

Secondhand Dealers and Pawnbrokers Bill

Government Bill

Explanatory note

General policy statement

This Bill provides for the replacement of the Secondhand Dealers Act 1963 and the Pawnbrokers Act 1908 by legislation that—

- regulates secondhand dealers and pawnbrokers, and individuals acting as either directors or agents of secondhand dealers and pawnbrokers;
- specifies record-keeping requirements for promoters of markets and fairs with respect to secondhand dealers and pawnbrokers operating at those markets and fairs, and requires promoters to allow police to inspect those records.

The reforms envisaged by this Bill are aimed at making it harder for criminals to dispose of stolen goods through secondhand dealers and pawnbrokers, and to make it easier for the police to recover stolen goods and solve property crimes.

The Bill provides for the licensing of secondhand dealers and pawnbrokers, and requires individual secondhand dealers and pawnbrokers, directors of secondhand dealing and pawnbroking companies, and certain agents, to hold (or be eligible to hold) certificates of approval. The procedures for applying for licences and certificates, and the eligibility criteria for the issue of licences and certificates, are specified.

The Bill sets out record-keeping requirements for secondhand dealers and pawnbrokers, and labelling and retention requirements in respect of goods they hold. To comply with these, secondhand dealers and pawnbrokers must take steps to establish the identity of various persons, including customers they have acquired goods

from. The Bill also contains provisions requiring promoters of markets or fairs to comply with record-keeping requirements. To comply with these, promoters must take steps to establish the identity of people who may be selling secondhand articles or pawnbroking at stalls or the like. Additional obligations on secondhand dealers and pawnbrokers include requiring secondhand dealers and pawnbrokers to give police access to goods that they hold, and requiring them to hold goods that they suspect are stolen.

The Bill provides for the appointment of a Registrar of Secondhand Dealers and Pawnbrokers. The Registrar is responsible for issuing, cancelling, and suspending licences and certificates. There is a requirement for the Registrar to keep public registers listing licence and certificate holders. Provision is made for administrative and secretarial support for the Registrar.

Clause by clause analysis

Part 1

Preliminary provisions

Clause 1 is the Title clause.

Clause 2 is the commencement clause. The Bill comes into force on **1 July 2004**. However, the regulation-making power in *clause 73* comes into force on the day after the Royal assent.

Clause 3 gives the purpose of the Bill as being—

- to make it harder for criminals to dispose of goods through secondhand dealers and pawnbrokers; and
- to make it easier for the police to recover stolen goods and solve property crimes; and
- to repeal the Secondhand Dealers Act 1963 and the Pawnbrokers Act 1908.

Clause 4 is the interpretation clause. Key terms that are defined are: **articles** (listed in *Schedule 1*), **certificate** (which means a certificate of approval), **licence** (which means a secondhand dealers and pawnbrokers licence), **pawnbroker**, **person concerned in the management of the company**, **secondhand dealer**, and **specified offence**.

Clause 5 provides that the Bill binds the Crown.

Part 2

Licences and certificates

Licences: Who must be licensed

Clause 6 provides that every person who engages in business as a secondhand dealer must hold a licence. While the phrase “engages in business as a secondhand dealer” is not defined, *subclause (3)* gives examples of activities that do not constitute engaging in business as a secondhand dealer. These include dealing in secondhand articles on fewer than 6 occasions in a 12-month period, being a charitable organisation involved in secondhand dealing, and accepting secondhand articles as trade-ins.

Clause 7 provides that every person who acts as a pawnbroker must hold a licence.

Licences: How to get licensed

Clause 8 sets out the application requirements for a licence. Applicants must be either individuals or companies, and the application form for each is slightly different. Applicants who are companies must include with their application sufficient information to enable the Registrar to determine whether each person concerned in the management of the company is eligible to be issued with a certificate.

Clause 9 provides that the Registrar must issue a licence to an individual applicant if the applicant is eligible to hold a certificate and has complied with the procedural requirements. In order to check whether an applicant is eligible for a certificate, the Registrar must go through the procedures set out in *clauses 23 to 25*. The eligibility requirements for holding a certificate are set out in *clause 26*.

Clause 10 provides that the Registrar must issue a licence to an applicant that is a company if—

- the company is not disqualified from holding a certificate, which means it must not have been convicted of a specified offence within the past 5 years, nor have had a licence cancelled within that period;
- every person concerned in the management of the company (ie, every director and the chief executive) is eligible to hold a certificate;
- the company has complied with the procedural requirements.

Clause 11 provides for what happens when the Registrar refuses an application.

Clause 12 provides that the Registrar must issue a sufficient number of certified copies of licences to enable licence holders to comply with the obligation in *clause 34(2)* to display a certified copy of a licence at every place of business.

Clause 13 describes the effect of holding a licence, and identifies the provisions of the Bill that apply specifically to licensed secondhand dealers, to licensed pawnbrokers, and to both.

Clause 14 deals with the expiry and renewal of licences. Licences expire after 5 years but may be renewed.

Clause 15 provides for the cancellation of licences by the Registrar. Cancellation may occur when a licence holder ceases to be eligible to hold a licence. If a new person concerned in the management of a company joins the company during the currency of its licence, the Registrar may cancel the licence unless the company applies to check that the person is eligible to hold a certificate. If the person is so eligible, the company's licence is unaffected; if not, the company's licence will be cancelled 2 weeks later, unless a way is found to ensure that all the persons concerned in the management of the company are eligible to hold a certificate.

Clause 16 imposes an obligation on licence holders to advise the Registrar when information that is relevant to their licences changes.

Clause 17 provides that licences are not transferable, except by the Registrar to certain temporary licence holders.

Certificates: Who must hold them

Clause 18 identifies who must hold a certificate. This is—

- a person who enters into a transaction (which in this context will generally mean buying secondhand articles) on behalf of a licensed secondhand dealer:
- a person who issues a pledge ticket on behalf of a licensed pawnbroker:
- a person who manages, supervises, or controls any person who does either of those things.

However, a person need not have a certificate during the first 2 months in which he or she enters into transactions, or issues pledge tickets, as long as both the person and the licence holder believe on

reasonable grounds that the person is not disqualified from holding a certificate.

Clause 19 sets out the offences relating to not holding a certificate.

Certificates: How to get them

Clause 20 sets out the requirements for a certificate application. An application must include 2 photographs of the applicant.

Clause 21 sets out the grounds on which a person is disqualified from holding a certificate. These are that the person—

- has been convicted of a specified offence within the past 5 years; or
- is under the age of 18; or
- has been convicted of an offence under either the Secondhand Dealers Act 1963 or the Pawnbrokers Act 1908 within the past 5 years; or
- has been subject, at any time within the past 5 years, to a sentence of imprisonment; or
- has had a certificate or licence cancelled, or renewal for a certificate or licence refused, within the past 5 years; or
- holds a certificate that is suspended; or
- has been, within the past 5 years, a person concerned in the management of a company that has had its licence cancelled.

Clause 22 provides that the Registrar may waive a disqualification if the disqualification is on any ground other than conviction within the past 5 years of a specified offence. The granting of a waiver is done on the basis of written material, on application by the person seeking it. A waiver will be granted if the Registrar is satisfied that there are special reasons why the person should not be disqualified. A waiver can be cancelled if the Registrar is satisfied on reasonable grounds that it should no longer apply.

Clause 23 provides that the police must do a check on every applicant for a certificate. The police check is to provide information on convictions within the past 5 years, and to disclose whether the person has, within that time, been subject to a sentence of imprisonment. In addition, the police may lodge an objection (a **police objection**) to an applicant, on the grounds that the person is not a fit and proper person to hold a certificate. The applicant must be sent a copy of both the report on convictions and any police objection.

Clause 24 describes the procedure that applies when a police objection is lodged. An applicant may seek a hearing, in which case *clause 25* applies, or, if the applicant makes no response or sends only written submissions, the Registrar must make a decision on whether or not to uphold the objections on the basis of the written material before him or her.

Clause 25 provides that, for the purpose of hearing a police objection to an application for a certificate, sections 4 to 12 of the Commissions of Inquiry Act 1908 apply.

Clause 26 provides that a person is eligible to hold a certificate if—

- the person is not disqualified from holding a certificate or, if disqualified, the disqualification has been waived; and
- either no police objection has been raised in relation to the person or, if it has, the police objection has been dismissed.

The Registrar must issue a certificate to a person who is eligible to hold one and who has complied with the procedural requirement.

Clause 27 provides that the Commissioner of Police may make a complaint about a certificate holder, a licence holder, or a person concerned in the management of a company that is a licence holder. The procedure to be followed in respect of a complaint is the same as the procedure that applies to a police objection on an application for a certificate. If the police complaint is upheld, the Registrar must cancel the certificate holder's certificate or the licence holder's licence (as the case may be) or, in the case of a person concerned in the management of a company, must cancel the company's licence after giving 2 weeks' notice that the person is no longer eligible to hold a certificate. During that time the company may be able to take steps to ensure that all the persons concerned in its management are eligible to hold a certificate.

Clause 28 provides for the expiry and renewal of certificates. A certificate expires 5 years after its issue.

Clause 29 provides for the cancellation and suspension of certificates. Suspension may be for no longer than 3 months.

Obligations of certificate holders

Clause 30 requires that, when a certificate holder is engaged in secondhand dealing or pawnbroking, he or she must, on request, show his or her licence to a member of the police.

Clause 31 imposes an obligation on certificate holders to advise the Registrar when information that is relevant to their certificates changes.

Appeals

Clause 32 provides for appeals against decisions of the Registrar (other than decisions relating to a waiver of disqualification) to be made to a District Court.

Clause 33 provides for the determination of appeals by a District Court.

Part 3

Obligations of licence holders and promoters

Subpart 1—Obligations of all licence holders

Licences and records

Clause 34 requires a licence to be displayed at each place of business of a secondhand dealer or pawnbroker. In addition, when engaged in secondhand dealing or pawnbroking, a licence holder must, on request by a member of the police, show that member his or her licence.

Clause 35 requires licence holders to keep an employee record containing the prescribed information. This clause describes where the employee records must be kept, and requires that information about individual employees be retained for 12 months.

Clause 36 requires licence holders to allow police access to employee records.

Goods

Clause 37 requires licence holders to report stolen goods to the police, and to check for goods that the police advise are stolen.

Clause 38 provides that the police may issue a hold notice to a licence holder in respect of certain goods, which means that the licence holder may not dispose of the goods for at least 28 days.

Clause 39 requires licence holders, when required to do so by a member of the police, to show or make available all goods held by the licence holder for the purpose of secondhand dealing or pawnbroking.

Subpart 2—Obligations of licensed secondhand dealers

Records

Clause 40 requires licensed secondhand dealers to keep a dealers record in which certain information about every article acquired by the secondhand dealers in the course of business is recorded.

Clause 41 prescribes where dealers records are to be kept, requires them to be kept for 3 years, and requires that they be available for inspection at any reasonable hour on request by a member of the police.

