



Second-hand Dealers and Pawnbrokers Act 2003

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Queensland

Second-hand Dealers and Pawnbrokers Act 2003

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Second-hand Dealers and Pawnbrokers Act 2003

An Act to regulate the activities of second-hand dealers and pawnbrokers, and for other purposes

Part 1 Preliminary

1 Short title

This Act may be cited as the *Second-hand Dealers and Pawnbrokers Act 2003*.

2 Commencement

This Act commences on a day to be fixed by proclamation.

3 Objectives of Act

The main objectives of this Act are to—

- (a) regulate the activities of second-hand dealers and pawnbrokers; and
- (b) deter crime in the second-hand property market; and
- (c) help protect consumers from purchasing stolen property.

3A Relationship with Fair Trading Inspectors Act 2014

- (1) The *Fair Trading Inspectors Act 2014* (the *FTI Act*) enacts common provisions for this Act and particular other Acts about fair trading.

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- (2) Unless this Act otherwise provides in relation to the FTI Act, the powers that an inspector has under that Act are in addition to and do not limit any powers the inspector has under this Act.

Part 2 Interpretation

4 Definitions

The dictionary in schedule 3 defines particular words used in this Act.

5 Meaning of *associate* and *effective control*

- (1) An *associate* of an applicant for a licence or a licensee is a person who is not the applicant or licensee but is, or would be if the licence were granted, renewed or restored, in effective control of the applicant's or licensee's business at a place.
- (2) A person who is in *effective control* of a business, includes a person who—
 - (a) is regularly or usually in charge of the business; or
 - (b) regularly directs staff of the business in their duties; or
 - (c) is in a position to control or influence the business in a substantial way.
- (3) If an applicant for a licence or a licensee is a corporation, each executive officer of the corporation is taken to be an *associate* of the applicant or licensee.

Part 3 Licences

Division 1 Requirement to be licensed

6 Acting as licensee

- (1) A person must not carry on a business of dealing in second-hand property or act as a market operator unless the person is a second-hand dealer.

Maximum penalty—200 penalty units.

- (2) However, the following persons do not contravene subsection (1)—

- (a) a pawnbroker to the extent the person may lawfully deal with second-hand property under the person's licence under this Act;
- (b) a chattel auctioneer, motor dealer or motor salesperson under the *Motor Dealers and Chattel Auctioneers Act 2014* to the extent the person may lawfully deal with second-hand property under the person's licence or registration certificate under that Act;
- (c) a dealer under the *Weapons Act 1990* to the extent the person may lawfully deal with second-hand property under the person's licence under that Act;
- (d) a person dealing in second-hand property to the extent the dealing is part of a business that involves acquiring property and hiring the property to others;
- (e) a person dealing in second-hand property for a charity registered under the *Collections Act 1966*;
- (f) a charity, religious denomination, or an organisation formed for a community purpose, within the meaning of the *Collections Act 1966*;
- (g) a local government;
- (h) an authorised deposit-taking institution under the *Banking Act 1959* (Cwlth);

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- (i) a company registered under the *Life Insurance Act 1995* (Cwlth);
 - (j) a trustee company under the *Trustee Companies Act 1968*.
- (3) A person must not carry on a business of advancing, on interest or in expectation of profit or reward, an amount on the principal or collateral security of property taken by the person as a pawn unless the person is a pawnbroker.
- Maximum penalty—200 penalty units.
- (4) However, the following persons making advances in the ordinary course of banking or mercantile transactions on the security of property taken as a pawn do not contravene subsection (3)—
- (a) a chattel auctioneer under the *Motor Dealers and Chattel Auctioneers Act 2014*;
 - (b) an authorised deposit-taking institution under the *Banking Act 1959* (Cwlth);
 - (c) a broker, commission agent or merchant.

Division 2 Suitability of applicants and licensees

7 Suitability of applicants and licensees

- (1) A person is not a suitable person to hold a licence if the person, or an associate of the person—
- (a) is an individual under 18 years; or
 - (b) is an insolvent under administration; or
 - (c) has been convicted of a disqualifying offence within the last 5 years; or
 - (d) is a corporation that is an externally-administered body corporate; or
 - (e) is an identified participant in a criminal organisation.

- (2) A person who is not a suitable person may not hold a licence.
- (3) In this section—
externally-administered body corporate has the meaning given by the Corporations Act, section 9.
insolvent under administration has the meaning given by the Corporations Act, section 9.

8 Investigations about suitability of applicants and licensees

- (1) The chief executive may make investigations about the following persons to help decide whether an applicant for a licence or licensee is a suitable person to hold a licence—
 - (a) the applicant or licensee;
 - (b) an associate of the applicant or licensee.
- (2) If the chief executive makes investigations under subsection (1), the chief executive must ask the commissioner of the police service for a report about the criminal history of any of the persons.
- (3) Also, the chief executive must ask the commissioner of the police service whether any of the persons is an identified participant in a criminal organisation.
- (4) The commissioner must give the report under subsection (2) and the advice requested under subsection (3) to the chief executive.
- (5) The report is required to contain only criminal history in the commissioner's possession or to which the commissioner has access.
- (6) If the criminal history of the person includes a conviction recorded against the person, the commissioner's report must be written.
- (7) The chief executive may use the advice given by the commissioner of the police service under subsection (4) only for deciding whether a person is a suitable person to hold a licence.

8A Costs of criminal history report

- (1) The chief executive may require an applicant or licensee to pay the reasonable, but no more than actual, costs of obtaining a report under section 8 about—
 - (a) the applicant or licensee; or
 - (b) an associate of the applicant or licensee.
- (2) The chief executive must refund to an applicant an amount paid under the requirement if—
 - (a) the chief executive refuses the application without asking for the report; or
 - (b) the applicant withdraws the application before the chief executive asks for the report.
- (3) In this section—

applicant includes proposed applicant.

9 Confidentiality of report or information provided by commissioner of police service

- (1) A public service employee must not, directly or indirectly, disclose to anyone else—
 - (a) a report, or information contained in the report, given under section 8; or
 - (b) advice given under section 8 about whether a person is an identified participant in a criminal organisation.

Maximum penalty—100 penalty units.
- (2) However, the person does not contravene subsection (1) if—
 - (a) disclosure of the report or information to someone else is authorised by the chief executive to the extent necessary to perform a function under this Act; or
 - (b) the disclosure is otherwise required or permitted by law.
- (3) The chief executive must destroy a written report about a person's criminal history as soon as practicable after

considering the applicant's or licensee's suitability to hold a licence.

Division 3 Applying for, renewing or restoring a licence

10 Application for licence

- (1) A person may apply to the chief executive for a licence.
- (2) The application must—
 - (a) be in the approved form; and
 - (b) include the following information—
 - (i) whether the licence is for 1 or both of the following types of business—
 - (A) a second-hand dealer;
 - (B) a pawnbroker;
 - (ii) whether the licence is sought for a term of 1 or 3 years;
 - (iii) each place the applicant intends to carry on business under the licence;
 - (iv) the names and addresses of the applicant's associates; and
 - (c) be accompanied by—
 - (i) the application fee prescribed under a regulation; and
 - (ii) if, before or when the application is made, the chief executive requires the payment of costs under section 8A(1)—the amount of the costs required to be paid.
- (3) A requirement mentioned in subsection (2)(c)(ii) is sufficiently made of the applicant if it is made generally of

applicants in the approved form or notified on the department's website.

11 Principal place of business

- (1) If the applicant intends to carry on business at more than 1 place, the applicant must specify in the application the place the applicant intends to be the applicant's principal place of business.
- (2) If the applicant intends to carry on business at a location, the applicant must specify, as the applicant's principal place of business—
 - (a) for an application for a second-hand dealer's licence—an address where the applicant's transactions register is to be maintained and may be inspected; or
 - (b) for an application for a pawnbroker's licence—an address where the applicant's property register is to be maintained and may be inspected, and property taken as a pawn is located.
- (3) A place of business or an address under this section must be a place where a document may be served personally.

Example—

A post office box is not a place the applicant may use as a place of business or an address for this Act.

12 Decision on application for a licence

- (1) The chief executive must consider an application for a licence and—
 - (a) grant the licence, with or without conditions; or
 - (b) refuse to grant the licence.
- (2) However, the chief executive must refuse to grant the licence if the chief executive is not satisfied the applicant is a suitable person to hold the licence.

- (3) If the chief executive decides to grant the licence, the chief executive must—
 - (a) grant the licence for the term stated in the application for the licence; and
 - (b) give the applicant the licence.
- (4) If the chief executive decides to grant the licence with a condition or to refuse to grant the licence, the chief executive must give the applicant a QCAT information notice for the decision within 14 days after the decision is made.
- (5) The *Acts Interpretation Act 1954*, section 27B, does not apply to the QCAT information notice to the extent to which the decision is the result of advice given by the commissioner of the police service to the chief executive under section 8(4).

