

PAWNBROKERS (AMENDMENT) ACT, 1980, No. 150

New South Wales



ANNO VICESIMO NONO

ELIZABETHÆ II REGINÆ

Act No. 150, 1980.

An Act to amend the Pawnbrokers Act, 1902, so as to impose certain requirements on persons pawning articles or redeeming articles held in pawn, to make further provision with respect to the displaying or selling by a pawnbroker of certain pawned articles and to extend the powers to make regulations under that Act; and for other purposes. [Assented to, 10th December, 1980.]

See also Firearms and Dangerous Weapons (Pawnbrokers) Amendment Act, 1980.

Pawnbrokers (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by 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 :—

- Short title.** **1.** This Act may be cited as the "Pawnbrokers (Amendment) Act, 1980".
- Commencement.** **2.** (1) This section and section 1 shall commence on the date of assent to this Act.
- (2) Except as provided in subsection (1), this Act shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.
- Principal Act.** **3.** The Pawnbrokers Act, 1902, is referred to in this Act as the Principal Act.
- Schedules.** **4.** This Act contains the following Schedules :—
- SCHEDULE 1.—AMENDMENTS TO THE PRINCIPAL ACT.**
- SCHEDULE 2.—SAVINGS AND TRANSITIONAL PROVISIONS.**
- Amendment of Act No. 66, 1902.** **5.** The Principal Act is amended in the manner set forth in Schedule 1.
- Savings and transitional provisions.** **6.** Schedule 2 has effect.
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Pawnbrokers (Amendment).

SCHEDULE 1.

Sec. 5.

AMENDMENTS TO THE PRINCIPAL ACT.

(1) Section 3—

Omit the section, insert instead :—

3. (1) In this Act, except in so far as the context or **Interpre-**
subject-matter otherwise indicates or requires— **tation.**

“article” means a chose in possession;

“district” means a district as for the time being
appointed under section 5 (1) (a) of the Justices
Act, 1902;

“holder”, in relation to a license, means the person
to whom the license has been issued;

“justice” means a justice of the peace;

“license” means a license that has been issued or
renewed under section 6 and that is in force;

“loan” means an advance of money upon loan;

“pawn ticket” means an instrument issued under
section 14 (1) or 15 (1);

“pawnbroker” means a person who carries on the
business of pawnbroking;

“regulations” means regulations made under this Act.

(2) For the purposes of this Act, a person—

(a) carries on the business of pawnbroking if—

(i) he takes an article in pawn;

(ii) he holds an article in pawn;

(iii) he accepts any payment made for the
purpose of wholly or partly discharging
any debt incurred by any other person
in relation to a loan made in respect of
an article held in pawn; or

Pawnbrokers (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- (iv) he represents himself as being prepared to take or hold an article in pawn or to accept any such payment;
- (b) takes an article in pawn if he takes possession of the article as security for the repayment of a loan made, or intended to be made, by or on behalf of him to the person by or on behalf of whom the article is delivered to him;
- (c) holds an article in pawn if he is in possession of an article that—
 - (i) has been taken in pawn; and
 - (ii) has not, since it was last taken in pawn, been redeemed or forfeited; or
- (d) puts an article into pawn if he delivers the article to another person as security for the repayment of a loan made, or intended to be made, by or on behalf of that other person to him or to the person on whose behalf he so delivers the article.

(3) In this Act, a reference to a pawn ticket for an article is a reference to a pawn ticket issued in respect of the article.

(4) For the purposes of the definition of “pawn ticket” in subsection (1), an instrument tendered to a person pursuant to section 14 (1) shall be treated as having been issued under section 14 (1) if, and only if, it is accepted by the person.

(2) (a) Section 4—

Omit “or advances” wherever occurring.

Pawnbrokers (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(b) Section 4—

Omit “rate of ten per centum”, insert instead “prescribed percentage”.

