

SECOND-HAND DEALERS ACT, 1919-1971**SUMMARY OF PROVISIONS**

Section

- 1 Short title.
- 2 Commencement of Act.
- 3 Interpretation.
- 4 Act not to apply in certain cases.
- 5 No person to carry on business of second-hand dealer without a licence.
- 6 Application for licence.
- 6a Partnership businesses.
- 6b Companies as second-hand dealers.
- 7 Objections to application.
- 8 Hearing of application.
- 8a Companies—change of manager.
- 8b Offences by companies.
- 9 Duration of licence.
- 9a Renewal of licences.
- 9b Grounds for objection.
- 10 Revocation of licence.
- 11 Lost licence.
- 12 Fees.
- 13 Licence to cease if business premises assigned, &c.
- 14 Registers of particulars of licences.
- 15 Dealer to produce licence.
- 16 Licensee to keep name, &c., painted on premises.
- 17 Hours of business.
- 18 Licensee not to purchase from person under 18.
- 19 Book to be kept showing purchases of second-hand goods.
- 20 Production of book and goods on demand.
- 21 Dealer to keep goods unaltered and unsold for four days, and on notice by police for a further five days, etc.
- 22 Unlicensed person pretending to be licensed.
- 23 Governor may make regulations.
- 24 Licensee to produce licence to court.
- 25 Cancellation of licence on conviction.
- 26 Court may determine question of apparent age.
- 27 Entries in dealer's book deemed to be made by him.
- 28 Court may order delivery of stolen goods to owner on terms.
- 29 Presumption as to possession.
- 30 Presumption that person unlicensed.
- 31 Inspectors, etc., may visit dealers' premises.
- 32 Constable may be authorized to search dealer's premises.
- 33 Suspicious offering of goods.
- 34 Summary proceedings for offences.
- 35, 36 (Repealed).

SECOND-HAND DEALERS ACT, 1919-1971

being

Second-hand Dealers Act, 1919, No. 1401 of 1919 [Assented to 27th November, 1919]¹;

as amended by

Second-hand Dealers Act Amendment Act, 1923, No. 1552 of 1923 [Assented to 3rd October, 1923];
 Statute Law Revision Act, 1934, No. 2168 of 1934 [Assented to 15th November, 1934];
 Second-hand Dealers Act Amendment Act, 1949, No. 41 of 1949 [Assented to 24th November, 1949];
 Second-hand Dealers Act Amendment Act, 1950, No. 41 of 1950 [Assented to 30th November, 1950];
 Second-hand Dealers Act Amendment Act, 1958, No. 19 of 1958 [Assented to 23rd October, 1958];
 Second-hand Dealers Act Amendment Act, 1963, No. 49 of 1963 [Assented to 28th November, 1963]²;
 Second-hand Dealers Act Amendment Act, 1964, No. 33 of 1964 [Assented to 22nd October, 1964];

and

Second-hand Dealers Act Amendment Act, 1971, No. 66 of 1971 [Assented to 21st October, 1971].

An Act to regulate the buying and selling of goods by second-hand dealers, and for purposes incidental thereto or consequent thereon.

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

1. This Act may be cited as the "Second-hand Dealers Act, 1919-1971". Short title.
Citation
amended by 66,
1971, s. 1 (2).

2. This Act shall come into operation on a day to be fixed by proclamation¹. Commence-
ment of Act.

3. (1) In this Act, unless some other meaning is clearly intended— Interpretation.
S. 3
redesignated
s. 3 (1) by 49,
1963, s. 3².

"applicant" means applicant for the grant or renewal or transfer of a licence: Def. amended
by 1552, 1923,
s. 4 (a).

"business" includes trade or occupation:

"licence" means licence under this Act:

"licensee" means a person who holds a licence, whether solely or jointly with any other person with whom he carries on business as a second-hand dealer: Def. substituted
by 49, 1963,
s. 3 (a)².

"public holiday" means any day, other than the day after Good Friday, which is by or under The Holidays Act, 1910-1959³, declared to be a public holiday: Def. inserted by
33, 1964, s. 3.

"manager", in relation to a company, means a person nominated by the company under section 6b or 8a of this Act to be the manager at any premises: Def. inserted by
49, 1963, s. 3
(a)².

¹ Came into operation 12th August, 1920: *Gaz.* 12th August, 1920, p. 315.

² For operation of amendments made by Act No. 49 of 1963 see s. 13 of that Act.

³ Now Holidays Act, 1910-1975.