13 Renewal of licence

- (1) A licensee may apply to the chief executive to renew the licensee's licence before the licence expires.
- (2) The application must—
 - (a) be in the approved form; and
 - (b) state whether the licence is sought for a term of 1 or 3 years; and
 - (c) state the names and addresses of the associates of the applicant; and
 - (d) be accompanied by—
 - (i) the application fee prescribed under a regulation; and
 - (ii) if, before or when the application is made, the chief executive requires the payment of costs under section 8A(1)—the amount of the costs required to be paid.
- (3) A requirement mentioned in subsection (2)(d)(ii) is sufficiently made of the applicant if it is made generally of

applicants in the approved form or notified on the department's website.

14 Restoration of licence

- (1) If a licence expires, the person who was the holder of the licence may, within 14 days after the licence expires, apply to the chief executive to restore the licence.
- (2) The application must—
 - (a) be in the approved form; and
 - (b) state whether the licence is sought for a term of 1 or 3 years; and
 - (c) state the names and addresses of the associates of the applicant; and
 - (d) be accompanied by—
 - (i) the application fee prescribed under a regulation; and
 - (ii) if, before or when the application is made, the chief executive requires the payment of costs under section 8A(1)—the amount of the costs required to be paid.
- (3) A requirement mentioned in subsection (2)(d)(ii) is sufficiently made of the applicant if it is made generally of applicants in the approved form or notified on the department's website.

15 Decision on application for renewal or restoration of a licence

- (1) The chief executive must consider an application for renewal or restoration of a licence and—
 - (a) grant the renewal or restoration of the licence, with or without conditions; or
 - (b) refuse to grant the renewal or restoration of the licence.

- (2) However, the chief executive must refuse the application if the chief executive is not satisfied the applicant is a suitable person to hold a licence.
- (3) If the chief executive decides to grant the renewal or restoration of the licence, the chief executive must grant the renewal or restoration for the term stated in the application.
- (4) If the chief executive decides to refuse to grant the renewal or restoration of the licence, the chief executive must give the applicant a QCAT information notice for the decision within 14 days after the decision is made.
- (5) The *Acts Interpretation Act 1954*, section 27B, does not apply to the QCAT information notice to the extent to which the decision is the result of advice given by the commissioner of the police service to the chief executive under section 8(4).

16 Licence continues pending decision about renewal

- (1) If a licensee applies for renewal of a licence under section 13, the licence is taken to be in force from the time it would, apart from this subsection, have expired until the day on which any of the following first happens—
 - (a) the chief executive renews the licence;
 - (b) if the chief executive decides to refuse to grant the renewal, the chief executive gives the licensee a QCAT information notice for the decision under section 15(4);
 - (c) the licensee is taken to have withdrawn the application under section 18(2).
- (2) If the chief executive renews the licence, the licence is taken to have been renewed from the time it would, apart from subsection (1), have expired.
- (3) Subsection (1) does not apply if the licence is earlier cancelled or suspended.

17 Licence continues pending decision about restoration

- (1) If a licensee applies for restoration of a licence under section 14, the licence is taken to be in force from the time the licence expired until the day on which any of the following first happens—
 - (a) the chief executive restores the licence;
 - (b) if the chief executive decides to refuse to grant the restoration, the chief executive gives the licensee a QCAT information notice for the decision under section 15(4);
 - (c) the licensee is taken to have withdrawn the application under section 18(2).
- (2) If the chief executive restores the licence, the licence is taken to have been restored from the time it expired.
- (3) Subsection (1) does not apply if the licence is earlier cancelled or suspended.

18 Requirement to give chief executive information

- (1) The chief executive may by signed notice require an applicant under this part to give the chief executive information or documents the chief executive reasonably considers are needed, to consider the applicant's application, within a stated reasonable period of at least 14 days.
- (2) If the applicant fails to comply with the chief executive's requirement within the stated reasonable period, the applicant is taken to have withdrawn the application.

Division 4 Suspending, cancelling, refusing to renew or restore, or imposing conditions on a licence

19 Grounds for suspending, cancelling, refusing to renew or restore, or imposing conditions on a licence

- (1) Each of the following is a ground for suspending, cancelling, refusing to renew or restore, or imposing a condition on a licence—
- (a) the licence, or a renewal or restoration of the licence, was obtained because of materially incorrect or misleading information;
 - (b) the licensee or an associate of the licensee has failed to comply with a condition of the licence;
 - (c) the licensee or an associate of the licensee has been convicted of an offence against this Act, the repealed Act or a law of another State that provides for the same matter as this Act within the last 5 years;
 - (d) the licensee is no longer a suitable person to hold a licence.

Note—

See section 7.

- (2) However, for subsection (1)(d) and section 20, it is not a ground for suspending, cancelling, refusing to renew or restore, or imposing a condition on a licence that the licensee is an identified participant in a criminal organisation.

Notes—

- 1 The chief executive must refuse to renew or restore a licence on the ground that the licensee is an identified participant in a criminal organisation under section 15.
- 2 The chief executive must immediately cancel a licence if a licensee is an identified participant in a criminal organisation under section 20A.

- (3) In this section—

repealed Act means the *Second-hand Dealers and Collectors Act 1984* or the *Pawnbrokers Act 1984*.

20 Procedure for suspending, cancelling, refusing to renew or restore, or imposing conditions on a licence

- (1) If the chief executive believes reasonable grounds exist to suspend, cancel, refuse to renew or restore, or impose a condition on a licence (the *action*), the chief executive must give the licensee a notice (the *show cause notice*) that—
 - (a) states the action proposed and—
 - (i) if the proposed action is to suspend the licence—states the proposed suspension period; and
 - (ii) if the proposed action is to impose a condition on a licence—states the proposed condition; and
 - (b) states the grounds for proposing to take the action; and
 - (c) outlines the facts and circumstances that form the basis for the chief executive’s belief; and
 - (d) invites the licensee to make written representations, within a stated time of not less than 28 days, why the action proposed should not be taken.
- (2) If, after considering all written representations made within the stated time, the chief executive still believes grounds exist to take the action, the chief executive may—
 - (a) if the show cause notice stated the action proposed was to suspend the licence for a stated period—suspend the licence for a period not longer than the stated period; or
 - (b) if the show cause notice stated the action proposed was to cancel the licence—
 - (i) cancel the licence; or
 - (ii) suspend the licence for a period; or
 - (c) if the show cause notice stated the action proposed was not to renew or restore the licence—

- (i) refuse to renew or restore the licence; or
 - (ii) refuse to renew or restore the license for a period;
or
 - (d) if the show cause notice stated the action proposed was to impose a condition on a licence—impose the condition on the licence, or impose another condition on the licence to which the licensee has consented in writing.
- (3) The chief executive must give the licensee a QCAT information notice for the decision within 14 days after the decision is made.
- (4) The decision takes effect on the later of the following—
- (a) the day on which the notice is given to the licensee;
 - (b) the day stated in the notice.

20A Immediate cancellation and return of licence

- (1) The chief executive must cancel a licensee's licence if, after the licence is granted, the chief executive is advised by the commissioner of the police service that the licensee is an identified participant in a criminal organisation.
- (2) Immediately after cancelling the licence, the chief executive must give the licensee a QCAT information notice for the decision to cancel the licence.
- (3) The *Acts Interpretation Act 1954*, section 27B, does not apply to the QCAT information notice.
- (4) The decision takes effect on the day on which the notice is given to the licensee.
- (5) If a person's licence is cancelled under subsection (1), the person must return the licence to the chief executive within 14 days of the QCAT information notice being given to the licensee.

Maximum penalty for subsection (5)—100 penalty units.

21 Return of licence

- (1) If the chief executive decides to suspend, cancel (other than under section 20A), refuse to renew or restore, or impose a condition on a licensee's licence, the licensee must, within 14 days of the chief executive's decision taking effect, return the licence to the chief executive unless—
 - (a) the chief executive gives the licensee written consent for the licensee to keep the licence for a period; or
 - (b) the licensee has a reasonable excuse for not returning the licence.

Maximum penalty—100 penalty units.

Note—

See section 20(4).

- (2) If a licence returned to the chief executive after suspension is still current at the end of the suspension period, the chief executive must return the licence to the licensee.
- (3) If a licence is returned to the chief executive after a condition is imposed on the licence, the chief executive must give the licensee another copy of the licence stating the condition.

Division 5 Other provisions about licences

22 Condition that licensee comply with local laws

It is a condition of a licence that the licensee comply with a local law about the carrying on of the licensee's business under the licence.

23 Condition that second-hand dealer not enter or remain at premises

It is a condition of a second-hand dealer's licence that the second-hand dealer, when acquiring property for the second-hand dealer's business from a person at premises, not

enter or remain at the premises without the permission of the owner or occupier of the premises.

24 Authorised place

A place is an *authorised place* for a licence if—

- (a) the licensee's application for the licence under section 10 stated that the licensee intended to carry on business at the place; or
- (b) the place is a place approved by the chief executive under section 25 as an authorised place for the licence.

