



ANNO DECIMO

GEORGII V REGIS.

A.D. 1919.

No. 1401.

An Act to regulate the Buying and Selling of Goods by Second-hand Dealers, and for purposes incidental thereto or consequent thereon.

[Assented to, November 27th, 1919.]

BE it Enacted by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

1. This Act may be cited as the "Second-hand Dealers Act, 1919." Short title.
2. This Act shall come into operation on a day to be fixed by proclamation. Commencement of Act.
3. In this Act, unless some other meaning is clearly intended — Interpretation.
 - "Applicant" means applicant for the grant or transfer of a licence;
 - "Business" includes trade or occupation;
 - "Licence" means licence under this Act;
 - "Licensee" means the holder of a licence;
 - "Second-hand dealer" means any person who carries on the business of dealing in, or of buying and selling, any second-hand goods, whether or not such person deals in any other goods; N.S.W. Act 30, 1906, s. 2.
 - "Second-hand goods" means any goods which have been used, worn, or otherwise employed and which have not been exempted by the regulations, or are not of any of the classes or kinds so exempted; Victoria, 2992, 1918, s. 2.

Second-hand Dealers Act.—1919.

The verb to sell, in whatever person, number, tense, mood, or voice it is used, includes—

- i. to barter or exchange ;
 - ii. to agree to sell, barter, or exchange ;
 - iii. to offer, expose, store, have in possession, send, or deliver for or on sale ;
 - iv. to receive for sale ;
 - v. to cause or suffer to be sold, bartered, or exchanged, or to be agreed to be sold, bartered, or exchanged ;
 - vi. to cause or suffer to be offered, exposed, stored, had in possession, sent, or delivered for or on sale ;
 - vii. to cause or suffer to be received for sale ; and
 - viii. to attempt to do any of such acts or things ;
- and all participles of the verb to sell, and the noun " sale," have corresponding connotations ;

The verb to buy, in whatever person, number, tense, mood, or voice it is used, includes to receive or accept under a sale or agreement to sell, and to offer to receive or accept, or cause or suffer to be received or accepted, under a sale or agreement to sell ; and all participles of the verb to buy have corresponding connotations.

Act not to apply in certain cases.

4. (1) Nothing in this Act shall affect any duties, rights, privileges, liabilities, or obligations—

No. 9 of 1862.

(a) under the Auctioneers Act, 1862, of any person holding a licence under that Act ;

No. 433 of 1888.

(b) under the Pawnbrokers Act, 1888, of any person holding a pawnbroker's licence under that Act ; or

No. 716 of 1898-9.

(c) under the Marine Stores Act, 1898-9, of any person holding a collector's or a dealer's licence under that Act.

No. 1246 of 1916.

(2) Nothing in this Act shall affect any duties, rights, privileges, liabilities, or obligations arising under any of the provisions of the Gold Buyers Act, 1916.

No person to carry on business of second-hand dealer without a licence.

5. After the expiration of three months from the commencement of this Act any person who, not being a licensee, carries on the business of a second-hand dealer or, being a licensee, carries on the business of a second-hand dealer at premises other than the premises in respect of which his licence is granted, shall be liable to a penalty of not less than Two Pounds nor more than Twenty Pounds.

6. (1) Any

Second-hand Dealers Act.—1919.

6. (1) Any person who desires to obtain a licence, or the transfer of a licence to any other person or premises, shall give or send by post to the clerk of the Local Court nearest to the premises where such person proposes to carry on business, and to the Commissioner of Police—

Application for licence.

(a) notice in the prescribed form of his intention to apply for such licence or transfer; and

(b) a certificate of character in the prescribed form, signed by two reputable householders residing in the city, town, or township wherein the applicant proposes to carry on business.

(2) Every application for the transfer of a licence shall be made by the proposed transferee, with the written consent of the licensee.

7. The Commissioner of Police or any person authorised by him may, at the hearing of any application for the grant or transfer of a licence, show cause why such application should not be granted.

Objections to application.

