

Queensland



PAWNBROKERS ACT 1984

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Warning—see last endnote for uncommenced amendments

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Information about this reprint

This Act is reprinted as at 12 February 1997. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c))

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes.

This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of earlier reprints is included in the endnotes.

Also see endnotes for information about—

- **when provisions commenced**
- **provisions that have not commenced and are not incorporated in the reprint**
- **editorial changes made in earlier reprints.**

Queensland



PAWNBROKERS ACT 1984

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PAWNBROKERS ACT 1984

[as amended by all amendments that commenced on or before 12 February 1997]

An Act to regulate the activities of pawnbrokers and for other purposes

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *Pawnbrokers Act 1984*.

Definitions

6. In this Act—

“**approved form**” see section 66.¹

“**arrest**” means arrest of a person without any warrant other than this Act and the taking of that person to a police establishment, there to be detained (unless released upon recognisance) until the person can be brought before a justice to be dealt with according to law.

“**article**” means any item of chattels personal.

“**authorised officer**” means an officer or employee of the department who is an authorised officer.

“**authorised police officer**” means an authorised officer who is a police officer.

“**commissioner**” means the commissioner of the police service.

“**licence**” means a licence issued or renewed under this Act and in force in

¹ Section 66 (Approval of forms)

all respects at the material time.

“licensed pawnbroker” means the person in whose name a licence which is in force at the material time has been issued.

“licensed premises” means premises specified in a licence.

“licensee” means the person in whose name a licence which is in force at the material time has been issued.

“officer in charge of police” includes a police officer of whatever rank or grade who is for the time being in charge of a police establishment.

“pawnbroker” means a person who carries on business by advancing upon interest or in expectation of profit or reward a sum of money upon the principal security or collateral security of an article taken by the person as a pawn or pledge.

“police establishment” has the same meaning as in the *Police Service Administration Act 1990*, section 10.10 (Police establishments).

“vehicle” means a conveyance of any kind, whether or not at the material time it is capable of being operated or moved in any manner, and includes any caravan or trailer.

Application of Act

7. This Act does not apply to the making of advances by bankers, brokers, commission agents, licensed auctioneers or merchants in the ordinary course of banking or mercantile transactions on the security of anything taken as a pledge.

Authorised officer

8.(1) Subject to subsection (2), the chief executive may appoint—

- (a) an officer or employee of the department; or
- (b) a police officer;

to be an authorised officer for the purposes of this Act.

(2) Before the chief executive appoints a police officer to be an authorised officer, the chief executive must obtain the consent of the commissioner.

(3) The commissioner may consent to an appointment either generally, in relation to a class of police officers or in a particular case.

(4) An appointment made under subsection (1) must be in, or evidenced by, writing.

Identity cards

8A.(1) The chief executive must issue an identity card to each authorised officer (other than a police officer).

(2) The identity card must—

- (a) contain a recent photograph of the authorised officer; and
- (b) be in a form approved, in writing, by the chief executive.

(3) A person who ceases to be an authorised officer must, as soon as practicable, return his or her card to the chief executive.

Proof of authority

8B. An authorised officer (other than a police officer) must not exercise any power under this Act in relation to a person unless the authorised officer first produces his or her identity card for inspection by the person.

PART 2—LICENCES

Issue of licences

9. The chief executive may issue and renew licences under this Act.

Limitation on issue of licence

10.(1) A licence shall not be issued to a person who—

- (a) is under the age of 18 years; or
- (b) is for the time being in a state of mental infirmity or mental disease, whether temporary or otherwise; or

- (c) is not a fit and proper person to hold a licence; or
- (d) is a collector licensed under the *Second-hand Dealers and Collectors Act 1984*.

(3) More than 1 licence shall not be issued in respect of any premises.

Application for licence

11.(1) An application for a licence must be made to the chief executive in the approved form.

(2) The application must be accompanied by the fee (if any) prescribed under a regulation.

(4) An applicant for a licence shall specify in the application the premises (being not more than 1) at which the applicant proposes to carry on business as a pawnbroker.

Inquiries into application

12.(1) If an application is made for a licence, the chief executive may—

- (a) make or cause to be made any inquiry or investigation in respect of the applicant, the application or the person proposed as nominee of the applicant;
- (b) require, at any time prior to the determination of the application, the furnishing by the applicant or the person proposed as nominee of the applicant of any information, further information, authority, certificate, form, photograph, fingerprint, palm print or footprint;
- (c) make or cause to be made any inspections of or inquiry or investigation in respect of the premises the subject of the application.

(2) For the purposes of subsection (1), the chief executive may obtain—

- (a) a report from the commissioner in relation to the applicant and, if the applicant is a body corporate, in relation to an executive officer of the body corporate; and
- (b) if an applicant, or an executive officer of the body corporate that is an applicant, holds, or previously held, a licence or certificate of

registration (or similar accreditation) in relation to the business of pawnbroker in another State—a report from the appropriate licensing authority in the State.

Application to be determined by chief executive

13.(1) The chief executive may, after considering any information at the chief executive's disposal—

- (a) approve an application for a licence either unconditionally or subject to conditions; or
- (b) reject the application.

(2) If the application is approved, the chief executive must issue a licence in the approved form.

Renewal of licences

14.(1) An application to renew a licence must—

- (a) be made to the chief executive in the approved form; and
- (b) be accompanied by the prescribed fee;

not more than 60, and not less than 14, days before the expiry of the licence.

(2) The chief executive may—

- (a) approve the application either unconditionally or subject to conditions; or
- (b) reject the application.

(3) If the application is approved, the chief executive must issue a licence in the approved form.

(4) If—

- (a) an application is made under subsection (1); and
- (b) the chief executive does not approve or reject the application before the expiry of the licence;

the licence is taken to continue in force until the day the chief executive approves or rejects the application.

Licensee to comply with local laws

14AA. It is a condition of a licence that the licensee comply with relevant local laws.

Conditions to be endorsed on licence

14A.(1) A licence or renewed licence must be endorsed with the conditions (other than the condition mentioned in section 14AA) to which it is subject.

(2) A condition or other matter may be endorsed on a licence or a renewed licence as a symbol the meaning of which is prescribed by regulation.

Duration of licence

15. Subject to section 20, a licence shall, unless sooner surrendered, revoked or cancelled, be in force for a period of 12 months from the date of issue or renewal.

