

***Constitution of the Rotary Club of Warners Bay Incorporated** **(Revised August 2010 following the 2010 Council on Legislation)**

*The bylaws of Rotary International provide that each club admitted to membership in RI shall adopt this prescribed standard club constitution.

Article 1 Definitions

As used in this constitution, unless the context otherwise clearly requires, the words in this article shall have the following meanings:

1. Board: The Board of Directors of this club.
2. Bylaws: The bylaws of this club.
3. Director: A member of this club's Board of Directors.
4. Member: A member, other than an honorary member, of this club.
5. RI: Rotary International.
6. Year: The twelve-month period which begins on 1 July.

Article 2 Name (select one)

- The name of this organization shall be Rotary Club of Warners Bay Incorporated (Member of Rotary International)

Article 3 Locality of the Club (select one)

- The locality of this club is as follows: **The Lake Macquarie suburb of Warners Bay & Sections of the surrounding suburbs**

Article 4 Object

The Object of Rotary is to encourage and foster the ideal of service as a basis of worthy enterprise and, in particular, to encourage and foster:

First. The development of acquaintance as an opportunity for service;

Second. High ethical standards in business and professions; the recognition of the worthiness of all useful occupations; and the dignifying of each Rotarian's occupation as an opportunity to serve society;

Third. The application of the ideal of service in each Rotarian's personal, business, and community life;

Fourth. The advancement of international understanding, goodwill, and peace through a world fellowship of business and professional persons united in the ideal of service.

Article 5 Five Avenues of Service

Rotary's Five Avenues of Service are the philosophical and practical framework for the work of this Rotary club.

1. Club Service, the first Avenue of Service, involves action a member should take within this club to help it function successfully.
2. Vocational Service, the second Avenue of Service, has the purpose of promoting high ethical standards in businesses and professions, recognizing the worthiness of all dignified occupations, and fostering the ideal of service in the pursuit of all vocations. The role of members includes conducting themselves and their businesses in accordance with Rotary's principles.
3. Community Service, the third Avenue of Service, comprises varied efforts that members make, sometimes in conjunction with others, to improve the quality of life of those who live within this club's locality or municipality.
4. International Service, the fourth Avenue of Service, comprises those activities that

members do to advance international understanding, goodwill, and peace by fostering acquaintance with people of other countries, their cultures, customs, accomplishments, aspirations, and problems, through reading and correspondence and through cooperation in all club activities and projects designed to help people in other lands.

5. New Generations Service, the fifth Avenue of Service, recognizes the positive change implemented by youth and young adults through leadership development activities, involvement in community and international service projects, and exchange programs that enrich and foster world peace and cultural understanding.

(Select one Article 6)

Article 6 Meetings

Section 1 — Regular Meetings.

Day and Time.

(a) This club shall hold a regular meetings as on the days & times provided in the bylaws.

(The club was chosen by Rotary International to run a pilot scheme for 6 years as a New Model – Meeting Frequency program –started 1 July 2007 and ending on 30 June 2013-whereby we meet as determined by the Club Board in an endeavour to make Rotary more relevant in the 21st Century.)

(b) Change of Meeting. For good cause, the board may change a regular meeting to any day during the period commencing with the day following the preceding regular meeting and ending with the day preceding the next regular meeting, or to a different hour of the regular day, or to a different place. **(c) Cancellation.** The board may cancel a regular meeting if it falls on a legal holiday, including a commonly recognized holiday, or in case of the death of a club member, or of an epidemic or of a disaster affecting the whole community, or of an armed conflict in the community which endangers the lives of the club members. The board may cancel not more than four regular meetings in a year for causes not otherwise specified herein provided that this club does not fail to meet for more than three consecutive meetings.

Section 2 — Annual Meeting. An annual meeting for the election of officers shall be held not later than 31 December as provided in the bylaws.

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Article 7 Membership

Section 1 — General Qualifications. This club shall be composed of adult persons of good character and good business, professional and/or community reputation.

Section 2 — Kinds. This club shall have two kinds of membership, namely: active and honorary.

Section 3 — Active Membership. A person possessing the qualifications set forth in article 5, section 2 of the RI constitution may be elected to active membership in this club.

Section 4 — Transferring or Former Rotarian.

(a) Potential Members. A member may propose to active membership a transferring member or former member of a club, if the proposed member is terminating or has terminated such membership in the former club due to no longer being engaged in

the formerly assigned classification of business or profession within the locality of the former club or the surrounding area. The transferring or former member of a club being proposed to active membership under this section may also be proposed by the former club. The classification of a transferring or former member of a club shall not preclude election to active membership even if the election results in club membership temporarily exceeding the classification limits. Potential members of this club who are current or former members of another club who have debts to the other club are ineligible for membership in this club. This club may demand that a potential member present written proof that no money is owed to the other club.

The admission of a transferring or former Rotarian as an active member pursuant to this section shall be contingent upon receiving a certificate from the board of the previous club confirming the prospective member's prior membership in that club.

(b) *Current or Former Members.* This club shall provide a statement whether money is owed to this club when requested by another club with respect to a current or former member of this club being considered for membership in the other club.

Section 5 — Dual Membership. No person shall simultaneously hold active membership in this and another club. No person shall simultaneously be a member and an honorary member in this club. No person shall simultaneously hold active membership in this club and membership in a Rotaract club.

Section 6 — Honorary Membership.

(a) *Eligibility for Honorary Membership.* Persons who have distinguished themselves by meritorious service in the furtherance of Rotary ideals and those persons considered friends of Rotary for their permanent support of Rotary's cause may be elected to honorary membership in this club. The term of such membership shall be as determined by the board. Persons may hold honorary membership in more than one club.

(b) *Rights and Privileges.* Honorary members shall be exempt from the payment of admission fees and dues, shall have no vote, and shall not be eligible to hold any office in this club. Such members shall not hold classifications, but shall be entitled to attend all meetings and enjoy all the other privileges of this club. No honorary member of this club is entitled to any rights and privileges in any other club, except for the right to visit other clubs without being the guest of a Rotarian.

Section 7 — Holders of Public Office. Persons elected or appointed to public office for a specified time shall not be eligible to active membership in this club under the classification of such office. This restriction shall not apply to persons holding positions or offices in schools, colleges, or other institutions of learning or to persons who are elected or appointed to the judiciary. Members who are elected or appointed to public office for a specified period may continue as such members in their existing classifications during the period in which they hold such office.

Section 8 — Rotary International Employment. This club may retain in its membership any member employed by RI.

Article 8 Classifications

Section 1 — General Provisions.

(a) *Principal Activity.* Each member shall be classified in accordance with the member's business, profession, or type of community service. The classification shall be that which describes the principal and recognized activity of the firm,

company, or institution with which the member is connected or that which describes the member's principal and recognized business or professional activity or that which describes the nature of the member's community service activity.

(b) *Correction or Adjustment.* If the circumstances warrant, the board may correct or adjust the classification of any member. Notice of a proposed correction or adjustment shall be provided to the member and the member shall be allowed a hearing thereon.

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Section 2 — Limitations. This club shall not elect a person to active membership from a classification if the club already has five or more members from that classification, unless the club has more than 50 members, in which case, the club may elect a person to active membership in a classification so long as it will not result in the classification making up more than 10 percent of the club's active membership. Members who are retired shall not be included in the total number of members in a classification. The classification of a transferring or former member of a club, or a Rotary Foundation alumnus as defined by the board of directors of RI, shall not preclude election to active membership even if the election results in club membership temporarily exceeding the above limitations. If a member changes classification, the club may continue the member's membership under the new classification notwithstanding these limitations.

Article 9 Attendance

□ **Section 1 — General Provisions.** Each member should attend this club's regular meetings. A member shall be counted as attending a regular meeting if the member is present for at least 60 percent of the meeting, or is present and is called away unexpectedly and subsequently produces evidence to the satisfaction of the board that such action was reasonable, or makes up for an absence in any of the following ways:

Section 2 — Extended Absence on Outposted Assignment. If a member will be working on an outposted assignment for an extended period of time, attendance at the meetings of a designated club at the site of the assignment will replace attendance at the regular meetings of the member's club, provided there is a mutual agreement between the two clubs.

Section 3 — Excused Absences. A member's absence shall be excused if

(a) the absence complies with the conditions and under circumstances approved by the board. The board may excuse a member's absence for reasons which it considers to be good and sufficient. Such excused absences shall not extend for longer than twelve months.

(b) the age of the member is 65 and above and the aggregate of the member's years of age and years of membership in one or more clubs is 85 years or more and the member has notified the club secretary in writing of the member's desire to be excused from attendance and the board has approved.

Section 4 — RI Officers' Absences. A member's absence shall be excused if the member is a current officer of RI.

Section 5 — Attendance Records. In the event that a member whose absences are excused under the provisions of subsection 3(b) or section 4 of this article attends a club meeting, the member and the member's attendance shall be included in the membership and attendance figures used to compute this club's attendance.

Article 10 Directors and Officers

Section 1 — *Governing Body.* The governing body of this club shall be the board constituted as the bylaws may provide.

Section 2 — *Authority.* The board shall have general control over all officers and committees and, for good cause, may declare any office vacant.

Section 3 — *Board Action Final.* The decision of the board in all club matters is final, subject only to an appeal to the club. However, as to a decision to terminate membership, a member, pursuant to article 12, section 6, may appeal to the club, request mediation, or request arbitration. If appealed, a decision of the board shall be reversed only by a two-thirds vote of the members present, at a regular meeting specified by the board, provided a quorum is present and notice of the appeal has been given by the secretary to each member at least five (5) days prior to the meeting. If an appeal is taken, the action taken by the club shall be final.

Section 4 — *Officers.* The club officers shall be a president, the immediate past president, a president-elect, and one or more vice-presidents, all of whom shall be members of the board, and a secretary, a treasurer, and a sergeant-at-arms, who may or may not be members of the board as the bylaws shall provide.

Section 5 — *Election of Officers.*

(a) *Terms of Officers other than President.* Each officer shall be elected as provided in the bylaws. Except for the president, each officer shall take office on 1 July immediately following election and shall serve for the term of office or until a successor has been duly elected and qualified.

(b) *Term of President.* The president shall be elected as provided in the bylaws, not more than two (2) years but not less than eighteen (18) months prior to the day of taking office and shall serve as president-nominee upon election. The nominee shall take the title of president-elect on 1 July in the year prior to taking office as president. The president shall take office on 1 July and shall serve a period of one (1) year or until a successor has been duly elected and qualified.

(c) *Qualifications.* Each officer and director shall be a member in good standing of this club. The president-elect shall attend the district presidents-elect training seminar and the district assembly unless excused by the governor-elect. If so excused, the president-elect shall send a designated club representative who shall report back to the president-elect. If the president-elect does not attend the presidents-elect training seminar and the district assembly and has not been excused by the governor-elect or, if so excused, does not send a designated club representative to such meetings, the president-elect shall not be able to serve as club president. In such event, the current president shall continue to serve until a successor who has attended a presidents-elect training seminar and district assembly or training deemed sufficient by the governor-elect has been duly elected.

Article 11 Admission Fees and Dues

Every member shall pay an admission fee and annual dues as prescribed in the bylaws, except that any transferring or former member of another club who is accepted into membership of this club pursuant to article 7, section 4(a) shall not be required to pay a second admission fee. A Rotaractor who ceased to be a member of Rotaract within the preceding two years, who is accepted into membership of this club, shall not be required to pay an admission fee.

Article 12 Duration of Membership

Section 1 — *Period.* Membership shall continue during the existence of this club unless terminated as hereinafter provided.

Section 2 — *Automatic Termination.*

(a) *Membership Qualifications.* Membership shall automatically terminate when a member no longer meets the membership qualifications, except that

(1) the board may grant a member moving from the locality of this club or the surrounding area a special leave of absence not to exceed one (1) year to enable the member to visit and become known to a Rotary club in the new community if the member continues to meet all conditions of club membership;

(2) the board may allow a member moving from the locality of this club or the surrounding area to retain membership if the member continues to meet all conditions of club membership.

(b) *How to Rejoin.* When the membership of a member has terminated as provided in subsection (a) of this section, such person, provided such person's membership was in good standing at the time of termination, may make new application for membership, under the same or another classification. A second admission fee shall not be required.

(c) *Termination of Honorary Membership.* Honorary membership shall automatically terminate at the end of the term for such membership as determined by the board. However, the board may extend an honorary membership for an additional period. The board may revoke an honorary membership at any time.

Section 3 — *Termination Non-payment of Dues.*

(a) *Process.* Any member failing to pay dues within thirty (30) days after the prescribed time shall be notified in writing by the secretary at the member's last known address. If the dues are not paid on or before ten (10) days of the date of notification, membership may terminate, subject to the discretion of the board.

(b) *Reinstatement.* The board may reinstate the former member to membership upon the former member's petition and payment of all indebtedness to this club. However, no former member may be reinstated to active membership if the former member's classification is in conflict with article 8, section 2.

Section 4 — *Termination Non-attendance.*

(a) *Attendance Percentages.* A member must

(1) attend or make up at least 50 percent of club regular meetings in each half of the year;

(2) attend at least 30 percent of this club's regular meetings in each half of the year (assistant governors, as defined by the board of directors of RI, shall be excused from this requirement).

