



Western Australia

# **Pawnbrokers and Second-hand Dealers Regulations 1996**

**Reprinted as at 2 March 2001**



Western Australia

## **Pawnbrokers and Second-hand Dealers Regulations 1996**

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Western Australia

Reprinted under the  
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at 2 March 2001

Pawnbrokers and Second-hand Dealers Act 1994

## Pawnbrokers and Second-hand Dealers Regulations 1996

### Part 1 — Preliminary

#### 1. Citation

These regulations may be cited as the *Pawnbrokers and Second-hand Dealers Regulations 1996*<sup>1</sup>.

#### 2. Commencement

These regulations come into operation on 1 April 1996.

#### 3. Definitions

In these regulations —

“**financial body**” means a body that is —

- (a) a bank within the meaning of the *Banking Act 1959* of the Commonwealth or a bank constituted by or under the law of a State or the Commonwealth;
- (b) a financial institution within the meaning of the Financial Institutions (Western Australia) Code; or
- (c) a registered corporation within the meaning of the *Financial Corporations Act 1974* of the Commonwealth;

**“public authority”** has the same meaning as it has in the *State Supply Commission Act 1991*;

**“public utility”** means a body the primary purpose of which is to provide electricity, water, sewerage or gas to the public in any State or Territory;

**“section”** means section of the Act;

**“telephone utility”** means a body that has as its primary purpose the provision of telephone services to the public in any State or Territory.

*[Regulation 3 amended in Gazette 28 July 2000 p. 4019.]*



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**Part 2 — Prescribed matters for which Act or certain provisions of Act do not apply**

**4. Financial bodies receiving goods under “buy back” contracts are not “pawnbrokers”**

For the purposes of section 4(3), paragraph (b) of the definition of “pawnbroker” in section 3(1) does not apply to financial bodies.

**5. Certain goods not “second-hand goods”**

- (1) For the purposes of the definition of “second-hand goods” in section 3(1), goods which have been worn or otherwise used and which belong to a class of goods described in the Table to this subregulation, or goods to which subregulation (2) applies, are goods that are not to be treated as second-hand goods for the purposes of the Act.

**Table**

<b>Item</b>	<b>Goods not to be treated as “second-hand goods”</b>
1.	Goods collected under a local government recycling scheme.
2.	Goods (other than jewellery) purchased for the purpose of manufacturing any other article from the goods.
3.	Goods collected for a charitable purpose within the meaning of the <i>Charitable Collections Act 1946</i> where the collector is a person to whom paragraph (i), (ii) or (iii) of section 6(1) of that Act applies and who is acting in accordance with such licence and authority referred to in that section as applies to that person.
4.	Books, magazines and periodicals.
5.	Boats (but not outboard motors or other marine equipment).
6.	Ferrous and non-ferrous scrap metals (but not gold or silver).
7.	Clothing, including footwear.
8.	Furniture, including lamps and light fittings (but not electrical or electronic appliances or moveable heaters).
9.	Household soft furnishings, including rugs, curtains and manchester.

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**Part 2** Prescribed matters for which Act or certain provisions of Act do not apply

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- | <b>Item</b> | <b>Goods not to be treated as “second-hand goods”</b>   |
|-------------|---|
| 10.         | Household decorative goods, including statues, figurines, paintings, prints and drawings.   |
| 11.         | Kitchenware, including pots, pans, crockery and cutlery (but not electrical or electronic appliances).  |
| 12.         | Motor vehicles, as defined in the <i>Road Traffic Act 1974</i> , and their parts including tyres (but not accessories such as audio equipment, roof racks or lamps other than those required under Part 2 or 3 of the <i>Road Traffic (Vehicle Standards) Regulations 1977</i> ).   |
| 13.         | Mining machinery and parts.   |
| 14.         | Farming machinery and parts (but not accessories such as audio equipment, electronic monitoring equipment or lamps other than those required under Part 2 or 3 of the <i>Road Traffic (Vehicle Standards) Regulations 1977</i> ).   |
| 15.         | Rags.   |
| 16.         | Bones.  |
| 17.         | Glassware, including bottles.   |
| 18.         | Cans of any kind.   |
| 19.         | Waste plastic materials.  |
| 20.         | Waste paper materials.  |
| 21.         | Salvaged building materials including doors, window frames, tiles, bricks and timber.   |
| 22.         | White goods in the nature of large domestic electrical equipment, including refrigerators, freezers, washing machines, clothes driers, ovens and ironing presses (but not portable or camping refrigerators or microwave or microwave/convection ovens).  |
| 23.         | Collectables such as stamps, coins, trading cards, dolls, toys and military memorabilia.  |
| (2)         | This subregulation applies to goods (“ <b>traded goods</b> ”) that are accepted by a retailer as part of the purchase price of new goods sold by the retailer to a person (“ <b>the new sale</b> ”) if — <ul style="list-style-type: none"><li>(a) the traded goods were purchased by the person from a retailer as new goods; and</li><li>(b) the person produces proof of that purchase at the time the new sale takes place.</li></ul> |

