



SECOND-HAND GOODS ACT, 1985

No. 16 of 1985

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ELIZABETHAE II REGINAE

A.D. 1985

No. 16 of 1985

An Act to provide for the licensing and control of dealers in second-hand goods; to repeal the Second-hand Dealers Act, 1919, and the Marine Stores Act, 1898; and for other purposes.

[Assented to 14 March 1985]

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

PART I PRELIMINARY

1. This Act may be cited as the "Second-hand Goods Act, 1985".

Short title.

2. (1) This Act shall come into operation on a day to be fixed by proclamation.

Commencement.

(2) The Governor may, in a proclamation fixing a day for this Act to come into operation, suspend the operation of specified provisions of this Act until a subsequent day fixed in the proclamation, or a day to be fixed by subsequent proclamation.

3. (1) The Second-hand Dealers Act, 1919, is repealed.

Repeal and transitional provision.

(2) The Marine Stores Act, 1898, is repealed.

(3) A person who was—

(a) licensed as a second-hand dealer under the Second-hand Dealers Act, 1919, immediately before the repeal of that Act;

or

(b) licensed as a dealer under the Marine Stores Act, 1898, immediately before the repeal of that Act,

shall be deemed to be licensed as a second-hand dealer under this Act and may, subject to this Act, continue to carry on business as a second-hand dealer.

(4) A manager duly nominated under the provisions of the Second-hand Dealers Act, 1919, shall be deemed to be registered as a manager under this Act and may, subject to this Act, continue to act as a registered manager.

Interpretation.

4. In this Act, unless the contrary intention appears—

“authorized member of the police force” means a member of the police force—

(a) in charge of a police station;

(b) of or above the rank of senior constable;

or

(c) authorized by the Commissioner of Police to exercise the powers of an authorized member under this Act:

“commission auctioneer” means a person who carries on the business of conducting auctions for the sale of second-hand goods on behalf of other persons and who does not carry on the business of selling second-hand goods on his own behalf whether by auction or otherwise:

“the Commissioner for Consumer Affairs” means the person for the time being holding or acting in the office of the Commissioner for Consumer Affairs under the Prices Act, 1948:

“the Commissioner of Police” means the person appointed to be the Commissioner of Police under the Police Regulation Act, 1952, or a person exercising and performing the powers, authorities, duties and functions of the Commissioner of Police:

“licence” means a second-hand dealer’s licence under Part II; and “licensed” and “licensee” have corresponding meanings:

“mark”, in relation to goods, includes fix or attach a tag or label to the goods:

“registered manager” means a person registered as a manager of the business, or a part of the business, of a licensed second-hand dealer under Part III:

“registered premises”, in relation to a second-hand dealer, means premises registered in the name of the dealer under Part III:

“the Registrar” means the person for the time being holding or acting in the office of the Commercial Registrar under the Commercial Tribunal Act, 1982:

“second-hand dealer” means a person who carries on the business of buying or selling, or otherwise dealing in, second-hand goods (whether or not he deals in any other goods) but does not include a commission auctioneer:

“second-hand goods” means—

(a) goods that have been used for a purpose not connected with their manufacture or sale:

or

(b) goods a part or parts of which have been taken from other goods that have been used for a purpose not connected with their manufacture or sale:

“to sell” includes—

(a) to offer, expose, receive, or deliver, for sale, barter or exchange;

or

(b) to cause or permit to be offered, exposed, received, or delivered, for sale, barter or exchange,

and "sale" has a corresponding meaning:

"the Tribunal" means the Commercial Tribunal established under the Commercial Tribunal Act, 1982.

5. The Governor may, by regulation, exempt—

(a) any specified goods or class of goods;

(b) any specified person or class of persons;

or

(c) any specified transaction or class of transactions,

from compliance with this Act or a specified provision of this Act either unconditionally or subject to conditions.

6. The provisions of this Act are in addition to and do not derogate from the provisions of any other Act.

Application of Act.

7. The Commissioner for Consumer Affairs shall be responsible, subject to the control and directions of the Minister, for the administration of this Act.

