B 2464

L.N. 371 of 2020

VOLUNTARY ORGANISATIONS ACT (CAP. 492)

Voluntary Organisations (Public Collections) Regulations, 2020

IN EXERCISE of the powers conferred by article 41(1)(s) of the Voluntary Organisations Act, the Minister for Education and Employment has made the following regulations:-

Citation and scope.

1. (1) The title of these regulations is the Voluntary Organisations (Public Collections) Regulations, 2020.

(2) The scope of these regulations is to establish, promote and conduct public collections by means of public events and fundraising activities held by enrolled voluntary organisations in accordance with the provisions governing public collections in terms of article 4(2) and (3) of the Act and in terms of the provisions of the Public Collections Act.

Cap. 279.

Interpretation. Cap. 279.

2. (1) The definitions prescribed in the Act and in the Public Collections Act shall *mutatis mutandis* apply, unless they are inconsistent with these regulations.

(2) For the purpose of these regulations and unless the context otherwise requires:

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"the Act" means the Voluntary Organisations Act;

Cap. 279.

"collector" shall have the same meaning assigned to it in the Public Collections Act and the term "public collector" and "public collectors" shall be construed accordingly;

"compliant" means any voluntary organisation which has been declared to be in conformity with the Act and any subsidiary legislation made thereunder;

"Commissioner" means the Commissioner for Voluntary Organisations;

"crowd funding" means any form of collection made through any media including but not limited to the internet, whereby any type of credit and, or money is raised by means of deposits or transfers made by the general public;

"financial year" means the financial year in respect of which

annual accounts are prepared by voluntary organisations;

"harassment" means any form of aggressive pressure or intimidation, persecution, annoyance, inconvenience, nuisance, pestering or bothering, force or coercion caused by collectors to the public when conducting any form of public collections and includes sexual harassment;

"promoter" shall have the same meaning assigned to it in the Public Collections Act; Cap. 279.

"public" means any natural or legal person from the community other than any existing founders, administrators, members, fund raisers, management, beneficiaries or donors of a voluntary organisation and shall not include less than fifty persons in one or more public event or fundraising activities;

"public collection" shall have the same meaning assigned to it in the Public Collections Act and includes any form of collection, whether in cash or in kind, tangible or intangible, corporate or incorporate, movable or immovable, by any means or in any manner whatsoever; Cap. 279.

"voluntary organisation" means an enrolled voluntary organisation established in terms of article 3 of the Act;

"Voluntary Organisations Fund" means the foundation established by article 37 of the Act;

"VO number" means the enrolment number or reference given to enrolled voluntary organisations.

3. (1) These regulations shall apply to all enrolled and compliant voluntary organisations. Applicability.

(2) A non-enrolled voluntary organisation may not carry out a public collection.

4. (1) A public collection or a fundraising activity shall have a legal cause. General provisions.

(2) Fundraising activities shall be carried out for voluntary organisations either for a general or specific purpose and voluntary organisations shall ensure that fundraising materials do not imply that the money collected is for a restricted purpose, where it may be used for different purposes or for funding in general.

(3) An individual who performs a public collection may be considered as a collector in terms of these regulations upon obtaining authorisation by means of a permit issued by the Commissioner in accordance with the provisions of the Public Collections Act and the Public Collections Regulations:

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Provided that the Commissioner shall have the discretion to authorize or refuse an application for such permit submitted by an individual and shall determine the grounds for granting such a permit, which grounds shall have a social and philanthropic purpose:

Provided further that, if there are overriding reasons relating to health or other extraordinary or urgent matters, the Commissioner may grant such permit to that particular individual.

(4) The authorisation requirement contained in sub-regulation (3) shall be valid for three (3) months.

(5) An individual or a non-enrolled voluntary organisation which fails to obtain a permit from the Commissioner when this is required shall guilty of an offence and shall, on conviction, be liable to the penalties established under article 10 of the Public Collections Act.

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(6) Any money, objects or any assets collected without such permit by any person not entitled to perform a public collection shall be confiscated and deposited in the Voluntary Organisations Fund.

