

PAWNBROKERS (AMENDMENT) ACT.

New South Wales



ANNO VICESIMO TERTIO

ELIZABETHÆ II REGINÆ

Act No. 63, 1974.

An Act to make further provisions with respect to the issue of pawnbrokers' licenses and the keeping of records by pawnbrokers; to vary penalties for offences against the Pawnbrokers Act, 1902; for these and other purposes to amend the Pawnbrokers Act, 1902; and for purposes connected therewith. [Assented to, 16th October, 1974.]

BE

Pawnbrokers (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by No. 63, 1974
 and with the advice and consent of the Legislative
 Council and Legislative Assembly of New South Wales in
 Parliament assembled, and by the authority of the same, as
 follows:—

1. This Act may be cited as the "Pawnbrokers Short
 (Amendment) Act, 1974". title.

2. This Act shall commence on such day as may be Commence-
 appointed by the Governor in respect thereof and as may ment.
 be notified by proclamation published in the Gazette.

3. The Pawnbrokers Act, 1902, is amended—
 - (a) by omitting section 2; Amend-
ment of
Act No. 66,
1902.
Sec. 2.

 - (b) by omitting from section 5 the words "forty dollars" Sec. 5.
(Penalty
on pawn-
broking
without
license.)
 and by inserting instead the matter "\$200";

 - (c) by omitting sections 6, 7 and 8 and by inserting Secs. 6, 7,
7A, 8.
 instead the following sections:—
 6. (1) An application for a license, accom- Applica-
tion for
and issue of
license.
 panied by the prescribed fee, shall be made in the
 prescribed manner to the clerk of a court of petty
 sessions for the district in which the applicant
 intends to carry on the trade or business of a
 pawnbroker.

 - (2) Where the applicant for a license is a
 corporation, the application shall nominate a
 person to hold the license on behalf of the
 corporation.

(3)

Pawnbrokers (Amendment).

No. 63, 1974

(3) A license shall not be issued unless a copy of the application for the license has been referred to the officer in charge of police at the police station nearest the court to which the application is made and—

(a) a report made by that officer or a person authorised by him on the application has been lodged with the clerk of that court; or

(b) a period of one month has elapsed since the copy of the application was referred to that officer.

(4) Where—

(a) a report under subsection (3) (a) has been furnished in respect of an application for a license and that report does not contain a statement objecting to a grant of the license;

(b) a report under subsection (3) (a) in respect of an application for a license has not, at the expiration of one month after a copy of the application was referred to the officer in charge of police referred to in subsection (3), been received by the clerk of the court to which the application was made; or

(c) the court grants an application following a hearing referred to in section 7,

the clerk of the court to which the application was made shall issue to the applicant a license in the prescribed form.

(5) A license shall, unless sooner cancelled, remain in force for one year from the date on which it was issued but may, where application is made within one month before the date of expiry of the license and the prescribed fee is paid, be renewed

from

Pawnbrokers (Amendment).

from year to year for a period not exceeding one year from the date of expiry of the original license, or the previous renewal of the license, as the case may be. No. 63, 1974

(6) Where an application is made for the renewal of a license before the date of expiry of the license and the application is not dealt with before that date, the license shall be deemed to continue in force until such time as a renewed license is issued or the application is refused, but any renewed license issued on that application shall expire on the first anniversary of the date on which the license so continued in force would, but for this subsection, have expired.

7. (1) A person who under section 6 (3) (a) makes a report on an application for a license in the report specify that he objects to a license being issued to an applicant— Objection to issue of license.

(a) where the applicant is a natural person, on the ground that the applicant—

- (i) is not of good fame or character;
- (ii) is not a fit and proper person to hold a license;
- (iii) has improperly obtained a license; or
- (iv) has been convicted of an offence against this Act or the regulations,

or on more than one of those grounds; or

(b) where the applicant is a corporation, on the ground that—

- (i) the corporation has improperly obtained a license;
- (ii) the corporation has been convicted of an offence against this Act or the regulations; or

(iii)

Pawnbrokers (Amendment).

No. 63, 1974

- (iii) a director or the secretary of the corporation, or the person nominated as the holder of the license on behalf of the corporation is a person in respect of whom, if he were an applicant for a license, an objection could be made on one or more of the grounds referred to in paragraph (a),

or on more than one of those grounds.

(2) Where a report referred to in section 6 (3) (a) containing a statement objecting to the issue to the applicant of a license is received by the clerk of the court to which the application for the license was made the clerk shall, unless he has issued the license, set the application down for hearing by the court and give notice of the hearing in the prescribed manner to the applicant and the officer in charge of police referred to in section 6 (3).

(3) An application referred to in subsection (2) shall be heard by a court of petty sessions held before a stipendiary magistrate sitting in open court

Variation
of corpora-
tion license.

