



# Fair Trading

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Ref: 12343

The Scout Association Of Australia New South Wales Branch  
Lorraine Siebum  
PO Box 125  
LIDCOMBE NSW 1825

Dear Lorraine Siebum

Your application for a Charitable Fundraising Authority has been approved and is enclosed with this letter along with the conditions of your authority.

As a holder of an Authority, you are authorised to appeal to the public for funds, subject to the obligations set out in the *Charitable Fundraising Act 1991* (the Act), the *Charitable Fundraising Regulation 2015* and the conditions attached.

Compliance with these requirements support the overarching objects of the Act, which are:

- (a) to promote proper and efficient management and administration of fundraising appeals for charitable purposes
- (b) to ensure proper keeping and auditing of accounts in connection with such appeals
- (c) to prevent deception of members of the public who desire to support worthy causes.

To assist with compliance, you can refer to the current *'Best Practice Guidelines for Charitable Organisations'* at [www.fairtrading.nsw.gov.au](http://www.fairtrading.nsw.gov.au), or more generally, search for Charitable Fundraising on the website for more information.

Prior to the expiry of your authority, we will notify you to renew. Alternatively, you can download a copy of the application form on our website. For further information, you can contact us on 13 32 20 or email [charity.inquiries@customerservice.nsw.gov.au](mailto:charity.inquiries@customerservice.nsw.gov.au).

Yours sincerely

Fiona Hayman  
**Manager, Licensing**  
15/04/2020



## CHARITABLE FUNDRAISING AUTHORITY

Charitable fundraising number **12343**

This document certifies that **The Scout Association Of Australia New South Wales Branch**

holds an authority to fundraising under section 13A of the *Charitable Fundraising Act 1991*, subject to compliance with the Act, the *Charitable Fundraising Regulation 2015* and the conditions attached as Annexure A.

This authority is in force from **06/05/2020**

until **05/05/2025**

unless surrendered or revoked earlier.

This authority is approved under delegation from the Minister administering the *Charitable Fundraising Act 1991*.

### Important information

Please ensure you read the conditions attached.

You must inform us of any change to your charitable fundraising authority within 28 days.

Please contact us at [charity.inquiries@customerservice.nsw.gov.au](mailto:charity.inquiries@customerservice.nsw.gov.au) for further information.

## ANNEXURE A

# CHARITABLE FUNDRAISING AUTHORITY CONDITIONS

### Definitions

In these authority conditions:

**a receipt** is taken to include a ticket.

**authorised fundraiser** means a person or organisation that holds an authority to conduct an appeal.

**face-to-face collector** means a person who participates in a fundraising appeal by face-to-face solicitation.

**same family** means spouse, defacto partner, children, siblings, parents and grandparents.

**financial year**, in relation to an organisation, means the financial year fixed for the organisation by its constitution or, if no financial year is fixed, the year commencing 1 July.

**Fair Trading** means NSW Fair Trading.

**supply of goods** does not include giving a person who donates to a fundraising appeal a badge, sticker, token or other thing in acknowledgement of the person's donation.

**the Act** means the *Charitable Fundraising Act 1991*.

**trader** means a trader within the meaning of section 11 of the Act.

### PART 1 – GENERAL CONDITIONS

#### 1. *Internal controls*

Proper and effective controls must be exercised by an authorised fundraiser over the conduct of all fundraising appeals, including accountability for the gross income and all articles obtained from any appeal and expenditure incurred.

#### 2. *Safeguarding of assets*

An authorised fundraiser must ensure that all assets obtained during, or as a result of, a fundraising appeal are safeguarded and properly accounted for.

#### 3. *Maintenance of proper books of account and records*

- (1) An authorised fundraiser must, in relation to each fundraising appeal it conducts, maintain such books of account and records as are necessary to correctly record and explain its transactions, financial position and financial performance, including the following documents:
  - (a) a cash book for each account (including any passbook account), into which the gross income obtained from a fundraising appeal is paid in accordance with section 20(6) of the Act,
  - (b) a register of assets,
  - (c) a register recording details of receipt books or computerised receipt stationery,
  - (d) a register recording details of tickets or computerised ticket stationery,
  - (e) a petty cash book (if petty cash is used).
- (2) If the authorised fundraiser is an organisation, a minute book must be kept containing minutes of all business relating to fundraising appeals that is transacted by the governing body of the organisation (or by any committee of that governing body) and any general or extraordinary meeting of its general membership.
- (3) If the authorised fundraiser engages persons to participate (whether on a paid or voluntary basis) in a fundraising appeal, it must keep a register of participants.

