

Queensland



SECOND-HAND DEALERS AND COLLECTORS ACT 1984

**Reprinted as in force on 2 November 2001
(includes amendments up to Act No. 38 of 2001)**

Warning—see last endnote for uncommenced amendments

Reprint No. 4

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Information about this reprint

This Act is reprinted as at 2 November 2001. 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



SECOND-HAND DEALERS AND COLLECTORS ACT 1984

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Second-hand Dealers and Collectors Act 1984

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SECOND-HAND DEALERS AND COLLECTORS ACT 1984

[as amended by all amendments that commenced on or before 2 November 2001]

An Act to regulate the activities of dealers and collectors of second-hand goods and for other purposes

PART 1—PRELIMINARY

1 Short title

This Act may be cited as the *Second-hand Dealers and Collectors Act 1984*.

6 Definitions

In this Act—

“approved form” see section 71.¹

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

“collect” means to acquire, by way of purchase or otherwise, but does not include acquisition by way of purchase at a bona fide advertised auction.

“collector” means a person who collects or holds himself or herself out as being ready to collect, otherwise than at premises occupied by the person, second-hand goods, whether on the person’s own behalf or on behalf of another person, for the purpose of sale or trade.

“collector’s badge” means a badge issued as prescribed to a licensed collector.

¹ Section 71 (Approval of forms)

“commissioner” means the commissioner of the police service.

“dealer” means a person who, wholly or partly, carries on the business of dealing in or buying, selling or exchanging second-hand goods whether on commission or otherwise and whether or not the person deals in any other goods, and includes an entrepreneur but does not include a person who—

- (a) is employed merely as a clerk or servant; or
- (b) whilst the person acts as an auctioneer as defined by the *Property Agents and Motor Dealers Act 2000*, is licensed so to act under that Act or is not required to be so licensed thereunder; or
- (c) whilst the person acts as a motor dealer or motor salesperson each as defined in the *Property Agents and Motor Dealers Act 2000*, is licensed as a motor dealer under that Act or holds a certificate of registration as a motor salesperson thereunder; or
- (ca) whilst the person acts as a dealer as defined in the *Weapons Act 1990*, is licensed so to act under that Act; or
- (cb) deals in, sells or exchanges second-hand goods only as incidental to the conduct by the person of the business of acquiring the ownership of those goods as new and letting them on hire to another; or
- (cc) is a local government; or
- (d) is a registered banking or life assurance company, trustee company, friendly society or building society.

“entrepreneur” means the person in charge of and responsible for the running of—

- (a) a trash and treasure market; or
- (b) a flea market; or
- (c) an antique market; or
- (d) an antique fair.

“licence” means a licence issued or renewed under this Act and in force in all respects at the material time.

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

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

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

“**location**” includes a place where an antique fair, antique market, flea market or trash and treasure market is conducted.

“**second-hand goods**” includes goods or articles of any kind, class or description whatsoever which have been used, worn or otherwise employed, and includes second-hand vessels or outboard motors but does not include—

- (a) newspapers, books, pamphlets, periodicals or other printed publications; or
- (b) stamps or coins; or
- (c) goods or articles of any kind which have been returned for refund or exchange to the same person from whom they were purchased as new goods or articles; or
- (d) motor vehicle batteries; or
- (e) used tyres removed from a car, motorbike or trailer within the meaning of the *Transport Operations (Road Use Management) Act 1995*; or
- (f) other goods or articles declared, under a regulation, not to be second-hand goods for this Act.

“**sell**” includes barter, exchange or agree or offer to sell.

“**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.

7 Application of Act

This Act does not apply to—

- (a) the collecting, buying, selling or dealing in second-hand goods by or for a charity registered under the *Collections Act 1966*; or
- (b) an organisation formed for a community purpose, or a charity or religious denomination, within the meaning of the *Collections Act 1966*.

8 Authorised officer

(1) The chief executive may appoint an officer or employee of the department to be an authorised officer for this Act.

