

CHARITABLE COLLECTIONS (AMENDMENT) ACT.

Act No. 59, 1941.

An Act to amend the Charitable Collections Act, 1934, in certain respects; and for purposes connected therewith. [Assented to, 25th November, 1941.] George VI.
No. 59, 1941.

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the "Charitable Collections (Amendment) Act, 1941." Short title
and citation.

(2) The Charitable Collections Act, 1934, as amended by this Act, may be cited as the Charitable Collections Act, 1934-1941.

2. The Charitable Collections Act, 1934, is amended— Amendment of
Act No. 59,
1934.

(a) (i) by inserting in subsection one of section two in the definition of "Appeal for support" after the word "money" the words "or articles"; Sec. 2.
(Interpreta-
tion.)

(ii) by inserting at the end of the same definition the words "and also includes the conducting of any lottery or the selling or offering for sale of any ticket or share in any lottery and any invitation which is designed to obtain money or articles and which is made expressly or by implication in any notification, publication, advertisement, representation or statement that the gross receipts or part thereof from any dance, concert, social, entertainment, bazaar, fancy fair, fete, carnival, show, sports, game, or other diversion, activity or function of any kind whatsoever or from any advertisement or publication or the gross amount or part thereof

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Sec. 4.
(Registra-
tion and
exemption
of charities.)

- thereof of fees for membership of any organisation or association are intended for the charity or charitable purpose”;
- (iii) by inserting in the same subsection in the definition of “Charitable purpose” after the word “philanthropic” the words “or patriotic”;
- (iv) by inserting in the same subsection at the end of the definition of “Charity” the words “and, where the affairs of any auxiliary, branch, sub-branch or subsidiary of any such organisation or association are controlled by a separate governing body, includes such auxiliary, branch, sub-branch or subsidiary”;
- (v) by inserting in subsection two of the same section after the word “wholly” where firstly occurring the words “or mainly”;
- (b) (i) by inserting next after subsection one of section four the following new subsection:—
- (1A) In the case of a charity being an organisation or association having any auxiliary, branch, sub-branch or subsidiary the affairs of which are controlled by a separate governing body application may be made under subsection one of this section for the registration or exemption from registration under this Act of the organisation or association as a whole, and such registration or exemption shall be deemed a sufficient registration or exemption to include any such auxiliary, branch, sub-branch or subsidiary, but with this exception the provisions of this Act shall apply to and in respect of each such auxiliary, branch, sub-branch or subsidiary as if it were a separate charity.
- (ii) by inserting next after subsection two of the same section the following new subsection:—
- (2A) The Minister may, at any time, if he thinks fit, limit the registration or exemption of any charity to such activity of the charity

charity as relates to or is concerned with No. 59, 1941.
any specified object, area, period of time
or manner of making an appeal for sup-
port.

- (iii) by inserting in subsection three of the same section after the word "charity" where firstly occurring the words "or from a decision of the Minister to limit the registration or exemption of a charity in pursuance of subsection (2A) of this section";
- (iv) by inserting in subsection four of the same section after the word "registered" the words "or exempted from registration";
- (v) by omitting from the same subsection the words "of registration."

3. The Charitable Collections Act, 1934, is further amended—

Further amendment of Act No. 59, 1934.

- (a) by inserting in subsection one of section three after the word "unless" the following new paragraph:—
 - (a1) the person making such appeal for support specifies the name of the charity;
- (b) by inserting next after the same subsection the following new subsections:—
 - (1A) It shall not be lawful for any person to make any appeal for support of any charitable purpose, otherwise than in the course of an appeal for support of any charity made in accordance with subsection one of this section, unless—
 - (a) the person making such appeal for support specifies the charitable purpose;
 - (b) the appeal for support is sanctioned in the prescribed manner by the governing body of a charity which is registered under this Act or is exempted from registration by or under this Act, or by some officer thereof authorised in that behalf; and

Sec. 3.
(Charities to be registered.)

(c)

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(c) the conditions (if any) attached to any such sanction and the provisions of this Act and the regulations are complied with.

(1B) Any sanction issued under this section may be withdrawn at any time.

(1c) It shall not be lawful for any person to print or publish any advertisement, notice or information relating or purporting to relate to any appeal for support of a charity or a charitable purpose unless the appeal for support is made in accordance with subsection one or subsection (1A) of this section.

