver, receiver-manager, trustee, liquidator or other official appointed under an Act of Alberta or Canada.
- (2) The Minister may exercise the powers in subsection (1) in the following circumstances:

- (a) where the Minister is about to authorize an investigation of or during or after the investigation of a person under this Act;
- (b) where the Minister is about to cancel or suspend or has cancelled or suspended a registration or a licence;
- (c) where
  - (i) criminal proceedings that, in the opinion of the Minister, are connected with or arise out of matters under this Act, or
  - (ii) proceedings in respect of a contravention of this Act,
 are about to be or have been initiated against any person;
- (d) where the Minister has reason to believe that the trust funds held by a professional fund-raiser or the funds held by a charitable organization in its accounts are less than the amount for which the professional fund-raiser or charitable organization, as the case may be, is accountable.

(3) A direction of the Minister under subsection (1) must be in writing and be served on the person to whom it is directed.

(4) The Minister may amend or cancel a direction given under subsection (1) and the requirements of subsection (3) apply to the amendment or cancellation.

**Injunction**

**41(1)** Where, on the application of the Minister by originating notice, it appears to the Court of Queen's Bench that a person has done, is doing or is about to do any thing that constitutes or is directed toward a contravention of this Act or that involves the misappropriation of contributions, the Court may issue an injunction ordering any person named in the application

- (a) to refrain from doing that thing, or
- (b) to do any thing that in the opinion of the Court may prevent the contravention of this Act or the misappropriation of contributions.

(2) At least 48 hours' notice of the application must be given to the party or parties named in the application unless the Court is of the opinion that the urgency of the situation is such that giving notice would not be in the public interest.

## **Suspension, Cancellation and Terms and Conditions**

### **Grounds**

**42(1)** In this section, “conviction” means a conviction for an offence under any criminal or other law in force in Alberta or elsewhere that, in the Minister’s opinion, indicates that the person convicted is unsuitable to deal with contributions or to make solicitations.

**(2)** The Minister may suspend or cancel the registration of a charitable organization or the licence of a professional fund-raiser or impose terms and conditions on the registration or licence if the charitable organization or professional fund-raiser or any of its principals, directors or managers

- (a) has, in the Minister’s opinion, contravened this Act,
- (b) is convicted of an offence referred to in subsection (1) or is serving a sentence imposed under a conviction,
- (c) fails to pay a fine imposed under a conviction or fails to comply with an order made in relation to a conviction, or
- (d) is subject to an order made under the *Unfair Trade Practices Act*, the making of which, in the Minister’s opinion, indicates that the person who is subject to the order is unsuitable to deal with contributions or to make solicitations.

**(3)** Before a registration or licence is suspended or cancelled or terms and conditions are imposed, the charitable organization or professional fund-raiser, as the case may be, must be given

- (a) at least 15 days’ written notice of the proposed suspension or cancellation or the proposed terms and conditions, and
- (b) an opportunity to make representations to the Minister’s designate.

**(4)** The Minister may suspend the registration of a charitable organization or the licence of a professional fund-raiser without notice or an opportunity to make representations if the charitable organization or professional fund-raiser is being investigated under this Act and the Minister is of the opinion that the charitable organization or professional fund-raiser has misappropriated or will misappropriate funds that were collected for a charitable organization or a charitable purpose.

## **PART 5**

### **GENERAL**

General  
prohibitions

#### **43(1) No person may**

- (a) use the fact that a charitable organization is registered or that a professional fund-raiser is licensed to lead any other person to believe that the registration or licence constitutes an endorsement or approval by the Government of Alberta, except to indicate that the charitable organization or professional fund-raiser is registered or licensed under this Act,
- (b) make a representation in a solicitation that an individual or corporation sponsors, endorses or approves of a charitable organization or a charitable purpose unless the individual or corporation has given prior written consent allowing the use of the individual's or corporation's name for those purposes,
- (c) make a representation that the person is soliciting contributions for a charitable organization or use any emblem or printed matter belonging to or associated with a charitable organization or substantively similar to such emblem or printed matter unless the charitable organization has given its prior written consent,
- (d) make a representation that contributions will be used for one or more charitable purposes when the contributions are not being provided directly to a charitable organization or are not being used for those charitable purposes, or
- (e) make a false statement of fact or misrepresent any fact or circumstance in a solicitation.

