



NSW LEGISLATION



Parkinson's NSW

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1. Conduct

Obligation	Relevant legislative provision
<p>A person or organisation conducting or participating in an appeal must be authorised in writing by the authority holder.</p> <p>Where the appeal is conducted face to face this authority must be in the form of a consecutively numbered identification badge or card which includes:</p> <ul style="list-style-type: none"> • the name and contact phone number of the authority holder; • the name of the bearer; and • its issue and expiry date. <p>The badge must be worn by all volunteers or persons in receipt of a wage, fee or commission. Where the collector is in receipt of remuneration the badge must also include the words "Paid Collector".</p> <p>Where the appeal is not conducted face to face, the authority must be in writing and include details of:</p> <ul style="list-style-type: none"> • the name of the authorised person; • the terms and conditions under which the authorisation is granted; • a description of the appeal; and • the specific period of the authority. <p>It must also be signed and dated by the holder of the authority or a person delegated to do so.</p>	<p>Regulation 11 of the NSW Regulation</p>
<p>Appeals may be conducted by commercial fundraisers or promoters (a Trader). Where a Trader is to conduct an appeal, it must be conducted jointly with the authority holder under a written agreement.</p> <p>Advertising undertaken by the trader must comply with a number of requirements including that the format and text of any written or printed advertisement must be approved by the authority holder, it must include certain particulars including:</p> <ul style="list-style-type: none"> • the full name under which the trader operates and place of business and telephone number; • details of the basis on which benefit to be received by the authority holder and trader is calculated; and • the date on which the appeal commenced and the date it ends. 	<p>Section 11 of the NSW Act</p>

1. Conduct cont.

Obligation	Relevant legislative provision
A person who publishes any advertisement, notice or information relating to any fundraising appeal which the person knows and could reasonably expected to know is being conducted unlawfully is guilty of an offence.	Section 11 of the NSW Act
Where an appeal is conducted through telephone canvassing or other direct marketing, a code of practice must be established with certain minimum requirements – including: <ul style="list-style-type: none"> • a restriction on telephone calls being made between 8 am and 9 pm and on public holidays; • the source of the name and address of the person contacted must be identified on request, and • the person’s details must be removed from the contact list when requested. Where persons are employed to solicit by telephone they must state that they are employed and the name of their employer for purposes of the appeal. 	Regulation 13 of the NSW Regulation
Authority holders are required to establish mechanisms to resolve internal disputes which occur within its membership and complaints from the public. Authority holders must also establish a mechanism for dealing with conflicts of interest including the maintenance of a pecuniary interests register where applicable..	Regulations 23 to 25 of the NSW Regulation

2. Accounting

Obligation	Relevant legislative provision
The gross proceeds from any fundraising appeal must be banked into an account maintained exclusively for that purpose in a bank, building society or credit union. The account is to consist only of money raised in the fundraising appeal concerned, or in that and other such appeals conducted by the same authority holders. The account is to be kept in the name or on behalf of the authority holder and is to be operated jointly by not less than 2 people. Persons or organisations conducting appeals for donations only must take all reasonable steps to ensure that lawful and proper expenses do not amount to more than 40% of the gross proceeds.	Section 20 of the NSW Act
Monies received in the course of a fundraising appeal which are not immediately required to be applied to the purpose or objects of the appeal may be invested only in a manner for the time being authorised by law for the investment of trust funds.	Section 21 of the NSW Act
The annual financial accounts of an authority holder must be prepared and include certain disclosures as attached notes. The financial accounts must be audited by a registered company auditor or by a person approved by the NSW Department..	Sections 22 and 24 of the NSW Act
An authority holder is required to maintain certain records including a cash book, a register of assets, a minute book, a register of receipt books, a register of identification badges; and a register of collection boxes. The records and income and expenditure held by an authority holder must contain particulars of all items of gross income received or receivable and particulars of all items of expenditure incurred including particulars of the application or disposition of any proceeds obtained from an appeal.	Regulation 8 of the NSW Regulations

3. Registration

Obligation	Relevant legislative provision
<p>An authorised fundraiser must notify the NSW Department of changes to the particulars of the authorised fundraiser, including:</p> <ul style="list-style-type: none">• details of any change in the name, including the trading or business name of the authorised fundraiser;• changes in the business address or postal address, telephone or facsimile number;• details of any changes to the fundraiser’s constitution with respect to the charitable objects or purposes of the organisation or the non profit nature of the organisation or the disposition of funds and assets obtained from fundraising appeals;• modifications to the particulars of an existing trader – if a new trader has been engaged.	Regulation 11 of the NSW Regulations

4. Notes

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- Charitable Fundraising Act 1991 (NSW Act); and
- Charitable Fundraising Regulation 1998 (NSW Regulation)

NSW Department

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