Restoration of licence

15A.(1) If an application to renew a licence is not made within the time provided under section 14(1), the person who held the licence may, within 3 months after the expiry of the licence (the “**previous licence**”), apply for restoration of the licence.

(2) The application must—

- (a) be made to the chief executive in the approved form; and
- (b) be accompanied by the prescribed fees for restoration and renewal.

(3) If—

- (a) an application is made under subsection (1); and
- (b) the chief executive has not approved or rejected an application;

the previous licence is taken to have continued in force.

(4) If the chief executive approves the application, the renewed licence is

taken to have been in force from the expiry of the previous licence.

(5) If the chief executive rejects the application, the previous licence is taken to expire on the day the chief executive rejects the application.

Notice of refusal to issue or renew licence

16. Where an application for or for the renewal of a licence is rejected by the chief executive, the chief executive must issue a notice of rejection in the approved form and shall forward the notice to the applicant by certified mail at the applicant's address as shown in the application.

Licence not transferable

17.(1) A licence cannot be transferred to another person.

(2) An application by a licensee to change the premises endorsed on the licensee's licence to other premises (being not more than 1) must be made to the chief executive in the approved form.

(3) The application must be accompanied by the fee (if any) prescribed under a regulation.

(7) The chief executive may—

- (a) approve the application either unconditionally or subject to conditions; or
- (b) reject the application.

(8) If the application is approved, details of the approval and any condition imposed must be endorsed on the licence.

Endorsement of licences

18. A person (other than the chief executive) shall not make, alter or erase any endorsement or any part thereof upon or from any licence.

Reporting loss, destruction or theft of licence

19. Where a licence is lost, destroyed or stolen the licensee shall

forthwith on becoming aware of such loss, destruction or theft report the matter to the chief executive.

Replacement licence

20.(1) If, on application made by a licensee and payment of the prescribed fee, the chief executive is satisfied that the licensee's licence—

- (a) has been lost, destroyed or stolen; or
- (b) cannot easily be read;

the chief executive may issue a replacement licence.

(2) A replacement licence shall be endorsed with any current endorsement on the licence it is replacing.

(3) Subject to this Act a replacement licence shall, initially, remain in force for the unexpired period of the licence which it replaces.

Revocation of licence

21.(1) The chief executive may revoke any licence by serving upon the licensee a notice of revocation in the approved form.

(2) A licence shall be revoked on and from the date specified in the notice of revocation being a date not prior to the date of service of the notice.

Effect of certain convictions on licences

22.(1) Where a licensee is convicted of any offence against any Act or law which offence involves the licensee dealing in or selling any goods fraudulently or dishonestly procured by the licensee or with the licensee's knowledge fraudulently or dishonestly procured by another person then, in addition to any other penalty imposed under any other Act or law, every licence issued to the licensee shall, by virtue of that conviction, be rendered null and void.

(2) A person who has been convicted of an offence referred to in subsection (1) shall not be entitled to hold a licence for a period of 5 years from the date of that conviction.

(3) Subject to subsections (1) and (2), where a licensee is convicted of an

offence against this Act, the licensee's licence and all licences issued or renewed in the licensee's name within a period of 5 years from the date of the licensee's conviction shall be endorsed with the fact of the licensee's conviction.

(4) For the purposes of making the endorsement referred to in subsection (3) or section 59(3), the chief executive may by notice in the approved form require a licensee to produce and deliver the licensee's licence and the licensee shall produce that licence at the place therein specified on or before the time and date therein specified.

Surrender notice

23.(1) If, at any time during the currency of a licence it is revoked or deemed by this Act to be void or surrendered, the chief executive shall cause a surrender notice in the approved form to be served on the licensee.

(2) The surrender notice must state the day, time and place at which, and the authorised officer to whom, the licence must be surrendered.

(3) When a surrender notice is to have effect forthwith, service shall be effected personally.

(4) Subject to subsections (5) and (6), a licensee who has been served with a surrender notice must surrender the licensee's licence in accordance with the notice.

(5) If the time in which the surrender notice is to take effect is other than forthwith, the person to whom it is directed may apply to the chief executive for an extension of the time in which the notice is to take effect.

(6) The chief executive may, by written notice, extend the date of effect of such notice, in which case the provisions of this section shall apply as if such extended date were the date specified in the notice.

Change of licensee's address

24.(1) If a licensee changes address, the licensee must, not later than 7 days after the change—

- (a) give written notice of the change to the chief executive; and
- (b) produce the licensee's licence to the chief executive for

endorsement of the change.

(2) If the chief executive is satisfied of the correctness of the change of address, the chief executive must endorse the licence accordingly.

Licence to specify premises

25. Subject to section 17 a licence shall be restricted to the premises (being not more than 1) specified in the licence and shall not be transferred to any other premises.

Licence to be kept on premises

26. Subject to this Act a licensed pawnbroker shall at all times keep the pawnbroker's licence on the premises to which it relates.

Individual to be nominated to represent body corporate or firm

27.(1) If an applicant for a licence under section 11 (the “**proposed licensee**”) is—

- (a) a body corporate; or
- (b) a firm registered under the *Business Names Act 1962*; or
- (c) an association of persons who jointly apply for the licence;

the proposed licensee must apply to the chief executive, either in the application or the approved form, for the approval of a person as the applicant's nominee.

(2) A nominee is responsible for directly representing a licensee in the conduct of the licensee's pawnbroking business.

(3) A licence mentioned in subsection (1) may be granted only if a nominee is approved in relation to the licence.

(4) A nominee may be—

- (a) in the case of a body corporate—a director of the body corporate; and
- (b) in the case of a firm—a member of the firm; and
- (c) in the case of an association of persons—1 of those persons or

another person who is not an applicant for the licence.

(5) A nominee must—

- (a) in the chief executive's opinion, be a fit and proper person; and
- (b) not be disqualified from holding a licence under this Act.

(6) If the chief executive is satisfied that subsections (4) and (5) are complied with in relation to a proposed nominee, the chief executive may approve the proposed nominee.

(7) If a licence mentioned in subsection (1) is granted, the chief executive must endorse the licence with the name of the approved nominee.

(8) A licensee may apply to the chief executive, in the approved form, to substitute the name of another nominee (the “**substitute nominee**”) for that of the nominee currently endorsed on the licence.

