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Public Collections Act, 1963

Act 42 of 1963

Legislation as at 1 December 1998

FRBR URI: /akn/sz/act/1963/42/eng@1998-12-01

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PDF created on 21 February 2024 at 17:47.

Collection last checked for updates: 1 December 1998.

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Public Collections Act, 1963

Act 42 of 1963

Commenced on 12 November 1971

[This is the version of this document at 1 December 1998.]

An Act to provide for the regulation of private collections of money and other property from the public.

1. Short title

This Act may be cited as the Public Collections Act, 1963.

[L.N. 60 of 1971]

2. Interpretation

(1) In this Act, unless the context otherwise requires—

“**collection**” means an appeal to the public or a section of the public, made by means of visits from premises to premises or of soliciting in public places or at public meetings or by all or any of those means, to give, whether for consideration or not, money or other property, not being money or property—

- (a) due or about to fall due from the donors under or by virtue of a written law, contract or other legal obligation; or
- (b) collected by or under the authority of a recognised representative of a religion or religious community for—
 - (i) the upkeep of a recognised place of religious worship or house of prayer; or
 - (ii) a purely religious or charitable purpose;

“**collector**” in relation to a collection means a person who makes an appeal by any of such means;

“**guardian**” includes a person shown to the satisfaction of the court to have for the time being the charge of, or control over, the person convicted of an offence;

“**licence**” means a licence under [section 4](#); and “licensed” and “licensee” have corresponding meanings;

“**Minister**” means the Prime Minister;

“**offence**” means an offence under this Act;

“**premises**” include land, building or any other kind of place;

“**proceeds**” means, in relation to a collection, money and all other property given, whether or not for consideration, in response to the appeal made;

“**promoter**” in relation to a collection, means a person who causes another person to act, whether for remuneration or otherwise, as a collector for the purposes of a collection, and “promote” and “promotion” have corresponding meanings;

“**public meetings**” means meetings or gatherings in a public place, or which the public or a section thereof are permitted, whether on payment or otherwise, to attend.

- (2) For the purposes of this Act, a collection shall be deemed to be made for a particular purpose if the appeal is made in association with a representation that the money or other property appealed for, or part thereof, will be applied for such purpose.
- (3) For the purposes of this Act, an invitation to a person to join a society, association or other organisation, the membership of which implies, or can reasonably be understood from the circumstances of the invitation or the manner in which it is made to imply, an obligation to pay money or other property, shall be deemed to be an appeal to give money or other property which is neither due nor about to fall due.

3. Licensing of collections

- (1) Subject to this Act, no collection shall be made except in terms of a licence granted under this Act.
- (2) Where a person promotes a collection, and a collection is made pursuant to such promotion, he shall be guilty of an offence and liable on conviction to a fine not exceeding four hundred emalangen or imprisonment not exceeding one year, unless—
 - (a) there is in force, throughout the period during which the collection is made, a licence authorising him or another person under whose authority he acts, to promote such collection in the area or at the place or on the occasion in, at or on which it is made; and
 - (b) the collection is made in accordance with any conditions to which the licence is subject.
- (3) Any person who acts as a collector in an area or at a place or on an occasion for the purposes of a collection shall be guilty of an offence and liable on conviction to the penalty mentioned in subsection (2), unless at all times when he so acts there is in force a licence authorising him, or a promoter under whose authority he acts, to promote such collection in such area or at such place or on such occasion.

