



Province of Alberta

CHARITABLE FUND-RAISING ACT

Revised Statutes of Alberta 2000
Chapter C-9

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Office Consolidation

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Note

All persons making use of this consolidation are reminded that it has no legislative sanction, that amendments have been embodied for convenience of reference only. The official Statutes and Regulations should be consulted for all purposes of interpreting and applying the law.

Regulations

The following is a list of the regulations made under the *Charitable Fund-raising Act* that are filed as Alberta Regulations under the Regulations Act

	Alta. Reg.	<i>Amendments</i>
Charitable Fund-raising Act		
Charitable Fund-raising	108/2000.....	251/2001, 57/2004, 108/2004, 182/2005, 38/2007, 60/2009

CHARITABLE FUND-RAISING ACT

Chapter C-9

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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) “business” means

- (i) an entity, including an individual carrying on business as a sole proprietorship or a partnership or corporation, that is formed to make a profit for its owners, members or shareholders, or
- (ii) a corporation that is allowed under the law that applies to its formation to distribute any profits to its owners, members or shareholders during its existence;

- (b) “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;
- (c) “charitable purpose” includes a philanthropic, benevolent, educational, health, humane, religious, cultural, artistic or recreational purpose, so long as the purpose is not part of a business;
- (d) “contribution” means money, goods or services or a promise or pledge to give money, goods or services;
- (e) “donor fund-raiser” means a business described in section 33;
- (f) “fund-raising agreement” means an agreement between a charitable organization and a fund-raising business described in section 30;
- (g) “fund-raising business” means a fund-raising business described in section 20;
- (h) “gross contributions” means gross contributions as calculated in accordance with the regulations;
- (i) “licence” means a licence issued or renewed under this Act;
- (j) “licensed” means holding a valid and subsisting licence;
- (k) “Minister” means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act;
- (l) “registered” means holding a valid and subsisting registration under this Act;
- (m) “registration” means a registration made or renewed under this Act;
- (n) “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;
- (o) “standards of practice” means the standards of practice established under section 31;
- (p) “volunteer” means a person who offers their services in any capacity and does not receive remuneration.

(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 fund-raising business on behalf of the charitable organization;
- (c) a reference to a solicitation made by a fund-raising business means a solicitation made by a fund-raising business or the employees or volunteers of the fund-raising business.

1995 cC-4.5 s1;1997 c19 s1(2)

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 fund-raising businesses when making solicitations.

1995 cC-4.5 s2;1997 c19 s1(26)

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 a gaming activity that is authorized by a licence under the *Gaming and Liquor Act*.
1995 cC-4.5 s3;1996 cG-0.5 s135

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 fund-raising business;
- (b) solicitations made by a charitable organization that uses a fund-raising business 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 \$25 000 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 \$25 000 or more from persons in Alberta, this Part applies to solicitations made by the charitable organization from the time it reaches \$25 000 in gross contributions until the end of that financial year.

1995 cC-4.5 s4;1997 c19 s1(3)

Hours of solicitation

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

1995 cC-4.5 s5

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 provide each person who is being solicited and who gives a contribution 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.

1995 cC-4.5 s6;1997 c19 s1(4)

Duty to maintain records

7 A charitable organization or fund-raising business that makes solicitations must maintain

- (a) complete and accurate financial records of its operations in Alberta for at least 3 years after the solicitations are made,
- (b) records regarding the solicitations made in Alberta 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.

1995 cC-4.5 s7;1997 c19 s1(5)

Financial statements and returns

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.

1995 cC-4.5 s8

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 return 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 return 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.

1995 cC-4.5 s9;1997 c19 s1(6)

Receipts

10(1) A person who makes a solicitation must give a receipt to a person making a monetary contribution if the person making the contribution requests a receipt.

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

1995 cC-4.5 s10

Holding contributions in trust

11(1) Every fund-raising business and every employee of a fund-raising business 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 3 days after 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 Canada.

(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.

RSA 2000 cC-9 s11;2009 c7 s3

Part 2 Charitable Organizations and Fund-raising Businesses

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 \$25 000 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 \$25 000 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 \$25 000.

(5) This section does not apply to a charitable organization if, throughout its financial year,

- (a) the charitable organization is not incorporated,
- (b) the charitable organization is affiliated in some manner with another charitable organization, referred to in this subsection as the affiliated organization, and
- (c) the affiliated organization controls the distribution of any contributions the charitable organization receives during its financial year as a result of solicitations made by the charitable organization.