(7) A voluntary organisation shall monitor the financial good standing and reputation of the collector before engaging a collector, who shall have a good-standing conduct certificate and shall not be declared bankrupt:

Provided that collectors shall be at least sixteen years of age prior to carrying out any public collection:

Provided further that collectors subject to any criminal records or convictions may still be allowed to carry out public collections subject to the discretion of the Commissioner.

Methods used to carry out public collections.

5. (1) The methods which may be used by voluntary organisations or collectors to carry out public collections shall include but are not limited to:

(a) conducting visits in public places including streets or door-to-door visits;

(b) public collections on the broadcasting media,

including broadcasting services, such as television broadcasting services and radio broadcasting services;

(c) any printed material which is communicated by means of publication including the publication of magazines;

(d) any means of electronic media communications including telephone services and the use of the internet;

(e) public collections carried out at public concerts, events and other functions, auctions, car-booth sales and, or fundraising activities, including any gift awarding schemes and, or lotteries carried out for such purpose;

(f) any type of crowd funding; and, or

(g) any donation to a voluntary organisation of any assets following a confiscation or decree by any competent court.

(2) Any other methods used to carry out public collections which are not included in the list mentioned under sub-regulation (1) shall also be governed by these regulations:

Provided that the Broadcasting Act and the Requirements as to Standards and Practices as to Advertisements, Methods of Advertising and Directions on Public Collections on the Broadcasting Media Regulations, the provisions relating to any printed material and publication in terms of the Press Act, the provisions relating to lotteries, games or any relative fundraising which require authorisation in terms of the Gaming Act, the provisions relating to auctions in terms of the Auctioneers Act are adhered to where applicable. Cap. 350. S.L. 350.31. Cap. 248. Cap. 583. Cap. 342.

6. (1) Collectors shall be in possession of a tag issued by the Commissioner. Identification tags.

(2) The tag shall include:

(a) the name, surname and passport size photo of the collector;

(b) the identity card number or passport number and the name of the country issuing the passport or identity card;

(c) in the case of voluntary organisations carrying out public collections, the name, registered address, contact number of the voluntary organisation and the name of the collector;

(d) the VO number of the enrolled voluntary organisation;

(e) the purpose of the public collection.

(3) Where applications for such tags are made by a voluntary organisation, such voluntary organisation shall take full responsibility on the good standing and credibility of its collectors who shall be in compliance with article 22B of the Act.

(4) A voluntary organisation shall recommend a public collector in writing and shall apply for a collector's tag to the Commissioner, who shall approve collectors solely after their application is endorsed or approved by at least three (3) administrators of the organisation.

(5) In the case of an organisation performing the collection, the tag shall be signed by both an administrator of the voluntary organisation and the Commissioner or a representative acting on his behalf, and where the collector is an individual, the tag shall bear his signature together with that of the Commissioner or a representative acting on his behalf.

(6) The tag issued by the Commissioner shall be made visible at all times during the public collection and be kept in a clean and legible state. Tags shall be displayed on the upper body of the public collector, made visible and identifiable and shall not obscured in any way.

(7) The tag shall be marked with an expiry period of six (6) months.

(8) Collectors who fail to exchange a tag upon its expiry period, or to return it to the Commissioner upon his request, or upon termination of a collection, shall be subject to a penalty of fifty euro (€50) payable to the Office of the Commissioner. Each collector shall be responsible for the safe custody of his tag and shall return the tag to the Commissioner immediately upon ceasing to be a collector.

Collection containers.

8. (1) Collectors shall have a sealed collection container provided by the Commissioner.

(2) Any containers collected and received directly by voluntary organisations shall be opened in front of two administrators of the voluntary organisation in the presence of a warranted professional person:

Provided that the Commissioner may reserve the right to

send a representative or public official acting on his behalf when such containers are opened.

(3) A declaration form shall be duly filled and signed by the two administrators of the voluntary organisation and the warranted professional person who opened the containers and counted the money collected. Such declaration form shall specify that the containers have been collected and received directly by the voluntary organisation concerned, the number of containers collected and the amount of money collected and shall be duly submitted to the Commissioner.

