



# Charities and Trustee Investment (Scotland) Act 2005

2005 asp 10

## PART 2

### FUNDRAISING FOR BENEVOLENT BODIES

#### *Control of fundraising*

#### **81 Prohibition on professional fundraising without formal agreement**

- (1) It is unlawful—
- (a) for a professional fundraiser to solicit money or promises of money for the benefit of a benevolent body, or
  - (b) for a commercial participator to represent that benevolent contributions are to be given to, or applied for the benefit of, a benevolent body,
- except in accordance with an agreement between the professional fundraiser or commercial participator and the body which satisfies the prescribed requirements.
- (2) Where on the application of a benevolent body (whether or not a charity), or of OSCR in relation to a benevolent body which is a charity, the sheriff is satisfied—
- (a) that a person has contravened or is contravening subsection (1) in relation to the body, and
  - (b) that the contravention is likely to continue or be repeated,
- the sheriff may grant an interdict.
- (3) Compliance with subsection (1) is enforceable only under subsection (2).
- (4) Subsections (5) and (6) apply where a benevolent body makes an agreement with a professional fundraiser or a commercial participator authorising—
- (a) the professional fundraiser to solicit money or promises of money, or
  - (b) the commercial participator to represent that benevolent contributions are to be given to or applied,
- for the benefit of the body.

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*Status: This is the original version (as it was originally enacted).*

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- (5) If the agreement does not satisfy the prescribed requirements, it is not enforceable against the benevolent body except to such extent (if any) as may be provided by an order of the sheriff.
- (6) The professional fundraiser or commercial participator is not entitled to receive remuneration or expenses in respect of anything done in pursuance of the agreement unless the agreement provides for such remuneration or expenses and—
- (a) the agreement satisfies the prescribed requirements, or
  - (b) any such provision has effect by virtue of an order under subsection (5).
- (7) In this section “the prescribed requirements” means such requirements as are prescribed by regulations made under section 83.