#### 4. *Repealed.*

## **5. Maintenance of an account**

- (1) For the purposes of section 20(6) of the Act, the gross income obtained from fundraising appeals conducted by the authorised fundraiser may be paid into an account approved by Fair Trading. The income must be clearly identifiable in the banking and accounting records maintained by that fundraiser.
- (2) If a fundraising appeal is conducted jointly by the authorised fundraiser and a trader, and the trader maintains an account for the purposes of section 20(6) of the Act, the account is to consist only of money raised in the fundraising appeal conducted on behalf of that fundraiser.
- (3) Disbursement from the account in amounts of \$260 or more must be either by crossed cheque or by electronic funds transfer.
- (4) For the purposes of section 20(6) of the Act, money is not required to be paid into an account consisting only of money raised in the fundraising appeals conducted by the same authorised fundraiser in the following circumstances:
  - (a) the money is paid into a general account of the authorised fundraiser held at an authorised deposit-taking institution and accounting procedures are in place to ensure that money received in the course of a particular fundraising appeal can be clearly distinguished,
  - (b) the money is collected by a branch or auxiliary of the authorised fundraiser and the money is paid into a general account bearing the name of the branch or auxiliary held at an authorised deposit-taking institution and accounting procedures are in place to ensure that money received in the course of a particular fundraising appeal can be clearly distinguished,
  - (c) the money is collected by volunteers on behalf of the authorised fundraiser and is paid into a general account of the authorised fundraiser held at an authorised deposit-taking institution by way of credit card, cheque or electronic funds transfer and the authorised fundraiser obtains each volunteer's receipt book and reconciles it with any deposit made by that volunteer.
- (5) In relation to any appeals that are conducted for the authorised fundraiser by a trader, the gross income from those fundraising appeals must be paid into the account of the trader. This income must be clearly identifiable in the banking and accounting records of the trader and distributed to the authorised fundraiser in accordance with a written agreement between the trader and the authorised fundraiser.
- (6) In relation to the authorised fundraiser's appeals conducted by volunteers, voluntary organisations or business houses which do not receive any benefit from the appeal (such as an event based or one off type fundraising appeal), the gross income from those fundraising appeals must be paid into the account of the nominated person or organisation. This income must be clearly identifiable in the banking and accounting records of the person or organisation and distributed to the authorised fundraiser in accordance with a written agreement between the nominated person or organisation and the authorised fundraiser.

## **6. Annual financial accounts**

- (1) The annual financial accounts (also known as financial reports) of an authorised fundraiser that is an organisation must contain:
  - (a) an income statement (also known as a statement of financial performance, a statement of income and expenditure or a profit and loss statement) that summarises the income and expenditure of each fundraising appeal conducted during the financial year, and
  - (b) a balance sheet (also known as a statement of financial position) that summarises all assets and liabilities resulting from the conduct of fundraising appeals as at the end of the financial year.
- (2) The annual financial accounts of an authorised fundraiser that is an organisation must also contain the following information as notes accompanying the income statement and the balance sheet if, in the financial year concerned, the aggregate gross income obtained from any fundraising appeals conducted by it exceeds \$100,000:
  - (a) details of the accounting principles and methods adopted in the presentation of the financial statements,
  - (b) information on any material matter or occurrence, including those of an adverse nature such as an operating loss from fundraising appeals,
  - (c) a statement that describes the manner in which the net surplus or deficit obtained from fundraising appeals for the period was applied,

- (d) details of aggregate gross income and aggregate direct expenditure incurred in appeals in which traders were engaged.
- (3) The annual financial accounts of an authorised fundraiser that is an organisation are to include a declaration by the president or principal officer or some other responsible member of the governing body of the organisation stating whether, in his or her opinion:
  - (a) the income statement gives a true and fair view of all income and expenditure of the organisation with respect to fundraising appeals, and
  - (b) the balance sheet gives a true and fair view of the state of affairs of the organisation with respect to fundraising appeals conducted by the organisation, and
  - (c) the provisions of the Act, the regulations under the Act and the conditions attached to the authority have been complied with by the organisation and
  - (d) the internal controls exercised by the organisation are appropriate and effective in accounting for all income received and applied by the organisation from any of its fundraising appeals.
- (4) If the organisation is a company incorporated under the *Corporations Act 2001* of the Commonwealth, the declaration above is required in addition to the directors' declaration provided under section 295 of that Act.
- (5) The annual financial accounts of an authorised fundraiser that is an organisation must be presented at the annual general meeting of the organisation within six months of the close of the financial year.
- (6) In addition to the requirements of paragraph (2) and, the annual financial statements of the authorised fundraiser must contain, as notes accompanying the statement of financial performance and the statement of financial position:
  - (a) details of the type and amount of remuneration or benefit received by a member of the governing body of the authorised fundraiser (other than reimbursement of reasonable out-of-pocket expenses), and
  - (b) the name and position held by each recipient.