- (3) In subregulation (2) —

**“retailer”** means a person who operates a retail shop but does not include a pawnbroker or second-hand dealer;

**“retail shop”** has the same meaning as it has in the *Retail Trading Hours Act 1987*.

*[Regulation 5 amended in Gazette 28 July 2000 p. 4019.]*

**6. Second-hand goods may be sold to minors**

For the purposes of section 4(3), section 38(a) does not apply to a second-hand dealer who enters into a contract with a person who is under 18 years of age if the contract is for the sale, by the dealer, of goods to the person.

**7. Second-hand dealers need not ascertain or verify identity of certain persons**

- (1) For the purposes of section 4(3), section 39 does not apply to a second-hand dealer who enters into a contract under which goods are, or are to be, obtained by the dealer —
- (a) from outside of Western Australia;
  - (b) at an auction within the meaning of the *Auction Sales Act 1973* where the auctioneer is acting in accordance with a licence issued under that Act to, or for the benefit of, the auctioneer;
  - (c) from a licensee; or
  - (d) from a public authority.
- (2) Nothing in subregulation (1) affects the requirement under section 43(b) for a second-hand dealer to record the full name and current residential address of the party offering the goods referred to in that subregulation.
- (3) For the purposes of section 4(3), section 39 does not apply to a second-hand dealer who enters into a contract with a person if the contract is for the sale, by the dealer, of goods to the person.

*[Regulation 7 amended in Gazette 28 July 2000 p. 4020.]*

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**Part 2** Prescribed matters for which Act or certain provisions of Act do not apply

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**8. Notice as to surplus not required if surplus less than \$50**

For the purposes of section 59(2)(b), section 59(1) does not apply where the surplus is less than \$50.

**9. Certain second-hand goods need not be kept or unaltered for 14 days**

For the purposes of section 4(3), section 61 does not apply to goods that a second-hand dealer has obtained —

- (a) from outside of Western Australia;
- (b) at an auction within the meaning of the *Auction Sales Act 1973* where the auctioneer is acting in accordance with a licence issued under that Act to, or for the benefit of, the auctioneer;
- (c) from a licensee; or
- (d) from a public authority.

*[Regulation 9 amended in Gazette 28 July 2000 p. 4020.]*

### **Part 3 — Matters prescribed for licence applications**

#### **10. Other means of proving identity of applicants**

For the purposes of section 14(a)(iv), evidence of the identity of a person applying for the issue of a licence may consist of any one of the following —

- (a) a certificate of the applicant's Australian citizenship;
- (b) a document establishing the discharge of the applicant from any of the Australian defence forces;
- (c) a document establishing the applicant's appointment as a Justice of the Peace;
- (d) a certificate of the applicant's identity issued by the department of the Commonwealth public service responsible for the administration of foreign affairs;
- (e) a certificate of the applicant's descent issued by the department of the Commonwealth public service responsible for the administration of immigration or issued by a consulate within Australia.

#### **11. Other evidence to accompany applications for issue of licence**

For the purposes of section 14(f), an application for the issue of a licence is to be accompanied by 3 colour photographs of the applicant —

- (a) each of which is 45 mm long and 35 mm wide;
- (b) each of which shows a frontal view of the applicant's head and shoulders without sunglasses, tinted spectacles, head wear or any other item which may affect the applicant's usual appearance;
- (c) each of which has been taken within 3 months of the day on which the application is made; and

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- (d) one of which is endorsed by a person who has known the applicant for at least 5 years as follows —

“ I certify that this is a photograph of [*applicant's full name*] who I have known for at least 5 years.

Signed

[Endorser's signature]

[Endorser's full name]

[Date]

”.