Relation between this Act and other Acts.

Commissioner for Consumer Affairs to be responsible for administration of Act.

PART II

LICENSING OF SECOND-HAND DEALERS

8. (1) Subject to subsection (2), a person shall not carry on business as, or hold himself out as being, a second-hand dealer unless he is licensed as such under this Act.

Obligation to be licensed.

Penalty: Five thousand dollars.

(2) A person is not required to hold a licence under this Act in order—

(a) to carry on a business for which a licence is required under the Second-hand Motor Vehicles Act, 1983;

or

(b) to buy or sell second-hand goods if the goods are bought or sold only in the course of carrying on a business referred to in paragraph (a).

9. (1) An application for a licence must—

(a) be made to the Tribunal;

(b) be in writing in the prescribed form;

and

(c) be accompanied by the prescribed application fee.

Application for a licence.

(2) An applicant for a licence must furnish the Tribunal with such information (verified, if the Tribunal so requires, by statutory declaration) as the Tribunal may require.

(3) Where an application is made for a licence, the Registrar shall—

(a) cause the application to be advertised in the prescribed manner and form;

and

(b) cause a copy of the application to be served on the Commissioner for Consumer Affairs and the Commissioner of Police.

(4) Any person (including the Commissioner for Consumer Affairs or the Commissioner of Police) may, within ten days from the date on which an application is last advertised pursuant to subsection (3), lodge with the Registrar a written objection to the application setting out the grounds of the objection.

(5) The Tribunal may, on the application of any interested person and subject to such terms as it thinks fit, extend the period within which objections must be lodged.

(6) Subject to subsection (7), the Registrar shall serve the applicant, the Commissioner for Consumer Affairs and the Commissioner of Police with a copy of an objection lodged under subsection (4).

(7) Where the Commissioner for Consumer Affairs or the Commissioner of Police has lodged an objection, a copy of the objection need not be served upon the Commissioner for Consumer Affairs or the Commissioner of Police, as the case may be.

(8) Where—

(a) an objection to an application is lodged under subsection (4);

or

(b) the Tribunal does not propose to grant an application upon the basis of documentary material alone,

the Tribunal shall conduct a hearing of the application and the Registrar shall give to the applicant, the Commissioner for Consumer Affairs and the Commissioner of Police and any person who has lodged an objection at least seven days notice of the date for the hearing of the application.

(9) Upon an application under this section, the Tribunal shall, subject to this Act, order that the applicant be granted a licence upon payment of the prescribed licence fee if the Tribunal is satisfied—

(a) that—

(i) where the applicant is a natural person—

(A) he is of or over the age of eighteen years;

and

(B) he is a fit and proper person to hold a licence;

or

(ii) where the applicant is a body corporate—every person who is, in the opinion of the Tribunal, in a position to control or influence substantially the affairs of the body corporate is a fit and proper person to exercise such control or influence in respect of a body corporate that is the holder of a licence;

and

(b) that the applicant has made suitable arrangements to fulfil the obligations of a licensee under this Act.

10. (1) A licence shall, subject to this Act, remain in force until—

Duration of licences.

(a) the licence is surrendered;

or

(b) the licensee dies or, in the case of a body corporate, is dissolved.

(2) A licensee shall, not later than the prescribed date in each year—

(a) pay to the Registrar the prescribed annual licence fee;

and

(b) lodge with the Registrar an annual return containing the prescribed information.

(3) Where a licensee fails to pay the annual licence fee or lodge the annual return in accordance with subsection (2), the Registrar may, by notice in writing to the licensee, require the licensee to make good his default and, in addition, to pay to the Registrar the amount prescribed as a penalty for default.

(4) Where a licensee fails to comply with a notice under subsection (3) within fourteen days after service of the notice, his licence shall, by force of this subsection, be suspended until he complies with the notice.

(5) The Registrar shall cause notice of a suspension under subsection (4) (being notice in the prescribed form) to be published in a newspaper circulating throughout the State.