For the purpose of this condition, details of the amount of remuneration or benefit is only required to be disclosed if it is received as a direct result of holding office as a member of the governing body of the authorised fundraiser. For example, the remuneration or benefit is received by payment of a director's fee, salary or allowance, or by the provision of free accommodation, a car, etc.

## **7. Ratio of expenses to receipts**

- (1) An authorised fundraiser conducting a fundraising appeal for donations only (that is, without any associated supply of goods or services) must take all reasonable steps to ensure that the expenses payable in respect of the appeal do not exceed 50 per cent of the gross income obtained, whether the appeal is conducted house-to-house, in a public place, by telephone canvassing or in any other manner.
- (2) An authorised fundraiser conducting a fundraising appeal otherwise than for donations only (that is, with associated supply of goods or services) must take all reasonable steps to ensure that the expenses payable in respect of the appeal do not exceed a fair and reasonable proportion of the gross income obtained.

## **8. Receipting requirements**

- (1) Receipts are to be written or issued immediately for all money received, even when not requested by the donor, except where:
  - (a) the money is received through a collection box or similar device, or
  - (b) the money is received through the supply of goods or services, or
  - (c) the money is received through a payroll deduction scheme, or
  - (d) the money is deposited directly into an account into which the gross income obtained from a fundraising appeal is paid in accordance with section 20(6) of the Act.
- (2) Receipts used by a trader must be only those authorised and issued to the trader by the authorised fundraiser, details of which must be recorded in registers maintained by the trader and the authorised fundraiser.
- (3) Effective controls must be exercised over the custody and accountability of receipts, including the following controls:
  - (a) each receipt must be consecutively numbered as part of an ongoing series,

- (b) each receipt (not being a ticket) must have the name of the authorised fundraiser printed on it.
- (4) If collection boxes or similar devices are employed for monetary donations, it is sufficient to issue a single receipt for the gross money cleared from each such box or device.
- (5) If money is received by direct debit from the donor's account into an account into which the gross income obtained from a fundraising appeal is paid in accordance with section 20(6) of the Act, it is sufficient for the authorised fundraiser to issue a receipt to the donor, for the aggregate amounts received through the periodical payment, at intervals of not greater than 12 months.
- (6) The gross money received by any participant in a fundraising appeal must be counted in the presence of the participant and a receipt must then be issued to the participant for that amount.
- (7) In relation to online appeals conducted by a trader through the trader's website, the authorised fundraiser must ensure that the trader issues receipts in accordance with their agreement with the trader.

#### **9. Record systems for items used in fundraising appeals**

A record system must be instituted and maintained for:

- (1) all identification cards or badges issued to participants in a fundraising appeal, by which a number assigned to and shown on each card or badge is correlated with the name of the person to whom it was issued, the date of issue and the date it was returned, and
- (2) all receipt books used in a fundraising appeal, by which a number assigned to and shown on each book is correlated with the name of the person to whom it was issued, the date of issue and the date it was returned, and
- (3) all collection boxes or similar devices used in a fundraising appeal for monetary donations, by which a number assigned to and shown on each box or device is correlated with the name of the person to whom it was issued, the location of the box or other device, the date of issue and the date it was returned.

#### **10. Persons conducting or participating in a fundraising appeal on behalf of an authorised fundraiser**

- (1) The authorisation given by an authorised fundraiser to a member, employee or agent who conducts or participates in a fundraising appeal otherwise than as a face-to-face collector must:
  - (a) be in writing, and
  - (b) include the person's name, and
  - (c) include the terms and conditions under which the authorisation is granted, and
  - (d) include a description of the appeal or appeals to be undertaken, and
  - (e) indicate the specific period for which the authorisation will apply, including the issue and expiry dates, and
  - (f) be signed and dated by the authorised fundraiser (or a delegate of the authorised fundraiser or its governing body).
- (2) The authorisation given by an authorised fundraiser to a member, employee or agent who participates in a fundraising appeal as a face-to-face collector must:
  - (a) be in the form of an identification card or badge, and
  - (b) be consecutively numbered, and
  - (c) include the name of the authorised fundraiser and a contact telephone number, and
  - (d) include the name of the face-to-face collector, and
  - (e) if the face-to-face collector receives a wage, commission or fee for services, the identification card or badge must include the words "paid collector" and the name of the collector's employer, and
  - (f) indicate its issue and expiry dates, and
  - (g) be signed and dated by the authorised fundraiser (or a delegate of the authorised fundraiser or its governing body, and
  - (h) be of sufficient size to ensure that the particulars on it may be easily read by members of the public, and
  - (i) be recovered by the authorised fundraiser from the face-to-face collector as soon as the face-to-face collector's authorised involvement in the appeal is ended.