**12. Other evidence to accompany applications for renewal of licence**

- (1) For the purposes of section 16, an application for the renewal of a licence is to be accompanied by 3 colour photographs of the applicant —

- (a) each of which is 45 mm long and 35 mm wide;
- (b) each of which shows a frontal view of the applicant's head and shoulders without sunglasses, tinted spectacles, head wear or any other item which may affect the applicant's usual appearance;
- (c) each of which has been taken within 3 months of the day on which the application is made; and
- (d) subject to subregulation (2), one of which is endorsed by a person who has known the applicant for at least 5 years as follows —

“ I certify that this is a photograph of [*applicant's full name*] who I have known for at least 5 years.

Signed

[Endorser's signature]

[Endorser's full name]

[Date]

”.

(2) If —

- (a) the applicant for the renewal of a licence attends in person before the licensing officer and brings the applicant's current licence and the 3 photographs referred to in subregulation (1); and
- (b) the licensing officer is satisfied that the photographs are current photographs of the applicant,

then it is not necessary for any of the photographs to be endorsed in accordance with paragraph (d) of that subregulation.

**Part 4 — Matters prescribed for verification of identity, records and provision of information**

**13. Other means of verifying identity of persons before contracts entered into**

- (1) Subject to subregulations (2) and (3), a person's identity may be verified for the purposes of section 39(b)(iv) by conducting, in relation to the person, any combination of the checks set out in the Table to this regulation and adding the points set out opposite each check conducted in relation to the person to achieve a total of at least 100 points.

**Table**

<b>Item</b>	<b>Check</b>	<b>Points with photo</b>	<b>Points without photo</b>
1.	The person's name is stated on a transaction card held by the person that has been issued in accordance with regulation 13A(1) by the pawnbroker or second-hand dealer who is verifying the person's identity.	100	-
2.	The person's photograph has been taken and retained in accordance with regulation 13A(1) within the last 12 months by the pawnbroker or second-hand dealer who is verifying the person's identity.	75	-
3.	The person's name is stated on a current licence (other than a motor driver's licence) or current permit held by the person that has been issued under a law of the Commonwealth or a State or Territory.	40	25
4.	The person's name is stated on a current identity card or current licence held by the person that has been issued by a government agency outside Australia.	40	25



Item	Check	Points with photo	Points without photo
5.	The person's name is stated on an identification card (other than a card referred to in section 39(b)(iii)) held by the person that has been issued by a government agency to provide evidence of the person's name and age.	40	25
6.	The person's name is stated on an identification card held by the person that has been issued by a government agency to provide evidence of the person's entitlement to a health benefit or pensioner concession.	40	25
7.	The person's name is stated on an identification card held by the person that has been issued within the last 5 years by an educational institution.	40	25
8.	An educational institution has a record of the person's name and address made within the last 5 years.	40	25
9.	The person's name is stated on an identification card held by the person that has been issued by the person's employer.	40	25
10.	The person's employer has a record of the person's name and address.	40	25
11.	The person's name is stated on an identification card held by the person that has been issued by a professional or trade association.	40	25
12.	A professional or trade association has a record of the person's name and address.	40	25
13.	The person's name is stated on a current motor driver's licence (not bearing the person's photograph) held by the person that has been issued in Australia.	-	25

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**Part 4** Matters prescribed for verification of identity, records and provision of information

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<b>Item</b>	<b>Check</b>	<b>Points with photo</b>	<b>Points without photo</b>
14.	A public authority or local government has a record of the person's name and address.	-	25
15.	The person's name and address appear in an Australian electoral roll.	-	25
16.	A public utility has a record of the person's name and address.	-	25
17.	A telephone utility has a record of the person's name and address.	-	25
18.	If the person lives in or conducts business from rented premises — the owner of the premises or the managing agent for the premises has a record of the person's name and address.	-	25
19.	An insurance company has a record of the person's name and address.	-	25
20.	The person's name is stated in a certified copy of or extract from a birth certificate, a marriage certificate or a citizenship certificate.	-	25
21.	A financial body has a record of the person's name and address.	-	25

(2) At least one of the documents used to verify a person's identity under subregulation (1) must bear the signature of the person to whom the document relates and the pawnbroker or second-hand dealer must be satisfied that that signature matches the signature done in the presence of the pawnbroker or dealer by the person seeking to have his or her identity verified.

(3) At least one of the documents used to verify a person's identity under subregulation (1) —

- (a) must bear the current residential address of the person; and
- (b) must have been issued within 3 months before the verification of the person's identity.