(4) The container shall have the name of the voluntary organisation, its VO number, whichever is applicable, and the purpose of the public collection, and all other relevant information which shall correspond to the details on the tag.

(5) All donations found in the said container must be counted in the Office of the Commissioner by a public officer within the Office of the Commissioner and a document shall be signed by both the administrator and the public officer, indicating the amount of donations collected and the period during which the collection was made.

(6) The container shall be returned to the Commissioner within one month upon termination of the collection, allowing for sufficient time prior to the date of submission of the relevant annual returns, in order that the total of donations collected may be appropriately included in the annual returns.

(7) Any voluntary organisation or individual who fails to return such container to the Commissioner on the due date shall be liable to a fine of three euro (€3), payable to the Office of the Commissioner, for each day that the failure subsists.

(8) A transitory period may be granted at the discretion of the Commissioner for all containers to be collected and removed from public or private places:

Provided that the Commissioner may give permission to the extent that certain containers may not be removed from public or private places, if such containers are in a fixed position or have an artistic, traditional, architectural or historic value or importance.

Envelopes.

9. (1) Collectors may leave envelopes at any premises solely on behalf and in the name of voluntary organisations.

(2) Where collectors leave envelopes at any premises with the

intention of collecting money from the public, all envelopes shall be numbered, bear the name, address and contact number of the voluntary organisation and the date of the collection:

Provided that the envelopes shall bear instructions for the addressee to send the envelope back to the voluntary organisation, also where such envelopes do not contain any money.

(3) Fundraising envelopes may not be left at addresses where there are clear instructions declaring that such envelopes may not be left at such addresses. The term of the public collection shall be provided on the envelopes to be used for the collection.

(4) Any envelopes collected and received directly by voluntary organisations shall be opened in front of two administrators of the voluntary organisation in the presence of a warranted professional person.

(5) A declaration form shall be duly filled and signed by the two administrators of the voluntary organisation and the warranted professional person who opened the envelopes and counted the money collected. Such declaration form shall specify that the envelopes have been collected and received directly by the voluntary organisation concerned, the number of envelopes collected and the amount of money collected and shall be duly submitted to the Commissioner.

Public collections carried out in public places.

10. (1) Public collections shall not be carried out in any part of any street so as to cause any obstruction thereof or any inconvenience to pedestrians.

(2) Unless a fundraising activity is being organised during a collection, collectors shall not be more than two at the same collecting place, and shall occupy a fixed position with a distance of not less than thirty (30) metres between one collector and another.

Public collections carried out by conducting door-to-door visits.

11. (1) When conducting door-to-door visits, collectors shall, upon presenting the tag, introduce themselves by stating their name and surname, the name of the enrolled voluntary organisation on whose behalf they are making public collections and the purpose of the public collection.

(2) Collectors shall not act in such a manner so as to cause or is likely to cause any form of harassment to any person.

(3) Collectors shall not visit residences between 20.30hrs and 08.00hrs.

(4) Collectors may not demand and shall not be entitled to any payment or reward or any other form of remuneration for carrying out their services. Voluntary organisations or their sponsors may however, provide anything which is deemed necessary for the purpose of carrying out the public collection, including beverages or foodstuffs, protective wear or apparatus during the period for which they are performing the public collection.

Public collections carried out in the streets.

12. (1) The following rules shall apply solely to public collections carried out in the streets:

(a) tables for the purpose of any public collection shall not be used by collectors so as to cause actual or possible obstruction;

(b) collectors shall not act in such a manner so as to cause or is likely to cause any form of harassment to any person.

(2) Without prejudice to sub-regulation (1), collectors shall obtain permission in writing:

(a) from the appropriate authority or authorities to enter any governmental premises, any health centres whether public or private, or school or educational premises;

(b) from the owner to enter any shop or other similar premises, including cafeterias, bars, or restaurants, or any other place where products and, or services are sold;

(c) from the owner to enter any other place of entertainment or the owner of premises open to the public.

Paid collectors.

13. Persons who during a public collection activity render services, which do not include collection of money or assets, against any form of remuneration, whether taxable or otherwise, shall not be considered as carrying out a public collection.

Public collections carried out on broadcasting media. S.L. 350.31.