N.S.W., 30,
1906, s. 2.

“second-hand dealer” means any person who carries on the business of dealing in, or of buying and selling, any second-hand goods, whether or not such person deals in any other goods:

Vic., 2992,
1918, s. 2.

“second-hand goods” means any goods which have been used, worn, or otherwise employed and which have not been exempted by the regulations, or are not of any of the classes or kinds so exempted:

The verb to sell, in whatever person, number, tense, mood, or voice it is used, includes—

- I. to barter or exchange;
- II. to agree to sell, barter, or exchange;
- III. to offer, expose, store, have in possession, send, or deliver for or on sale;
- IV. to receive for sale;
- V. to cause or suffer to be sold, bartered, or exchanged, or to be agreed to be sold, bartered, or exchanged;
- VI. to cause or suffer to be offered, exposed, stored, had in possession, sent, or delivered for or on sale;
- VII. to cause or suffer to be received for sale; and
- VIII. to attempt to do any of such acts or things;

and all participles of the verb to sell, and the noun “sale”, have corresponding connotations:

The verb to buy, in whatever person, number, tense, mood, or voice it is used, includes to receive or accept under a sale or agreement to sell, and to offer to receive or accept, or cause or suffer to be received or accepted, under a sale or agreement to sell; and all participles of the verb to buy have corresponding connotations.

Subsec. (2)
inserted by 49,
1963, s. 3 (b)¹.

(2) The express references to companies in this Act shall not imply that references to persons or references to licensees shall exclude references to companies.

Act not to
apply in certain
cases.

4. (1) Nothing in this Act shall affect any duties, rights, privileges, liabilities, or obligations—

- (a) under the Auctioneers Act, 1934², of any person holding a licence under that Act;
- (b) under the Pawnbrokers Act, 1888³, of any person holding a pawnbroker’s licence under that Act; or
- (c) under the Marine Stores Act, 1898-9⁴, of any person holding a collector’s or a dealer’s licence under that Act.

(2) Nothing in this Act shall affect any duties, rights, privileges, liabilities, or obligations arising under any of the provisions of the Gold Buyers Act, 1916⁵.

¹ For operation of amendments made by Act No. 49 of 1963 see s. 13 of that Act.

² In a previous reprint of this Act pursuant to the Acts Republication Act, 1934, the expression “Auctioneers Act, 1862” had been altered to “Auctioneers Act, 1934” (now Auctioneers Act, 1934-1961).

³ Now Pawnbrokers Act, 1888-1975.

⁴ Now Marine Stores Act, 1898-1975.

⁵ Now Gold Buyers Act, 1916-1967.

5. After the expiration of three months from the commencement of this Act any person who, not being a licensee, carries on the business of a second-hand dealer or, being a licensee, carries on the business of a second-hand dealer at premises other than the premises in respect of which his licence is granted, shall be liable to a penalty of not more than one hundred dollars¹.

No person to carry on business of second-hand dealer without a licence.
S. 5 amended by 49, 1963, s. 12 (Sched.).

6. (1) Any person who desires to obtain a licence, or the transfer of a licence to any other person or premises, shall give or send by post to the clerk of the local court nearest to the premises where such person proposes to carry on business, and to the Commissioner of Police—

Application for licence.

(a) notice in the prescribed form of his intention to apply for such licence or transfer; and

(b) a certificate of character in the prescribed form signed by two reputable householders residing in the city, town, township or district wherein the applicant resides or wherein he proposes to carry on business.

Para. (b) substituted by 19, 1958, s. 3.

(1a) In the case of an application by a company, a certificate of character under paragraph (b) of subsection (1) shall relate to the manager.

Subsec. (1a) inserted by 49, 1963, s. 4².

(2) Every application for the transfer of a licence shall be made by the proposed transferee, with the written consent of the licensee.

6a. (1) Where two or more persons propose to carry on business jointly as second-hand dealers—

Partnership businesses.
S. 6a enacted by 49, 1963, s. 5².

(a) Each such person shall make a joint application in the prescribed form for a licence;

(b) Only one licence shall be granted in respect of that business;

(c) The licence shall specify each such person; and

(d) Each such person shall for the purposes of this Act and subject to this Act be deemed to be a licensee.

(2) The provisions of subsection (1) shall extend to a renewal or transfer of a licence.

(3) Where a licensee is required by any provision of this Act to produce a licence, to give a notice, to mark any second-hand goods or to do any other act, it shall be sufficient if any of the persons carrying on the business jointly complies with that provision.