(9) The application under subsection (8) must be accompanied by the licensee's current licence.

(10) If the chief executive is satisfied that subsections (4) and (5) are complied with in relation to the substitute nominee, the chief executive may—

- (a) approve the substitute nominee; and
- (b) endorse the licence with the name of the substitute nominee.

(11) In deciding whether a person is a fit and proper person for the purposes of this section, the chief executive is to have regard to the fame, character and suitability of the person.

(12) Section 12 applies to an application under this section as if it were an application for a licence.

PART 3—CONDUCT OF BUSINESS

Pawnbrokers to be licensed

28.(1) Subject to this Act, a person shall not be or act as a pawnbroker unless the person first obtains a licence.

(2) Subsection (1) does not apply to a person who is an agent or employee of a licensed pawnbroker whilst acting as such agent or employee.

Pawnbroker's premises to be identified

29. Every licensed pawnbroker shall maintain above the entrance to or in a prominent position in the pawnbroker's licensed premises—

- (a) the name of the licensed pawnbroker in legible characters at least 50 mm high; and
- (b) the words 'licensed pawnbroker' in close proximity to the name of the licensed pawnbroker; and
- (c) where the name of a person has been endorsed upon the licence as nominee of the licensed pawnbroker—
 - (i) the name of the representative in legible characters at least 50 mm high; and
 - (ii) the words 'endorsed representative' in close proximity to the name of the representative;

so that the same may be easily seen and read.

Pawnbroker restricted to licensed premises

30. A licensed pawnbroker shall not carry on business as a pawnbroker except in the premises specified in the pawnbroker's licence.

Register of articles pledged and disposed of

32.(1) A licensed pawnbroker shall enter, or cause to be entered, in a register of articles to be kept by the pawnbroker in the approved form particulars of all articles taken as a pawn or pledge including their subsequent disposal.

(2) Before or immediately after a licensed pawnbroker advances money in a transaction in the course of business as a pawnbroker the pawnbroker shall cause to be entered in the register of articles kept by the pawnbroker—

- (a) the date of the transaction; and

- (b) a fair and reasonable description of every article pawned in the transaction including its trade name, model and serial numbers where such are shown on the article; and
- (c) the name and address of the person by or on whose behalf any article is pawned in the transaction; and
- (d) the amount to be advanced by the pawnbroker in the transaction and the rate of interest to be paid in respect of the transaction; and
- (e) all other particulars prescribed under a regulation.

(3) After the expiration of the period of redemption determined in accordance with this Act a licensed pawnbroker shall dispose of articles accepted by the pawnbroker as a pawn or pledge in the prescribed manner and shall record in the register of articles kept by the pawnbroker—

- (a) the date of the sale or other disposal of the article; and
- (b) the method of disposal of the article; and
- (c) the name and address of the person to whom such article is sold or disposed of; and
- (d) the amount of the gross proceeds of the sale, or, if appropriate, of the disposal.

(4) The entries made under subsection (2) for transactions made in a calendar year must be numbered consecutively, starting with the number 1.

Duplicate entry to be delivered to customer

33.(1) A pawnbroker shall not take an article as a pawn or pledge unless, at the time the pawnbroker receives it, there is given to and accepted by the person who is pawning the article a document that is clearly legible containing a duplicate of all the particulars entered in relation to that pledge under section 32(2), including the number allotted to that entry, and containing reference to the name of the licensed pawnbroker.

(2) A licensed pawnbroker is not obliged to re-deliver to any person an article taken by the pawnbroker as a pawn or pledge until there is produced to the pawnbroker by that person the document referred to in subsection (1) that was given and accepted when the article was so taken or a copy thereof duly given by the licensed pawnbroker under section 38.

Period of redemption of pledges

34.(1) The period of redemption of an article taken as a pawn or pledge shall be 3 months or such longer period as is agreed between the licensed pawnbroker and the person who is pawning the article.

(2) If a period longer than 3 months is agreed as the period of redemption of an article, the period so agreed shall be entered in the register of articles referred to in section 32.

(3) If an article in respect of which an amount less than \$40 or, if a higher amount is prescribed, that amount, has been advanced by the licensed pawnbroker is not redeemed within the period of redemption of the article it shall become the property of the licensed pawnbroker upon the expiration of the period of redemption and the person who pawned it shall thereupon lose all claims thereto or in respect thereof.

(4) If an article in respect of which an amount of not less than \$40 or, if a higher amount is prescribed, that amount, has been advanced by the licensed pawnbroker is not redeemed within the period of redemption of the article the licensed pawnbroker may sell the article in the manner prescribed free of all claims thereto or in respect thereof by the person who pawned the article.

(5) A licensed pawnbroker who sells in the manner prescribed an article taken by the pawnbroker as a pawn or pledge before the expiration of the period of redemption of the article or who in any other way disposes of an article taken by the pawnbroker as a pawn or pledge commits an offence against this Act.

Sale of pledges

35.(1) When the period of redemption of an article taken as a pawn or pledge has expired, if the article is one to which section 34(4) relates, the article shall be sold by public auction and in no other manner.

(2) At least 4 days before the day on which it is proposed to sell an article referred to in subsection (1) the licensed pawnbroker shall cause notice of the proposed sale to be published at least twice in a newspaper that circulates generally in the locality in which the pawnbroker carries on business as a pawnbroker.

(3) Each such notice shall contain a catalogue describing articles to be put

up for sale and specifying the time when each such article was taken as a pawn or pledge.

(4) From the proceeds of the sale of an article there shall be deducted—

- (a) the amount of expenses of the sale; and
- (b) the aggregate of the amount of the advance made by the licensed pawnbroker upon the security of the article and the amount of interest the pawnbroker would have received had the article been redeemed on the day on which its period of redemption expired;

and, if the proceeds of sale exceed the amount of the deductions, the licensed pawnbroker shall pay the balance of such proceeds into the trust account maintained by the pawnbroker, which balance shall be held in that account for the person who pawned the article, and if such balance is not claimed by or on behalf of that person within 12 months after the date of the sale the pawnbroker shall pay the same from that account to the Public Trustee to be placed to the credit of the Unclaimed Moneys Fund and thereafter to be dealt with as unclaimed money.