Clause 42 provides for police access to dealers records.

Secondhand dealing

Clause 43 requires that, generally, articles acquired by licensed secondhand dealers in the course of business must be retained for 14 days before being sold.

Clause 44 requires all articles to be assigned a number and to be labelled with that number.

Clause 45 sets out the offences applicable to licensed secondhand dealers in respect of goods.

Subpart 3—Obligations of licensed pawnbrokers

Records

Clause 46 requires licensed pawnbrokers to keep a pawnbrokers record in which certain information about pawned goods, as well as information about the pledger, is recorded.

Clause 47 prescribes where pawnbrokers records are to be kept, requires them to be kept for 3 years, and requires that they be available for inspection at any reasonable hour on request by a member of the police.

Clause 48 provides for police access to pawnbrokers records.

Pawnbroking

Clause 49 prescribes the redemption price of goods.

Clause 50 prescribes the matters that must be recorded on a pledge ticket and sets out matters to do with pledge tickets.

Clause 51 requires pawned goods to be retained for at least 3 months.

Clause 52 requires all pawned goods to be assigned a number and to be labelled with that number.

Clause 53 sets out the right of a pledger to redeem his or her goods from a pawnbroker.

Clause 54 sets out the right of a pawnbroker to sell pawned goods after 3 months and retain the redemption price.

Clause 55 provides for what happens if the sale price is greater than the redemption price (referred to as an **excess**). The pledger is entitled to 90% of the excess, but only if he or she claims it within 6 months of the sale. Pawnbrokers are required to advise pledgers in writing if they are holding an excess of \$10 or more, and of the date by which it must be claimed.

Clause 56 sets out some miscellaneous rules about pawnbroking.

Clause 57 sets out the offences applicable to licensed pawnbrokers in respect of goods.

Subpart 4—Obligations of promoters

Records

Clause 58 requires promoters to keep records about the stallholders at their markets or fairs who sell secondhand articles or scrap metal, or who act as pawnbrokers. Promoters must keep the records for at least 12 months and make them available to the police on request.

Part 4

Registrar of Secondhand Dealers and Pawnbrokers, and miscellaneous provisions

Registrar and Deputy Registrars

Clause 59 provides for the appointment of a Registrar of Secondhand Dealers and Pawnbrokers. He or she is appointed by the Minister of Justice with the concurrence of the responsible Minister (defined in *clause 4*).

Clause 60 provides for the appointment of up to 2 Deputy Registrars.

Clause 61 provides for the remuneration of the Registrar and Deputy Registrars, and their status under certain Acts.

Clause 62 provides for the immunity of the Registrar and Deputy Registrars.

Clause 63 sets out the functions of the Registrar.

Clause 64 provides for the administrative support of the Registrar to be provided by a department so authorised by the Prime Minister.

Clause 65 provides for delegations by the Registrar.

Clause 66 provides for the preparation and presentation to the House of Representatives of an annual report.

Registrars

Clause 67 provides for the Registrar to keep a public register of licence holders and another of certificate holders.

Clause 68 sets out the content of the licence holders register, which is limited to—

- the holder's name and principal place of business;
- the number and date of issue of the licence;
- in the case of a licence holder who is an individual in partnership, the name of every partner;
- in the case of a licence holder that is a company, the name of every person who is concerned in the management of the company;
- the street address of every place of business used by the licence holder.

Clause 69 sets out the content of the certificate holders register, which is—

- the name of the holder;
- the number and date of issue of the certificate.

Clause 70 provides for public access to the public registers.

Clause 71 provides for the police to have access to other information held by the Registrar to do with applications for licences and certificates.

Defences to certain charges

Clause 72 sets out some generic defences available for various offences involving a failure to comply with a request by a member of the police to show, make available, copy, or do any other thing in relation to documents and things.

Regulations

Clause 73 sets out the regulation-making power. This clause comes into force on the day after the Bill receives the Royal assent.

Transitional provisions

Clause 74 sets out transitional provisions. People with current licences under the Secondhand Dealers Act 1963, the Pawnbrokers Act 1908, or the Auctioneers Act 1928 will be deemed to hold a **transitional licence** for 1 year from the date of commencement.

Clause 75 provides for the completion, under this Bill, of applications for licences under the Secondhand Dealers Act 1963 or the Pawnbrokers Act 1908.

Repeals and consequential amendments

Clause 76 repeals the Secondhand Dealers Act 1963 and the Pawnbrokers Act 1908.

Clause 77 repeals certain regulations.

Clause 78 provides for the consequential repeals and amendments in *Schedule 3*.

Schedules

Schedule 1 lists the things that are articles for the purpose of this Bill. The list is based on the list in the Secondhand Dealers Act 1963 of articles that have to be retained for 1 month. This schedule may be amended by regulation.

Schedule 2 lists the forms of identification that are authorised identification. This schedule also may be amended by regulation.

Schedule 3 sets out consequential repeals and amendments to enactments.

Regulatory impact and compliance cost statement

Statement of public policy objective

The primary objective of this Bill is to make it harder for criminals to dispose of stolen goods through secondhand dealers and pawnbrokers and to make it easier for the police to recover stolen goods and solve property crimes.

Statement of problem and need for action

The current Secondhand Dealers Act 1963 and Pawnbrokers Act 1908 are largely ineffective. In particular, licensing procedures are outdated, there are no requirements for identifying those selling or pledging goods to licensees, and penalties are now inadequate for deterrence. New Zealand has a high rate of property crime and there is strong anecdotal evidence that many stolen goods are disposed of through secondhand dealers and pawnbrokers.

Statement of feasible options for achieving the desired objective

Status quo

The current regime requires secondhand dealers and pawnbrokers to be licensed (with licences valid for life in the case of secondhand dealers, unless cancelled, suspended, or surrendered prior, and 1 year for pawnbrokers unless cancelled, suspended, or surrendered earlier). It also requires them to meet a range of obligations, including meeting record-keeping and goods retention requirements.

Proposed option

The proposed option requires not only secondhand dealers and pawnbrokers to obtain licences but also key staff of secondhand dealers and pawnbrokers to obtain certificates (with licences and certificates valid for 5 years unless cancelled, suspended, or surrendered earlier). Licensing procedures are improved, in particular, by making the requirements for obtaining a licence more explicit, by having an easily searchable electronic register, and by introducing photo ID for licensees and certificate holders. Secondhand dealers and pawnbrokers must meet a range of obligations, with the main change from the status quo being that they will now be required to ask persons selling or pledging goods to them to produce approved means of identification. The proposed option also introduces much heavier penalties than are currently in place.

As for proposed option but not requiring any staff to have certificates

This option was considered but rejected. Not only the licence holders themselves, but also key staff are in a position to make it significantly easier for property criminals to dispose of stolen goods. Compliance costs, however, would be significantly lower than under the proposed option.

As for proposed option but requiring all staff to have certificates

This option was considered but rejected. Many of the staff working for secondhand dealers and pawnbrokers occupy roles where they are not accepting goods on behalf of the business or acting in a supervisory role, and these staff are not in a position to make it significantly easier for property criminals to dispose of stolen goods. Compliance costs would be significantly higher than under the proposed option.

*Statement of net benefit of this proposal***The public**

The public should benefit from reduced crime. The proposed option will make it more difficult and riskier for property criminals to use secondhand dealers and pawnbrokers as an outlet for stolen goods. This can be expected, in turn, to make property crime less attractive to potential offenders. It should also make it easier than under the current conditions for the police to recover stolen goods and solve property crimes.

Government

The work of the police will be made easier, and this is expected to reduce costs. Apart from the costs of a publicity campaign to make traders and others aware of their responsibilities under this Bill, all the fiscal costs to the Government are expected to be covered by licensing fees. The publicity campaign is expected to form part of a wider campaign aimed at discouraging trading in stolen goods. It is very difficult to calculate the effect of the proposed option on the cost of running the wider publicity campaign but it can be expected to add some tens of thousands of dollars to the campaign, which is expected to cost approximately \$500,000 in total.

Business

Costs will rise for all, or almost all, secondhand dealers and pawnbrokers who comply with the requirements of the proposed regime.

Consultation

The Ministry of Economic Development, the New Zealand Police, the Department for Courts, the Office of the Privacy Commissioner, and the Treasury have been consulted in developing this proposal.

There was targeted consultation with industry bodies and with other key stakeholders, including the New Zealand Insurance Council and the Consumers Institute. There was strong support for licensing, and also for secondhand dealers and pawnbrokers being required to keep adequate records and to sight customer ID. However, support was not unanimous and concern was expressed about the cost of licensing and about some of the compliance costs associated with the various duties of licensed secondhand dealers and pawnbrokers.

Business compliance cost statement

Source of compliance costs

The additional compliance costs that can be clearly identified are all associated with the requirement to acquire licences or certificates.

Parties affected

Established secondhand dealers and pawnbrokers and those wishing to enter these industries will be affected. Businesses in these industries vary widely in size but can generally be categorised as either small or medium-sized businesses. Pawnbrokers and those wishing to enter the pawnbroking trade will only make up a small proportion of these (there are only approximately 30 pawnbroking businesses currently licensed in New Zealand).

For the purposes of the illustrative cost comparison between current and proposed regimes set out in the table below, it is assumed that the medium-sized business in question is large enough, under the proposed regime, to need to acquire or renew a certificate for one staff member each year.

***Illustrative compliance cost comparison: medium-size
secondhand dealing business***

Current Regime			Proposed Regime		
Source	First year	Ongoing	Source	First year and then every 5 years	Ongoing Years 2-5
Existing Dealers			Existing Dealers		
Lifetime licence already held	\$0	\$0	New licence every 5 years, certificate every year	\$400	\$100
			Other costs associated with licensing process	\$80	\$40
			Increase in cost	\$480	\$140
New Dealers			New Dealers		
Lifetime licence acquired	\$150	\$0	New licence every 5 years, certificate every year	\$400	\$100
Other costs associated with licensing process	\$40		Other costs associated with licensing process	\$80	\$40
Total	\$190		Total	\$480	\$140
			Increase in cost	\$290	\$140
Record-keeping and labelling			All the new legislative requirements here will either have minimal effect on compliance costs or are in line with normal business practice. In most cases (the main exception being the requirement to get ID from certain customers), the requirements are not dissimilar from existing legislation. So no cost allowed for.		
Relationship with Police			All the new legislative requirements here will have minimal effect on compliance costs or are in line with normal business practice. In most cases the requirements are not dissimilar in effect from existing legislation. So no cost allowed for.		
Pawnbrokers customers to be notified of surplus			There are relatively few pawnbrokers and there is very rarely a surplus from the sale of pawned goods. So no cost allowed for.		

Quantitative/qualitative estimates of compliance costs

The total industry-wide increase in compliance costs over the status quo for the first year of operation is estimated to be \$1,155,000. This is made up of \$975,000 in licensing fees for secondhand dealers and pawnbrokers and \$180,000 for other costs associated with the new licensing process.

