



2008 CHAPTER 12

PART 13

FUNDING OF CHARITABLE INSTITUTIONS

CHAPTER 1

PUBLIC CHARITABLE COLLECTIONS

PROSPECTIVE

Permits

Applications for permits to conduct public charitable collections

143.—(1) A person or persons proposing to promote a public charitable collection (other than an exempt collection) may apply to the Commission for a permit to conduct that collection.

(2) The application shall be made within the prescribed period falling before the day (or the first of the days) on which the collection is to take place, except as provided in subsection (4).

(3) The application shall—

- (a) specify the date or dates in respect of which it is desired that the permit, if issued, should have effect (which, in the case of two or more dates, must not span a period of more than 12 months);
- (b) be accompanied by a copy of the public collections certificate in force under section 138 in respect of the proposed collection; and
- (c) contain such information as may be prescribed.

*Status: This version of this cross heading contains provisions that are prospective.
Changes to legislation: There are currently no known outstanding effects for the Charities Act (Northern Ireland) 2008, Cross Heading: Permits. (See end of Document for details)*

(4) Where an application (“the certificate application”) has been made in accordance with section 137 for a public collections certificate in respect of the collection and either—

- (a) the certificate application has not been determined by the end of the period mentioned in subsection (2), or
- (b) the certificate application has been determined by the issue of such a certificate but at a time when there is insufficient time remaining for the application mentioned in subsection (2) (“the permit application”) to be made by the end of that period,

the permit application shall be made as early as practicable before the day (or the first of the days) on which the collection is to take place.

(5) In this section “exempt collection” means a collection which is an exempt collection by virtue of section 136.

Determination of applications and issue of permits

144.—(1) On receiving an application made in accordance with section 143 for a permit in respect of a collection in a public place, the Commission shall determine the application within the prescribed period by either—

- (a) issuing a permit in respect of the collection, or
- (b) refusing the application on the ground specified in section 145(1).

(2) Where the Commission issues such a permit, it shall (subject to section 146) have effect in respect of the date or dates specified in the application in accordance with section 143(3)(a).

(3) At the time of issuing a permit under this section, the Commission may attach to it such conditions within paragraphs (a) to (d) below as the Commission thinks fit, having regard to the local circumstances of the collection—

- (a) conditions specifying the day of the week, date, time or frequency of the collection;
- (b) conditions specifying the locality or localities in which the collection may be conducted;
- (c) conditions regulating the manner in which the collection is to be conducted;
- (d) such other conditions as may be prescribed for the purposes of this paragraph.

(4) The Commission shall secure that the terms of any conditions attached under subsection (3) are consistent with the provisions of any regulations under section 148 (whether or not prescribing conditions for the purposes of that subsection).

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(5) Where the Commission—

- (a) refuses to issue a permit, or
- (b) attaches any condition to it,

the Commission shall serve on the applicant written notice of its decision and the reasons for its decision.

(6) That notice shall also state the right of appeal conferred by section 147(2) and the time within which such an appeal must be brought.

Refusal of permits

145.—(1) The only ground on which the Commission may refuse an application for a permit to conduct a public charitable collection is that it appears to the Commission that the collection would cause undue inconvenience to members of the public or the occupants of houses or business premises (or both) by reason of—

- (a) the day or the week or date on or in which,
- (b) the time at which,
- (c) the frequency with which, or
- (d) the locality or localities in which,

it is proposed to be conducted.

(2) In making a decision under subsection (1), the Commission may have regard to the fact (where it is the case) that the collection is proposed to be conducted—

- (a) wholly or partly in a locality in which another public charitable collection is already authorised to be conducted under this Chapter, and
- (b) on a day on which that other collection is already so authorised, or on the day falling immediately before, or immediately after, any such day.

(3) The Commission shall not, however, have regard to the matters mentioned in subsection (2) if it appears to the Commission—

- (a) that the proposed collection would be a collection in a public place and would be conducted only in one location, which is on land to which members of the public would have access only—
 - (i) by virtue of the express or implied permission of the occupier of the land, or
 - (ii) by virtue of any statutory provision, and
- (b) that the occupier of the land consents to that collection being conducted there;

and for this purpose “the occupier”, in relation to unoccupied land, means the person entitled to occupy it.

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(4) In subsection (3) a reference to a collection in a public place authorised under this Chapter is a reference to a collection in a public place that—

- (a) is conducted in accordance with section 134, or
- (b) is an exempt collection by virtue of section 136.