25 Change of authorised place

- (1) A licensee may apply to the chief executive to approve a place as an authorised place for the licensee's licence.
- (2) The application must be in the approved form and be accompanied by the fee prescribed under a regulation.
- (3) The licensee must indicate in the application—
 - (a) whether the place is to be the licensee's principal place of business; and
 - (b) whether the licensee intends to continue to carry on business at each other approved place for the licence.
- (4) The chief executive must consider each application and—
 - (a) approve the place as an authorised place for the licence, with or without conditions; or
 - (b) refuse to approve the place as an authorised place for the licence.
- (5) If the chief executive decides to refuse to approve the place as an authorised place for the licence, the chief executive must give the applicant a QCAT information notice for the decision.
- (6) If the chief executive approves the application, the licensee must, within 7 days of the licensee receiving notice of the approval, give the chief executive the licensee's licence.

Maximum penalty—50 penalty units.

- (7) If the chief executive is given a licence under subsection (6), the chief executive must give the licensee another copy of the licence stating the authorised place approved by the chief executive for the licence.

26 Licence to include particular information

- (1) A licence must include the following information—
 - (a) each authorised place for the licence;
 - (b) any condition imposed on the licence by the chief executive.
- (2) However, if the licence is issued to a licensee for carrying on business at a location, the licence must state—
 - (a) for a licence to carry on business as a second-hand dealer—an address where the licensee’s transactions register is to be maintained and may be inspected; or
 - (b) for a licence to carry on business as a pawnbroker—an address where the licensee’s property register is to be maintained and may be inspected, and property taken as a pawn is located.

27 Change of licensee’s home address

- (1) If a licensee changes the licensee’s home address or an address mentioned in section 26(2)(a) or (b), the licensee must, within 7 days after the change, give the chief executive—
 - (a) signed notice of the change; and
 - (b) if the licensee carries on business under the licence at a location, the licensee’s licence.

Maximum penalty—50 penalty units.

- (2) If the chief executive is given a licence under subsection (1)(b) and is satisfied of the correctness of the

change, the chief executive must give the licensee another copy of the licence stating the new address.

28 Licence to be kept on premises or with licensee

- (1) If a licence authorises the licensee to carry on business under the licence at premises, the licensee must keep the licence or a copy of it at the premises stated in the licence.

Maximum penalty—100 penalty units.

- (2) If a licence authorises the licensee to carry on business under the licence at a location, the licensee must carry the licence or a copy of it when carrying on business at the location.

Maximum penalty—100 penalty units.

29 Change of associate

- (1) Subsection (2) applies if either of the following events happen—

- (a) a person becomes an associate of a licensee;
- (b) a person stops being an associate of a licensee.

- (2) The licensee must give the chief executive signed notice of the event, within 14 days after the day it happens.

Maximum penalty—50 penalty units.

30 Licensee must give notice if licence lost, stolen, destroyed or damaged

If a licensee's licence is lost, stolen, destroyed or damaged in a way that requires its replacement, the licensee must give the chief executive signed notice as soon as practicable after becoming aware the licence is lost, stolen, destroyed or damaged in a way that requires its replacement.

Maximum penalty—50 penalty units.

31 Replacement of lost, stolen, destroyed or damaged licence

- (1) A licensee may, by signed application, request the chief executive replace a licence that is lost, stolen, destroyed or damaged in a way that requires its replacement.
- (2) The application must be accompanied by the fee prescribed under a regulation.
- (3) The chief executive must consider each application and—
 - (a) replace the licence; or
 - (b) refuse to replace the licence.
- (4) The chief executive must replace the licence if the chief executive is satisfied the licence has been lost, stolen, destroyed or damaged in a way that requires its replacement.
- (5) If the chief executive decides to refuse to replace the licence, the chief executive must give the applicant a QCAT information notice for the decision.

32 Surrender of licence

- (1) A licensee may surrender the licensee's licence by signed notice given to the chief executive.
- (2) The surrender of the licence takes effect on the day the notice of surrender is given to the chief executive or, if a later day of effect is stated in the notice, the later day.
- (3) The licensee must return the licence to the chief executive within 14 days after surrender takes effect, unless the licensee has a reasonable excuse.

Maximum penalty for subsection (3)—20 penalty units.

33 Return of expired licence

A licensee must return the licensee's licence to the chief executive, within 14 days after the licence expires, unless—

- (a) the licensee has applied for the renewal or restoration of the licence under section 13 or 14, and the application has not been decided by the chief executive; or
- (b) the licensee has a reasonable excuse.

Maximum penalty—20 penalty units.

34 Licence not transferable

A licence can not be assigned or transferred to another person.

Part 4 Conduct of business

Division 1 Second-hand dealers

35 Where business may be carried on

- (1) A second-hand dealer must not carry on business as a second-hand dealer at a place other than an authorised place.
Maximum penalty—200 penalty units.
- (2) However, the second-hand dealer does not contravene subsection (1) if the second-hand dealer is—
 - (a) acquiring second-hand property from a person; or
 - (b) carrying on business at a public auction conducted by a chattel auctioneer licensed under the *Motor Dealers and Chattel Auctioneers Act 2014*.

36 Second-hand dealer must identify place of business

A second-hand dealer must clearly display at each authorised place the second-hand dealer is carrying on business as a second-hand dealer—

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- (a) the second-hand dealer's name in legible characters at least 50mm high; and
- (b) the words 'licensed dealer in second-hand property' near the name of the second-hand dealer; and
- (c) if the person in effective control of the business at the place is an associate of the second-hand dealer—
 - (i) the associate's name in legible characters at least 50mm high; and
 - (ii) the word 'associate' near the name of the associate.

Maximum penalty—50 penalty units.

37 Second-hand dealer must keep a transactions register

- (1) A second-hand dealer must keep a printed or an electronic register of transactions (*transactions register*), in a way prescribed under a regulation, for each authorised place for the second-hand dealer's licence.

Maximum penalty—200 penalty units.

- (2) The second-hand dealer must, before or immediately after each second-hand property transaction at an authorised place, enter in the transactions register for the place the particulars prescribed under a regulation for the transaction.

Maximum penalty—200 penalty units.

- (3) A second-hand dealer must not separate second-hand property into parts to avoid entering the particulars for a second-hand property transaction.

Maximum penalty—200 penalty units.

- (4) If the second-hand property transaction happens at a place other than an authorised place, the second-hand dealer must, as soon as practicable after the transaction, enter in the transactions register for the second-hand dealer's principal place of business the particulars prescribed under a regulation for the transaction.

Maximum penalty—200 penalty units.

(5) In this section—

second-hand property transaction means a transaction for the acquisition, sale or disposal of—

- (a) second-hand property with a resale value of at least \$55;
or
- (b) second-hand property that is jewellery, contains precious metals or is property that may be identified by—
 - (i) a make, model or serial number on the property; or
 - (ii) an inscription.

38 Place transactions register to be kept

(1) Subsection (2) applies if a second-hand dealer is authorised to carry on business under the second-hand dealer's licence at premises.

(2) The second-hand dealer must keep the transactions register for the premises at the premises.

Maximum penalty—100 penalty units.

(3) Subsection (4) applies if a second-hand dealer is authorised to carry on business under the second-hand dealer's licence at a location and the second-hand dealer is not carrying on business as a second-hand dealer at the location.

(4) The second-hand dealer must keep the transactions register for the location at the address stated on the licence under section 26(2)(a).

Maximum penalty—100 penalty units.

39 Second-hand dealer must give information to commissioner of police service

A second-hand dealer must give the commissioner of the police service the particulars prescribed under a regulation from the second-hand dealer's transaction register in the way, and within the period, prescribed under a regulation.

Maximum penalty—200 penalty units.

40 False or misleading entries in transactions register

A person must not make a false or misleading entry in a transactions register.

Maximum penalty—200 penalty units.

41 Person must not alter transactions register

- (1) A person must not remove an entry in a transactions register.

Maximum penalty—200 penalty units.

- (2) If a second-hand dealer finds an error in an entry in the second-hand dealer's transaction register, the second-hand dealer may correct the entry by making a new entry for the transaction in the transactions register.

- (3) In this section—

remove includes alter, disguise, erase and make illegible or unintelligible.

42 Employees must not be under 17

A second-hand dealer must not employ a person under 17 years to acquire second-hand property.

Maximum penalty—200 penalty units.

43 Second-hand dealer taken to be in possession of second-hand property

- (1) A second-hand dealer is taken to be in possession of second-hand property located at a place other than a place stated on the second-hand dealer's licence if—

- (a) the property is found in a place occupied by the second-hand dealer; or

- (b) the property is under the control of the second-hand dealer; or
 - (c) the second-hand dealer did not sell the property in good faith and the property has been moved to another place.
- (2) Subsection (1) applies unless the contrary is proven.

44 Second-hand dealer to keep property for 7 days

If a second-hand dealer acquires nominated property, the second-hand dealer must keep the nominated property in the second-hand dealer's possession for 7 clear working days after acquiring it.

Maximum penalty—200 penalty units.