6b. Where a company proposes to carry on business as a second-hand dealer at any premises, the company shall make a nomination in the prescribed form of a person to be the manager at those premises, being a person who—

Companies as second-hand dealers.
S. 6b enacted by 49, 1963, s. 5².

(a) is at all times in the service of the company;

(b) personally supervises the business conducted at those premises; and

(c) has his usual place of residence within the State.

7. The Commissioner of Police or any person authorized by him may, at the hearing of any application for the grant or renewal or transfer of a licence, show cause why such application should not be granted.

Objections to application.
S. 7 amended by 1552, 1923, s. 4 (b).

¹ Pursuant to s. 8 of the Acts Republication Act, 1967, as amended, references to amounts of money expressed in decimal currency substituted for references to amounts of money expressed in the old currency.

² For operation of amendments made by Act No. 49 of 1963 see s. 13 of that Act.

Hearing of
application.
Subsec. (1)
substituted by
49, 1963, s. 6¹.

8. (1) A local court to which any such application is made shall consider the application and any objections thereto.

Subsec. (1a)
inserted by 49,
1963, s. 6¹.

(1a) If the court is satisfied—

- (a) where the applicant is a natural person—that the applicant is a fit and proper person to hold a licence; or
- (b) where the applicant is a company—that the person nominated to be manager is a fit and proper person to carry on the business of a second-hand dealer,

and that the premises where the applicant proposes to carry on business are suitable for the business of a second-hand dealer, the court shall, subject to subsection (1b)—

- I. grant to the applicant a licence in the prescribed form; or
- II. endorse on the licence the fact and date of the transfer, and the name and description of the person to whom, or the description of the premises to which, the licence is transferred,

as the case may require.

Subsec. (1b)
inserted by 49,
1963, s. 6¹.

(1b) Where the applicant is a company, the court shall refuse to grant the application or the renewal or transfer of a licence if it is of opinion that—

- (a) the general manager or other principal officer of the company; or
- (b) any person who in the opinion of the court substantially controls the affairs of the company,

is not a fit and proper person to carry on the business of a second-hand dealer.

(2) Any person named as the transferee in, or the premises described in, any such endorsement shall for all purposes be deemed to be the person to whom, or the premises in respect of which, the licence was granted.

Companies—
change of
manager.
S. 8a enacted by
49, 1963, s. 7¹.

8a. (1) This section shall apply to a licence held by a company.

(2) In the event of—

- (a) the death of the manager nominated by the company;
- (b) the manager ceasing to be at all times in the service of the company;
- (c) the manager ceasing to personally supervise the business conducted at the premises specified in the licence; or
- (d) the manager ceasing to have his usual place of residence within the State,

the company shall, within fourteen days after any such event—

- I. give notice in writing of that event to the clerk of the court that granted the licence and to the Commissioner of Police; and
- II. specify in the notice the name of a person nominated to be the new manager.

(3) The company may at any time revoke any nomination under this Act by notice in writing to the clerk of the court that granted the licence and to the Commissioner of Police, and shall within fourteen days after any such revocation nominate a person to be the new manager.

¹ For operation of amendments made by Act No. 49 of 1963 see s. 13 of that Act.

(4) The provisions of this Act shall apply in relation to a nomination of a new manager under this section as if the nomination were an application for a licence by the company.

(5) The validity of the licence held by the company is not affected by reason only of the occurrence of an event specified in subsection (2) or a revocation of a nomination under subsection (3).

(6) A notice under subsection (2) shall be *prima facie* evidence of the facts stated in the notice.

8b. (1) Except as provided by section 8a of this Act, a company, being a licensee, shall not carry on business as a second-hand dealer at any premises unless in respect of those premises there is a manager who complies with the requirements of section 6b of this Act.

Offences by companies.
S. 8b enacted by 49, 1963, s. 7¹.

Penalty: One hundred dollars².

(2) In a prosecution for an offence against subsection (1), an allegation in the complaint that a person does not have his usual place of residence within the State shall be *prima facie* evidence of that fact.

9. A licence shall, unless sooner revoked or cancelled as hereinafter provided, be in force from the date specified therein up to and including the thirty-first day of December in the year for which the same is granted and no longer.

Duration of licence.

9a. (1) Any licensee who desires to renew his licence may give or send by post to the clerk of the local court nearest to the premises in respect of which the licence was granted and to the Commissioner of Police notice in the prescribed form of his intention to apply for such renewal. The notice shall be given or sent at least twenty-eight days before the day specified in the notice as the day upon which the licensee intends to make the said application.