1995 cC-4.5 s12;1997 c19 s1(9)

Use of fund-raising businesses

13 No charitable organization may use a fund-raising business

- (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.

1995 cC-4.5 s13;1997 c19 s1(25)

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.

1995 cC-4.5 s14

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,
- (b.1) is named in a certificate signed under the *Charities Registration (Security Information) Act* (Canada), or
- (c) is subject to an order made under the *Fair Trading Act* or a predecessor or successor of the *Fair Trading 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.

(4) The Minister may also 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, in the Minister’s opinion, any of the charitable organization’s principals, directors, managers or employees referred to in section 32(1) or (2) have contravened section 32(1) or (2).

RSA 2000 cC-9 s15;2002 c32 s3

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.

1995 cC-4.5 s16

Expiration of registration

17 The registration of a charitable organization is for the time period established under the regulations.

1995 cC-4.5 s17

Changes in information

18(1) A charitable organization must inform the Minister of any change in the information provided under section 14 within 30 days after the change.

(2) This section applies to changes in information occurring when the charitable organization is registered or when the registration is suspended and within 30 days after the charitable organization's registration expires or is cancelled.

1995 cC-4.5 s18

Financial year

19 For the purposes of this Act, the financial year of a charitable organization that is not a corporation is

- (a) the calendar year, or
- (b) if the charitable organization requests the Minister to establish another time period, a period of 12 consecutive months specified by the Minister.

1995 cC-4.5 s19

Fund-raising Businesses

Fund-raising business

20(1) A fund-raising business is a business that

- (a) makes solicitations on behalf of a charitable organization or manages or is responsible for solicitations made by or on behalf of a charitable organization,
- (b) provides those services for remuneration, and
- (c) is not an employee of the charitable organization.

(2) A fund-raising business includes a business that

- (a) is hired by another business to make solicitations on behalf of a charitable organization or to manage or be responsible for solicitations made by or on behalf of a charitable organization, and
- (b) is not an employee of the other business.

1995 cC-4.5 s20;1997 c19 s1(12)

Solicitations by fund-raising businesses

21 No fund-raising business 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 fund-raising business is licensed.

1995 cC-4.5 s21;1997 c19 s1(25)

Licensing

22 A fund-raising business that 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.

1995 cC-4.5 s22;1997 c19 s1(25)

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 fund-raising business 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,
- (b.1) is named in a certificate signed under the *Charities Registration (Security Information) Act* (Canada), or
- (c) is subject to an order made under the *Fair Trading Act* or a predecessor or successor of the *Fair Trading 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 fund-raising business or any of its principals, directors or managers will contravene this Act.

(4) The Minister may also 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, in the Minister's opinion, the fund-raising business or any of its principals, directors, managers or employees has contravened section 32(3).

RSA 2000 cC-9 s23;2002 c32 s3

Notice to applicant

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

- (a) notify the fund-raising business 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 fund-raising business 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 fund-raising business, the Minister must give written reasons for the decision to the fund-raising business.

1995 cC-4.5 s24;1997 c19 s1(25)

Expiration of licence

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

1995 cC-4.5 s25

Changes in information

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

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

1995 cC-4.5 s26;1997 c19 s1(25)

Security

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

1995 cC-4.5 s27;1997 c19 s1(25)

Donor list

28(1) A donor list, being a list of names of and other information about persons who have given a contribution to a charitable organization that is compiled by a fund-raising business,

- (a) is the property of the charitable organization, and
- (b) is under the exclusive control of the charitable organization.

(2) No fund-raising business that compiles a donor list for a charitable organization may use or deal with the donor list except with the written permission of the charitable organization.

(3) Where a fund-raising agreement between a charitable organization and a fund-raising business expires, is terminated or otherwise ceases to be in effect, any donor list to which that agreement relates and that is in the possession of or otherwise under the management of the fund-raising business must be turned over to the charitable organization.

RSA 2000 cC-9 s28;2003 cP-6.5 s65

Fund-raising Agreements

Duty to enter into agreement

29(1) No charitable organization may use a fund-raising business 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 fund-raising business have entered into a fund-raising agreement that meets the requirements of section 30 and the agreement is in force.

(2) No fund-raising business 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 fund-raising business and the charitable organization have entered into a fund-raising agreement that meets the requirements of section 30 and the agreement is in force.