For the subsequent 4 years, the total industry-wide increase in compliance costs over the status quo is estimated to be \$622,500. This is made up of \$502,500 in licensing fees and \$120,000 in other costs associated with the new licensing process.

The additional compliance costs produced by this proposal in each year after the first 5 years can be expected to average out at approximately \$800,000 per year across the whole industry.

The estimates above are based upon the assumption that the 3 000 existing or new secondhand dealers or pawnbrokers will acquire new licences in the first year of operation of the new Act, with a quarter of these being new businesses, and that in each subsequent year a quarter of the existing businesses will leave the industry and be replaced by new businesses.

The fee for new licences or renewed licences is expected to be \$300 per licence. The fee for new certificates or renewed certificates is expected to be \$100 per certificate. Other costs associated with the new licensing process were calculated assuming a built-in time component on average of an additional 20 minutes (valued at \$20) for each licence or certificate, plus a further \$20 in materials (such as the provision of photographs of applicants to the Registrar), which adds \$40 per licence or certificate. Other changes in regulatory requirements will either impose very low additional compliance costs, or very small reductions in compliance costs, or are in line with normal business practice and so are not treated as imposing additional compliance costs.

Longer-term implications

The costs of obtaining and renewing a licence will recur every 5 years for new and established businesses. The number of certificates that need to be acquired and when they will need to be acquired will depend on the size of the business, staff turnover, and various other factors including how staff responsibilities are allocated.

Level of confidence in compliance costs estimates

The estimate of how many secondhand dealers and pawnbrokers should be licensed had to be made on the basis of very limited data (for instance, because of the nature of the existing licensing procedures it was not possible to establish how many holders of a secondhand dealer's licence there currently are). Costs associated with the

licensing process other than the licensing fees will vary considerably from business to business.

Key compliance cost issues identified during consultation

Concern was expressed about the cost of licensing and about some of the compliance costs associated with the various duties of licensed secondhand dealers and pawnbrokers. During consultation it became apparent that many persons who should currently be licensed and complying with the requirements of being a licensed secondhand dealer or pawnbroker were not licensed. They, therefore, were not incurring the costs of complying with the existing regulatory regime.

Overlaps with other agencies

Police will carry out the enforcement role, and to assist them provision has been made for them to have access to confidential registry information (for instance, home addresses of licence and certificate holders).

Steps taken to ensure compliance costs are minimised

Care has been taken to minimise the number of changes to the law that secondhand dealers and pawnbrokers will need to familiarise themselves with. Care has also been taken to minimise the number of persons requiring more than 1 licence (for instance, 1 licence now covers both secondhand dealers and pawnbrokers) and to keep compliance requirements straightforward.

Hon Phil Goff

Secondhand Dealers and Pawnbrokers Bill

Government Bill

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Secondhand Dealers and Pawnbrokers Act 2003.

Part 1

Preliminary provisions

2 Commencement

- (1) This Act (except **section 73** (Regulations)) comes into force on **1 July 2004**. 5
- (2) **Section 73** comes into force on the day after the date on which this Act receives the Royal assent.

3 Purpose

The purpose of this Act is—

- (a) to make it harder for criminals to dispose of stolen goods through secondhand dealers and pawnbrokers; and 10
- (b) to make it easier for the police to recover stolen goods and solve property crimes; and
- (c) to repeal and replace the Secondhand Dealers Act 1963 and the Pawnbrokers Act 1908. 15

4 Interpretation

In this Act, unless the context otherwise requires,—

article means an article of a type listed in **Schedule 1** (as from time to time amended by regulations made under this Act) 20

authorised identification means a form of identification specified in **Schedule 2** (as from time to time amended by regulations made under this Act)

buyback contract means a contract under which a seller sells goods to a buyer on condition that the seller can repurchase the goods at some future date, but at a price greater than the buyer paid for them 25

certificate means a certificate of approval issued under **section 26**

certified copy means a copy, certified by the Registrar, of a licence 30

dispose of, in relation to goods, includes—

- (a) passing possession of the goods to another person, whether by sale or otherwise; and
- (b) combining or dismantling the goods in such a way that they can no longer be recognised as the original goods 35

- itinerant dealer** means a secondhand dealer who does not have premises from which he or she regularly engages in secondhand dealing
- licence** means a secondhand dealer and pawnbroker licence issued under **section 9 or section 10** 5
- licensed secondhand dealer and pawnbroker** means the holder of a current licence; and—
- (a) **licensed secondhand dealer** means a secondhand dealer who holds a current licence; and
- (b) **licensed pawnbroker** means a pawnbroker who holds a current licence 10
- pawnbroker** means a person—
- (a) who, in expectation of profit, gain, or reward,—
- (i) lends money on the security of goods of which the person takes possession, but not ownership; 15
- or
- (ii) buys goods from a seller under a buyback contract; and
- (b) who is not a secondhand dealer or the employee of a secondhand dealer and pawnbroker 20
- person concerned in the management of the company** means, in relation to a company,—
- (a) a director of the company, as that term is defined in section 126 of the Companies Act 1993; and
- (b) the chief executive of the company, or any person occupying the equivalent position 25
- prescribed** means prescribed by regulations made under this Act
- promoter** means a person who carries on a business of letting or otherwise providing space to stallholders for the purpose of running a market or fair at which any of the stalls are or may be used for the purpose of secondhand dealing or pawnbroking 30
- public auction** means an auction that complies with the Auctioneers Act 1928 and any relevant regulations made under this Act 35
- Registrar** means the Registrar of Secondhand Dealers and Pawnbrokers appointed under **section 59**; and includes a Deputy Registrar

- responsible Minister** means the Minister of the Crown who is responsible for the department that is authorised by the Prime Minister to provide administrative support to the Registrar
- scrap metal** includes old metal, broken metal, partly manufactured metal goods, defaced or old metal goods, and metal residues from manufacturing processes 5
- secondhand dealer** means a person—
- (a) who buys (for the purpose of trade), sells, exchanges, or otherwise deals in secondhand articles or scrap metal; and 10
 - (b) who is not a pawnbroker or the employee of a secondhand dealer and pawnbroker
- secondhand dealer and pawnbroker** means any 1 or more of the following:
- (a) a secondhand dealer: 15
 - (b) a pawnbroker:
 - (c) a person who, not being an employee of a secondhand dealer or a pawnbroker, acts as both a secondhand dealer and as a pawnbroker
- specified offence** means an offence under any of the following: 20
- (a) this Act, other than an offence under any of **sections 16(4), 30(2), 31(4), 34(3), or 57(2)**;
 - (b) sections 217 to 281 of the Crimes Act 1961 (which relate to crimes against rights of property): 25
 - (c) the Fair Trading Act 1986
- transaction** means the passing of possession of goods from a seller to a secondhand dealer, or from a seller or pledger to a pawnbroker
- transaction date** means the date on which a particular transaction takes place. 30

5 Act binds the Crown
This Act binds the Crown.

Part 2 Licences and certificates

Licences: Who must be licensed

- 6 Secondhand dealers engaged in business to be licensed**
- (1) Every person who engages in business as a secondhand dealer must hold a licence. 5
- (2) If 2 or more people engage in business as secondhand dealers in partnership, each partner must hold a licence.
- (3) For the purposes of this Act, the following are not engaged in business as secondhand dealers: 10
- (a) a person who buys (for the purpose of trade), sells, exchanges, or otherwise deals in secondhand articles or scrap metal on fewer than 6 occasions in any 12-month period:
- (b) an auctioneer who holds a licence under the Auctioneers Act 1928, but only in relation to secondhand articles or scrap metal sold by the auctioneer at auction under that Act: 15
- (c) a charitable organisation that sells secondhand articles, but only if— 20
- (i) none of the articles sold are acquired by the organisation by purchase or for valuable consideration; and
- (ii) any proceeds of sale are used solely for the purposes of the organisation: 25
- (d) a person who acquires secondhand articles only as trade-ins in the course of a business whose principal purpose is selling new goods:
- (e) an agent of the Crown:
- (f) any other prescribed person. 30
- (4) A person who carries on business as a secondhand dealer without holding a licence commits an offence and is liable on summary conviction to a fine not exceeding \$20,000.
- Compare: 1963 No 10 s 3
- 7 Pawnbrokers to be licensed** 35
- (1) Every person who acts as a pawnbroker must hold a licence.
- (2) If 2 or more people act as pawnbrokers in partnership, each partner must hold a licence.

- (3) A person who acts as a pawnbroker without holding a licence commits an offence and is liable on summary conviction to a fine not exceeding \$20,000.

Compare: 1908 No 141 s 3

Licences: How to get licensed

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8 Application for licence

- (1) An applicant for a licence must be either an individual or a company.
- (2) An applicant must apply to the Registrar in a form approved by the Registrar, and pay the prescribed fee. 10
- (3) An application by an individual must be accompanied by 2 photographs of the applicant, authenticated in the prescribed manner, and must include the following information:
 - (a) the applicant’s full name, residential address, and date of birth: 15
 - (b) the name under which the applicant engages in business:
 - (c) the street address of the principal place of business used by the applicant for business purposes (unless the applicant is or proposes to be an itinerant dealer) and the street address of every other place of business used by the applicant: 20
 - (d) the postal address (if any) used by the applicant for business purposes:
 - (e) if the individual is in partnership, the full name and date of birth of every partner in the partnership: 25
 - (f) any other prescribed matters.
- (4) An application by a company must include the following information:
 - (a) the applicant’s name: 30
 - (b) the registered address of the company:
 - (c) the street address of the principal place of business used by the applicant for business purposes (unless the applicant is or proposes to be an itinerant dealer) and the street address of every other place of business used by the applicant: 35
 - (d) the full name and date of birth of every person involved in the management of the company:

(e) any other prescribed matters.

Compare: 1908 No 141 s 4; 1963 No 10 s 4

9 Issue of licence: Individual applicant

- (1) The Registrar must issue a licence to an applicant who is an individual if— 5
- (a) the applicant is eligible to hold a certificate (see **section 26(1)**); and
 - (b) the application is made in a form approved by the Registrar; and
 - (c) the prescribed fee is paid. 10
- (2) In order to ascertain whether an applicant for a licence is eligible to hold a certificate, **sections 23 to 25** apply as if the applicant were an applicant for a certificate.
- (3) A licence issued to an individual must contain a photograph of the licence holder. 15

10 Issue of licence: Company applicant

- (1) The Registrar must issue a licence to an applicant that is a company if—
- (a) the company is not disqualified under **subsection (2)** from holding a licence; and 20
 - (b) every person concerned in the management of the company is eligible to hold a certificate in his or her own right (see **section 26(1)**); and
 - (c) the application is made in a form approved by the Registrar; and 25
 - (d) the prescribed fee is paid.
- (2) The fact that a person who is concerned in the management of a company holds a certificate or licence is not sufficient evidence that the person is eligible to hold a certificate and, in order to ascertain whether the person is so eligible at the time when the company applies for a licence, **sections 23 to 25** apply as if the person were an applicant for a certificate. 30
- (3) A company is disqualified from holding a licence if it—
- (a) has been convicted within the past 5 years of a specified offence; or 35
 - (b) has had a licence cancelled within the past 5 years.
- (4) For the purpose of checking whether or not a company is disqualified from holding a licence, the Registrar may ask the

Commissioner of Police for information about the company's criminal convictions, and the Commissioner of Police must provide the information requested, with a copy to the company, within 3 weeks of receipt of the request.