*[Regulation 13 amended in Gazette 28 July 2000 pp. 4020-2.]*

**13A. Transaction cards**

- (1) When a pawnbroker or second-hand dealer has verified a person's identity for the purposes of section 39(b), the pawnbroker or second-hand dealer —
  - (a) if the person agrees, may take and retain a photograph of the person; and
  - (b) if a photograph of the person is taken, may issue to the person a card (a “**transaction card**”) that complies with subregulations (2) and (3).
- (2) A transaction card complies with this subregulation if it —
  - (a) bears the person's photograph, full name, signature, date and place of issue, date of expiry and an identifying number; and
  - (b) is in a form and of a standard approved by the Commissioner.
- (3) A transaction card complies with this subregulation if it is issued for a period not greater than 12 months.

*[Regulation 13A inserted in Gazette 28 July 2000 p. 4023.]*

**14. Manner of keeping records**

- (1) For the purposes of section 45(1)(b), all records required to be made by a pawnbroker under section 41 are to be kept in numerical order according to the distinguishing number recorded under section 41(a).
- (2) For the purposes of section 45(2)(b), all records required to be made by a second-hand dealer under section 43 are to be kept in numerical order according to the distinguishing number recorded under section 43(a).

**15. Information to be given to Commissioner about goods — s. 79**

- (1) For the purposes of section 79(a), a pawnbroker is to give the Commissioner the information referred to in section 41(a) to (f) in relation to each of the goods in the possession of the pawnbroker.

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**Part 4** Matters prescribed for verification of identity, records and provision of information

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- (2) For the purposes of section 79(a), a second-hand dealer is to give the Commissioner the information referred to section 43(a) to (f) in relation to each of the goods in the possession of the dealer.
- (3) Nothing in subregulation (2) requires a second-hand dealer to give the Commissioner information about goods that the dealer has obtained —
  - (a) from outside of Western Australia;
  - (b) at an auction within the meaning of the *Auction Sales Act 1973* where the auctioneer is acting in accordance with a licence issued under that Act to, or for the benefit of, the auctioneer;
  - (c) from a licensee; or
  - (d) from a public authority.
- (4) For the purposes of section 79(c), a person who is a pawnbroker only or a pawnbroker and a second-hand dealer is to send the information referred to in subregulation (1) or (2), as the case requires, to the Commissioner by way of an electronic file transfer service the computer software for which —
  - (a) has been provided by the Department (free of charge), or is approved by the Commissioner, for that purpose; and
  - (b) is operated by means of an IBM compatible computer with a dial-up modem, the type and specifications of both of which are approved by the Commissioner.
- (5) For the purposes of section 79(c), a person who is a second-hand dealer but not a pawnbroker is to send the information referred to in subregulation (2) to the Commissioner —
  - (a) by way of the means specified in subregulation (4); or
  - (b) by way of transmission by facsimile machine to the number specified by the Commissioner from time to time,and, subject to subregulations (5a) and (5b), the person may elect to use the means referred to in paragraph (a) or (b).

- (5a) An election referred to in subregulation (5) must be made when a second-hand dealer applies for the issue of a licence under section 13 or the renewal of a licence under section 15, or in accordance with subregulations (5b) and (5c).
- (5b) When an election referred to in subregulation (5) has been made by a second-hand dealer, another election cannot be made by the dealer during the licence period unless —
  - (a) the election is approved by a licensing officer; and
  - (b) the second-hand dealer pays —
    - (i) an administration fee of \$25.00; or
    - (ii) if the election would result in the second-hand dealer using the means referred to in subregulation (5)(b) — the fee to which subregulation (5c) applies.
- (5c) This subregulation applies to the fee that is the greater of —
  - (a) \$25.00; or
  - (b) an amount equal to the difference between the appropriate fees in items 2 and 3 of the Table to regulation 28 or 29, as the case requires, reduced proportionately according to the number of whole months of the licence period remaining at the time the election is made.
- (6) For the purposes of section 79(d), a pawnbroker or second-hand dealer is to send the information referred to in subregulation (1) or (2), as the case requires, to the Commissioner within 24 hours from the end of the day (midnight) during which the contract in relation to the goods was entered into.
- (7) Subregulations (1), (4) and (6) do not apply to a person —
  - (a) who is the holder of a licence which had been issued under the *Pawnbrokers Act 1860*<sup>2</sup> and to which clause 3 of Schedule 1 of the *Pawnbrokers and Second-hand Dealers Act 1994* applies; and

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**Part 4** Matters prescribed for verification of identity, records and provision of information

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- (b) who has not yet applied for and been issued with a pawnbroker's licence under the *Pawnbrokers and Second-hand Dealers Act 1994*.
- (8) Subregulations (2), (4), (5) and (6) do not apply to a person —
  - (a) who is the holder of a licence which had been issued under the *Second-hand Dealers Act 1906*<sup>2</sup> and to which clause 3 of Schedule 1 of the *Pawnbrokers and Second-hand Dealers Act 1994* applies; and
  - (b) who has not yet applied for and been issued with a second-hand dealer's licence under the *Pawnbrokers and Second-hand Dealers Act 1994*.

