

Queensland



ANNO TRICESIMO TERTIO

ELIZABETHAE SECUNDAE REGINAE

No. 12 of 1984

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

[ASSENTED TO 27TH FEBRUARY, 1984]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

PART I—PRELIMINARY

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

2. **Commencement.** (1) Section 1 and this section shall commence on the day on which this Act is assented to for and on behalf of Her Majesty.

(2) Except as provided by subsection (1), this Act shall commence on a day appointed by proclamation.

3. **Arrangement of Act.** This Act is arranged as follows:—

PART I—PRELIMINARY;

PART II—LICENCES;

PART III—CONDUCT OF BUSINESS OF PAWNBROKER;

PART IV—OFFENCES;

PART V—POWERS OF POLICE;

PART VI—MISCELLANEOUS PROVISIONS.

4. **Acts terminated or repealed.** (1) The application in and for Queensland of *The Pawnbrokers Act of 1849*, an Act of the Legislature of New South Wales is terminated.

(2) *The Pawnbrokers Act Amendment Act 1971* is repealed.

5. **Savings and transitional.** (1) Any application for a license duly made under the *Pawnbrokers Act 1849–1971* which has not been determined before the commencement of this Act shall be deemed to be an application duly made under this Act for a licence and shall be heard and determined in accordance with this Act.

(2) Every license granted under the *Pawnbrokers Act 1849–1971* and in force immediately prior to the commencement of this Act shall continue in force as if it were a licence granted under this Act until it expires or is revoked, surrendered or deemed to be void under this Act and shall be deemed to be granted and issued under this Act.

6. **Interpretation.** In this Act, unless the contrary intention appears—

“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 he is released upon recognizance) until he can be brought before a justice to be dealt with according to law;

“article” means any item of chattels personal;

“authorized officer” means a police officer for the time being appointed by the Commissioner as an authorized officer pursuant to section 8: The term includes the Commissioner;

- “ Commissioner ” means the Commissioner of Police within the meaning of *The Police Act of 1937*, and includes the person who for the time being occupies the office or performs the duties of the Commissioner;
- “ licence ” means a licence issued or renewed under this Act and in force in 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;
- “ Local Authority ” means a Local Authority constituted under the *Local Government Act 1936–1983* and includes Brisbane City Council constituted under the *City of Brisbane Act 1924–1982*;
- “ Local Authority Area ” means the area in which, for the purposes of exercising its powers and authorities and performing its functions and duties, a Local Authority has jurisdiction;
- “ Magistrates Court ” means a Magistrates Court constituted under the *Justices Act 1886–1982*;
- “ Minister ” means the Minister of the Crown for the time being administering this Act and includes any Minister of the Crown who is temporarily performing the duties of the Minister;
- “ 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 him as a pawn or pledge;
- “ police establishment ” includes any police station or station within a Police District to which police officers are assigned for police purposes: The term includes—
- (a) the Traffic Branch, Criminal Investigation Branch, the Water Police Station, Brisbane, and any watchhouse;
 - (b) any building or yard appropriated to the use of police officers for the time being attached to any police squad, section, unit, division or bureau;
- “ police officer ” means any member of the police force of the State of Queensland;
- “ 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 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.

8. Authorized officer. The Commissioner may in writing from time to time appoint a police officer to be an authorized officer for the purposes of this Act.

PART II—LICENCES

9. Issue of licences. An authorized officer or, where so prescribed, a police officer may issue or 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;
- (b) is for the time being in a state of mental infirmity or mental disease, whether temporary or otherwise;
- (c) in the opinion of an authorized officer 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*.

(2) A licence shall not be issued in the name of a body corporate or of a firm registered under the *Business Names Act 1962–1979* unless it is endorsed in accordance with this Act with the name of a natural person as representative of the body corporate or, as the case may be, the firm.

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

11. Application for licence. (1) An application for a licence or for renewal of a licence shall be in or to the effect of the prescribed form and, save in the case of a body corporate or where otherwise prescribed, shall be made by the applicant personally to the officer in charge of police for the division of the Police District in which the applicant resides or in which he carries on or proposes to carry on the business of a pawnbroker.

(2) An application shall be accompanied by—

- (a) a certificate in or to the effect of the prescribed form of the Local Authority for each Local Authority Area in which the applicant proposes to carry on business as a pawnbroker that the Local Authority has no objection to the applicant so doing in that Area; and

(b) the prescribed fee, if any.

(3) An applicant for a licence shall specify in the application the premises at which he proposes to carry on business as a pawnbroker.