(6) Where a licence has been suspended by virtue of subsection (4) for a continuous period of six months, the licence shall, by force of this subsection, be cancelled.

(7) A licensee may, with the consent of the Tribunal, surrender his licence.

11. Where a person carrying on business in pursuance of a licence dies, an unlicensed person may, with the consent of the Tribunal and subject to any conditions imposed by the Tribunal, continue to carry on the business until the business is sold or the expiration of six months, whichever first occurs, and while an unlicensed person is carrying on business in accordance with the conditions imposed by the Tribunal he shall for the purposes of this Act be deemed to be the holder of a licence.

Business may be carried on by unlicensed person where licensee dies.

PART III

CONDUCT OF BUSINESS BY DEALERS

12. (1) Subject to this section, a licensed second-hand dealer shall not sell, dispose of or conduct an auction of second-hand goods otherwise than at premises registered in his name under this section.

Registration of second-hand dealer's business premises.

Penalty: One thousand dollars.

(2) The Tribunal may—

(a) upon an application for a licence;

or

(b) upon a separate application and payment of the prescribed fee.

register premises in the name of the applicant if the Tribunal is satisfied that the premises are suitable for the purpose of carrying on business as a second-hand dealer.

(3) A separate application for registration under this section must be in writing in the prescribed form and contain the prescribed information.

(4) Subsection (1) does not apply in relation to—

(a) the sale or disposal of second-hand goods by a licensed second-hand dealer to another licensed second-hand dealer or to a person licensed as a dealer under the Second-hand Motor Vehicles Act, 1983;

or

(b) the sale of second-hand goods by a licensed second-hand dealer by auction conducted on his behalf by a commission auctioneer or by a sale negotiated immediately after such an auction.

(5) The Tribunal may, on the application of a licensed second-hand dealer, permit him on a day, or over a period, specified by the Tribunal, to sell, dispose of or conduct an auction of second-hand goods at a place (other than registered premises of the dealer) specified by the Tribunal.

(6) A licensee shall, within fourteen days after ceasing to carry on business at registered premises, notify the Registrar in writing of that fact. Penalty: One thousand dollars.

(7) Where the Registrar—

(a) is notified by a licensee that he has ceased to carry on business at registered premises;

or

(b) is otherwise satisfied that a licensee has ceased to carry on business at registered premises,

the Registrar may cancel the registration of the premises.

Registered
managers.

13. (1) The business conducted in pursuance of a second-hand dealer's licence must be personally supervised by a registered manager.

(2) Where a licensee has two or more registered premises, there must be a registered manager for each of the registered premises who personally supervises the business conducted from the premises.

(3) In this section—

“registered manager” means—

(a) where the licensee is a natural person, the licensee or a person registered as a manager by the Tribunal;

and

(b) where the licensee is a body corporate, a person registered as a manager by the Tribunal.

(4) An application for registration as a manager may be made by a person who is employed by a licensee.

(5) The application must—

(a) be made to the Tribunal;

(b) be in writing in the prescribed form;

and

(c) be accompanied by the prescribed application fee.

(6) An applicant for registration as a manager must furnish the Tribunal with such information (verified, if the Tribunal so requires, by statutory declaration) as the Tribunal may require.

(7) Where an application is made for registration as a manager—

(a) the Registrar shall cause a copy of the application to be served on the Commissioner for Consumer Affairs and the Commissioner of Police;

and

(b) the Commissioner for Consumer Affairs or the Commissioner of Police may, within seven days after receipt of a copy of the application, lodge with the Registrar a written objection to the application setting out the grounds of the objection.

(8) Where—

(a) an objection to an application is lodged under subsection (7);

or

(b) the Tribunal does not propose to grant an application upon the basis of documentary material alone,

the Tribunal shall conduct a hearing of the application and the Registrar shall give to the applicant, the Commissioner for Consumer Affairs and the Commissioner of Police reasonable notice of the hearing of the application.

(9) Upon an application for registration as a manager, the Tribunal shall, subject to this Act, register the applicant upon payment of the prescribed registration fee if the Tribunal is satisfied that the applicant is of or over the age of eighteen years and a fit and proper person to be registered as a manager.