(3) In this section, references to a fund-raising business do not include a fund-raising business under section 20(2).

1995 cC-4.5 s28;1997 c19 s1(15)

Requirements

30(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) the methods of soliciting contributions to be used;
- (d) 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;

- (e) the location of the account of the charitable organization into which monetary contributions are to be deposited;
 - (f) the charitable organization's address and the name and telephone number of the contact person for the charitable organization;
 - (g) the fund-raising business's address and the name and telephone number of the contact person for the fund-raising business;
 - (h) any matter provided for in the regulations.
- (2) A fund-raising agreement must establish the remuneration of the fund-raising business, 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.

1995 cC-4.5 s29;1997 c19 s1(16)

Standards of Practice

Standards of practice

31(1) The Minister may establish standards of practice relating to fund-raising carried out by charitable organizations and fund-raising businesses.

(2) The Minister must ensure that the standards of practice are published in *The Alberta Gazette*.

(3) The *Regulations Act* does not apply to the standards of practice.

1997 c19 s1(17)

Compliance with standards

32(1) The principals, directors, managers and employees of a charitable organization whose main responsibility is to make solicitations for the charitable organization or to manage or be responsible for solicitations made by the charitable organization must comply with the standards of practice.

(2) If a charitable organization has an employee described in subsection (1), the principals, directors and managers of the

charitable organization must take reasonable steps to ensure that the employee complies with the standards of practice.

(3) A fund-raising business and its principals, directors, managers and employees must comply with the standards of practice.

1997 c19 s1(17)

Part 3 Donor Fund-raisers

Meaning of donor fund-raiser

33 A donor fund-raiser is a business 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.

1995 cC-4.5 s30;1997 c19 s1(18)

Meaning of solicitation

34 For the purposes of this Act, the request to buy the good or service referred to in section 33 is not a solicitation.

1995 cC-4.5 s31

Duty

35 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.

1995 cC-4.5 s32

Information

36(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 the 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.

1995 cC-4.5 s33

Representations

37 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.

1995 cC-4.5 s34

Part 4 Enforcement

Inspections and Investigations

Inspectors

38 The Minister may appoint one or more inspectors for the purposes of this Act and the regulations.

1995 cC-4.5 s35

Inspection

39(1) An inspector may enter and inspect the premises of a charitable organization or a fund-raising business 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 fund-raising business 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.

1995 cC-4.5 s36;1997 c19 s1(25)

Inspection of s7 records

40(1) A charitable organization or fund-raising business that is required to maintain records under section 7 must make the records available for inspection by an inspector at a place in Alberta and at a time specified by the inspector.

(2) An inspector has the powers and duties described in section 39(4) and (5) when inspecting records under subsection (1).

1997 c19 s1(19)

Order allowing inspection

41(1) If a person

- (a) refuses to allow an inspector to enter the premises of a charitable organization or a fund-raising business,
- (b) refuses to produce anything requested by the inspector to assist in an inspection under section 39, or

- (c) refuses to make records referred to in section 7 available for inspection in Alberta as specified by an inspector under section 40,

the inspector may apply to the Court of Queen's Bench 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 or requiring that records referred to in section 7 be made available to an inspector for inspection in Alberta.

(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.

RSA 2000 cC-9 s41;2009 c53 s33

Initiating investigation

42 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, fund-raising business or donor fund-raiser.

1995 cC-4.5 s38;1997 c19 s1(25)

Order to assist investigation

43(1) When a person is being investigated, an inspector may apply to the Court of Queen's Bench 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 affairs of the person or person's agent that are relevant to the investigation 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.

RSA 2000 cC-9 s43;2009 c53 s33

Ministerial Powers

Ministerial powers

44(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 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 fund-raising business,
- (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 fund-raising business to hold those funds or securities,
- (c) direct a charitable organization or fund-raising business 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 fund-raising business 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 fund-raising business or the funds held by a charitable organization in its accounts are less than the amount for which the fund-raising business 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.

RSA 2000 cC-9 s44;2009 c53 s33

Injunction

45(1) Where, on the application of the Minister, 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) A copy of the application and supporting material must be given to the party or parties named in the application at least 48 hours prior to the time set for the hearing 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.