12. Inquiries into application. Where an application for a licence is lodged with an officer in charge of police or, where prescribed, with

an authorized officer, the officer in charge or, as the case may be, the authorized officer may—

- (a) make or cause to be made any inquiry or investigation in respect of the applicant, the application or the person nominated as representative of the applicant;
- (b) require, at any time prior to the determination of the application, the furnishing by the applicant or the person nominated as representative of the applicant of any information, further information, authority, certificate, form, photograph, finger print, palm print or footprint;
- (c) make such use as he sees fit of any such information, further information, authority, certificate, form, photograph, finger print, palm print or footprint so obtained, provided that circulation of such material is limited to the authorized officer's counterparts in Police Departments of the other Australian States and Territories and within the State of Queensland.
- (d) furnish any report relevant to such applicant, application, person nominated as representative of the applicant or inquiry;
- (e) make such recommendation in relation to the application as he thinks proper.

13. Initial application to be determined by authorized officer. (1) Where an application for a licence, other than for a renewal of a licence, is duly lodged, the application shall be determined by an authorized officer who after consideration of any matter at his disposal may approve the application either unconditionally or subject to such conditions as he may determine or may refuse the application.

(2) Where an application for a licence is approved, the authorized officer shall issue the licence in or to the effect of the prescribed form and, where the application is approved subject to conditions, shall endorse those conditions on the licence.

14. Renewal of licences. (1) A person desiring to renew a licence shall within a period of not more than 60 days and not less than 14 days prior to the expiry date of that licence lodge an application for renewal thereof in or to the effect of the prescribed form with the officer in charge of police for the division of the Police District in which the applicant is then residing or in which he carries on the business of a pawnbroker together with the prescribed renewal fee, if any.

(2) An application for the renewal of an existing licence shall be determined by an authorized officer or the officer in charge of police for the division of the Police District in which the application is lodged.

(3) Upon approval of an application for renewal, a licence may be renewed according to the duration of the period of renewal either by endorsement on the existing licence or by the issue of another licence.

(4) An officer in charge of police who refuses to approve an application for renewal of a licence shall forward the application together with his report and recommendation to an authorized officer who shall determine the matter.

(5) In his determination of an application for renewal of a licence pursuant to subsection (2) or (4), an authorized officer may approve the application either unconditionally or subject to such conditions as he may determine or may refuse the application.

(6) Where an application for renewal of a licence is approved subject to conditions, those conditions shall be endorsed on the existing licence or where another licence is issued on that other licence.

15. Duration of licence. 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.

16. Notice of refusal to issue or renew licence. Where an application for or for the renewal of a licence is refused by an authorized officer, he shall issue a notice of refusal in or to the effect of the prescribed form and shall forward the notice to the applicant by certified mail at his address as shown in the application.

17. Licence not transferable. A licence is not transferable.

18. Endorsement of licences. A person (other than an authorized officer or, where prescribed, the officer in charge of police for a division of a Police District) 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 officer in charge of police for the division of the Police District in which he is then located.

20. Replacement licence. (1) Where—

(a) a licence is lost, destroyed or stolen; or

(b) any writing or any endorsement on a licence is illegible and the licence is surrendered to the officer in charge for the division of the Police District in which the licensee resides,

an authorized officer may, upon application by the licensee in or to the effect of the prescribed form and payment of the prescribed fee (if any), issue to the licensee a replacement licence in lieu thereof.

(2) A replacement licence shall be endorsed with the words "Replacement Licence issued in lieu of Licence No. " and 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) An authorized officer may, in his absolute discretion, revoke any licence by serving upon the licensee a notice of revocation in or to the effect of the prescribed 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) (a) Where a licensee is convicted of any offence against any Act or law which offence involves his dealing in or selling any goods fraudulently or dishonestly procured by him or with his 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.

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

(2) Subject to subsection (1), where a licensee is convicted of an offence against this Act, his licence and all licences issued or renewed in his name within a period of five years from the date of his conviction shall be endorsed with the fact of his conviction.

(3) For the purposes of making the endorsement referred to in subsection (2) or section 59 (3), an authorized officer may by notice in or to the effect of the prescribed form require a licensee to produce and deliver his 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, an authorized officer shall cause a surrender notice in or to the effect of the prescribed form to be served on the licensee.

(2) A surrender notice shall state the time and date upon which, the police officer to whom and the place whereat the person to whom it is directed shall surrender the licence.

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

(4) Upon service of a surrender notice, the person to whom it is directed shall on or before the time and date and at the place indicated therein surrender to the police officer indicated therein the document which had been a licence.

(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 an authorized officer for an extension of the time in which the notice is to take effect.