14. (1) Saving the provisions of the Requirements as to Standards and Practice as to Advertisements, Methods of Advertising and Directions on Public Collections on the Broadcasting Media and any other applicable law or regulation, voluntary organisations making public collections on the broadcasting media shall provide all the necessary and relevant information to the potential donor.

(2) The information mentioned in sub-regulation (1) shall include the name and VO number of the voluntary organisation, the purpose of the public collection and the contact details of the enrolled voluntary organisation to which the donations shall be made and the

preferred method of donation.

(3) Methods of donation may be made in cash or in kind or by means of a cheque or bank transfer or by any other means as may be deemed necessary:

Provided that, in case of donations made in kind, these shall be evaluated by a professional person.

(4) Voluntary organisations shall ensure that all the information mentioned in this regulation is made available on the broadcasting media in an appropriate and adaptable manner.

(5) Where the method of advertising on public collections on the broadcasting media is carried out by means of telephone services, and the cost of telephone calls or phone messages is higher than the normal announced tariff, the broadcaster shall inform viewers of the cost of that particular call or message:

Provided that if part of the cost of the telephone calls or phone messages, as the case may be, is intended for any social purpose, then such part shall also be identified.

Public collections carried out through the use of telephone services.

15. (1) When conducting collections through the use of telephone services, collectors shall provide the name of the voluntary organisation on whose behalf the public collection is being made, their age, the VO number and the purpose of the public collection and where premium calls are made by the donor, any information relating to the cost of such calls shall be provided and clearly explained to the donor.

(2) When conducting the public collection, collectors shall not act in such a manner so as to cause or is likely to cause any form of harassment to the recipient of the call and the voluntary organisation shall establish the time within which calls shall be made, which shall not be between 20.30hrs and 08.00hrs, unless authorisation is otherwise obtained from the Commissioner.

(3) Collectors shall not call the same recipients more than once during the same public collection, and they shall not ask personal questions or try to obtain other unnecessary information from the recipients of the call.

(4) Potential donors shall be instructed on the manner in which donations shall be made, whether these are to be made in cash or in kind, or by means of a cheque or bank transfer and shall be provided with all necessary information relating to the manner in which payment shall be effected.

(5) When phone calls are made for the sake of the collection, the number of the incoming call shall not be private and shall be displayed at all times. Collections made by phones shall not be made by random calling and in an automated manner.

(6) Telephone calls shall not be made during times when public collections are not permissible and each call shall have an opt-out service option upon the request of the donor.

Trading activities.

16. (1) Sales of donated magazines and, or books, the proceeds of which or part thereof is intended for donation to a particular voluntary organisation, or sales of donated magazines and, or books to the public on behalf of a particular voluntary organisation or group of voluntary organisations, the proceeds of which are intended for the same purpose, shall be subject to the following conditions:

(a) promoters of such donated magazines and, or books shall provide the Commissioner with details as regards their trading activities including a brief description of the policies which apply and the procedures followed during the sale of such magazines and, or books, as well as those applied and followed for the promotion and marketing of their editions;

(b) a written agreement shall be made between the promoter of the donated magazines and, or books prior to their publication and the voluntary organisation receiving donations, and a certified true copy of the agreement shall be endorsed by a lawyer and submitted to the Commissioner; and

(c) the percentage of the donation to be given to the voluntary organisation shall be clearly shown on the front page of the magazine or other published material, and shall be unequivocal, certain and clearly legible.

(2) The written agreement shall be signed by all the parties involved in the trading activity and shall include the following:

(a) the name and address of each party, the date, the duration of the agreement and the terms and conditions applicable to the agreement;

(b) in case of donations exceeding five thousand euro (€5,000) over a period of one financial year, the exact amount of the donation being offered and the source of the said donation, with special reference to donations offered in cash or in kind;

(c) the receipts for every donation received exceeding

five euro (€5) per day;

(d) a brief statement of the principal purpose and objectives of the donation and the methods being used for the donation;

(e) unless there is provided that payment is made directly to the voluntary organisation, a clause stating that the funds received shall be held on behalf of the voluntary organisation and shall be transferred to the voluntary organisation as soon as possible;

(f) that the promoter of the donated magazines and, or books acting on behalf of the voluntary organisation shall inform the public of the details of the voluntary organisation for which public collections are carried out and of the amount of money proceeding from the sales of the magazines and, or books which the voluntary organisation received; and

(g) any other information about the donated magazines and, or books and their promoters which is relevant and necessary and which relates to the voluntary organisation.