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If a member fails to attend as required, the member's membership shall be subject to termination unless the board consents to such non-attendance for good cause.

(b) *Consecutive Absences.* Unless otherwise excused by the board for good and sufficient reason or pursuant to article 9, sections 3 or 4, each member who fails to attend or make up four consecutive regular meetings shall be informed by the board that the member's non-attendance may be considered a request to terminate

membership in this club. Thereafter, the board, by a majority vote, may terminate the member's membership.

Section 5 — *Termination Other Causes.*

(a) *Good Cause.* The board may terminate the membership of any member who ceases to have the qualifications for membership in this club or for any good cause by a vote of not less than two-thirds of the board members, at a meeting called for that purpose. The guiding principles for this meeting shall be article 7, section 1; The Four-Way Test; and the high ethical standards that one should hold as a Rotary club member.

(b) *Notice.* Prior to taking any action under subsection (a) of this section, the member shall be given at least ten (10) days' written notice of such pending action and an opportunity to submit a written answer to the board. The member shall have the right to appear before the board to state the member's case. Notice shall be by personal delivery or by registered letter to the member's last known address.

(c) *Filling Classification.* When the board has terminated the membership of a member as provided for in this section, this club shall not elect a new member under the former member's classification until the time for hearing any appeal has expired and the decision of this club or of the arbitrators has been announced. However, this provision shall not apply if, by election of a new member, the number of members under the said classification would remain within provided limitations even if the board's decision regarding termination is reversed.

Section 6 — *Right to Appeal, Mediate or Arbitrate Termination.*

(a) *Notice.* Within seven (7) days after the date of the board's decision to terminate membership, the secretary shall give written notice of the decision to the member. Within fourteen (14) days after the date of the notice, the member may give written notice to the secretary of the intention to appeal to the club, request mediation, or to arbitrate as provided in article 16.

(b) *Date for Hearing of Appeal.* In the event of an appeal, the board shall set a date for the hearing of the appeal at a regular club meeting to be held within twenty-one (21) days after receipt of the notice of appeal. At least five (5) days' written notice of the meeting and its special business shall be given to every member. Only members shall be present when the appeal is heard.

(c) *Mediation or Arbitration.* The procedure utilized for mediation or arbitration shall be as provided in article 16.

(d) *Appeal.* If an appeal is taken, the action of the club shall be final and binding on all parties and shall not be subject to arbitration.

(e) *Decision of Arbitrators or Umpire.* If arbitration is requested, the decision reached by the arbitrators or, if they disagree, by the umpire shall be final and binding on all parties and shall not be subject to appeal.

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(f) *Unsuccessful Mediation.* If mediation is requested but is unsuccessful, the member may appeal to the club or arbitrate as provided in subsection (a) of this section.

Section 7 — *Board Action Final.* Board action shall be final if no appeal to this club is taken and no arbitration is requested.

Section 8 — *Resignation.* The resignation of any member from this club shall be in writing, addressed to the president or secretary. The resignation shall be accepted by

the board if the member has no indebtedness to this club.

Section 9 — *Forfeiture of Property Interest.* Any person whose club membership has been terminated in any manner shall forfeit all interest in any funds or other property belonging to this club if, under local laws, the member may have acquired any right to them upon joining the club.

Section 10 — *Temporary Suspension.*

Notwithstanding any provision of this constitution, if in the opinion of the board

(a) credible accusations have been made that a member has refused or neglected to comply with this constitution, or has been guilty of conduct unbecoming a member or prejudicial to the interests of the club; and

(b) those accusations, if proved, constitute good cause for terminating the membership of the member; and

(c) it is desirable that no action should be taken in respect of the membership of the member pending the outcome of a matter or an event that the board considers should properly occur before such action is taken by the board; and

(d) that in the best interests of the club and without any vote being taken as to his or her membership, the member's membership should be temporarily suspended and the member should be excluded from attendance at meetings and other activities of this club and from any office or position the member holds within the club. For the purposes of this clause, the member shall be excused from fulfilling attendance responsibilities;

the board may, by a vote of not less than two-thirds of the board, temporarily suspend the member as aforesaid for such period and on such further conditions as the board determines, albeit for a period no longer than is reasonably necessary in all the circumstances.

Article 13 Community, National, and International Affairs

Section 1 — *Proper Subjects.* The merits of any public question involving the general welfare of the community, the nation, and the world are of concern to the members of this club and shall be proper subjects of fair and informed study and discussion at a club meeting for the enlightenment of its members in forming their individual opinions. However, this club shall not express an opinion on any pending controversial public measure.

Section 2 — *No Endorsements.* This club shall not endorse or recommend any candidate for public office and shall not discuss at any club meeting the merits or demerits of any such candidate.

Section 3 — *Non-Political.*

(a) *Resolutions and Opinions.* This club shall neither adopt nor circulate resolutions or opinions, and shall not take action dealing with world affairs or international policies of a political nature.

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(b) *Appeals.* This club shall not direct appeals to clubs, peoples, or governments, or circulate letters, speeches, or proposed plans for the solution of specific international problems of a political nature.

Section 4 — *Recognizing Rotary's Beginning.* The week of the anniversary of Rotary's founding (23 February) shall be known as World Understanding and Peace Week.

During this week, this club will celebrate Rotary service, reflect upon past

achievements, and focus on programs of peace, understanding, and goodwill in the community and throughout the world.

Article 14 Rotary Magazines

Section 1 — *Mandatory Subscription.* Unless, in accordance with the bylaws of RI, this club is excused by the board of directors of RI from complying with the provisions of this article, each member shall, for the duration of membership, subscribe to the official magazine or to the magazine approved and prescribed for this club by the board of directors of RI. Two Rotarians residing at the same address have the option to subscribe jointly to the official magazine. The subscription shall be paid in six (6) month periods for the duration of membership in this club and to the end of any six (6) month period during which membership may terminate.

Section 2 — *Subscription Collection.* The subscription shall be collected by this club from each member semiannually in advance and remitted to the Secretariat of RI or to the office of such regional publications as may be determined by the board of directors of RI.

Article 15 Acceptance of Object and Compliance with Constitution and Bylaws

By payment of an admission fee and dues, a member accepts the principles of Rotary as expressed in its object and submits to and agrees to comply with and be bound by the constitution and bylaws of this club, and on these conditions alone is entitled to the privileges of this club. Each member shall be subject to the terms of the constitution and bylaws regardless of whether such member has received copies of them.

Article 16 Arbitration and Mediation

Section 1 — *Disputes.* Should any dispute, other than as to a decision of the board, arise between any current or former member(s) and this club, any club officer or the board, on any account whatsoever which cannot be settled under the procedure already provided for such purpose, the dispute shall, upon a request to the secretary by any of the disputants, either be resolved by mediation or settled by arbitration.

Section 2 — *Date for Mediation or Arbitration.* In the event of mediation or arbitration, the board shall set a date for the mediation or arbitration, in consultation with disputants, to be held within twenty-one (21) days after receipt of the request for mediation or arbitration.

Section 3 — *Mediation.* The procedure for such mediation shall be that recognized by an appropriate authority with national or state jurisdiction or be that recommended by a competent professional body whose recognized expertise covers alternative dispute resolution or be that recommended by way of documented guidelines determined by the board of RI or the trustees of The Rotary Foundation. Only a member of a Rotary club may be appointed as mediator(s). The club may request the district governor or the

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governor's representative to appoint a mediator who is a member of a Rotary club and who has appropriate mediation skills and experience.

(a) *Mediation Outcomes.* The outcomes or decisions agreed between the parties as a result of mediation shall be recorded and copies held by each party, the mediator(s) and one copy given to the board and to be held by the secretary. A summary statement of outcomes acceptable to the parties involved shall be prepared for the information of the club. Either party, through the president or secretary, may call for further mediation if either party has retracted significantly from the mediated

position.

(b) *Unsuccessful Mediation*. If mediation is requested but is unsuccessful, any disputant may request arbitration as provided in section 1 of this article.

Section 4 — *Arbitration*. In the event of a request for arbitration, each party shall appoint an arbitrator and the arbitrators shall appoint an umpire. Only a member of a Rotary club may be appointed as umpire or as arbitrator.

Section 5 — *Decision of Arbitrators or Umpire*. If arbitration is requested, the decision reached by the arbitrators or, if they disagree, by the umpire shall be final and binding on all parties and shall not be subject to appeal.

Article 17 Bylaws

This club shall adopt bylaws not inconsistent with the constitution and bylaws of RI, with the rules of procedure for an administrative territorial unit where established by RI, and with this constitution, embodying additional provisions for the government of this club. Such bylaws may be amended from time to time as therein provided.

Article 18 Interpretation

Throughout this constitution, the terminology "mail," "mailing," and "ballot-by-mail" will include utilization of electronic mail (e-mail) and internet technology to reduce costs and increase responsiveness.

Article 19 Amendments

Section 1 — *Manner of Amending*. Except as provided in section 2 of this article, this constitution may be amended only by the council on legislation in the same manner as is established in the bylaws of RI for the amendment of its bylaws.

Section 2 — *Amending Article 2 and Article 3*. Article 2 (Name) and Article 3 (Locality of the Club) of the constitution shall be amended at any regular meeting of this club, a quorum being present, by the affirmative vote of not less than two-thirds of all voting members present and voting, provided that notice of such proposed amendment shall have been mailed to each member and to the governor at least ten (10) days before such meeting, and provided further, that such amendment shall be submitted to the board of directors of RI for its approval and shall become effective only when so approved. The governor may offer an opinion to the board of directors of RI regarding the proposed amendment.

The Rotary Club of Warners Bay is Incorporated

Under the *Associations Incorporation Act 2009*

NSW Fair Trading has developed a model constitution covering all matters outlined in Schedule 1 of the Act, as well as a number of additional matters. New and existing associations may adopt the model constitution.

If an associations constitution (adopted since 1 July 2010) fails to address a matter outlined in Schedule 1, the model constitution will apply in respect to that matter and will form part of the associations constitution. The model constitution may be updated from time-to-time, with the updates applying to any association who has adopted the model constitution.

This Constitution is attached as **(Appendix 1)**

Bylaws of the Rotary Club of Warners Bay Inc

Article 1 Definitions

1. Board: The Board of Directors of this club.
2. Director: A member of this club's Board of Directors.
3. Member: A member, other than an honorary member, of this club.
4. RI: Rotary International.
5. Year: The twelve-month period that begins on 1 July.

Article 2 Board

The governing body of this club shall be the board consisting of ten members of this club, namely, the president, immediate past president, president-elect (or president-nominee, if no successor has been elected), vice-president, secretary, treasurer. At the discretion of the board, also added can be the five directors elected in accordance with article 3, section 1 of these bylaws.

Article 3 Election of Directors and Officers

Section 1 – At a regular meeting one month prior to the meeting for election of officers, the presiding officer shall ask for nominations by members of the club for president, vice-president, secretary, treasurer, and five directors. The nominations may be presented by a nominating committee or by members from the floor, by either or by both as a club may determine. If it is determined to use a nominating committee, such committee shall be appointed as the club may determine. The nominations duly made shall be placed on a ballot in alphabetical order under each office and shall be voted for at the annual meeting. The candidates for president, vice-president, secretary, and treasurer receiving a majority of the votes shall be declared elected to their respective offices. The five candidates for director receiving a majority of the votes shall be declared elected as directors. The candidate for president elected in such balloting shall be the president-nominee. The president-nominee shall take the title of president-elect on the first day of July next following the election, and shall serve as an officer during that year. On 1 July immediately following that year, the president-elect shall assume office as president.

Section 2 – The officers and directors shall constitute the board. Within one week after their election, the directors-elect shall meet and elect some member of the club to act as sergeant-at-arms.

Section 3 – A vacancy in the board or any office shall be filled by action of the remaining directors.

Section 4 – A vacancy in the position of any officer-elect or director-elect shall be filled by action of the remaining directors-elect.

Article 4 Duties of Officers

Section 1 – *President.* It shall be the duty of the president to preside at meetings of the club and the board and to perform other duties as ordinarily pertain to the office of president.

Section 2 – *Immediate Past President.* It shall be the duty of the immediate past president to serve as a director and to perform such other duties as may be prescribed by the president or the board.

Section 3 – *President-elect.* It shall be the duty of the president-elect to serve as a director and to perform such other duties as may be prescribed by the president or the board.

Section 4 – *Vice-President.* It shall be the duty of the vice-president to preside at meetings of the club and the board in the absence of the president and to perform other duties as ordinarily pertain to the office of vice-president.

Section 5 – *Secretary.* It shall be the duty of the secretary to keep membership records; record attendance at meetings; send out notices of club, board, and committee meetings; record and preserve the minutes of such meetings; report as required to RI, including the semiannual reports of membership on 1 January and 1 July of each year, which shall include per capita dues for all members and prorated dues for active members who have been elected to membership in the club since the start of the July or January semiannual reporting period; report changes in membership; provide the monthly attendance report, which shall be made to the district governor within 15 days of the last meeting of the month; collect and remit RI official magazine subscriptions; and perform other duties as usually pertain to the office of secretary.