- (3) In an appeal conducted jointly with a trader, the person signing the authorisation for the purposes of condition 10 (1)(f) or (2)(g) may be the trader, but only if the trader is authorised to do so under a written agreement between the trader and the authorised fundraiser.
- (4) Despite condition 10(2), the authorisation by Apex, the Country Women's Association, Lions, Quota, Rotary or Soroptimist or UHA of NSW Incorporated (being community service organisations) of a member as a face-to-face collector may be in the form of the organisation's membership badge if:
  - (a) the appeal concerned is of a type generally associated with the organisation, and
  - (b) the name and contact telephone number of the organisation is clearly shown at the place of solicitation on a banner or sign or similar display, and
  - (c) the organisation maintains a register of membership badges on which is entered, in relation to each badge issued, a number assigned to and shown on the badge, the name of the person to whom it was issued, the date of issue and the date it was returned, and
  - (d) the organisation recovers any membership badge it issues to a person as soon as the person ceases to be a member of the organisation.
- (5) In relation to online appeals conducted through a trader's website for an authorised fundraiser, the trader must issue authorities and/or identification badges to persons conducting or participating in a fundraising appeal via email on behalf of the authorised fundraiser provided the authorisations comply with authority conditions 10(1) & 10(2) respectively and this arrangement is detailed in the written agreement between the authorised fundraiser and the trader.

### **11. Fundraising through direct marketing**

If a fundraising appeal involves solicitation by way of direct marketing (including by telephone, email, internet or direct mailing), the authorised fundraiser must ensure that:

- (a) the content of all direct marketing communications is not misleading or deceptive or likely to mislead or deceive, and
- (b) if requested by the person being solicited, the person is informed of the source from which the authorised fundraiser obtained the person's name and other details, and
- (c) if requested by the person being solicited, the person's name and other details are removed as soon as practicable from the source of names or contacts used for the purposes of the appeal (or if removal of the name and details is not practicable, the name and details are to be rendered unusable), and
- (d) the name and other details of a person are not provided or sold to any other person or organisation, without the express consent of the person to whom the information relates, and
- (e) each contract (entered into as a result of direct marketing) for the purchase of goods or services to the value of more than \$100, provides that the purchaser has the right to cancel the contract within a period of time that is not less than five business days (excluding weekends and public holidays), and
- (f) a purchaser that enters a contract referred to in paragraph (e) is notified, at the time of entering the contract, of the purchaser's right to cancel the contract and the time within that right must be exercised, and
- (g) all direct marketing by phone complies with the Telecommunications (Do Not Call Register) (Telemarketing and Research Calls) Industry Standard 2007 of the Commonwealth.
- (h) in relation to fundraising appeals involving telemarketing operations, a telemarketer who receives a wage, commission or fee, whether or not requested to do so by the person being solicited, is required to disclose to that person at the beginning of the conversation the fact that he or she is so employed and the name of his or her employer for the purposes of the appeal.

### **12. Use of collection boxes for monetary donations**

- (1) If a collection box or similar device is used for monetary donations, it must be:
  - (a) securely constructed, and
  - (b) properly sealed, and
  - (c) consecutively numbered, and
  - (d) clearly labelled with the name of the authorised fundraiser.
- (2) Proper supervision, security and control must be exercised over the use and clearance of the box or device.

### **13. Authorisation of expenditure**

If the authorised fundraiser is an organisation, all payments made in connection with:

- (a) any expenditure involved with the conduct of a fundraising appeal, and
  - (b) any disposition of funds and profits resulting from a fundraising appeal,
- must be properly authorised by or on behalf of the organisation.