Renewal of licences.
Cf. Vic., 3064, 1920, s. 2.
S. 9a enacted by 1552, 1923, s. 3; as amended by 2168, 1934, s. 4 (2nd Sched.).

(2) If the Commissioner of Police proposes, at the hearing of any such application, to show cause why the application should not be granted, he shall give to the licensee at least seven days' notice of his objection to the application, and of the grounds thereof. Such notice shall be given by being delivered or served personally or by being sent by post by letter addressed to the licensee at the premises in respect of which the licence was granted.

(3) The local court to which any such application is made shall consider the application and any objections thereto, and may grant or refuse the application upon any ground which, entirely in the exercise of its discretion, it deems sufficient.

(4) No licensee shall be required to attend the court for the purpose of procuring a renewal of his licence unless notice of objection to the application, stating the grounds thereof, has been given as provided by this section.

(5) The renewal of any licence shall be in the prescribed form, and be made in the prescribed manner.

(6) Any licence renewed as provided by this section shall, unless sooner revoked or cancelled as provided by this Act, remain in force up to and including the thirty-first day of December next after the day on which, but for such renewal, it would have expired.

¹ For operation of amendments made by Act No. 49 of 1963 see s. 13 of that Act.

² Pursuant to s. 8 of the Acts Republication Act, 1967, as amended, references to amounts of money expressed in decimal currency substituted for references to amounts of money expressed in the old currency.

(7) Licences may be renewed as provided by this section from time to time.

Subsec. (8)
inserted by 41,
1950, s. 2.

(8) If at least twenty-eight days before the thirty-first day of December in any year, a licensee gives notice in accordance with subsection (1) of his intention to apply for the renewal of his licence but the application for the renewal is not determined on or before such thirty-first day of December, the licence shall, notwithstanding anything to the contrary in this Act, be deemed to be extended until the application is disposed of by the court in accordance with this Act.

Grounds for
objection.
S. 9b enacted by
41, 1949, s. 2.

9b. Any objection to the grant or renewal of a licence may (without limitation of any other ground of objection) be upon one or more of the following grounds:—

- I. That, in the case of an application by a company, any of the directors or the manager of the company has been convicted of an offence against this Act or has been guilty of such conduct as to make it undesirable that a licence should be granted or renewed:
- II. That any employee of the applicant has been convicted of an offence against this Act or has been guilty of such conduct as to make it undesirable that a licence should be granted or renewed, as the case may be.

Revocation of
licence.

10. (1) The Commissioner of Police or any person authorized by him may apply to the local court nearest to the premises in respect of which a licence was granted for the revocation of such licence.

(2) At least fourteen days' notice of the hearing of such application and of the grounds thereof shall be given to the licensee. Such notice shall be given by being delivered or served personally or by being sent by post by letter addressed to the licensee at the premises in respect of which the licence was granted.

Subsec. (3)
substituted by
41, 1949, s. 3.

(3) A licence may be revoked upon any of the following grounds, namely:—

- I. That the licensee has been convicted of any offence against this Act:
- II. That the licensee is not a fit and proper person to continue any longer to be licensed:
- III. Where a licence is held by a company, that any of the directors of the company or the manager thereof has been convicted of an offence against this Act or has been guilty of any conduct which, in the court's opinion, would justify it revoking the licence:
- IIIA. Where a licence is held by a company, that the manager has ceased to comply with the requirements of section 6b of this Act or is no longer a fit and proper person to carry on the business of a second-hand dealer:
- IV. That the licensee has employed in the business of the licensee any person who has been convicted of an offence against this Act or who has been guilty of such conduct as to make it desirable that the licence should be revoked:
- V. That the premises of the licensee are not suitable for the carrying on of the business of a second-hand dealer.

Para. IIIa
inserted by 49,
1963, s. 8 (a)¹.

¹ For operation of amendments made by Act No. 49 of 1963 see s. 13 of that Act.

(4) If, in the case of a licence granted to two or more persons under section 6a of this Act, the court is satisfied that any of the grounds specified in subsection (3) of this section is established in relation to any such person, the court may revoke the licence in respect of all the licensees.

Subsec. (4)
inserted by 49,
1963, s. 8 (b)¹.

11. (1) Upon the application of the licensee, and upon being satisfied that a licence has been lost or destroyed, any local court may issue to the licensee a duplicate licence bearing all the memoranda endorsed on the original licence.

Lost licence.

(2) Such duplicate licence shall avail for all purposes as if it were the original licence.