Withdrawal or variation, etc. of permits

146.—(1) Where subsection (2), (3) or (4) applies, the Commission may—

- (a) withdraw the permit,
- (b) attach any condition (or further condition) to the permit, or
- (c) vary any existing condition of the permit.

(2) This subsection applies where the Commission—

- (a) has reason to believe that there has been a change in the circumstances which prevailed at the time when it issued the permit, and
- (b) is of the opinion that, if the application for the permit had been made in the new circumstances, the Commission would not have issued the permit or would have issued it subject to different or additional conditions.

(3) This subsection applies where the Commission has reason to believe that any information provided to it by the holder of a permit (or, where there is more than one holder, by any of them) for the purposes of the application for the permit was false or misleading in a material particular.

(4) This subsection applies where the Commission has reason to believe that there has been or is likely to be a breach of any condition of a permit issued by it, or that a breach of such a condition is continuing.

(5) Any condition imposed at any time by the Commission under subsection (1) (whether by attaching a new condition to the permit or by varying an existing condition) must be one that it would be appropriate for the Commission to attach to the permit under section 144(3) if the holder was applying for it in the circumstances prevailing at that time.

(6) The exercise by the Commission of the power conferred by paragraph (b) or (c) of subsection (1) on one occasion does not prevent the Commission from exercising any of the powers conferred by that paragraph on a subsequent occasion; and on any subsequent occasion the reference in subsection (2)(a) to the time when the Commission issued the permit is a reference to the time when it last exercised any of those powers.

(7) Where under this section the Commission—

- (a) withdraws a permit,
- (b) attaches a condition to a permit, or
- (c) varies an existing condition of a permit,

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the Commission shall serve on the holder written notice of its decision and the reasons for its decision.

(8) That notice shall also state the right of appeal conferred by section 147(3) and the time within which such an appeal must be brought.

(9) Where the Commission under this section withdraws a permit, attaches any condition to a permit, or varies an existing condition of a permit, the permit shall continue to have effect as if it had not been withdrawn or (as the case may be) as if the condition had not been attached or varied—

- (a) until the time for bringing an appeal under section 147(3) has expired, or
- (b) if such an appeal is duly brought, until the determination or abandonment of the appeal.

Appeals against decisions of Commission

147.—(1) A person who, in relation to a public charitable collection, has duly notified the Commission of the matters mentioned in section 136(3) may appeal to a court of summary jurisdiction against a decision of the Commission under section 136(4)—

- (a) that the collection is not a local, short-term collection, or
- (b) that the promoters or any of them has breached any such provision, or been convicted of any such offence, as is mentioned in paragraph (b) of that subsection.

(2) A person who has duly applied to the Commission for a permit to conduct a public charitable collection may appeal to a court of summary jurisdiction against a decision of the Commission under section 144—

- (a) to refuse to issue a permit, or
- (b) to attach any condition to it.

(3) A person to whom a permit has been issued may appeal to a court of summary jurisdiction against a decision of the Commission under section 146—

- (a) to withdraw the permit,
- (b) to attach a condition to the permit, or
- (c) to vary an existing condition of the permit.

(4) An appeal under subsection (1), (2) or (3) shall be by way of complaint under Part 8 of the Magistrates' Courts (Northern Ireland) Order 1981 (NI 26).

(5) Any such appeal shall be brought within 14 days of the date of service on the person in question of the relevant notice under section 136(4), section 144(5) or (as the case may be) section 146(7); and for the purposes of this section an appeal shall be taken to be brought when the complaint is made.

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(6) On an appeal under this section, the court may confirm, vary or reverse the Commission's decision and generally give such directions as it thinks fit, having regard to the provisions of this Chapter and of any regulations under section 148.

(7) On an appeal against a decision of the Commission under section 136(4), directions under subsection (6) may include a direction that the collection may be conducted—

- (a) on the date or dates notified in accordance with section 136(3)(b), or
- (b) on such other date or dates as may be specified in the direction;

and if so conducted the collection is to be regarded as one that is an exempt collection by virtue of section 136.

(8) It shall be the duty of the Commission to comply with any directions given by the court under subsection (6); but the Commission need not comply with any directions given by a court of summary jurisdiction—

- (a) until the time for bringing an appeal against the court's decision has expired, or
- (b) if such an appeal is duly brought, until the determination or abandonment of the appeal.

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