



ANNO DUODECIMO

## ELIZABETHAE II REGINAE

A.D. 1963

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## No. 49 of 1963

An Act to amend the Second-hand Dealers Act,  
1919-1958.

[Assented to 28th November, 1963.]

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

Short titles.

1. (1) This Act may be cited as the "Second-hand Dealers Act Amendment Act, 1963".

(2) The Second-hand Dealers Act, 1919-1958, as amended by this Act, may be cited as the "Second-hand Dealers Act, 1919-1963".

(3) The Second-hand Dealers Act, 1919-1958, is hereinafter referred to as "the principal Act".

Incorporation.

2. This Act is incorporated with the principal Act and that Act and this Act shall be read as one Act.

Amendment of  
principal Act,  
s. 3.

3. Section 3 of the principal Act is amended—

(a) by striking out the definition of "licensee" therein and inserting in lieu thereof the following definitions:—

"licensee" means a person who holds a licence, whether solely or jointly with any other person with whom he carries on business as a second-hand dealer :

“manager”, in relation to a company, means a person nominated by the company under section 6b or 8a of this Act to be the manager at any premises : and

(b) by inserting at the end thereof the following subsection (the preceding part of the section as amended by paragraph (a) of this section being designated as subsection (1) thereof) :—

(2) The express references to companies in this Act shall not imply that references to persons or references to licensees shall exclude references to companies.

4. Section 6 of the principal Act is amended by inserting therein after subsection (1) thereof the following subsection :—

Amendment of principal Act, s. 6.

(1a) In the case of an application by a company, a certificate of character under paragraph (b) of subsection (1) shall relate to the manager.

5. The following sections are inserted in the principal Act after section 6 thereof :—

Enactment of principal Act, ss. 6a and 6b—

6a. (1) Where two or more persons propose to carry on business jointly as second-hand dealers—

Partnership businesses.

(a) Each such person shall make a joint application in the prescribed form for a licence ;

(b) Only one licence shall be granted in respect of that business ;

(c) The licence shall specify each such person ; and

(d) Each such person shall for the purposes of this Act and subject to this Act be deemed to be a licensee.

(2) The provisions of subsection (1) shall extend to a renewal or transfer of a licence.

(3) Where a licensee is required by any provision of this Act to produce a licence, to give a notice, to mark any second-hand goods or to do any other act, it shall be sufficient if any of the persons carrying on the business jointly complies with that provision.

6b. Where a company proposes to carry on business as a second-hand dealer at any premises, the company shall make a nomination in the prescribed form of a person to be the manager at those premises, being a person who—

Companies as second-hand dealers.

- (a) is at all times in the service of the company ;
- (b) personally supervises the business conducted at those premises ; and
- (c) has his usual place of residence within the State.

Amendment of  
principal Act,  
s. 8.

**6.** Subsection (1) of section 8 of the principal Act is struck out and the following subsections are inserted in lieu thereof :—

(1) A local court to which any such application is made shall consider the application and any objections thereto.

(1a) If the court is satisfied—

- (a) where the applicant is a natural person—that the applicant is a fit and proper person to hold a licence ; or
- (b) where the applicant is a company—that the person nominated to be manager is a fit and proper person to carry on the business of a second-hand dealer,

and that the premises where the applicant proposes to carry on business are suitable for the business of a second-hand dealer, the court shall, subject to subsection (1b)—

- I. grant to the applicant a licence in the prescribed form ; or
- II. 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 require.

(1b) Where the applicant is a company, the court shall refuse to grant the application or the renewal or transfer of a licence if it is of opinion that—

- (a) the general manager or other principal officer of the company ; or
- (b) any person who in the opinion of the court substantially controls the affairs of the company,

is not a fit and proper person to carry on the business of a second-hand dealer.

Enactment of  
principal Act,  
ss. 8a and 8b.

**7.** The following sections are inserted in the principal Act after section 8 thereof :—

Companies—  
change of  
manager.

**8a.** (1) This section shall apply to a licence held by a company.

(2) In the event of—

- (a) the death of the manager nominated by the company ;
- (b) the manager ceasing to be at all times in the service of the company ;
- (c) the manager ceasing to personally supervise the business conducted at the premises specified in the licence ; or
- (d) the manager ceasing to have his usual place of residence within the State,

the company shall, within fourteen days after any such event—

- I. give notice in writing of that event to the clerk of the court that granted the licence and to the Commissioner of Police ; and
- II. specify in the notice the name of a person nominated to be the new manager.

(3) The company may at any time revoke any nomination under this Act by notice in writing to the clerk of the court that granted the licence and to the Commissioner of Police, and shall within fourteen days after any such revocation nominate a person to be the new manager.

