

Alberta Legislation of Significance for Charities

Charities that are resident or operate in Alberta should be aware that there are many provincial laws that may apply to them. This information sheet outlines some of the most common statutes that have significance for charities. This list is not comprehensive. Laws specific to certain activities, such as working with children or providing private schooling may be governed by provincial statutes not covered in this list. Users should consider the objects and purposes of their registered charity and seek further advice about provincial laws if necessary.

Legal Status

Societies Act

This Act provides for the incorporation of five or more persons for any benevolent, philanthropic, charitable, scientific, artistic, educational or other useful purpose. It sets out the registration process, requirements for objects and bylaws, the powers of the organization, reporting requirements, liability, officers and directors, dissolution and other matters.

Companies Act

Section 9 of this Act sets out the procedure for the registration of charitable organizations that want to promote art, science, religion, charity, or any other useful purpose, as limited companies. Once registered, a charitable organization has all of the privileges and obligations of limited companies. The Registrar of Companies can make any conditions he or she thinks necessary, and those conditions are binding on charitable organizations.

Fundraising

Charitable Fund-raising Act

This Act sets out requirements for charitable organizations that solicit contributions from donors in Alberta, and for the use of a fund-raising business by a charitable organization to solicit contributions on its behalf. The purpose of the Act is to provide information to and protect the public about charitable fundraising. Charities should be aware that Standards of Practice for charitable organizations are established by the government and published in the Alberta Gazette. Only registered charities may use fund-raising businesses to solicit funds. Fund-raising businesses working for registered charities must be

licensed. Such businesses must apply to Service Alberta, a department of the Government of Alberta, and provide it with the required information, along with paying a fee and a security deposit. All registered charities wishing to use a fund-raising business must be sure that the prospective business has this government-issued licence. Further information is contained in a Tipsheet issued by Service Alberta, which can be found at: www.servicealberta.gov.ab.ca/1131.cfm

Gaming and Liquor Act

Charitable organizations in Alberta that wish to raise funds through raffles, lotteries and bingos may need to obtain a gaming licence and/or a facilities licence under this Act.

Personal Information Protection Act

This Act applies on a limited basis to non-profit organizations established under the *Societies Act*, Part 9 of the *Companies Act*, and the *Agricultural Societies Act*. For these organizations, the Act applies only to personal information that is collected, used or disclosed as part of a commercial activity. A commercial activity can include selling donor, membership, or fund-raising lists, and operating a private school, college, or early childhood service program. Fund-raising activities undertaken by a Society for charitable purposes are not commercial activities. This Act applies to all organizations that do not meet the definition in the Act of a non-profit organization in section 56 (1) (b). This includes churches and organizations incorporated by statute or under the *Religious Societies Lands Act*. For more information on this topic, please visit: pipa.alberta.ca/index.cfm?page=nonprofits/index.html

Employment

Employment Standards Code

This Act applies to all employers and employees who receive or are entitled to receive wages. Any charitable organization with paid employees must abide by the requirements of this Code. It covers such employment matters as wages; overtime, holiday, and vacation pay; hours of work and rest periods, termination of employment, maternity and adoption leave; and employment of persons under age 18. For more information on this topic please visit: www.law-faqs.org/wiki/index.php/Employment_Law

Labour Relations Code

The *Labour Relations Code* covers the relationship between employers and trade unions, and employees covered by trade unions. Under the Code, employers and trade unions enter into collective agreements that set the wages and benefits of employees for a fixed period of time. Larger charitable organizations with paid employees who are members of a trade union or are covered by a collective bargaining agreement must follow this Code. For further information, please visit: www.alrb.gov.ab.ca/guidecontents.html

Occupational Health and Safety Act

This Act applies to all employers and employees in the province. Charitable organizations, as far as is reasonably practicable, must ensure the health and safety of their employees or persons present at their work sites. “Reasonably practicable” means that the degree of risk in a particular situation is balanced against the time, trouble, cost, and physical difficulty of taking measures to avoid the risk. There are many hazards that an employer must guard against. For example, if a charitable organization discovered that there was asbestos insulation in the offices that it uses, and that the asbestos could be breathed in by employees, then this could potentially be an occupational hazard to its employees for which it would be responsible. For more information on this topic please visit:

www.law-faqs.org/wiki/index.php/Occupational_Health_and_Safety

Alberta Human Rights Act

This Act states that, as a matter of public policy, all persons are equal in dignity, rights and responsibilities without regard to race, religious beliefs, colour, gender, physical or mental disability, age, ancestry, place of origin, marital or family status, source of income or sexual orientation. Any charity operating in Alberta must abide by the requirements of the *Human Rights Act*. Note that a not-for-profit organization composed primarily of persons with the same political or religious belief, ancestry, or place of origin may use statements or publications indicating its purpose or membership, and applications and advertisements to that effect as long as they are not derogatory or offensive. The Alberta Human Rights Commission has a number of tipsheets with information about the application of this Act. The tipsheets cover the general history and information about the Commission; the complaints process; human rights and employment; and protected grounds against discrimination. Please visit:

www.albertahumanrights.ab.ca/publications/bulletins_sheets_booklets/bulletins/sheets.asp

Liability

Charitable Donation of Food Act

This Act applies to charities that donate or distribute donated food and provides protection against liability for the charity’s volunteers, employees, directors, officers, and agents for any harm arising out of the donated food, unless there is malfeasance on the part of these persons. For example, if the donated food is adulterated, rotten, or unfit for human consumption, or if the persons as listed above, associated with the charity, intended to injure or cause death to the recipients, or acted with reckless disregard for the safety of the recipients, then they would be liable to the people who were injured by the donated food.

Occupiers Liability Act

Charitable organizations that occupy premises and that have visitors to their premises owe a duty of care to see that visitors are reasonably safe when invited to, visiting, or permitted by law to be on their premises. This duty of care means that an occupier must take reasonable steps to see that visitors will be reasonably safe in using the occupier's premises for the purpose for which the visitors are there. For example, if a registered charity encouraged the public to donate food for a food bank and a person dropping off donated food fell through a broken step in the stairs leading to the front door of the charity's premises, the charity could be liable for the injuries the visitor suffers.

Note that this Act does not apply to employers and its employees. Employer/employee relationships are covered by the *Employment Standards Act* and the *Occupational Health and Safety Act*.

Trustees Act

This Act sets out the rules for trustees with regard to the types of investments that they can make. In general, trustees must invest trust funds with a view to obtaining a reasonable return while avoiding undue risk, having regard to the circumstances of the trust. If a registered charity administers trust funds, then its trustees should be aware of this Act.