RSA 2000 cC-9 s45;2009 c53 s33

Suspension, Cancellation and Terms and Conditions

Grounds

46(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 fund-raising business or impose terms and conditions on the registration or licence if the charitable organization or fund-raising business 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,
- (c.1) is named in a certificate signed under the *Charities Registration (Security Information) Act* (Canada), or
- (d) is subject to an order made under the *Fair Trading Act* or a predecessor or successor of the *Fair Trading 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 suspend or cancel the registration of a charitable organization or the licence of a fund-raising business or impose terms and conditions on the registration or licence if, in the Minister’s opinion,

- (a) any of the charitable organization's employees referred to in section 32(1) have contravened section 32(1), or
 - (b) any of the employees of the fund-raising business have contravened section 32(3).
- (4) Before a registration or licence is suspended or cancelled or terms and conditions are imposed, the charitable organization or fund-raising business, 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.
- (5) The Minister may suspend the registration of a charitable organization or the licence of a fund-raising business without notice or an opportunity to make representations if the charitable organization or fund-raising business is being investigated under this Act and the Minister is of the opinion that the charitable organization or fund-raising business has misappropriated or will misappropriate funds that were collected for a charitable organization or a charitable purpose.

RSA 2000 cC-9 s46;2002 c32 s3

Part 5 General

General prohibitions

47(1) No person may

- (a) use the fact that a charitable organization is registered or that a fund-raising business 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 fund-raising business 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 fund-raising business and no principal, director, manager or employee of a charitable organization or fund-raising business may give information that is false or misleading to a person who is going to use that information in a solicitation.

1995 cC-4.5 s43;1997 c19 s1(25)

False statements

48 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.

1995 cC-4.5 s44

Complying with terms and conditions

49(1) A charitable organization must comply with the terms and conditions imposed on its registration even if the registration has been suspended or cancelled.

(2) A fund-raising business must comply with the terms and conditions imposed on its licence even if the licence has been suspended or cancelled.

1995 cC-4.5 s45;1997 c19 s1(25)

Refraining from making solicitations

50 If a person requests a charitable organization or a fund-raising business

- (a) to refrain from making solicitations to that person, or

- (b) to remove that person's name from a list of persons who may provide a contribution,

the charitable organization or fund-raising business must use its best efforts to comply with that request.

1995 cC-4.5 s46;1997 c19 s1(25)

Disclosure by Minister

51 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, fund-raising business or donor fund-raiser.

1995 cC-4.5 s47;1997 c19 s1(25)

Appealing decision of Minister

52(1) 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.

(2) An appeal under this section must be commenced within 30 days after receiving notice of the decision by filing an application that sets out the grounds for the appeal.

(3) The Court of Queen's Bench may confirm or reject the Minister's decision or make any other order it considers appropriate.

RSA 2000 cC-9 s52;2009 c53 s33

Order compelling proper use of contributions

53(1) A person who has made a contribution to a charitable organization may apply to the Court of Queen's Bench for an order described in subsection (2).

(2) 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

- (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, fund-raising business or donor fund-raiser.

RSA 2000 cC-9 s53;2009 c53 s33

Restriction on municipal powers

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

1995 cC-4.5 s50;1997 c19 s1(26)

Offence

55(1) A person who contravenes the following provisions of this Act or fails to comply with a direction of the Minister under section 44 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(2), 29;
- (c) in Part 3, sections 35 to 37;
- (d) in Part 4, section 40(1);
- (e) in Part 5, sections 47 to 50.

(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 44, 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 fund-raising business 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 presumption, in the absence of evidence to the contrary, 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.

1995 cC-4.5 s51;1997 c19 s1(23)

Compensation for loss

56(1) A justice who 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.

1995 cC-4.5 s52

Regulations**57** 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 fund-raising businesses 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 36 and the form in which it is to be provided.

1995 cC-4.5 s53;1997 c19 s1(26)

Protection from liability

57.1 No action for damages may be commenced against the Minister, an inspector or any person under the administration of the Minister for anything done or not done by that person in good faith while carrying out duties or exercising powers under this Act.

2002 c32 s3

Part 6 Transitional

Transitional

58 An agreement between a charitable organization and a fund-raising business authorizing the fund-raising business 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 May 1, 1995 is deemed to meet the requirements of section 30.

1995 cC-4.5 s54;1997 c19 s1(24)

Bonds

59(1) Despite the repeal of the *Charitable Promotion Business Licensing Regulation* (AR 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.

1995 cC-4.5 s55