

## STATE OF SABAH

### PUBLIC COLLECTIONS ORDINANCE (Sabah Cap. 112)

#### LIST OF AMENDMENTS

<i>Ordinance/ Enactment No.</i>	<i>Sections amended</i>	<i>Effective date of amendment</i>
G.N.S. 135/1964	4 (5), (7), 5 (1), 10	31-8-1964
G.N.S. 87/1965	2 (1) (definition of "Commissioner"), 4 (1), (3), (4) (e)	16-9-1963
Act 160	3 (2), 5 (2) (h), 7, 8 (1)	29-8-1975

To regulate house to house and street collections.

[12th May, 1953.]

#### **Short title.**

1. This Ordinance may be cited as the Public Collections Ordinance.

#### **Interpretation.**

2. (1) In this Ordinance –

"collection" means an appeal to the public or any class of the public, made by means of visits from house to house or of soliciting in streets or other public

places, or by both such means, to give, whether for consideration or not, money or other property not being 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; and “collector” means, in relation to a collection, a person who makes such an appeal by either of the said means;

“Commissioner” means the Commissioner of Police of Sabah or any officer in charge of police district to whom the Commissioner delegates his authority under this Ordinance;

“house” includes a place of business;

“licence” means a licence under this Ordinance;

“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 others to act, whether for remuneration or otherwise, as collectors for the purposes of a collection.

(2) For the purposes of this Ordinance, 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.

**House to house and street collections to be licensed.**

3. (1) Subject to the provisions of this Ordinance, no collection shall be made unless the requirements of this Ordinance as to a licence for the promotion thereof are satisfied.

(2) If any person promotes a collection, and a collection is made in any locality pursuant to his promotion, then unless there is in force, throughout the period during which the collection is made, a licence authorising him, or authorising another under whose authority he acts, to promote that collection, he shall be guilty of an offence and shall be liable to a fine of five thousand ringgit and to imprisonment for a term of two years.

(3) If any person acts as a collector for the purposes of a collection, then unless

there is in force, at all times when he so acts, a licence authorising a promoter under whose authority he acts, or authorising the collector himself, to promote that collection, he shall be guilty of an offence.

**Licences.**

4. (1) Where any person who desires to promote a collection in Sabah makes to the Commissioner an application in the prescribed manner specifying the purpose of the collection, and furnishes him with the prescribed information, the Commissioner may, subject to the following provisions of this section and to such conditions as he shall think fit to impose, grant to him a licence authorising him to promote a collection for that purpose.

(2) A licence granted under the provisions of this section shall be for such period as the Commissioner may in his absolute discretion determine. The period in respect of which such licence is granted shall be specified in the licence.

(3) Every application for a licence shall specify an address within Sabah for service on the applicant of any notice or other communication required to be served on him.

(4) The Commissioner may, in his absolute discretion, refuse to grant a licence or may at any time revoke a licence granted by him, if it appears to him –

- (a) that too short a period has elapsed since the last grant of a licence for a collection for the same or any similar purpose;
- (b) that the total amount likely to be applied for the purpose of the collection from the proceeds thereof (including any amount already so applied) is inadequate in proportion to the value of the proceeds likely to be received (including any proceeds already received);
- (c) that remuneration which is excessive in relation to the total amount aforesaid is likely to be, or has been, retained or received out of the proceeds of the collection by any person;
- (d) that the grant of a licence would be likely to facilitate the commission of an offence under any written law, or that any such offence has been committed in connection with the collection, and in particular, that any

force, threat or compulsion is likely to be, or has been, used in order to obtain any contribution for the purpose of the collection;

- (e) that the applicant or the holder of the licence is not a fit and proper person to hold a licence by reason of the fact that he has been convicted, whether in Sabah or elsewhere, of any offence conviction for which necessarily involved or implied a finding that he had acted fraudulently or dishonestly, or of any offence of a kind the commission of which would be likely to be facilitated by the grant of a licence;
- (f) that the applicant or the holder of the licence, in promoting a collection in respect of which a licence has been granted to him, has failed to exercise due diligence to secure that persons authorised by him to act as collectors for the purposes of the collection were fit and proper persons, to secure compliance on the part of persons so authorised with the provisions of this Ordinance or to prevent prescribed badges or prescribed certificates of authority being obtained by persons not so authorised;
- (g) 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 illegal, fictitious or objectionable on grounds of public policy, or that the refusal or revocation of a licence is otherwise desirable in the public interest;
- (h) that the applicant or the holder of the licence has furnished false information to the Commissioner or has refused or neglected to furnish to the Commissioner such information as he may have reasonably required for the purpose of informing himself as to any of the matters specified in the foregoing paragraphs.