(10) Where the business of a second-hand dealer is not personally supervised as required by subsection (1), the second-hand dealer must, within twenty-eight days, or such longer period as may be allowed by the Tribunal, appoint a registered manager to supervise that business.

(11) The licence of a second-hand dealer shall be suspended for any period for which the dealer is in default under the provisions of subsection (10).

(12) Where a registered manager ceases to be employed by the licensee by whom he was employed when the registration was granted by the Tribunal, he shall cease to be a registered manager but this subsection does not prevent the Tribunal from reregistering the person as a manager if he again enters the employment of that or any other licensee.

14. (1) A second-hand dealer shall, forthwith after receiving into his possession or custody any second-hand goods, enter the prescribed particulars

Record to be kept showing purchases of second-hand goods.

relating to the goods in a record kept and authenticated in accordance with the regulations.

(2) In the case of second-hand goods bought by a second-hand dealer at an auction conducted by a commission auctioneer, the insertion in the record required to be kept pursuant to subsection (1) of a receipt from the auctioneer identifying the goods, and signed by the auctioneer, shall be deemed to be a sufficient entry for the purposes of this section.

(3) A person who neglects or fails to make an entry as required by this section shall be guilty of an offence and liable to a penalty not exceeding two thousand dollars.

(4) A person who makes, or causes to be made, any incomplete or inaccurate entry in the record required to be kept under this section shall be guilty of an offence and liable to a penalty not exceeding two thousand dollars.

Dealer to keep goods in an unaltered condition for a certain period.

15. (1) A second-hand dealer—

- (a) shall keep all second-hand goods bought by him or received into his possession or custody without changing the form in which they were bought or received, and without disposing of any of them, for a period of four days after they have been bought or received, and if, within that period, a notice signed by a member of the police force is served on him stating that there is reasonable cause to believe that certain of the goods as described in the notice have been stolen or unlawfully obtained, the second-hand dealer shall keep the goods so described (and without offering them for sale) for such further period (not exceeding five days after the expiration of the preceding period of four days) as is specified in the notice;
- (b) shall without delay give to any member of the police force on duty notice of any article that may come into his possession or custody that answers the description of any article described in a written or printed notice given to him by a member of the police force or that he otherwise suspects as having been stolen or unlawfully obtained;
- (c) shall, upon entering particulars relating to any second-hand goods in the record kept pursuant to section 14, mark the goods with a serial number corresponding to the serial number for those goods shown in that record.

(2) Where a second-hand dealer receives in a lot or parcel second-hand goods of the same kind, value and description, it shall be sufficient compliance with subsection (1) (c) if the goods are kept together and at least one item of the goods is marked in the manner referred to in that subsection.

(3) The serial number marked on second-hand goods under this section must remain clearly marked on the goods while the goods remain in the possession or custody of the second-hand dealer.

(4) If a second-hand dealer fails to comply with any provision of this section, he shall be guilty of an offence and liable to a penalty not exceeding two thousand dollars.

(5) It is a defence to a charge of an offence of failing to comply with subsection (1) (a) for the defendant to prove—

- (a) that—

(i) he disposed of the second-hand goods to which the charge relates to a licensed second-hand dealer;

and

(ii) he (the defendant) had not received any notice that the goods may have been stolen or illegally obtained;

or

(b) that—

(i) he bought or received the second-hand goods to which the charge relates from a licensed second-hand dealer;

(ii) the goods had been kept without change in form by the dealer from whom they were bought or received for not less than four days;

and

(iii) he (the defendant) had not received any notice that the goods may have been stolen or illegally obtained.

(6) In subsection (5)—

“licensed second-hand dealer” includes a person licensed as a dealer under the Second-hand Motor Vehicles Act, 1983.

16. (1) An authorized member of the police force may enter the place of business of a licensed second-hand dealer at any time at which a person is present at that place, and if, after demand, admittance is refused or is delayed for such time as to make it appear that wilful delay is intended, the member of the police force may employ such force as is reasonably necessary to gain entry.