Section 6 – *Treasurer.* It shall be the duty of the treasurer to have custody of all funds, accounting for it to the club annually and at any other time upon demand by the board, and to perform other duties as pertains to the office of treasurer. Upon retirement from office, the treasurer shall turn over to the incoming treasurer or to the president all funds, books of accounts, or any other club property.

Section 7 – *Sergeant-at-Arms.* The duties of the sergeant-at-arms shall be such as are usually prescribed for such office and other duties as may be prescribed by the president or the board.

Article 5 Meetings

Section 1 – *Annual Meeting.* An annual meeting of this club shall be held in December each year, at which time the election of officers and directors to serve for the ensuing year shall take place.

(Note: Article 6, section 2 of the Standard Rotary Club Constitution provides that “An annual meeting for the election of officers shall be held not later than 31 December...”)

Section 2 – The regular meetings of this club shall be held on the second & fourth Monday each month, at 6.30 pm & on Wednesday mornings as scheduled each month. At 7.15 am Due notice of any changes in or canceling of the regular meeting shall be given to all members of the club. All members excepting an honorary member (or member excused pursuant to the standard Rotary club constitution) in good standing in this club, on the day of the regular meeting, must be counted as present or absent, and attendance must be evidenced by the member’s being present for at least sixty (60) percent of the time devoted to the regular

meeting, either at this club or at any other Rotary club, or as otherwise provided in the standard Rotary club constitution, article 9, sections 1 and 2.

Section 3 – One-third of the membership shall constitute a quorum at the annual and regular meetings of this club.

Section 4 – Regular meetings of the board shall be held on the first Monday of each month.

Special meetings of the board shall be called by the president, whenever deemed necessary, or upon the request of two (2) directors, due notice having been given.

Section 5 – A majority of the directors shall constitute a quorum of the board.

Article 6 Fees and Dues

Section 1 – The admission fee shall be \$1 to be paid before the applicant can qualify as a member, except as provided for in the standard Rotary club constitution, article 11.

Section 2 – The membership dues shall be \$ 220 per annum, payable semiannually on the first day of July and of January, with the understanding that a portion of each semiannual payment shall be applied to each member's subscription to the RI official magazine.

Article 7 Method of Voting

The business of this club shall be transacted by *viva voce** vote except the election of officers and directors, which shall be by ballot. The board may determine that a specific resolution be considered by ballot rather than by *viva voce* vote.

(Note: Viva voce vote is defined as when club voting is conducted by vocal assent.

Article 8 Avenues of Service

The Avenues of Service are the philosophical and practical framework for the work of this Rotary club. They are Club Service, Vocational Service, Community Service, International Service, and New Generations Service. This club will be active in each of the Avenues of Service.

Article 9 Committees

Club committees are charged with carrying out the annual and long-range strategic goals of the club. The president-elect, president, and immediate past president should work together to ensure continuity of leadership and succession planning. When feasible, committee members should be appointed to the same committee for three years to ensure consistency. The president-elect is responsible for appointing committee members to fill vacancies, appointing committee chairs, and conducting planning meetings prior to the start of the year in office. It is recommended that the chair have previous experience as a member of the committee. Standing committees should be appointed as follows:

- **Membership**
This committee should develop and implement a comprehensive plan for the recruitment

and retention of members.

- **Public Image**
This committee should develop and implement plans to provide the public with information about Rotary and to promote the club's service projects and activities.
- **Administration**
This committee should conduct activities associated with the effective operation of the club.
- **Service Projects**
This committee should develop and implement educational, humanitarian, and vocational projects that address the needs of its community and communities in other countries.
- **The Rotary Foundation**
This committee should develop and implement plans to support The Rotary Foundation through both financial contributions and program participation.

Additional ad hoc committees may be appointed as needed.

(a) The president shall be *ex officio* a member of all committees and, as such, shall have all the privileges of membership thereon.

(b) Each committee shall transact its business as is delegated to it in these bylaws and such additional business as may be referred to it by the president or the board. Except where special authority is given by the board, such committees shall not take action until a report has been made and approved by the board.

(c) Each chair shall be responsible for regular meetings and activities of the committee, shall supervise and coordinate the work of the committee, and shall report to the board on all committee activities.

(Note: The above committee structure is in harmony with both the District Leadership Plan and the Club Leadership Plan. Clubs have the discretion to create any committees that are required to effectively meet its service and fellowship needs. A sample listing of such optional committees is found in the Club Committee Manual. A club may develop a different committee structure as needed.)

Article 10 Duties of Committees

The duties of all committees shall be established and reviewed by the president for his or her year. In declaring the duties of each, the president shall reference appropriate RI materials and the Avenues of Service when developing plans for the year.

Each committee shall have a specific mandate, clearly defined goals, and action plans established by the beginning of each year for implementation during the course of the year. It shall be the

primary responsibility of the president-elect to provide the necessary leadership to prepare a recommendation for club committees, mandates, goals, and plans for presentation to the board in advance of the commencement of the year as noted above.

Article 11 Leave of Absence

Upon written application to the board, setting forth good and sufficient cause, leave of absence may be granted excusing a member from attending the meetings of the club for no longer than twelve months.

(Note: Such leave of absence does operate to prevent a forfeiture of membership; it does not operate to give the club credit for the member's attendance. Unless the member attends a regular meeting of some other club, the excused member must be recorded as absent except that absence authorized under the provisions of the Standard Rotary Club Constitution is not computed in the attendance record of the club.)

Article 12 Finances

Section 1 – Prior to the beginning of each fiscal year, the board shall prepare a budget of estimated income and expenditures for the year, which shall stand as the limit of expenditures for these purposes, unless otherwise ordered by action of the board. The budget shall be broken into two separate parts: one in respect of club operations and one in respect of charitable/service operations.

Section 2 – The treasurer shall deposit all club funds in a bank, named by the board. The club funds shall be divided into two separate parts: club operations and service projects.

Section 3 – All bills shall be paid by the treasurer or other authorized officer only when approved by two other officers or directors.

Section 4 – A thorough review of all financial transactions by a qualified person shall be made once each year.

Section 5 – Officers having charge or control of club funds shall give bond as required by the board for the safe custody of the funds of the club, cost of bond to be borne by the club.

Section 6 – The fiscal year of this club shall extend from 1 July to 30 June, and for the collection of members' dues shall be divided into two (2) semiannual periods extending from 1 July to 31 December, and from 1 January to 30 June. The payment of per capita dues and RI official magazine subscriptions shall be made on 1 July and 1 January of each year on the basis of the membership of the club on those dates.

Article 13 Method of Electing Members

Section 1 – The name of a prospective member, proposed by an active member of the club, shall be submitted to the board in writing, through the club secretary. A transferring or former member of another club may be proposed to active membership by the former club. The proposal shall be kept confidential except as otherwise provided in this procedure.

Section 2 – The board shall ensure that the proposal meets all the classification and membership requirements of the standard Rotary club constitution.

Section 3 – The board shall approve or disapprove the proposal within 30 days of its submission and shall notify the proposer, through the club secretary, of its decision.

Section 4 – If the decision of the board is favorable, the prospective member shall be informed of the purposes of Rotary and of the privileges and responsibilities of membership, following which the prospective member shall be requested to sign the membership proposal form and to permit his or her name and proposed classification to be published to the club.

Section 5 – If no written objection to the proposal, stating reasons, is received by the board from any member (other than honorary) of the club within seven (7) days following publication of information about the prospective member, that person, upon payment of the admission fee (if not honorary membership), as prescribed in these bylaws, shall be considered to be elected to membership.

If any such objection has been filed with the board, it shall vote on this matter at its next meeting. If approved despite the objection, the proposed member, upon payment of the admission fee (if not honorary membership), shall be considered to be elected to membership.

Section 6 – Following the election, the president shall arrange for the new member's induction, membership card, and new member Rotary literature. In addition, the president or secretary will report the new member information to RI and the president will assign a member to assist with the new member's assimilation to the club as well as assign the new member to a club project or function.

Section 7 – The club may elect, in accordance with the standard Rotary club constitution, honorary members proposed by the board.

Article 14 Resolutions

The club shall not consider any resolution or motion to commit the club on any matter until the board has considered it. Such resolutions or motions, if offered at a club meeting, shall be referred to the board without discussion.

Article 15 Order of Business

Meeting called to order.

Introduction of visitors.

Correspondence, announcements, and Rotary information.

Committee reports if any.

Any unfinished business.

Any new business.

Address or other program features.

Adjournment.

Article 16 Amendments

These bylaws may be amended at any regular meeting, a quorum being present, by a two-thirds vote of all members present, provided that notice of such proposed amendment shall have been mailed to each member at least ten (10) days before such meeting. No amendment or addition to these bylaws can be made which is not in harmony with the standard Rotary club constitution and with the constitution and bylaws of RI.

Article 17 Statutory Requirements as an Incorporated Association

The club will function according to the Model Constitution provided by the Department of Fair Trading **(Appendix 1)**

Article 18 Statutory Requirements according to our Fund Raising Authority

1. The club will function according to the requirements of the approval to Fundraise granted by

The Office of Liquor , Gaming & Racing **(Appendix 2)**

2. The club's fundraising approval is subject to the conditions stated in **(Appendix 3)**

Appendix 1

Model constitution **Under the *Associations Incorporation Act 2009***

About this model constitution

The constitution of an incorporated association forms the structure within which the association operates.

To assist associations develop their constitution, NSW Fair Trading has prepared this model constitution, which covers the matters required by law.

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Part 1 - Preliminary

1. Definitions

(1) In this constitution:

Director-General means the Director-General of the Department of Services, Technology and Administration.

ordinary committee member means a member of the committee who is not an office-bearer of the association.

secretary means:

(a) the person holding office under this constitution as secretary of the association, or

(b) if no such person holds that office - the public officer of the association.

special general meeting means a general meeting of the association other than an annual general meeting.

the Act means the *Associations Incorporation Act 2009*.

the Regulation means the *Associations Incorporation Regulation 2010*.

(2) In this constitution:

(a) a reference to a function includes a reference to a power, authority and duty, and

(b) a reference to the exercise of a function includes, if the function is a duty, a reference to the performance of the duty.

(3) The provisions of the *Interpretation Act 1987* apply to and in respect of this constitution in the same manner as those provisions would so apply if this constitution were an instrument made under the Act.

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Part 2 - Membership

2. Membership generally

(1) A person is eligible to be a member of the association if:

(a) the person is a natural person, and

(b) the person has been nominated and approved for membership of the association in accordance with clause 3.

(2) A person is taken to be a member of the association if:

(a) the person is a natural person, and

(b) the person was:

(i) in the case of an unincorporated body that is registered as the association - a member of that unincorporated body immediately before the registration of the association, or

(ii) in the case of an association that is amalgamated to form the relevant association - a member of that other association immediately before the amalgamation, or

(iii) in the case of a registrable corporation that is registered as an association - a member of the registrable corporation immediately before that entity was registered as an association.

(3) A person is taken to be a member of the association if the person was one of the individuals on whose behalf an application for registration of the association under section 6 (1) (a) of the Act was made.

3. Nomination for membership

(1) A nomination of a person for membership of the association:

(a) must be made by a member of the association in writing in the form set out in Appendix 1 to this constitution, and

(b) must be lodged with the secretary of the association.

(2) As soon as practicable after receiving a nomination for membership, the secretary must refer the nomination to the committee which is to determine whether to approve or to reject the nomination.

(3) As soon as practicable after the committee makes that determination, the secretary must:

(a) notify the nominee, in writing, that the committee approved or rejected the nomination (whichever is applicable), and

(b) if the committee approved the nomination, request the nominee to pay (within the period of 28 days after receipt by the nominee of the notification) the sum payable under this constitution by a member as entrance fee and annual subscription.

(4) The secretary must, on payment by the nominee of the amounts referred to in subclause (3) (b) within the period referred to in that provision, enter or cause to be entered the nominee's name in the register of members and, on the name being so entered, the nominee becomes a member of the association.

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4. Cessation of membership

A person ceases to be a member of the association if the person:

(a) dies, or

(b) resigns membership, or

(c) is expelled from the association, or

(d) fails to pay the annual membership fee under clause 8 (2) within 3 months after the fee is due.

5. Membership entitlements not transferable

A right, privilege or obligation which a person has by reason of being a member of the association:

- (a) is not capable of being transferred or transmitted to another person, and
- (b) terminates on cessation of the person's membership.

6. Resignation of membership

- (1) A member of the association may resign from membership of the association by first giving to the secretary written notice of at least one month (or such other period as the committee may determine) of the member's intention to resign and, on the expiration of the period of notice, the member ceases to be a member.
- (2) If a member of the association ceases to be a member under subclause (1), and in every other case where a member ceases to hold membership, the secretary must make an appropriate entry in the register of members recording the date on which the member ceased to be a member.

7. Register of members

- (1) The public officer of the association must establish and maintain a register of members of the association specifying the name and postal or residential address of each person who is a member of the association together with the date on which the person became a member.
- (2) The register of members must be kept in New South Wales:
 - (a) at the main premises of the association, or
 - (b) if the association has no premises, at the association's official address.
- (3) The register of members must be open for inspection, free of charge, by any member of the association at any reasonable hour.
- (4) A member of the association may obtain a copy of any part of the register on payment of a fee of not more than \$1 for each page copied.
- (5) If a member requests that any information contained on the register about the member (other than the member's name) not be available for inspection, that information must not be made available for inspection.
- (6) A member must not use information about a person obtained from the register to contact or send material to the person, other than for:
 - (a) the purposes of sending the person a newsletter, a notice in respect of a meeting or other event relating to the association or other material relating to the association, or
 - (b) any other purpose necessary to comply with a requirement of the Act or the Regulation.