**(2) No charitable organization or professional fund-raiser and no principal, director, manager or employee of a charitable organization or professional fund-raiser may give information that is false or misleading to a person who is going to use that information in a solicitation.**

False  
statements

**44 No person may make a false statement of fact or misrepresent any fact or circumstance in any application or document submitted to the Minister under this Act.**

Complying with terms and conditions	<p><b>45(1)</b> A charitable organization must comply with the terms and conditions imposed on its registration even if the registration has been suspended or cancelled.</p> <p><b>(2)</b> A professional fund-raiser must comply with the terms and conditions imposed on its licence even if the licence has been suspended or cancelled.</p>
Refraining from making solicitations	<p><b>46</b> If a person requests a charitable organization or a professional fund-raiser</p> <p>(a) to refrain from making solicitations to that person, or</p> <p>(b) to remove that person's name from a list of persons who may provide a contribution,</p> <p>the charitable organization or professional fund-raiser must use their best efforts to comply with that request.</p>
Disclosure by Minister	<p><b>47</b> The Minister may disclose any information obtained under this Act for the purpose of assisting the public to determine if contributions should be made to a particular person, charitable organization, professional fund-raiser or donor fund-raiser.</p>
Appealing decision of Minister	<p><b>48(1)</b> A person who is affected by a decision of the Minister under this Act may appeal the decision on a question of law or jurisdiction to the Court of Queen's Bench.</p> <p><b>(2)</b> An appeal under this section must be commenced within 30 days of receiving notice of the decision by filing an originating notice that sets out the grounds for the appeal.</p> <p><b>(3)</b> The Court of Queen's Bench may confirm or reject the Minister's decision or make any other order it considers appropriate.</p>
Order compelling proper use of contributions	<p><b>49(1)</b> A person who has made a contribution to a charitable organization may apply to the Court of Queen's Bench by originating notice for an order described in subsection (2).</p> <p><b>(2)</b> If the Court is satisfied that a charitable organization is not using the contributions it receives as a result of a solicitation for the charitable purpose stated or implied in the solicitation, the Court may</p>

- (a) require a charitable organization or any of its principals, directors or managers to return a contribution to the donor or to pay to the donor a sum equivalent to the contribution,
- (b) require a charitable organization and its principals, directors and managers to use a contribution for the charitable purpose for which it was donated,
- (c) make a declaration respecting the use or misuse of contributions by a charitable organization, or
- (d) make any other order that the Court considers to be appropriate.

(3) Before making an order under subsection (2), the Court may require the charitable organization or any of its principals, directors or managers to provide to the Court the documents or information that the Court specifies.

(4) If the Court dismisses an application made under subsection (1) and considers the application to have been frivolous or vexatious, the Court may require the applicant to pay costs as specified by the Court.

(5) Nothing in this Act affects any statutory or common law right or right in equity that a person may have in respect of a charitable organization, professional fund-raiser or donor fund-raiser.

Restriction on  
municipal  
powers

**50** Despite the *Municipal Government Act*, a council of a municipality may not pass bylaws regulating or prohibiting solicitations made by charitable organizations or professional fund-raisers.

Offence

**51(1)** A person who contravenes the following provisions of this Act or fails to comply with a direction of the Minister under section 40 is guilty of an offence:

- (a) in Part 1, sections 5 to 11;
- (b) in Part 2, sections 12, 13, 18, 21, 26, 27, 28;
- (c) in Part 3, sections 32 to 34;
- (d) in Part 5, sections 43 to 46.

(2) A person who is guilty of an offence is liable to a fine of not less than \$1000 and not more than

- (a) \$100 000, or

(b) 3 times the amount that the defendant acquired as a result of the offence,

whichever is greater, or to imprisonment for not more than 2 years, or both, for each day that the offence continues.

(3) When a corporation has contravened the provisions of this Act referred to in subsection (1) or fails to comply with a direction of the Minister under section 40, every principal, director, manager, employee or agent of the corporation who authorized the contravention or failure or assented to it or acquiesced or participated in it is guilty of an offence and is liable to the penalty provided for in subsection (2) whether or not the corporation has been prosecuted or convicted.

(4) A partnership is not liable as such under subsection (1), but where a partner in a partnership that is a charitable organization or professional fund-raiser is convicted of an offence, each partner in that partnership who authorized the commission of the offence or assented to it or acquiesced or participated in it is guilty of an offence and is liable to the penalty provided for in subsection (2).

(5) In any prosecution under this Act relating to solicitations there is a prima facie presumption that the Act applies to the solicitation.

(6) A prosecution under this Act may be commenced within 2 years from the date on which the offence is alleged to have been committed.