8. (1) The Local Court to which such application is made shall consider the application and any objections thereto and, if satisfied that the applicant is a fit and proper person to hold a licence and that the premises where the applicant proposes to carry on business are suitable for the business of a second-hand dealer, may grant the application, and—

Hearing of application.

(a) grant to the applicant a licence in the prescribed form, or

(b) indorse on the licence the fact and date of the transfer, and the name and description of the person to whom, or the description of the premises to which, the licence is transferred,

as the case may be.

(2) Any person named as the transferee in, or the premises described in, any such indorsement shall for all purposes be deemed to be the person to whom, or the premises in respect of which, the licence was granted.

9. A licence shall, unless sooner revoked or cancelled as hereinafter provided, be in force from the date specified therein up to and including the thirty-first day of December in the year for which the same is granted and no longer.

Duration of licence.

10. (1) The Commissioner of Police or any person authorised by him may apply to the Local Court nearest to the premises in respect of which a licence was granted for the revocation of such licence.

Revocation of licence.

(2) At least fourteen days' notice of the hearing of such application and of the grounds thereof shall be given to the licensee. Such notice shall be given by being delivered or served personally or by being sent by post by letter addressed to the licensee at the premises in respect of which the licence was granted. (3) If

Second-hand Dealers Act.—1919.

(3) If upon the hearing of the application the Court is satisfied that the licensee has been convicted of felony, or is guilty, or has been convicted, of any offence against this Act, or is in any other respect unfit to hold a licence, or that the premises are not suitable for the carrying on of the business of a second-hand dealer thereon, the Court may revoke the licence.

Lost licence.

11. (1) Upon the application of the licensee, and upon being satisfied that a licence has been lost or destroyed, any Local Court may issue to the licensee a duplicate licence bearing all the memoranda indorsed on the original licence.

(2) Such duplicate licence shall avail for all purposes as if it were the original licence.

Fees.

12. (1) There shall be payable by licensees for every licence or transfer of a licence or duplicate licence granted or issued under this Act such fees as may be prescribed.

(2) No licence, transfer of a licence, or duplicate licence shall have any force or effect until the fee prescribed for the same has been paid to the clerk of the Court granting or issuing the same.

Licence to cease if business premises assigned, &c.

13. If any licensee assigns, demises, or parts with the possession of the premises in respect of which the licence is granted, the licence shall thereupon cease and become void, unless transferred to some other premises or to some other person in manner provided by this Act.

Registers of particulars of licences.

14. (1) The clerk of the Local Court in which any licence is granted, transferred, revoked, or cancelled shall—

(a) enter the particulars of the same in a register, and

(b) without delay send a copy of such entries to the Commissioner of Police, who shall cause the same to be entered in a register to be kept at his office and at any other place which may be prescribed.

Inspection of register.

(2) On payment of a fee of One Shilling any person may inspect any such register and may take a copy of any entry therein.

Dealer to produce licence.

15. Every licensee shall, on demand at the premises upon which he carries on his business, produce his licence to any member of the Police Force, and in default thereof without reasonable excuse shall be liable to a penalty of not more than Five Pounds.

Licensee to keep name, &c., painted on premises.

16. (1) Every licensee shall at all times keep conspicuously painted or otherwise marked on the premises on which he carries on the business of a second-hand dealer, in such manner and situation as may be prescribed, his Christian names and surname and the words "Licensed Second-hand Dealer."

(2) Every licensee who does not comply with the provisions of this section shall be liable to a penalty of not more than One Pound for every day during which such non-compliance exists.

17. (1) A

Second-hand Dealers Act.—1919.

17. (1) A licensee shall not buy or sell second-hand goods— Hours of business.

(a) on any Sunday or public holiday ; or

(b) on any other day except—

i. during the hours when his premises may be kept open pursuant to the Early Closing Acts, 1911 No. 1062 of 1911.
and 1912 ; or No. 1104 of 1912.

ii. if his premises are situated in a locality to which the said Acts do not apply, during the hours when shops in that locality are open for business.