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8. Fees and subscriptions

- (1) A member of the association must, on admission to membership, pay to the association a fee of \$1 or, if some other amount is determined by the committee, that other amount.
- (2) In addition to any amount payable by the member under subclause (1), a member of the association must pay to the association an annual membership fee of \$2 or, if some other amount is determined by the committee, that other amount:
 - (a) except as provided by paragraph (b), before 1 July in each calendar year, or
 - (b) if the member becomes a member on or after 1 July in any calendar year - on becoming a member and before 1 July in each succeeding calendar year.

9. Members' liabilities

The liability of a member of the association to contribute towards the payment of the debts and liabilities of the association or the costs, charges and expenses of the winding up of the association is limited to the amount, if any, unpaid by the member in respect of membership of the association as required by clause 8.

10. Resolution of disputes

- (1) A dispute between a member and another member (in their capacity as members) of the association, or a dispute between a member or members and the association, are to be referred to a community justice centre for mediation under the *Community Justice Centres Act 1983*.
- (2) If a dispute is not resolved by mediation within 3 months of the referral to a community justice centre, the dispute is to be referred to arbitration.
- (3) The *Commercial Arbitration Act 1984* applies to any such dispute referred to arbitration.

11. Disciplining of members

- (1) A complaint may be made to the committee by any person that a member of the association:
 - (a) has refused or neglected to comply with a provision or provisions of this constitution, or
 - (b) has wilfully acted in a manner prejudicial to the interests of the association.
- (2) The committee may refuse to deal with a complaint if it considers the complaint to be trivial or vexatious in nature.
- (3) If the committee decides to deal with the complaint, the committee:
 - (a) must cause notice of the complaint to be served on the member concerned, and
 - (b) must give the member at least 14 days from the time the notice is served within which to make submissions to the committee in connection with the complaint, and
 - (c) must take into consideration any submissions made by the member in connection with the complaint.
- (4) The committee may, by resolution, expel the member from the association or suspend the member from membership of the association if, after considering the complaint and any submissions made in connection with the complaint, it is
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satisfied that the facts alleged in the complaint have been proved and the expulsion or suspension is warranted in the circumstances.
- (5) If the committee expels or suspends a member, the secretary must, within 7 days after the action is taken, cause written notice to be given to the member of the action taken, of the reasons given by the committee for having taken that action and of the member's right of appeal under clause 12.
- (6) The expulsion or suspension does not take effect:
 - (a) until the expiration of the period within which the member is entitled to appeal against the resolution concerned, or
 - (b) if within that period the member exercises the right of appeal, unless and until the association confirms the resolution under clause 12, whichever is the later.

12. Right of appeal of disciplined member

- (1) A member may appeal to the association in general meeting against a resolution of the committee under clause 11, within 7 days after notice of the resolution is served on the member, by lodging with the secretary a notice to that effect.
- (2) The notice may, but need not, be accompanied by a statement of the grounds on which the member intends to rely for the purposes of the appeal.
- (3) On receipt of a notice from a member under subclause (1), the secretary must notify the committee which is to convene a general meeting of the association to be held within 28 days after the date on which the secretary received the notice.
- (4) At a general meeting of the association convened under subclause (3):
 - (a) no business other than the question of the appeal is to be transacted, and
 - (b) the committee and the member must be given the opportunity to state their respective cases orally or in writing, or both, and
 - (c) the members present are to vote by secret ballot on the question of whether the resolution should be confirmed or revoked.
- (5) The appeal is to be determined by a simple majority of votes cast by members of the association.

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Part 3 - The committee

13. Powers of the committee

Subject to the Act, the Regulation and this constitution and to any resolution passed by the association in general meeting, the committee:

- (a) is to control and manage the affairs of the association, and
- (b) may exercise all such functions as may be exercised by the association, other than those functions that are required by this constitution to be exercised by a general meeting of members of the association, and
- (c) has power to perform all such acts and do all such things as appear to the committee to be necessary or desirable for the proper management of the affairs of the association.

14. Composition and membership of committee

- (1) The committee is to consist of:
 - (a) the office-bearers of the association, and
 - (b) at least 3 ordinary committee members, each of whom is to be elected at the annual general meeting of the association under clause 15.
- (2) The total number of committee members is to be 7.
- (3) The office-bearers of the association are as follows:
 - (a) the president,
 - (b) the vice-president,
 - (c) the treasurer,
 - (d) the secretary.
- (4) A committee member may hold up to 2 offices (other than both the president and vice-president offices).
- (5) Each member of the committee is, subject to this constitution, to hold office until the conclusion of the annual general meeting following the date of the member's election, but is eligible for re-election.

15. Election of committee members

- (1) Nominations of candidates for election as office-bearers of the association or as

ordinary committee members:

- (a) must be made in writing, signed by 2 members of the association and accompanied by the written consent of the candidate (which may be endorsed on the form of the nomination), and
 - (b) must be delivered to the secretary of the association at least 7 days before the date fixed for the holding of the annual general meeting at which the election is to take place.
- (2) If insufficient nominations are received to fill all vacancies on the committee, the candidates nominated are taken to be elected and further nominations are to be received at the annual general meeting.
- (3) If insufficient further nominations are received, any vacant positions remaining on the committee are taken to be casual vacancies.
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- (4) If the number of nominations received is equal to the number of vacancies to be filled, the persons nominated are taken to be elected.
- (5) If the number of nominations received exceeds the number of vacancies to be filled, a ballot is to be held.
- (6) The ballot for the election of office-bearers and ordinary committee members of the committee is to be conducted at the annual general meeting in such usual and proper manner as the committee may direct.
- (7) A person nominated as a candidate for election as an office-bearer or as an ordinary committee member of the association must be a member of the association.

16. Secretary

- (1) The secretary of the association must, as soon as practicable after being appointed as secretary, lodge notice with the association of his or her address.
- (2) It is the duty of the secretary to keep minutes of:
- (a) all appointments of office-bearers and members of the committee, and
 - (b) the names of members of the committee present at a committee meeting or a general meeting, and
 - (c) all proceedings at committee meetings and general meetings.
- (3) Minutes of proceedings at a meeting must be signed by the chairperson of the meeting or by the chairperson of the next succeeding meeting.

17. Treasurer

It is the duty of the treasurer of the association to ensure:

- (a) that all money due to the association is collected and received and that all payments authorised by the association are made, and
- (b) that correct books and accounts are kept showing the financial affairs of the association, including full details of all receipts and expenditure connected with the activities of the association.

18. Casual vacancies

- (1) In the event of a casual vacancy occurring in the membership of the committee, the committee may appoint a member of the association to fill the vacancy and the member so appointed is to hold office, subject to this constitution, until the conclusion of the annual general meeting next following the date of the appointment.

(2) A casual vacancy in the office of a member of the committee occurs if the member:

(a) dies, or

(b) ceases to be a member of the association, or

(c) becomes an insolvent under administration within the meaning of the *Corporations Act 2001* of the Commonwealth, or

(d) resigns office by notice in writing given to the secretary, or

(e) is removed from office under clause 19, or

(f) becomes a mentally incapacitated person, or

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(g) is absent without the consent of the committee from 3 consecutive meetings of the committee, or

(h) is convicted of an offence involving fraud or dishonesty for which the maximum penalty on conviction is imprisonment for not less than 3 months, or

(i) is prohibited from being a director of a company under Part 2D.6

(Disqualification from managing corporations) of the *Corporations Act 2001* of the Commonwealth.

19. Removal of committee members

(1) The association in general meeting may by resolution remove any member of the committee from the office of member before the expiration of the member's term of office and may by resolution appoint another person to hold office until the expiration of the term of office of the member so removed.

(2) If a member of the committee to whom a proposed resolution referred to in subclause (1) relates makes representations in writing to the secretary or president (not exceeding a reasonable length) and requests that the representations be notified to the members of the association, the secretary or the president may send a copy of the representations to each member of the association or, if the representations are not so sent, the member is entitled to require that the representations be read out at the meeting at which the resolution is considered.

20. Committee meetings and quorum

(1) The committee must meet at least 3 times in each period of 12 months at such place and time as the committee may determine.

(2) Additional meetings of the committee may be convened by the president or by any member of the committee.

(3) Oral or written notice of a meeting of the committee must be given by the secretary to each member of the committee at least 48 hours (or such other period as may be unanimously agreed on by the members of the committee) before the time appointed for the holding of the meeting.

(4) Notice of a meeting given under subclause (3) must specify the general nature of the business to be transacted at the meeting and no business other than that business is to be transacted at the meeting, except business which the committee members present at the meeting unanimously agree to treat as urgent business.

(5) Any 3 members of the committee constitute a quorum for the transaction of the business of a meeting of the committee.

(6) No business is to be transacted by the committee unless a quorum is present and if, within half an hour of the time appointed for the meeting, a quorum is not present, the meeting is to stand adjourned to the same place and at the same hour of the same day in the following week.

(7) If at the adjourned meeting a quorum is not present within half an hour of the time appointed for the meeting, the meeting is to be dissolved.

(8) At a meeting of the committee:

(a) the president or, in the president's absence, the vice-president is to preside,
or

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(b) if the president and the vice-president are absent or unwilling to act, such one of the remaining members of the committee as may be chosen by the members present at the meeting is to preside.

21. Delegation by committee to sub-committee

(1) The committee may, by instrument in writing, delegate to one or more subcommittees (consisting of such member or members of the association as the committee thinks fit) the exercise of such of the functions of the committee as are specified in the instrument, other than:

(a) this power of delegation, and

(b) a function which is a duty imposed on the committee by the Act or by any other law.

(2) A function the exercise of which has been delegated to a sub-committee under this clause may, while the delegation remains unrevoked, be exercised from time to time by the sub-committee in accordance with the terms of the delegation.

(3) A delegation under this clause may be made subject to such conditions or limitations as to the exercise of any function, or as to time or circumstances, as may be specified in the instrument of delegation.

(4) Despite any delegation under this clause, the committee may continue to exercise any function delegated.

(5) Any act or thing done or suffered by a sub-committee acting in the exercise of a delegation under this clause has the same force and effect as it would have if it had been done or suffered by the committee.

(6) The committee may, by instrument in writing, revoke wholly or in part any delegation under this clause.

(7) A sub-committee may meet and adjourn as it thinks proper.

22. Voting and decisions

(1) Questions arising at a meeting of the committee or of any sub-committee appointed by the committee are to be determined by a majority of the votes of members of the committee or sub-committee present at the meeting.

(2) Each member present at a meeting of the committee or of any sub-committee appointed by the committee (including the person presiding at the meeting) is entitled to one vote but, in the event of an equality of votes on any question, the person presiding may exercise a second or casting vote.

(3) Subject to clause 20 (5), the committee may act despite any vacancy on the committee.

(4) Any act or thing done or suffered, or purporting to have been done or suffered, by

the committee or by a sub-committee appointed by the committee, is valid and effectual despite any defect that may afterwards be discovered in the appointment or qualification of any member of the committee or sub-committee.

Part 4 - General meetings

23. Annual general meetings - holding of

(1) The association must hold its first annual general meeting within 18 months after its registration under the Act.

(2) The association must hold its annual general meetings:

(a) within 6 months after the close of the association's financial year, or

(b) within such later time as may be allowed by the Director-General or

prescribed by the Regulation.

24. Annual general meetings - calling of and business at

(1) The annual general meeting of the association is, subject to the Act and to clause 23, to be convened on such date and at such place and time as the committee thinks fit.

(2) In addition to any other business which may be transacted at an annual general meeting, the business of an annual general meeting is to include the following:

(a) to confirm the minutes of the last preceding annual general meeting and of any special general meeting held since that meeting,

(b) to receive from the committee reports on the activities of the association during the last preceding financial year,

(c) to elect office-bearers of the association and ordinary committee members,

(d) to receive and consider any financial statement or report required to be submitted to members under the Act.

(3) An annual general meeting must be specified as such in the notice convening it.

25. Special general meetings - calling of

(1) The committee may, whenever it thinks fit, convene a special general meeting of the association.

(2) The committee must, on the requisition in writing of at least 5 per cent of the total number of members, convene a special general meeting of the association.

(3) A requisition of members for a special general meeting:

(a) must state the purpose or purposes of the meeting, and

(b) must be signed by the members making the requisition, and

(c) must be lodged with the secretary, and

(d) may consist of several documents in a similar form, each signed by one or more of the members making the requisition.

(4) If the committee fails to convene a special general meeting to be held within 1 month after that date on which a requisition of members for the meeting is lodged with the secretary, any one or more of the members who made the requisition may convene a special general meeting to be held not later than 3 months after that date.

(5) A special general meeting convened by a member or members as referred to in subclause (4) must be convened as nearly as is practicable in the same manner as general meetings are convened by the committee.