Powers of entry
and inspection.

(2) If an authorized member of the police force suspects on reasonable grounds that goods that have been stolen or illegally obtained are present at the place of business of a licensed second-hand dealer, he may enter that place at any time and employ such force as is reasonably necessary for that purpose.

(3) An authorized member of the police force may inspect any goods that are at the place of business of a licensed second-hand dealer or any records kept by the dealer pursuant to this Act.

(4) A person who hinders a member of the police force in the exercise of his powers under this section shall be guilty of an offence and liable to a penalty not exceeding two thousand dollars.

(5) A licensed second-hand dealer, or servant or agent of a licensed second-hand dealer, shall, upon being required to do so by an authorized member of the police force, forthwith produce for the inspection of that member any goods or records referred to in subsection (3).

Penalty: Two thousand dollars.

(6) In this section—

“licensed second-hand dealer” includes a person licensed as a dealer under the Second-hand Motor Vehicles Act, 1983.

PART IV

DUTIES OF COMMISSION AUCTIONEERS

Commission auctioneers to keep record of second-hand goods.

17. (1) A commission auctioneer shall, after receiving into his possession or custody any second-hand goods and prior to offering them for sale, enter the prescribed particulars relating to the goods in a record kept and authenticated in accordance with the regulations.

(2) A commission auctioneer shall—

(a) if he neglects or fails to make an entry as required by subsection (1);

or

(b) if he makes, or causes to be made, any incomplete or inaccurate entry in the record required to be kept under subsection (1).

be guilty of an offence and liable to a penalty not exceeding two thousand dollars.

Commission auctioneers to mark and keep goods for certain period before auctioning them.

18. (1) A commission auctioneer—

(a) shall not offer any second-hand goods for sale by auction unless he has had the goods in his possession or custody for not less than one day before the day of the auction and, if before the commencement of the auction, a notice signed by a member of the police force is served on him stating that a member of the police force has reasonable cause to believe that certain of the goods as described in the notice have been stolen or unlawfully obtained, the commission auctioneer shall keep the goods so described (and without offering them for sale) for such further period (not exceeding five days) as is specified in the notice;

(b) shall without delay give to any member of the police force on duty notice of any article that may come into his possession or custody that answers the description of any article described in a written or printed notice given to him by a member of the police force or that he otherwise suspects as having been stolen or unlawfully obtained;

(c) shall, upon entering particulars relating to any second-hand goods in the record kept pursuant to section 17, mark the goods with a serial number corresponding to the serial number for those goods shown in that record.

(2) Where a commission auctioneer receives in a lot or parcel second-hand goods of the same kind, value and description, it shall be sufficient compliance with subsection (1) (c) if the goods are kept together and at least one item of the goods is marked in the manner referred to in that subsection.

(3) The serial number marked on second-hand goods under this section must remain clearly marked on the goods while the goods remain in the possession or custody of the auctioneer.

(4) If a commission auctioneer fails to comply with any provision of this section he shall be guilty of an offence and liable to a penalty not exceeding two thousand dollars.

Commission auctioneer to keep record relating to sale and purchasers of goods sold at auction.

19. (1) A commission auctioneer shall, forthwith after the completion of each auction conducted by him, enter in the prescribed record the pre-

scribed particulars relating to each sale of second-hand goods and the purchaser of the goods.

(2) A commission auctioneer shall—

(a) if he neglects or fails to make an entry as required by subsection (1);

or

(b) if he makes, or causes to be made, any incomplete or inaccurate entry in the record referred to in subsection (1),

be guilty of an offence and liable to a penalty not exceeding two thousand dollars.

20. (1) An authorized member of the police force may enter the place of business of a commission auctioneer at any time at which a person is present at that place, and if, after demand, admittance is refused or is delayed for such time as to make it appear that wilful delay is intended, the member of the police force may employ such force as is reasonably necessary to gain entry.

Power to enter and inspect commission auctioneer's place of business.