12. (1) There shall be payable by licensees for every licence or renewal or transfer of a licence or duplicate licence granted or issued under this Act such fees as may be prescribed.

Fees.
Subsec. (1)
amended by
1552, 1923,
s. 4 (c).

(2) No licence, renewal of a licence, transfer of a licence, or duplicate licence shall have any force or effect until the fee prescribed for the same has been paid to the clerk of the court granting or issuing the same.

Subsec. (2)
amended by
1552, 1923,
s. 4 (c).

(3) Any fees payable in respect of a licence granted to two or more persons under section 6a of this Act shall be the same as if the licence were granted to a single person.

Subsec. (3)
inserted by 49,
1963, s. 9¹.

13. If any licensee assigns, demises, or parts with the possession of the premises in respect of which the licence is granted, the licence shall thereupon cease and become void, unless transferred to some other premises or to some other person in manner provided by this Act.

License to
cease if
business
premises
assigned, &c.

14. (1) The clerk of the local court in which any licence is granted, renewed, transferred, revoked, or cancelled shall—

Registers of
particulars of
licences.

(a) enter the particulars of the same in a register, and

Subsec. (1)
amended by
1552, 1923,
s. 4 (d).

(b) without delay send a copy of such entries to the Commissioner of Police, who shall cause the same to be entered in a register to be kept at his office and at any other place which may be prescribed.

(2) On payment of a fee of ten cents² any person may inspect any such register and may take a copy of any entry therein.

15. Every licensee shall, on demand at the premises upon which he carries on his business, produce his licence to any member of the police force, and in default thereof without reasonable excuse shall be liable to a penalty of not more than twenty dollars².

Dealer to
produce licence.
S. 15 amended
by 49, 1963,
s. 12 (Sched.)¹.

16. (1) Every licensee shall at all times keep conspicuously painted or otherwise marked on the premises on which he carries on the business of a second-hand dealer, in such manner and situation as may be prescribed,

Licensee to
keep name,
&c., painted on
premises.
Subsec. (1)
amended by 49,
1963, s. 10¹.

(a) in the case of a licensee who is a natural person, the full name of the licensee and the words "Licensed Second-hand Dealer"; or

Para. (a)
inserted by 49,
1963, s. 10¹.

¹ For operation of amendments made by Act No. 49 of 1963 see s. 13 of that Act.

² Pursuant to s. 8 of the Acts Republishing Act, 1967, as amended, references to amounts of money expressed in decimal currency substituted for references to amounts of money expressed in the old currency.

Para. (b)
inserted by 49,
1963, s. 10¹.

(b) in the case of a company, the name of the company, the Christian names and surname of the manager at those premises and the words "Licensed Second-hand Dealer",

and, if two or more persons are carrying on the business jointly, the particulars shall relate to each of those persons.

Subsec. (2)
amended by 49,
1963,
s. 12 (Sched.)¹.

(2) Every licensee who does not comply with the provisions of this section shall be liable to a penalty of not more than ten dollars² for every day during which such non-compliance exists.

Hours of
business.
Subsec. (1)
amended by 66,
1971, s. 2 (a).

17. (1) Subject to subsection (1a) of this section, a licensee shall not buy or sell second-hand goods—

(a) on any Sunday or public holiday; or

(b) on any other day except—

Subpara. I
amended by
2168, 1934, s. 4
(2nd Sched.);
66, 1971,
s. 2 (b).

I. during the hours when his premises may be kept open pursuant to Part XV of the Industrial Code, 1967-1970³; or

Subpara. II
substituted by
66, 1971,
s. 2 (c).

II. if his premises are not a shop to which that Part applies, during the hours when shops in the locality, in which his premises are situated, are open for business.

Subsec. (1a)
inserted by 66,
1971, s. 2 (d).

(1a) It shall not be a contravention of this section for a licensee to buy or sell second-hand goods, not being a motor vehicle as defined for the purposes of the Motor Vehicles Act, 1959-1971⁴, on any Sunday or public holiday at his premises where those premises are situated outside a shopping district as defined for the purposes of the Industrial Code, 1967-1970³.

Subsec. (2)
amended by 49,
1963, s. 12
(Sched.)¹.

(2) Any licensee who is guilty of any contravention of this section shall be liable to a penalty of not more than forty dollars².

Licensee not to
purchase from
person under
18.
S. 18 amended
by 49, 1963,
s. 12 (Sched.)¹.