An authorized officer may, in his absolute discretion, by approval under his hand, 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 licensed pawnbroker's address. (1) Within 7 days of changing his place of residence, a licenced pawnbroker shall in writing give notification of his new place of residence and deliver his licence to the officer in charge of police for the division of the Police District nearest to his new place of residence.

(2) The officer in charge of police may, upon being satisfied of the correctness of a change notified to him, endorse the licence with the change of residence and shall cause particulars thereof to be forwarded to an authorized officer.

25. Licence to specify premises. A licence shall be restricted to the premises (being not more than one) specified in the licence and shall not be transferred to any other premises.

26. Licence to be kept on premises. Subject to this Act a licensed pawnbroker shall at all times keep his licence on the premises to which it relates.

27. Representative of body corporate, firm etc. (1) (a) A fit and proper natural person who is not disqualified under this Act from holding a licence shall be nominated in each application for a licence by a body corporate or by a firm registered under the *Business Names Act 1962-1979* to represent the body corporate or, as the case may be, the firm directly in the conduct of the business of a pawnbroker in the premises specified in the application.

A member of a firm may be nominated in an application to represent the firm.

(b) Where a number of persons together apply for a licence the applicants may nominate a fit and proper natural person (whether or not one of the applicants) to represent them directly in the conduct of the business of a pawnbroker in the premises specified in the application.

(2) If, in the opinion of the authorized officer, a person nominated under subsection (1) is a fit and proper person, the licence issued in the name of the applicant or applicants shall be endorsed with that person's name as representative of the applicant or applicants.

(3) On application by a licensee (being a body corporate, firm or a number of persons), in the prescribed form to the officer in charge of police for the division of the Police District in which the premises in respect of which the licence is held are situated the name of any other natural person nominated in the application may be substituted by endorsement on the licence for that of the person whose name is endorsed on the licence as representative of a licensee or licensees as provided in this section:

Provided that the officer in charge of police is satisfied that the person whose name has been substituted is a fit and proper person and is not disqualified from holding a licence under this Act.

The application shall be accompanied by the relevant licence.

(4) The provisions of section 12 apply to an application under this section as if it were an application for a licence.

PART III—CONDUCT OF BUSINESS

28. Pawnbrokers to be licensed. (1) Subject to this Act, a person shall not be or act as a pawnbroker unless he 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.

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

(a) the name of the licensed pawnbroker in legible characters at least 50 millimetres high;

(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 representative of the licensed pawnbroker—

(i) the name of the representative in legible characters at least 50 millimetres 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.

30. Pawnbroker restricted to licensed premises. A licensed pawnbroker shall not carry on business as a pawnbroker except in the premises specified in his licence.

31. Hours of business. (1) Subject to this Act, a pawnbroker shall not by himself or by any other person on his behalf carry on the business of or suffer his premises to be open for business as a pawnbroker during any hours when shops of a prescribed class of business in the area where the premises are located are required under section 61 of the *Factories and Shops Act 1960–1983* or pursuant to an order under Part VIIA of the *Industrial Conciliation and Arbitration Act 1961–1983* to be closed.

(2) In this section, shops of a prescribed class of business means shops included for the time being in an order made pursuant to section 96B of the *Industrial Conciliation and Arbitration Act 1961–1983* and titled “Order—Trading Hours—Non-exempted Shops trading by retail—State” or such other class of business as the Governor in Council by Order in Council from time to time prescribes.

32. Register of articles pledged and disposed of. (1) A licensed pawnbroker shall enter, or cause to be entered, in a register of articles to be kept by him in the prescribed 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 his business as a pawnbroker he shall cause to be entered in the register of articles kept by him—

(a) the date of the transaction;

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- (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;
 - (c) the name and address of the person by or on whose behalf any article is pawned in the transaction;
 - (d) the amount to be advanced by him in the transaction and the rate of interest to be paid in respect of the transaction; and
 - (e) all other particulars as may from time to time be prescribed by the Governor in Council by Order in Council.

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

- (a) the date of the sale or other disposal of the article;
- (b) the method of disposal of the article;
- (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) throughout each calendar year shall be numbered consecutively, the first pledge received on or after the first day of January next after the commencement of this Act and on or after every succeeding first day of January being respectively numbered 1, the second 2, and so on consecutively throughout the year.

33. Duplicate entry to be delivered to customer. (1) A pawnbroker shall not take an article as a pawn or pledge unless, at the time he 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 him as a pawn or pledge until there is produced to him 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.

34. Period of redemption of pledges. (1) The period of redemption of an article taken as a pawn or pledge shall be three 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 three 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 \$10 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 \$10 or more 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 him 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 him as a pawn or pledge commits an offence against this Act.