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

8A Identity cards

(1) The chief executive must issue an identity card to each authorised 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.

8B Proof of authority

An authorised 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

9 Issue of licences

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

10 Limitation on issue of licence

(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.
- (2) A collector's licence shall not be issued—
 - (a) in the name of a body corporate; or
 - (b) to the holder of a dealer's licence; or
 - (c) to a pawnbroker licensed under the *Pawnbrokers Act 1984*.
- (3) A dealer's licence must not be issued to a licensed collector.

11 Application for licence

(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 dealer's licence shall specify in the application the premises (being not more than 1) and locations at which the applicant proposes to carry on business as a dealer.

12 Inquiries into application

(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 and locations 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 second-hand dealer and collector in another State or a Territory—a report from the appropriate licensing authority in the State or Territory.

13 Application to be determined by chief executive

(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.

14 Renewal of licences

(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 any 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.

14AA Licensee to comply with local laws

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

14A Conditions to be endorsed on licence

(1) A 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.

15 Duration of licence

(1) Subject to section 20 and this section, 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.

(2) Where the chief executive is of the opinion that a licence should be in force for a lesser period than 12 months, the chief executive may issue or renew a licence for such lesser period as the chief executive thinks fit and endorse this period on the licence.

15A Restoration of licence

(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.

16 Notice of refusal to issue or renew licence

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.

17 Licence not transferable

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

(2) An application by a licensee to—

(a) replace the premises, or a location, endorsed on the licensee's licence with other premises (being not more than 1) or another location; or

(b) add another location to those endorsed on the licensee's licence;

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—

(a) the approval of the premises and locations; and

(b) any conditions imposed;

must be endorsed on the licence.

18 Endorsement of licences

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

19 Reporting loss, destruction or theft of licence

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.

20 Replacement licence

(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.

21 Revocation of licence

(1) The chief executive may, in the chief executive's absolute discretion, 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.

22 Effect of certain convictions on licences

(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 64(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.

23 Surrender notice

(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.

24 Change of licensee's address

(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 notified under subsection (1), the chief executive must endorse the licence accordingly.

25 Effect of collector's licence

A licensed collector may carry on business as a collector within the part of the State specified in the licence or, where no part is specified, throughout the State.

26 Endorsement of premises and locations on dealer's licence

A dealer's licence—

- (a) must be endorsed with the premises at which the dealer is authorised to carry on business as a dealer; and
- (b) may be endorsed with the locations at which the dealer is authorised to carry on business as a dealer.

27 Individual to be nominated to represent body corporate or firm

(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 business as dealer.

(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

Division 1—Collectors

28 Collector to be licensed

A person shall not carry on business as a collector or hold himself or herself out as carrying on business as a collector—

- (a) unless the person holds a collector's licence;
- (b) otherwise than in accordance with the terms and conditions of a licence granted to the person.

29 Possession of licence

A collector, whilst actually carrying on business as a collector shall carry a licence issued to the collector.

30 Days and hours of business

A person must not carry on business as a collector—

- (a) on a Sunday or public holiday; or
- (b) except between 7 a.m. and 6 p.m. on any other day.

31 Collector to display name, occupation and licence number

A licensed collector shall not fail to display and keep displayed the collector's name, the words 'licensed collector' and the number of the licence issued to the collector in letters of the prescribed size and style on a conspicuous part of every vehicle whilst it is being used by the collector in connection with the collector's business as a collector.

32 Collector's badge

(1) Upon the issue of a collector's licence, the licensed collector shall be issued with a badge of the prescribed size, colour and shape.

(2) The badge shall be endorsed with the words 'licensed collector' and the letter 'Q' followed by such number as an authorised officer approves in respect of that collector.

(3) A person must, within 7 days of ceasing to be a licensed collector, deliver his or her collector's badge to the chief executive.

(4) A licensed collector whose collector's badge is lost, destroyed or stolen must, immediately on becoming aware of that fact, report the matter to the chief executive.