Promotion of public collections.

17. (1) Images or descriptions promoting public collections shall be decent and unambiguous, and shall not be misleading, or likely to mislead the public, exaggerating, modified or likely to cause fear, disturbances and distress to the public.

(2) All trademarks shall be respected and collectors shall act in conformity with the provisions of the Copyright Act.

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(3) Where the subject matter of a public collection in its natural state is likely to cause any of the prohibitions mentioned in sub-regulation (1), a warning shall be issued by the Commissioner against public collectors in this regard.

(4) Public collectors shall not keep a mailing list, both postal and electronic, in order to urge any person to make donations in a frequent and continuous manner.

(5) Beneficiaries shall not be presented in a disrespectful way in promotional activities and, where possible and appropriate, beneficiaries shall have an input into the promotional strategies of the voluntary organisation.

Public collections carried out at other public events.

18. (1) Public collections carried out during public events or other fundraising activities shall be conducted in a professional and organised manner.

(2) Voluntary organisations carrying out any such public collections shall inform the public, prior or during the event, about all relevant and necessary information to which the public has an interest to know. Such information shall include:

(a) the name, the registration number and contact details of the voluntary organisation to which donations shall be made;

(b) the purpose of the public collection;

(c) the percentage of or the amount of the price of the ticket or the participation fee or the amount of the objects sold at an auction or car-booth sale which are actually being attributed to the voluntary organisation.

(3) Where voluntary organisations wish to organise lotteries that may include raffles and other types of games or concerts, auctions and car boot sales in order to make public collections, administrators shall ensure that all relevant laws, regulations and rules are adhered to, where applicable.

(4) Auctions may be carried out solely by a certified public auctioneer in accordance with the provisions of the Auctioneers Act and any proceeds of sale in part or in full which is intended to be used as a public collection shall be clearly provided in the annual returns of the voluntary organisation. Cap. 342.

(5) Lotteries, games and other similar fundraising activity shall be regulated, licensed and in compliance with the provisions of the Gaming Act. Any collector shall be exempted from submitting the proceeds of any lottery, games or similar fundraising activity, if such proceeds are submitted to the Gaming Authority in terms of the Gaming Act. Cap. 583.

19. (1) Administrators of voluntary organisations shall act in a prudent manner in the interest of the voluntary organisation, while keeping a balance between the resources provided and services rendered in the carrying out of public collections activities and the potential risks related to the reputation and credibility of the voluntary organisation. Duties and responsibilities of administrators.

(2) Administrators of a voluntary organisation shall act with reasonable care and exercise due diligence in the carrying out of their responsibilities and shall ensure that:

(a) the voluntary organisation describes the purpose of any fundraising in an accurate manner;

(b) donations received are used to further the voluntary organisation's principal purpose and objectives;

(c) where donations are made for a specific purpose, the donor's request is honoured.

(3) The administrators shall explain to donors and the public about the voluntary organisation's activities, and shall ensure that transactions, operations, information and communications are easily understood by donors and the public alike.

(4) The administrators shall clearly identify to donors and the public the cause for which the fundraising is occurring and the manner in which donations are being used. Administrators shall ensure and exercise due diligence on fund raisers and public collectors, and shall establish that they are fit and proper to carry out public collections and fundraising events and activities.

(5) Administrators shall ensure that the voluntary organisation has a policy for any activities involving volunteers, including how they are contracted and managed. Administrators shall be aware of all relevant legal requirements and conform fully to these requirements, including but not limited to the legal obligations concerning employment, equality and data protection.

(6) Administrators shall be accountable to the beneficiaries, donors, fund raisers and the public. Administrators shall also be responsible for ensuring that their voluntary organisation fulfils its commitment to the best practice in fundraising.