(5) When the Commissioner refuses to grant a licence or revokes a licence which has been granted, he shall forthwith give written notice to the applicant or the holder of the licence stating upon which one or more of the grounds set out in subsection (4) the licence has been refused or revoked and informing him of the right of appeal given by this section, and the applicant or the holder of the licence may thereupon appeal to the Minister against the refusal or revocation of the licence as the case may be and the decision of the Minister

shall be final:

Provided that in any case in which the refusal or revocation by the Commissioner was based on any ground mentioned in paragraph (f) of subsection (4) the Commissioner may decline to state his reasons for such refusal or revocation or to disclose the nature or source of the information on which he acted.

(6) The time within which any such appeal may be brought shall be fourteen days from the date on which notice is given under subsection (5).

(7) If the Minister decides that the appeal shall be allowed, the Commissioner shall forthwith issue a licence or cancel the revocation as the case may be in accordance with the decision of the Minister.

#### **Regulations.**

5. (1) The Minister may make regulations\* for prescribing anything which by this Ordinance is required to be prescribed and for regulating the manner in which licensed collections may be carried out and the conduct of promoters and collectors in relation to such collections, and generally to give effect to the provisions of this Ordinance.

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

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- (a) 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 a house visited or person solicited to produce their certificates of authority;
- (b) for the authentication of prescribed certificates of authority and for the clear indication in prescribed badges of the purpose of the collection;

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\* See the Public Collections Regulations, 1955.

- (c) for the requiring of the issue of receipts in respect of monies collected;
- (d) for requiring promoters of collections to render or publish true accounts of all monies collected and paid;
- (e) for prohibiting persons below a prescribed age from acting, and others from causing or allowing them to act, as collectors;
- (f) for preventing annoyance to the occupants of houses visited or to any other members of the public;
- (g) for requiring the prescribed information with respect to the purpose, expenses, proceeds and application of the proceeds of collections to be furnished by the licensee to the Commissioner and for requiring such information to be vouched and authenticated in such manner as may be prescribed;
- (h) for prescribing that any contravention of or failure to comply with any such regulation shall be an offence and for prescribing penalties therefor but so that no such penalty shall exceed a fine of one thousand ringgit and imprisonment for a term of two years.

**Unauthorised use of badges, etc.**

6. (1) Any person who, in connection with any appeal to the public or any class of the public for 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 authorised, under or by virtue of any regulations made under this Ordinance, 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 authorised collector for the purposes 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 purpose of this Ordinance or of any regulations made thereunder, knowingly or recklessly makes any statement which is false in any material particular, shall be guilty of an offence.

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

7. 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 of one hundred ringgit.

**Penalties.**

8. (1) Any person guilty of an offence against this Ordinance for which no special penalty is provided by this Ordinance shall be liable to a fine of one thousand ringgit and to imprisonment for six months.

(2) Where any offence against this Ordinance is committed by any corporation, 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 corporation, society, association or body of persons shall be deemed to be guilty of that offence and liable to be punished accordingly unless it is proved by any such person that, through no neglect or omission on his part, he was not aware that the offence was being or was about to be committed or that he took all reasonable steps to prevent its commission.

**Jurisdiction.**

9. (1) Notwithstanding any provision to the contrary contained in any law for the time being in force, a Magistrate of the First Class shall have jurisdiction to try any offence against this Ordinance and to award any punishment specified or prescribed therefor.

(2) At the conclusion of any trial in respect of an alleged offence against this Ordinance, when such trial results in a conviction, the court may make an order for the return to its owner, if known, or for the forfeiture or confiscation of any money or other property produced before it or in its custody or the custody of the police or of any public servant which,

in the opinion of the court, was obtained by or in consequence of the commission of an offence against this Ordinance.

**Exemption.**

**10.** The Minister may by notification in the *Gazette*\* exempt, subject to such conditions, if any, as he may impose, any person from the provisions of this Ordinance.

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\* See G.N.S. 36/1956, 100/1962.