(2) If an authorized member of the police force suspects on reasonable grounds that goods that have been stolen or illegally obtained are present at the place of business of a commission auctioneer, he may enter that place at any time and employ such force as is reasonably necessary for that purpose.

(3) An authorized member of the police force may inspect any goods that are at the place of business of a commission auctioneer or any records kept by the commission auctioneer pursuant to this Act.

(4) A person who hinders a member of the police force in the exercise of his powers under this section shall be guilty of an offence and liable to a penalty not exceeding two thousand dollars.

(5) A commission auctioneer, or servant or agent of a commission auctioneer, shall, upon being required to do so by an authorized member of the police force, forthwith produce for the inspection of that member any goods or records referred to in subsection (3).

Penalty: Two thousand dollars.

PART V

DISCIPLINING OF LICENSED DEALERS, REGISTERED MANAGERS AND COMMISSION AUCTIONEERS

21. (1) The Tribunal may hold an inquiry for the purposes of determining whether proper cause exists for disciplinary action against a person who is or has been a licensee, a registered manager or a commission auctioneer.

Tribunal may exercise disciplinary powers.

(2) An inquiry shall not be held under this section except in relation to matters alleged in a complaint lodged pursuant to subsection (3) or matters disclosed by investigations conducted pursuant to subsection (4).

(3) Any person (including the Commissioner for Consumer Affairs or the Commissioner of Police) may lodge with the Tribunal a complaint in

the prescribed form setting out matters that are alleged to constitute grounds for disciplinary action against a person referred to in subsection (1).

(4) Where a complaint has been lodged with the Tribunal pursuant to subsection (3), the Commissioner for Consumer Affairs or the Commissioner of Police shall, at the request of the Registrar, investigate or further investigate any matters to which the complaint relates and report to the Tribunal on the results of the investigations.

(5) Where the Tribunal decides to hold an inquiry under this section, the Tribunal shall give the person to whom the inquiry relates reasonable notice of the subject matter of the inquiry.

(6) The Tribunal may exercise one or more of the following powers if it is satisfied, after conducting an inquiry under this section, that there is proper cause for taking disciplinary action against the person to whom the inquiry relates:

- (a) it may reprimand the person;
- (b) it may impose a fine not exceeding five thousand dollars on the person;
- (c) where the person is a licensee or registered manager, it may—
 - (i) suspend the licence, or registration of premises in the name of the licensee, or both, or the registration of the person as a manager, as the case may be, for a specified period or until the fulfilment of stipulated conditions or until further order;
- or
- (ii) cancel the licence and registration of premises in the name of the licensee, or the registration of the person as a manager, as the case may be;
- (d) it may disqualify the person permanently, for a specified period, until the fulfilment of stipulated conditions or until further order, from holding a licence or being registered as a manager under this Act, or both;
- (e) in the case of a commission auctioneer, or a former commission auctioneer, it may prohibit the person from being a commission auctioneer permanently, for a specified period, until the fulfilment of stipulated conditions or until further order.

(7) If a person has been convicted of an offence and the circumstances of the offence form, in whole or in part, the subject matter of an inquiry under this section, the convicted person shall not be liable to a fine under this section in respect of conduct giving rise to the offence.

(8) Where the Tribunal makes an order cancelling a licence or registration of premises or prohibiting a person from being a commission auctioneer, the Tribunal may stipulate that the order is to have effect at a future time specified by the Tribunal and impose conditions as to the conduct of the business of the person until that time.

(9) A person in relation to whom an order is made or condition imposed by the Tribunal under subsection (6) (e) or (8) shall not contravene or fail to comply with the order or condition.

Penalty: Five thousand dollars.

(10) There shall be proper cause for disciplinary action under this section against a licensee or registered manager or former licensee or registered manager if—

(a) the licence or registration as a manager was improperly obtained;

(b) he has in the course of carrying on, or being employed or otherwise engaged in, the business of a second-hand dealer—

(i) been guilty of conduct that constituted a breach of this Act or any other Act or law;

or

(ii) acted negligently, fraudulently or unfairly;

(c) in the case of a licensee—

(i) registered premises of the licensee have ceased to be suitable for the purpose of carrying on business as a second-hand dealer;

or

(ii) he has ceased to be a fit and proper person to hold a licence, or, in the case of a body corporate, a person who has gained or is in a position substantially to control or influence the affairs of the body corporate is not or has ceased to be a fit and proper person to exercise such control or influence of a body corporate that holds a licence;

or

(d) in the case of a registered manager, he has ceased to be a fit and proper person to be registered as a manager under this Act.