- 11 Refusal to issue licence** 5
- If the Registrar declines an application, he or she must immediately notify the applicant in writing, and give reasons for the refusal.
- 12 Certified copies of licence** 10
- (1) When the Registrar issues a licence, he or she must also issue as many certified copies of the licence as may be necessary to enable the licence holder to comply with **section 34(2)**.
- (2) A certified copy need not be in the same form as a licence.
- 13 Effect of licence** 15
- (1) A person who holds a licence is authorised to carry on business as a secondhand dealer or to act as a pawnbroker, or to do both.
- (2) The obligations relating to all licence holders are set out in **section 16** and **subpart 1 of Part 3**.
- (3) The additional obligations relating specifically to licensed secondhand dealers are set out in **subpart 2 of Part 3**. 20
- (4) The additional obligations relating specifically to licensed pawnbrokers are set out in **subpart 3 of Part 3**.
- Compare: 1963 No 10 s 6
- 14 Expiry and renewal of licences** 25
- (1) Unless cancelled earlier, a licence expires 5 years from its date of issue.
- (2) A licence may be renewed.
- (3) Despite **subsection (1)**, if an application for renewal of a licence is made before the expiry of the licence, the licence continues in force until the application for renewal is determined. 30
- (4) **Sections 8 to 12** apply to an application for renewal of a licence as if the application were an application for a licence.
- (5) A renewed licence is to be treated for all purposes as a new licence issued under **section 9** or **section 10**, as applicable. 35

- (6) A licence holder may, at any time, return his or her licence to the Registrar, in which case the licence expires on the date on which the licence (and all certified copies) are received by the Registrar.

Compare: 1908 No 141 s 4(3); 1963 No 10 s 9

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15 Cancellation of licences

- (1) The Registrar must cancel a licence,—
- (a) in the case of a licence held by an individual, if the licence holder ceases to be eligible to hold a certificate; or
 - (b) in the case of a licence held by a company,—
 - (i) if any person concerned in the management of the company is not eligible, or ceases to be eligible, to hold a certificate; or
 - (ii) if the company is disqualified (under **section 10(2)**) from holding a licence; or
 - (c) in either case, if the Registrar is satisfied that the licence was issued by fraud or mistake.
- (2) The Registrar may not cancel a company's licence under **subsection (1)(b)(i)** if—
- (a) the person concerned in the management of a company has joined the company since it obtained its licence; and
 - (b) within 2 weeks of the person joining, the company has applied to the Registrar to check that the person is eligible to be issued with a certificate; and
 - (c) either—
 - (i) the Registrar has not yet determined whether or not the person is eligible to hold a certificate; or
 - (ii) the Registrar has advised the company, in writing, that the person is not eligible to hold a certificate, but less than 2 weeks has elapsed since the advice was sent.
- (3) A cancellation must be in writing, with reasons, and state the date on which the cancellation takes effect.
- (4) A licence holder commits an offence, and is liable on summary conviction to a fine not exceeding \$2,000, if he or she fails without reasonable excuse to return a cancelled licence, and every certified copy of it, to the Registrar immediately upon cancellation of the licence.

Compare: 1908 No 141 s 14; 1963 No 10 ss 17, 18

40

16 Updating licence information

- (1) If any of the details that were included on the licence application change (for example, new places of business are added or a person concerned in the management of the company leaves), the licence holder must immediately advise the Registrar of the change. 5
- (2) On receiving advice under **subsection (1)**, the Registrar must, if those details are reflected on the licence that has been issued, issue an amended licence (and certified copies, if applicable). An amended licence is not a new or renewed licence. 10
- (3) If an amended licence is issued, the licence holder must immediately return the old licence and any old certified copies of the licence to the Registrar.
- (4) A licensed secondhand dealer and pawnbroker commits an offence, and is liable on summary conviction to a fine not exceeding \$2,000, if he or she fails without reasonable excuse to comply with **subsection (1) or subsection (3)**. 15

Compare: 1908 No 141 s 8; 1963 No 10 s 7

17 Licences not transferable, except to temporary licence holders

- (1) A licence is not transferable, except in the situation described in **subsection (2)**. 20
- (2) The Registrar may transfer a licence to a temporary licence holder for a period of not more than 6 months if the temporary licence holder is— 25
- (a) the personal representative of a deceased licence holder; or
 - (b) the assignee in bankruptcy of a licence holder; or
 - (c) the manager, as defined in section 2 of the Protection of Personal and Property Rights Act 1988, of a licence holder. 30
- (3) A temporary licence holder has all the rights and responsibilities of a licence holder.

Compare: 1908 No 141 s 39; 1963 No 10 ss 10, 11

Certificates: Who must hold them 35

18 Who must hold certificate

- (1) Every person must hold a certificate if he or she,—

- (a) with the authority of a licensed secondhand dealer, enters into a transaction on behalf of the secondhand dealer; or
 - (b) with the authority of a licensed pawnbroker, issues a pledge ticket on behalf of the pawnbroker. 5
- (2) However, if both the person referred to in **subsection (1)** and the licence holder believe on reasonable grounds that the person is not disqualified from holding a certificate, then the person need not hold a certificate during the 2 months after he or she is first authorised by the licence holder to enter into transactions or to issue pledge tickets. 10
- (3) Every person must hold a certificate if he or she manages, supervises, or controls any person who—
- (a) enters into a transaction on behalf of a licensed secondhand dealer; or 15
 - (b) issues a pledge ticket on behalf of a licensed pawnbroker.

Compare: 1963 No 10 s 8

19 Offences relating to failure to hold certificate

- (1) A person who does not hold a certificate commits an offence, and is liable on summary conviction to a fine not exceeding \$10,000, if he or she, knowing that he or she does not hold a certificate,— 20
- (a) enters into a transaction on behalf of a licensed secondhand dealer, whether or not the person is in fact authorised by the secondhand dealer to do so; or 25
 - (b) issues a pledge ticket on behalf of a licensed pawnbroker, whether or not the person is in fact authorised by the pawnbroker to do so; or
 - (c) manages, supervises, or controls any person who enters into a transaction on behalf of a licensed secondhand dealer or issues a pledge ticket on behalf of a licensed pawnbroker. 30
- (2) It is a defence to a charge under **subsection (1)(a) or (b)** if the person charged proves that he or she was not, at the relevant time, required to hold a certificate, by virtue of **section 18(2)**. 35
- (3) A licence holder commits an offence, and is liable on summary conviction to a fine not exceeding \$10,000, if, other than in the circumstances described in **section 18(2)**,—

- (a) he or she authorises a person to engage in transactions or issue pledge tickets on his or her behalf; and
- (b) the person does not have a certificate; and
- (c) the licence holder knows, or should know, that the person does not have a certificate. 5

Certificates: How to get them

20 Application for certificate

- (1) An application for a certificate must—
 - (a) be made to the Registrar on a form approved by the Registrar; and 10
 - (b) be accompanied by 2 photographs of the applicant, authenticated in the prescribed manner.
- (2) The form approved by the Registrar must, without limitation, require the following information to be supplied:
 - (a) the applicant's full name and date of birth: 15
 - (b) the applicant's address and prescribed contact details:
 - (c) any other prescribed information.
- (3) On receipt of an application, the Registrar may make whatever enquiries he or she considers necessary in order to determine whether or not the applicant is disqualified from holding a certificate. 20

21 Disqualification from holding certificate

- A person is disqualified from holding a certificate if he or she—
- (a) has been convicted of a specified offence within the past 5 years; or 25
 - (b) is under the age of 18 years; or
 - (c) has been convicted of any offence under the Pawnbrokers Act 1908 or the Secondhand Dealers Act 1963 within the past 5 years; or 30
 - (d) has been subject, at any time within the past 5 years, to a sentence of imprisonment; or
 - (e) has had a certificate or licence cancelled, or had renewal of a certificate or licence refused, within the past 5 years; or 35
 - (f) holds a certificate that is suspended; or
 - (g) is, or was at the relevant time, a person concerned in the management of a company that has had a licence cancelled within the past 5 years.

22 Waiver of disqualification

- (1) The Registrar may waive disqualification under **section 21** if—
- (a) the disqualified person applies in writing to the Registrar for a waiver; and
 - (b) the disqualification is on 1 or more of the grounds set out in **section 21(b) to (g)**; and 5
 - (c) the Registrar is satisfied, on the basis of the written material before him or her, that there are special reasons why the person should not be disqualified from holding a certificate. 10
- (2) A person who wishes to seek a waiver of disqualification may do so only in connection with an application for a certificate or licence, or an application for renewal of a certificate or licence, or in connection with the cancellation or suspension of a certificate or the cancellation of a licence. 15
- (3) A waiver expires on the expiry of any certificate or licence to which it relates.
- (4) The Registrar may, at any time, cancel a waiver, by notice in writing (with reasons) to the person concerned, if satisfied on reasonable grounds that the waiver should no longer apply. 20

23 Police check on every applicant

- (1) On receipt of an application for a certificate, the Registrar must forward the application to the Commissioner of Police for a report.
- (2) Within 3 weeks of receiving a copy of an application, the Commissioner must supply to the Registrar a report on the applicant, showing— 25
- (a) whether the applicant has been convicted of a specified offence within the past 5 years; and
 - (b) whether the applicant has been convicted of an offence under the Pawnbrokers Act 1908 or the Secondhand Dealers Act 1963 within the past 5 years; and 30
 - (c) whether the applicant has been subject to a sentence of imprisonment at any time within the past 5 years.
- (3) The Commissioner may, regardless of the content of the report prepared under **subsection (1)**, object to an applicant being granted a certificate on the grounds that the applicant is not a fit and proper person to hold a certificate. 35

- (4) Any objection under **subsection (3)** (a **police objection**) must set out the reasons for it.
- (5) The Commissioner of Police must send a copy of the report required by **subsection (2)** and, if applicable, the police objection to the applicant at the same time that the report (and any police objection) is sent to the Registrar. 5

24 What happens if police object to applicant

- (1) An applicant who receives a copy of a police objection may—
- (a) request a hearing before the Registrar on whether to dismiss or uphold the objection, in which case the request must be— 10
- (i) in writing and accompanied by the prescribed fee (if any); and
- (ii) received by the Registrar within 2 weeks of the date on which the notice of objection was sent; or 15
- (b) make written submissions to the Registrar, in which case the submissions must be received by the Registrar within 2 weeks of the date on which the notice of objection was sent.
- (2) If an applicant requests a hearing,— 20
- (a) if the applicant is also disqualified from holding a certificate, the Registrar may not hold a hearing on the police objection until after he or she has made a decision under **section 22** on whether to waive the disqualification; and
- (b) if the applicant is not disqualified from holding a certificate, the Registrar must arrange a time and place for the hearing under **section 25** and give the Commissioner of Police and the applicant at least 14 days' written notice of it. 25
- (3) If an applicant sends written submissions to the Registrar, or if the Registrar has not heard from the applicant within 2 weeks of the date on which the notice of objection was sent, the Registrar must, on the basis of the written material before him or her, determine whether to uphold or dismiss the police objection. 30 35