4. Licences

- (1) Any person desiring to promote a collection in a district shall make an application to the Regional Administrator in the prescribed manner—
 - (a) specifying the purpose of the collection and the area, place or occasion in, at or on which the collection is to be made; and
 - (b) furnishing the Regional Administrator with the prescribed information.
- (2) Subject to this section and to such conditions as he may think fit, the Regional Administrator may grant such person a licence authorising him to promote a collection for such purpose in such area, at such place or on such occasion, as the case may be.
- (3) Any person desiring to promote a collection in more than one district or throughout Swaziland shall make an application to the Secretary of the Cabinet in the prescribed manner—
 - (a) specifying the purpose of such collection and the parts of Swaziland within which the collection is to be made; and
 - (b) furnishing the Secretary to the Cabinet with the prescribed information.
- (4) Subject to this section and to such conditions as he may think fit, the Secretary to the Cabinet may grant such person a licence authorising him to promote a collection for such purpose within such parts of Swaziland.
- (5) A licence granted under this section shall remain in force for such period as may be specified in the licence, and may, at the discretion of the authority issuing it, be renewed from time to time.
- (6) An application for a licence shall specify an address within Swaziland for service on the applicant of any notice or other document required to be served on him.

5. Refusal or revocation of licences

- (1) A Regional Administrator or the Secretary to the Cabinet shall refuse to grant a licence, or at any time revoke a licence granted by him, if he has reasonable grounds for believing that—
 - (a) the total amount likely to be applied for the purpose of the collection from the proceeds thereof, including any amount already so applied, is inadequate in proportion to the value of the proceeds likely to be received, including any proceeds already received;
 - (b) remuneration excessive in relation to such total amount is likely to be, or has been, retained or received by a person out of the proceeds of the collection;
 - (c) the grant of a licence is likely to facilitate the commission of an offence, or that an offence has been committed in connexion with such collection, and, in particular, that any force, threat or compulsion, direct or indirect, is likely to be, or has been, used in order to obtain a contribution for the purpose of the collection;
 - (d) the applicant or the holder of the licence is not a suitable person to hold a licence by reason of the fact that he has been convicted, in Swaziland or elsewhere, of an offence—
 - (i) conviction for which necessarily involved or implied a finding that he had acted fraudulently or dishonestly; or
 - (ii) of a kind the commission of which is likely to be facilitated by the grant of a licence;
 - (e) the applicant or the holder of the licence in promoting a collection in respect of which a licence has been granted to him, has failed to exercise due diligence to—
 - (i) secure that persons authorized by him to act as collectors for the purposes of the collection were fit and proper persons;
 - (ii) secure compliance with this Act on the part of the persons so authorized; or
 - (iii) prevent prescribed badges or prescribed certificates of authority being obtained by persons not so authorized;
 - (f) the collection is in aid of, or that the promoter or any of the collectors are members of, a form of association prohibited by law, or that a purpose of the collection is unlawful or fictitious;
 - (g) the applicant or the holder of the licence has—
 - (i) furnished false information, under this Act, to the Regional Administrator or the Secretary to the Cabinet; or
 - (ii) refused or neglected to furnish the Regional Administrator or the Secretary to the Cabinet with any information which either officer has reasonably required for the purpose of informing himself as to a matter specified in this subsection;
 - (h) in the area in which the collection is intended to be made, persons have recently been engaged in the unlawful collection of money by means of intimidation or undue persuasion; or
 - (i) a condition of the licence has been contravened.
- (2) If a Regional Administrator or the Secretary to the Cabinet refuses to grant a licence or revokes a licence he shall forthwith serve written notice on the applicant or the holder of the licence—
 - (a) stating upon which of the ground or grounds mentioned in subsection (1) the licence has been refused or revoked; and
 - (b) informing him of his right under this section, to request a review of the decision as to refusal or revocation.

- (3) The applicant or the holder of the licence may, within a period of fourteen days from the date when the notice was served on him, request the Minister in writing to review such decision.
- (4) The Minister may uphold such decision or set it aside and in the latter event, the Regional Administrator or the Secretary to the Cabinet shall issue a licence or cancel the revocation, as the case may be, in accordance with the decision of the Minister.