35. Sale of pledges. (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 four 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 he carries on business as a pawnbroker.

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.

(3) 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 he 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 him pursuant to subsection (4), 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.

(4) For the purposes of subsection (3) a licensed pawnbroker shall open and maintain a trust account with a bank within the meaning of the *Banking Act 1959* of the Commonwealth as amended from time to time.

36. Recovery rights where pledge wrongly disposed of. (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 him 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 his offence in selling or disposing of the article in question.

37. Certain transactions prohibited. (1) A licensed pawnbroker shall not take, suffer or permit an employee of his 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.

38. Replacement of lost pawn ticket. 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 1867-1981*, or by other means, the owner shall be entitled to receive from the licensed pawnbroker a copy of the document.

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

40. Pawnbroker to inform police if stolen article comes into his possession. 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 him by any police officer shall forthwith give notice to the officer in charge of the police establishment nearest to the place where he carries on business as a pawnbroker.

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

(a) supply his name, address and occupation and verification thereof;

- (b) state whether or not he is the owner of the article;
- (c) if he is not the owner thereof, state the name and address of the owner;
- (d) state how he 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 licenced pawnbroker suspects on reasonable grounds that any article offered to him 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, he 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 representative of the pawnbroker.

42. Disposal of pledges on termination of licence. (1) If—

- (a) an authorized officer 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 IV—OFFENCES

43. 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 \$400 or to imprisonment for a term not exceeding three months; or
- (b) for a second or subsequent offence, to a penalty not exceeding \$800 or to imprisonment for a term not exceeding six months.

44. 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 an authorized officer or to a police officer make a statement that to his knowledge is false;

- (b) by a false statement or misrepresentation obtain or attempt to obtain a licence;
- (c) furnish any information that to his knowledge is false or misleading with respect to particulars required to be furnished in connexion with an application for a licence; or
- (d) forge (within the meaning of *The Criminal Code*) any licence.

(2) Unless he has reasonable cause for so doing, a person shall not have in his possession—

- (a) a licence;
- (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 him;
- (b) lend a licence duly issued to him 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 him.

(4) Unless he is authorized by or under this Act, a person shall not make or cause, permit or allow to be made any endorsement (other than his 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.

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

46. Pawnbroking signs on or near unlicensed premises prohibited. A person shall not erect, exhibit or suffer to remain on or near premises used by him 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 he is a licensed pawnbroker.

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

PART V—POWERS OF POLICE

48. Name and address. (1) Any 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 his name and address or his name or address and if he has reasonable ground to suspect that the name or address given is false may require evidence of the correctness thereof.

If that person fails upon demand to give his name, address or such evidence as is demanded, the police officer shall caution him, and, if he still persists in such failure, or gives a name or address which in the opinion of the police officer is false, may arrest him without warrant, and take him 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 his name and address or his name or address, or gives a false name or address or gives false evidence with respect thereto, commits an offence against this Act.

49. 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 police officer may at any time require that person, or, where a representative has been endorsed on a licence, the representative, to forthwith produce and deliver to that police officer for his inspection, the licence, the register or record.

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

50. Police may enter premises. (1) (a) A 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.

(b) A police officer may at any time when a pawnbroker's premises are open for business enter those premises.

(2) A police officer whilst in or on licensed premises may—

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

(3) A person shall not in any manner obstruct, prevent or delay the entry of a police officer into licensed premises.

(4) Upon the request of a police officer who has entered his premises a pawnbroker shall produce and deliver to the officer for his inspection the register of articles and all records, books, documents and articles referred to in subsection (2).

51. Search warrant. Upon complaint on oath before any justice by any 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 any 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.

A warrant may be executed at any time and shall be sufficient authority for any police officer and for all persons acting in aid of him—

- (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 a police officer by this Act;
- (d) to use such force as may be necessary to perform any of the things referred to herein.

For the purpose of gaining entry to any place or premises or to search such place, premises or any person a police officer may call to his aid such persons as he thinks necessary and those persons, while acting in aid of that member in the lawful exercise by him of his power of entry and search shall have a like power of entry and search.

52. Seizure and detention of suspected articles. Any police officer may at any time seize and detain any articles in the possession of a pawnbroker which articles he 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.

53. Finger prints etc. (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 he is taken after arrest or where he is in custody may take or cause to be taken all such particulars as he may consider necessary for the identification of such person including his voice print, photograph, finger prints, palm prints, footprints, toe prints and handwriting. Except in the case of voice prints or handwriting, such force as is necessary may be used in the taking of those particulars.