26. Notice

(1) Except if the nature of the business proposed to be dealt with at a general meeting requires a special resolution of the association, the secretary must, at least 14 days before the date fixed for the holding of the general meeting, give a notice to each member specifying the place, date and time of the meeting and the nature of the business proposed to be transacted at the meeting.

(2) If the nature of the business proposed to be dealt with at a general meeting requires a special resolution of the association, the secretary must, at least 21 days before the date fixed for the holding of the general meeting, cause notice to be given to each member specifying, in addition to the matter required under subclause (1), the intention to propose the resolution as a special resolution.

(3) No business other than that specified in the notice convening a general meeting is to be transacted at the meeting except, in the case of an annual general meeting, business which may be transacted under clause 24 (2).

(4) A member desiring to bring any business before a general meeting may give notice in writing of that business to the secretary who must include that business in the next notice calling a general meeting given after receipt of the notice from the member.

27. Quorum for general meetings

(1) No item of business is to be transacted at a general meeting unless a quorum of members entitled under this constitution to vote is present during the time the meeting is considering that item.

(2) Five members present (being members entitled under this constitution to vote at a general meeting) constitute a quorum for the transaction of the business of a general meeting.

(3) If within half an hour after the appointed time for the commencement of a general meeting a quorum is not present, the meeting:

(a) if convened on the requisition of members, is to be dissolved, and

(b) in any other case, is to stand adjourned to the same day in the following week at the same time and (unless another place is specified at the time of the adjournment by the person presiding at the meeting or communicated by written notice to members given before the day to which the meeting is adjourned) at the same place.

(4) If at the adjourned meeting a quorum is not present within half an hour after the time appointed for the commencement of the meeting, the members present (being at least 3) are to constitute a quorum.

28. Presiding member

(1) The president or, in the president's absence, the vice-president, is to preside as chairperson at each general meeting of the association.

(2) If the president and the vice-president are absent or unwilling to act, the members present must elect one of their number to preside as chairperson at the meeting.

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29. Adjournment

(1) The chairperson of a general meeting at which a quorum is present may, with the consent of the majority of members present at the meeting, adjourn the meeting

from time to time and place to place, but no business is to be transacted at an adjourned meeting other than the business left unfinished at the meeting at which the adjournment took place.

(2) If a general meeting is adjourned for 14 days or more, the secretary must give written or oral notice of the adjourned meeting to each member of the association stating the place, date and time of the meeting and the nature of the business to be transacted at the meeting.

(3) Except as provided in subclauses (1) and (2), notice of an adjournment of a general meeting or of the business to be transacted at an adjourned meeting is not required to be given.

30. Making of decisions

(1) A question arising at a general meeting of the association is to be determined by either:

(a) a show of hands, or

(b) if on the motion of the chairperson or if 5 or more members present at the meeting decide that the question should be determined by a written ballot—a written ballot.

(2) If the question is to be determined by a show of hands, a declaration by the chairperson that a resolution has, on a show of hands, been carried or carried unanimously or carried by a particular majority or lost, or an entry to that effect in the minute book of the association, is evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against that resolution.

(3) If the question is to be determined by a written ballot, the ballot is to be conducted in accordance with the directions of the chairperson.

31. Special resolutions

A special resolution may only be passed by the association in accordance with section 39 of the Act.

32. Voting

(1) On any question arising at a general meeting of the association a member has one vote only.

(2) In the case of an equality of votes on a question at a general meeting, the chairperson of the meeting is entitled to exercise a second or casting vote.

(3) A member is not entitled to vote at any general meeting of the association unless all money due and payable by the member to the association has been paid.

(4) A member is not entitled to vote at any general meeting of the association if the member is under 18 years of age.

33. Proxy votes not permitted

Proxy voting must not be undertaken at or in respect of a general meeting.

Note: Schedule 1 of the Act provides that an association's constitution is to address whether members of the association are entitled to vote by proxy at general meetings.

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34. Postal ballots

(1) The association may hold a postal ballot to determine any issue or proposal (other than an appeal under clause 12).

(2) A postal ballot is to be conducted in accordance with Schedule 3 to the Regulation.

Part 5 - Miscellaneous

35. Insurance

The association may effect and maintain insurance.

36. Funds - source

(1) The funds of the association are to be derived from entrance fees and annual subscriptions of members, donations and, subject to any resolution passed by the association in general meeting, such other sources as the committee determines.

(2) All money received by the association must be deposited as soon as practicable and without deduction to the credit of the association's bank or other authorised deposit-taking institution account.

(3) The association must, as soon as practicable after receiving any money, issue an appropriate receipt.

37. Funds - management

(1) Subject to any resolution passed by the association in general meeting, the funds of the association are to be used in pursuance of the objects of the association in such manner as the committee determines.

(2) All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments must be signed by any 2 members of the committee or employees of the association, being members or employees authorised to do so by the committee.

38. Change of name, objects and constitution

An application to the Director-General for registration of a change in the association's name, objects or constitution in accordance with section 10 of the Act is to be made by the public officer or a committee member.

39. Custody of books etc

Except as otherwise provided by this constitution, the public officer must keep in his or her custody or under his or her control all records, books and other documents relating to the association.

40. Inspection of books etc

(1) The following documents must be open to inspection, free of charge, by a member of the association at any reasonable hour:

- (a) records, books and other financial documents of the association,
- (b) this constitution,
- (c) minutes of all committee meetings and general meetings of the association.

(2) A member of the association may obtain a copy of any of the documents referred to in subclause (1) on payment of a fee of not more than \$1 for each page copied.

41. Service of notices

(1) For the purpose of this constitution, a notice may be served on or given to a person:

- (a) by delivering it to the person personally, or
- (b) by sending it by pre-paid post to the address of the person, or
- (c) by sending it by facsimile transmission or some other form of electronic transmission to an address specified by the person for giving or serving the notice.

(2) For the purpose of this constitution, a notice is taken, unless the contrary is proved, to have been given or served:

(a) in the case of a notice given or served personally, on the date on which it is received by the addressee, and

(b) in the case of a notice sent by pre-paid post, on the date when it would have been delivered in the ordinary course of post, and

(c) in the case of a notice sent by facsimile transmission or some other form of electronic transmission, on the date it was sent or, if the machine from which the transmission was sent produces a report indicating that the notice was sent on a later date, on that date.

42. Financial year

The financial year of the association is:

(a) the period of time commencing on the date of incorporation of the association and ending on the following 30 June, and

(b) each period of 12 months after the expiration of the previous financial year of the association, commencing on 1 July and ending on the following 30 June.

Note: Schedule 1 of the Act provides that an association's constitution is to address the association's financial year.

Appendix 2

Charitable Fundraising Act 1991 No 69



Status Information

Currency of version

Current version for 6 July 2009 to date (accessed 28 July 2010 at 15:29).
Legislation on this site is usually updated within 3 working days after a change to the legislation.

Provisions in force

The provisions displayed in this version of the legislation have all commenced. See [Historical notes](#)

Responsible Minister

Minister for Gaming and Racing

Authorisation: This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

File last modified 6 July 2009.

An Act to regulate public fundraising for charitable purposes; to repeal the *Charitable Collections Act 1934* and to amend certain other Acts; and for other purposes.

Part 1 Preliminary

1 Name of Act

This Act may be cited as the [Charitable Fundraising Act 1991](#).

2 Commencement

This Act commences on a day or days to be appointed by proclamation.

3 Objects

The objects of this Act are:
to promote proper and efficient management and administration of fundraising appeals for

charitable purposes, and
to ensure proper keeping and auditing of accounts in connection with such appeals, and
to prevent deception of members of the public who desire to support worthy causes.

4 Definitions

In this Act:

authorised inspector means a person appointed under this Act as an inspector or a person authorised by or under this Act to exercise the functions of an authorised inspector.

authority means an authority in force under Part 2.

charitable purpose includes any benevolent, philanthropic or patriotic purpose.

conducting a fundraising appeal is defined in section 6.

fundraising appeal is defined in section 5.

organisation includes any board of trustees or other body of persons, whether incorporated or unincorporated.

participating in a fundraising appeal is defined in section 6.

registered office of a person or organisation, or branch of an organisation, that conducts fundraising appeals pursuant to an authority means the address stated in the application form referred to in section 15.

In this Act:

a reference to a function includes a reference to a power, authority and duty, and
a reference to the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.

5 Meaning of “fundraising appeal”

For the purposes of this Act, the soliciting or receiving by any person of any money, property or other benefit constitutes a fundraising appeal if, before or in the course of any such soliciting or receiving, the person represents:

that the purpose of that soliciting or receiving, or

that the purpose of an activity or enterprise of which that soliciting or receiving is a part,

is or includes a charitable purpose.

It does not matter whether the money or benefit concerned is solicited or received:
in person or by other means (such as by post, telephone or facsimile transmission), or
as a donation or otherwise (such as by participation in a lottery, art union or competition; by sponsorship in connection with a walkathon, telethon or other similar event; in connection with the supply of food, entertainment or other goods or services; or in connection with any other commercial undertaking).

The following do not, however, constitute a fundraising appeal for the purposes of this Act:
a request for, or the receipt of, an amount required in good faith as the fee for renewal of membership of an organisation,

an appeal by an organisation to (or the receipt of money or a benefit from) members of the organisation,

a request that any property be devised or bequeathed, or the giving of any information as to the means by which any property may be devised or bequeathed,

an appeal conducted exclusively or predominantly among persons sharing a common employer or place of work by one of those persons (being an appeal for a charitable purpose connected directly with another of those persons or any such other person's immediate family) and the receipt of money or a benefit from any such appeal,

an appeal to (or the receipt of money or a benefit from) any Commonwealth, State or local government authority,

anything prescribed by the regulations.

6 Meaning of “conducting” or “participating in” a fundraising appeal

For the purposes of this Act, a person conducts a fundraising appeal if the person organises the appeal, whether alone or with others, whether in person or by an agent or employee and whether on the person's own behalf or as an officer or member of the governing body of an organisation.

For the purposes of this Act, a person participates in a fundraising appeal if the person solicits or receives any money, property or other benefit in the course of the appeal, or assists in organising the appeal.

For the purposes of this Act, a person who participates in a fundraising appeal does not conduct the appeal if the person participates in it solely as the agent, employee or collector (whether voluntary or not) of or for another person who is conducting the appeal.

For the purposes of this Act, a person does not participate in an appeal merely because the person gives any money or benefit in the course of the appeal.

7 Religious organisations exempt from Act

This Act (apart from section 48) does not apply to:

a religious body or a religious organisation in respect of which a proclamation is in force under section 26 of the *Marriage Act 1961* of the Commonwealth or a religious body, or an organisation or office, within a denomination in respect of which such a proclamation is in force, or

a religious body or religious organisation prescribed by the regulations, or

any body or organisation that is certified in writing by the principal or executive officer of a body or organisation referred to in paragraph (a) or (b) to be affiliated with and approved by the organisation or body so referred to, or

a member or employee of a body or organisation referred to in paragraph (a), (b) or (c), or any other person, who is acting with its authority.

The Minister may, by order published in the Gazette, declare that, despite subsection (1), this Act and the regulations apply (or apply to the extent specified in the order) to a person, body or organisation specified in the order, and such an order has effect accordingly.

By way of example of the power conferred by subsection (2), an order under that subsection may apply the provisions of Part 3 to a person, body or organisation that has failed to give a satisfactory reply to a request by the Minister for information concerning any fundraising appeal conducted by the person, body or organisation.

8 Crown bound by this Act

This Act binds the Crown not only in right of New South Wales but also, in so far as the legislative power of Parliament permits, in all its other capacities.

Part 2 Fundraising appeals

Division 1 Offences

9 Conducting unlawful fundraising

A person who conducts a fundraising appeal is guilty of an offence unless the person:
is the holder of an authority authorising the person to conduct the appeal, or
is a member of an organisation, or an employee or agent of a person or organisation, that holds such an authority and is authorised, by the person or organisation that holds the authority, to conduct the appeal, or

is authorised under subsection (3) to conduct the appeal without an authority.

Maximum penalty: 50 penalty units.

A person who conducts a fundraising appeal in contravention of any condition attached to an authority authorising the appeal is guilty of an offence.

Maximum penalty: 50 penalty units.

The following may conduct a fundraising appeal without being the holder of an authority:
an organisation or person, or one of a class of organisations or persons, authorised by the regulations,

an organisation established by an Act and subject to the control and direction of a Minister,

a member, employee or agent of any organisation or other person referred to in paragraph (a) or (b) who is authorised by the organisation or other person to conduct the appeal,

a person who, in accordance with section 11, conducts the appeal in conjunction with the holder of an authority.

10 Participating in unlawful fundraising

A person who participates in a fundraising appeal which the person knows, or could reasonably be expected to know, is being conducted unlawfully is guilty of an offence.

Maximum penalty: 50 penalty units.

11 Appeals conducted by persons engaged in business or otherwise deriving benefit

A person (in this section called the *trader*) must not conduct a fundraising appeal: in connection with the supply of goods or services in the course of any trade or business carried on by the person, or otherwise partly for the person's benefit,

except in accordance with this section.

Maximum penalty: 50 penalty units.