18. Any licensee who buys or receives any second-hand or other goods from any person apparently under the age of eighteen years shall be liable to a penalty not exceeding forty dollars².

Book to be kept
showing
purchases of
second-hand
goods.

19. (1) Every licensee shall forthwith upon any second-hand goods being bought by him or received into his custody or possession, enter in the prescribed manner in a book (to be called a "purchases book") to be kept by him on his premises the prescribed particulars of the transaction, and shall have such entry signed as prescribed.

(2) Such particulars shall include—

(a) a proper and distinctive description of each article bought or received by him;

(b) the name and place of abode of the person from whom he bought or received the article;

(c) the date and hour of the day of each transaction;

(d) the price paid or agreed to be paid for the article, or the goods exchanged or agreed to be exchanged therefor; and

(e) any other prescribed matters.

¹ For operation of amendments made by Act No. 49 of 1963 see s. 13 of that Act.

² Pursuant to s. 8 of the Acts Republication Act, 1967, as amended, references to amounts of money expressed in decimal currency substituted for references to amounts of money expressed in the old currency.

³ Now Industrial Code, 1967-1972.

⁴ Now Motor Vehicles Act, 1959-1975.

(3) Where articles of the same kind, value, and description are on any particular occasion bought or received in a lot or parcel, it shall be sufficient to describe such lot or parcel without describing each of the several articles comprising the same.

(4) In the case of second-hand goods bought by a licensee at auction, the insertion in the purchases book of a receipt from the auctioneer for the price paid for the goods, containing the prescribed particulars and signed in the prescribed manner by the auctioneer, shall be deemed to be a sufficient entry for the purposes of this section.

(5) Any person who neglects or fails to make any entry required by this section to be made by him, or to have any such entry, when made, signed as prescribed, or who wilfully makes, or causes to be made, or signs, any false entry in any purchases book required by this Act to be kept by the licensee, shall be liable to a penalty of not more than two hundred dollars².

Subsec. (5)
amended by 49,
1963, s. 12
(Sched.)¹.

(6) Any person who makes, or causes to be made, or signs, in such book any incomplete or defective entry shall be liable to a penalty of not more than forty dollars².

Subsec. (6)
amended by 49,
1963, s. 12
(Sched.)¹.

20. (1) Every licensee shall, upon request, produce to any member of the police force, during all reasonable hours in the daytime, any purchases book and any second-hand goods then in his possession.

Production of
book and goods
on demand.

(2) Any licensee who is guilty of any contravention of or failure to comply with any of the provisions of this section shall be liable for a first offence to a penalty of not more than forty dollars², and for every subsequent offence to a penalty of not more than one hundred dollars².

Subsec. (2)
amended by 49,
1963, s. 12
(Sched.)¹.

21. (1) Every licensee—

(a) shall keep all second-hand goods bought or received by him without changing the form in which they were when so bought or received and without disposing of the same in any way, for a period of four days after they have been bought or received; and, if within such period a notice signed by a member of the police force of or above the rank of sergeant is served on him stating that a member of the police force has reason to believe that certain of such goods described in the notice have been stolen or unlawfully obtained, such licensee shall keep the goods so described for a further period not exceeding five days after the expiration of the first-mentioned four days;

Dealer to keep
goods unaltered
and unsold for
four days, and
on notice by
police for a
further five
days, etc.

(b) shall without delay give notice to the officer on duty at the police station nearest to the premises where he carries on business of any article which may come into his possession answering the description of any article described as having been stolen or unlawfully obtained, in any written or printed information given to him by any member of the police force;

(c) shall mark all second-hand goods bought or received with a serial number corresponding to the serial number for such goods shown in the purchases book. Such serial number shall be clearly marked on all such goods at all times whilst they are in the possession of the licensee.

Para. (c)
inserted by 19,
1958, s. 4.

¹ For operation of amendments made by Act No. 49 of 1963 see s. 13 of that Act.

² Pursuant to s. 8 of the Acts Republishing Act, 1967, as amended, references to amounts of money expressed in decimal currency substituted for references to amounts of money expressed in the old currency.

Subsec. (2)
amended by 49,
1963, s. 12
(Sched.)¹.

(2) Every licensee shall for any contravention of or failure to comply with any of the provisions of this section be liable for a first offence to a penalty of not more than one hundred dollars², and for any subsequent offence to a penalty of not more than two hundred dollars².

Unlicensed
person
pretending to be
licensed.
S. 22 amended
by 49, 1963,
s. 12 (Sched.)¹.