(2) Any licensee who is guilty of any contravention of this section shall be liable to a penalty of not more than Ten Pounds.

18. Any licensee who buys or receives any second-hand or other goods from any person apparently under the age of eighteen years shall be liable to a penalty not exceeding Ten Pounds. Licensee not to purchase from person under 18.

19. (1) Every licensee shall forthwith upon any second-hand goods being bought by him or received into his custody or possession, enter in the prescribed manner in a book (to be called a "purchases book") to be kept by him on his premises the prescribed particulars of the transaction, and shall have such entry signed as prescribed. Book to be kept showing purchases of second-hand goods.

(2) Such particulars shall include— Particulars.

(a) a proper and distinctive description of each article bought or received by him ;

(b) the name and place of abode of the person from whom he bought or received the article ;

(c) the date and hour of the day of each transaction ;

(d) the price paid or agreed to be paid for the article, or the goods exchanged or agreed to be exchanged therefor ;
and

(e) any other prescribed matters.

(3) Where articles of the same kind, value, and description are on any particular occasion bought or received in a lot or parcel, it shall be sufficient to describe such lot or parcel without describing each of the several articles comprising the same.

(4) In the case of second-hand goods bought by a licensee at auction, the insertion in the purchases book of a receipt from the auctioneer for the price paid for the goods, containing the prescribed particulars and signed in the prescribed manner by the auctioneer, shall be deemed to be a sufficient entry for the purposes of this section.

(5) Any person who neglects or fails to make any entry required by this section to be made by him, or to have any such entry, when made,

Second-hand Dealers Act.—1919.

made, signed as prescribed, or who wilfully makes, or causes to be made, or signs, any false entry in any purchases book required by this Act to be kept by the licensee, shall be liable to a penalty of not more than Fifty Pounds.

(6) Any person who makes, or causes to be made, or signs, in such book any incomplete or defective entry shall be liable to a penalty of not more than Ten Pounds.

Production of book and goods on demand.

20. (1) Every licensee shall, upon request, produce to any member of the Police Force, during all reasonable hours in the daytime, any purchases book and any second-hand goods then in his possession.

(2) Any licensee who is guilty of any contravention of or failure to comply with any of the provisions of this section shall be liable for a first offence to a penalty of not less than One Pound nor more than Five Pounds, and for every subsequent offence to a penalty of not less than Five Pounds nor more than Twenty Pounds.

Dealer to keep goods unaltered and unsold for four days, and on notice by police for a further five days.

21. (1) Every licensee—

(a) shall keep all second-hand goods bought or received by him without changing the form in which they were when so bought or received and without disposing of the same in any way, for a period of four days after they have been bought or received; and, if within such period a notice signed by a member of the Police Force of or above the rank of sergeant is served on him stating that a member of the Police Force has reason to believe that certain of such goods described in the notice have been stolen or unlawfully obtained, such licensee shall keep the goods so described for a further period not exceeding five days after the expiration of the first-mentioned four days;

Dealer to inform police when articles supposed to be stolen come into his possession.

(b) shall without delay give notice to the officer on duty at the police station nearest to the premises where he carries on business of any article which may come into his possession answering the description of any article described as having been stolen or unlawfully obtained, in any written or printed information given to him by any member of the Police Force.

(2) Every licensee shall for any contravention of or failure to comply with any of the provisions of this section be liable for a first offence to a penalty of not more than Twenty Pounds, and for any subsequent offence to a penalty of not less than Ten Pounds nor more than Fifty Pounds.

Unlicensed person pretending to be licensed.

22. Any person who, not being a licensee—

(a) takes, uses, or exhibits the name or title of, or in any way pretends to be, a licensee, or

(b) takes,

Second-hand Dealers Act.—1919.

- (b) takes, uses, or exhibits any title or term which may be construed to mean that he is qualified to carry on the business of a second-hand dealer or that he is willing to act in that capacity,

shall be liable to a penalty not exceeding Twenty Pounds.

23. (1) The Governor may make regulations—

Governor may make regulations.