(11) There shall be proper cause for disciplinary action against a commission auctioneer or former commission auctioneer if he or any other person has in the course of carrying on, or being employed or otherwise engaged in, the business of a commission auctioneer—

(a) been guilty of conduct that constituted a breach of this or any other Act or law;

or

(b) acted negligently, fraudulently or unfairly.

(12) This section (other than subsection (11)) applies in relation to conduct whether occurring before or after the commencement of this Act.

22. Where the Tribunal takes disciplinary action against a person, the Registrar shall—

Record of disciplinary action to be kept.

(a) make an entry recording the disciplinary action taken—

(i) on the relevant register established under the Commercial Tribunal Act, 1982;

or

(ii) in the case of a commission auctioneer or former commission auctioneer—on a record kept for that purpose by the Registrar in relation to such persons;

and

(b) by notice in writing advise the Commissioner for Consumer Affairs and the Commissioner of Police of the name of the person and the disciplinary action taken.

PART VI

MISCELLANEOUS

Powers of the police in relation to second-hand goods markets.

23. (1) A member of the police force may enter upon any premises or place at which a second-hand goods market is being or is to be held, and may inspect any goods apparently in the possession or control of any person who is offering or preparing to offer goods for sale at the market.

(2) A member of the police force may require a person who is offering or preparing to offer goods for sale at a second-hand goods market to state his name and address.

(3) A person who hinders a member of the police force in the exercise of his powers under this section shall be guilty of an offence and liable to a penalty not exceeding two thousand dollars.

(4) A person who refuses or fails to comply with a requirement under this section to state his name or address, or makes a statement that is false in any particular, shall be guilty of an offence and liable to a penalty not exceeding two thousand dollars.

(5) In this section—

“second-hand goods market” means a market at which second-hand goods are sold (whether or not any other goods are also sold there).

Suspicious offering of goods.

24. (1) A person who sells or delivers any goods to a licensed second-hand dealer or a commission auctioneer may be required by the licensed dealer or commission auctioneer to satisfy him that he obtained the goods lawfully or from a person or place alleged by that person.

(2) If the licensed second-hand dealer or commission auctioneer has reasonable cause to suspect that the goods have been stolen or unlawfully obtained, it shall be lawful for the licensed dealer or commission auctioneer to seize and detain that person and the goods, and immediately deliver that person and, if practicable, the goods into the custody of a member of the police force.

(3) In this section—

“licensed second-hand dealer” includes a person licensed as a dealer under the Second-hand Motor Vehicles Act, 1983.

Presumption of possession.

25. (1) Second-hand goods shall be deemed to be in the possession or custody of a licensed second-hand dealer or a commission auctioneer when they are in any premises, place or vehicle that is occupied by him or under his control.

(2) In this section—

“licensed second-hand dealer” includes a person licensed as a dealer under the Second-hand Motor Vehicles Act, 1983.

26. (1) In any proceedings in respect of an offence against this Act, where it is proved that a person sold second-hand goods on not less than six different days within a period of twelve months, the person shall, unless the contrary is proved, be deemed to have been carrying on business as a second-hand dealer throughout the period of that activity.

Evidentiary provisions.

(2) In any legal proceedings a certificate under the hand of the Commissioner of Police certifying that a member of the police force had, on a specified day, been an authorized member of the police force for the purposes of this Act shall, in the absence of proof to the contrary, constitute proof of the matter so certified.

27. For the purposes of this Act, an act or omission of an employee or agent of a second-hand dealer or commission auctioneer shall be deemed to be an act or omission of the dealer or auctioneer unless the dealer or auctioneer proves that the person was not acting in the course of his employment or agency.

