

# Fundraising Regulations 2009

S.R. No. 72/2009

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STATUTORY RULES 2009

S.R. No. 72/2009

*Fundraising Act 1998*

**Fundraising Regulations 2009**

The Governor in Council makes the following Regulations:

Dated: 23 June 2009

Responsible Minister:

TONY ROBINSON  
Minister for Consumer Affairs

DANIELLE KIDD  
Clerk of the Executive Council

**1 Objectives**

The objectives of these Regulations are—

- (a) to prescribe certain activities as not being fundraising appeals;
- (b) to specify additional requirements for identifying badges worn by persons who are conducting or participating in a fundraising appeal;
- (c) to prescribe the fee for inspecting records;
- (d) to prescribe additional information that may be contained in the register of fundraising appeals;
- (e) to prescribe the information and consents required for an application to renew registration as a fundraiser;

- (f) to prescribe infringement penalties for offences referred to in section 61D of the **Fundraising Act 1998**; and
- (g) to prescribe other matters necessary to give effect to the **Fundraising Act 1998**.

## **2 Authorising provision**

These Regulations are made under section 71 of the **Fundraising Act 1998**.

## **3 Commencement**

These Regulations come into operation on 28 June 2009.

## **4 Revocation**

The Regulations listed in Schedule 1 are **revoked**.

## **5 Definition**

In these Regulations *the Act* means the **Fundraising Act 1998**.

## **6 Activities not constituting a fundraising appeal**

For the purposes of section 5(3) of the Act, the following activities are not a fundraising appeal—

- (a) the soliciting or receipt of any money or benefit by, or on behalf of, a person or organisation in lieu of flowers being sent to a deceased person's funeral or family during the bereavement period;
- (b) the soliciting or receipt of any money or benefit by, or on behalf of, the deceased person's family for the benefit of a person or organisation in lieu of flowers being sent to the deceased person's funeral or family during the bereavement period.

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## 7 Identifying badges

- (1) A person who issues an identifying badge under section 9(2) of the Act must ensure that the badge prominently displays—
    - (a) the name of the person conducting the fundraising appeal; and
    - (b) the name of the person to whom the badge is issued; and
    - (c) if the identifying badge is issued to a person who solicits or receives money or a benefit from a person who is in a motor vehicle on a road, an identification number issued by the person conducting the fundraising appeal.
  - (2) Information required to be displayed on an identifying badge under section 9(2) of the Act or subregulation (1) must—
    - (a) only contain lettering or numbers with a height not less than 4 millimetres; and
    - (b) if the information is handwritten, the lettering must be in capital letters.
  - (3) Information that is not required to be displayed on an identifying badge under section 9(2) of the Act or subregulation (1) must be no greater in height than the information referred to in subregulation (2).
  - (4) If a person issues more than one identification number for the purposes of subregulation (1)(c)—
    - (a) the identification numbers issued must be sequential; and
    - (b) the person must—
      - (i) make a record of each identification number issued and the person to whom it relates; and
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- (ii) retain the record for at least 3 months after the fundraising appeal for which the badge is to be worn has ended.

### **8 Renewal of registration**

For the purposes of section 22(2) of the Act, an application to renew a person's registration as a fundraiser must—

- (a) contain the information required under section 18(2) for an application for registration as a fundraiser; and
- (b) be accompanied by—
  - (i) the written consent of each intended beneficiary of an intended appeal who has not previously provided consent to the appeal; or
  - (ii) a written explanation of why it is not practicable to comply with subparagraph (i).

### **9 Fee for inspecting records**

For the purposes of section 33 of the Act, the prescribed fee for inspection of records is \$20.00.

### **10 Infringement penalties**

- (1) For the purposes of section 61D(3) of the Act, the prescribed infringement penalty for an offence against a provision specified in Column 2 of Schedule 2 is the relevant amount prescribed in Column 4 of Schedule 2 in respect of that offence.
  - (2) A description of an offence in Column 3 of Schedule 2 is not to be taken to affect—
    - (a) the nature or elements of the offence to which the description refers; or
    - (b) the operation of these Regulations or the Act.
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**11 Additional information that may be contained in the register**

For the purposes of section 70A(3) of the Act, in addition to the details required or permitted by the Act to be contained in the register in relation to fundraising, the register may include the following information—

- (a) the name and address of any commercial fundraiser that is conducting or administering part or all of a fundraising appeal on behalf of a registered fundraiser;
  - (b) details of any condition that has been imposed on a registered fundraiser in accordance with the Act.
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Fundraising Regulations 2009