Such an appeal must be conducted in accordance with the following conditions: the appeal must be conducted jointly by the trader and a person or organisation that holds an authority to conduct the appeal, any advertisement, notice or information concerning the appeal must identify the trader and the holder of the authority,

any such advertisement, notice or information must give details (to the extent required by the conditions of the authority) of the intended distribution of funds raised in the appeal or of any guaranteed minimum payment, or proportion of profits, to be paid by the trader to any person or organisation as a result of the appeal.

Nothing in this section affects the Minister's discretionary power to attach any other condition to an authority.

12 Publicity

A person who publishes any advertisement, notice or information relating to any fundraising appeal which the person knows, or could reasonably be expected to know, is being conducted unlawfully is guilty of an offence.

Maximum penalty: 50 penalty units.

In this section, *publishing* includes: causing to be published, and publishing by spoken words, whether directly or through any electronic medium, and transmitting by facsimile machine.

13 False representations in conduct of fundraising appeal

A person:
who is conducting or is proposing to conduct a fundraising appeal, or
who is acting on behalf of a person who is conducting or is proposing to conduct a fundraising appeal,

must not represent to an employee, agent or collector (whether voluntary or not) that any thing required or permitted by this Act to be done, or any condition precedent to a fundraising appeal to be complied with, has been done or complied with when in fact it has not.

Maximum penalty: 50 penalty units or imprisonment for 6 months, or both.

Division 2 Authority to conduct fundraising appeals

13A Application to authorities of Licensing and Registration (Uniform Procedures) Act 2002

The Minister may grant authorities for the purposes of this Act.

Part 2 of the *Licensing and Registration (Uniform Procedures) Act 2002* (*the applied Act*) applies to and in respect of an authority, subject to the modifications and limitations prescribed by or under this Act.

For the purpose of applying Part 2 of the applied Act to an authority:
the authority may be amended under that Act, and
the reference to 14 days in section 14 (3) of that Act (as to the period within which further information must be provided) is to be read as a reference to 3 months, and

section 17 (1) of that Act does not have effect, and

the reference to 14 days in section 24 (1) of that Act (as to the period within which changed particulars must be notified) is to be read as a reference to 28 days.

Subject to this section, the regulations may make provision for or with respect to such matters concerning an authority as are relevant to the operation of Part 2 of the applied Act.

14 Special applications

(Repealed)

Persons or organisations may combine to make one application for an authority if each such person or organisation is separately identified in the application.

An application may relate to a particular appeal or appeals or to appeals generally.

An application made by an organisation may request that the authority issued in pursuance of the application authorise the conduct of fundraising appeals by members of specified branches of the organisation.

An authority may be issued in terms requested under subsection (4) if the Minister is satisfied that each of the branches concerned is responsible to, and is under the direction and control of, the governing body of the applicant organisation. In such a case, the governing body of each branch is taken, for the purposes of this Act, to be the holder of the authority.

15 Application to nominate registered office

(Repealed)

An application for an authority is to require the applicant to state in the application an address in New South Wales to which any notices or other documents can be forwarded for the purposes of this Act. The address so stated is, for the purposes of this Act, the registered office of the applicant.

If the authority is to authorise the conducting of one or more fundraising appeals by branches of an organisation, the form of application must require an address in New South Wales to be stated for each such branch. In such a case, each such branch is taken, for the purposes of this Act, to have its registered office at the address specified in respect of it, and any requirement of this Act in relation to the registered office of the holder of an authority applies accordingly.

16 How application dealt with

(Repealed)

The Minister may refuse an application for an authority if the Minister is not satisfied as to any one or more of the following matters:

that the proposed appeal will be conducted in good faith for charitable purposes,
that all of the persons proposing to conduct the appeal, and all persons associated with the proposed appeal, are fit and proper persons to administer, or to be associated with, a fundraising appeal for charitable purposes,

that the proposed appeal will be administered in a proper manner,

that the grant of an authority would not facilitate the contravention of any Act,

that the applicant can and will ensure that persons conducting or participating in the proposed appeal will comply with the provisions of this Act and the regulations and the conditions of the authority,

that the applicant has furnished all the information required to be furnished in relation to the proposed appeal,

that, having regard to the purposes and activities, or likely activities, of the applicant, names, designations or titles proposed to be used in connection with the proposed appeal are appropriate and not misleading,

that it is in the public interest to grant the authority.

, (4) (Repealed)

Receipt by the Minister of an application for an authority, or of any further information required, is to be acknowledged by notice (a *receipt notice*) to the applicant.

If the Minister has not disposed of an application for an authority within a period of 60 days after the date of the receipt notice for the application (or—if further information is sought during that period—within 60 days after the date of the receipt notice for that information) the application is taken to have been approved. In such a case, the authority is taken to have been duly granted subject only to such conditions as may be prescribed by regulations made for the purposes of this subsection.

Nothing in subsection (6) affects the power of the Minister to vary the conditions of an authority in accordance with the provisions of this Part.

17 Right conferred by authority

An authority may be granted so as to authorise a single fundraising appeal or a specified number of such appeals or an indefinite number of such appeals.

18 (Repealed)

19 Conditions of authority

The Minister may attach to an authority any condition that, having regard to the objects and purposes of this Act and the public interest, the Minister thinks ought to be imposed in the particular case.

The conditions for the time being attached to an authority may be varied by the Minister by notice in writing served on the holder of the authority.

For the purposes of this Act:
the imposition of a condition on an authority to which no conditions were previously attached,
or
the imposition of any new condition on an authority, or
the amendment of a condition of an authority, or
the removal of a condition of an authority,
is a variation of its conditions.

Division 3 Application of funds raised

20 Proceeds of appeal

Any money or benefit received in the course of a fundraising appeal conducted by the holder of an authority is to be applied according to the objects or purposes represented by or on behalf of the persons conducting the appeal as the purposes or objects of the appeal.

Subsection (1) does not operate:

so as to prevent the deduction of lawful and proper expenses in accordance with the authority under which the appeal is conducted, or
so as to prejudice the operation of the *Dormant Funds Act 1942* or of any Act or other law relating to the cy-pres application or other application of trust money.

The regulations may specify, or make provision for or with respect to the determination (by the decision of the Minister or otherwise) of, what constitutes a lawful and proper expense in connection with particular fundraising appeals or any class or description of fundraising appeals or fundraising appeals generally.

Any relevant Act or other law relating to the cy-pres application or other application of trust money applies to any money (not being trust money) that is subject to subsection (1).

Money or any benefit received in the course of a fundraising appeal may be applied outside New South Wales, except to the extent that:

to apply it in that way would contravene subsection (1) or any other law, or
the Minister, having regard to the public interest, prohibits the application of any such money or benefit by a condition of an authority authorising the appeal concerned.

Any money received in the course of a fundraising appeal, before the deduction of any expenses, is to be paid immediately into an account at a bank, building society or credit union or at any other institution prescribed (or of a class prescribed) by the regulations. The account is to consist only of money raised in the fundraising appeal concerned, or in that and other such appeals conducted by the same persons. The account is to be kept in the name of or on behalf of the person conducting the appeal and is to be operated by not fewer than 2 persons jointly. This subsection, however, has effect subject to the conditions of any particular authority.

A person conducting a fundraising appeal, or any member of the governing body of an organisation on whose behalf such an appeal is conducted, who:
by act or omission is in any way directly or indirectly concerned in or party to a contravention of this section, or
aids, abets, counsels or procures a contravention,

is guilty of an offence.

Maximum penalty: 50 penalty units or imprisonment for 6 months, or both.

A person convicted of an offence under this section in connection with a fundraising appeal conducted on behalf of an organisation is, in addition to any liability for the offence, liable to the organisation for the loss incurred by the organisation as a result of the offence.

An amount for which a person is liable under subsection (8) may be recovered by the organisation concerned as a debt in any court of competent jurisdiction.

21 Investment

Money received in the course of a fundraising appeal which is not immediately required to be applied to the purposes or objects of the appeal may be invested only in a manner for the time

being authorised by law for the investment of trust funds.

This section is subject to the provisions of the *Public Authorities (Financial Arrangements) Act 1987* or any other Act which confers special powers of investment on the person or organisation concerned.

Division 4 Requirements to be met by fundraisers

22 Keeping of records

A person or organisation that conducts or has conducted a fundraising appeal must keep, in accordance with this section, records of income and expenditure in relation to each such appeal.

The records must:

be kept in writing in the English language or so as to enable the records to be readily accessible and readily convertible into writing in the English language, and include any particulars required by the regulations, and

subject to the conditions of any authority, be kept at all times at the registered office of the person conducting the appeal, and

be kept for a period of at least 7 years (or such shorter period as the Minister may approve) after the receipt of the income or the incurring of the expenditure to which they relate.

A person or organisation that contravenes this section is guilty of an offence. In the case of an unincorporated organisation, every trustee or other person who, at the time of the offence, was a member of the governing body of the organisation is guilty of an offence.

Maximum penalty: 50 penalty units.

23 Periodic return by holder of authority (other than incorporated organisation)

A natural person or unincorporated organisation that for the time being holds an authority to conduct a fundraising appeal must send to the Minister returns giving details of the application of the proceeds of any fundraising appeals conducted by the person or organisation since the last such return was furnished (or, if no such returns have been lodged previously, since the authority was granted).

The returns are to be sent at such intervals as may be specified in the authority, at such times as may be so specified (or within such further time as the Minister may allow).

Each such return is to be in a form approved by the Minister and must show:
the gross amounts received from each appeal, and
the net amount received after the deduction of expenses.

A person or organisation that contravenes this section is guilty of an offence. In the case of an unincorporated organisation, every trustee or other person who, at the time of the offence, was a member of the governing body of the organisation is guilty of an offence.

Maximum penalty: 50 penalty units.

24 Audit

The accounts of any person or organisation that for the time being holds an authority to conduct a fundraising appeal, in so far as those accounts relate to receipts and expenditure in connection with any such appeals, must be audited annually by a person qualified to audit accounts for the purposes of the Corporations Act 2001 of the Commonwealth or having other qualifications or experience approved by the Minister.

The auditor must report on:

whether the accounts show a true and fair view of the financial result of fundraising appeals for the year to which they relate, and

whether the accounts and associated records have been properly kept during that year in accordance with this Act and the regulations, and

whether money received as a result of fundraising appeals conducted during that year has been properly accounted for and applied in accordance with this Act and the regulations, and

the solvency of the person or organisation.

If the auditor, in the course of the performance of the auditor's duties for the purposes of this section, is satisfied that:

there has been a contravention of this Act or the regulations, and

the circumstances are such that, in the auditor's opinion, the matter has not been or will not be adequately dealt with by comment in the auditor's report on the accounts or by bringing the matter to the notice of the person concerned or of the trustees or members of the governing body of the organisation concerned (as the case may be),

the auditor must immediately report the matter to the Minister.

A person or organisation that fails to have accounts audited as required by this section is guilty of an offence. In the case of an unincorporated organisation, every trustee or other person who, at the time of offence, was a member of the governing body of the organisation is guilty of an offence.

Maximum penalty: 50 penalty units.

The requirements of this section are in addition to the requirements of any other law (including the Corporations Act 2001 of the Commonwealth).

The whole or any part of a report prepared for the purposes of this section in respect of a corporation may be included in an auditor's report prepared for the purposes of the Corporations Act 2001 of the Commonwealth or any other law in respect of the corporation.

Nothing in subsection (6) is intended to provide for the inclusion of any matter in an auditor's report for the purposes of the Corporations Act 2001 of the Commonwealth or any other law of the Commonwealth if the inclusion of that matter would be contrary to the provisions of that Act

or law.

25 Exemptions

The regulations may make provision for or with respect to the exemption of a person or organisation (or of a class of persons or organisations) from all or any of the provisions of this Division, other than any provision relating to the keeping of records.

If a person or organisation referred to in subsection (1) enters into a contract or arrangement with another person by which that other person will or might receive any remuneration or benefit for conducting or participating in a fundraising appeal, that other person is not, by virtue of this section or any regulation, exempt from any of the provisions of this Division.

Part 3 Powers of the Minister in respect of fundraisers

Division 1 Investigations

26 Minister may inquire into fundraisers

The Minister may, with respect to any matter arising under this Act, inquire into any person or organisation that:
is conducting or has conducted, or is participating or has participated in, a fundraising appeal, or the Minister has reason to believe is conducting or has conducted, or is participating or has participated in, a fundraising appeal.

The Minister may cause an inquiry under this section to be made by an authorised inspector, either with respect to a particular matter or with respect to any matter.

27 Power of Minister to require accounts etc

For the purposes of any inquiry under this Part, the Minister or an authorised inspector may require any person to do any one or more of the following:
to furnish accounts and statements in writing with respect to any matter in question at the inquiry, being a matter about which the person has or can reasonably obtain information,
to provide answers in writing to any questions addressed to the person on any such matter,
to verify any such account, statement or answer by statutory declaration,
to attend at a specified time and place and give evidence or produce documents in the person's custody or under the person's control which relate to any matter in question at the inquiry,
to furnish copies of or extracts from any document in the person's custody or under the person's control which relates to any matter in question at the inquiry or to make any such document available for inspection.

Any requirement under this section is to be made by notice in writing served on the person concerned and specifying a reasonable time within which the requirement is to be complied with.