6. Unauthorised use of badges, etc.

- (1) A person shall be guilty of an offence and liable on conviction to a penalty of four hundred rand or imprisonment not exceeding one year if in connexion with an appeal to the public or a section thereof for gifts, subscriptions or other contributions of money or other property he displays or uses —
 - (a) a prescribed badge or a prescribed certificate of authority other than a badge or certificate which he is authorised under this Act, so to display or use; or
 - (b) a badge, device, emblem, certificate or other document intended or likely to cause a person to believe, when such is not the case, that the person displaying or using it is an authorised collector for the purpose of a licensed collection.
- (2) Any person who, in furnishing information for the purposes of this Act and relating to the subject matter of this Act, knowingly or recklessly makes a statement false in a material particular shall be guilty of an offence and liable on conviction to the penalty mentioned in subsection (1).

7. Requirement as to giving name and address

- (1) A police officer may require a person, who he has reasonable grounds for believing is acting as a collector for the purpose of a collector, immediately to declare his name and address to him.
- (2) Any person who fails to comply with a requirement duly made under this section shall be guilty of an offence and liable on conviction to a fine not exceeding twenty-five emalangeni.

8. Disposal of property obtained by offences

During or at the conclusion of a trial in respect of an offence relating to the subject matter of this Act, the court may make an order for the forfeiture or return to the owner, if known, of any money or other property produced before it or in its custody or in the custody of a police officer or other public officer, which the court is satisfied was obtained by or in consequence of the commission of an offence, whether by the person charged or any other person.

9. Service of documents

- (1) If an order, notice or other document is required by or under this Act to be served on any person, service thereof may be effected either personally on such person, or by registered post.
- (2) If the person to be served is a company or other body corporate or a society, association or other body of persons, service of such order, notice or other document may be effected by—
 - (a) serving it personally on a secretary, director or other officer thereof, or a person concerned or acting in the management thereof, or
 - (b) leaving it or sending it by registered post addressed to the body corporate, society, association or other body of persons at its registered office, or if there is no registered office, at a place where it carries on business.

10. Offences by corporations, societies, etc.

If an offence is committed by a company or other body corporate or by a society, association or other body of persons, every person charged with, or concerned or acting in, the control or management of the affairs or activities of such company, body corporate, society, association or body of persons shall be guilty of such offence and liable to be punished accordingly, unless it is proved by such person that—

- (a) through no act or omission on his part, he was not aware that the offence was being or was intended or about to be committed; or
- (b) he took all reasonable steps to prevent its commission.

11. Responsibility of parent or guardian

- (1) Subject to subsection (2), if a person under the age of eighteen years is convicted by a court of any offence, and a fine is imposed on him for such offence, the court may order that the fine be paid by his parent or guardian as if it had been a fine imposed on such parent or guardian.
- (2) An order referred to in subsection (1) shall not be made unless the parent or guardian has had an opportunity to show cause against it being made, and he satisfies the court that he has not condoned the commission of the offence by neglecting to control the offender.

12. Regulations

- (1) The Minister may make regulations to give effect to the purposes of this Act.
- (2) Without prejudice to the generality of subsection (1), the regulations may—
 - (a) prescribe anything which may be prescribed under this Act;
 - (b) regulate the manner in which licensed collections may be carried out and the conduct of promoters and collectors in relation to such collections;
 - (c) require and regulate the—
 - (i) use by collectors of prescribed badges and prescribed certificates of authority; and
 - (ii) issue, custody, production, display and return of such badges and certificates, including requiring collectors, on demand by a police officer or by an occupant of premises visited or by a person solicited to produce their certificates of authority;
 - (d) provide for the authentication of prescribed certificates of authority and the clear indication in prescribed badges of the purpose of the collection to which they relate;
 - (e) prohibit persons below a prescribed age from acting as collectors for the purpose of collections and other persons from causing or allowing them so to act;
 - (f) provide for the prevention of annoyance to the occupants of premises visited, to persons attending public meetings or taking part in public processions, or to other members of the public, arising from collections;
 - (g) require information with respect to the purpose, expenses, proceeds and application of the proceeds of collections to be furnished by licensees, or to be published, and to require such information to be vouched for or authenticated;
 - (h) constitute offences against the regulations and to provide upon conviction of a person who commits any such offence, for the imposition of a fine not exceeding two hundred emalangeni or imprisonment not exceeding six months or both.