*[Regulation 15 amended in Gazette 28 July 2000 pp. 4023-4.]*

## Part 5 — Appeals

### 16. Definitions

In this Part —

“**appeal**” means an appeal referred to in section 30;

“**Court**” means a court of petty sessions.

### 17. How appeals commenced

(1) An appeal is to be commenced by way of a notice of appeal in the form of Form 1 in Schedule 1.

(2) The notice of appeal is to be filed in a Court.

*[(3) repealed]*

(4) The Court is to enter the day and time for the hearing of the appeal on the notice of appeal but the hearing date must not be less than 21 days from the day on which the notice was filed.

*[Regulation 17 amended in Gazette 24 January 1997 p. 565.]*

### 18. Application for an order that effect of a decision be suspended

(1) If an appellant also applies for an order that the effect of a decision be suspended until the hearing date of the appeal then the Court may, if it would be just to do so —

(a) appoint an earlier day for the hearing of that application only; and

(b) direct that the Commissioner be served with a copy of the notice of appeal in such manner and by such time as is directed by the Court.

(2) The Court may hear an application of a kind referred to in subregulation (1) either *ex parte* or after service, as directed by the Court, has been effected.

**19. Service**

- (1) The appellant is to serve the Commissioner or a person authorised to accept service on behalf of the Commissioner with a copy of the notice of appeal but it is not necessary for the appellant to serve the licensing officer who made the decision that is the subject of the appeal.
- (2) Subject to regulation 18(1)(b), the service referred to in subregulation (1) must be effected at least 14 clear days before the hearing date of the appeal.
- (3) Subject to regulation 18(1)(b), section 56 of the *Justices Act 1902* applies to the mode of service of a notice of appeal except that if the Commissioner is to be served by post then the letter is to be addressed to the Commissioner at his or her head office.

**20. Certain information to be transmitted to the Court by licensing officer or Commissioner**

If a notice of appeal has been filed then the Court may direct either the licensing officer who made the decision that is the subject of the appeal or the Commissioner to transmit to the Court any of the following —

- (a) the material that was before the licensing officer when the decision was made;
- (b) where applicable, a copy of —
  - (i) the licence in question;
  - (ii) the conditions or restrictions set out in, or provided with, the licence in question;
  - (iii) the written notice setting out the decision that the licence in question not be issued or renewed, and the reasons for the decision; or
  - (iv) the notices and the response referred to in section 27(3),



and the licensing officer or the Commissioner, as the case requires, is to transmit the required information in accordance with the terms of the Court's direction.

**21. Dismissal or adjournment of appeal or application**

- (1) If the appellant fails to appear at a hearing of an appeal or an application under regulation 18 then the Court may dismiss or adjourn the appeal or application.
- (2) If the licensing officer whose decision is the subject of an appeal or his or her representative fails to appear at the hearing of the appeal or an application under regulation 18 then —
  - (a) the Court may adjourn the hearing of the appeal or application; or
  - (b) the Court, on being satisfied that service has been properly effected on the Commissioner, may hear and decide the appeal or the application in the absence of the licensing officer or his or her representative.

**22. Summons to witness**

- (1) A summons to a witness to attend, or produce documents at, the hearing of an appeal is to be in the form of Form 2 in Schedule 1.
- (2) A summons cannot be directed to more than one person.
- (3) Each summons is to be filed in triplicate and the Court is to retain the original and sign, stamp and return the duplicate and triplicate to the party who filed the summons.
- (4) The duplicate summons must be served personally on the person named in the summons.
- (5) The triplicate summons is to be endorsed with the details of the service of the summons.

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- (6) At the time of service, the person serving the summons must tender to the person named in the summons sufficient money to enable the person named in the summons —
- (a) to travel between his or her place of residence or employment (whichever is appropriate) and the place of hearing mentioned in the summons; or
  - (b) to deliver the documents to the Court,
- as the case requires.
- (7) A person summoned under this regulation must not, without reasonable cause, proof of which is on the person —
- (a) fail to attend for examination if required by the summons to do so;
  - (b) fail to bring any document required by the summons to be brought;
  - (c) having attended, refuse to be sworn or affirmed; or
  - (d) having attended, refuse to answer a question if directed to do so by the Court.