(5) When the premises of a licensed pawnbroker are open for business, the pawnbroker must, if required by an authorised officer, make available to the authorised officer all books of account and records relating to a requirement imposed on the pawnbroker under subsection (3) or (4).

(6) At any time when the premises of a licensed pawnbroker are open for business the pawnbroker shall, upon request by a police officer, make available to the police officer all books of account and records that relate to requirements imposed by subsections (4) and (5).

Recovery rights where pledge wrongly disposed of

36.(1) If a licensed pawnbroker sells or in any other way disposes of an article and thereby commits the offence defined in section 34(5) the person who pawned the article may recover from the licensed pawnbroker in a court of competent jurisdiction by way of action for a debt due and owing to the person by the licensed pawnbroker—

- (a) in the case of a sale—the fair value of the article as at the date of its sale or the gross proceeds of the sale, whichever is the greater;
or

- (b) in the case of a disposal other than by sale—the fair value of the article as at the date of its disposal;

and such costs as the court shall consider reasonable.

(2) The right to recover conferred by subsection (1) may be enforced whether or not the licensed pawnbroker is proceeded against for the pawnbroker's offence in selling or disposing of the article in question.

Certain transactions prohibited

37.(1) A licensed pawnbroker shall not take, suffer or permit an employee of the pawnbroker to take an article as a pawn or pledge from a person who is under the age of 17 years or who is under the influence of liquor or a drug.

(2) It is a defence to a charge of an offence defined in subsection (1) to prove that the person from whom the article in question was taken as a pawn or pledge reasonably appeared to the defendant not to be a person under the age of 17 years or, as the case may be, a person under the influence of liquor or a drug.

Replacement of lost pawn ticket

38. If a document given to and accepted by a person under section 33 is lost or destroyed or is taken without the consent of its owner then upon proof thereof and of the owner's identity to the satisfaction of the licensed pawnbroker who gave the document, by declaration under the *Oaths Act 1867*, or by other means, the owner shall be entitled to receive from the licensed pawnbroker a copy of the document.

Age of employees

39. A licensed pawnbroker shall not employ a person under the age of 17 years to take any article as a pawn or pledge.

Pawnbroker to inform police if stolen article comes into his or her possession

40. A pawnbroker who comes into possession of any article which

answers the description of any article described as having been stolen or otherwise unlawfully obtained in any written, printed or oral information given to the pawnbroker by any police officer shall forthwith give notice to the officer in charge of the police establishment nearest to the place where the pawnbroker carries on business as a pawnbroker.

Pawnbroker may require information

41.(1) A licensed pawnbroker shall require a person who offers to the pawnbroker any article as a pawn or pledge to—

- (a) supply the person's name, address and occupation and verification of the person's name and address;
- (b) state whether or not the person is the owner of the article;
- (c) if the person is not the owner thereof—state the name and address of the owner;
- (d) state how the person came into possession of the article.

(2) A person, when required as provided in subsection (1), shall forthwith supply the information required.

(3) Where a person fails to comply with a requirement pursuant to subsection (1) or the licensed pawnbroker suspects on reasonable grounds that any article offered to the pawnbroker has been stolen or otherwise unlawfully obtained then such pawnbroker—

- (a) may seize and detain the article;
- (b) may detain that person;

using such force as is necessary for that purpose and, as soon as reasonably practicable thereafter, the pawnbroker shall deliver any article detained and any person detained to a police officer whereupon that detention shall cease.

(4) For the purposes of this section—

“licensed pawnbroker” includes a person endorsed on the licensed pawnbroker's licence as nominee.

Disposal of pledges on termination of licence

42.(1) If—

- (a) the chief executive refuses a renewal of a licence under this Act; or
- (b) a licence under this Act ceases to be in force for any reason, a Magistrates Court may, on the application of any person, make such order with respect to the disposal of articles taken as pawns or pledges under the authority of such licence as the court thinks fit.

(2) An order made under subsection (1) shall be given effect and complied with by all persons to whom it is directed.

PART 4—OFFENCES**Offences generally**

43. A person who contravenes or fails to comply with any provision of this Act commits an offence against this Act and if a specific penalty is not otherwise provided is liable—

- (a) for a first offence—to a penalty not exceeding 8 penalty units or to imprisonment for a term not exceeding 3 months; or
- (b) for a second or subsequent offence—to a penalty not exceeding 16 penalty units or to imprisonment for a term not exceeding 6 months.

Fraud and unlawful possession of licence etc.

44.(1) A person shall not—

- (a) in any written application, notice or other document made or given to the chief executive or an authorised officer make a statement that to the person's knowledge is false; or
- (b) by a false statement or misrepresentation obtain or attempt to obtain a licence; or

- (c) furnish any information that to the person's knowledge is false or misleading with respect to particulars required to be furnished in connection with an application for a licence; or
- (d) forge (within the meaning of the Criminal Code) any licence.

(2) Unless the person has reasonable cause for so doing, a person shall not have in the person's possession—

- (a) a licence; or
- (b) any article resembling a licence and calculated to deceive; or
- (c) any document that was formerly a licence but that is revoked, void, cancelled, surrendered or expired.

(3) A person shall not—

- (a) use a licence unless it is a licence duly issued to the person; or
- (b) lend a licence duly issued to the person to another person for use by that other person; or
- (c) permit or suffer to be used by another person a licence duly issued to the person.

(4) Unless authorised by or under this Act, a person shall not make or cause, permit or allow to be made any endorsement (other than the person's signature) or any addition or alteration or erasure whatsoever on or from any licence.

(5) A licence in respect to which any act or attempted act referred to in this section has been done shall be null and void.

False entries in register of articles

45. A licensed pawnbroker shall not make or cause to be made a false entry in a register of articles kept by the pawnbroker pursuant to section 32.

Pawnbroking signs on or near unlicensed premises prohibited

46. A person shall not erect, exhibit or suffer to remain on or near premises used by the person a sign, writing, painting or other mark or a device which implies or gives reasonable cause to believe that such

premises are premises at which business as a pawnbroker is carried on unless the person is a licensed pawnbroker.