(5) If, on application by the collector and payment of the prescribed fee, the chief executive is satisfied that the licensed collector's badge has been lost, destroyed or stolen, the chief executive may issue a replacement badge.

33 Collector to wear badge

A collector shall at all times whilst carrying on business as a collector wear in such manner as to be clearly visible, the collector's badge issued to the collector.

34 Collector to keep register

(1) Every licensed collector shall keep a register of transactions in the approved form.

(2) No page or any part of the register shall be removed therefrom.

(3) In respect of every transaction relating to the collection or sale of second-hand goods the collector concerned shall forthwith enter in the register of transactions the prescribed particulars.

(4) An entry in a register of transactions shall not be altered or in any manner erased or disguised, and where in relation to any entry therein the maker detects an error, the maker shall not correct the matter but shall make a fresh entry.

35 Collecting from children prohibited

(1) A collector shall not collect goods from a person under the age of 17 years.

(2) It is a defence to a charge of an offence defined in subsection (1) to prove that the person from whom the goods were collected reasonably appeared to the defendant not to be a person under the age of 17 years.

36 Entry of premises by collector etc.

A collector shall not enter or remain in or on any premises without the permission of the owner or occupier of the premises.

37 Collector to produce licence if requested

A collector, who, within 24 hours of collecting any goods, is requested by the person from whom the collector collected the goods to produce the collector's licence, shall produce for inspection the collector's licence to that person.

38 Collector to retain goods for 7 days

(1) Upon collecting any goods, a collector shall keep and maintain those goods in the same state and condition as they were in when the collector collected them until—

- (a) the expiration of 7 days after collection; or
- (b) the collector delivers them to a licensed dealer;

whichever shall first occur.

Maximum penalty—\$500 or 2 months imprisonment.

(2) A collector who delivers goods to a licensed dealer within 7 days of collecting them shall deliver those goods in the same state and condition as they were in when the collector collected them.

Maximum penalty—\$500 or 2 months imprisonment.

39 Disposal of goods by collector

(1) Subject to subsection (2), a collector shall not sell or dispose of goods collected by the collector to any person other than a licensed dealer or by public auction conducted by an auctioneer licensed under the *Property Agents and Motor Dealers Act 2000*.

(2) A collector may sell or deliver any bottle bearing a registered trade mark or trade name to the owner of the trade mark or trade name or the owner's agent.

Division 2—Dealers

40 Dealers to be licensed

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

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

41 Dealer's premises etc. to be identified

Every licensed dealer shall maintain above the entrance to or in a prominent position in or at the premises or location where the dealer carries on business as a dealer—

- (a) the name of the licensed dealer in legible characters at least 50 mm high; and
- (b) the words 'licensed dealer in second-hand goods' in close proximity to the name of the licensed dealer; and
- (c) where the name of a person has been endorsed upon the licence as nominee of the licensed dealer—
 - (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 by any member of the public.

42 Dealer to sell only at premises or locations endorsed on licence or by auction

A licensed dealer shall not sell second-hand goods except in the premises or at the locations endorsed upon the dealer's licence pursuant to section 26 or by public auction conducted by an auctioneer licensed under the *Property Agents and Motor Dealers Act 2000*.

44 Dealer to keep register

(1) Every licensed dealer shall keep at the premises and locations endorsed upon the dealer's licence a register of transactions in the approved form.

(2) Such register shall consist of a book bound to the satisfaction of an authorised officer.

(3) No page or any part of the register shall be removed therefrom.

(4) Subject to subsection (5), in respect of every transaction relating to the acquisition, sale or disposal of second-hand goods the dealer concerned shall forthwith enter in the register of transactions the prescribed particulars.

(5) It shall not be necessary for a dealer to enter in the register of transactions any particulars in respect of second-hand goods with a resale value of less than \$55 except where those goods bear identifying marks or are jewellery or precious metals.