Penalty: \$1 000.

**23. Affidavits**

- (1) If a party to an appeal intends to seek the Court's approval to tender evidence by way of affidavit at the hearing of the appeal then the party is to file and serve the affidavit on the other party to the appeal not less than 24 hours before the time fixed for the hearing or within such other time as directed by the Court.
- (2) If a party to an appeal intends to seek the Court's approval to tender evidence by way of affidavit at the hearing of an application under regulation 18 then the party is to comply with any directions of the Court in relation to filing and serving the affidavit.

**24. Certain documents to be filed and served by appellant**

If an appellant intends to produce at the hearing of an appeal any document that was not before the licensing officer then the appellant must file, and serve the Commissioner with, a copy of the document not less than 7 clear days before the time fixed for the hearing or within such other time as directed by the Court.

**25. Procedure in relation to appeals and applications**

Subject to the Act and to these regulations, the procedure in relation to an appeal or an application under regulation 18 is to be determined by the Court in which the notice of the appeal or application was filed, or by the Court hearing the appeal or the application, as the case requires.

**26. Costs**

- (1) The amount of any costs ordered to be paid under section 30(4)(c) is to be such amount as seems just and reasonable to the Court.
- (2) An order for costs under section 30(4)(c) may be enforced as if it were a payment order within the meaning of section 155 of the *Justices Act 1902*.

**27. Court fees**

- (1) In this regulation —  
“**court fees regulations**” means the *Justices Act (Courts of Petty Sessions Fees) Regulations*.
- (2) The fees to be taken for the filing of documents and other services provided by the Court are to be in accordance with the fees set out in the First Schedule to the court fees regulations.
- (3) For the purposes of subregulation (2) —
  - (a) a reference in the court fees regulations to a complaint is to be treated as a reference to a notice of appeal; and

- (b) a service provided by the Court in respect of an appeal is to be treated as if it were the service set out in the First Schedule to the court fees regulations that most closely corresponds to the first-mentioned service.

## Part 6 — Fees

**28. Fees for applications for issue of licences — s. 13(b)**

- (1) The fee to accompany an application for the issue of a pawnbroker's licence only is set out in item 1 of the Table to this regulation.
- (2) The fee to accompany an application for the issue of a second-hand dealer's licence only, where the applicant elects to provide the Commissioner with information for the purposes of section 79 by the means specified in regulation 15(4), is set out in item 2 of the Table to this regulation.
- (3) The fee to accompany an application for the issue of a second-hand dealer's licence only, where the applicant elects to provide the Commissioner with information for the purposes of section 79 by way of facsimile transmission, is set out in item 3 of the Table to this regulation.
- (4) Where applications are made at the same time for a pawnbroker's licence and a second-hand dealer's licence to be issued in respect of the same person, the single fee to accompany the applications is set out in item 4 of the Table to this regulation.

**Table — Fees for issue of licences**

Licence	1 year or part thereof (\$)	2 years or part thereof (\$)	3 years or part thereof (\$)
1. Pawnbroker's licence only	300	505	709
2. Second-hand dealer's licence only (computer option)	300	505	709
3. Second-hand dealer's licence only (facsimile option)	384	712	1 037
4. Pawnbroker's licence and second-hand dealer's licence	341	546	751

*[Regulation 28 amended in Gazette 10 June 1997 p. 2668; 12 June 1998 p. 3200; 30 June 1999 p. 2863; 30 June 2000 p. 3424.]*

**29. Fees for applications for renewal of licences — s. 15(b)**

- (1) The fee to accompany an application for the renewal of a pawnbroker’s licence only is set out in item 1 of the Table to this regulation.
- (2) The fee to accompany an application for the renewal of a second-hand dealer’s licence only, where the applicant elects to provide the Commissioner with information for the purposes of section 79 by the means specified in regulation 15(4), is set out in item 2 of the Table to this regulation.
- (3) The fee to accompany an application for the renewal of a second-hand dealer’s licence only, where the applicant elects to provide the Commissioner with information for the purposes of section 79 by way of facsimile transmission, is set out in item 3 of the Table to this regulation.
- (4) Where applications are made at the same time for a pawnbroker’s licence and a second-hand dealer’s licence to be renewed in respect of the same person, the single fee to accompany the applications is set out in item 4 of the Table to this regulation.