45 Second-hand dealer must not acquire property from particular persons

- (1) A second-hand dealer must not directly or indirectly acquire second-hand property from a person under 17 years, or who is under the influence of alcohol or a drug.

Maximum penalty—200 penalty units.

- (2) The second-hand dealer does not contravene subsection (1) if the second-hand dealer believed, on reasonable grounds, that—
- (a) for property acquired from a person under 17 years—the person was at least 17 years; or
 - (b) for property acquired from a person under the influence of alcohol or a drug—the person was not under the influence of alcohol or a drug.

46 When a second-hand dealer may acquire property

- (1) A second-hand dealer must not acquire second-hand property from a person at the person's home—
- (a) on a Sunday or public holiday; or

(b) otherwise—between 6p.m. and 7a.m.

Maximum penalty—200 penalty units.

- (2) However, the second-hand dealer does not contravene subsection (1) if the second-hand dealer obtains the person's consent for the property to be acquired at least 1 day before the day the property is acquired.

47 Second-hand dealer must ask for information

A second-hand dealer must, before acquiring second-hand property from a person, obtain from the person the following information—

- (a) the person's name and address;
- (b) verification of the person's name and address;
- (c) whether or not the person is the owner of the property;
- (d) if the person is not the owner of the property—
 - (i) the name and address of the owner; and
 - (ii) how the person acquired the property.

Maximum penalty—200 penalty units.

48 Second-hand dealer to inform police about stolen property

- (1) Subsection (2) applies if a second-hand dealer acquires second-hand property that may be property described as stolen or unlawfully obtained in written, printed or oral information given to the second-hand dealer by a police officer or another person.
- (2) The second-hand dealer must advise a police officer about the property, as soon as practicable after becoming aware that the property may be stolen or unlawfully obtained.

Maximum penalty—200 penalty units.

49 Second-hand dealer to produce licence if asked

- (1) This section applies if a person—
 - (a) acquires or intends to acquire second-hand property from a second-hand dealer; or
 - (b) disposes of or intends to dispose of second-hand property to a second-hand dealer.
 - (2) The person may, immediately before or within 24 hours after acquiring or disposing of the property, ask the second-hand dealer to show the person the second-hand dealer's licence.
 - (3) The second-hand dealer must show the person the licence.
- Maximum penalty for subsection (3)—50 penalty units.

50 Holding out place as second-hand dealer's business

A person must not hold out a place as being a place where a second-hand dealer carries on business if the place is not an authorised place for a second-hand dealer.

Maximum penalty—200 penalty units.

Division 2 Pawnbrokers

51 Where business may be carried on

A pawnbroker must not carry on business as a pawnbroker at a place other than an authorised place.

Maximum penalty—200 penalty units.

52 Pawnbroker must identify place of business

A pawnbroker must clearly display at each authorised place the pawnbroker is carrying on business as a pawnbroker—

- (a) the pawnbroker's name in legible characters at least 50mm high; and

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- (b) the words ‘licensed pawnbroker’ near the name of the pawnbroker; and
- (c) if a person in effective control of the business at a place is an associate of the pawnbroker—
 - (i) the associate’s name in legible characters at least 50mm high; and
 - (ii) the word ‘associate’ near the name of the associate.

Maximum penalty—50 penalty units.

53 Pawnbroker must keep a property register

- (1) A pawnbroker must keep a printed or an electronic register of property taken as a pawn by the pawnbroker (*property register*) in a way prescribed under a regulation, for each authorised place for the pawnbroker’s licence.

Maximum penalty—200 penalty units.

- (2) The pawnbroker must, before or immediately after the pawnbroker gives a person money for property taken as a pawn from the person, enter in the property register for the place the particulars prescribed under a regulation for the pawned property.

Maximum penalty—200 penalty units.

54 Place property register to be kept

- (1) Subsection (2) applies if a pawnbroker is authorised to carry on business under the pawnbroker’s licence at premises.
- (2) The pawnbroker must keep the property register for the premises at the premises.

Maximum penalty—100 penalty units.

- (3) Subsection (4) applies if a pawnbroker is authorised to carry on business under the pawnbroker’s licence at a location and the pawnbroker is not carrying on business as a pawnbroker at the location.

- (4) The pawnbroker must keep the property register for the location at the address stated on the licence under section 26(2)(b).

Maximum penalty—100 penalty units.

55 Pawnbroker must give information to commissioner of police service

A pawnbroker must give the commissioner of the police service the particulars prescribed under a regulation from the pawnbroker's property register in the way, and within a period, prescribed under a regulation.

Maximum penalty—200 penalty units.

56 False and misleading entries in property register

A person must not make a false or misleading entry in a property register.

Maximum penalty—200 penalty units.

57 Person must not alter property register

- (1) A person must not remove an entry in a property register.

Maximum penalty—200 penalty units.

- (2) If a pawnbroker finds an error in an entry in the pawnbroker's property register, the pawnbroker may correct the entry by making a new entry for the transaction in the property register.

- (3) In this section—

remove includes alter, disguise, erase and make illegible or unintelligible.

58 Pawnbroker must give a person a pawn ticket

- (1) If a pawnbroker takes property as a pawn from a person, the pawnbroker must give the person a legible copy of the entry

made in the pawnbroker's property register for the transaction (a *pawn ticket*).

Maximum penalty—200 penalty units.

- (2) The pawn ticket must include the number allotted to the entry and the name of the pawnbroker.
- (3) The person has a right to receive a copy of the pawn ticket (a *replacement pawn ticket*) from the pawnbroker, if the person is able to prove to the satisfaction of the pawnbroker, by declaration under the *Oaths Act 1867* or in another way—
 - (a) the person's identity; and
 - (b) the pawn ticket was lost, destroyed or stolen.

59 Presumption of right to redeem

- (1) This section applies if a person asks to redeem property taken as a pawn by a pawnbroker and the person gives the pawnbroker a pawn ticket or a replacement pawn ticket for the property.
- (2) The person is taken to be the owner of the ticket or to be acting under the authority of the owner.
- (3) The person has a right to redeem the property unless—
 - (a) the property has been seized under the FTI Act or by a police officer, and has not been returned to the pawnbroker; or
 - (b) before the pawnbroker gives the person the property, the pawnbroker is informed—
 - (i) by another person claiming to be the owner of the ticket that the ticket has been lost or taken without the other person's consent; or
 - (ii) by a credible person that the property has been stolen.

60 Pawnbroker must not sell property before redemption period expires

- (1) A pawnbroker must not sell or dispose of property, taken by the pawnbroker as a pawn, before the redemption period expires for the property.

Maximum penalty—200 penalty units.

- (2) The redemption period for property taken as a pawn is 3 months from the day the person pawned the property, or a longer period agreed between the pawnbroker and the person.
- (3) If a redemption period longer than 3 months is agreed to, the pawnbroker must enter the agreed period in the property register for the transaction.

Maximum penalty for subsection (3)—20 penalty units.

61 Disposal of pawned property

- (1) Subsection (2) applies if the redemption period for property taken as a pawn expires and the property is sold or disposed of.
- (2) The pawnbroker must enter in the pawnbroker's property register the particulars prescribed under a regulation for the property.

Maximum penalty—200 penalty units.

62 If property is not redeemed within the redemption period

- (1) Subsection (2) applies if—
- (a) a pawnbroker has advanced an amount less than \$40, or a higher amount prescribed under a regulation, for property taken by the pawnbroker as a pawn; and
 - (b) the property has not been redeemed before the redemption period for the property expires.
- (2) On expiry of the redemption period, the property becomes the property of the pawnbroker and the person who pawned the property loses all claim to the property.

- (3) Subsection (4) applies if—
 - (a) a pawnbroker has advanced an amount that is at least \$40, or a higher amount prescribed under a regulation, for property taken by the pawnbroker as a pawn; and
 - (b) the property has not been redeemed before the redemption period for the property expires.
- (4) On expiry of the redemption period, the pawnbroker may sell the property free of any claim by the person who pawned the property.

63 Sale of pawned property

- (1) If a redemption period for pawned property expires and section 62(4) applies to the property, the property may be sold at the place where the pawn was taken or by public auction.
- (2) At least 4 days before property is sold by public auction, the pawnbroker selling the property must give notice of the sale at least twice in a newspaper circulating generally in the area the property was pawned.

Maximum penalty—100 penalty units.

- (3) The notice must describe the property to be sold and state when it was pawned.

64 Proceeds of sale of property

- (1) A pawnbroker may deduct the following amounts from the proceeds of the sale of property under section 63—
 - (a) the costs of selling the property;
 - (b) the total of the following amounts—
 - (i) the advance made by the pawnbroker on the security of the property;
 - (ii) the amount of interest the pawnbroker would have received if the property was redeemed on the last day of the redemption period for the property.