Without prejudice to the generality of the expression "publish" that expression shall, in this subsection, include publishing or causing to be published by spoken words whether directly or through the medium of any apparatus for the reproduction of sound.

- (c) (i) by inserting in paragraph (c) of subsection two of the same section before the word "any" the words "any person concerned in an appeal conducted by";
- (ii) by omitting from the same subsection the words "concerned in an appeal."

Further amendment of Act No. 59, 1934.
New sec. 3A.

4. The Charitable Collections Act, 1934, is further amended—

- (a) by inserting next after section three the following new section:—

Minister may require certain statements, etc.

3A. (1) The Minister may, by notice in writing, require any person concerned in making any appeal for support of a charity or charitable purpose to furnish, within such time as may be specified in the notice—

- (a) full particulars of all liabilities incurred or proposed to be incurred in connection with the appeal for support;
- (b) a full statement of account, duly certified by such person and verified by statutory declaration, setting out full details of the income and expenditure and assets and liabilities acquired and incurred in connection with the appeal for support;
- (c)

- (c) answers in writing (and, if so required No. 59, 1941. by the notice, verified by statutory declaration) to any question or inquiry addressed to him by direction of the Minister, relating to any matter arising upon consideration of any particulars or statement so furnished.

(2) The Minister may by writing under his hand direct—

- (a) that any liability incurred or any item of expenditure be disallowed either wholly or in part and that an amount equal to the liability or expenditure so disallowed shall be paid by the person concerned in the appeal for support to the charity the name of which is specified in connection with the appeal for support or, as the case may be, by which the appeal for support is sanctioned;
- (b) that any liability proposed to be incurred shall not be incurred, and that, if the liability is incurred contrary to such direction, an amount equal to such liability shall be paid by the person concerned in the appeal for support to the charity, the name of which is specified in connection with the appeal for support or, as the case may be, by which the appeal for support is sanctioned.

(3) Where any such direction is so given the amount specified or referred to in the direction may be recovered by or on behalf of the charity as a debt due and payable to it by the person making the appeal for support.

(4) An appeal from any direction by the Minister under this section shall be to the district court of the district in which the person making the appeal for support resides, and effect shall be given to the order of such court.

(b)

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Sec. 12.

(Penalties.)

- (b) (i) by inserting in subsection one of section twelve after the word "statement" wherever occurring the words "or particulars";
- (ii) by inserting in subsection two of the same section after the word "statement" the words "or false particulars."

Further amendment of Act No. 59, 1934.

Sec. 4.

(Registration of charities.)

5. The Charitable Collections Act, 1934, is further amended—

- (a) (i) by inserting in subsection two of section four after the word "register" the words "or to grant exemption to";
- (ii) by inserting at the end of the same subsection the words "or that any person or persons connected with the management or direction of the charity are not fit and proper persons to administer its affairs, or that it would not be in the public interest to grant such registration or exemption:

Provided that the Minister may refuse to grant an application for exemption by any charity if he is satisfied that, having regard to the circumstances of the case, the charity should be registered."

Sec. 6.

(Removal from register.)

- (b) (i) by inserting in subsection one of section six after the word "administered" the words "or that any person or persons connected with the management or direction of the charity are not fit and proper persons to administer its affairs, or that it would be in the public interest to remove it from the register or to withdraw its exemption as the case may be";
- (ii) by inserting in the same subsection after the word "cause" the words "within a time to be specified";

Sec. 13.

(Legal proceedings.)

- (c) by inserting in subsection three of section thirteen after the word "administered" the words "or that any person or persons connected with the management or direction of the charity are not fit and proper persons to administer its affairs or that it is not functioning in the public interest."

6.

6. The Charitable Collections Act, 1934, is further amended—

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Further
amendment of
Act No. 59,
1934.