**Table — Fees for Renewal of licences**

Licence	1 year or part thereof (\$)	2 years or part thereof (\$)	3 years or part thereof (\$)
1. Pawnbroker’s licence only	222	429	637
2. Second-hand dealer’s licence only (computer option)	222	429	637
3. Second-hand dealer’s licence only (facsimile option)	355	680	1 006
4. Pawnbroker’s licence and second-hand dealer’s licence	236	460	669

*[Regulation 29 amended in Gazette 10 June 1997 p. 2669; 12 June 1998 p. 3200; 30 June 2000 p. 3424.]*

**30. Refund of fees**

- (1) If a licensing officer declines to issue or renew a licence then the fee paid under regulation 28 or 29 is to be refunded to the applicant.
- (2) If a licensing officer issues or renews a licence for a period that is less than the period applied for then the applicant is entitled to be refunded the amount that is the difference between the fee paid and the fee applicable to the period for which the licence was issued or renewed.
- (3) If the business to which a licence relates ceases to be conducted for any reason other than because the licence has been revoked or suspended then the licensee is entitled to be refunded the amount that is the difference between the fee paid and the fee that would have been applicable to the licence if it had been issued or renewed for the period ending on the day on which the conduct of the business ceased.

*[Regulation 30 amended in Gazette 12 June 1998 p. 3200.]*

**31. Fee for inspection of the register of licences — s. 28(2)**

The fee for each inspection of the register kept under section 28(1) is \$9.00.

*[Regulation 31 amended in Gazette 10 June 1997 p. 2669; 12 June 1998 p. 3200; 30 June 1999 p. 2864.]*

## **Part 7 — Prescribed offences and modified penalties**

*[Heading inserted in Gazette 28 July 2000 p. 4025.]*

### **32. Prescribed offences and modified penalties — s. 90**

- (1) The offences created by the sections mentioned in column 2 of the Table to this regulation are prescribed for the purposes of section 90(2).
- (2) The amount mentioned in column 4 of the Table to this regulation that corresponds to an offence mentioned in column 2 is the modified penalty for that offence for the purposes of section 90(4).

<b>Table</b>			
<b>Item</b>	<b>Section</b>	<b>Description of offence</b>	<b>Modified penalty</b>
			\$
1.	27(4)	Failing to comply with licensing officer's directions.	200
2.	36	Failing to display a sign at business premises.	100
3.	37(3)	Refusing or failing to comply with a request from a member of the police force to inspect employee records.	200
4.	38	Entering into a contract with a person under 18 years of age or a person apparently affected by alcohol or any drug.	200
5.	39	Failing to ascertain a person's name and address and verify his or her identity.	200
6.	41	Failing to ensure that pawnbroker contract details are recorded.	300
7.	42	Failing to ensure that written statement is signed and given.	100
8.	43	Failing to ensure that second-hand dealer contract details are recorded.	300



Item	Section	Description of offence	Modified penalty
			\$
9.	44	Failing to ensure that a receipt and copy are signed and receipt given.	100
10.	47	Failing to ensure that pawned or second-hand goods are marked or labelled with distinguishing number of contract.	200
11.	48(1)	Unlawfully replacing a lost or stolen pawn ticket.	200
12.	48(2)	Charging a fee for a replacement pawn ticket.	200
13.	51	Failing to ensure that pawned goods are kept at business or storage premises.	200
14.	58(1)	Failing to calculate and record charges and any surplus.	100
15.	58(2)	Failing to allow record to be inspected.	100
16.	59	Failing to notify other party of any surplus due and entitlement to surplus.	100
17.	62	Failing to ensure second-hand goods are kept at business or storage premises.	200
18.	63(1)	Requiring or receiving a fee for application to enter into contract.	100
19.	74(3)	Refusing or failing to comply with requirement of police to open storage premises.	200
20.	79	Failing to give prescribed information to Commissioner.	300

*[Regulation 32 inserted in Gazette 28 July 2000 pp. 4025-6; amended in Gazette 23 February 2001 p. 1170.]*

**Schedule 1 — Forms**  
**Form 1 — Notice of Appeal**

[Regulation 17(1)]

*Pawnbrokers and Second-hand Dealers Act 1994*

IN THE COURT OF PETTY SESSIONS

sitting at .....

