

Queensland



ANNO TRICESIMO TERTIO

ELIZABETHAE SECUNDAE REGINAE

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No. 59 of 1984

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

[ASSENTED TO 15TH MAY, 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 *Second-hand Dealers and Collectors 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;

*Division 1—Collectors;*

*Division 2—Dealers;*

PART IV—OFFENCES;

PART V—POWERS OF POLICE;

PART VI—MISCELLANEOUS PROVISIONS.

**4. Act repealed.** *The Second-hand Wares Act of 1921* is repealed.

**5. Savings and transitional.** (1) Any application for a collector's licence or a dealer's licence duly made under *The Second-hand Wares Act of 1921* 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 collector's licence or, as the case may be, a dealer's licence and shall be heard and determined in accordance with this Act.

(2) Every collector's licence and every dealer's licence granted under *The Second-hand Wares Act of 1921* and in force immediately prior to the commencement of this Act shall continue in force as if it were a collector's licence or, as the case may be, dealer's 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.

(3) A badge issued to a collector under *The Second-hand Wares Act of 1921* shall for so long as he continues to be a licensed collector be deemed to be a collector's badge issued to him 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;
- “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;
- “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 out as being ready to collect, otherwise than at premises occupied by him, second-hand goods, whether on his 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;
- “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;
- “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 he deals in any other goods: The term does not include a person who—
- (a) is employed merely as a clerk or servant;
  - (b) whilst he acts as an auctioneer as defined by the *Auctioneers and Agents Act 1971–1981*, is licensed so to act under that Act or is not required to be so licensed thereunder;
  - (c) whilst he acts as a motor dealer or motor salesman each as defined in the *Auctioneers and Agents Act 1971–1981*, is licensed as a motor dealer under that Act or holds a certificate of registration as a motor salesman thereunder;  
or
  - (d) is a registered banking or life assurance company, trustee company, friendly society or building society;
- “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;
- “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;
- “ 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;
- “ second-hand goods ” includes goods or articles of any kind, class or description whatsoever which have been used, worn or otherwise employed: The term includes second-hand vessels or outboard motors but does not include—
- (a) newspapers, books, pamphlets, periodicals or other printed publications;
  - (b) stamps or coins; or
  - (c) such other goods or articles or class of goods or articles which the Governor in Council, by Order in Council, declares not to be second-hand goods for the purposes of 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 the collecting, buying, selling or dealing in second-hand goods by or on behalf of a charity registered under the *Collections Act* 1966–1981.

**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; or
  - (c) in the opinion of an authorized officer 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;
  - (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 shall not be issued—
- (a) 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; or
  - (b) to a licensed collector.

**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 collector or dealer.

- (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 dealer or collector 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 dealer's licence shall specify in the application the premises and locations at which he proposes to carry on business as a dealer.

**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) supply such information, further information, authority, certificate, form, photograph, finger print, palm print or footprints so obtained to any member of the police force of the Commonwealth or of any State or territory of the Commonwealth for the purposes of this section;
- (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 dealer or collector together with—

- (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 dealer or collector that the Local Authority has no objection to the applicant so doing in that Area; and
- (b) 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 64 (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 licensee's address.** (1) Within 7 days of changing his place of residence, a licensee 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. 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 shall be endorsed with the premises and locations at which the dealer is authorized to carry on business as a dealer.

**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 dealer's licence shall be nominated in each application for a dealer's 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 dealer at the premises or location 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 dealer's 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 dealer at the premises or location specified in the application.

(2) If, in the opinion of an 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 licensed dealer (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 or location endorsed upon the licence 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 dealer's licence as representative of a licensed dealer or licensed dealers 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 dealer's 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 dealer's licence.

PART III—CONDUCT OF BUSINESS

*Division 1—Collectors*

**28. Collector to be licensed.** A person shall not carry on business as a collector or hold himself out as carrying on business as a collector—

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

**29. Possession of licence.** A collector, whilst he is actually carrying on business as a collector shall carry a licence issued to him.

**30. Hours of business.** (1) A person shall not carry on business as a collector—

- (a) in an area of the State during any hours when shops of a prescribed class of business in that area 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 kept closed; and
- (b) except between the hours of 7.00 o'clock before noon and 6.00 o'clock after noon.

(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.

**31. Collector to display name, occupation and licence number.** A licensed collector shall not fail to display and keep displayed his name, the words "licensed collector" and the number of the licence issued to him in letters of the prescribed size and style on a conspicuous part of every vehicle whilst it is being used by him in connexion with his 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. The badge shall be endorsed with the words "Licensed Collector" and the letter "Q" followed by such number as an authorized officer approves in respect of that collector.

(2) A person shall, within seven days of ceasing to be a licensed collector, deliver his collector's badge to the officer in charge for the division of the Police District in which he resides.

(3) (a) A licensed collector whose collector's badge is lost, destroyed or stolen shall forthwith on becoming aware of such loss, destruction or theft report the matter to the officer in charge for the division of the Police District in which he is then located.

(b) Upon application in the prescribed form and payment of the prescribed fee (if any), an authorized officer may issue another collector's badge to replace a lost, destroyed or stolen 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 him.

**34. Collector to keep register.** (1) Every licensed collector shall keep a Register of Transactions in the prescribed form.

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

(2) 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.

(3) 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, he 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 he collected the goods to produce his collector's licence, shall produce for inspection his licence to that person.