(7) Where administrators decide to delegate the day-to-day management of fundraising to employees, there should be effective systems in place to ensure *inter alia* that:

(a) any delegation is clearly documented, understood and implemented;

(b) clear reporting procedures are in place, which include guidance on any particular matters that are to be reported to administrators;

(c) administrators receive regular and fully documented reports on agreed matters, presented in a way that they can understand and use and which allows them to exercise proper diligence and control.

(8) Administrators shall exercise appropriate control of the funds being collected, in any manner whatsoever, in order to ensure

that all collected funds are subject to transparency and accountability and that the funds collected are only used for the purpose and objectives for which they are intended.

(9) Administrators shall be responsible for ensuring that an appeal for fundraising is intended to promote in the best manner possible the purpose or objectives of the voluntary organisation and that it shall not be such as to materially prejudice the principal purpose and objectives of the voluntary organisation, while taking into account any financial or credibility risks in relation with the fundraising propose.

(10) Any significant appeal for fundraising shall be carefully planned and published before carrying out the fundraising activity. The purposes, credibility and principles of the voluntary organisation shall be made known to the Commissioner before launching any appeal for fundraising.

Responsibilities and functions of management.

20. (1) Administrators may delegate certain responsibilities to management, including the responsibility for organising or managing fundraising campaigns.

(2) Where management has responsibility for fundraising by a voluntary organisation, they shall ensure that:

(a) verifications relating to the suitability and credentials of fund raisers to raise funds on behalf of the voluntary organisation are in place;

(b) fund raisers are aware of the specific fundraising efforts in which they are involved and may inform the public about the purpose of the voluntary organisation;

(c) fund raisers shall provide clear and adequate written or verbal information to donors and the public, regarding the nature of the type of contact information from voluntary organisations, such as telephone calls, messages and the frequency of planned communications;

(d) there is no misleading or ambiguous information in any of the voluntary organisation’s fundraising communications;

(e) procedures are implemented and safeguards are in place, to ensure that particular attention is exercised as much as possible, when obtaining donations from people who may be considered vulnerable, including minors.

Fundraisers.

21. (1) Fund raisers shall respect the rights and dignity of donors, beneficiaries and the public. Fund raisers shall act with integrity and not misrepresent the voluntary organisation, its need for funds or how they shall be applied.

(2) Fund raisers shall be polite and shall not intrude privacy or be persistent and shall not create undue pressure on donors or on the general public. Public collectors shall not follow a person or attempt to talk to him if no interest is shown by such person to make a donation.

(3) All fund raisers shall:

(a) be trustworthy and conduct themselves at all times with integrity and honesty and shall act in such a manner as to ensure that donors are not misled;

(b) ensure that their actions enhance the purpose and reputation of the voluntary organisation which they represent;

(c) be able to state the purpose for which funds being collected shall be used;

(d) have a general knowledge about the aims and objectives of the voluntary organisation and be able to inform donors from where they can find supplementary information;

(e) not act in any manner which is inconsistent with any guidelines issued by the Commissioner, or cause or permit others to do so;

(f) not exploit any relationship with a donor, volunteer or employee for personal benefit or private interest or misuse their position for personal gain; and

(g) comply with all legal requirements which relate to their activities within the voluntary organisation which employs them or for which they act as volunteers.

Right of donors to be given a receipt.

22. (1) Where a public collection is carried out by means of a trading activity or otherwise and the proceeds of sale devolve upon a voluntary organisation, collectors shall give to each donor a receipt, stating the amount of money received from each donor as an acknowledgement of the donation received.

(2) In the case of a donation made in kind, a description of the items received shall be produced to the donor in terms of the valuation process as provided by a professional person.

(3) All receipts shall be numbered and shall include the name, address and contact numbers of the voluntary organisation or the individual, the date of the donation and the details of the collector.

Data protection. Cap. 586.

23. (1) When obtaining, processing, retrieving and retaining data, the administrators shall conform with the provisions of the Data Protection Act, and any other applicable laws and regulations regarding data protection.

(2) Where fundraising activities or public collections include children in photos or videos, the consent of the parents or legal guardians is required at all times.