Liability of dealers and commission auctioneers for acts or omissions of employees or agents.

28. The Commissioner for Consumer Affairs or the Commissioner of Police shall, at the request of the Registrar, cause his officers to investigate and report upon any matter relevant to the determination of—

Investigations.

(a) any application or other matter before the Tribunal;

or

(b) any matter that might constitute proper cause for disciplinary action under this Act.

29. The Commissioner of Police may in any proceedings that are before the Tribunal in pursuance of this Act appear personally or be represented by counsel or a member of the police force.

Commissioner of Police may appear in proceedings before Tribunal.

30. (1) Any notice or document required or authorized by this Act or the Commercial Tribunal Act, 1982, to be given to or served on any person shall be deemed to have been duly served if it has been—

Service of documents.

(a) served on the person personally;

(b) posted in an envelope addressed to the person at his last known address, or, in the case of a licensee, his address for service;

or

(c) in the case of a licensee, left for him at his address for service with a person apparently over the age of sixteen years.

(2) The address for service of a licensee is the last address for service of that person of which notice has been given in accordance with the regulations.

31. A person shall not, in furnishing any information required under this Act, make a statement that is false or misleading in a material particular.

False or misleading information.

Penalty: Two thousand dollars.

Return of licences
suspended or
cancelled.

32. Where a licence granted to a person is suspended or cancelled under this Act, that person shall, at the direction of the Tribunal or the Registrar, return the licence to the Registrar.

Penalty: One thousand dollars.

Offences by
bodies corporate.

33. Where a body corporate is guilty of an offence against this Act, every member of the governing body of the body corporate shall be guilty of an offence and liable to the same penalty as is prescribed for the principal offence unless he proves that he could not by the exercise of reasonable diligence have prevented the commission of that offence.

Continuing
offences.

34. (1) A person convicted of an offence against any provision of this Act in respect of a continuing act or omission—

(a) shall be liable, in addition to the penalty otherwise applicable to the offence, to a penalty for each day during which the act or omission continued of not more than the amount equal to one-tenth of the maximum penalty prescribed for that offence;

and

(b) shall, if the act or omission continues after he is convicted, be guilty of a further offence against the provision and liable, in addition to the penalty otherwise applicable to the further offence, to a penalty for each day during which the act or omission continued after the conviction of not more than the amount equal to one-tenth of the maximum penalty prescribed for the offence.

(2) Where an offence against a provision of this Act consists of an omission to do something that is required to be done, the omission shall, for the purposes of subsection (1), be deemed to continue for so long as the thing required to be done remains undone after the expiration of the period for compliance with the requirement.

Summary
proceedings.

35. (1) Proceedings for an offence against this Act shall be disposed of summarily.

(2) Proceedings for an offence against this Act shall be commenced within twelve months after the date on which the offence is alleged to have been committed.

(3) Proceedings for an offence against this Act shall not be commenced by a person other than the Commissioner for Consumer Affairs, an authorized officer under the Prices Act, 1948, or a member of the police force except with the consent of the Minister.

(4) An apparently genuine document purporting to be a certificate of the Minister certifying that he has consented to the commencement of proceedings for an offence against this Act shall be accepted, in the absence of proof to the contrary, as proof of the matter so certified.

Regulations.

36. (1) The Governor may make such regulations as are contemplated by this Act or as are necessary or expedient for the purposes of this Act.

(2) Without limiting the generality of subsection (1), those regulations may—

(a) prescribe the records to be kept by second-hand dealers and commission auctioneers under this Act, the manner in which

those records are to be kept and the entries to be made in those records, and provide for the authentication of those records;

- (b) provide for and regulate the display by second-hand dealers of licences and notices at registered premises;
- (c) prescribe any form for the purposes of this Act;
- (d) in prescribing fees for licences, provide that different fees may be paid by different classes of persons;

and

- (e) prescribe penalties (recoverable summarily) not exceeding one thousand dollars for contravention of, or non-compliance with, any regulation.

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

D. B. DUNSTAN, Governor