



THE REPUBLIC OF KENYA

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THE PUBLIC COLLECTIONS ACT

CHAPTER 106

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CHAPTER 106

PUBLIC COLLECTIONS ACT

ARRANGEMENT OF SECTIONS

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CHAPTER 106**PUBLIC COLLECTIONS ACT***[Date of assent: 3rd December, 1960.]**[Date of commencement: 13th December, 1960.]***An Act of Parliament to provide for the regulation of collections of money and property from the public**

[Act No. 45 of 1960, Act No. 15 of 1961, Legal Notice 604 of 1963, Legal Notice 2 of 1964, Act No. 21 of 1966, Act No. 29 of 1967, Act No. 10 of 1997.]

1. Short title

This Act may be cited as the Public Collections Act.

2. Interpretation

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

"collection" means an appeal to the public or any section of the public, made by means of visits from premises to premises or of soliciting in a public place or at a public meeting, or by any or all such means, to give, whether for consideration or not, money or other property, not being—

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

"collector" means, in relation to a collection, a person who makes such an appeal by any of the said means;

"premises" includes any land, any building and any other place whatsoever;

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

"promoter" means, in relation to a collection, 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 any meeting or gathering in a public place or which the public or a section thereof are permitted (whether on payment or otherwise) to attend;

"regulating officer" means—

- (a) the chief in charge of the location in which the collection is intended to be promoted; or
- (b) in the case of a collection to be intended promoted—
 - (i) in two or more locations of the same division, the District Officer of the division;
 - (ii) in two or more divisions of the same district, the District Commissioner of the district;

- (iii) in two or more districts of the same province, the Provincial Commissioner of the province; or
- (iv) in two or more provinces or throughout the country, the Principal Secretary for the Ministry responsible for Provincial Administration;

"unlawful society" means any society which is an unlawful society within the meaning of section 4 of the Societies Act (Cap. 108).

(2) For the purposes of this Act, a collection shall be deemed to be made for a particular purpose where the appeal is made in association with a representation that the money or other property appealed for, or part thereof, will be applied for that purpose.

(3) For the purposes of this Act, an invitation to any 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 property, shall be deemed to be an appeal to give money or property which is not due nor about to fall due.

[L.N. 604/1963, Sch., Act No. 29 of 1967, s. 2, Act No. 10 of 1997, s. 2.]

3.

[Repealed by Act No. 10 of 1997, s. 3.]

4. Notification of public collections

(1) Subject to the provisions of this Act, no person shall promote any collection except in accordance with the provisions of this section.

(2) A person intending to promote a collection shall give notice of such intent to the regulating officer at least three days before commencing such promotion.

(3) A notice under subsection (2) shall be in writing and shall specify—

- (a) the full names and address of the promoter of the proposed collection;
- (b) the purpose of the collection;
- (c) the area, place or occasion in, at or on which the collection is intended to be made; and
- (d) such additional information as may be necessary.

(4) Where upon receipt of a notice under subsection (3), the regulating officer—

- (a) establishes that the promoter has been convicted of an offence involving fraud or dishonesty;
- (b) has reasonable cause to believe that the collection is in aid of, or that the promoter or any of the collectors are members of an unlawful society, or that the purpose of the collection is unlawful or fictitious; or
- (c) establishes that the promoter is an undischarged bankrupt or has entered a scheme of arrangement with his creditors, the regulating officer shall, without delay, serve upon the promoter a notice of objection to the proposed collection specifying the reasons therefor.

(5) A notice under subsection (4) shall be in writing and shall be served upon the promoter at the address specified pursuant to the provisions of subsection (3).

(6) Where the regulating officer objects to a proposed collection under subsection (4), such collection shall not be promoted.

(7) A person who promotes collection contrary to the provisions of this section shall be guilty of an offence.

[L.N. 604/1963, Act No. 21 of 1966, s. 4, 1st Sch., Act No. 10 of 1997, s. 4, Sch.]