(3) All personal data shall be collected in a legal, fair and appropriate manner and all information which can be identified or attributed to one or more individuals shall be treated as confidential.

(4) All voluntary organisations shall ensure that donors, clients, service users and employees are clearly informed of their rights under the Data Protection Act to gain access to a copy of their personal data. Cap. 586.

(5) Any information obtained in confidence as part of the fundraising process shall not be disclosed without the prior and express consent of the donor.

Processing and collection of donations.

24. (1) The Commissioner may disallow the continuance of any fundraising activity or public collection at any stage, if there is a breach of national laws and regulations.

(2) Donations and gifts shall be used for the purposes for which they were donated. Secure measures shall be provided by donees for donations made by means of online transactions and receipts shall be provided accordingly.

(3) Head of schools shall be responsible for collections made in schools, provided that the collector has obtained the written permission of the Commissioner, and the Commissioner shall not be held responsible for collections carried out in the actual place of collection.

(4) The voluntary organisation and, or the owner of a premises where public collections are actually carried out, shall be held responsible for the health and safety of the collector while performing the public collection, and the Commissioner shall not bear any responsibility for any accident, injuries or damages sustained by public collectors.

(5) For the purpose of collections carried out in a private establishment, a notice may be displayed on the premises by the owner of such premises providing that collectors may not enter same premises, notwithstanding the fact that the collection is open to the public. Collections may not be carried out on any land or premises privately owned without the written and express consent of the owner.

(6) Collectors may not be stationed in the entrance of a shop or similar establishment, on a pedestrian crossing, within three (3) meters of an ATM machine, market stall or street performers.

Collections made by digital or electronic means.

25. (1) Where public collections are made by digital or electronic means, users shall be aware of which data is being collected, and all information regarding the collection of data shall be clearly provided by means of a privacy policy or statement.

(2) All information on the purpose and the duration of the collection, the name and the registered number of the voluntary organisation and the contact details of the administrators shall be made available on the website of the voluntary organisation or public collectors, where these are individuals.

(3) Any public collection or fundraising activity through electronic means carried out by a foreign voluntary organisation shall obtain the prior written authorisation from the Commissioner. Local voluntary organisations may carry out such public collections or fundraising activities, provided these are enrolled and compliant.

(4) Public collections carried out by telephone including by transmitting messages may only be carried out with the prior and express consent of the Commissioner. Messages shall have a simple opt-out option which shall be free of charge. Premium rate messaging and any information relating to the cost of such messages shall be provided in a clear and unequivocal manner.

(5) Bulk emails shall not be permissible unless the prior consent of the donor is obtained and each email shall have a simple opt out option which is clearly explained.

(6) Voluntary organisations may use crowd funding facilities, provided that such facilities or accommodations are registered and in conformity with applicable rules, laws and regulations.

(7) Any expenses used for crowd funding policy shall be disclosed to the Commissioner before crowd funding is made, and no part of the donations raised through such crowd funding may be shared with policy owners.

(8) All generated revenue and other income raised through the crowd funding shall be recorded by means of bank statements, where the crowd funding is easily distinguished and traceable. Donations exceeding twenty euro (€20) each day made by the same donor shall not be permissible.

Review Procedures by the Commissioner.

26. (1) The Commissioner shall, in order to investigate matters, or the conduct of affairs of a voluntary organisation, in terms of the powers vested in him by means of articles 7(g), 7(h) and article 34 of the Act, have the right to request any information, documents and, or clarifications from any public or private entity or authority and from any person, including but not limited to administrators, members, collectors, fund raisers, donors or volunteers of any voluntary organisation or those claiming or alleging to have such status, as he may deem necessary in the circumstances.

(2) The Commissioner shall also be entitled to disclose any information to such entity or authority or person for the purpose of investigating matters of a voluntary organisation, when he has a suspicion that such voluntary organisation or an administrator or member thereof is carrying out any illegal activity, including but not limited to money laundering and financing of terrorism, or any other illicit or criminal activity.