Attempts to commit offences

47. A person who attempts to contravene any provision of this Act commits an offence against this Act.

PART 5—POWERS OF AUTHORISED OFFICERS

Name and address

48.(1) Any authorised police officer who—

- (a) finds any person committing or reasonably suspects any person of having committed or being about to commit any offence against this Act; or
- (b) is making investigations with a view to establishing whether or not an offence against this Act has been or is about to be committed by any person and believes on reasonable grounds that such information will assist in the conduct of the investigations;

may demand from that person the person's name and address or the person's name or address and if the officer has reasonable ground to suspect that the name or address given is false may require evidence of the correctness thereof.

(1A) If that person fails upon demand to give the person's name, address or such evidence as is demanded, the authorised police officer shall caution the person, and, if the person still persists in such failure, or gives a name or address which in the opinion of the authorised police officer is false, may arrest the person without warrant, and take the person as soon as practicable before a justice to be dealt with according to law.

(2) A person who, when required under this section fails to give the person's name and address or the person's name or address, or gives a false name or address or gives false evidence with respect thereto, commits an offence against this Act.

Power to demand production of licence etc.

49.(1) Where under this Act any person is required to be the holder of a licence or to keep any register or record, any authorised officer may at any time require that person, or, where a nominee has been endorsed on a licence, the representative, to forthwith produce and deliver to that authorised officer for inspection, the licence, the register or record.

(2) A person who, without reasonable excuse (the proof of which shall be upon the person), fails to forthwith produce a licence, register or record when requested by an authorised officer commits an offence against this Act.

Authorised officer may enter premises

50.(1) An authorised police officer who suspects on reasonable grounds that an offence against this Act has been, is being or is about to be committed may at any time by day or night demand entrance into a pawnbroker's premises and if admittance is refused or unreasonably delayed may use such force as is necessary to enter those premises.

(2) An authorised officer may at any time when a pawnbroker's premises are open for business enter those premises.

(3) An authorised officer whilst in or on licensed premises may—

- (a)** inspect any articles held by the pawnbroker as pawns or pledges; and
- (b)** inspect the register of articles and any record, licence, notice or other writing and take such copies or extracts therefrom as the officer desires; and
- (c)** make such other search or inquiry as the officer considers necessary to establish whether the provisions of this Act or of any licence are being complied with.

(4) A person must not, without reasonable excuse, obstruct, prevent or delay, or attempt to obstruct, prevent or delay, the entry into licensed premises of an authorised officer exercising the powers given to the officer under this Act.

(5) Upon the request of an authorised officer who has entered the pawnbroker's premises a pawnbroker shall produce and deliver to the

officer for inspection the register of articles and all records, books, documents and articles referred to in subsection (3).

Search warrant

51.(1) Upon complaint on oath before any justice by an authorised police officer, that such officer believes that a pawnbroker has in or upon any place or premises, any articles that have been stolen or otherwise unlawfully obtained, such justice may grant a warrant to an authorised police officer to enter and search such place or premises, and search any person found therein or thereon and to seize and detain any article suspected of being stolen or otherwise unlawfully obtained found.

(2) A warrant may be executed at any time and shall be sufficient authority for an authorised police officer and for all persons acting in aid of the officer—

- (a) to enter the place or premises specified in the warrant;
- (b) to search such place or premises and any person found there;
- (c) to exercise therein the powers conferred upon an authorised police officer by this Act;
- (d) to use such force as may be necessary to perform any of the things referred to herein.

(3) For the purpose of gaining entry to any place or premises or to search such place, premises or any person an authorised police officer may call to the officer's aid such persons as the officer thinks necessary and those persons, while acting in aid of that officer in the lawful exercise by the officer of the officer's power of entry and search shall have a like power of entry and search.

Seizure and detention of suspected articles

52. An authorised officer may at any time seize and detain any articles in the possession of a pawnbroker which articles the officer suspects on reasonable grounds to have been stolen or otherwise unlawfully obtained and for those purposes may stop, detain and search—

- (a) any vehicle in the possession of a licensed pawnbroker;
- (b) the person of the licensed pawnbroker.

Fingerprints etc.

53.(1) Where a person has been arrested for an offence against this Act, the officer in charge of police at the police establishment to which the person is taken after arrest or where the person is in custody may take or cause to be taken all such particulars as the officer may consider necessary for the identification of such person including the person's voice print, photograph, fingerprints, palm prints, footprints, toe prints and handwriting.

(2) Except in the case of voice prints or handwriting, such force as is necessary may be used in the taking of those particulars.

(3) A court which convicts a person, who appears personally before it, of an offence against this Act may in its discretion order that person into the custody of a police officer for the purpose of obtaining any particulars referred to in subsections (1) and (2) and that police officer and any police officer acting in aid of the officer shall take (using such force as is necessary for that purpose) that person to a place where those particulars can adequately be taken and take those particulars.

(4) However, whether or not those particulars are obtained, that custody shall cease at the expiration of 1 hour after the court makes its order.

(5) Where a person arrested upon a charge of an offence against this Act is not proceeded against or is found not guilty of that offence any voice print, photograph, fingerprints, palm prints, footprints, toe prints or specimens of handwriting taken from the person pursuant to this section consequent upon the person's arrest shall at the person's request be destroyed in the person's presence.

Authorised officer may prosecute

54. In any proceedings under this Act, an authorised officer (whether or not the complainant), may appear and act in court on behalf of the prosecution.

PART 6—MISCELLANEOUS PROVISIONS

Presumption of right to redeem

55. Any person who produces to a licensed pawnbroker a document given by the licensed pawnbroker under section 33 or a copy thereof duly given by the licensed pawnbroker under section 38 seeking to redeem the article to which the document or copy relates shall be deemed to be the owner of the document or copy or to be acting under the authority of the owner thereof and to be entitled to redeem such article unless, previously to the production of such document or copy, the licensed pawnbroker has been informed—

- (a) by a person claiming to be the owner of such document or copy, that the same has been lost by the person or taken without the person's consent; or
- (b) by a credible person, that the article to which such document or copy relates is a stolen article.

Inspection of register of articles concerning articles disposed of

56. Where an article taken by a pawnbroker as a pawn or pledge has been sold or in any other way disposed of, any person who produces to the pawnbroker a document given by the pawnbroker under section 33 relating to such article or a copy thereof given by the pawnbroker under section 38 shall be entitled to inspect the register of articles kept for the purposes of section 32 and to inspect and make copies or extracts from the entry therein relating to such article.