25 Hearing into police objection

- (1) For the purpose of conducting a hearing into a police objection, sections 4 to 12 of the Commissions of Inquiry Act 1908 apply with any necessary modifications as if the Registrar

- were a Commission appointed under that Act and as if the hearing were an inquiry held under that Act.
- (2) Without limiting **subsection (1)**, at a hearing before the Registrar,—
- (a) the Commissioner may be represented by any member of the police or by counsel; and 5
- (b) the applicant may appear in person or be represented by counsel, or both.
- (3) At the conclusion of the hearing, the Registrar must determine whether to uphold or dismiss the police objection. 10
- 26 Eligibility for, and issue of, certificate**
- (1) A person is eligible to hold a certificate if—
- (a) the person is not disqualified under **section 21** from holding a certificate or, if disqualified, the disqualification has been waived under **section 22**; and 15
- (b) either no police objection has been raised under **section 23(3)** in relation to the person, or, if it has, the Registrar has dismissed the objection under either **section 24(3)** or **section 25(3)**.
- (2) The Registrar must issue a certificate to an applicant if— 20
- (a) the applicant is eligible to be issued with a certificate; and
- (b) the application is made in a form approved by the Registrar; and
- (c) the prescribed fee is paid. 25
- (3) If the Registrar refuses an application, he or she must notify the applicant in writing, and give reasons for the refusal.
- Compare: 1908 No 141 s 4(2); 1963 No 10 s 5(1)
- 27 Complaints by police about certificate holders, licence holders, and persons concerned in management of company** 30
- (1) The Commissioner of Police may, at any time, make a complaint to the Registrar about—
- (a) a certificate holder; or
- (b) a licence holder; or 35
- (c) a person who is concerned in the management of a company that is a licence holder.

- (2) The Registrar must send a copy of any complaint received to the person concerned, and **sections 24 and 25** apply as if the complaint were a police objection made under **section 23(3)**.
- (3) If the Registrar upholds the complaint, he or she must,—
- (a) in the case of a certificate holder, cancel the certificate: 5
 - (b) in the case of a licence holder, cancel the licence:
 - (c) in the case of a person concerned in the management of a company that is a licence holder,—
 - (i) advise the company that a police complaint against the person has been upheld and that the person is no longer eligible to hold a certificate; and 10
 - (ii) 2 weeks after that advice is sent, cancel the company's licence unless, within that time, the company advises the Registrar that the person is no longer a person concerned in the management of the company. 15

Compare: 1908 No 141 s 14; 1963 No 10 s 17

28 Expiry and renewal of certificates

- (1) Unless cancelled earlier, a certificate expires 5 years from its date of issue. 20
- (2) A certificate may be renewed.
- (3) Despite **subsection (1)**, if an application for renewal of a certificate is made before the expiry of the certificate, the certificate continues in force until the application for renewal is determined. 25
- (4) **Sections 20 to 26** apply to an application for renewal of a certificate as if the application were an application for a certificate.
- (5) A renewed certificate is to be treated for all purposes as a new certificate issued under **section 26**. 30
- (6) A certificate holder may, at any time, return his or her certificate to the Registrar, in which case the certificate expires on the date it is received by the Registrar.

29 Cancellation and suspension of certificates

- (1) The Registrar may cancel or suspend a person's certificate if— 35

- (a) the Registrar upholds a police complaint made under **section 27**; or
 - (b) the Registrar is satisfied that the person is disqualified from holding a certificate and—
 - (i) the person has not sought a waiver of disqualification; or
 - (ii) the Registrar has refused an application by the person for a waiver of disqualification; or
 - (c) the Registrar is satisfied that the certificate was obtained by fraud or mistake. 10
- (2) A cancellation or suspension must be in writing, with reasons, and must state the date on which the cancellation or suspension takes effect.
- (3) If the Registrar suspends a certificate, the suspension must be for a fixed period of not more than 3 months, and at the end of that period the Registrar must either lift the suspension or cancel the certificate. 15
- (4) A certificate holder commits an offence, and is liable on summary conviction to a fine not exceeding \$2,000, if he or she fails without reasonable excuse to return a cancelled certificate to the Registrar immediately upon cancellation of the certificate. 20

Compare: 1908 No 141 s 14; 1963 No 10 ss 17, 18

Obligations of certificate holders

- 30 Obligation to show certificate** 25
- (1) At any time when a certificate holder is engaged in second-hand dealing or pawnbroking, he or she must, on request by a member of the police, show his or her certificate to that member.
- (2) A certificate holder commits an offence, and is liable on summary conviction to a fine not exceeding \$2,000, if he or she fails without reasonable excuse to comply with a request under **subsection (1)**. 30
- (3) **Section 72** applies to a charge under **subsection (2)**.
- 31 Updating certificate information** 35
- (1) If any of the details that were included on the certificate application change (for example, the certificate holder's

address), the certificate holder must advise the Registrar of the change.

- (2) On receiving advice under **subsection (1)**, the Registrar must, if those details are reflected on the certificate that has been issued, issue an amended certificate. An amended certificate is not a new or renewed certificate. 5
- (3) If an amended certificate is issued, the certificate holder must immediately return the old certificate to the Registrar.
- (4) A certificate holder commits an offence, and is liable on summary conviction to a fine not exceeding \$2,000, if he or she fails without reasonable excuse to comply with **subsection (1) or subsection (3)**. 10

Compare: 1908 No 141 s 8; 1963 No 10 s 7

Appeals

32 Appeals against decision of Registrar 15

- (1) An applicant for a licence or a certificate may appeal to a District Court against a decision by the Registrar relating to the applicant's application.
- (2) The holder of a licence or certificate may appeal to a District Court against a decision by the Registrar relating to the renewal, cancellation, or suspension of the holder's licence or certificate. 20
- (3) To avoid doubt, there is no appeal under this section against a decision of the Registrar relating to waiver of disqualification.
- (4) An appeal under this section must be brought within 20 days of the date of the decision appealed against, or within any longer period that the District Court, on application made before or after the expiration of that period, allows. 25

33 Determination of appeal

- (1) In determining an appeal, a District Court may confirm or reverse the decision of the Registrar. 30
- (2) The District Court's decision in the determination of an appeal is final.
- (3) To avoid doubt, nothing in this section or **section 32** affects the right of any person to apply, in accordance with law, for judicial review. 35

Part 3

Obligations of licence holders and promoters

Subpart 1—Obligations of all licence holders

Licences and records

- | | | |
|-----------|---|----|
| 34 | Obligation to show and to display licence | 5 |
| (1) | At any time when a licence holder who is an individual is engaged in secondhand dealing or pawnbroking, he or she must, on request by a member of the police, show his or her licence to that member. | |
| (2) | Every licence holder must ensure that a certified copy of his or her licence is prominently displayed at every place of business used by the licence holder for business purposes. | 10 |
| (3) | A licence holder commits an offence, and is liable on summary conviction to a fine not exceeding \$2,000, if he or she fails without reasonable excuse to comply with subsection (1) or subsection (2) . | 15 |
| (4) | Section 72 applies to a charge under subsection (3) .
<small>Compare: 1908 No 141 s 11; 1963 No 10 s 16</small> | |
| 35 | Employee record | 20 |
| (1) | Every licence holder must keep an employee record of every person who is employed by the licence holder in the secondhand dealing or pawnbroking business. | 20 |
| (2) | The employee record must show— | |
| (a) | the full name, contact address, and phone number (if any) of every employee; and | 25 |
| (b) | which employees (if any) hold a certificate, and the number of each certificate; and | |
| (c) | the date on which each employee commenced employment with the licence holder. | |
| (3) | The employee record must be kept— | 30 |
| (a) | at the licence holder's principal place of business; or | |
| (b) | if the licence holder is an itinerant dealer, in the possession of that dealer; or | |
| (c) | if regulations provide that employee records may also be kept elsewhere, in accordance with the regulations. | 35 |
| (4) | An employer must keep the records on the employee record that relate to each employee for at least 12 months from the | |

date on which the relevant employee ceases employment with the employer.

- (5) A licence holder commits an offence, and is liable on summary conviction to a fine not exceeding \$10,000, if he or she fails, without reasonable excuse, to— 5
 - (a) keep an employee record; or
 - (b) record in it the information required by this section; or
 - (c) keep it at the place and for the period required by this section.

- 36 Police access to employee records** 10
- (1) A licence holder must, when required to do so by a member of the police,—
 - (a) show the member his or her employee record and any information contained in it:
 - (b) make a copy of all or specified parts of it and give the copy to the member or, if that is impracticable, give the member the employee record or specified parts of it. 15
- (2) If a licence holder gives a member of the police his or her employee record, the member must—
 - (a) give a receipt for the document; and 20
 - (b) return it within 2 hours.
- (3) A licence holder commits an offence, and is liable on summary conviction to a fine not exceeding \$10,000, if he or she fails without reasonable excuse to comply with **subsection (1)**.
- (4) **Section 72** applies to a charge under **subsection (3)**. 25

Compare: 1908 No 141 ss 11, 28, 29; 1963 No 10 s 16

Goods

- 37 Obligation to report and hold stolen goods**
- (1) A licence holder who has possession of, or who is offered for sale or pawn, any goods that he or she knows or suspects are stolen goods must— 30
 - (a) report the goods to a member of the police as soon as practicable; and
 - (b) if he or she has possession of the goods, hold them for 14 days from the date of the report to the member of the police. 35

- (2) If a member of the police gives a licence holder a notice that specified goods are, or are alleged to be, stolen goods, the licence holder must—
- (a) immediately notify a member of the police if any of the specified goods are offered to the licence holder for sale or pawn; and 5
 - (b) check whether he or she already has possession of any of the specified goods and, if so, must comply with **subsection (1)(a) and (b)**. 10
- (3) A licence holder commits an offence, and is liable on summary conviction to a fine not exceeding \$10,000, if he or she fails, with respect to goods that the licence holder knows, suspects, or ought reasonably to know or suspect are stolen goods, to comply with **subsection (1)(a) or (b) or subsection (2)(a) or (b)**. 15
- (4) A licence holder may dispose of goods that he or she has reported to the police under this section after holding them for at least 14 days unless, before the expiry of the 14 days, the police issue a hold notice under **section 38** with respect to the goods. 20
- (5) **Subsection (4)** does not override **section 51**.
Compare: 1908 No 141 ss 34, 36

38 Police may issue hold notice

- (1) A member of the police may issue a hold notice to a licence holder if the member has reasonable grounds to suspect that any goods held by the person are stolen goods. 25
- (2) If a licence holder is issued with a hold notice, he or she must not dispose of the goods identified in the notice for 28 days from the date of the notice except with the authority of a member of the police. 30
- (3) A licence holder commits an offence, and is liable on summary conviction to a fine not exceeding \$10,000, if he or she disposes of goods that are identified in a hold notice within 28 days of the issue of the notice without the authority of a member of the police. 35
- (4) **Subsection (2)** does not override **section 51**.