7A. (1) A corporation to which a license has been issued may make application in the prescribed manner and accompanied by the prescribed fee, to the clerk of the court by which the license was issued for the variation of the license by substituting for the name of the person who holds the license on behalf of the corporation the name of some other person.

(2) An application referred to in subsection (1) shall be dealt with as if the person referred to in the application were an applicant for a license on his own behalf but the clerk of the court shall, instead of issuing a license to that person, endorse on the license issued to the corporation a memorandum of the variation.

Pawnbrokers (Amendment).

8. (1) A licensed pawnbroker may, on complaint made by a member of the police force, be summoned before a court of petty sessions to show cause why his license should not be cancelled—

No. 63, 1974
Disqualifi-
cation of
licensee.

- (a) where the pawnbroker is a natural person, upon one or more of the grounds of objection specified in section 7 (1) (a); or
- (b) where the pawnbroker is a corporation, upon one or more of the grounds of objection specified in section 7 (1) (b),

and why he should not be disqualified from holding a license.

(2) Where, at the hearing of a summons referred to in subsection (1), a court of petty sessions held before a stipendiary magistrate is satisfied of the truth of any ground of objection alleged in the summons it may order that the license to which the summons relates be cancelled and that the pawnbroker be disqualified, either permanently or for such period as the court specifies, from holding a license.

(3) Any person having possession of a license that is cancelled pursuant to an order under subsection (2) who, upon demand made of him by a member of the police force to deliver up that license, fails to do so is liable to a penalty not exceeding \$200.

(d) by inserting at the end of section 9 the following subsection :—

Sec. 9.
(Separate
license to be
taken out for
each shop,
etc.)

(2) A licensed pawnbroker who ceases to carry on business in premises specified in a license and who commences to carry on business as a pawnbroker at some other premises (not being premises in respect of which he holds some other license) shall, within seven days of commencing to carry on business at those other premises, give notice in the prescribed

Pawnbrokers (Amendment).

No. 63, 1974

prescribed manner to the clerk of a court of petty sessions for the district in which he is then carrying on business, and surrender his license for endorsement thereon of the address of those other premises.

Sec. 11.
(Pawn-
broker's
name, etc.,
to be affixed
to licensed
premises.)

(e) (i) by omitting section 11 (1) and by inserting instead the following subsection :—

(1) A licensed pawnbroker shall cause to be affixed, and keep affixed, in such manner and in letters of such style and size as may be prescribed, his name in full and the words "licensed pawnbroker" upon some conspicuous part of the outside of the premises to which his license relates.

(ii) by omitting from section 11 (2) the words "twenty dollars" and by inserting instead the matter "\$50";

Sec. 12.

(f) by omitting section 12 and by inserting instead the following section :—

Production
of license,
records and
property.

12. (1) A licensed pawnbroker shall produce to a member of the police force when requested his license, the records by this Act required to be kept by him and any articles taken in pawn or received by him which are then in his possession.

(2) Any such person who without reasonable excuse fails to comply with the provisions of subsection (1) is liable to a penalty not exceeding \$200.

Sec. 13.
(Entries to
be made on
taking
pledge.)

(g) (i) by omitting from section 13 (1) the words "entered in a fair and legible manner in some book kept for that purpose" and by inserting instead the words "recorded, in such form and manner as may be prescribed";

(ii)

Pawnbrokers (Amendment).

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- (ii) by inserting in section 13 (1) (a) after the word "article" the words "including any serial, registration or identification number and any hallmark, inscription or engraving appearing on the article"; No. 63, 1974
- (iii) by omitting from section 13 (3) the words "twenty dollars" and by inserting instead the matter "\$200";
- (h) by omitting from section 14 (2) the words "twenty dollars" and by inserting instead the matter "\$200"; Sec. 14.
(Duplicate to be given.)
- (i) by omitting from section 15 (c) the words "written declaration in the form prescribed by Part IV of the Oath's Act, 1900, duly taken and authenticated by some justice, and" and by inserting instead the words "statutory declaration"; Sec. 15.
(Duplicates lost or stolen.)
- (j) by omitting from section 16 (2) the words "to a justice or"; Sec. 16.
(Holders of duplicates to be deemed owners of goods pawned.)
- (k) (i) by inserting in section 18 after the word "pretence," the words "offers for sale,"; Sec. 18.
(Selling before expiration of period.)
- (ii) by omitting from section 18 the words "sold or disposed of," and by inserting instead the words "offered for sale, sold or otherwise disposed of,";
- (iii) by omitting from section 18 the words "forty dollars" and by inserting instead the matter "\$200";
- (l) (i) by omitting from section 19 (1) the words "fifty cents" and by inserting instead the matter "\$10"; Sec. 19.
(Mode of sale.)

(ii)

Pawnbrokers (Amendment).