(3) Section 5—

Omit “trade or business of a pawnbroker”, insert instead “business of pawnbroking”.

(4) Section 6 (1)—

Omit the subsection, insert instead :—

(1) An application for a license shall—

- (a) be made in or to the effect of the prescribed form;
- (b) be accompanied by the prescribed fee;
- (c) specify the address of the place at which the applicant intends to carry on the business of pawnbroking pursuant to the license; and
- (d) be lodged, in the prescribed manner, with the clerk of a court of petty sessions for the district in which that place is situated.

(5) (a) Section 8 (1)—

Omit “his license”, insert instead “the license, or (where he is the holder of more than one license) each of the licenses of which he is the holder”.

(b) Section 8 (2)—

After “the license”, insert “or licenses”.

Pawnbrokers (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- (6) (a) Section 9 (1)—
Omit “house, shop, or other” wherever occurring.
- (b) Section 9 (1)—
Omit “in goods or chattels to”, insert instead “articles in”.
- (c) Section 9 (1)—
Omit “and every”.
- (d) Section 9 (2)—
Omit “premises” where firstly and thirdly occurring, insert instead “a place”.
- (e) Section 9 (2)—
Omit “premises” where secondly occurring, insert instead “place”.
- (f) Section 9 (2)—
Omit “those other premises” wherever occurring, insert instead “that other place”.
- (g) Section 9 (2)—
Omit “his”, insert instead “the firstmentioned”.
- (7) (a) Section 10—
Omit “trade or business of a pawnbroker”, insert instead “business of pawnbroking”.
- (b) Section 10—
Omit “house, shop, or tenement”, insert instead “place”.

Pawnbrokers (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(c) Section 10—

Omit “such trade or”, insert instead “that”.

(8) (a) Section 11 (1)—

Omit the subsection, insert instead :—

(1) A licensed pawnbroker shall cause to be displayed, and to be kept displayed—

- (a) in a conspicuous position on the outside of each place in respect of which he holds a license—his name and the words “licensed pawnbroker” in letters of the prescribed style and of not less than the prescribed size; and
- (b) in a conspicuous position inside each place in respect of which he holds a license—the license.

(b) Section 11 (2)—

Omit “such person”, insert instead “licensed pawnbroker”.

(9) (a) Section 12 (1)—

Omit the subsection, insert instead :—

(1) Forthwith upon his being requested by a member of the police force to do so—

- (a) a licensed pawnbroker shall produce for inspection by that member any license of which he is the holder;
- (b) a pawnbroker shall produce to that member any articles held in pawn by him; and

Pawnbrokers (Amendment).

SCHEDULE 1—*continued.*
AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- (c) a person shall produce to that member—
- (i) any record or copy thereof required by this Act to be retained by the person; and
 - (ii) any articles that have been held in pawn by the person and are in his possession.
- (b) Section 12 (2)—
Omit “such”.
- (10) (a) Section 13 (1) (d1)—
After section 13 (1) (d), insert :—
- (d1) such other particulars as may be required to be recorded by regulations made for the purposes of this paragraph;
- (b) Section 13 (2), (2A), (2B)—
Omit section 13 (2), insert instead :—
- (2) A licensed pawnbroker who causes a record to be made pursuant to subsection (1) shall cause the record to be given a number, the record in respect of the first article taken in pawn on or after 1st January in any year being given the number “1”, the second “2”, and so on throughout the year.
- (2A) When a pawnbroker has taken an article in pawn, he shall—
- (a) forthwith request the person who put the article into pawn to sign, in the prescribed manner, the record made pursuant to subsection (1) in respect of the article; and

Pawnbrokers (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(b) where that person fails to so sign that record, forthwith tender the article to that person.

(2B) A person required by subsection (1) to cause a record to be made shall retain the record or an accurate and legible copy thereof in such manner, and for such period, as may be prescribed.

(c) Section 13 (3)—

Omit “such pawnbroker”, insert instead “person”.