Appeal No.            of

APPELLANT	TAKE NOTICE THAT I ..... <i>[Full name]</i> OF ..... ..... <i>[Address for service]</i>
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APPEAL / APPLICATION	am aggrieved by a decision made by licensing officer ..... <i>[Name of officer]</i> that was made under the above Act and served on me on ..... <i>[Date of service]</i> I hereby appeal to the Court against the decision. I also apply for an order that the effect of the decision to ..... ..... <i>[give details of decision or relevant part of decision]</i> be suspended until the hearing date of the appeal. I also apply for an order that ..... ..... <i>[give details of other orders sought]</i>
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DECISION DETAILS	THE DECISION TO BE APPEALED IS AS FOLLOWS ..... ..... ..... ..... ..... ..... and concerns section 30(1) <i>[state whether paragraph (a), (b),                  (c), (d) or (e) of section 30(1) applies]</i>
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**Form 2 — Summons to Witness**

[Regulation 22(1)]

*Pawnbrokers and Second-hand Dealers Act 1994*

IN THE COURT OF PETTY SESSIONS

sitting at .....

Appeal No. .... of

To: .....

..... *[Name of witness]*

of .....

..... *[Address]*

*[Tick if person to be summoned]*

You are summoned to appear before the Court of Petty Sessions at ..... a.m./p.m.

on ..... the ..... day of ..... 20 .....

at .....

*[Address of Court]*

until discharged from attendance, to give evidence concerning the -abovementioned  
matter on behalf of .....

.....

.....

*[Name and address of party taking out summons]*

*[Tick if person summoned is also to produce documents]*

AND you are also required to have and produce at the same time and place all  
documents in your possession or under your control in any way relating to these  
proceedings and in particular, but not exclusively, the following —

.....

.....

.....

OR

*[Tick if documents only are required]*

You are summoned to bring to the Court of Petty Sessions by ..... a.m./p.m.

on ..... the ..... day of ..... 20 .....

at .....

.....

*[Address of Court]*

all documents in your possession or under your control in any way relating to these  
proceedings and in particular, but not exclusively, the following —

.....

.....

**If you fail or refuse to comply with this summons then you may become liable to pay a penalty.**

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*[Clerk of the Court]*

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**Notes**

<sup>1</sup> This reprint is a compilation as at 2 March 2001 of the *Pawnbrokers and Second-hand Dealers Regulations 1996* and includes the amendments referred to in the following Table.

**Table of Regulations**

<b>Citation</b>	<b>Gazettal</b>	<b>Commencement</b>	<b>Miscellaneous</b>
<i>Pawnbrokers and Second-hand Dealers Regulations 1996</i>	29 March 1996 pp. 1557-76	1 April 1996 (see regulation 2)	
<i>Pawnbrokers and Second-hand Dealers Amendment Regulations 1996</i>	24 January 1997 p. 565	24 January 1997	
<i>Pawnbrokers and Second-hand Dealers Amendment Regulations 1997</i>	10 June 1997 pp. 2668-9	1 July 1997 (see regulation 2)	
<i>Pawnbrokers and Second-hand Dealers Amendment Regulations 1998</i>	12 June 1998 p. 3200	1 July 1998 (see regulation 2)	
<i>Pawnbrokers and Second-hand Dealers Amendment Regulations 1999</i>	30 June 1999 pp. 2863-4	1 July 1999 (see regulation 2)	
<i>Pawnbrokers and Second-hand Dealers Amendment Regulations 2000</i>	28 July 2000 pp. 4018-26	28 July 2000	
<i>Pawnbrokers and Second-hand Dealers Amendment Regulations (No. 2) 2000</i>	30 June 2000 pp. 3423-4	1 July 2000 (see regulation 2)	
<i>Pawnbrokers and Second-hand Dealers Amendment Regulations 2001</i>	23 February 2001 p. 1170	23 February 2001	

<sup>2</sup> Repealed by the *Pawnbrokers and Second-hand Dealers Act 1994* (No. 88 of 1994).

## Defined Terms

*[This is a list of terms defined and the provisions where they are defined.*

*The list is not part of the law.]*

<b>Defined Term</b>	<b>Provision(s)</b>
appeal .....	16
Court .....	16
court fees regulations .....	27(1)
financial body .....	3
public authority .....	3
public utility .....	3
retail shop.....	5(3)
retailer.....	5(3)
section.....	3
telephone utility .....	3
the new sale.....	5(2)
traded goods.....	5(2)
transaction card .....	13A(1)(b)