### **14. Advertisements, notices and information**

- (1) Any advertisement, notice or information provided as part of a fundraising appeal must:
  - (a) clearly and prominently disclose the name of the authorised fundraiser, and
  - (b) not be reasonably likely to cause offence to a person, and
  - (c) be based on fact and must not be false or misleading.
- (2) A person conducting or participating in a fundraising appeal must use his or her best endeavours, at all times, to answer honestly any question directed to the person in relation to the purpose of the appeal or the details of the appeal, or to arrange to find answers to questions that he or she is unable to answer. In particular, if it is requested, information is to be given as to how the gross income and any articles obtained from the appeal will be distributed and on the other matters referred to in sub-paragraphs (3)(a) and (4).
- (3) If a fundraising appeal is jointly conducted with a trader or if a person, in the course of a trade or business, provides services directly related to the fundraising appeal, such as telemarketing services, the following additional requirements must be complied with:
  - (a) any written or printed advertisement, notice or information must include:
    - (i) the full name under which the trader or person operates for purposes of the appeal, and
    - (ii) the telephone number and the website address of the trader or person, and
    - (iii) the benefit to be received by the authorised fundraiser must be expressed as a percentage of the gross proceeds of the appeal or an actual dollar amount (the disclosure cannot be expressed as a percentage of the “net” income of the appeal or a percentage of the “wholesale” price of a product), and
    - (iv) the benefit to be received by the trader or business from the appeal must be expressed as a percentage of the gross proceeds of the appeal or an actual dollar amount (the disclosure cannot be expressed as a percentage of the “net” income of the appeal), and
    - (v) the date on which the appeal commenced, or will commence, and the date on which it will end, or where no end date is known, the words “this is an ongoing appeal”.
  - (b) in respect of any advertisement, notice or information provided or displayed:
    - (i) the format and text of any advertisement or any notice must be approved by the authorised fundraiser, and
    - (ii) if the name of the trader or person is shown, it must be in the same print size as the name of the authorised fundraiser, and
    - (iii) if the logo of the authorised fundraiser is displayed (including any such logo in the form of a graphic or watermark), it must appear once only, and represent not more than 10 per cent of the surface area.
- (4) If a fundraising appeal involves the collection of donated goods or material, any advertisement, notice or information must also include particulars of what is to happen to any goods and material collected.
- (5) If a fundraising appeal referred to in condition 14(3) involves the collection of donated goods and material:
  - (a) details of the basis for calculating or providing the benefit to be received by the authorised fundraiser, as referred to in condition 14(3)(a)(iii), must be expressed in the advertisement, notice or information as:
    - (i) a percentage of the average gross income derived or expected to be derived from all goods and material collected over a specified period of the appeal, and
    - (ii) if the collection device is a bin, an average dollar amount derived or expected to be derived from each bin for each month over a specified period of the appeal, and



- (b) if the advertisement, notice or information is continuously displayed:
  - (i) the details referred to in condition 14(5)(a) must be reviewed at least once every 12 months (starting from the date the advertisement, notice or information is first displayed), and the advertisement, notice or information updated if the review reveals a significant change in those details, and
  - (ii) the advertisement, notice or information must be updated if at any other time there is a significant change in those details.
- (6) The requirements of condition 14 do not apply in relation to a notice referred to in conditions 15(1)(e)(i) or (3)(a).

### **15. Appeals for goods to be donated by way of collection bins or bags**

- (1) If a fundraising appeal involves the collection of donated goods or material jointly with a trader and the collection device is a bin, the following requirements must be complied with:
  - (a) each bin must be consecutively numbered, and the number displayed in a prominent manner on the bin,
  - (b) if there is more than one bin used in connection with the appeal, there must be a reference on the bin to the total number of bins currently used in connection with the appeal, and this reference should be reviewed and updated whenever there is a significant change in the number of bins in use but otherwise at least once every 12 months (starting from the date the appeal commences),
  - (c) the trader must maintain a record of bins that includes the date, and the number and location of each bin,
  - (d) at least once a month during the appeal, the trader must provide to the authorised fundraiser a report that includes the date, and the number and location of each bin
  - (e) if the appeal is for the collection of donated articles of clothing:
    - (i) each bin must have continuously displayed on its chute a notice, to be obtained from Fair Trading, that bears the words “COMMERCIALY OPERATED”, and
    - (ii) the trader must maintain a record of the appeal (that relates to that appeal only), that includes the date, and the aggregate gross weight of unsorted clothing obtained from the appeal, and
    - (iii) at least once a month during the appeal, the trader must provide to the authorised fundraiser a report (that may be combined with the report referred to in condition 15(1)(d)) that includes the date, and the aggregate gross weight of unsorted clothing obtained from the appeal.
- (2) If a fundraising appeal involves the collection of donated goods or material jointly with a trader and the collection device is a collection bag, the following requirements must be complied with:
  - (a) the trader must maintain a record that includes the date, and the locality and the number of bags distributed as part of the appeal
  - (b) at least once a month during the appeal, the trader must provide to the authorised fundraiser a report that includes the date, and the locality and the number of bags distributed as part of the appeal
  - (c) if the appeal is for the collection of donated articles of clothing:
    - (i) each bag, or any advertisement, notice or information distributed with each bag, must bear the words “COMMERCIALY OPERATED” in a clearly visible position, printed in accordance with the specifications set out in condition 15(4),
    - (ii) the trader must maintain a record of the appeal (that relates to that appeal only) that includes the date, and the aggregate gross weight of unsorted clothing obtained from the appeal, and
    - (iii) at least once a month during the appeal, the trader must provide to the authorised fundraiser a report (that may be combined with the report referred to in condition 15(2)(b)) that includes the date, and the aggregate gross weight of unsorted clothing obtained from the appeal.
- (3) If a fundraising appeal is for the collection of donated articles of clothing by the authorised fundraiser (not jointly with a trader), the following requirements must be complied with:
  - (a) if the collection device is a bin, each bin must have continuously displayed on its chute a notice, to be obtained from the National Association of Charitable Recycling Organisations Incorporated (NSW) or Fair Trading, that bears the words “CHARITY OPERATED”,

