

New Requirements for Solicitation Statements from 1 April 2008

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CATEGORY:
ARTICLE

Implementation

Amendments to the provisions of the Charities Act 1992 that govern the solicitation statements that commercial participators and professional fundraisers must make come into force on 1 April 2008. Professional fundraisers or commercial participators who do not comply with the requirements may be fined up to £5,000.

Current Requirements for Solicitation Statements

Professional fundraisers are persons (other than employees or officers of the charity in question) who carry on a fundraising business or who are paid to raise money for a charity and commercial participators are persons who carry on a business other than a fundraising business who, in the course of their business activities engage in a promotional venture in which it is represented that a contribution will be given to one or more specified charities. Section 60 of the Charities Act 1992 requires professional fundraisers and commercial participators to make a statement providing certain information to prospective donors or customers (a 'solicitation statement').

Professional fundraisers must set out in the solicitation statement details of the charity or charities for which they are raising money and, if they are raising money for more than one charity, the proportion in which each charity will benefit. If the fundraising is for general charitable purposes, the statement must explain this and the method by which the funds raised will be distributed. Under the current law, all solicitation statements by professional fundraisers must include (in general terms) the method by which the fundraiser's remuneration is to be determined.

A solicitation statement made by a commercial participator must include which charity or charities will benefit and the proportion in which each charity will benefit if there is more than one. It must also set out (in general terms) the method by which the amount of money that will be given to the charity or charities will be determined.

New Requirements for Solicitation Statements

Professional fundraisers, in addition to the existing requirements to set out the charity or charities which will benefit and how the funds will be distributed, will be required to state in any solicitation statement the method by which their remuneration is to be determined and the 'notifiable amount' of that remuneration. The notifiable amount is the amount the professional fundraiser will be paid or, if that is not known at the time that the statement is made, the most accurate estimate that is reasonably possible at that time.

Commercial participators, in addition to the existing requirements to state the charity or charities which will benefit and how funds will be distributed, will also have to include the 'notifiable amount'. This is the actual amount that will be given to the charity or charities or, if this is not known at the time the statement is made, the most accurate estimate of the amount that is reasonably possible at that time.

In addition, under the new rules, if a person collects money for a charity in their capacity as a paid employee, officer or trustee of that charity (or a connected company) they will be required to make a statement including details of the charity or charities for which they are raising funds, the proportion in which the charities will benefit (if they are raising funds for more than one charity) and the fact they are a paid employee, officer or trustee of the charity.

Volunteers and employees or remunerated trustees or officers who are not fundraising in that capacity are not required to make solicitation statements.

Guidance

The Cabinet Office (through The Office of the Third Sector) has published draft guidance on the new provisions. The guidance aims to explain to charities, professional fundraisers and commercial participators involved in fundraising ventures the changes in the law. It also provides templates of fundraising statements that would satisfy the new requirements, as well as giving examples of how the law may apply to fundraising practice.

The full draft guidance can be found at www.cabinetoffice.gov.uk/thirdsector and it is open for consultation until 31 May 2008.