

Western Australia

Charitable Collections Act 1946

Charitable Collections Regulations 1947

As at 01 Jul 2011

Version 02-d0-02

Extract from www.slp.wa.gov.au, see that website for further information

Charitable Collections Regulations 1947

CONTENTS

1.	Regulations	1
2.	Interpretation	1
3.	Form of application for licence	2
4.	Width of application of licence	3
8.	Information to be disclosed	3
10.	Unlicensed charitable collections	4
11.	Bank Account	5
14.	Permitted collection times	5
16.	Investments	6
17.	Penalties	6
18.	Infringement notices	6
19.	Forms	7
	Schedule 1 — Prescribed offences and modified penalties	
	Schedule 2 — Forms	
	Notes	
	Compilation table	12

Charitable Collections Regulations 1947

1. Regulations

These regulations may be cited as the *Charitable Collections Regulations 1947*¹.

2. Interpretation

In these regulations unless the context otherwise requires —
The Act shall mean the *Charitable Collections Act 1946*.

Approved means approved by the Minister.

Charitable organisation means any person, society, body or association, being the holder of a licence under the Act.

Collection includes the soliciting of funds or contributions and the selling or offering for sale of any button, badge, token, or other similar thing for the purpose of raising funds or contributions.

Collector means any person assisting or taking part in any collection.

Commissioner has the same meaning as it has in the *Fair Trading Act 2010*;

Branch organisation means any branch of any charitable organisation approved as such by the governing body of that organisation.

Executive Officers when used in reference to any charitable organisation, or to any branch organisation, shall include the Trustees, Chairman, President, Committee Member, Secretary

or Treasurer or any other person holding any executive position by whatsoever name that position is given.

*[Regulation 2 amended in Gazette 22 Sep 2006 p. 4079;
30 Jun 2011 p. 2647.]*

3. Form of application for licence

- (1) An application by a charitable organisation for a licence under section 11 of the Act must include the following —
 - (a) the name of the charitable organisation;
 - (b) details of the charitable purpose or purposes for which the applicant seeks the licence;
 - (c) details of each means by which the organisation proposes to collect or attempt to collect money or goods for the charitable purpose or purposes;
 - (d) an estimate of the amount of money or the value of the goods to be collected in the first 12 months of operating under the licence, if it is issued;
 - (e) the name, address and description of each of the principal executive officers of the organisation;
 - (f) the name of the bank at which the organisation holds the account required to be opened under regulation 11;
 - (g) the name, address and qualifications of the auditors of the organisation's accounts;
 - (h) any other information that the Minister requires that is relevant to deciding whether to grant or refuse the licence.

- (2) The applicant must submit the following documents with the application —
 - (a) a certified copy of the constitution or rules governing the affairs of the organisation;
 - (b) a certified copy of the organisation's last income and expenditure account and balance sheet.

- (3) The person making the application on behalf of the organisation must sign the application and indicate the office that he or she holds in the organisation.

[Regulation 3 inserted in Gazette 22 August 2000 p.4846.]

4. Width of application of licence

Where a body incorporated in Western Australia makes application for a licence, such licence, when granted, shall be deemed to apply to and include all branches in Western Australia of such incorporated body, unless the contrary is expressed in such licence.

[5, 6, 7. Deleted in Gazette 22 August 2000 p.4847.]

8. Information to be disclosed

- (1) Any charitable organisation shall, if so required by the Minister, provide all requisite information with respect to such organisation or to any branch organisation thereof, including the names and addresses of the executive officers and the date of creation of such charitable and branch organisations.
- (2) Without limiting the generality of subregulation (1), if there is a change of a licensee's executive officers, the licensee must give the Minister written notice of the change in accordance with subregulation (3) within one month after the change.
Penalty: \$40.
- (3) The notice must state —
- (a) the name, address and designation of each new executive officer of the organisation; and
 - (b) the name of each person who has stopped being an executive officer of the organisation.

[Regulation 8 amended in Gazette 22 August 2000 p.4847.]

[9. Deleted in Gazette 22 August 2000 p.4847.]

10. Unlicensed charitable collections

- (1) Where any person or any body, combination, or committee of persons —
- (a) collects or has collected any moneys or articles for or in aid of any charitable purpose but with respect to which no application for a licence under the Act has been made to or granted by the Minister under the provisions of section 12 of the Act and these regulations;
 - (b) receives or has received or has under or in his or its control, possession, order or disposition, any moneys or articles which have been collected for or in aid of any charitable purpose referred to in the preceding paragraph,

and such person or any such body, combination or committee of persons neglects or refuses to make application for authority under the provisions of section 11 of the Act and these regulations, or to obey any lawful order or direction of the Minister, the Minister may, on the advice of the advisory committee, direct that any moneys or securities for moneys or any articles collected as aforesaid or a sum equivalent to the amount of moneys originally collected shall be —

- (i) applied to purposes connected with the charitable purpose as if such moneys or articles had been collected by a charitable organisation;
 - (ii) vested in and transferred to a charitable organisation;
 - (iii) vested in and transferred to the Minister for allotment to a charitable purpose.
- (2) Any direction issued by the Minister under this regulation shall have the force of law, and payments and transfers shall be made to carry out the directions of the Minister. Penalty: \$40.
- (3) The provisions of this regulation and any direction given by the Minister hereunder shall not exempt any person from liability for any breach of the Act or regulations.