- (b) if the collection device is a collection bag, each bag, or any advertisement, notice or information distributed with each bag, must bear the words “CHARITY OPERATED” in a clearly visible position, printed in accordance with the specifications set out in condition 15(4).
- (4) For the purposes of conditions 15(2)(c)(i) and (3)(b), the words “COMMERCIALY OPERATED” and “CHARITY OPERATED” must:
  - (a) be in capital letters, in Helvetica, Arial or similar font style, and not less than 5 millimetres in height, and
  - (b) appear in black and white in the following format:



### **16. Appeal connected with sale of goods or provision of services**

If a trader conducts a fundraising appeal involving the supply of goods or services, records of the goods and services supplied must be maintained by the trader, which (in the case of goods for sale) must include the date and number of units purchased or manufactured, together with their cost, the date and number of units sold and the gross income obtained.

### **17. Agreement with trader**

- (1) If a fundraising appeal is conducted jointly with a trader, the return to the authorised fundraiser must be governed by a written agreement between the authorised fundraiser and the trader.
- (2) Such an agreement must include at least the following particulars:
  - (a) the amount of the return to be obtained by the authorised fundraiser from the appeal, or the basis or method by which this will be calculated, (the disclosure can not be expressed as a percentage of the “net” income of the appeal or a percentage of the “wholesale” price of a product) and the manner in which payment will be effected,
  - (b) details of any commission, wage or fee payable to the trader and any other persons from the gross income obtained from the appeal,
  - (c) details of the type, and any limitation on the amount, of expenses to be borne by the trader and the authorised fundraiser as part of the appeal,
  - (d) the basic rights, duties and responsibilities of both parties,
  - (e) insurance risks to be covered by each party (for example, public liability, workers compensation for employees, personal accident insurance for volunteers, third party property insurance),
  - (f) details of any records and documentation to be maintained by the trader (including those required by or under the Act) and the requirement that the trader keep these at the registered office of the authorised fundraiser, except as provided by condition 19,
  - (g) details of the specific internal controls and safeguards to be employed to ensure proper accountability for the gross income obtained from the appeal,
  - (h) the process to be followed in resolving disputes between the parties to the contract or agreement, complaints from the public and grievances from employees,
  - (i) the reporting requirements imposed on the trader,
  - (j) an undertaking by the trader to comply with the provisions of the Act, the regulations under the Act and the conditions of the authority,
  - (k) a mechanism to deal with the effect on the contract of any subsequent addition, variation or deletion of an existing condition of the authority,
  - (l) the circumstances in which the contract is or may be terminated.

### **18. Management**

- (1) If the authorised fundraiser is an organisation, in relation to its fundraising activities:
  - (a) it must be administered by a governing body of not fewer than three persons,
  - (b) all business transacted by the governing body must be properly recorded in the organisation’s minutes,
  - (c) the minimum quorum for all meetings of the governing body must not be fewer than three persons,

- (d) persons who are members of the same family can not comprise more than one third of the governing body, and
  - (e) persons who are members of the same family can not be co-signatories on the same transaction on the bank account of the organisation.
- (2) If the authorised fundraiser has individuals acting as trustees for a trust, in relation to its fundraising activities:
- (a) it must be administered by not fewer than three trustees,
  - (b) all business transacted by the trustees must be properly recorded in a minute book,
  - (c) the minimum quorum for all meetings of the trustees must not be fewer than three persons,
  - (d) persons who are members of the same family can not comprise more than one third of the trustees, and
  - (e) persons who are members of the same family can not be co-signatories on the same transaction on the bank account of the organisation.

### **19. Circumstances under which records may be kept at a place other than registered office**

Records may be removed from the authorised fundraiser's registered office:

- (a) to be taken into the custody of the auditor for purposes of audit, or
- (b) for a purpose required by law or by a condition of the authority, or
- (c) to be taken to a place, the location of which has been notified in writing to Fair Trading.