(2) 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 subsection (1) and that police officer and any police officer acting in aid of him 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:

Provided that, whether or not those particulars are obtained, that custody shall cease at the expiration of one hour after the court makes its order.

(3) 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, finger prints, palm prints, foot prints, toe prints or specimens of handwriting taken from him pursuant to this section consequent upon his arrest shall at his request be destroyed in his presence.

54. Police may prosecute. In any proceedings under this Act any police officer although not the informant or complainant may appear and act in court on behalf of the prosecution.

PART VI—MISCELLANEOUS PROVISIONS

55. Presumption of right to redeem. 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 him or taken without his consent; or
- (b) by a credible person, that the article to which such document or copy relates is a stolen article.

56. Inspection of register of articles concerning articles disposed of. 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.

57. Proceedings for offences. (1) An offence against this Act may be prosecuted in a summary way under the *Justices Act 1886–1982* upon the complaint of a police officer.

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

58. 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 Revenue Fund.

59. 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 he proves that the offence occurred without his consent or connivance and that he 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 he proves that the offence occurred without his consent or connivance and that he 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 him as an employee if he satisfies the court that the offence was committed while the business of his 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 representative 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.

60. 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 him personally;
- (b) if he cannot reasonably be found, by leaving a copy thereof with some person for him at his 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 him at his 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.

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

- (a) the refusal of his application for a licence or for the endorsement on the licence of a representative of the licensed pawnbroker 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 him; or
- (c) the revocation of a licence issued to him,

may appeal thereagainst by lodging with the Minister his submission in writing in or to the effect of the prescribed form within 28 days from the date of service of the notice of refusal, imposition, variation or revocation.

The appellants shall state fully in the submission the grounds of appeal and the facts upon which he relies but shall before his appeal is determined be entitled to be informed of the grounds upon which his licence has been refused, endorsed or revoked, or conditions imposed or varied in respect of it.

The Minister shall decide the appeal but may before doing so, appoint in writing a delegate to hear and inquire into and make recommendations in respect of the matters arising on the appeal.

The Minister's decision upon the appeal shall be final and no appeal shall lie thereagainst:

Provided always that nothing in this section shall prevent upon reasonable grounds the refusal of any subsequent application, the variation or imposition of any terms or conditions or the revocation of any licence subsequent to the Minister's decision.

(2) Notwithstanding that an appeal has been lodged thereagainst, any refusal, imposition or variation or revocation under this Act shall be effective as such until the Minister hands down his decision upon the appeal.

A person who has duly appealed against—

- (a) the refusal to renew his licence; or
- (b) the revocation of his licence,

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

62. Protection of Crown, Minister, police officers and others. Liability at law shall not attach to the Crown, the Minister, any delegate of the Minister, any authorized officer or any police officer on account of anything

done for the purposes of this Act or done in good faith and purporting to be done for the purposes of this Act:

Provided always that such act or omission of any police officer shall be in compliance with the provisions of the *Police Act 1937-1980* and such police officer shall be liable for any contravention thereof.

63. Pawnbroker deemed in possession of articles. 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 him; or
- (b) without having bona fide been sold by or redeemed from him it has been removed to any other place.

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

- (a) it shall not be necessary to prove the appointment of the Minister, any delegate of the Minister, the Commissioner, an authorized officer or any police officer to do any act or take any proceedings;
- (b) a signature purporting to be that of the Minister, the Commissioner, an authorized officer or any other police 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 authorized 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 authorized 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 his 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.

65. Tabling of Orders in Council. Section 28A of the *Acts Interpretation Act 1954–1977* (Tabling of Regulations) shall apply with respect to Orders in Council made for the purposes of this Act as if they were regulations.

66. Regulations. The Governor in Council may make regulations, not inconsistent with this Act, for or with respect to—

- (a) the keeping of any books or registers, cards or things as may be required for the purposes of this Act;
- (b) the prescribing of forms under this Act, and the respective purposes for which such forms shall be used;
- (c) the duties of pawnbrokers which duties may include the keeping of records, in addition to the duties imposed by or under this Act;
- (d) prescribing any terms and conditions to which any licence issued under this Act may or shall be subjected;
- (e) prescribing times within which anything required by the regulations to be done or achieved shall be done or achieved;
- (f) prescribing the fees payable under this Act and the bases upon which such fees shall be assessed and payable;
- (g) prescribing the manner and situation in which names of licensed pawnbrokers shall be painted on or affixed to licensed premises;
- (h) prescribing penalties not exceeding \$400 for any breach of the regulations;
- (i) all matters that are required or permitted by this Act to be prescribed or that may be convenient for the administration of this Act or that may be necessary or expedient to achieve the objects and purposes of this Act.