
Uniform Law Conference of Canada

Briefing Note - Uniform Charitable Fundraising Act

Subject:

Implementation of the new *Uniform Charitable Fundraising Act*.

Background:

Canadians have been very generous in supporting charities. In 2003 5.6 million Canadians made financial or in-kind contributions worth \$6.5 billion dollars to charities registered under the *Income Tax Act*.

There are however, significant concerns about charitable fundraising by some charities and fundraising businesses. There have been numerous media reports and court cases about charitable fundraising abuses where very little of the money donated was used for charitable work.

The regulation of charitable property falls within provincial jurisdiction. There is also federal regulation of charities registered under the *Income Tax Act*.

There is very little regulation of charitable fundraising at the provincial and territorial levels in most provinces. Four provinces have enacted legislation, which deals with the problem in varying manners.

The Uniform Law Conference of Canada decided in 2005 to adopt a *Uniform Charitable Fundraising Act*. The legislation will provide uniform standards across the country; allow for coordinated and cooperative regulation; and make it easier for the public and charities to understand the rights and obligations of all involved in charitable fundraising.

Summary of the Uniform Charitable Fundraising Act:

The *Uniform Charitable Fundraising Act* sets out a legislative scheme to regulate charitable fundraising. The key provisions of the legislation are:

- Subject to certain exceptions, only charities registered under the Act can fundraise. In order to minimize the administrative burden and expenses of a registration system, the legislation deems a charity which is registered as a charity under the *Income Tax Act* to be registered for the purposes of this Act.
- A fundraising business is required to obtain a license in order to solicit funds for a charity.

- Failure to comply with the legislation could result in the refusal, revocation or denial of renewal of a registration or license.
- A jurisdiction can adopt the legislation to regulate only fundraising businesses and can remove the requirement for the registration of charities.
- The legislation sets out standards to be followed when charitable solicitations are made including the time of solicitation, disclosure of information and providing a cooling off period for telephone or in-person donations.
- If a fundraising business is used for charitable solicitation, it is mandatory that there be a written fundraising agreement between the fundraising business and the charity.
- The Act regulates the use of retail incentive donations. These are situations where a for-profit business offers to make a charitable donation if its product is purchased.
- In addition to the ability of the enforcement authority to revoke the registration or license of a charity or fundraising business and thus, stop all fundraising activities, the legislation grants the enforcement authority wide investigative powers and the authority to freeze funds pending the investigation.
- The legislation provides the enforcement authority with the authorization to commence a court application for an order concerning the charitable funds or removing and replacing directors and officers of a charity.
- The enforcement authority is authorized to release information under the Act to enable members of the public to make informed decisions about donations to specific charities. The release of information also allows the enforcement authorities in different jurisdictions to release information to each other and to coordinate enforcement activities.
- The legislation sets out offences for failing to comply with the Act. Conviction can result in a fine of not less than \$1000.00 and/or imprisonment for not more than two years.

Recommendation:

Provincial and territorial governments are urged to enact *Uniform Charitable Fundraising Act* as soon as possible.

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