11. Bank Account

- (1) Any executive officer of any charitable organisation who collects or receives moneys for any charitable purpose shall, within 7 days of the receipt thereof, pay the same to the credit of a bank account, to be opened for this purpose.
- (2) Every person, other than an executive officer, who collects or receives any money on behalf of, or belonging to, a charitable organisation, shall within 14 days of the receipt thereof pay the same to the controlling body of the charitable organisation.
- (3) Where a charitable organisation is possessed of assets other than cash in hand or at a bank and the existence of such assets is not recorded in the books of account, then in every case a register of assets shall be kept.
- (4) Every bank account of a charitable organisation is to be operated by authority signed by 2 officers of the organisation appointed in writing for the purpose by the governing body of the organisation.

[Regulation 11 amended in Gazette 22 October 1970 p.3235; 8 September 1972 p.3506; 22 August 2000 p.4847.]

[12, 13. Deleted in Gazette 22 August 2000 p.4847.]

14. Permitted collection times

- (1) A collector must not visit a house for the purpose of making an appeal or of selling goods for support of the charitable purpose —
 - (a) on a Sunday or public holiday; or
 - (b) on any other day before 9 a.m. or after 6 p.m.,unless authorised by the Minister in writing to do so.

r. 16

- (2) A collector must not telephone another person for the purpose of making an appeal or of selling goods for support of the charitable purpose —

- (a) on a Sunday or public holiday; or
- (b) on any other day before 9 a.m. or after 8 p.m.,

unless authorised by the Minister in writing to do so.

[Regulation 14 inserted in Gazette 22 August 2000 p.4848.]

[15. Deleted in Gazette 22 August 2000 p.4848.]

16. Investments

Except with the approval of the Minister, a charitable organisation shall not invest monies belonging to the organisation other than —

- (a) in a fixed deposit in any company registered to carry on the business of banking in Western Australia; or
- (b) as trust funds may be invested under Part III of the *Trustees Act 1962*.

[Regulation 16 inserted in Gazette 18 August 1998 p.4451; amended in Gazette 27 November 1998 p.6341.]

17. Penalties

Any person who acts in contravention of any of these regulations shall be guilty of an offence and liable, on summary conviction, to a penalty not exceeding \$40.

18. Infringement notices

- (1) The offences specified in Schedule 1 are offences for which an infringement notice may be issued under Part 2 of the *Criminal Procedure Act 2004*.
- (2) The modified penalty specified opposite an offence in Schedule 1 is the modified penalty for that offence for the purposes of section 5(3) of the *Criminal Procedure Act 2004*.

- (3) The Commissioner may, in writing, appoint persons or classes of persons to be authorised officers or approved officers for the purposes of Part 2 of the *Criminal Procedure Act 2004*.
- (4) The Commissioner is to issue to each authorised officer a certificate, badge or identity card identifying the officer as a person authorised to issue infringement notices.

*[Regulation 18 inserted in Gazette 22 Sep 2006 p. 4079;
amended in Gazette 12 Jun 2009 p. 2107.]*

19. Forms

The forms set out in Schedule 2 are prescribed in relation to the matters specified in those forms.

[Regulation 19 inserted in Gazette 22 Sep 2006 p. 4079.]

[Appendix deleted in Gazette 22 August 2000 p.4848.]

Schedule 1 — Prescribed offences and modified penalties

[r. 18]

[Heading inserted in Gazette 22 Sep 2006 p. 4079.]

Offences under <i>Charitable Collections Act 1946</i>		Modified penalty
s. 6	Unlicensed person collecting for charity	\$20
s. 9	Failing to deliver moneys, books etc. when authority revoked	\$20

Offences under <i>Charitable Collections Regulations 1947</i>		Modified penalty
r. 8(1)	Failing to provide information required by Minister	\$8
r. 8(2)	Failing to notify change of executive officers	\$8
r. 14(1)	Visiting a house for purposes of collecting outside permitted hours	\$8
r. 14(2)	Making telephone call for purposes of collecting outside permitted hours	\$8

[Schedule 1 inserted in Gazette 22 Sep 2006 p. 4079-80.]

Schedule 2 — Forms

[r. 19]

[Heading inserted in Gazette 22 Sep 2006 p. 4080.]