(6) An entry in a register of transactions shall not be altered or in any manner erased or disguised, and where in relation to any entry therein the maker detects an error, the maker shall not correct the matter but shall make a fresh entry.

45 Age of employees

A licensed dealer shall not employ a person under the age of 17 years to purchase or receive second-hand goods of any description.

46 Acquiring goods from children prohibited

(1) A dealer shall not by himself or herself or by any other person collect goods from a person apparently under the age of 17 years.

(2) It is a defence to a charge of an offence defined in subsection (1) to prove that the person from whom the goods were collected reasonably appeared to the defendant not to be a person under the age of 17 years.

47 Dealer to inform police if stolen article comes into the dealer's possession

A dealer who comes into possession of any article or goods which answer the description of any article or goods described as having been

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

47A Holding period for certain goods

A dealer shall keep in the dealer's possession for a period of 7 clear working days after receipt by the dealer the following second-hand goods—

- (a) articles which are identifiable (except items of household furniture);
- (b) electrical goods (except refrigerators, washing machines, clothes dryers, stoves and dishwashers);
- (c) jewellery;
- (d) precious metals;
- (e) musical instruments;
- (f) photographic equipment;
- (g) natural diamonds and gem stones.

48 Dealer may require information

(1) A licensed dealer shall require a person who offers to the dealer any goods 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 goods;
- (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 goods.

(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 dealer suspects on reasonable grounds that

any goods offered to the dealer have been stolen or otherwise unlawfully obtained then such dealer—

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

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

(4) For the purposes of this section—

“**licensed dealer**” includes a person endorsed on the licensed dealer’s licence as nominee.

PART 4—OFFENCES

49 Offences generally

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.

50 Fraud and unlawful possession of licence etc.

(1) A person shall not—

- (a) in any written application, notice or other document made or given to the chief executive or to 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 collector’s badge; 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 collector's badge;
or

- (d) forge (within the meaning of the Criminal Code) any licence or collector's badge.

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

- (a) a licence or collector's badge; or
(b) any article resembling a licence or a collector's badge and calculated to deceive; or
(c) any document that was formerly a licence but that is 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) use a collector's badge unless it is a collector's badge duly issued to the person; or
(c) lend a licence or collector's badge duly issued to the person to another person for use by that other person; or
(d) permit or suffer to be used by another person a licence or collector's badge duly issued to the person.

(4) Unless he or she is 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 a 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.

51 False entries in register of transactions

A licensed collector or a licensed dealer shall not make or cause to be made a false entry in a register of transactions kept by the collector or dealer pursuant to section 34 or 44.

51A Separating parts of second-hand goods to avoid entering details in register of transactions

A licensed dealer must not separate parts of second-hand goods to avoid the dealer's obligation under section 44² to enter the prescribed particulars in the register of transactions.

Maximum penalty—

- (a) for a first offence—8 penalty units or 3 months imprisonment; or
- (b) for a subsequent offence—16 penalty units or 6 months imprisonment.

52 Receipt of second-hand goods from collectors

A person shall not collect any second-hand goods from a collector unless the collector is authorised under this Act to sell, dispose of or deliver those goods to that person.

53 Collector not to use offensive language or behaviour

A collector in the course of carrying on business as a collector shall not—

- (a) use insulting or offensive language;
- (b) behave in an insulting manner.

54 Attempts to commit offences

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

2 Section 44 (Dealer to keep register)

PART 5—POWERS OF AUTHORISED OFFICERS

56 Power to demand production of licence etc.

(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 nominee, 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 and deliver a licence, register or record when requested by an authorised officer commits an offence against this Act.

57 Authorised officer may enter premises

(1) An authorised officer may at any time when a dealer's premises or location are open for business enter those premises or locations.

(2) An authorised officer whilst in or on a dealer's premises or at a location where the business of a dealer is carried on may—

- (a) inspect any second-hand goods; and
- (b) inspect the register of transactions and any record, licence, notice or other writing and take such copies or extracts therefrom as the officer desires and may record in the register the day and hour of the officer's visit and write the officer's initials or name opposite the entry of any article inspected by the officer; 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.