(3) Saving the provisions of sub-regulation (2), the Commissioner is entitled to obtain any information from other entities or authorities, including but not limited to, the Registrar for Legal Persons, the Malta Security Service, Jobsplus, the Commissioner of Police, the Commissioner for Revenue, the Financial Intelligence Analysis Unit, the Asset Recovery Bureau, the Malta Financial Services Authority and the Courts of Justice and also to disclose any information to such other entities or authorities:

Provided that such information may include any other information from the Registrar of Courts and, or the Office of the Attorney General or the Office of the State Advocate respectively, relating to any pending criminal or civil proceedings, with particular reference to any information concerning the attachment, freezing, confiscation and seizure of assets:

Provided further that any privileged information obtained by the Commissioner upon such request, shall be used exclusively for the purposes of the powers vested in him in terms these regulations and shall not be made accessible to the public.

(4) The Commissioner may also request any member, administrator, collector, fund raiser, donor or volunteer of the voluntary organisation, or those claiming or alleging to have such status, to submit a conduct certificate issued under the Conduct Certificates Ordinance and may refuse to issue an enrolment certificate to such member or administrator of the voluntary organisation, or withdraw any issued enrolment certificate, if such member or administrator of the voluntary organisation fails to provide such conduct certificate.

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(5) Subject to the provisions of article 3(3) of the Conduct Certificates Ordinance the Commissioner may, in the course of his investigations, request a complete record of criminal convictions of any member, administrator, collector, fund raiser, donor or volunteer of the voluntary organisation concerned. The Commissioner may refuse to issue an enrolment certificate, or withdraw any issued enrolment certificate, if the person to whom the record of criminal convictions relates refuses to give his consent as required under article 3(3) of the Conduct Certificates Ordinance.

(6) For the purpose of these regulations and in the course of any investigation made under article 7(1)(g) of the Act, the Commissioner shall have the power to summon witnesses and to administer an oath to any person concerned in the investigation and require them to give evidence.

(7) In the event that such person refuses to produce the requested information, the Commissioner may impose an administrative fine not exceeding five hundred euro (€500) and an additional penalty of three euro (€3) for each day such refusal subsists.

Testamentary dispositions.

27. (1) Voluntary organisations or individual collectors shall not demand from any person to make testamentary dispositions in their favour. Where a person wishes to make testamentary dispositions in favour of voluntary organisations, such dispositions may only made to enrolled voluntary organisations which are compliant.

(2) If at the time of death of the testator, a voluntary organisation is dis-enrolled, non-enrolled or not compliant, or if the purpose of such voluntary organisation has been fulfilled or achieved, such dispositions shall be considered null and void.

Complaints.

28. (1) The Office of the Commissioner shall establish a complaints procedure which shall be clear, unambiguous and made accessible to the public.

(2) Complaints may be made by anyone, irrespective whether the complainant is a public collector, a fund-raiser, an administrator, a member, a voluntary organisation, an individual, a donor or a donee.

(3) The Commissioner shall, to the extent that such complaints are not of a criminal nature, have the power to decide on complaints and shall be vested with quasi-judicial powers where such complaints are of a civil nature. Complaints shall be investigated by Commissioner without delay and his decision shall be final and may only be challenged in Court.

(4) The remedy awarded by the Commissioner to such complaints shall be real, including but not limited to the return of assets to the principal owner or a refund of the donation to donor.

Offences and penalties.

29. (1) Any individual or voluntary organisation which is in breach of these regulations is guilty of an offence and shall, on conviction, be liable to the penalties established under article 31 of the Act.

(2) Where during a public collection or fundraising events or activities, any member of the organisation either commits or suffers from an act of sexual harassment including indecent exposure, stalking, sexual assault and obscene or threatening communications, the voluntary organisation shall report the matter to the police and, where necessary provide any support and assistance to the victim.

(3) The provisions of sub-regulation (1) shall also apply in cases of discrimination against any person with disability.

(4) Where a breach occurs in terms of sub-regulation (1), any funds which have been raised by means of the public collection activity shall be confiscated and deposited in the Voluntary Organisations Fund.

Revocation of the Street Collections Orders. S.L. 10.14

30. The Street Collections Orders are hereby being repealed, without prejudice to anything done or omitted to be done thereunder.

VERŻJONI ELETTRONIKA

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