Sch. 1

S.R. No. 72/2009

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**SCHEDULES**

**SCHEDULE 1**

Regulation 4

**REVOCATION OF REGULATIONS**

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| <i>S.R. No.</i> | <i>Title</i>  |
|-----------------|---|
| 83/1999         | Fundraising Appeals Regulations 1999                                    |
| 144/2001        | Fundraising Appeals (Amendment) Regulations 2001                        |
| 65/2002         | Fundraising Appeals (Amendment) Regulations 2002                        |
| 106/2002        | Fundraising Appeals (Renewals) Regulations 2002                         |
| 10/2007         | Fundraising Appeals (Infringement Penalties Amendment) Regulations 2007 |

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**SCHEDULE 2**

Regulation 10

**PRESCRIBED INFRINGEMENT PENALTIES**

| <i>Column 1</i><br><i>Item</i> | <i>Column 2</i><br><i>Provision<br/>of Act</i> | <i>Column 3</i><br><i>Description</i>   | <i>Column 4</i><br><i>Amount<br/>prescribed</i> |
|--------------------------------|--|---|---|
| 1.                             | s. 9(1)  | Failure of person conducting or participating in fundraising appeal to wear identifying badge   | 2.5 penalty units                               |
| 2.                             | s. 14(2)                                       | Failure of person being paid to participate in fundraising appeal to disclose that the person is being paid before seeking a donation                               | 2.5 penalty units                               |
| 3.                             | s. 14(3)                                       | Failure of person being paid to participate in fundraising appeal to disclose that the person is being paid before offering to sell anything                        | 2.5 penalty units                               |
| 4.                             | s. 24D(2)                                      | Failure of registered fundraiser to appoint a contact person and notify Director within 7 days after appointment  | 2.5 penalty units                               |
| 5.                             | s. 29(3)                                       | Failure of person conducting fundraising appeal to ensure that the records are kept in a way that enables them to be conveniently and properly audited              | 12.5 penalty units                              |
| 6.                             | s. 29(4)                                       | Failure of person conducting appeal to ensure that accounts summarising records finalised within 3 months after end of appeal or anniversary of the start of appeal | 12.5 penalty units                              |

Fundraising Regulations 2009

Sch. 2

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| <i>Column 1</i> | <i>Column 2</i>         | <i>Column 3</i>  | <i>Column 4</i>          |
|-----------------|-------------------------|--|--------------------------|
| <i>Item</i>     | <i>Provision of Act</i> | <i>Description</i>   | <i>Amount prescribed</i> |
| 7.              | s. 29(5)                | Failure of person conducting appeal to ensure that accounts prepared annually and last accounts finalised within 3 months after end of appeal            | 12.5 penalty units       |
| 8.              | s. 29(8)                | Failure of person who continues to administer funds or assets after appeal ends to ensure accounts finalised on an annual basis                          | 12.5 penalty units       |
| 9.              | s. 29(9)                | Failure of person who continues to administer funds or assets after appeal ends to ensure accounts finalised within 3 months after end of administration | 12.5 penalty units       |
| 10.             | s. 31(1)                | Failure of person conducting appeal to ensure records stored at registered office or principal place of business   | 12.5 penalty units       |
| 11.             | s. 31(2)                | Failure of person conducting appeal to ensure records kept for 3 years after end of appeal   | 12.5 penalty units       |
| 12.             | s. 32(2)                | Failure of person conducting appeal to comply with direction to submit auditor's report to Director  | 12.5 penalty units       |
| 13.             | s. 33(4)                | Failure of person conducting appeal to make account or record available for inspection within 21 days after receiving written request and fee (if any)   | 2.5 penalty units        |

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**ENDNOTES**

**Penalty Units**

These Regulations provide for penalties by reference to penalty units within the meaning of section 110 of the **Sentencing Act 1991**. The amount of the penalty is to be calculated, in accordance with section 7 of the **Monetary Units Act 2004**, by multiplying the number of penalty units applicable by the value of a penalty unit.

The value of a penalty unit for the financial year commencing 1 July 2008 is \$116.82.

The amount of the calculated penalty may be rounded to the nearest dollar.

The value of a penalty unit for future financial years is to be fixed by the Treasurer under section 5 of the **Monetary Units Act 2004**. The value of a penalty unit for a financial year must be published in the Government Gazette and a Victorian newspaper before 1 June in the preceding financial year.