(3) A person must not, without reasonable excuse, obstruct, prevent or delay, or attempt to obstruct, prevent or delay, the entry by an authorised officer exercising the powers given to the officer under this Act into—

- (a) a dealer's premises; or
- (b) a location where the business of a dealer is being carried on.

(4) Upon the request of an authorised officer a dealer shall produce and deliver to the officer for inspection the register of transactions and all records, books, documents and articles referred to in subsection (3).

59 Seizure and detention of suspected goods

An authorised officer may at any time seize and detain any goods in the possession of a dealer or collector which goods 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 dealer or a collector;
- (b) the person of a dealer or a collector.

61 Authorised officer may prosecute

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**62 Proceedings for offences**

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

(2) A prosecution for an offence against this Act must be started within the later of—

- (a) 1 year after the offence is committed; or
- (b) 6 months after the complainant first knows of its commission, but not later than 2 years after its commission.

63 Fees and penalties

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

64 Persons other than offender liable to penalties

(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 dealer 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 dealer's licence as nominee of the licensed dealer shall be deemed to be the agent of the licensed dealer and the licensed dealer shall be deemed to be the principal of the nominee.

65 Service of notice, orders etc.

(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.

66 Appeals

(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 dealer or of any premises or location for the carrying on of the person's business as a dealer or for the renewal of a licence;
- (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 dealer or collector.

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

(6) 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.

67 Protection

(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.

68 Dealer deemed in possession of second-hand goods

Notwithstanding that second-hand goods are not found in or on premises or at the location endorsed upon the dealer's licence, a dealer shall be deemed to be in possession of those goods if—

- (a) they are found in any place occupied by the dealer; or
- (b) without having bona fide been sold by the dealer they have been removed to any other place.

69 Evidentiary provisions

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 proceeding;

- (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 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.

70 Delegations

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.

71 Approval of forms

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

72 Regulation-making power

(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 collectors and dealers, including, for example, duties about the keeping of records;
- (c) conditions of licences;
- (d) fees payable under this Act;
- (e) painting, affixing or displaying names of licensed dealers 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 2 November 2001. Future amendments of the Second-hand Dealers and Collectors 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

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	prev	= previous
amd	= amended	(prev)	= previously
amdt	= amendment	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
o in c	= order in council	sch	= schedule
om	= omitted	sdiv	= subdivision
orig	= original	SIA	= Statutory Instruments Act 1992
p	= page	SIR	= Statutory Instruments Regulation 1992
para	= paragraph	SL	= subordinate legislation
prec	= preceding	sub	= substituted
pres	= present	unnum	= unnumbered

4 Table of earlier reprints

TABLE OF EARLIER REPRINTS

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

Reprint No.	Amendments included	Reprint date
1	to Act No. 40 of 1992	27 April 1994
2	to Act No. 57 of 1995	7 June 1996
2A	to Act No. 56 of 1996	18 December 1996
2B	to Act No. 82 of 1997	17 December 1997
3	to Act No. 42 of 1999	4 February 2000
3A	to Act No. 20 of 2000	8 September 2000
3B	to Act No. 38 of 2001	27 July 2001

5 Tables in earlier reprints

TABLES IN EARLIER REPRINTS

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

6 List of legislation

Second-hand Dealers and Collectors Act 1984 No. 59

date of assent 15 May 1984

ss 1–2 commenced on date of assent

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

as amended by—

Second-hand Dealers and Collectors Act Amendment Act 1985 No. 57

date of assent 20 September 1985

ss 1–2 commenced on date of assent

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

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

date of assent 14 August 1992

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

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 1995 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, 23

date of assent 20 November 1996
 s 192 commenced 21 November 1997 (automatic commencement under AIA s 15DA(2))
 remaining provisions commenced on date of assent