- (a) prescribing that any goods or any class or kind of goods which, or any part or parts of which, have been used, worn, or otherwise employed shall, for the purposes of this Act, be deemed to be second-hand goods, or exempting any second-hand goods or any class or kind of second-hand goods from the operation of this Act and prescribing the extent of such exemption ;
- (b) exempting any particular second-hand dealer, or any class or kind of second-hand dealers, from the operation of this Act and prescribing the extent of such exemptions ;
- (c) prescribing the mode and manner in which registers and purchases books are to be kept and the entries to be made therein, and the mode and manner in which such entries are to be made and signed, and the places where register-books are to be kept ;
- (d) prescribing the forms of applications for licences and for the transfer of licences, the forms of licences and of indorsements on licences, and the forms of orders, notices, books, and registers ;
- (e) altering any forms prescribed ;
- (f) prescribing the manner and situation in which the Christian names and surnames of licensees shall be painted or marked on the premises on which they carry on the business of second-hand dealers ;
- (g) prescribing all other things which this Act requires or permits to be prescribed or contemplates will be prescribed.

(2) Any such regulations may fix penalties, not exceeding in any case the sum of Ten Pounds, for any breach of the same or any other regulation.

24. (1) In all proceedings under this Act—

Licensee to produce licence to Court.

- (a) for the transfer or revocation of a licence, or
- (b) against a licensee for an offence against this Act,

the licensee shall produce his licence to the Special Magistrate or Justices hearing the case.

(2) Every licensee who fails to produce his licence as required by this section shall be liable to a penalty not exceeding Ten Pounds.

25. The

Second-hand Dealers Act.—1919.

Cancellation of licence on conviction.

25. The Special Magistrate or Justices before whom a licensee is convicted of an offence against this Act may, in addition to any penalty imposed, cancel the licence by indorsing thereon a memorandum of such conviction; and in such case the licence shall be surrendered to the clerk of the Court.

Court may determine question of apparent age.

Cf. Vic. 2992, 1918, s. 24.

26. Where in any proceedings in respect of any offence against this Act any question of apparent age arises, the Special Magistrate or Justices may determine such question on their own view, or on evidence, whether of opinion or fact, but before so determining they shall hear and consider the evidence (if any) tendered for all parties.

Entries in dealer's book deemed to be made by him.

Cf. 716, 1898-9, s. 19.

27. Every entry in any book kept by or belonging to any licensee shall be deemed, unless the contrary is shown, to have been made by, or with the authority of, the licensee.

Court may order delivery of stolen goods to owner on terms.

Cf. 433, 1888, s. 30.

28. (1) Where any person is convicted in any Court of any offence with respect to any goods in the custody or possession of a licensee, the Court, on proof of the ownership of the goods, may, if it thinks fit, order the delivery thereof to the owner, either on payment to the licensee of the price paid by the licensee for the goods or of any part thereof or without payment thereof or of any part thereof, as to the Court, according to the conduct of the owner and of the licensee and the other circumstances of the case, seems just and fitting.

(2) In this section "price paid by the licensee for the goods" includes price agreed to be paid by the licensee for the goods, or the value of the articles exchanged or agreed to be exchanged by the licensee therefor.

Presumption as to possession.

Cf. 716, 1898-9, s. 18.

29. Second-hand goods shall be deemed to be in the possession of a licensee when they are in any house, shop, room, out-house, yard, garden, premises, or place occupied by him, or have been removed with his knowledge and permission to any other place without a *bona fide* sale of such goods having been made by him.

Presumption that person unlicensed.

30. In any proceedings in respect of any offence against this Act, any allegation in any information that any person is not licensed need not be proved, and such person shall be deemed not to be licensed until the contrary is proved by the production of a licence or otherwise.

Inspectors, &c., may visit dealers' premises.

Cf. *ibid.*, s. 22.