(11) Sections 14–16A—

Omit sections 14–16, insert instead :—

14. (1) When a licensed pawnbroker takes an article in pawn, he shall tender to the person who has put the article into pawn an instrument containing an accurate and legible copy of the record required by section 13 (1) to be made in respect of the article—

Pawn ticket
to be
tendered.

(a) bearing the same number as that given, pursuant to section 13 (2), to that record; and

(b) signed by the pawnbroker.

(2) When a person does not accept an instrument tendered to him in accordance with subsection (1), the pawnbroker who has taken in pawn the article in respect of which the instrument was so tendered shall tender that article to the person.

(3) A pawnbroker shall not make any charge in respect of the tendering of an instrument by him pursuant to subsection (1).

Pawnbrokers (Amendment).

 SCHEDULE 1—*continued.*

 AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

 Lost pawn
tickets.

15. (1) Subject to subsections (2) and (3), where a person furnishes to a licensed pawnbroker who holds an article in pawn a statement in writing to the effect that the person—

- (a) has mislaid or lost possession of a pawn ticket for the article (being a pawn ticket of which he was the lawful owner) under such circumstances as are specified in the declaration; and
- (b) would, had he not mislaid or lost possession of the pawn ticket, be entitled to redeem the article in accordance with this Act,

the pawnbroker shall, if the person so requests, issue to him a further instrument containing an accurate and legible copy of the record required by section 13 (1) to have been made in respect of the article—

- (c) bearing the same number as that given, pursuant to section 13 (2), to that record; and
- (d) signed by the pawnbroker.

(2) A pawnbroker shall not issue an instrument to any person pursuant to subsection (1) unless the person signs, in the prescribed manner, the record required by section 13 (1) to have been made in respect of the article.

(3) Nothing in subsection (1) requires a pawnbroker to issue an instrument in respect of an article to any person if the pawnbroker suspects, or has reasonable grounds to suspect, that—

- (a) the article has been stolen or otherwise unlawfully obtained; or
- (b) the person is not lawfully entitled to a pawn ticket for the article.

Pawnbrokers (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(4) A pawnbroker shall not make any charge in respect of the issue of an instrument by him pursuant to subsection (1).

16. (1) When a person furnishes a pawn ticket for an article to the licensed pawnbroker by whom the article is held in pawn, that pawnbroker shall, subject to subsections (2) and (3), permit the person to redeem the article. ^{Redemption of articles in pawn.}

(2) A pawnbroker shall not permit a person to redeem an article unless the person signs, in the prescribed manner, the record required by section 13 (1) to have been made in respect of the article.

(3) Nothing in subsection (1) requires a pawnbroker to permit a person to redeem an article held in pawn by the pawnbroker if—

- (a) the person has not furnished to him a pawn ticket for the article;
- (b) the pawnbroker has reasonable grounds to suspect that—
 - (i) the article; or
 - (ii) a pawn ticket furnished by the person to him for the purpose of obtaining delivery of the article,

has been stolen or otherwise unlawfully obtained;
or

- (c) the pawnbroker has reasonable grounds to suspect that, in permitting the article to be redeemed, he would be committing an offence.

Pawnbrokers (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

Pawnbroker
to notify
police in
certain
cases.

16A. When a pawnbroker suspects, or has reasonable grounds to suspect—

(a) that—

(i) an article taken in pawn that is in his possession; or

(ii) a pawn ticket furnished by a person to him for the purpose of obtaining delivery of any such article,

has been stolen or otherwise unlawfully obtained;

(b) that, in permitting an article to be redeemed, he would be committing an offence; or

(c) that a person who has furnished to him a statement in writing pursuant to section 15 (1) is not lawfully entitled to the pawn ticket to which the statement relates,

he shall forthwith inform a member of the police force of his suspicion, or of those grounds, as the case may be.

(12) (a) Section 17 (1)—

Omit “be sold”, insert instead “, subject to section 19 (1), be sold or otherwise disposed of, unless it has previously been redeemed”.