Justice and Other Legislation (Miscellaneous Provisions) Act (No. 2) 1997 No. 82 ss 1–3 sch

date of assent 5 December 1997
 commenced on date of assent

Road Transport Reform Act 1999 No. 42 ss 1–2(1), 54(3) sch pt 3

date of assent 2 September 1999
 ss 1–2 commenced on date of assent
 remaining provisions commenced 1 December 1999 (see s 2(1))

Police Powers and Responsibilities Act 2000 No. 5 ss 1–2, 461 (prev s 373) sch 3

date of assent 23 March 2000
 ss 1–2 commenced on date of assent
 remaining provisions commenced 1 July 2000 (see s 2(1), (3) and 2000 SL No. 174)

GST and Related Matters Act 2000 No. 20 ss 1, 2(4), 29 sch 3

date of assent 23 June 2000
 ss 1–2 commenced on date of assent
 remaining provisions commenced 1 July 2000 (see s 2(4))

Property Agents and Motor Dealers Act 2000 No. 62 ss 1–2, 601 sch 2

date of assent 24 November 2000
 ss 1–2 commenced on date of assent
 remaining provisions commenced 1 July 2001 (2001 SL No. 54)

Motor Vehicles Securities and Other Acts Amendment Act 2001 No. 38 ss 1, 2(2), pt 6

date of assent 7 June 2001
 ss 1–2 commenced on date of assent
 remaining provisions not yet proclaimed into force

7 List of annotations

Commencement

s 2 om R2 (see RA s 37)

Arrangement of Act

s 3 om 1992 No. 40 s 163 sch 1

Act repealed

s 4 om 1992 No. 40 s 163 sch 1

Savings and transitional

s 5 om 1992 No. 40 s 163 sch 1

Definitions

prov hdg sub 1996 No. 56 s 185(1)

s 6 amd 1985 No. 57 s 3; 1995 No. 57 s 4 sch 1
 def “**approved form**” ins 1995 No. 57 s 4 sch 1
 def “**arrest**” om 2000 No. 5 s 461 sch 3
 def “**authorised officer**” sub 1992 No. 40 s 163 sch 1
 def “**authorised police officer**” ins 1992 No. 40 s 163 sch 1
 om 2000 No. 5 s 461 sch 3
 def “**boat**” ins 2001 No. 38 s 44
 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 “**dealer**” amd 1985 No. 57 s 3; 1992 No. 40 s 163 sch 1; 1996 No. 56
 s 185(3); 2000 No. 62 s 601 sch 2
 def “**disposer**” ins 2001 No. 38 s 44
 def “**entrepreneur**” ins 1985 No. 57 s 3
 def “**Local Authority**” om 1992 No. 40 s 163 sch 1
 def “**local government area**” om 1995 No. 57 s 4 sch 1
 def “**location**” ins 1996 No. 56 s 185(2)
 def “**Magistrates Court**” om 1992 No. 40 s 163 sch 1
 def “**Minister**” om 1992 No. 40 s 163 sch 1
 def “**officer in charge of police**” om 2000 No. 5 s 461 sch 3
 def “**police establishment**” sub 1994 No. 87 s 3 sch 2
 om 2000 No. 5 s 461 sch 3
 def “**police officer**” om R1 (see RA s 39)
 def “**second-hand goods**” amd 1985 No. 57 s 3; 1995 No. 57 s 4 sch 1; 1999
 No. 42 s 54(3) sch pt 3
 def “**security interest certificate**” ins 2001 No. 38 s 44

Application of Act

s 7 amd 1996 No. 56 s 186

Authorised officer

s 8 sub 1992 No. 40 s 163 sch 1
amd 2000 No. 5 s 461 sch 3

Identity cards

s 8A ins 1992 No. 40 s 163 sch 1
amd 2000 No. 5 s 461 sch 3

Proof of authority

s 8B ins 1992 No. 40 s 163 sch 1
amd 2000 No. 5 s 461 sch 3

Issue of licences

s 9 amd 1985 No. 57 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. 57 s 5; 1992 No. 40 s 163 sch 1; 1995 No. 57 s 4 sch 1; 1996 No. 56 s 187