5. Unauthorized use of badges, etc.

(1) Any person who, in connexion with any appeal to the public or any section of the public for gifts, subscriptions or contributions of money or other property—

- (a) displays or uses a prescribed badge or a prescribed certificate of authority other than a badge or certificate which he is authorized, under or by virtue of any regulation made under this Act, so to display or use; or
- (b) displays or uses any badge, device, emblem, certificate or other document intended, calculated or likely to cause any person to believe that the person displaying or using the same is an authorized collector for the purpose of a licensed collection when such is not the case,

shall be guilty of an offence.

(2) Any person who, in furnishing any information for the purposes of this Act or of any regulations made thereunder and relating to the subject matter of this Act, knowingly or recklessly makes any statement which is false in any material particular shall be guilty of an offence and liable to imprisonment for a term not exceeding three years.

6. Collector to give name, etc., to police on demand

Any police officer may require any person whom he believes to be acting as a collector for the purposes of a collection to declare to him immediately his name and address, and, if any person fails to comply with a requirement duly made to him under this section, he shall be guilty of an offence and liable to a fine not exceeding two hundred and fifty shillings.

7. Disposal of property obtained by offences

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

8. Service of documents

Where any order, notice or other document is required by or under this Act or any regulations made thereunder to be served on any person, service thereof may be effected either personally on such person or by registered post; and, where the person to be served is a body corporate or a society or other body of persons, service of any such order, notice or document may be effected by serving it personally on any secretary, director or other officer thereof or on any person concerned or acting in the management thereof, or by leaving it or sending it by registered post addressed to the body corporate, society or body of persons at its registered office, or, where there is no registered office, at any place where it carries on business.

9. Offences to be cognizable

Offences under this Act shall be cognizable to the police.

10. Offences by corporations, societies, etc.

Where any offence under this Act or under any regulations made thereunder is committed by any company or other body corporate, or by any society, association or 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 that offence and liable to be punished accordingly, unless it is proved by such person that, 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 that he took all reasonable steps to prevent its commission.

11. Power to order parent or guardian to pay fine imposed on person under eighteen

(1) Where any person under the age of eighteen years is convicted by any court of an offence under this Act or under any regulations made thereunder and is sentenced therefor to a fine, the Court may order that the fine shall be paid by the parent or guardian of such person as if it had been a fine imposed on such parent or guardian:

Provided that no such order shall be made unless the parent or guardian has had an opportunity to show cause against the making thereof, or if the parent or guardian satisfies the Court that he has not conduced to the commission of the offence by neglecting to control the offender.

(2) In this section, "guardian" includes any person who is shown to the satisfaction of the Court to have for the time being the charge of or control over the offender.

12. Penalties

Any person who is guilty of an offence under this Act for which no penalty is otherwise provided shall be liable to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding six months, or to both such fine and such imprisonment.

[Act No. 15 of 1961, Sch.]

13. Regulations

(1) The Cabinet Secretary may make regulations for prescribing anything which by this Act is required to be prescribed and generally to give effect to the provisions of this Act.

(2) Without prejudice to the generality of the powers conferred by subsection (1) of this section, regulations made thereunder may provide for all or any of the matters following, that is to say—

- (a) for regulating the manner in which collections may be carried out and the conduct of promoters and collectors in relation to such collections;
- (b) for requiring and regulating the use by collectors of prescribed badges and prescribed certificates of authority, and the issue, custody, production, display and return thereof, and, in particular, for requiring collectors on demand by a police officer or by any occupant of

- premises visited or by any person solicited to produce their certificates of authority;
- (c) for the authentication of prescribed certificates of authority and for the clear indication in prescribed badges of the purpose of the collection to which they relate;
 - (d) for prohibiting persons below a prescribed age from acting, and other persons from causing or allowing them to act, as collectors for the purposes of collections;
 - (e) for preventing annoyance to the occupants of premises visited, to persons attending public meetings or taking part in public prosecutions, or to any other members of the public, arising from collections;
 - (f) for requiring information with respect to the purpose, expenses, proceeds and application of the proceeds of collections to be furnished by promoters and collectors, or to be published, and for requiring such information to be vouched and authenticated;
 - (g) for imposing a penalty in respect of any breach of the regulations, not exceeding a fine of an amount not exceeding five thousand shillings or imprisonment for a term not exceeding six months or both such fine and such imprisonment.

[L.N. 604/1963, Act No. 10 of 1997, Sch.]

14.

[Spent]