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- (1A) A pawnbroker's interest under subsection (1) in the proceeds of sale of the property—
- (a) is declared to be a statutory interest to which section 73(2) of the PPS Act applies; and
 - (b) has priority over all security interests in relation to the property.
- (1B) Subsection (1) applies only to a security interest to which the PPS Act does not apply.
- (2) If the proceeds of the sale of the property are more than the amounts deducted under subsection (1), the pawnbroker must pay the balance of the proceeds into a trust account maintained by the pawnbroker.
- Maximum penalty—200 penalty units.
- (3) The balance of the proceeds must be held in the trust account for the person who pawned the property for 12 months after the property is sold.
- Maximum penalty—200 penalty units.
- (4) If the balance of the proceeds is not claimed by or for the person who pawned the property within 12 months after the property is sold, the pawnbroker must give the balance to the public trustee to be placed in the unclaimed moneys fund and dealt with as unclaimed money.
- Maximum penalty—200 penalty units.
- (5) In this section—
- PPS Act means*** the *Personal Property Securities Act 2009* (Cwlth).
- security interest*** has the meaning given by the PPS Act, section 12.

65 Person may inspect property register

- (1) Subsection (2) applies if a person gives a pawnbroker a pawn ticket or a replacement pawn ticket for property taken by the

pawnbroker as a pawn from the person and the pawnbroker has sold or disposed of the property.

- (2) The person may—
 - (a) inspect the property register containing the entry for the property; and
 - (b) make a copy of the entry.

66 Recovery rights if pawn wrongly sold or disposed of

- (1) This section applies if a pawnbroker sells or disposes of property taken by the pawnbroker as a pawn before the redemption period expires for the property.
- (2) The person who pawned the property may recover from the pawnbroker as a debt—
 - (a) if the pawnbroker sells the property, the greater of—
 - (i) the fair value of the property when it was sold; and
 - (ii) the gross proceeds of the sale; or
 - (b) if the pawnbroker disposes of the property other than by sale—the fair value of the property when it was disposed of.
- (3) The court in which the person starts the action for debt may award the person the costs the court considers reasonable.
- (4) The person may recover an amount under this section whether or not the pawnbroker is charged with an offence against section 60.

67 Employees must not be under 17

A pawnbroker must not employ a person under 17 years to take property as a pawn.

Maximum penalty—200 penalty units.

68 Pawnbroker taken to be in possession of property

- (1) A pawnbroker is taken to be in possession of property located at a place other than a place stated on a pawnbroker's licence if—
 - (a) the property is found in a place occupied by the pawnbroker; or
 - (b) the property is under the control of the pawnbroker; or
 - (c) the pawnbroker did not sell the property in good faith and the property has been moved to another place.
- (2) Subsection (1) applies unless the contrary is proven.

69 Pawnbroker must not acquire property from particular persons

- (1) A pawnbroker must not directly or indirectly take property as a pawn from a person under 17 years, or who is under the influence of alcohol or a drug.
Maximum penalty—200 penalty units.
- (2) The pawnbroker does not contravene subsection (1) if the pawnbroker believed, on reasonable grounds, that—
 - (a) for property acquired from a person under 17 years—the person was at least 17 years; or
 - (b) for property acquired from a person under the influence of alcohol or a drug—the person was not under the influence of alcohol or a drug.

70 Pawnbroker must ask for information

A pawnbroker must, before taking property as a pawn, obtain from the person pawning the property the following information—

- (a) the person's name and address;
- (b) verification of the person's name and address;
- (c) whether or not the person is the owner of the property;

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- (d) if the person is not the owner of the property—
 - (i) the name and address of the owner; and
 - (ii) how the person acquired the property.

Maximum penalty—200 penalty units.

71 Pawnbroker to inform police about stolen property

- (1) Subsection (2) applies if a pawnbroker acquires property that may be property described as stolen or unlawfully obtained in written, printed or oral information given to the pawnbroker by a police officer or another person.
- (2) The pawnbroker must advise a police officer about the property, as soon as practicable after becoming aware that the property may be stolen or unlawfully obtained.

Maximum penalty—200 penalty units.

72 Pawnbroker to produce licence if asked

- (1) This section applies if a person—
 - (a) acquires or intends to acquire property from a pawnbroker; or
 - (b) pawns or intends to pawn property to a pawnbroker.
- (2) The person may, immediately before or within 24 hours after acquiring or pawning the property, ask the pawnbroker to show the person the pawnbroker's licence.
- (3) The pawnbroker must show the person the licence.

Maximum penalty for subsection (3)—50 penalty units.

73 Holding out place as pawnbroker's business

A person must not hold out a place as being a place where a pawnbroker carries on business if the place is not an authorised place for a pawnbroker.

Maximum penalty—200 penalty units.

74 Disposal of pledges if licence cancelled or not renewed

If the chief executive cancels or refuses to renew a pawnbroker's licence, a person may apply to a Magistrates Court for an order to dispose of property taken as a pawn under the licence in a way the court considers appropriate.

Part 6 General offences, legal proceedings and review of decisions

Division 1 General offences

96 False or misleading information

- (1) A person must not give information to the chief executive that the person knows is false or misleading in a material particular.

Maximum penalty—200 penalty units.

- (2) Subsection (1) does not apply to information given in a document if the person when giving the document—

- (a) informs the chief executive, to the best of the person's ability, how the information is false or misleading; and
(b) if the person has, or can reasonably obtain, the correct information—gives the correct information.

- (3) It is enough for a complaint against a person for an offence against subsection (1) to state that the information was 'false or misleading', without specifying whether it was false or was misleading.

98 Forging a licence

- (1) A person must not forge a licence.

Maximum penalty—200 penalty units.

(2) In this section—

forge see the Criminal Code, section 1.

99 Person not to possess a licence without reasonable excuse

(1) A person who is not a licensee must not, without a reasonable excuse, possess—

- (a) a licence; or
- (b) a document resembling a licence.

Maximum penalty—200 penalty units.

(2) A person who is not a licensee must not, without a reasonable excuse, possess a licence that has been—

- (a) cancelled or suspended; or
- (b) surrendered or expired.

Maximum penalty—

- (a) if paragraph (a) applies—100 penalty units; or
- (b) if paragraph (b) applies—20 penalty units.

100 Person not to use or allow another person to use a licence

A person must not—

- (a) use a licence issued to another person; or
- (b) allow a licence issued to the person to be used by another person.

Maximum penalty—200 penalty units.

101 Person not to alter a licence

A person must not, unless authorised under this Act, alter a licence.

Maximum penalty—200 penalty units.

Division 2 Legal proceedings

102 Proceeding for offence

- (1) A proceeding for an offence against this Act must be taken in a summary way under the *Justices Act 1886*.
- (2) A proceeding may be started within the later of the following—
 - (a) 1 year after the offence is committed;
 - (b) 6 months after the offence comes to the complainant's knowledge, but within 2 years after the offence is committed.

103 Inspector may prosecute

An inspector may appear and act in court for the prosecution on a proceeding under this Act, whether or not the inspector is the complainant in the proceeding.

104 Evidence

- (1) This section applies to a proceeding under this Act.
- (2) Unless a party by reasonable notice requires proof, the appointment of an official, or the authority of an official to do anything under this Act, must be presumed.
- (3) A signature purporting to be the signature of an official is evidence of the signature it purports to be.
- (4) A certificate purporting to be signed by an inspector and stating any of the following matters is evidence of the matter—
 - (a) that a specified document is a licence, or a copy of a licence, granted under this Act;

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- (b) that on a specified day, or during a specified period, a specified person was or was not a licensee;
 - (c) that a licence—
 - (i) was or was not granted for a specified term; or
 - (ii) was or was not in force on a specified day or during a specified period; or
 - (iii) was or was not subject to a specified condition;
 - (d) that a document is a copy of a document kept under this Act.
- (5) Unless a party by reasonable notice requires proof, an entry in a book, register or record kept by or found at a person's premises, must be presumed to be made by or with the authority of the person.
- (6) In this section—
official means—
- (a) the chief executive; or
 - (b) the commissioner of the police service; or
 - (c) an inspector.

105 Effect of conviction for dealing in or selling property obtained by fraud

- (1) Subsection (2) applies if a licensee is convicted of an offence involving the licensee knowingly dealing in or selling property obtained by fraud or by a dishonest means.
- (2) A court may, as well as imposing any other penalty on the licensee, do either or both of the following—
 - (a) cancel the licensee's licence;
 - (b) order that the licensee may not hold a licence for 5 years after the conviction.

106 Attempts to commit offences

A person who attempts to commit an offence against this Act commits an offence against this Act.

Maximum penalty—half the penalty for the completed offence.

Division 3 Review of decisions

107 Application for review of decisions by QCAT

(1) A person affected by a reviewable decision may apply, as provided under the QCAT Act, to QCAT for a review of the decision.

(2) In subsection (1)—

reviewable decision means any of the following decisions of the chief executive—

- (a) a decision to grant a licence with a condition or to refuse to grant a licence;
- (b) a decision to renew or restore a licence with a condition or to refuse to grant the renewal or restoration of the licence;
- (c) a decision to suspend or cancel a licence or impose a condition on a licence;
- (d) a decision to refuse to approve a place as an authorised place for the licensee's licence, other than a condition imposed as mentioned in paragraph (a) or (b);
- (e) a decision to refuse to replace a licence that is lost, stolen, destroyed or damaged in a way that requires its replacement.