- 39 Obligation to give police access to goods**
- (1) A licence holder must, when required to do so by a member of the police, show, or make available to, that member all or any of the goods held by the licence holder for the purpose of secondhand dealing or pawnbroking. 5
 - (2) A licence holder commits an offence, and is liable on summary conviction to a fine not exceeding \$10,000, if he or she fails without reasonable excuse, on request by a member of the police, to show or make available to the member any goods as required by **subsection (1)**. 10
 - (3) **Section 72** applies to a charge under **subsection (2)**.

Subpart 2—Obligations of licensed secondhand dealers

Records

- 40 Dealers record**
- (1) Every licensed secondhand dealer must keep a dealers record. 15
 - (2) The dealers record must show the following information with respect to every article acquired by a licensed secondhand dealer in the course of business as a secondhand dealer:
 - (a) the identity of the person from whom the article is acquired, which must include— 20
 - (i) the person’s full name, contact address, and contact phone number (if any):
 - (ii) the form of authorised identification used to verify the person’s identity:
 - (iii) the person’s signature: 25
 - (b) a description of the article and its serial number or other unique identifier (if any):
 - (c) the purchase price paid by the secondhand dealer:
 - (d) the number assigned by the licensed secondhand dealer to the article: 30
 - (e) the name and signature of the person who conducted the transaction on behalf of the licensed secondhand dealer:
 - (f) the date of the transaction:
 - (g) either—
 - (i) the date on which the article is sold; or 35
 - (ii) an account of how and when the article is otherwise disposed of.

- (3) The dealers record must show the following information with respect to all scrap metal acquired by a licensed secondhand dealer in the course of business as a secondhand dealer:
- (a) the identity of the person from whom the scrap metal is acquired, which must include the matters set out in **subsection (2)(a)**: 5
 - (b) a description of the nature and quantity of the scrap metal;
 - (c) the name and signature of the person who conducted the transaction on behalf of the licensed secondhand dealer: 10
 - (d) the date of the transaction.
- (4) Regulations made under this Act may do either or both of the following:
- (a) require additional information to be recorded in the dealers record: 15
 - (b) exempt any class of person from the requirement to comply with any or all of the requirements relating to the dealers record.
- (5) The information required to be shown in the dealers record must be added to the record as soon as practicable after the information is available. 20
- (6) A licensed secondhand dealer commits an offence, and is liable on summary conviction to a fine not exceeding \$10,000, if he or she—
- (a) fails without reasonable excuse to— 25
 - (i) keep a dealers record; or
 - (ii) record in it the information required by this section; or
 - (iii) add information to it as soon as practicable after the information is available; or 30
 - (b) makes a false entry in his or her dealers record.

Compare: 1963 No 10 ss 12, 12A, 13

41 Storage of dealers record

- (1) Every dealers record must be kept—
- (a) at the secondhand dealer's principal place of business; 35
or
 - (b) in the case of an itinerant dealer, in the possession of that dealer; or
 - (c) if regulations provide that dealers records may also be kept elsewhere, in accordance with the regulations. 40

- (2) The information in the dealers record relating to any article or scrap metal must be kept for not less than 3 years from the date of the transaction relating to that article or scrap metal.
 - (3) Every dealers record must be kept available for inspection (at any reasonable hour) on request by a member of the police. 5
 - (4) A licensed secondhand dealer commits an offence, and is liable on summary conviction to a fine not exceeding \$10,000, if he or she fails without reasonable excuse to store his or her dealers record as required by this section. 10
- Compare: 1963 No 10 ss 12, 12A, 13

42 Police access to dealers record

- (1) A licensed secondhand dealer must, when required to do so by a member of the police,—
 - (a) show the member his or her dealers record and any information contained in it; and 15
 - (b) make a copy of all or specified parts of it and give the copy to the member or, if that is impracticable, give the member the dealers record or specified parts of it.
- (2) If a licensed secondhand dealer gives a member of the police his or her dealers record, or any part of it, the member must— 20
 - (a) give a receipt for the document; and
 - (b) return the document to the dealer within 2 hours.
- (3) A licensed secondhand dealer commits an offence, and is liable on summary conviction to a fine not exceeding \$10,000, if he or she fails without reasonable excuse to comply with **subsection (1)**. 25
- (4) **Section 72** applies to a charge under **subsection (3)**.

Secondhand dealing

- 43 Articles to be kept for 14 days**
- (1) Every article acquired by a licensed secondhand dealer in the course of his or her secondhand dealing business must be retained by the secondhand dealer in an unaltered state for 14 days from the date of the transaction. 30
- (2) Every article acquired by a licensed secondhand dealer in the course of his or her secondhand dealing business must be stored, for the first 14 days after the transaction, in a place at which it can be reasonably conveniently inspected by a member of the police if the member asks to inspect it. 35

- (3) Despite **subsection (1)**, articles need not be retained for 14 days if—
- (a) the article was acquired by the licensed secondhand dealer from a licensed secondhand dealer and pawnbroker; or 5
 - (b) the article is being sold by the licensed secondhand dealer as agent for the owner, and the licensed secondhand dealer notes on his or her dealers record—
 - (i) the purchaser's name, contact address, and contact telephone number (if any); and 10
 - (ii) the form of authorised identification used to verify the identity of the purchaser; and
 - (iii) the purchaser's signature.

Compare: 1963 No 10 ss 14, 15

- 44 Articles to be labelled** 15
- (1) A label in the prescribed form bearing the number assigned by a secondhand dealer to an article must be affixed to the article at all times until it is sold or otherwise disposed of.
- (2) **Subsection (1)** does not apply to the extent that regulations made under this Act provide that it does not. 20

- 45 Offences relating to secondhand dealing**
- A licensed secondhand dealer commits an offence, and is liable on summary conviction to a fine not exceeding \$10,000, if he or she fails, without reasonable excuse,—
- (a) to comply with **section 43(1) and (2)** (which relate to retaining articles), other than in the circumstances set out in **section 43(3)**; or 25
 - (b) to comply with **section 44** (which relates to labeling articles).

Subpart 3—Obligations of licensed pawnbrokers 30

Records

- 46 Pawnbrokers record**
- (1) Every licensed pawnbroker must keep a pawnbrokers record.
- (2) The pawnbrokers record must show the following information with respect to all goods pledged to the pawnbroker in the course of business as a pawnbroker: 35
- (a) the identity of the pledger, which must include—

- (i) the pledger’s name, contact address, and contact phone number (if any); and
 - (ii) the form of authorised identification used to verify the pledger’s identity and fact that the pledger is aged 18 years or over; and 5
 - (iii) the signature of the pledger:
- (b) a description of the pawned goods, including their serial numbers or other unique identifier (if any):
- (c) the number assigned by the pawnbroker to each item:
- (d) the name and signature of the person who conducted the transaction on behalf of the licensed pawnbroker: 10
- (e) the date of the transaction and the date that is 3 months after that date:
- (f) the amount of money advanced on the goods:
- (g) the interest to be charged: 15
- (h) the total redemption price payable at the date that is 3 months after the date of the transaction, and whether any lesser amount is payable if the goods are redeemed before that date:
- (i) either— 20
 - (i) the date on which the goods are redeemed, and the amount for which they are redeemed; or
 - (ii) the date on which, and the price for which, the goods are sold, and the amount (if any) returned to the pledger. 25
- (3) Regulations made under this Act may—
 - (a) require additional information to be recorded in the pawnbrokers record; and
 - (b) exempt any class of person from the requirement to comply with any or all of the requirements relating to pawnbrokers records. 30
- (4) The information required to be shown in the pawnbrokers record must be added to the record as soon as practicable after the information is available.
- (5) A licensed pawnbroker commits an offence, and is liable on summary conviction to a fine not exceeding \$10,000, if he or she— 35
 - (a) fails without reasonable excuse—
 - (i) to keep a pawnbrokers record; or
 - (ii) to record in it the information required by this section; or 40

- (iii) to add information to it as soon as practicable after the information is available; or
- (b) makes a false entry in his or her pawnbrokers record.

Compare: 1908 No 141 s 17

- 47 Storage of pawnbrokers record** 5
- (1) Every pawnbrokers record must be kept—
 - (a) at the pawnbroker's principal place of business; or
 - (b) if regulations provide that pawnbrokers records may also be kept elsewhere, in accordance with the regulations. 10
 - (2) The information in the pawnbrokers record relating to any goods must be kept for not less than 3 years from the date of the transaction relating to those goods.
 - (3) Every pawnbrokers record must be available for inspection on request at any reasonable hour by a member of the police. 15
 - (4) A licensed pawnbroker commits an offence, and is liable on summary conviction to a fine not exceeding \$10,000, if he or she fails, without reasonable excuse, to store his or her pawnbrokers record as required by this section. 20
- Compare: 1908 No 141 ss 17, 18
- 48 Police access to pawnbrokers record**
- (1) A licensed pawnbroker must, when required to do so by a member of the police,—
 - (a) show the member his or her pawnbrokers record and any information contained in it; and 25
 - (b) make a copy of all or specified parts of it and give the copy to the member or, if that is impracticable, give the member the pawnbrokers record or specified parts of it.
 - (2) If a licensed pawnbroker gives a member of the police his or her pawnbrokers record, or any part of it, the member must— 30
 - (a) give a receipt for the document; and
 - (b) return the document to the pawnbroker within 2 hours.
 - (3) A licensed pawnbroker commits an offence, and is liable on summary conviction to a fine not exceeding \$10,000, if he or she fails without reasonable excuse to comply with **subsection (1)**. 35
 - (4) **Section 72** applies to a charge under **subsection (3)**.

Compare: 1908 No 141 ss 28, 29

*Pawnbroking***49 Redemption price**

- (1) The redemption price of any pawned goods is—
- (a) the amount of money advanced on the goods; plus
 - (b) the total interest payable by the pledger on redemption of the goods. 5
- (2) If goods are pawned by way of a buyback contract,—
- (a) the price at which the goods are purchased by the pawnbroker is taken to be the amount of money advanced on the goods; and 10
 - (b) the difference between the purchase price and the price at which the goods may be bought back is taken to be the interest payable.
- (3) A pawnbroker may charge only interest, and not any other fee or charge (however described), as part of the redemption price of pawned goods. 15
- (4) A pawnbroker may advance only money, and not any other thing, on a pledge.