**Compensation  
for loss**

**52(1)** A justice that convicts a defendant of an offence may, on the application of a person aggrieved, at the time sentence is imposed, order the defendant to pay to the applicant an amount as compensation for loss suffered by the applicant as a result of the commission of the offence.

(2) If an amount that is ordered to be paid under subsection (1) is not paid within the time ordered by the justice, the applicant may, by filing the order, enter as a judgment in the Court of Queen's Bench the amount ordered to be paid, and that judgment is enforceable against the defendant in the same manner as if it were a judgment rendered against the defendant in the Court of Queen's Bench in civil proceedings.

**Regulations**

**53** The Minister may make regulations

(a) respecting the calculation of gross contributions;



- (b) respecting, for the purposes of section 6, the information to be provided and the manner and form in which the information is to be provided when a solicitation is made;
- (c) respecting the records and documents to be maintained by charitable organizations and professional fund-raisers under section 7 and the period for which they must be maintained;
- (d) respecting, for the purposes of section 8, the situations in which a charitable organization is required to prepare either audited financial statements or a financial information return and the requirements to be met when preparing audited financial statements and a financial information return;
- (e) respecting the calculation of the portion of gross contributions used directly for charitable purposes under section 9(1)(b) and defining any term used in that section;
- (f) respecting the trust established under section 11;
- (g) respecting the form of and information required for the purposes of an application for registration, a licence and renewals;
- (h) establishing the fees for registration, a licence and renewals;
- (i) respecting the time periods after which registration or a licence expires;
- (j) respecting the form and terms and conditions of securities required under section 22;
- (k) respecting the terms and conditions under which a security is forfeited and the procedures to be followed for claiming on a security that has been forfeited;
- (l) respecting matters that must be included in fund-raising agreements;
- (m) respecting the information to be provided by donor fund-raisers under section 33 and the form in which it is to be provided.

## PART 6

### TRANSITIONAL, CONSEQUENTIAL AMENDMENTS AND COMMENCEMENT

#### Transitional

**54(1)** *On the coming into force of this Act, a charitable organization that is authorized to conduct a campaign to obtain funds under the Public Contributions Act is deemed to be registered under this Act until the authorization expires or is cancelled under this Act or December 31, 1995, whichever occurs first.*

**(2)** *On the coming into force of this Act, a professional fund-raiser who holds a charitable promotion business licence under the Licensing of Trades and Businesses Act is deemed to be licensed under this Act until the licence expires or is cancelled under this Act or December 31, 1995, whichever occurs first.*

**(3)** *If a charitable promotion business licence was to expire after December 31, 1995 and the licence expires on December 31, 1995 under subsection (2), the professional fund-raiser who held the licence is entitled to a credit in an amount specified by the Minister to take into account the portion of the term of the charitable promotion business licence that was left after December 31, 1995, and the credit may be used only for renewals of the licence by the professional fund-raiser.*

**(4)** *An agreement between a charitable organization and a professional fund-raiser authorizing the professional fund-raiser to make solicitations on behalf of the charitable organization or to manage or be responsible for solicitations made by or on behalf of the charitable organization that is in force on the coming into force of this Act is deemed to meet the requirements of section 29.*

#### Bonds

**55(1)** *Despite the repeal of the Charitable Promotion Business Licensing Regulation (Alta. Reg. 7/90), a bond delivered in respect of a charitable promotion business licence continues to be subject to the forfeiture provisions in that Regulation.*

**(2)** *A bond delivered in respect of a charitable promotion business licence that is continued under this Act is deemed to be a bond submitted under this Act and is also subject to the forfeiture provisions established under this Act.*

#### Amends RSA 1980 cD-35

**56** *The Direct Sales Cancellation Act is amended in section 2(2) by adding the following after clause (e):*

**(e.1)** *to a sales contract in which the seller is a charitable organization or professional fund-raiser within the meaning of those terms in the Charitable Fund-raising Act and that*

is made as a result of a solicitation within the meaning of that term in the *Charitable Fund-raising Act*;

Repeal

**57** *The following are repealed:*

- (a) Public Contributions Act;*
- (b) section 4(8) of the Consumer and Corporate Affairs Statutes Amendment Act, 1987;*
- (c) Public Contributions Amendment Act, 1992;*
- (d) Charitable Promotion Business Licensing Regulation (Alta. Reg. 7/90).*

Coming into  
force

**58** *This Act comes into force on Proclamation.*