Proceedings for offences

57.(1) An offence against this Act may be prosecuted in a summary way under the *Justices Act 1886*.

(2) A prosecution for any offence against this Act must be commenced within 1 year from the time when the matter of complaint arose.

Fees and penalties

58. All fees paid and all penalties recovered and costs incurred in relation to proceedings under this Act shall be payable to the Consolidated Fund.

Persons other than offender liable to penalties

59.(1) Where an offence against this Act is committed by a body corporate a person who at the time the offence is committed is a director or member of the governing body of the body corporate or the manager of or an officer concerned in the management, administration or government of the business of the body corporate in Queensland shall be deemed to have committed a like offence and be liable therefor unless the person proves that the offence occurred without the person's consent or connivance and that the person exercised all due diligence to prevent the commission of an offence such as that committed.

(2) Where an offence against this Act is committed by a person who carries on business as a licensed pawnbroker in association with other persons whether or not under a business name each of those other persons shall be deemed to have committed a like offence and be liable therefor unless the person proves that the offence occurred without the person's consent or connivance and that the person exercised all due diligence to prevent the commission of an offence such as that committed.

(3) Where a person commits an offence against this Act as an agent or employee of a licensee, and is convicted of the offence, then the fact of that conviction shall be endorsed on the licence of the principal or employer, as the case may be.

(4) A person is not liable to be convicted for an offence against this Act committed by the person as an employee if the person satisfies the court that the offence was committed while the business of the person's employer was being conducted under the personal superintendence of that employer or of another person as manager or other representative of that employer, and that the offence was committed with the knowledge of that employer, manager or representative.

(5) For the purposes of this section, a person whose name has been endorsed on a pawnbroker's licence as nominee of the licensed pawnbroker shall be deemed to be the agent of the licensed pawnbroker and the licensed pawnbroker shall be deemed to be the principal of the representative.

Service of notice, orders etc.

60.(1) Any notice, order or other document issued pursuant to this Act shall be properly served upon the person to whom it is directed if it is served in accordance with this section, that is to say—

- (a) by delivering a copy thereof to the person personally; or
- (b) if the person cannot reasonably be found—by leaving a copy thereof with some person for the person at the person's usual place of business or residence or at the place of business or residence last known to the person who serves the order, notice or document; or
- (c) by posting by means of registered post a copy thereof addressed to the person at the person's place of business or residence last known to the person who issued the notice, order or other document at least 14 days before the date on which the order, notice or document is to take effect.

(2) When an order, notice or document is served, the person who serves same may attend before a justice and depose on oath and in writing endorse on a copy of the order, notice or document to the manner of service thereof showing therein the date of personal delivery, leaving or posting as the case may be of such order, notice or document.

(3) Every such deposition shall upon production in any court be evidence of the matters contained therein and shall be sufficient proof of the service of such order, notice or document on the person to whom it was directed.

Appeals

61.(1) Subject to this section, a person who feels aggrieved by—

- (a) the refusal of the person's application for a licence or for the endorsement on the licence of a nominee of the licensed pawnbroker or for the renewal of a licence or to replace the premises endorsed on the person's licence with other premises;
- (b) the imposition or variation at any time of any terms or conditions imposed upon a licence issued to the person;
- (c) the revocation of a licence issued to the person;

may, within 28 days after the date of service of the notice of refusal, imposition, variation or revocation, appeal to the Magistrates Court exercising jurisdiction at or nearest the place where the applicant carries or, as the case may be, proposes to carry on business as a pawnbroker.

(2) An appeal shall be instituted by—

- (a) lodging with the clerk of the court having jurisdiction written notice of appeal; and
- (b) serving a copy of that notice on the chief executive.

(3) A notice of appeal must state fully the grounds of appeal and the facts on which the appellant relies.

(4) Before the appeal is determined the appellant is entitled to be informed of the grounds upon which the application has been refused, the appellant's licence has been endorsed or revoked or conditions imposed or varied in respect of the appellant's licence.

(5) An appeal shall be by way of re-hearing.

(6) Notwithstanding that an appeal has been lodged, any refusal, imposition or variation or revocation under this Act shall be effective as such until the Magistrates Court makes its determination upon the appeal.

(7) A person who has duly appealed against—

- (a) the refusal to renew the person's licence; or
- (b) the revocation of the person's licence;

shall be entitled to carry on business in all respects as if the person's licence had been renewed or had not been revoked pending the determination of the appeal.

Protection

62.(1) The chief executive or an authorised officer incurs no civil liability for an honest act or omission in the performance or purported performance of functions under this Act.

(2) A liability that would, apart from this section, attach to the chief executive or an authorised officer attaches instead to the State.

Pawnbroker deemed in possession of articles

63. Notwithstanding that any article is not found in or on licensed premises, a pawnbroker shall be deemed to be in possession of the article if—

- (a) it is found in any house, shop, room or premises occupied by the pawnbroker; or
- (b) without having bona fide been sold by or redeemed from the pawnbroker it has been removed to any other place.

Evidentiary provisions

64. In a proceeding for the purposes of this Act—

- (a) it shall not be necessary to prove the appointment of the Minister, the chief executive, the commissioner or an authorised officer to do any act or take any proceedings;
- (b) a signature purporting to be that of the Minister, the chief executive, the commissioner or an authorised officer shall be taken to be the signature it purports to be until the contrary is proved;
- (c) a document purporting to be certified by an authorised officer and purporting to be a copy of a licence, order or other authority under this Act shall, upon its production in that proceeding, be evidence of that licence, order or other authority and of any terms, conditions or other matters endorsed thereon;
- (d) a document purporting to be signed by an authorised officer stating that at a specified time or during a specified period there was or was not in force a licence, exemption, order or other authority under this Act as described in the document issued to a specified person and that such licence, exemption, order or other authority was or was not subject to the terms, conditions or restrictions set out in the document shall upon its production in that proceeding be evidence and, in the absence of evidence to the contrary, conclusive evidence of the matters contained in the document;
- (e) every entry in any book, register, card or record kept by or

belonging to any person pursuant to this Act or found on the person's premises shall be taken, unless the contrary is shown, to have been made by or with the authority of that person;

- (f) proof of any exemption from any provision of this Act shall be upon the person who relies thereon;
- (g) where the age of any person is material, the court may decide upon its own view and judgment, whether any person charged or present before it has or has not attained any prescribed age, but nothing herein shall be construed to prevent the age of that person being proved.