(b) Section 17 (2)—

Omit the subsection.

(13) (a) Section 18—

After “pretence,”, insert “displays in public view, displays or”.

Pawnbrokers (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(b) Section 18—

After “to be”, insert “displayed in public view, displayed or”.

(14) (a) Section 19 (1)—

Omit “sum above \$10 has been lent,”, insert instead “loan exceeding the prescribed amount has been made”.

(b) Section 19 (1)—

Omit “, and not otherwise”.

(15) (a) Section 22 (1), (1A)—

Omit section 22 (1), insert instead :—

(1) When a pawnbroker sells or otherwise disposes of an article that has been held in pawn by him, he shall cause a record to be made, in or to the effect of the prescribed form and within such period as may be prescribed, of such particulars in relation to the article, and its disposal, as may be required to be recorded by regulations made for the purposes of this subsection.

(1A) A person required by subsection (1) to cause a record to be made shall retain the record or an accurate and legible copy thereof in such manner, and for such period, as may be prescribed.

(b) Section 22 (2)—

Omit “pawnbroker”, insert instead “person”.

Pawnbrokers (Amendment).

 SCHEDULE 1—*continued.*

 AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(16) Section 23—

Omit the section, insert instead :—

 Inspection
of certain
records.

23. (1) Subject to subsection (2), when a person furnishes a pawn ticket for an article to a pawnbroker or former pawnbroker who—

- (a) has held the article in pawn; and
- (b) has permitted the article to be redeemed or has sold or otherwise disposed of the article,

the pawnbroker or former pawnbroker, as the case may be, shall, if the person so requests, forthwith produce for inspection by the person—

- (c) where the article has been redeemed—the record required by section 13 (1) to have been made in respect of the article, or an accurate and legible copy thereof; or
- (d) where the article has been sold or otherwise disposed of—the record required by section 22 (1) to have been made in respect of the article, or an accurate and legible copy thereof.

(2) Nothing in subsection (1) requires a person to produce a record made in respect of an article pursuant to section 13 (1) or 22 (1), or any copy thereof, unless the request referred to in subsection (1) is made before the expiration of the period prescribed under section 13 (2B) or 22 (1A), as the case may be, in respect of the record or copy.

(3) A person shall not make any charge in respect of the inspection by any other person pursuant to subsection (1) of any record made in respect of an article pursuant to section 13 (1) or 22 (1), or any copy thereof.

Pawnbrokers (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(4) Any person who offends against the provisions of this section shall for every such offence be liable to a penalty not exceeding \$100.

(17) (a) Section 26 (1)—

Omit “No licensed pawnbroker shall receive, or take in, or permit, or suffer to be received or taken in, any goods or chattels by way of pawn, pledge, or in exchange, before eight of the clock in the forenoon,”, insert instead “ A licensed pawnbroker shall not take any article in pawn before 8 a.m.”.

(b) Section 26 (2)—

Omit “such” where firstly occurring, insert instead “licensed”.

(18) (a) Section 27 (1)—

Omit “No pawnbroker shall in any way exercise or carry on his trade or business as such pawnbroker”, insert instead “No person shall carry on the business of pawnbroking”.

(b) Section 27 (2)—

Omit “pawnbroker”, insert instead “person”.

(19) Sections 28, 29—

Omit the sections.

Pawnbrokers (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(20) (a) Section 30 (a), (b)—

Omit the paragraphs, insert instead :—

(a) offers to put an article into pawn with a licensed pawnbroker; or

(b) seeks to redeem any article held in pawn by a licensed pawnbroker,

(b) Section 30—

Omit “pledged, pawned, exchanged, sold”, insert instead “put into pawn”.

(c) Section 30 (2)—

At the end of section 30, insert :—

(2) Any person who, for the purpose of obtaining a pawn ticket under section 15 (1), furnishes to a licensed pawnbroker a statement in writing that is, without reasonable excuse, false or misleading in a material particular is liable to a penalty not exceeding \$200.