- No. 63, 1974
- (ii) by omitting from section 19 (2) the words "some public newspaper, published in New South Wales, four days at the least" and by inserting instead the words "a newspaper circulating in the district in which the pawnbroking transaction occurred, at least four days";
- (iii) by omitting from section 19 (3) the words "forfeit to the owner of any articles sold contrary to the said provisions a sum not exceeding forty dollars" and by inserting instead the words " , for every such offence, be liable to a penalty not exceeding \$200";
- Sec. 20. (m) by omitting section 20 and by inserting instead the following section :—
- Pawnbroker not to purchase.
20. No purchase or purported purchase of any article pawned with a licensed pawnbroker—
- (a) where the pawnbroker is a natural person—by that pawnbroker or any person acting on his behalf; or
- (b) where the pawnbroker is a corporation—by an officer or employee of that corporation or a person acting on behalf of that corporation,
- shall be valid against the owner of the article and any person referred to in paragraph (a) or (b) purchasing or purporting to purchase any such article is liable to a penalty not exceeding \$100.
- Sec. 21. (Application of proceeds of sale.)
- (n) by omitting from section 21 (2) the words "twenty dollars" and by inserting instead the matter "\$100";

(o)

Pawnbrokers (Amendment).

- (o) (i) by omitting from section 22 (1) the words "from time to time enter in a book to be kept by him for that purpose a true and just account" and by inserting instead the words ", within such time and in such form and manner as may be prescribed, make a record"; No. 63, 1974
Sec. 22.
(Entry to be made of all articles sold.)
- (ii) by omitting from section 22 (2) the words "twenty dollars" and by inserting instead the matter "\$200";
- (p) (i) by omitting from section 23 (2) the word "book" and by inserting instead the word "record"; Sec. 23.
(Pawnner may inspect entries.)
- (ii) by omitting from section 23 (2) the words "twenty dollars" and by inserting instead the matter "\$100";
- (q) by omitting from section 24 the words "fifty dollars" and by inserting instead the matter "\$100"; Sec. 24.
(Pledges not to be taken from children or drunken persons.)
- (r) by omitting section 25; Sec. 25.
(Pawn-broker not to advance, etc., anything but money.)
- (s) (i) by omitting from section 26 (1) the words "Part VI of the Factories and Shops Act, 1912-1936, or any Act amending the same" and by inserting instead the words "Part IV of the Factories, Shops and Industries Act, 1962"; Sec. 26.
(Hours for taking pledges.)
- (ii) by omitting from section 26 (2) the words "twenty dollars" and by inserting instead the matter "\$100";
- (t)

*Pawnbrokers (Amendment).***No. 63, 1974**

Sec. 27.
(Days on which business not to be carried on.)

Sec. 28.
(Persons offering article not giving good account of themselves, etc., may be apprehended and article seized.)

Sec. 29.
(Persons not entitled attempting to redeem article may be apprehended.)

(t) by omitting from section 27 (2) the words "twenty dollars" and by inserting instead the matter "\$100";

(u) (i) by omitting from section 28 (b) the words "wilfully gives any false information" and by inserting instead the words "gives any information";

(ii) by inserting in section 28 (b) after the word "article" where secondly occurring the words "which that pawnbroker, servant or agent suspects is false";

(iii) by omitting from section 28 the words "illegally or clandestinely" and by inserting instead the word "unlawfully";

(iv) by inserting at the end of section 28 the following subsection :—

(2) Any person who offers to any licensed pawnbroker, his servant, or agent, by way of pawn, pledge, exchange, or sale, any article that may reasonably be suspected of being stolen or otherwise unlawfully obtained is liable to a penalty not exceeding \$200.

(v) by inserting at the end of section 29 the following subsection :—

(2) Any person who attempts or endeavours to redeem any article without any pretence or colour of right to do so is liable to a penalty not exceeding \$200.

(w)

Pawnbrokers (Amendment).

(w) by omitting section 30 and by inserting instead the following section :—

Sec. 30.
False or
misleading
information.

30. Any person who—

(a) offers any article by way of pledge, pawn, exchange or sale to a licensed pawnbroker;
or

(b) seeks to redeem any article in pledge or pawn with a pawnbroker,

and who, upon demand being made of him by the pawnbroker, his servant or agent at the time the article is pledged, pawned, exchanged, sold or redeemed for any information required under this Act, does not furnish that information to the person by whom the demand is made or without reasonable excuse furnishes false or misleading information is liable to a penalty not exceeding \$200.

(x) by omitting from section 31 the words “alphabetical record hereinbefore mentioned” and by inserting instead the words “record kept by the clerk of the court of the issue of the license”;

Sec. 31.
(Record to
be evidence.)

(y) by omitting from section 33 the words “twenty dollars” and by inserting instead the matter “\$100”;

Sec. 33.
(Unlicensed
persons
keeping
up signs,
etc., liable to
a penalty.)