Delegations

65. The chief executive may delegate the chief executive's powers under this Act to—

- (a) an authorised officer; or
- (b) another officer or employee of the department.

Approval of forms

66. The chief executive may approve forms for use under this Act.

Regulation making power

67.(1) The Governor in Council may make regulations under this Act.

(2) A regulation may be made about the following—

- (a) keeping records and other things;
- (b) additional duties of pawnbrokers, including, for example, duties about the keeping of records;
- (c) conditions of licences;
- (d) fees payable under this Act;
- (e) painting or affixing names of licensed pawnbrokers on or to licensed premises;

- (f) penalties of not more than 8 penalty units for offences against a regulation.

ENDNOTES

1 Index to endnotes

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2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 12 February 1997. Future amendments of the Pawnbrokers Act 1984 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 Key

Key to abbreviations in list of legislation and annotations

AIA	=	Acts Interpretation Act 1954	(prev)	=	previously
amd	=	amended	proc	=	proclamation
ch	=	chapter	prov	=	provision
def	=	definition	pt	=	part
div	=	division	pubd	=	published
exp	=	expires/expired	R[X]	=	Reprint No.[X]
gaz	=	gazette	RA	=	Reprints Act 1992
hdg	=	heading	reloc	=	relocated
ins	=	inserted	renum	=	renumbered
lap	=	lapsed	rep	=	repealed
notfd	=	notified	s	=	section
om	=	omitted	sch	=	schedule
o in c	=	order in council	sdiv	=	subdivision
p	=	page	SIA	=	Statutory Instruments Act 1992
para	=	paragraph	SL	=	subordinate legislation
prec	=	preceding	sub	=	substituted
pres	=	present	unnum	=	unnumbered
prev	=	previous			

4 Table of earlier reprints

TABLE OF EARLIER REPRINTS

[If a reprint number includes an arabic letter, the reprint was released in unauthorised, electronic form only.]

Reprint No.	Amendments included	Reprint date
1	to Act No. 76 of 1993	27 April 1994
2	to Act No. 57 of 1995	4 December 1995

5 Tables in earlier reprints

TABLES IN EARLIER REPRINTS

Name of table	Reprint No.
Changed names and titles	1
Corrected minor errors	1, 2
Obsolete and redundant provisions	2
Renumbered provisions	1

6 List of legislation

Pawnbrokers Act 1984 No. 12

date of assent 27 February 1984

ss 1–2 commenced on date of assent (see s 2(1))

remaining provisions commenced 1 October 1984 (proc pubd gaz 28 July 1984 p 1869)

as amended by—

Pawnbrokers Act Amendment Act 1984 No. 56

date of assent 15 May 1984

commenced on date of assent

Pawnbrokers Act Amendment Act 1985 No. 59

date of assent 20 September 1985

ss 1–2 commenced on date of assent (see s 2(1))

remaining provisions commenced 1 October 1985 (proc pubd gaz 28 September 1985 p 390)

Statute Law (Miscellaneous Provisions) Act 1989 No. 103 s 3 sch

date of assent 25 October 1985

commenced on date of assent

Statute Law (Miscellaneous Provisions) Act 1991 No. 97 ss 1–3 sch 1

date of assent 17 December 1991
 commenced on date of assent

Justice Legislation (Miscellaneous Provisions) Act 1992 No. 40 ss 1, 2(1)(f), 163 sch 1

date of assent 14 August 1992
 ss 1, 2(1)(f) commenced on date of assent
 remaining provisions commenced 28 February 1994 (1994 SL No. 33)

Statute Law (Miscellaneous Provisions) Act (No. 2) 1993 No. 76 ss 1–3 sch 1

date of assent 14 December 1993
 commenced on date of assent

Statute Law (Miscellaneous Provisions) Act (No. 2) 1994 No. 87 ss 1–3 sch 2

date of assent 1 December 1994
 commenced on date of assent

Statute Law (Minor Amendments) Act 1995 No. 50 ss 1, 3 sch

date of assent 22 November 1995
 commenced on date of assent

Statute Law Revision Act 1995 No. 57 ss 1–2, 4 sch 1 (as amd by 1995 Act No. 58 ss 1–2, 4 sch 1 (as from 28 November 1995 (see s 2(1) sch 1)))

date of assent 28 November 1995
 commenced on date of assent

Consumer Law and Other Justice Legislation (Miscellaneous Provisions) Act 1996 No. 56 pts 1, 17

date of assent 20 November 1996
 s 151 not yet proclaimed into force
 remaining provisions commenced on date of assent

7 List of annotations

Commencement

s 2 om R2 (see RA s 37)

Arrangement of Act

s 3 om 1991 No. 97 s 3 sch 1

Acts terminated or repealed

s 4 om 1991 No. 97 s 3 sch 1

Savings and transitional

s 5 om 1991 No. 97 s 3 sch 1

Definitions

prov hdg sub 1996 No. 56 s 146

s 6 amd 1985 No. 59 s 3(a), (c); 1995 No. 57 s 4 sch 1

def “**approved form**” ins 1995 No. 57 s 4 sch 1

def “**authorised officer**” ins 1992 No. 40 s 163 sch 1

def “**authorised police officer**” ins 1992 No. 40 s 163 sch 1
 def “**authorized officer**” om 1992 No. 40 s 163 sch 1
 def “**chief executive**” ins 1992 No. 40 s 163 sch 1
 om 1995 No. 57 s 4 sch 1
 def “**Commissioner**” sub 1992 No. 40 s 163 sch 1
 def “**Local Authority**” sub 1985 No. 59 s 3(b)
 om 1992 No. 40 s 163 sch 1
 def “**local government area**” om 1995 No. 57 s 4 sch 1
 def “**Magistrates Court**” om 1991 No. 97 s 3 sch 1
 def “**Minister**” om 1991 No. 97 s 3 sch 1
 def “**police establishment**” sub 1994 No. 87 s 3 sch 2
 def “**police officer**” om 1992 No. 40 s 163 sch 1