50 Pledge tickets

- (1) At the time when a pledger gives possession of pawned goods (including goods pawned by way of buyback contract) to a licensed pawnbroker, the pawnbroker must give the pledger a pledge ticket for the goods. 20
- (2) If a form of pledge ticket is prescribed, the pledge ticket must be in that form; but in any case every pledge ticket must show— 25
- (a) the name of the pledger; and
 - (b) the address at which the pawned goods may be redeemed; and
 - (c) the matters set out in **section 46(2)(b) to (h)**. 30
- (3) The pledger must produce the pledge ticket to the licensed pawnbroker if he or she wishes to redeem the pawned goods.
- (4) A licensed pawnbroker is entitled, in the absence of proof to the contrary, to assume that the holder of a pledge ticket is in fact the pledger of the goods identified on the ticket. 35
- (5) A licensed pawnbroker must issue a replacement pledge ticket if satisfied that the person seeking the replacement ticket is in

fact the pledger, or agent of the pledger, of the pawned goods to which it relates.

Compare: 1908 No 141 ss 19, 21, 22

- 51 Pawned goods to be retained for 3 months** 5
- A licensed pawnbroker may not dispose of pawned goods within 3 months of the date of the pledge, except by way of redemption of the goods to the pledger or as otherwise provided in this Act.
- Compare: 1908 No 141 s 23
- 52 Pawned goods to be labelled** 10
- (1) A label in the prescribed form bearing the number assigned by a pawnbroker to pawned goods must be affixed to the goods at all times until the goods are redeemed or disposed of.
- (2) **Subsection (1)** does not apply to the extent that regulations made under this Act provide that it does not. 15
- 53 Right of pledger to redeem and inspect pawned goods**
- (1) A pledger may, at any time, redeem his or her pawned goods from a licensed pawnbroker on payment of the redemption price.
- (2) A pledger may, at any reasonable time, inspect any of his or her goods that are held by a licensed pawnbroker. 20
- 54 Right of pawnbroker to sell goods after 3 months and retain redemption price**
- (1) If a pledger does not redeem his or her pawned goods within 3 months of the transaction date, the pawnbroker may sell the goods in order to recover the redemption price. 25
- (2) Goods to be offered for sale by a pawnbroker must be offered for sale by way of a public auction that is conducted by a person who is not—
- (a) the pawnbroker; or 30
- (b) an employee of the pawnbroker; or
- (c) in the case of a pawnbroker that is a company, a person concerned in the management of the company.
- (3) If the redemption price (or more) of pawned goods is bid for those goods, the goods must be sold at the auction. 35

- (4) If, having been offered for sale at public auction, the goods remain unsold, the pawnbroker may sell the goods in any other way that is reasonable, having regard to the need to obtain a realistic price for the goods. The fact that the goods are subsequently sold for a price less than the redemption price does not necessarily show that the subsequent method of sale was unreasonable. 5
- (5) When a pawnbroker sells pawned goods, he or she may retain from the sale price the redemption price of the goods. 10
 Compare: 1908 No 141 ss 23, 25

55 What happens if sale price is greater than redemption price

- (1) In this section, **excess** means the amount (if any) by which the price that a pawnbroker sells pawned goods for exceeds the redemption price of those goods. 15
- (2) A pledger is entitled to 90% of any excess received by the pawnbroker on the sale of the pledger’s goods, provided that the excess is claimed within 6 months of the date of the sale.
- (3) The pawnbroker may retain the remaining 10% of the excess.
- (4) If an excess is \$10 or more, the pawnbroker must, as soon as practicable after the sale, write to the pledger at his or her last known address advising him or her of— 20
 - (a) the amount of excess to which he or she is entitled; and
 - (b) the date by which it must be claimed.
- (5) If the pledger does not claim his or her portion of the excess within 6 months of the date of the sale, the pawnbroker may keep that portion also. 25
 Compare: 1908 No 141 ss 24, 26

56 Miscellaneous rules about pawnbroking

- (1) A licensed pawnbroker may not accept a pledge from a person who is under the age of 18 years. 30
- (2) Every pawnbroking contract is subject to this Act and every other enactment.
- (3) A pawnbroker must not purchase any article that he or she has accepted as a pledge. 35
 Compare: 1908 No 141 s 33

- 57 Offences relating to pawnbroking**
- (1) A licensed pawnbroker commits an offence, and is liable on summary conviction to a fine not exceeding \$10,000, if he or she, without reasonable excuse,—
- (a) sells or otherwise disposes of any pawned goods within 3 months of the transaction date of those goods: 5
 - (b) fails to issue a pledge ticket, or issues a pledge ticket that does not comply with **section 50**:
 - (c) fails to allow a pledger to redeem or inspect goods pawned by the pledger: 10
 - (d) sells pawned goods without first offering them for sale at public auction:
 - (e) fails, when a pledger claims an excess (as defined in **section 55(1)**) within 6 months of the disposal of pledged goods, to return to the pledger at least 90% of the excess: 15
 - (f) accepts a pledge from a pledger aged under 18 years.
- (2) A licensed pawnbroker commits an offence, and is liable on summary conviction to a fine not exceeding \$2,000, if he or she fails, without reasonable excuse, to comply with any other obligation under any of **sections 49 to 56**. 20

Compare: 1908 No 141 s 24

Subpart 4—Obligations of promoters

Records

- 58 Promoters record** 25
- (1) Every promoter must keep a promoters record.
- (2) The promoters record must show, with respect to every market or fair at which the promoter provides space to stallholders,—
- (a) the date or dates on, or the period during, which the market or fair operates; and 30
 - (b) the location of the market or fair; and
 - (c) in relation to every stallholder who proposes to sell secondhand articles or scrap metal or to act as a pawnbroker at the market or fair,— 35
 - (i) the stallholder's full name, contact address, and contact phone number (if any); and
 - (ii) the form of authorised identification used to verify the stallholder's identity; and

- (iii) the signature of the stallholder.
- (3) Regulations made under this Act may—
- (a) require additional information to be recorded in promoters records; and
 - (b) exempt any class of person from the requirement to comply with any or all of the requirements relating to promoters records. 5
- (4) The information in a promoters record about a particular market or fair and the stallholders at it must be kept by the promoter for at least 12 months from the date of the market or fair. 10
- (5) A promoter must, when required to do so by a member of the police,—
- (a) make, and give to the member of the police, a copy of all or any specified part of the promoter's promoters record; or 15
 - (b) if that is impracticable, give the promoters record or specified part of it to the member of the police, in which case the member must—
 - (i) give a receipt for the document; and 20
 - (ii) return the document within 2 hours.
- (6) A promoter commits an offence, and is liable on summary conviction to a fine not exceeding \$10,000, if he or she, without reasonable excuse,—
- (a) fails to comply with the requirements of this section relating to the promoters record; or 25
 - (b) makes a false entry in his or her promoters record; or
 - (c) fails to give his or her promoters record, or a specified part of it, to a member of the police when required to do so. 30
- (7) **Section 72** applies to a charge under **subsection 6(c)**.

Part 4

Registrar of Secondhand Dealers and Pawnbrokers, and miscellaneous provisions

Registrar and Deputy Registrars 35

59 Appointment of Registrar

- (1) The Minister of Justice must, with the concurrence of the responsible Minister, appoint a Registrar.

- (2) The Registrar—
- (a) must be appointed for a fixed term of 3 years or less; and
 - (b) may be reappointed any number of times; and
 - (c) remains in office, despite the expiry of his or her term of office, until a successor is appointed. 5
- (3) The Registrar may resign from office by notice in writing to the Minister of Justice.
- (4) The Minister of Justice may, at any time, remove the Registrar for inability to perform the functions of office, bankruptcy, neglect of duty, or misconduct, and the person removed from office is not entitled to compensation. 10
- 60 Deputy Registrars**
- (1) The Minister of Justice may, by notice in the *Gazette*, appoint up to 2 Deputy Registrars if the Minister is satisfied that— 15
- (a) the Registrar is unable, because of absence (whether by reason of leave, ill-health, or any other reason), to exercise his or her functions of office; or
 - (b) the amount of work to be done by the Registrar is more than can reasonably be done by 1 person at that time. 20
- (2) A Deputy Registrar's term of office expires on the date specified in the appointment notice in the *Gazette* or, if no such date is specified, on the date specified by the Minister of Justice in a subsequent notice in the *Gazette*.
- (3) A Deputy Registrar has and may exercise the powers (including the powers listed in **section 65(1)**), duties, and functions of the Registrar, subject to the control of the Registrar. 25
- (4) The fact that a Deputy Registrar exercises the powers, duties, and functions of the Registrar is conclusive evidence of his or her authority to do so. 30
- (5) No appointment of a Deputy Registrar, and no act done by him or her when acting as a Deputy Registrar, may be called into question in any proceedings on the ground that the occasion for the appointment had not arisen or had ceased.
- 61 Remuneration, and status under certain Acts** 35
- (1) The Registrar and any Deputy Registrar must be paid fees and expenses in accordance with the framework determined by the Government from time to time for the classification and

remuneration of statutory and other bodies, as if the Registrar were the chairperson of a statutory body and any Deputy Registrar were a member of that body.

- (2) For the purposes of the State Sector Act 1988 and the Government Superannuation Fund Act 1956, a Registrar or Deputy Registrar is not, by reason merely of that appointment, employed in the service of the Crown. 5

62 Immunity

Neither the Registrar nor any Deputy Registrar is personally liable for any act done or omission made while acting in good faith in pursuance or intended pursuance of his or her functions under this Act. 10

63 Functions of Registrar

The functions of the Registrar are—

- (a) to carry out the functions of the Registrar under **Part 2** relating to licences and certificates; and 15
 (b) to maintain the public registers described in **section 67**; and
 (c) to perform all other functions required by this Act.

64 Administrative support for Registrar

The responsible Minister must ensure that the department that is authorised by the Prime Minister to provide administrative support to the Registrar provides that support in a manner that enables the Registrar to exercise his or her powers, duties, and functions efficiently and effectively. 20 25

65 Delegations

- (1) The Registrar may, in writing, delegate to any person any function, duty, or power under this Act, except the following:
- (a) the power to conduct hearings into police objections and police complaints: 30
 (b) the power to waive a disqualification from holding a certificate:
 (c) the power to cancel a licence, and the power to cancel or suspend a certificate:
 (d) the power, under **section 17**, to transfer a licence to a temporary licence holder: 35
 (e) the power of delegation under this section.