(4) The provisions of this Act shall apply in relation to a nomination of a new manager under this section as if the nomination were an application for a licence by the company.

(5) The validity of the licence held by the company is not affected by reason only of the occurrence of an event specified in subsection (2) or a revocation of a nomination under subsection (3).

(6) A notice under subsection (2) shall be *prima facie* evidence of the facts stated in the notice.

8b. (1) Except as provided by section 8a of this Act, a company, being a licensee, shall not carry on business as a second-hand dealer at any premises unless in respect of those premises there is a manager who complies with the requirements of section 6b of this Act.

Offences by companies.

Penalty : Fifty pounds.

(2) In a prosecution for an offence against subsection (1), an allegation in the complaint that a person does not have his usual place of residence within the State shall be *prima facie* evidence of that fact.

Amendment of  
principal Act,  
s. 10.

**8.** Section 10 of the principal Act is amended—

(a) by inserting in subsection (3) thereof after paragraph III thereof the following paragraph :—

IIIa. Where a licence is held by a company, that the manager has ceased to comply with the requirements of section 6b of this Act or is no longer a fit and proper person to carry on the business of a second-hand dealer ; and

(b) by inserting at the end thereof the following subsection :—

(4) If, in the case of a licence granted to two or more persons under section 6a of this Act, the court is satisfied that any of the grounds specified in subsection (3) of this section is established in relation to any such person, the court may revoke the licence in respect of all the licensees.

Amendment of  
principal Act,  
s. 12.

**9.** Section 12 of the principal Act is amended by inserting at the end thereof the following subsection :—

(3) Any fees payable in respect of a licence granted to two or more persons under section 6a of this Act shall be the same as if the licence were granted to a single person.

Amendment of  
principal Act,  
s. 16.

**10.** Subsection (1) of section 16 of the principal Act is amended by striking out all the words after the word “prescribed,” therein and inserting in lieu thereof the following passage :—

(a) in the case of a licensee who is a natural person, the full name of the licensee and the words “Licensed Second-hand Dealer” ; or

(b) in the case of a company, the name of the company, the Christian names and surname of the manager at those premises and the words “Licensed Second-hand Dealer”,

and, if two or more persons are carrying on the business jointly, the particulars shall relate to each of those persons.

Amendment of  
principal Act,  
s. 23.

**11.** Subsection (1) of section 23 of the principal Act is amended—

(a) by inserting at the end of paragraph (d) thereof the words “with such modifications as may be necessary in the case of a company or in the case of two or more persons carrying on business jointly as second-hand dealers” ; and

(b) by inserting therein after paragraph (f) thereof the following paragraph :—

(fa) in the case of a company—prescribing the manner and situation in which the name of the company and of the manager at the premises on which it carries on the business of a second-hand dealer shall be painted or marked on those premises.

**12.** The principal Act is further amended as set out in the Penalties.  
Schedule to this Act.

**13.** (1) Where a person who was a licensee immediately Operation of Amendments.  
before the commencement of this Act proposes to renew his licence, he shall make an application therefor in accordance with the principal Act as amended by this Act, and the application shall be disposed of accordingly.

(2) Except in making any such application, the amendments effected by this Act (other than section 12 thereof) shall not apply to such a person until—

- (a) if he makes such an application—the application is disposed of ; or
- (b) if he does not make such an application—the expiration of his licence.

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

EDRIC BASTYAN, Governor.

## THE SCHEDULE

## AMENDMENTS OF THE SECOND-HAND DEALERS ACT, 1919-1958.

Section of Act.	Manner Amended.
5	Strike out "less than two pounds nor more than twenty pounds" and insert "more than fifty pounds".
15	Strike out "five pounds" and insert "ten pounds".
16	Subsection (2)—Strike out "one pound" and insert "five pounds".
17	Subsection (2)—Strike out "ten pounds" and insert "twenty pounds".
18	Strike out "ten pounds" and insert "twenty pounds".
19	Subsection (5)—Strike out "fifty pounds" and insert "one hundred pounds". Subsection (6)—Strike out "ten pounds" and insert "twenty pounds".
20	Subsection (2)—Strike out "less than one pound nor more than five pounds" and "less than five pounds nor more than twenty pounds" and insert "more than twenty pounds" and "more than fifty pounds" respectively.
21	Subsection (2)—Strike out "twenty pounds" and "less than ten pounds nor more than fifty pounds" and insert "fifty pounds" and "more than one hundred pounds" respectively.
22	Strike out "twenty pounds" and insert "fifty pounds".
23	Subsection (2)—Strike out "ten pounds" and insert "fifty pounds".
24	Subsection (2)—Strike out "ten pounds" and insert "twenty pounds".
32	Subsection (2)—Strike out "fifty pounds" and insert "one hundred pounds".