For the purposes of any inquiry under this Part, evidence may be taken on oath and the person

conducting the inquiry may for that purpose administer oaths.

The person conducting the inquiry may take possession of documents produced to the person for such period as the person considers necessary for the purposes of the inquiry and may make copies of or take extracts from them. During that period the person conducting the inquiry must permit a person who would be entitled to inspect any one or more of those documents if they were not in the possession of the person conducting the inquiry to inspect at all reasonable times such of those documents as that person would be entitled to inspect.

28 Power of entry and inspection

If an authorised inspector believes on reasonable grounds that any documents relevant to an inquiry under this Part are likely to be found on any premises, the authorised inspector may: enter the premises, and require production of the documents, and

take copies of or extracts from the documents or take possession of the documents for such period as he or she considers necessary for the purposes of the inquiry.

Section 27 (4) applies to documents taken under subsection (1) (c).

A power conferred by this section:

may not be exercised in relation to any premises used as a dwelling, or in relation to a part of any premises so used, except with the consent of the occupier of the premises or part or by the authority of a search warrant, and

may be exercised only at reasonable times and on reasonable notice to the occupier of any affected premises, except where the Minister has certified that, in the circumstances, the power may be otherwise exercised (in which case it may be exercised in accordance with the Minister's directions).

A power conferred by this section may not be exercised unless the person exercising it is in possession of a certificate issued by the Minister which: states that it is issued under this Act, and gives the name of the person to whom it is issued, and

describes the nature of the powers conferred, and

bears the signature of the Minister.

A person exercising a power to enter premises must produce his or her certificate to the occupier of the premises.

If damage is caused by a person exercising a power to enter premises, a reasonable amount of compensation is recoverable as a debt owed by the Crown to the owner of the premises unless the occupier hindered or obstructed the exercise of the power.

29 Search warrant

An authorised inspector may apply to an authorised officer (within the meaning of the Law

Enforcement (Powers and Responsibilities) Act 2002) for a search warrant if the inspector has reasonable grounds for believing that documents relating to any matter in question at an inquiry being conducted under this Act are kept at a particular place and that:

- the place is used as a dwelling, or
- a person having custody or control of those documents has neglected or failed to comply with a requirement under this Act to produce them or to furnish copies of or extracts from them, or
- the place is unoccupied or the occupier is temporarily absent.

The authorised officer to whom the application is made may, if satisfied that there are reasonable grounds for doing so, issue a search warrant authorising an authorised inspector named in the warrant to enter the place and to search for and take possession of documents of a kind specified in the warrant.

An authorised inspector who enters any place by virtue of such a warrant may take with him or her such other persons as may be necessary, and on leaving any unoccupied place so entered must, as far as practicable, leave it as effectively secured against trespassers as he or she found it.

Division 4 of Part 5 of the Law Enforcement (Powers and Responsibilities) Act 2002 applies to a search warrant issued under this section.

30 Offences in relation to inquiries

A person who:

- neglects or fails to comply with a requirement duly made by a notice under this Division within the time specified in the notice, or
- alters, destroys or conceals any document referred to in section 27 (1) (e), or
- refuses to take an oath required to be taken under this Division, or
- hinders or obstructs the Minister or any authorised inspector in the exercise of his or her functions under this Division,

is guilty of an offence.

Maximum penalty: 50 penalty units or imprisonment for 6 months, or both.

Division 2 Revocation of authority and disposition of funds

31 Revocation of authority

The Minister may, by order published in the Gazette, revoke an authority if the Minister is satisfied:

- that any fundraising appeal conducted by the holder of the authority has not been conducted in good faith for charitable purposes, or
- that any of the persons who have conducted a fundraising appeal by virtue of the authority, or any persons associated with any such appeal, are not fit and proper persons to administer, or to be associated with, a fundraising appeal for charitable purposes, or

that any fundraising appeal conducted by virtue of the authority has been improperly administered, or

that, in connection with any fundraising appeal conducted by virtue of the authority, the provisions of this Act or the regulations or the conditions of the authority were not complied with by any person conducting or participating in the appeal, or

that the holder has not conducted a fundraising appeal within the previous 24 months, or

that, in the public interest, the authority should be revoked.

The revocation of an authority is not stayed by lodgment of an appeal against the revocation.

The revocation of an authority does not have effect until notice of the revocation, and of the reasons for it, is served on the holder of the authority.

Notice of the revocation of an authority is to be published by the Minister in one or more newspapers circulating throughout New South Wales.

If the Minister has revoked an authority, the Minister may subsequently, if the Minister thinks fit, issue a further authority (whether in the same terms or otherwise) to the same person or organisation without the need for further application.

32 Application of funds in absence of authority

If the Minister has revoked the authority of any person or organisation or if the Minister is satisfied that a person or organisation is conducting or has conducted a fundraising appeal without lawful authority or in a manner contrary to the person's or organisation's authority to do so, the Minister may apply to the Supreme Court for an order for the disposition of assets of the person or organisation which the Supreme Court is satisfied are, or are traceable to, the proceeds of any fundraising appeal conducted by the person or organisation.

More than one such application may be made in respect of the same person or organisation.

Having regard to the purposes or objects of any fundraising appeals to which any such assets are referable, the Supreme Court may make such order for their disposition as it thinks fit.

The Supreme Court in any such case may make such consequential or ancillary orders as it thinks fit.

Division 3 Administration of fundraising organisations by administrator

33 Appointment of administrator

The Minister may, by instrument in writing, appoint an administrator:
to conduct the affairs and activities of any non-profit organisation that is conducting or has conducted one or more fundraising appeals, or that has or had as one of its objects a charitable purpose, or

to conduct such of the affairs and activities of any other organisation that is conducting or has conducted one or more fundraising appeals as relate to the administration, application and

management of funds raised in any such appeal.

An administrator is not to be appointed unless the Minister believes on reasonable grounds that:
after the organisation has been notified by the Minister of any contravention of a provision of this Act or the regulations or a condition imposed on the organisation by or under this Act:
the organisation has failed to remedy the contravention to the extent that it is capable of remedy,
or

the organisation has committed a further contravention of the provision or condition, or

) the contravention of the provision or condition has continued, or

an examination or inquiry under this Act in relation to the organisation has disclosed reasonable grounds to suspect a misappropriation of funds of the organisation or of mismanagement of the organisation, or

for other reasons it is in the public interest that the administrator be appointed.

34 Notice of appointment

The Minister must serve notice of the appointment of an administrator on the organisation concerned.

When a notice under this section is served on a non-profit organisation:

the members of the governing body of the organisation cease to hold office, and

if the notice so provides, all contracts of employment with the organisation are terminated, and

if the notice so provides, all contracts for the provision of secretarial or administrative services to the organisation are terminated.

35 Administration

An administrator has the functions of the governing body of the organisation and no appointment of a person to that body may be made while the administrator holds office, except as required by this section.

Before revoking the appointment of an administrator for an organisation (otherwise than for the purpose of appointing a new administrator), the Minister must:

ensure that the members of the governing body of the organisation have been appointed in accordance with the constitution of the organisation, or

appoint those members.

Members of the governing body of an organisation appointed by the Minister under this section are taken to have been appointed in accordance with the constitution of the organisation.

Any members so appointed:

take office on revocation of the appointment of the administrator, and

hold office in accordance with the constitution of the organisation concerned.

36 Audit requirements while administrator holds office

For so long as an administrator holds office, the provisions of any relevant Act or law relating to the appointment and re-appointment of auditors and the functions of auditors (being provisions which would have been applicable to the organisation concerned if the administrator had not been appointed) continue to apply to the organisation.

For the purposes of the application of those provisions, a reference in those provisions to the directors of a company is to be construed as a reference to the administrator of the organisation.

37 Expenses of administration

The expenses of and incidental to the administration of the affairs and activities of an organisation by an administrator appointed under this Division are payable by the organisation.

The remuneration of an administrator of an organisation who is not an employee of the Crown is an expense to which this section applies and is to be fixed by the Minister.

Where an administrator is an employee of the Crown, the reimbursement of the Crown of an amount certified by the Minister in respect of the remuneration of that employee is an expense to which this section applies and is recoverable from the organisation in a court of competent jurisdiction as a debt due to the Crown.

38 Liability for losses incurred during administration

An administrator appointed under this Division is not liable for any loss incurred by the organisation during the administrator's term of office unless the loss was attributable to: wilful misconduct of the administrator, or gross negligence of the administrator, or

wilful failure of the administrator to comply with any provision of this Act or the regulations or of the constitution of the organisation (in so far as any such provision of the constitution is applicable to the members of the governing body of the organisation).

Neither the Crown nor the Minister is liable for any loss incurred by the organisation during the term of office of an administrator, whether or not the administrator is so liable.

Division 4 Miscellaneous provisions

39 Remission of cases to the Attorney General

If the Minister is of the opinion:
that legal proceedings should be instituted with respect to any person or organisation that has conducted fundraising appeals or with respect to any assets or affairs of such a person or organisation, and
that under the circumstances it is desirable that such proceedings should be instituted by the Attorney General,

the Minister may remit the case to the Attorney General, together with such statements and particulars (if any) as in the opinion of the Minister are necessary for the explanation of the case.

The Attorney General may institute and prosecute such legal proceedings as the Attorney General, on consideration of the circumstances, considers proper in the circumstances of the case.

40 Auditor-General to act as or provide inspector

For the purposes of this Act, the Auditor-General may (and on the request of the Minister, is required to):

exercise the functions of an authorised inspector under this Act or the regulations or assist and advise the Minister on any matter arising in the execution of this Act or the regulations, or provide some suitably qualified member or members of the Auditor-General's staff to do so.

The Auditor-General or such a member of staff has the functions of an authorised inspector under this Act and the regulations.

41 Recovery of certain expenses

If the Minister so directs, the whole or any part of the expenses incurred by the Auditor-General in or in connection with the exercise by the Auditor-General or a member of the Auditor-General's staff of any of the functions of an authorised inspector in relation to a particular organisation is payable by the organisation and recoverable from the organisation by the Auditor-General as a debt in a court of competent jurisdiction.

If the Minister so directs, the remuneration of and any expenses incurred by an authorised inspector who is not an employee of the Crown are, where the remuneration and expenses are referable to the exercise of any of the functions of the inspector under this Act in relation to a particular person or organisation, payable by the person or organisation and recoverable in a court of competent jurisdiction as a debt due to the Crown.

The amount recoverable from a person or organisation under subsection (1) is an amount certified by the Auditor-General to be the amount so recoverable.

The amount recoverable from a person or organisation under subsection (2) is an amount certified by the Minister to be the amount so recoverable.

If the organisation concerned is an unincorporated organisation, the trustees or persons who are members of the governing body of the organisation are jointly and severally liable for any debts of the organisation under this section.

Part 4 Reviews by Administrative Decisions Tribunal

42 Review of refusal to grant authority or against conditions imposed on authority

An applicant for an authority who is dissatisfied with any decision of the Minister with respect to the application may apply to the Administrative Decisions Tribunal for a review of the decision.

43 Review of revocation of authority

A person or organisation whose authority is revoked may apply to the Administrative Decisions Tribunal for a review of the revocation.

44 Review of variation of authority

A person or organisation that holds an authority may apply to the Administrative Decisions Tribunal for a review of any variation of the conditions attached to the authority.

45 Determination of applications

The Administrative Decisions Tribunal, in determining a review under this Act, is to inquire into and decide the application having regard to the provisions of this Act and the public interest.

46 (Repealed)

Part 5 Miscellaneous

47 Public access to information

A person or organisation that is (or, within the previous 12 months, was) the holder of an authority must, within 30 days after being requested to do so by any person, furnish the person with:

any audited financial statements requested by the person concerning fundraising appeals conducted by the person or organisation concerned during its last financial year and, to the extent that the regulations so require, during previous financial years, and
in the case of an organisation—such information as the regulations may prescribe concerning the objects and constitution (including the names and addresses of members of the governing body of the organisation) of the organisation.

Maximum penalty: 5 penalty units.

Any such information and financial statements may, at the request of any person, be supplied to the person by or on behalf of the Minister.

A person is not entitled to be supplied with information or financial statements under this section unless the person has paid any relevant fee prescribed by the regulations.

48 Remuneration of board members of charitable organisations

A person is not prohibited (despite any law to the contrary) from holding office or acting as a member of the governing body of a non-profit organisation having as one of its objects a charitable purpose merely because the person receives any remuneration or benefit from the organisation if:

the Minister, by order published in the Gazette, has declared that this section applies to that office, or

the Minister has given prior approval of a person who receives any such remuneration or benefit holding that office or acting in that capacity, or

the person concerned holds that office or acts in that capacity by virtue of his or her office as a minister of religion or a member of a religious order.

An approval under this section is subject to any conditions imposed by the Minister when giving the approval.

An approval under this section is to be in writing. Applications for such approvals must be addressed in writing to the Minister by the organisation concerned.

For the purposes of this section, every body, organisation or office referred to in section 7 (1) is taken to be a non-profit organisation having among its objects one or more charitable purposes.

49 Authorised inspectors

The Minister may appoint any person to be an inspector for the purposes of this Act.