(z) by omitting from section 34 (1) the words “fifty dollars” and by inserting instead the matter “\$100”;

Sec. 34.
(Lending
license.)

(aa) by omitting from section 35 the words “shall be guilty of a misdemeanour, and shall be liable to such punishment by fine or imprisonment for any term not exceeding two years, with or without hard labour, or by both fine and imprisonment as aforesaid, as the Court thinks fit.” and by inserting instead the words “is liable to a penalty not exceeding \$200.”;

Sec. 35.
(Forged
licenses.)

(bb)

Pawnbrokers (Amendment).

- No. 63, 1974
Sec. 36.
(Forging,
etc.,
duplicates.)
- (bb) by omitting from section 36 the words "shall be guilty of a misdemeanour, and shall be liable to such punishment by fine or imprisonment for any term not exceeding two years, with or without hard labour, or by both fine and imprisonment as aforesaid, as the Court thinks fit." and by inserting instead the words "is liable to a penalty not exceeding \$200.";
- Sec. 37.
(Any justice
may compel
a pawn-
broker to
produce
records,
vouchers,
etc.)
- (cc) (i) by omitting from section 37 the word "book" wherever occurring and by inserting instead the words "receipt or disposal record";
- (ii) by inserting in section 37 (1) after the words "required by" the words "or under";
- (iii) by omitting from section 37 (2) the words "twenty dollars" and by inserting instead the matter "\$200";
- Sec. 39.
(Justices
may order
delivery
of goods
pawned on
payment of
compensa-
tion or
otherwise.)
- (dd) by omitting section 39 (2);
- Sec. 40.
(Penalties.)
- (ee) by omitting from section 40 the words "forty dollars" and by inserting instead the matter "\$200";
- Sec. 41.
- (ff) by omitting section 41 and by inserting instead the following section :—
- Defence to
prosecution
for recording
incorrect
particulars.
41. It is a sufficient defence to a prosecution under section 13 or 22 if the pawnbroker satisfies the court that the particulars comprised in the record

were

Pawnbrokers (Amendment).

were furnished pursuant to a demand made under No. 63, 1974 section 30 and that at the time the particulars were given and the record was made the person to whom they were given had no reasonable grounds for suspecting and did not suspect that the particulars were false or misleading.

- (gg) by omitting sections 42 and 43; Secs. 42, 43.
- (hh) (i) by omitting from section 45 the words “the Sec. 45.
next preceding section” and by inserting (Limitation
of action.)
instead the matter “section 44”;
- (ii) by omitting from section 45 the words “three months” and by inserting instead the words “six months”;
- (ii) by inserting after section 45 the following section :— Sec. 46.

46. (1) The Governor may make regulations, Regulations.
not inconsistent with this Act, for or with respect to any matter which, by this Act, is required or permitted to be prescribed or which is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) Without prejudice to the generality of the power conferred by subsection (1), the Governor may make regulations for or with respect to—

- (a) prescribing the forms to be used under this Act;
- (b) prescribing fees in connection with licenses;
- (c) prescribing the form and manner in which the records required by this Act to be kept by pawnbrokers may be kept;

(d)

*Pawnbrokers (Amendment).*No. 63, 1974

(d) prescribing the time within which entries shall be made by pawnbrokers in disposal records.

(3) Regulations may be made so as to apply differently according to such factors as may be specified in the regulations.

(4) A regulation may impose a penalty not exceeding \$200 for any breach thereof and any such penalty may be recovered in a summary manner before a stipendiary magistrate or any two justices of the peace sitting in petty sessions.

(5) Section 41 of the Interpretation Act, 1897, applies in respect of a regulation as if this Act had been passed after the commencement of the Interpretation (Amendment) Act, 1969.

First,
Second
and Third
Schedules.

(jj) by omitting the First, Second and Third Schedules.

Savings.

4. (1) Any application for a pawnbroker's license made but not disposed of before the commencement of this Act may be disposed of as if this Act had not been enacted.

(2) Any license granted under the Pawnbrokers Act, 1902, and in force immediately before the commencement of this Act, and any license granted by virtue of the operation of subsection (1), shall be deemed to be a license issued under the Pawnbrokers Act, 1902, as amended by this Act.

(3) Any book containing particulars recorded in accordance with sections 13 and 22 of the Pawnbrokers Act, 1902, as in force immediately before the commencement of this Act, shall be deemed to be a record complying with those sections as in force after that commencement.

(4)

Pawnbrokers (Amendment).

(4) Notwithstanding the amendments to the Pawn- No. 63, 1974
brokers Act, 1902, effected by section 3 (paragraphs (aa) and
(bb) excepted) the penalty to which a person convicted of
an offence is liable is the penalty applicable to that offence at
the time the offence was committed.

SPLIT