Inquiries into application

s 12 amd 1985 No. 57 s 6; 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. 57 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. 57 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 188

Conditions to be endorsed on licence

s 14A ins 1992 No. 40 s 163 sch 1
amd 1996 No. 56 s 189

Duration of licence

s 15 sub 1985 No. 57 s 9
amd 1992 No. 40 s 163 sch 1

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. 57 s 10
amd 1992 No. 40 s 163 sch 1; 1995 No. 57 s 4 sch 1; 1996 No. 56 s 190

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. 57 s 11; 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

Endorsement of premises and locations on dealer's licences 26 amd 1985 No. 57 s 12
 sub 1996 No. 56 s 191**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 192; 1997 No. 82 s 3 sch**PART 3—CONDUCT OF BUSINESS****Days and hours of business**

s 30 sub 1995 No. 50 s 3 sch

Collector's badge

s 32 amd 1992 No. 40 s 163 sch 1; 1995 No. 57 s 4 sch 1

Collector to keep register

s 34 amd 1995 No. 57 s 4 sch 1

Disposal of goods by collector

s 39 amd 1985 No. 57 s 13; 2000 No. 62 s 601 sch 2

Dealer's premises etc. to be identified

s 41 amd 1995 No. 57 s 4 sch 1

Dealer to sell only at premises or locations endorsed on licence or by auction

s 42 amd 1985 No. 57 s 14; 2000 No. 62 s 601 sch 2

Hours of business

s 43 om 1995 No. 50 s 3 sch

Dealer to keep register

s 44 amd 1985 No. 57 s 15; 1995 No. 57 s 4 sch 1; 2000 No. 20 s 29 sch 3

Holding period for certain goods

s 47A ins 1985 No. 57 s 16

Dealer may require information

s 48 amd 1995 No. 57 s 4 sch 1; 1996 No. 56 s 193

Division 3—Sales of second hand boats, other than by auctiondiv 3 (ss 48A–48B) ins 2001 No. 38 s 45

Offences generally

s 49 amd 1992 No. 40 s 163 sch 1

Fraud and unlawful possession of licence etc.

s 50 amd 1992 No. 40 s 163 sch 1

Separating parts of second-hand goods to avoid entering details in register of transactions

s 51A ins 1996 No. 56 s 194

PART 5—POWERS OF AUTHORISED OFFICERS

pt hdg sub 1992 No. 40 s 163 sch 1

Name and address

s 55 amd 1992 No. 40 s 163 sch 1; 1995 No. 57 s 4 sch 1
om 2000 No. 5 s 461 sch 3

Power to demand production of licence etc.

s 56 amd 1992 No. 40 s 163 sch 1; 1995 No. 57 s 4 sch 1

Authorised officer may enter premises

s 57 amd 1992 No. 40 s 163 sch 1; 1995 No. 57 s 4 sch 1; 2000 No. 5 s 461 sch 3

Search warrant

s 58 amd 1992 No. 40 s 163 sch 1
om 2000 No. 5 s 461 sch 3

Seizure and detention of suspected goods

s 59 amd 1992 No. 40 s 163 sch 1

Fingerprints etc.

s 60 amd 1995 No. 57 s 4 sch 1
om 2000 No. 5 s 461 sch 3

Authorised officer may prosecute

s 61 sub 1992 No. 40 s 163 sch 1

Proceedings for offences

s 62 amd 1992 No. 40 s 163 sch 1; 1996 No. 56 s 195

Persons other than offender liable to penalties

s 64 amd 1995 No. 57 s 4 sch 1

Appeals

s 66 amd 1992 No. 40 s 163 sch 1; 1995 No. 57 s 4 sch 1

Protection

s 67 sub 1992 No. 40 s 163 sch 1

Evidentiary provisions

s 69 amd 1992 No. 40 s 163 sch 1

Delegations

s 70 prev s 70 om 1995 No. 57 s 4 sch 1
pres s 70 (prev s 70A) renum 1995 No. 57 s 4 sch 1