107A Confidentiality of criminal intelligence

(1) This section applies if—

- (a) a person seeks a review under this division of one of the following decisions made by the chief executive—
 - (i) a decision to refuse to grant a licence;
 - (ii) a decision to refuse to grant the renewal or restoration of a licence;
 - (iii) a decision to cancel a licence under section 20A; and
 - (b) the decision was made as a result of advice given by the commissioner of the police service that the person is an identified participant in a criminal organisation.
- (2) For an application for review of the decision in QCAT or a proceeding about the decision in the Supreme Court—
- (a) the commissioner of the police service is a party to the proceeding; and
 - (b) the commissioner of the police service must give QCAT or the Supreme Court a statement of reasons about the identification of the person by the commissioner of the police service as an identified participant in a criminal organisation.
- (3) For a proceeding mentioned in subsection (2), QCAT or the Supreme Court may—
- (a) review the identification by the commissioner of the police service of the person as an identified participant in a criminal organisation; and
 - (b) as it considers appropriate to protect the confidentiality of criminal intelligence—
 - (i) receive evidence and hear argument about the criminal intelligence in the absence of parties to the proceeding and their representatives; and
 - (ii) take evidence consisting of criminal intelligence by way of affidavit of a police officer of at least the rank of superintendent.
- (4) If QCAT or the Supreme Court considers information has been incorrectly categorised by the commissioner of the

police service as criminal intelligence, the commissioner may withdraw the information from consideration by QCAT or the court.

- (5) Information that is withdrawn under subsection (4) by the commissioner of the police service must not be—
- (a) disclosed to any person; or
 - (b) taken into consideration by QCAT or the Supreme Court.

- (6) In this section—

criminal intelligence means—

- (a) advice given by the commissioner of the police service to the chief executive under section 8 that a person is an identified participant in a criminal organisation; and
- (b) information held by the commissioner of the police service that is relevant to whether the person is an identified participant in a criminal organisation.

107B Application of Judicial Review Act 1991

- (1) The *Judicial Review Act 1991*, part 4 does not apply to a decision mentioned in section 107A(1).
- (2) Subject to this division, unless the Supreme Court decides that a decision of the chief executive mentioned in section 107A(1) is affected by jurisdictional error, the decision—
 - (a) is final and conclusive; and
 - (b) can not be challenged, appealed against, reviewed, quashed, set aside or called in question in any other way, under the *Judicial Review Act 1991* or otherwise (whether by the Supreme Court, or another court, a tribunal or another entity); and
 - (c) is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, a tribunal or another entity on any ground.

- (3) The *Judicial Review Act 1991*, part 5 applies to the decision mentioned in subsection (2) to the extent it is affected by jurisdictional error.

Part 7 General provisions

112A Delegation by chief executive

- (1) The chief executive may delegate the chief executive's powers under this Act to an appropriately qualified public service employee.

- (2) In this section—

appropriately qualified includes having the qualifications, experience or standing appropriate to exercise the power.

Example of standing—

A person's classification level in the public service.

113 Officials not civilly liable

- (1) An official is not civilly liable for an act done, or omission made, honestly and on reasonable grounds under this Act.

- (2) If subsection (1) prevents a civil liability attaching to an official, the liability attaches instead to the State.

- (3) In this section—

official means—

- (a) the chief executive; or
- (b) an inspector; or
- (c) a public service employee.

114 Approval of forms

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

115 Regulation-making power

- (1) The Governor in Council may make regulations under this Act.
- (2) Without limiting subsection (1), a regulation may be made about any of the following matters—
 - (a) fees, including refunding of fees;
 - (b) the keeping of registers and other records by licensees;
 - (c) duties of licensees;
 - (d) conditions on licensees;
 - (e) attaching or displaying names of licensees or associates to or on premises.
- (3) A regulation may provide for a maximum penalty of not more than 20 penalty units for a contravention of the regulation.

Part 8 Repeals

116 Repeals

The following Acts are repealed—

- Pawnbrokers Act 1984 No. 12
- Second-hand Dealers and Collectors Act 1984 No. 59.

Part 9 **Transitional provisions**

Division 1 **Interpretation**

118 **Definition for pt 9**

In this part—

commencement means the commencement of this part.

Division 2 **Transitional provisions for repeal of the Second-hand Dealers and Collectors Act 1984**

119 **Definition for div 2**

In this division—

repealed Act means the repealed *Second-hand Dealers and Collectors Act 1984*.

120 **Existing second-hand dealer's licence**

- (1) A second-hand dealer's licence in force under the repealed Act immediately before the commencement (a *previous second-hand dealer's licence*) is taken to be a second-hand dealer's licence under this Act.
- (2) The licence—
 - (a) is taken to be subject to conditions and restrictions in the same terms, as far as practicable, as the conditions and restrictions to which the previous second-hand dealer's licence was subject; and
 - (b) expires when the previous second-hand dealer's licence would have expired; and
 - (c) must not be the subject of renewal, restoration or reinstatement under this Act.

121 Existing applications for previous licences

- (1) If, before the commencement, an application was made under the repealed Act and the application had not been decided, the application must be decided by the chief executive as if the application were a similar application under this Act.
- (2) In this section—
application means an application for—
 - (a) a second-hand dealer's licence; or
 - (b) renewal or restoration of a second-hand dealer's licence; or
 - (c) replacement of a second-hand dealer's licence.

122 Notice of revocation

If, before the commencement, the chief executive gave a second-hand dealer a notice of revocation under the repealed Act, and the second-hand dealer's licence has not been revoked, the notice of revocation has effect as if the repealed Act had not been repealed.

123 Surrender notice

If, before the commencement, the chief executive gave a second-hand dealer a surrender notice under the repealed Act, and the surrender notice has not had effect, the repealed Act has effect in relation to the notice as if the repealed Act had not been repealed.

124 Change of address

If, before the commencement, a second-hand dealer gave the chief executive written notice of a change of address, and the chief executive has not endorsed the second-hand dealer's licence with the change of address, the notice is taken to be a notice of change of address under this Act.

125 Nominated property

If a second-hand dealer received property mentioned in section 47A of the repealed Act within 7 clear working days before the commencement, section 47A of the repealed Act applies to the property as if the repealed Act had not been repealed.

126 Appeals to court

- (1) Subsection (2) applies if a person appealed to a magistrates court under the repealed Act before commencement and the appeal has not been decided.
- (2) The magistrates court may hear, or continue to hear, and decide the appeal under the repealed Act as if the repealed Act had not been repealed.
- (3) Subsection (4) applies if a person could have appealed to a magistrates court under the repealed Act before commencement and the person had not appealed before the commencement.
- (4) The person may appeal as provided under the repealed Act, and the magistrates court may hear and decide the appeal, as if the repealed Act had not been repealed.

127 Existing authorised officers

A person who held an appointment as an authorised officer under the repealed Act immediately before the commencement is taken to be appointed as an authorised officer under this Act.

128 References to repealed Act

In an Act or document, a reference to the repealed Act may, if the context permits, be taken as a reference to this Act.

Division 3 Transitional provisions for repeal of the Pawnbrokers Act 1984

129 Definition for div 3

In this division—

repealed Act means the repealed *Pawnbrokers Act 1984*.

130 Existing pawnbroker's licence

- (1) A pawnbroker's licence in force under the repealed Act immediately before the commencement (a *previous pawnbroker's licence*) is taken to be a pawnbroker's licence under this Act.
- (2) The licence—
 - (a) is taken to be subject to conditions and restrictions in the same terms, as far as practicable, as the conditions and restrictions to which the previous pawnbroker's licence was subject; and
 - (b) expires when the previous pawnbroker's licence would have expired; and
 - (c) must not be the subject of renewal, restoration or reinstatement under this Act.

131 Existing applications for previous licences

- (1) If, before the commencement, an application was made under the repealed Act and the application had not been decided, the application must be decided by the chief executive as if the application were an application under this Act.
- (2) In this section—

application means an application for—

 - (a) a pawnbroker's licence; or
 - (b) renewal or restoration of a pawnbroker's licence; or

- (c) replacement of a pawnbroker's licence.

132 Notice of revocation

If, before the commencement, the chief executive gave a pawnbroker a notice of revocation under the repealed Act, and the pawnbroker's licence has not been revoked, the notice of revocation has effect as if the repealed Act had not been repealed.

133 Surrender notice

If, before the commencement, the chief executive gave a pawnbroker a surrender notice under the repealed Act, and the surrender notice has not had effect, the notice has effect as if the repealed Act had not been repealed.

134 Change of address

If, before the commencement, a pawnbroker gave the chief executive written notice of a change of address, and the chief executive has not endorsed the pawnbroker's licence with the change of address, the notice is taken to be a notice of change of address under this Act.