- (a) (i) by inserting at the end of paragraph (d) of subsection one of section five the words “and such separate account shall be kept in the name of the charity and shall be operated on by not less than two persons jointly”;
- (ii) by inserting in paragraph (e) of the same subsection after the word “Minister” where firstly occurring the words “within the prescribed time by the secretary or other prescribed officer of the charity”;
- (iii) by inserting next after paragraph (e) of the same subsection the following new paragraphs:—
- (f) numbered receipts or tickets complying with the regulations shall be given for all moneys received by or on behalf of the charity except where the regulations otherwise prescribe;
- (g) any alteration in the constitution of a charity shall be notified to the Minister and such alteration shall not be effective unless the Minister has signified his approval to such alteration being made;
- (h) in the event of the retirement, resignation or expulsion of any person from office on the governing body of the charity all books of account, documents, vouchers or any other property whatsoever relating to the charity and in the possession of such person shall be handed over by such person to his successor in office.
- (b) by inserting at the end of subsection one of section eight the words “Where it appears to the Minister that an organisation or association has for one of its objects a charitable purpose

Sec. 5.
(Conditions
to be
complied
with by
registered
charities.)

Sec. 8.
(Inquiries.)

he

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he may examine and inquire into such organisation or association and the objects thereof with a view to ascertaining whether or not it is a charity."

Sec. 9.
(Power of
Minister
to require
accounts,
etc.)

- (c) (i) by omitting from subsection one of section nine the words "an account and statement in writing in relation to" and by inserting in lieu thereof the words "within a time to be specified an account audited by some person or persons holding the prescribed qualifications or approved by the Minister, or to furnish a statement in writing in relation to, or to produce any book, document or voucher in his possession or control relating to";
- (ii) by inserting in subsection two of the same section after the word "made" the words "and any such book, document or voucher may be required to be produced";
- (iii) by omitting from paragraph (e) of the same subsection the word "document" and by inserting in lieu thereof the words "book, document or voucher";

Sec. 12.
(Penalties.)

- (d) (i) by inserting in subsection one of section twelve after the word "inquiry" where firstly occurring the words "or to require the production of any book, document or voucher";
- (ii) by inserting at the end of paragraph (b) of the same subsection the following word and new paragraph:—

" ; or

(c) refuses or wilfully neglects to produce any book, document or voucher in his possession or within his control, which he has been so required to produce to the Minister";

Sec. 13.
(Legal proceedings.)

- (e) (i) by inserting in subsection one of section thirteen after the words "legal proceedings" the words "(other than proceedings for the recovery of a penalty imposed by this Act or the regulations)";

(ii)

- (ii) by inserting after subsection three of the No. 59, 1941. same section the following new subsection:—

(4) Proceedings in respect of any offence under this Act or the regulations, not being an indictable offence, may be taken at any time not exceeding six months from the time when the facts first came to the knowledge of the Minister.

- (f) (i) by omitting from paragraph (a) of section Sec. 15. fifteen the words “a collection for charitable purposes” and by inserting in lieu (Falsifying books.) thereof the words “any appeal for support of a charity or charitable purpose or any property whatsoever of a charity”;
- (ii) by omitting from paragraph (b) of the same section the word “collection” and by inserting in lieu thereof the words “appeal for support or property”;
- (iii) by omitting from paragraph (c) of the same section the word “collection” and by inserting in lieu thereof the words “appeal for support or property”;

- (g) by omitting section sixteen and by inserting in Subst. sec. 16. lieu thereof the following section:—

16. Whosoever is concerned in conducting or making any appeal for support of a charity or charitable purpose, or in the management, supervision, administration or control of any property of a charity and converts to his own use or fails to account properly for any money or articles obtained in the course of such appeal for support or for any such property shall be liable on conviction on indictment to imprisonment for a term not exceeding five years, or on summary conviction to imprisonment for a term not exceeding twelve months. Converting moneys, etc.

- (h) by inserting in section seventeen after the word Sec. 17. “send” where firstly occurring the words (False state-ments.) “within the prescribed time”;

(i)

Charcoal (Producer Gas) Act.**No. 59, 1941.**New sec.
17A.Certain
allegations
prima facie
evidence.cf. Act No.
25, 1912,
s. 58A.

- (i) by inserting next after section seventeen the following new section:—

17A. In any proceedings for the recovery of a penalty under this Act or the regulations the allegation in the information or complaint that any organisation or association is a charity or that any particular purpose is a charitable purpose within the meaning of this Act shall be accepted by the court as evidence of the truth of the allegation unless the contrary is proved.

Sec. 18.
(Regula-
tions.)

- (j) by inserting in paragraph (a) of subsection two of section eighteen after the word "expenses" the words "or other payments."