Delegations

s 70A ins 1992 No. 40 s 163 sch 1

Approval of forms

s 71 amd 1992 No. 40 s 163 sch 1
 sub 1995 No. 57 s 4 sch 1

Regulation-making power

s 72 ins 1995 No. 57 s 4 sch 1

Approved forms

s 73 ins 1995 No. 57 s 4 sch 1 (as amd 1995 No. 58 s 4 sch 1)
 exp 28 February 1996 (see s 73(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)).

Motor Vehicles Securities and Other Acts Amendment Act 2001 No. 38 ss 44 and 45 read as follows—

44 Amendment of s 6 (Definitions)

Section 6—

insert—

‘**“boat”**, for part 3, division 3, see section 48A.

“disposer”, for part 3, division 3, see section 48A.

“security interest certificate”, for part 3, division 3, see section 48A.’.

45 Insertion of new pt 3, div 3

Part 3—

insert—

‘Division 3—Sales of second hand boats, other than by auction

‘48A Definitions for div 3

‘In this division—

“boat” means a boat as defined in the *Motor Vehicles and Boats Securities Act 1986* that is second-hand goods.

“**disposer**” means a collector or dealer.

“**security interest certificate**” means a security interest certificate issued under the *Motor Vehicles and Boats Securities Act 1986*, section 22.³

‘48B Sale of boat by disposer other than by auction

‘(1) This section applies to the sale of a boat by a disposer, in any way other than at auction, to some one else (“**buyer**”).

‘(2) The disposer must not agree to sell the boat to the buyer unless, immediately before the agreement is made, the disposer gives the buyer—

- (a) a notice (“**explanatory notice**”) in the approved form; and
- (b) a security interest certificate for the boat issued on that day (“**sale day**”).

Maximum penalty—200 penalty units.

‘(3) The disposer must ask the buyer to sign the acknowledgment of receipt of the security interest certificate included in the explanatory notice.

Maximum penalty—200 penalty units.

‘(4) The disposer must—

- (a) give the original of the explanatory notice to the buyer; and
- (b) keep a copy of the explanatory notice for the period prescribed under a regulation or, if no period is prescribed, for at least 2 years after the original of the notice is given to the buyer; and
- (c) make the copy available for immediate inspection by an authorised officer who asks to see it.

Maximum penalty—200 penalty units.

‘(5) The disposer may charge the buyer an amount for the provision of the security interest certificate not greater than the amount prescribed under a regulation.

‘(6) A disposer who charges a buyer an amount for providing the security interest certificate that is more than the amount prescribed commits an offence.

³ *Motor Vehicles and Boats Securities Act 1986*, section 22 (Security interest certificate)

Maximum penalty—200 penalty units.

‘(7) Subsection (8) applies if—

- (a) the disposer contravenes subsection (2); and
- (b) on the sale day a registered security interest existed over the boat.

‘(8) The buyer may, within a reasonable time not longer than 6 months after becoming aware of the existence of the security interest, rescind the agreement by written notice to the disposer.

‘(9) If the buyer rescinds the agreement under subsection (8)—

- (a) the sale is ineffective from the time it is made; and
- (b) the disposer must do everything in the disposer’s power to return the buyer to the position the buyer was in before the boat was purchased including, for example, by paying to the buyer—
 - (i) the amount the buyer paid for the boat; and
 - (ii) any amount the buyer paid for boat inspection, registration transfer fees or stamp duty.

‘(10) An amount payable to the buyer under subsection (9) may be recovered as a debt.

‘(11) A proceeding against a disposer for an offence against this section does not affect any civil liability of any person, including the disposer, arising out of the same facts that constitute the offence.’.