135 Property pawned before the commencement

- (1) The nominated sections of the repealed Act continue to apply to property taken as a pawn under the repealed Act before the commencement as if the repealed Act had not been repealed.
- (2) In this section—

nominated sections means, to the extent that the sections are relevant, sections 32, 33, 34, 35, 36, 38, 42, 55, 56 and 63.

136 Appeals to court

- (1) Subsection (2) applies if a person appealed to a magistrates court under the repealed Act before commencement and the appeal has not been decided.
- (2) The magistrates court may hear, or continue to hear, and decide the appeal under the repealed Act as if the repealed Act had not been repealed.
- (3) Subsection (4) applies if a person could have appealed to a magistrates court under the repealed Act before commencement and the person had not appealed before the commencement.
- (4) The person may appeal as provided under the repealed Act, and the magistrates court may hear and decide the appeal, as if the repealed Act had not been repealed.

137 Existing authorised officers

A person who held an appointment as an authorised officer under the repealed Act immediately before the commencement is taken to be appointed as an authorised officer under this Act.

138 References to repealed Act

In an Act or document, a reference to the repealed Act may, if the context permits, be taken as a reference to this Act.

Division 4 **Transitional provision for Criminal
Law (Criminal Organisations
Disruption) and Other Legislation
Amendment Act 2013**

139 **Applications not finally decided**

- (1) This section applies if, immediately before the commencement, the chief executive had not finally decided an application for—
 - (a) a licence; or
 - (b) a renewal of a licence; or
 - (c) a restoration of a licence.
- (2) The chief executive must decide the application under this Act as amended by the *Criminal Law (Criminal Organisations Disruption) and Other Legislation Amendment Act 2013*.
- (3) In this section—

commencement means the commencement of this section.

Schedule 1 Disqualifying offence provisions under the Criminal Code

schedule 3, definition *disqualifying offence*, paragraph (b)

- 1 chapter 16 (Offences relating to the administration of justice)
- 2 chapter 20 (Miscellaneous offences against public authority)
- 3 chapter 36 (Stealing)
- 4 chapter 37 (Offences analogous to stealing)
- 5 chapter 38 (Stealing with violence—extortion by threats)
- 6 chapter 40 (Other fraudulent practices)
- 7 chapter 41 (Receiving property stolen or fraudulently
obtained and like offences)
- 8 chapter 42 (Frauds by trustees and officers of companies and
corporations—false accounting)
- 9 chapter 42A (Secret commissions)
- 10 chapter 49 (Punishment of forgery and like offences)
- 11 chapter 52 (Personation)
- 12 chapter 56 (Conspiracy)

Schedule 3 Dictionary

section 4

acquire, property, includes buy the property and receive the property as a gift.

approved form means a form approved by the chief executive under section 114.

associate see section 5(1).

authorised place see section 24.

commencement, for part 9, see section 118.

conviction means the acceptance of a plea of guilty, or a finding of guilt, by a court, whether or not a conviction is recorded.

criminal history, of a person, means the person's criminal history as defined under the *Criminal Law (Rehabilitation of Offenders) Act 1986*, other than convictions for which the rehabilitation period has expired, and not been revived, under that Act.

criminal organisation has the meaning given under the Criminal Code, section 1.

dealing, in property, includes acquiring, disposing of, exchanging and selling property, and includes dealing on commission.

disqualifying offence means—

- (a) an offence wherever committed in Australia involving fraud or dishonesty that is punishable by imprisonment for 3 months or more; or
- (b) an offence against a provision of the Criminal Code mentioned in schedule 1; or
- (c) an offence against a provision of a law of another State or of the Commonwealth that provides for the same matter as a law mentioned in paragraph (b).

effective control see section 5(2).

executive officer, of a corporation, means a person who is concerned with, or otherwise takes part in, the corporation's management, whether or not the person is a director or the person's position is given the name of executive officer.

FTI Act see section 3A(1).

identified participant, in a criminal organisation, means a person who is identified by the commissioner of the police service as a participant in the organisation within the meaning of the Criminal Code, section 60A(3).

inspector means a person who holds office under the FTI Act as an inspector for this Act.

licence means a second-hand dealer's licence or a pawnbroker's licence.

licensee means the holder of a licence.

location means a place, other than premises, where a licensee may carry on business under a licence, and includes a place where an antique fair, antique market, flea market or trash and treasure market is carried on.

market operator means a person who carries on the business of conducting—

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

nominated property means second-hand property that is—

- (a) property, other than an item of household furniture, that may be identified by—
 - (i) a make, model or serial number on the property; or
 - (ii) an inscription; or
- (b) electrical property, other than a refrigerator, washing machine, clothes dryer, stove or dishwasher; or

- (c) jewellery; or
- (d) a precious metal; or
- (e) a musical instrument; or
- (f) photographic equipment; or
- (g) a natural diamond or gem stone.

pawn includes pledge.

pawnbroker means a person who—

- (a) carries on the business of advancing, on interest or in expectation of profit or reward, an amount on the principal or collateral security of property taken by the person as a pawn; and
- (b) holds a pawnbrokers licence.

pawn ticket see section 58(1).

place means premises or a location.

premises means a building or structure, or part of a building or structure, where a licensee carries on the licensee's business, other than on a casual basis.

Example of a licensee carrying on business on a casual basis—

A licensee conducting a stall at an established market.

property means personal property, other than money or things in action.

property register see section 53(1).

QCAT information notice means a notice complying with the QCAT Act, section 157(2).

redemption period, for pawned property, means the period stated under section 60(2) for redeeming the property.

repealed Act—

- (a) for part 9, div 2, see section 119; or
- (b) for part 9, div 3, see section 129.

replacement pawn ticket see section 58(3).

second-hand dealer means a person—

-
- (a) who—
 - (i) carries on the business of dealing in second-hand property; or
 - (ii) is a market operator; and
 - (b) who holds a second-hand dealers licence.

second-hand property means personal property that has been used, other than the following types of property—

- (a) newspapers, books, pamphlets, periodicals or other printed publications; or
- (b) stamps or coins; or
- (c) property returned for refund or exchange by a person who purchased it as new property; or
- (d) motor vehicle batteries; or
- (e) used tyres removed from a car, motorbike or trailer within the meaning of the *Transport Operations (Road Use Management) Act 1995*; or
- (f) other property prescribed under a regulation.

sell includes barter, exchange or agree or offer to sell.

transactions register see section 37(1).

used includes worn or otherwise applied for any purpose.

1 Index to endnotes

- 2 Key
- 3 Table of reprints
- 4 List of legislation
- 5 List of annotations

2 Key

Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	(prev)	= previously
amd	= amended	proc	= proclamation
amd	= amendment	prov	= provision
t			
ch	= chapter	pt	= part
def	= definition	pubd	= published
div	= division	R[X]	= Reprint No. [X]
exp	= expires/expired	RA	= Reprints Act 1992
gaz	= gazette	reloc	= relocated
hdg	= heading	renu	= renumbered
		m	
ins	= inserted	rep	= repealed
lap	= lapsed	(retro	= retrospectively
)	
notf	= notified	rv	= revised version
d			
num	= numbered	s	= section

Key	Explanation	Key	Explanation
o in c	= order in council	sch	= schedule
om	= omitted	sdiv	= subdivision
orig	= original	SIA	= Statutory Instruments Act 1992
p	= page	SIR	= Statutory Instruments Regulation 2012
para	= paragraph	SL	= subordinate legislation
prec	= preceding	sub	= substituted
pres	= present	unnum m	= unnumbered
prev	= previous		

3 Table of reprints

A new reprint of the legislation is prepared by the Office of the Queensland Parliamentary Counsel each time a change to the legislation takes effect.

The notes column for this reprint gives details of any discretionary editorial powers under the **Reprints Act 1992** used by the Office of the Queensland Parliamentary Counsel in preparing it. Section 5(c) and (d) of the Act are not mentioned as they contain mandatory requirements that all amendments be included and all necessary consequential amendments be incorporated, whether of punctuation, numbering or another kind. Further details of the use of any discretionary editorial power noted in the table can be obtained by contacting the Office of the Queensland Parliamentary Counsel by telephone on 3003 9601 or email legislation.queries@oqpc.qld.gov.au.

From 29 January 2013, all Queensland reprints are dated and authorised by the Parliamentary Counsel. The previous numbering system and distinctions between printed and electronic reprints is not continued with the relevant details for historical reprints included in this table.