22. Any person who, not being a licensee—

- (a) takes, uses, or exhibits the name or title of, or in any way pretends to be, a licensee; or
- (b) takes, uses, or exhibits any title or term which may be construed to mean that he is qualified to carry on the business of a second-hand dealer or that he is willing to act in that capacity,

shall be liable to a penalty not exceeding one hundred dollars².

Governor may
make
regulations.

23. (1) The Governor may make regulations—

- (a) prescribing that any goods or any class or kind of goods which, or any part or parts of which, have been used, worn, or otherwise employed shall, for the purposes of this Act, be deemed to be second-hand goods, or exempting any second-hand goods or any class or kind of second-hand goods from the operation of this Act and prescribing the extent of such exemption;
- (b) exempting any particular second-hand dealer, or any class or kind of second-hand dealers, from the operation of this Act and prescribing the extent of such exemptions;
- (c) prescribing the mode and manner in which registers and purchases books are to be kept and the entries to be made therein, and the mode and manner in which such entries are to be made and signed, and the places where register-books are to be kept;
- (d) prescribing the forms of applications for licences, for the renewal of licences, and for the transfer of licences, the forms of licences, of renewals of licences, and of endorsements on licences, and the forms of orders, notices, books, and registers with such modifications as may be necessary in the case of a company or in the case of two or more persons carrying on business jointly as second-hand dealers;
- (e) altering any forms prescribed;
- (f) prescribing the manner and situation in which the Christian names and surnames of licensees shall be painted or marked on the premises on which they carry on the business of second-hand dealers;
- (fa) in the case of a company—prescribing the manner and situation in which the name of the company and of the manager at the premises on which it carries on the business of a second-hand dealer shall be painted or marked on those premises;
- (g) prescribing all other things which this Act requires or permits to be prescribed or contemplates will be prescribed.

Para. (d)
amended by
1552, 1923,
s. 4 (e); 49,
1963, s. 11 (a)¹.

Para. (fa)
inserted by 49,
1963, s. 11 (b)¹.

Subsec. (2)
amended by 49,
1963, s. 12
(Sched.)¹.

(2) Any such regulations may fix penalties, not exceeding in any case the sum of one hundred dollars², for any breach of the same or any other regulation.

¹ For operation of amendments made by Act No. 49 of 1963 see s. 13 of that Act.

² Pursuant to s. 8 of the Acts Republishing Act, 1967, as amended, references to amounts of money expressed in decimal currency substituted for references to amounts of money expressed in the old currency.

24. (1) In all proceedings under this Act—

- (a) for the transfer or revocation of a licence, or
- (b) against a licensee for an offence against this Act,

the licensee shall produce his licence to the special magistrate or justices hearing the case.

(2) Every licensee who fails to produce his licence as required by this section shall be liable to a penalty not exceeding forty dollars¹.

Licensee to produce licence to court.

Subsec. (2) amended by 49, 1963, s. 12 (Sched.)².

25. The special magistrate or justices before whom a licensee is convicted of an offence against this Act may, in addition to any penalty imposed, cancel the licence by endorsing thereon a memorandum of such conviction; and in such case the licence shall be surrendered to the clerk of the court.

Cancellation of licence on conviction.

26. Where in any proceedings in respect of any offence against this Act any question of apparent age arises, the special magistrate or justices may determine such question on their own view, or on evidence, whether of opinion or fact, but before so determining they shall hear and consider the evidence (if any) tendered for all parties.

Court may determine question of apparent age. Cf. Vic. 2992, 1918, s. 24.

27. Every entry in any book kept by or belonging to any licensee shall be deemed, unless the contrary is shown, to have been made by, or with the authority of, the licensee.

Entries in dealer's book deemed to be made by him. Cf. 716, 1898-9, s. 19.

28. (1) Where any person is convicted in any court of any offence with respect to any goods in the custody or possession of a licensee, the court, on proof of the ownership of the goods, may, if it thinks fit, order the delivery thereof to the owner, either on payment to the licensee of the price paid by the licensee for the goods or of any part thereof or without payment thereof or of any part thereof, as to the court, according to the conduct of the owner and of the licensee and the other circumstances of the case, seems just and fitting.

Court may order delivery of stolen goods to owner on terms. Cf. 433, 1888, s. 30.

(2) In this section "price paid by the licensee for the goods" includes price agreed to be paid by the licensee for the goods, or the value of the articles exchanged or agreed to be exchanged by the licensee therefor.