- (2) Subject to any general or special directions given or conditions attached to a delegation, the person to whom the function, duty, or power is delegated must perform and may exercise those functions, duties, and powers in the same manner and with the same effect as if they had been conferred on that person directly by this section and not by delegation. 5
- (3) A person purporting to act under a delegation is, in the absence of proof to the contrary, presumed to be acting in accordance with the terms of the delegation.
- (4) A delegation may be made to a specified person or to persons of a specified class, or may be made to the holder or holders for the time being of a specified office or specified classes of offices. 10
- (5) A delegation is revocable in writing at will, and a delegation does not prevent the exercise of any function, duty, or power by the Registrar. 15
- (6) A delegation continues in force according to its tenor until revoked, even if the Registrar who made it has ceased to hold office.
- 66 Annual report** 20
- (1) Within 3 months after the end of every financial year, the Registrar must prepare and send to the Minister of Justice a report on the activities of the Registrar during the previous financial year that contains the matters prescribed in regulations made under this Act. 25
- (2) The Minister of Justice must present a copy of the report to the House of Representatives within 20 sitting days after the date on which the Minister receives it.
- (3) If the date of commencement of this Act is within 3 months before the end of a financial year, the first report of the Registrar must be for the first full financial year of operation and include information relating to the previous year's operation. 30

Registers

- 67 Public registers of licence holders and of certificate holders** 35
- (1) The Registrar must establish, and must maintain with up-to-date information, the following 2 registers as public registers:

- (a) a licence holders register:
- (b) a certificate holders register.
- (2) The Registrar must determine the form of the registers, and may amend the form from time to time as he or she considers necessary, providing that the content of the registers is as set out in **sections 68 and 69.** 5

Compare: 1908 No 141 s 5

68 Content of licence holders register

The licence holders register must contain the following information about each licensed secondhand dealer and pawnbroker: 10

- (a) the full name of the licence holder:
- (b) the licence holder's principal place of business:
- (c) the number of the licence:
- (d) the date of issue of the licence: 15
- (e) in the case of a licence holder who is an individual, whether the person is in partnership and, if so, the name of every partner:
- (f) in the case of a licence holder that is a company, the name of every person concerned in the management of the company: 20
- (g) the street address of every place of business used by the licence holder.

69 Content of certificate holders register

(1) The certificate holders register must contain the following information: 25

- (a) the full name of the certificate holder:
- (b) the number of the certificate:
- (c) the date of issue of the certificate.

(2) The register must also show whether a certificate is suspended. 30

70 Public access to public registers

The Registrar must take all reasonable steps to ensure—

- (a) that the information contained in the public registers is available to members of the public to view at all reasonable times; and 35

- (b) that members of the public may copy or purchase all, or any part of, the information contained in the public registers at no more than a reasonable cost.

- 71 Police access to other information held by Registrar** 5
- If a member of the police seeks any of the following information from the Registrar, the Registrar must supply it to the member as soon as practicable:
- (a) any information contained in an application for a licence or a certificate:
 - (b) any information relating to changes to information provided by licence holders or certificate holders: 10
 - (c) information relating to the cancellation of any licence or to the cancellation or suspension of any certificate.

Defences to certain charges

- 72 Charges involving failure to show or make copy of document, or show or make available any thing** 15
- (1) It is a defence to a charge under this Act involving a failure, following a request by a member of the police, to show, make a copy of, and give a document, or a failure to show or make available any other thing, to that member if— 20
- (a) the member was not in uniform and did not, at the time of making the request, produce evidence that he or she was a member of the police; or
 - (b) the request was made at a time or in a manner that was unreasonable in the circumstances. 25
- (2) This section does not limit any other defences that may be available.

Regulations

- 73 Regulations** 30
- The Governor-General may, by Order in Council, make regulations for all or any of the following purposes:
- (a) amending **Schedule 1** by—
 - (i) adding or removing items that are articles for the purpose of this Act; or
 - (ii) replacing the list of articles in order to consolidate, reorganise, or correct it: 35
 - (b) amending **Schedule 2** by—

- (i) adding or removing forms of identification that are authorised forms for the purposes of this Act; or
- (ii) replacing the list of authorised identification in order to consolidate, reorganise, or correct it: 5
- (c) prescribing the procedure for, and making other provisions relating to, the conduct of public auctions for the purposes of this Act:
- (d) prescribing a class or classes of secondhand dealers who are not engaged in business as secondhand dealers for the purposes of this Act: 10
- (e) prescribing fees for the purposes of this Act:
- (f) prescribing the size or form of photographs that are required to accompany applications, and prescribing the manner in which they are to be authenticated: 15
- (g) prescribing alternative places in which, or arrangements under which, employee records, dealers records, and promoters records may be kept:
- (h) prescribing, with respect to dealers records, pawnbrokers records, and promoters records (or any of those records),— 20
 - (i) the form in which the records must be kept:
 - (ii) the classes of person to which, or circumstances in which, the requirements of this Act or regulations made under this paragraph do not apply: 25
- (i) prescribing matters that must be noted on a dealers record where articles are not retained for 14 days:
- (j) prescribing the form of labels to be affixed to articles and pawned goods; and the regulations may provide— 30
 - (i) for different labels for different kinds of articles or goods; and
 - (ii) for the manner in which any prescribed label must or may be affixed:
- (k) prescribing the circumstances in which labels need not be affixed to articles, scrap metal, or pawned goods of a specified type or types, or prescribing articles, scrap metal, and pawned goods to which labels need never be affixed: 35
- (l) prescribing the form of pledge ticket:
- (m) prescribing the matters to be included in the annual report of the Registrar: 40

- (n) providing for any other matters contemplated by this Act, necessary for its administration, or necessary for giving it full effect.

Transitional provisions

- 74 Existing licence deemed to be transitional licence** 5
- (1) On the commencement of this Act, every person who, immediately before that commencement, held a licence issued under the Secondhand Dealers Act 1963, the Pawnbrokers Act 1908, or the Auctioneers Act 1928 is deemed to hold a licence issued under this Act, and such a licence is referred to in this section as a **transitional licence**. 10
- (2) A transitional licence expires on the earlier of the following:
- (a) the date on which the licence holder is granted a licence under **Part 2**; or
- (b) the date that is 1 year later than the date of commencement of this Act. 15
- (3) Despite anything in this Act, none of the following are obliged to hold a certificate:
- (a) an individual who holds a transitional licence;
- (b) a person who engages in transactions on behalf of a secondhand dealer who holds a transitional licence: 20
- (c) a person who issues a pledge ticket on behalf of a pawnbroker who holds a transitional licence.
- (4) **Section 14(1) to (5)** (which relates to the expiry and renewal of licences) does not apply to a transitional licence. 25
- (5) If a person who holds a transitional licence applies under **section 8** for a licence, the person must be treated as a person who does not hold a licence issued under **Part 2**.
- 75 Applications not complete by commencement date**
- (1) As soon as practicable after the commencement of this Act, every application for a licence under the Secondhand Dealers Act 1963 or under the Pawnbrokers Act 1908 that was made but not determined before that date must— 30
- (a) be forwarded to the Registrar; and
- (b) be treated as if it were an application under this Act for a secondhand dealer and pawnbroker licence. 35

- (2) If the information contained in an application referred to in **subsection (1)** is insufficient for the purposes of this Act, the Registrar—
- (a) may require the applicant to provide additional information, and decline to process the application until that information is supplied; but 5
 - (b) may not require the applicant to pay any additional fee in respect of the application.

Repeals and consequential amendments

- 76 Repeal of Secondhand Dealers Act 1963 and Pawnbrokers Act 1908** 10
The Secondhand Dealers Act 1963 and the Pawnbrokers Act 1908 are repealed.
- 77 Repeal of regulations**
The following regulations are repealed: 15
- (a) Secondhand Dealers Regulations 1963 (SR 1963/223);
 - (b) Secondhand Dealers Order 1964 (SR 1964/216).
- 78 Consequential amendments**
The enactments specified in **Schedule 3** are amended as set out in that schedule. 20
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Schedule 1 Articles for purposes of this Act

The following are articles for the purposes of this Act:

- | | |
|--|----|
| (a) bicycles and bicycle spare parts and accessories: | |
| (b) boats, boat engines, and boat accessories: | 5 |
| (c) cameras and photography equipment: | |
| (d) computer hardware, software, and other computer-related items: | |
| (e) compact discs (laser read): | |
| (f) fishing equipment and diving equipment (including wetsuits): | 10 |
| (g) electric or electronic consumer goods, but not including refrigerators, washing machines, clothes-dryers, dishwashers, and stoves: | |
| (h) games machines and associated games equipment: | |
| (i) items made of, or substantially made of, gold, silver, platinum, copper, brass, bronze, or any combination of these metals: | 15 |
| (j) jackets and coats: | |
| (k) jewellery: | |
| (l) leather clothing (but not including footwear): | 20 |
| (m) motor vehicle (including motor cycle) accessories and parts: | |
| (n) musical instruments other than pianos, and accessories of musical instruments: | |
| (o) ornamental china and crystal: | |
| (p) optical instruments such as binoculars, microscopes, and telescopes: | 25 |
| (q) portable power tools: | |
| (r) sporting equipment: | |
| (s) sunglasses: | |
| (t) tool kits: | 30 |
| (u) watches and clocks. | |
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Schedule 2

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Forms of authorised identification

The forms of identification that are authorised identification for the purposes of this Act are—

- (a) a current passport: 5
 - (b) a current New Zealand driver licence or a current overseas driver licence that contains a photograph:
 - (c) any current document containing a photograph that is issued for purposes of identification by the New Zealand Government: 10
 - (d) any document referred to in **paragraph (a), paragraph (b), or paragraph (c)** that has expired, but only if it expired less than 2 years before the date on which it is being used as identification:
 - (e) an 18+ card issued by the Hospitality Association of New Zealand: 15
 - (f) a current document issued by a New Zealand secondary or composite school to a student that—
 - (i) is issued for the purpose of identifying the student; and
 - (ii) contains a photograph of the student. 20
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Schedule 3 Enactments repealed or amended

Part 1 Acts amended

- Antiquities Act 1975** (1975 No 41) 5
 Repeal the definition of **secondhand dealer** in section 2 and substitute:
 “**secondhand dealer** means a secondhand dealer who is licensed under the **Secondhand Dealers and Pawnbrokers Act 2003**”.
- Omit from section 15(5)(b) the expression “Secondhand Dealers Act 1963” and substitute the expression “**Secondhand Dealers and Pawnbrokers Act 2003**”. 10
- Auctioneers Act 1928** (1928 No 29)
 Omit from section 4(b) the words “a pawnbroker’s licence under the Pawnbrokers Act 1908” and substitute the words “a secondhand dealer and pawnbroker licence under the **Secondhand Dealers and Pawnbrokers Act 2003**”. 15
- Motor Vehicle Dealers Act 1975** (1975 No 127)
 Omit from section 4(4)(c) the words “secondhand dealer’s licence granted under the Secondhand Dealers Act 1963” and substitute the words “secondhand dealer and pawnbroker licence issued under the **Secondhand Dealers and Pawnbrokers Act 2003**”. 20
- Privacy Act 1993** (1993 No 28)
 Add to Part I of the Second Schedule:
 “**Secondhand Dealers and Pawnbrokers Act 2003** **Section 67**”. 25

Part 2 Regulations amended

- District Courts Rules 1992** (SR 1992/109)
 Omit rule 452(1)(a)(xxi).
 Omit from rule 452(1)(a)(xxv) the expression “Secondhand Dealers Act 1963” and substitute the expression “**Secondhand Dealers and Pawnbrokers Act 2003**”. 30