Reprint No.	Amendments included	Effective	Notes
1	2003 Act No. 94	5 July 2004	
1A	2005 Act No. 14	22 April 2005	

Reprint No.	Amendments included	Effective	Notes
1B	2006 Act No. 10	15 March 2006	
1C	2008 Act No. 69	22 May 2009	
1D	2009 Act No. 24	1 December 2009	
1E	2010 Act No. 44	30 January 2012	
Current as at	Amendments included	Notes	
1 November 2013	2013 Act No. 51		
1 July 2014	2013 Act No. 64	RA ss 26(2), 35	
1 December 2014	2014 Act No. 8 2014 Act No. 20	RA s 44A	

4 List of legislation

Second-hand Dealers and Pawnbrokers Act 2003 No. 73

date of assent 22 October 2003

ss 1–2 commenced on date of assent

remaining provisions commenced 5 July 2004 (2004 SL No. 118)

amending legislation—

Tourism, Racing and Fair Trading (Miscellaneous Provisions) Act 2003 No. 94 ss 1, 2(4), pt 14A

date of assent 3 December 2003

pt 14A commenced 30 November 2003 (see s 2(4))

remaining provisions commenced on date of assent

Tourism, Fair Trading and Wine Industry Development (Miscellaneous Provisions) Act 2005 No. 14

date of assent 22 April 2005

commenced on date of assent

Property Agents and Motor Dealers and Other Acts Amendment Act 2006 No. 10 ss 1, 89 sch 2

date of assent 15 March 2006

commenced on date of assent

Justice (Fair Trading) Legislation Amendment Act 2008 No. 69 pts 1, 11

date of assent 11 December 2008

ss 1–2 commenced on date of assent
 remaining provisions commenced 22 May 2009 (2009 SL No. 68)

Queensland Civil and Administrative Tribunal (Jurisdiction Provisions) Amendment Act 2009 No. 24 ss 1–2, ch 5 pt 62

date of assent 26 June 2009
 ss 1–2 commenced on date of assent
 remaining provisions commenced 1 December 2009 (2009 SL No. 252)

Personal Property Securities (Ancillary Provisions) Act 2010 No. 44 ss 1–2, ch 4 pt 35

date of assent 14 October 2010
 ss 1–2 commenced on date of assent
 remaining provisions commenced 30 January 2012 (2011 SL No. 262)

Directors' Liability Reform Amendment Act 2013 No. 51 ss 1–2(1), pt 63

date of assent 29 October 2013
 ss 1–2 commenced on date of assent
 remaining provisions commenced 1 November 2013 (see s 2(1))

Criminal Law (Criminal Organisations Disruption) and Other Legislation Amendment Act 2013 No. 64 ss 1, 2(1), pt 16

date of assent 27 November 2013
 ss 1–2 commenced on date of assent
 remaining provisions commenced 1 July 2014 immediately after the commencement of the Liquor (Red Tape Reduction) and Other Legislation Amendment Act 2013, s 37 (2014 SL No. 90)

Fair Trading Inspectors Act 2014 No. 8 ss 1–2, ch 6 pt 8

date of assent 13 March 2014
 ss 1–2 commenced on date of assent
 remaining provisions commenced 1 December 2014 (2014 SL No. 247)

Motor Dealers and Chattel Auctioneers Act 2014 No. 20 ss 1–2, 238 sch 3 pt 2

date of assent 21 May 2014
 ss 1–2 commenced on date of assent
 remaining provisions commenced 1 December 2014 (2014 SL No. 248)

5 List of annotations

Relationship with Fair Trading Inspectors Act 2014

s 3A ins 2014 No. 8 s 156

Acting as licensee

s 6 amd 2014 No. 20 s 238 sch 3 pt 2

Suitability of applicants and licensees

s 7 amd 2013 No. 64 s 159

Investigations about suitability of applicants and licensees

s 8 amd 2008 No. 69 s 80; 2013 No. 64 s 160

Costs of criminal history report

s 8A ins 2008 No. 69 s 81

Confidentiality of report or information provided by commissioner of police service

s 9 amd 2006 No. 10 s 89 sch 2; 2008 No. 69 s 82
sub 2013 No. 64 s 161

Application for licence

s 10 amd 2008 No. 69 s 83

Decision on application for a licence

s 12 amd 2006 No. 10 s 89 sch 2; 2009 No. 24 s 762; 2013 No. 64 s 162

Renewal of licence

s 13 amd 2008 No. 69 s 84

Restoration of licence

s 14 amd 2008 No. 69 s 85

Decision on application for renewal or restoration of a licence

s 15 amd 2009 No. 24 s 763; 2013 No. 64 s 163

Licence continues pending decision about renewal

s 16 amd 2009 No. 24 s 764

Licence continues pending decision about restoration

s 17 amd 2009 No. 24 s 765

Grounds for suspending, cancelling, refusing to renew or restore, or imposing conditions on a licence

s 19 amd 2006 No. 10 s 89 sch 2; 2008 No. 69 s 86; 2013 No. 64 s 164

Procedure for suspending, cancelling, refusing to renew or restore, or imposing conditions on a licence

s 20 amd 2009 No. 24 s 766

Immediate cancellation and return of licence

s 20A ins 2013 No. 64 s 165

Return of licence

s 21 amd 2013 No. 64 s 166

Change of authorised place

s 25 amd 2009 No. 24 s 767

Replacement of lost, stolen, destroyed or damaged licence

s 31 amd 2009 No. 24 s 768

Where business may be carried on

s 35 amd 2014 No. 20 s 238 sch 3 pt 2

Presumption of right to redeem

s 59 amd 2014 No. 8 s 157

Proceeds of sale of property

s 64 amd 2010 No. 44 s 150

PART 5—ENFORCEMENT**pt hdg** om 2014 No. 8 s 158**Division 1—Authorised officers****div hdg** om 2014 No. 8 s 158**Appointment and qualifications****s 75** om 2014 No. 8 s 158**Appointment conditions and limit on powers****s 76** om 2014 No. 8 s 158**Issue of identity card****s 77** amd 2006 No. 10 s 89 sch 2
om 2014 No. 8 s 158**Production or display of identity card****s 78** om 2014 No. 8 s 158**When authorised officer ceases to hold office****s 79** om 2014 No. 8 s 158**Resignation****s 80** om 2014 No. 8 s 158**Return of identity card****s 81** om 2014 No. 8 s 158**Division 2—Powers of authorised officers****div hdg** om 2014 No. 8 s 158**Subdivision 1—Entry of places****sdiv 1 (s 82)** om 2014 No. 8 s 158**Subdivision 2—Procedure for entry****sdiv 2 (ss 83–87)** om 2014 No. 8 s 158**Subdivision 3—Powers after entry****sdiv hdg** om 2014 No. 8 s 158**General powers after entering places****s 88** amd 2006 No. 10 s 89 sch 2
om 2014 No. 8 s 158**Licensee to show licence if asked****s 89** om 2014 No. 8 s 158**Subdivision 4—Power to seize evidence****sdiv 4 (ss 90–94)** om 2014 No. 8 s 158**Subdivision 5—Power to require information****sdiv 5 (s 95)** om 2014 No. 8 s 158**PART 6—GENERAL OFFENCES, LEGAL PROCEEDINGS AND REVIEW OF DECISIONS****pt hdg** amd 2009 No. 24 s 769

False or misleading information

s 96 amd 2014 No. 8 s 159

Obstruction of authorised officers

s 97 om 2014 No. 8 s 160

Inspector may prosecute

s 103 amd 2014 No. 8 s 161

Evidence

s 104 amd 2014 No. 8 s 162

Division 3—Review of decisions

div hdg sub 2009 No. 24 s 770

Application for review of decisions by QCAT

s 107 sub 2009 No. 24 s 770

Confidentiality of criminal intelligence

s 107A ins 2013 No. 64 s 167

Application of Judicial Review Act 1991

s 107B ins 2013 No. 64 s 167

How to start appeal

s 108 om 2009 No. 24 s 770

Stay of operation of decisions

s 109 om 2009 No. 24 s 770

Hearing procedures

s 110 om 2009 No. 24 s 770

Powers of court on appeal

s 111 om 2009 No. 24 s 770

Executive officers must ensure corporation complies with Act

s 112 om 2013 No. 51 s 190

Delegation by chief executive

s 112A ins 2005 No. 14 s 2 sch

Officials not civilly liable

s 113 sub 2006 No. 10 s 89 sch 2
amd 2014 No. 8 s 163

PART 8—REPEALS

pt hdg amd 2006 No. 10 s 89 sch 2

Definition for pt 9

s 118 amd 2006 No. 10 s 89 sch 2

Existing second-hand dealer's licence

s 120 amd 2006 No. 10 s 89 sch 2

Division 4—Transitional provision for Criminal Law (Criminal Organisations Disruption) and Other Legislation Amendment Act 2013

div 4 (s 139) ins 2013 No. 64 s 168

SCHEDULE 3—DICTIONARY

def *authorised officer* om 2014 No. 8 s 164(1)

def *commencement* amd 2006 No. 10 s 89 sch 2

def *criminal organisation* ins 2013 No. 64 s 169

def *FTI Act* ins 2014 No. 8 s 164(2)

def *identified participant* ins 2013 No. 64 s 169

def *information notice* om 2009 No. 24 s 771(1)

def *inspector* ins 2014 No. 8 s 164(2)

def *property register* amd 2006 No. 10 s 89 sch 2

def *QCAT information notice* ins 2009 No. 24 s 771(2)

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