### **20. Conflicts of interest**

- (1) The authorised fundraiser must establish a mechanism for dealing with any conflicts of interest that may occur involving a member of the governing body or an office-holder or employee of the authorised fundraiser. This includes the establishment of a register of pecuniary interests.
- (2) Members of the governing body of the authorised fundraiser that are, or are to be remunerated, must be excluded from that part of a meeting of the governing body where their appointment, conditions of service, remuneration or any proposal for the supply of goods and services by them, or their immediate families, is being considered.
- (3) Members of the governing body that are, or are to be remunerated, must not be counted in a quorum for that part of the meeting where their appointment, conditions of service, remuneration or any proposal for the supply of goods and services by them, or their immediate families, is being considered.
- (4) The appointment, conditions of service, remuneration of, or supply of goods or services by a member of the governing body of the authorised fundraiser must be subsequently ratified by a general meeting of the members of the authorised fundraiser (or a committee to which this function has been delegated).

### **21. Internal disputes**

If the authorised fundraiser is an organisation, its constitution must establish a mechanism for resolving internal disputes within the membership of the organisation in relation to its fundraising activities.

### **22. Complaint handling mechanism**

The authorised fundraiser must provide a mechanism that will properly and effectively deal with complaints made by members of the public and grievances from employees in relation to its fundraising activities.

### **23. Retention of records**

Unless otherwise approved by the Minister, all entries made in any record required to be kept in accordance with these conditions must be maintained:

- (a) in the case of accounting records, for a period of at least seven years, and
- (b) in any other case, for a period of at least three years.

### **24. Soliciting from occupants of motor vehicles**

- (1) A fundraising appeal must not be conducted by soliciting persons occupying motor vehicles while they are being driven on a road or road related area (including motor vehicles that are temporarily stopped for any reason, such as at traffic lights or at an intersection).
- (2) In this condition:
 

**road** means an area that is open to or used by the public and is developed for, or has as one of its main uses, the driving or riding of motor vehicles.

**road related area** means:

  - (a) an area that divides a road, or
  - (b) a footpath or nature strip adjacent to a road, or
  - (c) an area that is open to the public and is designated for use by cyclists or animals, or
  - (d) an area that is not a road and that is open to or used by the public for driving, riding or parking vehicles, or
  - (e) a shoulder of a road, or
  - (f) any other area that is open to or used by the public and that has been declared under section 18 of the *Road Transport Act 2013* to be an area to which specified provisions of this Act or the statutory rules apply.

## **PART 2 – PARTICIPATION OF CHILDREN IN FUNDRAISING APPEALS**

### **Division 1 – General**

#### **25. Definitions**

In this Part:

**child** means a person under the age of 15 years.

**child participant** means a child who participates in a fundraising appeal.

**parent**, in relation to a child, means a person who has for the time being parental responsibility for the child.

### **Division 2 – Conditions where children participate in fundraising appeals**

#### **26. Application of this Division**

This Division prescribes conditions with respect to the participation of children in fundraising appeals.

- (1) An authorised fundraiser conducting an appeal:
  - (a) must ensure that the requirements of this Division are complied with, and
  - (b) must take all reasonable steps to ensure that any child participant complies with the requirements of this Division.

#### **27. Participation of children in fundraising appeals**

- (1) A child must not participate in a fundraising appeal if the child is under the age of eight years.
- (2) A child participant must not receive wages or commission or other material benefit (other than reimbursement for reasonable out-of-pocket expenses) if the child is under the age of 13 years.

#### **28. Parental consent and contact**

- (1) An authorised fundraiser that proposes to allow a child to participate in a fundraising appeal:
  - (a) must take all reasonable steps to notify a parent of the child of its proposal before allowing the child to participate in the appeal, and
  - (b) must not allow the child to participate in the appeal if a parent objects to the child participating in the appeal.
- (2) The person or organisation conducting the appeal must take all reasonable steps to ensure that a child participant is able to contact his or her parents during the appeal.

#### **29. Supervision**

- (1) A child participant must be adequately supervised having regard to the age, sex and degree of maturity of the child.

- (2) A supervisor may supervise no more than 6 child participants simultaneously.
- (3) A supervisor must be in close proximity to a child participant, must know the whereabouts of the child and must make contact with the child at intervals not greater than 30 minutes.
- (4) In the case of a child participant less than 11 years of age, the supervisor must be in constant contact with the child.

### **30. Working with other children**

A child participant must work with at least one other child participant.

### **31. Endangering of child**

An authorised fundraiser conducting an appeal must ensure that the physical and emotional well-being of a child participant is not put at risk.