29. Second-hand goods shall be deemed to be in the possession of a licensee when they are in any house, shop, room, outhouse, yard, garden, premises, or place occupied by him, or have been removed with his knowledge and permission to any other place without a *bona fide* sale of such goods having been made by him.

Presumption as to possession. Cf. 716, 1898-9, s. 18.

30. In any proceedings in respect of any offence against this Act, any allegation in any information that any person is not licensed need not be proved, and such person shall be deemed not to be licensed until the contrary is proved by the production of a licence or otherwise.

Presumption that person unlicensed.

31. (1) (a) Any justice of the peace or any inspector or sub-inspector of police; or

Inspectors, etc., may visit dealers' premises. Cf. 716, 1898-9, s. 22.

¹ Pursuant to s. 8 of the Acts Republication Act, 1967, as amended, references to amounts of money expressed in decimal currency substituted for references to amounts of money expressed in the old currency.

² For operation of amendments made by Act No. 49 of 1963 see s. 13 of that Act.

(b) any member of the police force authorized in writing by any such justice or inspector or sub-inspector,

may at any time, by day or night, demand entrance into the place of business of any licensee or the appurtenances thereof, and may inspect the second-hand goods and books of any licensee therein, and may record in the books by this Act required to be kept the day and hour of his visit, and write his initials or name opposite the entry relating to any article examined by him.

(2) If, after demand, admittance is refused or is delayed for such time as to make it appear that wilful delay is intended, such justice, inspector, sub-inspector, or member of the police force may break into, and employ force to enter, such place of business or the appurtenances thereof.

(3) The licensee and any person to whom such demand was made shall be liable, in respect of every such refusal to admit or wilful delay in admitting, to a penalty not exceeding one hundred dollars¹.

Constable may be authorized to search dealer's premises.
716, 1898-9, s. 23.

32. (1) Any justice of the peace, upon complaint made before him by any person that the complainant has reason to believe and does believe that any goods stolen or unlawfully obtained are kept in any house, shop, room, or place by any licensee, may, by warrant, authorize any constable, with such assistance as may be necessary, to enter such house, shop, room, or place, either by day or night, and to search for and seize all goods there found, and to carry the same before the same or some other justice.

Subsec. (2) amended by 49, 1963, s. 12 (Sched.)².

(2) The justice before whom any goods seized under subsection (1) hereof are carried shall forthwith issue a summons requiring such licensee to appear before such special magistrate or justices as may be present at a time and place to be named in such summons, and if such licensee does not then and there prove to the satisfaction of such special magistrate or justices how he came by such goods, or if it is proved to the satisfaction of such special magistrate or justices that at the time such licensee received such goods, or any of them, he had reasonable cause to believe them, or some of them, to have been stolen or unlawfully obtained, such licensee shall be liable to a penalty not exceeding two hundred dollars¹, or to imprisonment for any period not exceeding three months.

Suspicious offering of goods.
Cf. 716, 1898-9, s. 32.

33. (1) Any person who sells any goods to a licensee may be required by such licensee to satisfy him that he came lawfully by the same, or that the same were obtained from the person or place alleged by the seller.

(2) (a) If such person does not so satisfy such licensee, or gives any false information as to such goods or as to any entry signed by him, or

(b) if there is any other reason to suspect that such goods are stolen or unlawfully obtained,

it shall be lawful for such licensee to seize and detain such person and goods and to deliver such person immediately into the custody of a member of the police force.

(3) Such member of the police force shall, as soon as may be, convey such person and goods before some justice of the peace near to the place where such person was apprehended, and if such justice, upon examination and inquiry, has cause to suspect that the said goods were stolen or unlawfully obtained, it shall be lawful for such justice to commit such person into safe

¹ Pursuant to s. 8 of the Acts Reproduction Act, 1967, as amended, references to amounts of money expressed in decimal currency substituted for references to amounts of money expressed in the old currency.

² For operation of amendments made by Act No. 49 of 1963 see s. 13 of that Act.

custody for such reasonable time as may be necessary for obtaining proper information on the subject to enable such person to be further examined.

(4) If upon either of the said examinations it appears to the satisfaction of such justice that any of the said goods so offered were stolen or unlawfully obtained, such justice may, where the offence is one in respect of which a person is required to be committed to the Supreme Court for trial, so commit the person offending, or otherwise may order such person to be imprisoned for any period not exceeding three months.

34. All proceedings in respect of offences against this Act shall be disposed of summarily.

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Summary
proceedings for
offences.

Ss. 35, 36
repealed by
2168, 1934, s. 4
(2nd Sched.).