Form 1 — Infringement notice

<i>Charitable Collections Act 1946</i>		Infringement notice no.
Infringement notice		
Alleged offender	Name: Family name _____	
	Given names _____	
	or Company name _____ ACN _____	
	Address _____ Postcode _____	
Alleged offence	Description of offence _____	
	<i>Charitable Collections Act 1946 s.</i>	
	<i>Charitable Collections Regulations 1947 r.</i>	
	Date / 20 Time a.m./p.m.	Modified penalty \$ _____
Officer issuing notice	Name _____	
	Signature _____	
	Office _____	
Date	Date of notice / /20	
Notice to alleged offender	It is alleged that you have committed the above offence. If you do not want to be prosecuted in court for the offence, pay the modified penalty within 28 days after the date of this notice.	
	<p>How to pay</p> <p>By post: Send a cheque or money order (payable to ‘Approved Officer — <i>Charitable Collections Act 1946</i>’) to: Approved Officer — <i>Charitable Collections Act 1946</i> Department of Consumer and Employment Protection Locked Bag 14 Cloisters Square Perth WA 6850</p> <p>In person: Pay the cashier at: Department of Consumer and Employment Protection 219 St George’s Terrace, Perth WA</p> <p>If you do not pay the modified penalty within 28 days, you may be prosecuted or enforcement action may be taken under the <i>Fines, Penalties and Infringement Notices Enforcement Act 1994</i>. Under that Act your driver’s licence and/or vehicle licence may be suspended.</p> <p>If you need more time to pay the modified penalty, you can</p>	

	<p>apply for an extension of time by writing to the Approved Officer at the above postal address.</p> <p>If you want this matter to be dealt with by prosecution in court, sign here _____</p> <p>and post this notice to the Approved Officer at the above postal address within 28 days after the date of this notice.</p>
--	---

[Form 1 inserted in Gazette 22 Sep 2006 p. 4080.]

Form 2 — Withdrawal of infringement notice

<i>Charitable Collections Act 1946</i>		Withdrawal no.
Withdrawal of infringement notice		
Alleged offender	Name: Family name	
	Given names	
	or Company name	
	ACN	
Address		Postcode
Infringement notice	Infringement notice no.	
	Date of issue / /20	
Alleged offence	Description of offence _____	
	<i>Charitable Collections Act 1946 s.</i> <i>Charitable Collections Regulations 1947 r.</i>	
	Date / /20	Time a.m./p.m.
Officer withdrawing notice	Name	
	Signature	
	Office	
Date	Date of withdrawal / /20	
Withdrawal of infringement notice	The above infringement notice issued against you has been withdrawn.	
	If you have already paid the modified penalty for the alleged offence you are entitled to a refund. * Your refund is enclosed. or * If you have paid the modified penalty but a refund is not enclosed, to claim your refund sign this notice and post it to: Approved Officer — <i>Charitable Collections Act 1946</i> Department of Consumer and Employment Protection Locked Bag 14 Cloisters Square Perth WA 6850	
<i>[*delete whichever is not applicable]</i>	Signature / /20	

[Form 2 inserted in Gazette 22 Sep 2006 p. 4081.]

[Schedule 2 inserted in Gazette 22 Sep 2006 p. 4080-1.]

Notes

¹ This is a compilation of the *Charitable Collections Regulations 1947* and includes the amendments made by the other written laws referred to in the following table.

Compilation table

Citation	Gazettal	Commencement
<i>Charitable Collections Regulations 1947</i>	3 April 1947 pp.566-73	3 April 1947
	2 October 1953 p.2025	2 October 1953
	22 October 1970 p.3235	22 October 1970
	8 September 1972 p.3506	8 September 1972
	21 January 1977 p.132	21 January 1977
<i>Charitable Collections Amendment Regulations 1994</i>	6 May 1994 pp.1874-5	6 May 1994
<i>Charitable Collections Amendment Regulations 1998</i>	18 August 1998 p.4451	18 August 1998
<i>Charitable Collections Amendment Regulations (No. 2) 1998</i>	27 November 1998 p.6341	27 November 1998
<i>Charitable Collections Amendment Regulations 2000</i> ²	22 August 2000 pp.4845-8	22 August 2000
<i>Charitable Collections Amendment Regulations 2006</i>	22 Sep 2006 p. 4078-81	22 Sep 2006 (see r. 2(a))
<i>Charitable Collections Amendment Regulations 2009</i>	12 Jun 2009 p. 2106-7	r. 1 and 2: 12 Jun 2009 (see r. 2(a)); Regulations other than r. 1 and 2: 13 Jun 2009 (see r. 2(b))
<i>Charitable Collections Amendment Regulations 2011</i>	30 Jun 2011 p. 2647	r. 1 and 2: 30 Jun 2011 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Jul 2011 (see r. 2(b))

² The *Charitable Collections Amendment Regulations 2000* r. 12 reads as follows —

“

12. Savings and transition

- (1) A licence that was in force immediately before the commencement of these regulations, and any terms or conditions to which the licence was subject immediately before that commencement, are not taken to be affected by the amendments that are effected by these regulations.
- (2) However, on and after the commencement of these regulations, the *Charitable Collections Regulations 1947*, as amended by these regulations, apply to a licence that was in force immediately before that commencement, and to the licensee, as if the licence had been issued after the commencement of these regulations.

”.