### **32. Insurance**

Appropriate insurance must be secured for a child participant, together with any other insurance required to protect the interests of the child against any claim which could be brought against the child for property damage, public risk liability and other such risks.

#### ***Door-to-door fundraising appeals and motor vehicles***

- (1) A child must not participate in a door-to-door fundraising appeal if the child is under the age of 14 years and 9 months old.
- (2) An authorised fundraiser conducting an appeal must take all reasonable steps to ensure that a child participant:
  - (a) does not enter a private dwelling when soliciting door-to-door, and
  - (b) does not solicit, sell to or collect from a person in a motor vehicle.

### **33. Hours of participation**

- (1) A child participant must not participate in a fundraising appeal for more than four hours on any school day (that is, a day on which the child is required to attend school).
- (2) On days other than school days, a child participant must not participate in a fundraising appeal for more than six hours.
- (3) An authorised fundraiser conducting an appeal must ensure that each child participant is given:
  - (a) a 10 minute rest break every hour, and
  - (b) a 1 hour rest break every 4 hours.
- (4) A child participant must not participate in a fundraising appeal on more than five days per week.
- (5) If participating in a fundraising appeal outdoors, a child participant must not start before sunrise or 6.30am (whichever is the later), and must not finish later than sunset or 6.00pm (whichever is the earlier).
- (6) A child participant must not be required or permitted to participate in a fundraising appeal later than 9.00pm if the following day is a school day.

### **34. Minimum breaks between successive shifts**

A child participant must not be required or permitted to participate further in a fundraising appeal after participating for any maximum period permitted by this Division without receiving a minimum break of 12 hours.

### **35. Maximum loads for lifting**

A child participant must not be required or permitted to lift any weight that, having regard to the age and condition of the child, would be likely to be dangerous to the health of the child.

### **36. Food and drink**

- (1) An authorised fundraiser conducting an appeal must ensure that each child participant is provided with appropriate and sufficient nutritious food, having regard to the age, taste and culture of the child.
- (2) The food should be varied and should be served at reasonable hours.

- (3) An authorised fundraiser conducting an appeal must ensure that water, fruit juice or other such drinks are readily available at all times.

### **37. Toilet facilities**

An authorised fundraiser conducting an appeal must ensure that clean and easily accessible toilet, hand-washing and hand-drying facilities are accessible to each child participant.

### **38. Travel**

- (1) A child participant must be taken home after the child's participation in an appeal is finished or be accompanied:
  - (a) by a parent of the child, or
  - (b) by an adult authorised by a parent of the child, when the child is travelling home after his or her participation in the appeal is finished.
- (2) This condition does not apply if:
  - (a) the child is more than 12 years old, and
  - (b) the distance between work and the child's home is less than 10 kilometres, and
  - (c) travel home will be by public transport and will be completed within daylight hours.

### **39. Protection from elements**

An authorised fundraiser conducting an appeal must ensure that a child participant is adequately clothed and otherwise protected from extremes of climate.

### **40. Punishment prohibited**

An authorised fundraiser conducting an appeal must ensure that no child participant is subjected to any form of corporal punishment, social isolation or immobilisation or any other behaviour likely to humiliate or frighten the child.

## **Division 3 – Additional conditions where children receive benefit for participation in fundraising appeal**

### **41. Application of this Division**

This Division prescribes additional conditions with respect to the employment of children for the purpose of a fundraising appeal, in circumstances in which the child receives a wage or commission or some other material benefit (other than reimbursement of reasonable out-of-pocket expenses) in respect of the appeal.

- (1) An authorised fundraiser conducting an appeal must ensure that the requirements of this Division are complied with.

### **42. Letter of appointment**

- (1) A letter of employment must be issued to a child, which contains details of the terms and conditions under which he or she is employed.
- (2) The letter must include:
  - (a) details of the basis or method on or by which payment of wages or commission or some other material benefit will be calculated or provided, including details of any guaranteed minimum payment or benefit, and
  - (b) the method by which payment will be effected, and
  - (c) the general conditions of employment, and
  - (d) the rights of the employee (the child).

### **43. Record of employment**

- (1) A record of employment must be maintained for each child participant employed or engaged.
- (2) The record must include the following particulars with respect to the child:
  - (a) the child's full name, residential address and telephone number (if any),

- (b) the child's date of birth,
  - (c) a description of the nature of the employment,
  - (d) details of any consent provided by the child's parents (any written documentation must be retained), and
  - (e) the name and address of the person immediately responsible for the child during the appeal.
- (3) If the employer is a trader, the employer must make the records available to the authorised fundraiser.
- (1)