**38. Collector to retain goods for seven 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 he collected them until—

(a) the expiration of seven days after collection; or

(b) he delivers them to a licensed dealer,

whichever shall first occur.

Penalty: \$500 or imprisonment for two months.

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

Penalty: \$500 or imprisonment for two months.

**39. Disposal of goods by collector.** (1) Subject to subsection (2), a collector shall not sell or dispose of goods collected by him to any person other than a licensed dealer.

(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 he 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 he carries on business as a dealer—

- (a) the name of the licensed dealer in legible characters at least 50 millimetres high;
- (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 representative of the licensed dealer—
  - (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 by any member of the public.

**42. Dealer to sell only at premises or locations endorsed on licence.** A licensed dealer shall not sell second-hand goods except in the premises or at the locations endorsed upon his licence pursuant to section 26.

**43. Hours of business.** (1) Subject to this Act, a dealer shall not by himself or by any other person on his behalf carry on the business of a dealer 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.

**44. Dealer to keep register.** (1) Every licensed dealer shall keep at the premises and locations endorsed upon his licence a Register of Transactions in the prescribed form.

Such register shall consist of a book bound to the satisfaction of an authorized officer.

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

(2) 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.

(3) 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, he 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 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 his 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 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 dealer.

**48. Dealer may require information.** (1) A licensed dealer shall require a person who offers to him any goods to—

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

- (b) state whether or not he is the owner of the goods;
- (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 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 him 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, he 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 representative of the dealer.

#### PART IV—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 \$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.

**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 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 or collector’s badge;
- (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 collector’s badge; or
- (d) forge (within the meaning of *The Criminal Code*) any licence or collector’s badge.

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

- (a) a licence or collector's badge;
- (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 him;
- (b) use a collector's badge unless it is a collector's badge duly issued to him;
- (c) lend a licence or collector's badge duly issued to him 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 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 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 him pursuant to section 34 or 44.

**52. Receipt of second-hand goods from collectors.** A person shall not collect any second-hand goods from a collector unless the collector is authorized 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.

PART V—POWERS OF POLICE

**55. 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.

**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 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 and deliver a licence, register or record when requested by a police officer commits an offence against this Act.

**57. 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 dealer's premises or location where the business of a dealer is carried on and if admittance is refused or unreasonably delayed may use such force as is necessary to enter those premises or location.

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

(2) A police 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;



- (b) inspect the Register of Transactions and any record, licence, notice or other writing and take such copies or extracts therefrom as he desires and may record in the register the day and hour of his visit and write his initials or name opposite the entry of any article inspected by him; 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 a dealer's premises or any location where the business of a dealer is carried on.

(4) Upon the request of a police officer a dealer shall produce and deliver to the officer for his inspection the Register of Transactions and all records, books, documents and articles referred to in subsection (2).

**58. Search warrant.** Upon complaint on oath before any justice by any police officer, that such officer believes that a dealer or a collector has in or upon any place or premises, goods 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 goods suspected of being stolen or otherwise unlawfully obtained found therein or thereon.

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.

**59. Seizure and detention of suspected goods.** Any police officer may at any time seize and detain any goods in the possession of a dealer or collector which goods 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 dealer or a collector;
- (b) the person of a dealer or a collector.

**60. 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.

**61. 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

**62. 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.

**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 Revenue 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 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 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 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 dealer's licence as representative 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 representative.

**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 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.

**66. Appeals.** (1) Subject to this section, a 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 dealer or of any premises or location for the carrying on of his 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 him;

(c) the revocation of a licence issued to him,

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.

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 authorized officer.

A notice of appeal—

(c) shall specify fully the grounds of appeal and the facts upon which he relies; and

(d) if a form is prescribed, shall be in or to the effect of that form.

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

An appeal shall be by way of re-hearing.

(2) Jurisdiction is hereby conferred on Magistrates Courts to hear and determine appeals instituted in accordance with subsection (1).

(3) (a) Rules of Court may be made, under the *Magistrates Courts Act 1921–1982* with respect to the institution, conduct and disposal of appeals to the Magistrates Court pursuant to the provisions of this section.

(b) Until those rules are made or in so far as those rules do not extend—

(i) the procedure for obtaining subpoenas to witnesses requiring them to attend on such an appeal shall, subject however to all such modifications and adaptations thereof as are necessary to give operation and effect to this section, be that provided by the Rules of Court made under the *Magistrates Courts Act 1921–1982*, as if that appeal were a proceeding under those lastmentioned Rules of Court;

(ii) a Stipendiary Magistrate may, in any particular case, give such directions as he thinks fit, including directions in relation to obtaining subpoenas where the procedure under subparagraph (i) does not extend or is inappropriate, and such directions shall, according to their tenor, have the force and effect of Rules of Court made for the purposes of the appeal.

(4) No appeal shall lie against the determination of an appeal by a Magistrates Court under this section, which decision shall be final:

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 Magistrates Court's determination.

(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.

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.

**67. Protection of Crown, Minister, police officers and others.** Liability at law shall not attach to the Crown, the Minister, any authorized officer or any police officer or licensed dealer 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.

**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 his licence, a dealer shall be deemed to be in possession of those goods if—

- (a) they are found in any place occupied by him; or
- (b) without having bona fide been sold by him 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 Commissioner, an authorized officer or any police officer to do any act or take any proceeding;
- (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 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.

**70. 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.

**71. 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 of matters 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 collectors and the duties of dealers 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 dealers shall be painted on, affixed to or displayed at premises and locations endorsed upon licences;
- (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.