Authorised officer

s 8 sub 1992 No. 40 s 163 sch 1

Identity cards

s 8A ins 1992 No. 40 s 163 sch 1

Proof of authority

s 8B ins 1992 No. 40 s 163 sch 1

Issue of licences

s 9 amd 1985 No. 59 s 4
 sub 1992 No. 40 s 163 sch 1

Limitation on issue of licence

s 10 amd 1992 No. 40 s 163 sch 1

Application for licence

s 11 amd 1985 No. 59 s 5; 1992 No. 40 s 163 sch 1; 1995 No. 57 s 4 sch 1;
 1996 No. 56 s 147

Inquiries into application

s 12 amd 1985 No. 59 s 6; 1989 No. 103 s 3 sch; 1992 No. 40 s 163 sch 1; 1995
 No. 57 s 4 sch 1

Application to be determined by chief executive

s 13 amd 1985 No. 59 s 7
 sub 1992 No. 40 s 163 sch 1
 amd 1995 No. 57 s 4 sch 1

Renewal of licences

s 14 amd 1985 No. 59 s 8
 sub 1992 No. 40 s 163 sch 1
 amd 1995 No. 57 s 4 sch 1

Licensee to comply with local laws

s 14AA ins 1996 No. 56 s 148

Conditions to be endorsed on licence

s 14A ins 1992 No. 40 s 163 sch 1
 amd 1996 No. 56 s 149

Restoration of licence

s 15A ins 1992 No. 40 s 163 sch 1
amd 1995 No. 57 s 4 sch 1

Notice of refusal to issue or renew licence

s 16 amd 1992 No. 40 s 163 sch 1; 1995 No. 57 s 4 sch 1

Licence not transferable

s 17 sub 1985 No. 59 s 9;
amd 1992 No. 40 s 163 sch 1; 1995 No. 57 s 4 sch 1; 1996 No. 56 s 150

Endorsement of licences

s 18 amd 1992 No. 40 s 163 sch 1

Reporting loss, destruction or theft of licence

s 19 amd 1992 No. 40 s 163 sch 1

Replacement licence

s 20 amd 1985 No. 59 s 10; 1992 No. 40 s 163 sch 1

Revocation of licence

s 21 amd 1992 No. 40 s 163 sch 1; 1995 No. 57 s 4 sch 1

Effect of certain convictions on licences

s 22 amd 1992 No. 40 s 163 sch 1; 1995 No. 57 s 4 sch 1

Surrender notice

s 23 amd 1992 No. 40 s 163 sch 1; 1995 No. 57 s 4 sch 1

Change of licensee's address

s 24 sub 1992 No. 40 s 163 sch 1

Licence to specify premises

s 25 amd 1985 No. 59 s 11

Individual to be nominated to represent body corporate or firm

s 27 sub 1992 No. 40 s 163 sch 1
amd 1995 No. 57 s 4 sch 1; 1996 No. 56 s 151

Pawnbroker's premises to be identified

s 29 amd 1995 No. 57 s 4 sch 1

Hours of business

s 31 om 1995 No. 50 s 3 sch

Register of articles pledged and disposed of

s 32 amd 1995 No. 57 s 4 sch 1

Period of redemption of pledges

s 34 amd 1985 No. 59 s 12; 1991 No. 97 s 3 sch 1

Sale of pledges

s 35 amd 1985 No. 59 s 13; 1995 No. 50 s 3 sch; 1995 No. 57 s 4 sch 1;
1996 No. 56 s 152

Pawnbroker may require information

s 41 amd 1995 No. 57 s 4 sch 1; 1996 No. 56 s 153

Disposal of pledges on termination of licence

s 42 amd 1992 No. 40 s 163 sch 1

Offences generally

s 43 amd 1992 No. 40 s 163 sch 1

Fraud and unlawful possession of licence etc.

s 44 amd 1992 No. 40 s 163 sch 1

PART 5—POWERS OF AUTHORISED OFFICERS

pt 5 hdg sub 1992 No. 40 s 163 sch 1

Name and address

s 48 amd 1992 No. 40 s 163 sch 1

Power to demand production of licence etc.

s 49 amd 1992 No. 40 s 163 sch 1; 1995 No. 57 s 4 sch 1

Authorised officer may enter premises

prov hdg sub 1992 No. 40 s 163 sch 1

s 50 amd 1992 No. 40 s 163 sch 1; 1995 No. 57 s 4 sch 1

Search warrant

s 51 amd 1992 No. 40 s 163 sch 1

Seizure and detention of suspected articles

s 52 amd 1992 No. 40 s 163 sch 1

Fingerprints etc.

s 53 amd 1995 No. 57 s 4 sch 1

Authorised officer may prosecute

s 54 sub 1992 No. 40 s 163 sch 1

Proceedings for offences

s 57 amd 1992 No. 40 s 163 sch 1

Persons other than offender liable to penalties

s 59 amd 1995 No. 57 s 4 sch 1

Appeals

s 61 sub 1984 No. 56 s 2

amd 1985 No. 59 s 14; 1992 No. 40 s 163 sch 1; 1995 No. 57 s 4 sch 1

Protection

s 62 amd 1984 No. 56 s 3

sub 1992 No. 40 s 163 sch 1

Evidentiary provisions

s 64 amd 1984 No. 56 s 4; 1992 No. 40 s 163 sch 1

Delegations

s 65 prev s 65 om 1995 No. 57 s 4 sch 1

pres s 65 (prev s 65A) ins 1992 No. 40 s 163 sch 1

renum 1995 No. 57 s 4 sch 1

Approval of forms

s 66 amd 1992 No. 40 s 163 sch 1; 1993 No. 76 s 3 sch 1
sub 1995 No. 57 s 4 sch 1

Regulation making power

s 67 ins 1995 No. 57 s 4 sch 1

Approved forms

s 68 ins 1995 No. 57 s 4 sch 1
exp 29 February 1996 (see s 68(3))

8 Provisions that have not commenced and are not incorporated into reprint

The following provisions are not incorporated in this reprint because they had not commenced before the reprint date (see Reprints Act 1992, s 5(c)).

Consumer Law and Other Justice Legislation (Miscellaneous Provisions) Act 1996 No. 56, s 151 reads as follows—

Amendment of s 27 (Individual to be nominated to represent body corporate or firm)

151.(1) Section 27(5)(b)—

renumber as section 27(5)(c).

(2) Section 27(5), as amended—

insert—

‘(b) not be a nominee for another licence; and’.