The Minister may authorise a police officer or other person to exercise such of the functions of an authorised inspector under this Act as the Minister may direct.

The regulations may authorise police officers of or above any specified rank to exercise all or any specified functions of an authorised inspector under this Act.

50 Proceedings for offences

Proceedings for an offence against this Act or the regulations are to be dealt with summarily by the Local Court.

Any such proceedings may be commenced at any time within 3 years after the offence was allegedly committed.

51 Offences by corporations

If a corporation contravenes any provision of this Act or the regulations, each person who is a director of the corporation or who is concerned in the management of the corporation is taken to have contravened the same provision if the person knowingly authorised or permitted the contravention.

A person may be proceeded against and convicted under a provision pursuant to subsection (1) whether or not the corporation has been proceeded against or convicted under that provision.

Nothing in this section affects any liability imposed on a corporation for an offence committed by the corporation against this Act or the regulations.

52 (Repealed)

53 Delegation

The Minister may delegate to any public servant any of the Minister's functions under this Act or the regulations (other than this power of delegation).

54 Service of documents

A document required or permitted by or under this Act to be served on a person may, if the person is a natural person, be served:

by delivering the document to the person, or

by sending the document by post addressed to the person at the person's last known place of residence or at the person's registered office, or

by leaving the document at the person's last known place of residence with some person apparently resident at that place and apparently not less than 16 years of age, or

by leaving the document at the person's last known place of business or at the person's registered office with someone apparently in the service of the person and apparently not less than 16 years of age.

A document required or permitted by or under this Act to be served on a person may, if the person is a corporation, be served:

by sending the document by post addressed to the corporation at its registered office or principal place of business in New South Wales, or

by leaving it at the registered office or principal place of business in New South Wales of the corporation with some person apparently employed in connection with the business of the corporation and apparently not less than 16 years of age.

A document required or permitted by or under this Act to be served on an organisation may, if the organisation is not incorporated, be served:

by sending the document by post addressed to the trustees or members of the governing body of the organisation at its registered office, or

by serving it on any such trustee or member of the governing body in any manner that, by this section or otherwise according to law, constitutes sufficient service on a natural person.

The provisions of this section are in addition to, and do not prejudice the operation of, any other law prescribing procedures sufficient for service of documents.

55 Regulations

The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

The regulations may create offences punishable by a penalty not exceeding 20 penalty units.

56 Repeals

The following Acts are repealed:

Charitable Collections Act 1934 No 59

Charitable Collections (Amendment) Act 1985 No 2

The *Charitable Collections Regulations* and any other regulations in force under those Acts are repealed.

57 (Repealed)

58 Savings and transitional provisions

Schedule 2 has effect.

Schedule 1 (Repealed)

Schedule 2 Savings and transitional provisions

(Section 58)

1 Regulations

The regulations may contain provisions of a saving or transitional nature consequent on the enactment of this Act.

Any such provision may, if the regulations so provide, take effect from the date of assent to this Act or a later day.

To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:

- to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or
- to impose liabilities on any person (other than the State or an authority of the State) in respect of any thing done or omitted to be done before the date of its publication.

2 Certain organisations taken to hold authorities

An organisation which, immediately before the repeal of the *Charitable Collections Act 1934*, was registered under that Act as a charity or was exempt from registration under that Act is taken to be the holder of an authority authorising the organisation to conduct any number of fundraising appeals.

Section 19, and the other provisions of this Act, apply to an authority created by the operation of subclause (1).

Subclause (1) ceases to apply to an organisation:

- when its authority is revoked under this Act, or
- when it alters its constitution in so far as its constitution relates to its charitable objects, or

at the end of a period of 2 years commencing on the repeal of the *Charitable Collections Act 1934*, whichever happens first.

Table of amending instruments Charitable - Fundraising - Act 1991 No 69. Assented to 17.12.1991.
Date of commencement, 1.9.1993, sec 2 and GG No 91 of 20.8.1993, p 4619. This Act has been amended as follows:

1996	No 24	<u>Financial Institutions (Miscellaneous Amendments) Act 1996.</u> Assented to 21.6.1996. Date of commencement, 12.7.1996, sec 2 and GG No 84 of 12.7.1996, p 3984.
1997	No 77	<u>Administrative Decisions Legislation Amendment Act 1997.</u> Assented to 10.7.1997. Date of commencement of Sch 5.5, 1.1.1999, sec 2 and GG No 178 of 24.12.1998, p 9946.
1999	No 85	<u>Statute Law (Miscellaneous Provisions) Act (No 2) 1999.</u> Assented to 3.12.1999. Date of commencement of Sch 4, assent, sec 2 (1).
2001	No 34	<u>Corporations (Consequential Amendments) Act 2001.</u> Assented to 28.6.2001. Date of commencement of Sch 4.4, 15.7.2001, sec 2 (1) and Commonwealth GG No S 285 of 13.7.2001.
	No 121	<u>Justices Legislation Repeal and Amendment Act 2001.</u> Assented to 19.12.2001. Date of commencement of Sch 2, 7.7.2003, sec 2 and GG No 104 of 27.6.2003, p 5978.
2002	No 28	<u>Licensing and Registration (Uniform Procedures) Act 2002.</u> Assented to 21.6.2002. Date of commencement of Sch 4.1, 13.6.2006, sec 2 and GG No 75 of 9.6.2006, p 3937.
	No 103	<u>Law Enforcement (Powers and Responsibilities) Act 2002.</u> Assented to 29.11.2002. Date of commencement of Sch 4, 1.12.2005, sec 2 and GG No 45 of 15.4.2005, p 1356.
2007	No 94	<u>Miscellaneous Acts (Local Court) Amendment Act 2007.</u> Assented to 13.12.2007. Date of commencement of Sch 2, 6.7.2009, sec 2 and 2009 (314) LW 3.7.2009.

Table of amendments

Sec 13	Am 2002 No 28, Sch 4.1 [1].
Sec 13A	Ins 2002 No 28, Sch 4.1 [2].
Sec 14	Am 2002 No 28, Sch 4.1 [3] [4].
Sec 15	Am 2002 No 28, Sch 4.1 [5] [6].
Sec 16	Am 2002 No 28, Sch 4.1 [7] [8].
Sec 18	Rep 2002 No 28, Sch 4.1 [9].
Sec 20	Am 1996 No 24, Sch 1.
Sec 24	Am 2001 No 34, Sch 4.4 [1]–[3].
Sec 29	Am 2002 No 103, Sch 4.5 [1]–[3].
Part 4	Subst 1997 No 77, Sch 5.5.
Secs 42–45	Subst 1997 No 77, Sch 5.5.
Sec 46	Rep 1997 No 77, Sch 5.5.
Sec 50	Am 2001 No 121, Sch 2.32; 2007 No 94, Sch 2.
Sec 52	Rep 2002 No 28, Sch 4.1 [10].
Sec 57	Rep 1999 No 85, Sch 4.
Sch 1	Rep 1999 No 85, Sch 4.

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(Appendix 3)

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Fundraising Authority Conditions Published December 2008

The *Charitable Fundraising Act 1991* requires that before an organisation may conduct charitable fundraising activities it is required to hold a licence to fundraise (authority to fundraise). Under section 19 of the Act conditions are attached to fundraising licences. In some instances a licence condition may be modified or replaced with another condition. The conditions are based on prudent and fair practices.

The following are the standard licence conditions attached as Annexure A to fundraising licences.

ANNEXURE A

AUTHORITY CONDITIONS

Definitions

In these authority conditions:

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

child means a person under the age of 15 years.

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

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.

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.

SCHEDULE 1

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).

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- (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 Report on outcome of appeal or appeals

- (1) An authorised fundraiser that is an unincorporated organisation must send to the Minister a return referred to in section 23 of the Act:
 - (a) if the organisation ceases to conduct appeals, within 2 months after it ceases to conduct appeals, and
 - (b) if in any financial year the gross income obtained from any appeals conducted by it exceeds \$100,000:
 - (i) within 3 months after the audited financial statements are adopted at its annual general meeting, or
 - (ii) within 7 months after the conclusion of the financial year concerned, whichever occurs sooner.
- (2) An authorised fundraiser that is a natural person must send to the Minister, within one month after the close of each appeal conducted by the person, a return referred to in section 23 of the Act.

5 Maintenance of an account

- (1) The title of the account into which the gross income obtained from any fundraising appeal is to be paid in accordance with section 20(6) of the Act must include the name of the authorised 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 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.

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.

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(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, after being audited in accordance with the provisions of section 24 of the Act or otherwise according to law, are to be submitted to an annual general meeting of the membership of the organisation within 6 months after the conclusion of the financial year.

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.

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- (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) For the purposes of condition 9, a receipt is taken to include a ticket.

9 Record systems for items used in fundraising appeals

A record system must be instituted and maintained for:

- (a) 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
- (b) 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
- (c) 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, 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 (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.

11 Fundraising through direct marketing

If a fundraising appeal involves solicitation by way of direct marketing (including by telephone, electronic

device such as a facsimile machine 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 5 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.

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.

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(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 normal place of business, the telephone number, the facsimile number, the email address and the website address of the trader or person, and
 - (iii) details of the basis on which the benefit to be received by the authorised fundraiser is to be calculated or provided (*not* to be expressed as a percentage of the “net” income obtained from the appeal), and
 - (iv) details of the extent of the benefit to be obtained by the trader or business from the appeal (not to be expressed as a percentage of the “net” income obtained from the appeal), and
 - (v) the date on which the appeal commenced, or will commence, and the date on which it will end,
- (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

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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 the NSW Office of Liquor, Gaming and Racing (OLGR), 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 OLGR, 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

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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 (*not* to be expressed as a percentage of the “net” income obtained from the appeal), 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

If the authorised fundraiser is an organisation:

- (a) it must be administered in relation to its fundraising activities by a governing body of not fewer than 3 persons, and
- (b) all business transacted by the governing body in relation to its fundraising activities must be properly recorded in the organisation's minutes.

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 OLGR.

20 Conflicts of interest

If the authorised fundraiser is an organisation, it must establish:

- (a) a register of pecuniary interests, and
- (b) a mechanism for dealing with any conflicts of interest that may arise involving a member of the governing body or an office-holder or employee of the organisation.

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.

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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 by this Schedule must be maintained:

- (a) in the case of accounting records, for a period of at least 7 years, and
- (b) in any other case, for a period of at least 3 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 a road within the meaning of the *Road Transport (General) Act 2005* (other than a road that is the subject of a declaration made under section 15(1)(b) of that Act relating to all of the provisions of that Act).

road related area means a road related area within the meaning of the *Road Transport (General)*

Act 2005 (other than a road related area that is the subject of a declaration made under section 15(1)(b) of that Act relating to all of the provisions of that Act).

PART 2 – PARTICIPATION OF CHILDREN IN FUNDRAISING APPEALS

Division 1 – General

25 Definitions

In this Part:

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.

26 Participation of children in fundraising appeals

(1) A child must not participate in a fundraising appeal if the child has not attained the age of 8 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 has not attained the age of 13 years.

Division 2 – General Conditions where children participate in fundraising appeals

27 Application of this Division

(1) This Division prescribes conditions with respect to the participation of children in fundraising appeals, whether or not a child participant receives a wage or commission or some other material benefit (other than reimbursement of reasonable out-of-pocket expenses) in respect of the appeal.

(2) An authorised fundraiser conducting an appeal:

(a) must ensure that the relevant requirements of this Schedule are complied with in relation to any child participant, and

(b) must take all reasonable steps to ensure that any child participant in the appeal complies with the relevant requirements of this Schedule.

28 Parental consent and contact

(1) An authorised fundraiser that proposes to allow a child to participate in an appeal conducted by it:

(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 of the child notifies it that the 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.

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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.

33 Prohibition on entry to private homes, and dealing with persons in motor vehicles

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.

34 Hours of participation

- (1) A child participant must not participate in a fundraising appeal for more than 4 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 6 hours.
- (3) A child participant must not participate in a fundraising appeal on more than 5 days per week.
- (4) If participating in a fundraising appeal outdoors, a child participant must not start before sunrise and must not finish later than sunset.
- (5) A child participant must not be required or permitted to participate in a fundraising appeal later than 8.30 pm if the following day is a school day.

35 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.

36 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.

37 Food and drink

- (1) An authorised fundraiser conducting an appeal must take all reasonable steps to ensure that a child participant receives appropriate and sufficient nutritious food.
- (2) Food should be available to a child participant at reasonable hours and drinking water at all times.

38 Toilet facilities

Toilet, hand-washing and hand-drying facilities must be accessible to each child participant.

39 Travel

- (1) A child participant must be accompanied:

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- (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 to the child's home is less than 10 kilometres, and
 - (c) public transport is available, and
 - (d) the journey is to be completed within daylight hours.

40 Protection from elements

A child participant is to be adequately clothed and otherwise protected from extremes of climate or temperature.

41 Punishment prohibited

A child participant is not to be subjected to any form of punishment, social isolation or immobilisation or subjected to any other behaviour likely to humiliate or frighten the child.

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

42 Application of this Division

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

43 Letter of appointment

(1) A letter of employment or engagement must be issued to a child participant, being a letter containing details of the terms and conditions under which he or she is employed or engaged.

(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.

44 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)

(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.