

CHARITIES ACT 2006

EXPLANATORY NOTES

THE ACT

Commentary on Sections

Section 69: Reserve power to control fund-raising by charitable institutions

240. The Government accepted the Strategy Unit recommendation that a self-regulatory initiative should be established based on a new voluntary Code of Practice which would promote and raise awareness of good practice in fundraising. The Institute of Fundraising sponsored an independent Commission (“The Buse Commission”) to explore different models for a system of self-regulation, to consult and to recommend a preferred model. Proposals for the scheme were published early in 2005, and the Fundraising Standards Board¹ launched to the charity sector in summer 2006. It is expected to launch to the public early in 2007. The Government believes that self-regulation should be the first resort in improving fundraising standards and practices. The advantage of self-regulation in that area is that fundraising organisations would be centrally involved in devising and implementing regulation and would be more committed to it. However, the Minister for the Cabinet Office retains the power to impose statutory regulation should self-regulation prove to be ineffective: it is section 67 that empowers the Minister for the Cabinet Office to do that. In 2005 the Government consulted on the principles for assessing the success of the self-regulation of fundraising. The consultation has now closed, but copies of the consultation paper and the Government’s response outlining the success criteria that will be used are available at <http://communities.homeoffice.gov.uk/activecomms/charity-law-and-reg/reg-pub-charitable-collect/>.
241. *Subsection (1)* of this section confers a new power on the Minister for the Cabinet Office by inserting a new section 64A into the 1992 Act. The power is to make regulations to control charity fundraising (defined in new section 64A(2)) if the Minister for the Cabinet Office deems it necessary or desirable. In particular, the regulations may impose a good practice requirement on persons managing charitable institutions (in charities those persons are the charity trustees). Such regulations would be subject to the affirmative resolution procedure.
242. *Subsections (4) and (5)* of new section 64A, read together, define the good practice requirement. The power enables, under *subsection (6)*, the regulations to provide that persistent failure to comply with the regulations constitutes an offence the penalty for which, on summary conviction, is a fine not exceeding level 2 on the standard scale (currently £500).

¹ Further information about the Fundraising Standards Board is available on its website: www.fsboard.org.uk