31. (1) (a) Any Justice of the Peace or any Inspector or Sub-Inspector of Police; or

(b) any member of the Police Force authorised in writing by any such Justice or Inspector or Sub-Inspector,

may at any time, by day or night, demand entrance into the place of business of any licensee or the appurtenances thereof, and may inspect the second-hand goods and books of any licensee therein,

and

Second-hand Dealers Act.—1919.

and may record in the books by this Act required to be kept the day and hour of his visit, and write his initials or name opposite the entry relating to any article examined by him.

(2) If, after demand, admittance is refused or is delayed for such time as to make it appear that wilful delay is intended, such Justice, Inspector, Sub-Inspector, or member of the Police Force may break into, and employ force to enter, such place of business or the appurtenances thereof.

(3) The licensee and any person to whom such demand was made shall be liable, in respect of every such refusal to admit or wilful delay in admitting, to a penalty not exceeding Fifty Pounds.

32. (1) Any Justice of the Peace, upon complaint made before him by any person that the complainant has reason to believe and does believe that any goods stolen or unlawfully obtained are kept in any house, shop, room, or place by any licensee, may, by warrant, authorise any constable, with such assistance as may be necessary, to enter such house, shop, room, or place, either by day or night, and to search for and seize all goods there found, and to carry the same before the same or some other Justice.

Constable may be authorised to search dealer's premises.
Ibid., s. 23.

(2) The Justice before whom any goods seized under subsection (1) hereof are carried shall forthwith issue a summons requiring such licensee to appear before such Special Magistrate or Justices as may be present at a time and place to be named in such summons, and if such licensee does not then and there prove to the satisfaction of such Special Magistrate or Justices how he came by such goods, or if it is proved to the satisfaction of such Special Magistrate or Justices that at the time such licensee received such goods, or any of them, he had reasonable cause to believe them, or some of them, to have been stolen or unlawfully obtained, such licensee shall be liable to a penalty not exceeding Fifty Pounds, or to imprisonment for any period not exceeding three months.

33. (1) Any person who sells any goods to a licensee may be required by such licensee to satisfy him that he came lawfully by the same, or that the same were obtained from the person or place alleged by the seller.

Suspicious offering of goods.
Cf. *ibid.*, s. 32.

(2) (a) If such person does not so satisfy such licensee, or gives any false information as to such goods or as to any entry signed by him, or

(b) if there is any other reason to suspect that such goods are stolen or unlawfully obtained,

it shall be lawful for such licensee to seize and detain such person and goods and to deliver such person immediately into the custody of a member of the Police Force.

(3) Such member of the Police Force shall, as soon as may be, convey such person and goods before some Justice of the Peace near

Second-hand Dealers Act.—1919.

near to the place where such person was apprehended, and if such Justice, upon examination and inquiry, has cause to suspect that the said goods were stolen or unlawfully obtained, it shall be lawful for such Justice to commit such person into safe custody for such reasonable time as may be necessary for obtaining proper information on the subject to enable such person to be further examined.

(4) If upon either of the said examinations it appears to the satisfaction of such Justice that any of the said goods so offered were stolen or unlawfully obtained, such Justice may, where the offence is one in respect of which a person is required to be committed to the Supreme Court for trial, so commit the person offending, or otherwise may order such person to be imprisoned for any period not exceeding three months.

Summary proceedings
for offences.

34. All proceedings in respect of offences against this Act shall be disposed of summarily.

Appeal in respect of
offences.

35. (1) There shall be an appeal in respect of proceedings in respect of offences against this Act.

Appeal from decision
of Local Court.

(2) There shall be an appeal from any decision of any Special Magistrate under section 8 or 10 of this Act to the Local Court of Adelaide of Full Jurisdiction. Such appeal shall be regulated by the Ordinance No. 6 of 1850 or any Act or Acts for the time being regulating appeals to Local Courts: Provided that the Court on such appeal may make any order as to costs which it thinks fit and the costs so ordered may exceed Ten Pounds. The decision of such Local Court on such appeal shall be final and conclusive.

Special case.

36. In the event of an appeal in respect of proceedings in respect of offences against this Act, a special case may be stated.

In the name and on behalf of His Majesty, I hereby assent to this Bill.

H. L. GALWAY, Governor.