(21) Section 31—

Omit “under this Act”.

(22) (a) Section 32—

Omit “trade or business of a pawnbroker”, insert instead “business of pawnbroking”.

(b) Section 32—

Omit “such trade or”, insert instead “that”.

Pawnbrokers (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- (c) Section 32—
Omit “within the meaning of this Act”.
- (23) (a) Section 33—
Omit “, not holding a license,”.
- (b) Section 33—
Omit “his house, shop, or premises”, insert instead
“any place”.
- (c) Section 33—
Omit “such shop, house, or premises is or are the
house, shop, or premises of a licensed pawnbroker
shall”, insert instead “the business of pawnbroking
is carried on at that place shall, unless he is the holder
of a license in respect of that place,”.
- (24) (a) Section 34 (1)—
Omit “having obtained a license”, insert instead “,
being the holder of a license,”.
- (b) Section 34 (1)—
Omit “carrying on business as a pawnbroker”, insert
instead “the carrying on by that other person of the
business of pawnbroking”.
- (c) Section 34 (2)—
Omit “his license void, and such license”, insert instead
“void the licenses of which he is the holder, and those
licenses”.

Pawnbrokers (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- (d) Section 34 (3)—
Omit “granted”, insert instead “issued”.
- (25) Sections 35, 36—
Omit the sections.
- (26) (a) Section 37—
Omit “disposal record” wherever occurring, insert instead “record”.
- (b) Section 37—
Omit “duplicate,” wherever occurring.
- (27) Section 38 (1)—
Omit “pledged,”.
- (28) Section 39 (1)—
Omit “, pledged,” wherever occurring.
- (29) Section 40—
After “against”, insert “, or fails or neglects to comply with, any of”.
- (30) Section 41—
Omit “pawnbroker”, insert instead “defendant”.
- (31) Section 44—
Omit “constable,”, insert instead “member of the police force”.

Pawnbrokers (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(32) (a) Section 46 (2) (b)—

Omit “licenses;”, insert instead “licenses; and”.

(b) Section 46 (2) (c)—

Omit section 46 (2) (c) and (d), insert instead :—

(c) prescribing the requirements to be observed by a pawnbroker in relation to the storage of articles held in pawn by him.

SCHEDULE 2.

Sec. 6.

SAVINGS AND TRANSITIONAL PROVISIONS.

1. In this Schedule—

Interpre-
tation.

“amended Act” means the Principal Act, as amended by this Act;

“commencement” means the commencement of this Schedule.

2. Any application for a license that has not been granted or refused after its having been made under section 6 (1) of the Principal Act before the commencement shall, on the commencement, be deemed to be an application for a license under section 6 (1) of the amended Act.

Continua-
tion of
certain
applications
for licenses.

3. (1) Any book, loose-leaf or card in or on which particulars have been recorded in respect of an article under section 13 (1) or (2) of the Principal Act before the commencement shall be deemed to be an instrument containing a record made in respect of the article pursuant to and in accordance with section 13 (1) or (2) of the amended Act.

Saving
of
certain
records.

Pawnbrokers (Amendment).

SCHEDULE 2—*continued.*SAVINGS AND TRANSITIONAL PROVISIONS—*continued.*

(2) Any book, loose-leaf or card in or on which particulars have been recorded in respect of an article under section 22 (1) of the Principal Act before the commencement shall be deemed to be an instrument containing a record made in respect of the article pursuant to and in accordance with section 22 (1) of the amended Act.

Certain
duplicates
deemed to
be pawn
tickets.

4. Any duplicate given pursuant to section 14, or any copy of a duplicate delivered pursuant to section 15, of the Principal Act before the commencement shall be deemed to be a pawn ticket issued under section 14 (1) or 15 (1), as the case may be, of the amended Act.
