

PE302*

Pawnbrokers and Second-hand Dealers Act 1994

Pawnbrokers and Second-hand Dealers Amendment Regulations 2000

Made by the Administrator in Executive Council.

1. Citation

These regulations may be cited as the *Pawnbrokers and Second-hand Dealers Amendment Regulations 2000*.

2. The regulations amended

The amendments in these regulations are to the *Pawnbrokers and Second-hand Dealers Regulations 1996**.

[* *Published in Gazette 29 March 1996, pp. 1557-75.*
*For amendments to 29 May 2000 see 1999 Index to
Legislation of Western Australia, Table 4, p. 201.*]

3. Regulation 3 amended

Regulation 3 is amended as follows:

- (a) after the definition of “financial body” by inserting the following definition —

“

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

”;

- (b) by deleting the full stop at the end of the definition of “section” and inserting a semicolon instead;

- (c) after the definition of “section” by inserting the following definition —

“

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

”.

4. Regulation 5 amended

- (1) Regulation 5 is amended as follows:

- (a) before “For” by inserting the subregulation designation “(1)”;
(b) by deleting “regulation” and inserting instead —

“

subregulation, or goods to which subregulation (2) applies,

”.

- (2) At the end of regulation 5 the following subregulations are inserted —

“

- (2) This subregulation applies to goods (“**traded goods**”) that are accepted by a retailer as part of the purchase price of new goods sold by the retailer to a person (“**the new sale**”) if —

- (a) the traded goods were purchased by the person from a retailer as new goods; and
(b) the person produces proof of that purchase at the time the new sale takes place.

- (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*.

”.

5. Regulation 7 amended

Regulation 7(1) is amended as follows:

- (a) after paragraph (a) by deleting “or”;
- (b) by deleting the full stop at the end of paragraph (b) and inserting a semicolon instead;
- (c) after paragraph (b) by inserting the following —
 - “
 - (c) from a licensee; or
 - (d) from a public authority.
 - ”.

6. Regulation 9 amended

Regulation 9 is amended as follows:

- (a) after paragraph (a) by deleting “or”;
- (b) by deleting the full stop at the end of paragraph (b) and inserting a semicolon instead;
- (c) after paragraph (b) by inserting the following —
 - “
 - (c) from a licensee; or
 - (d) from a public authority.
 - ”.

7. Regulation 13 amended

- (1) Regulation 13(1) is amended by deleting “subregulation (2),” and inserting instead —
 - “ subregulations (2) and (3), ”.
- (2) The Table to regulation 13(1) is deleted and the following Table is inserted instead —

“

Table

Item	Check	Points with photo	Points without photo
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	-

Item	Check	Points with photo	Points without photo
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
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

Item	Check	Points with photo	Points without photo
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
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

”.

(3) After regulation 13(2) the following subregulation is inserted —

“

- (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.

”.

8. Regulation 13A inserted

After regulation 13 the following regulation is inserted —

“

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.

”.

9. Regulation 15 amended

- (1) Regulation 15(1) is amended by deleting “section 41(a) to (e)” and inserting instead —

“ section 41(a) to (f) ”.
- (2) Regulation 15(2) is amended by deleting “section 43(a) to (e)” and inserting instead —

“ section 43(a) to (f) ”.
- (3) Regulation 15(3) is amended as follows:
 - (a) after paragraph (a) by deleting “or”;
 - (b) by deleting the full stop at the end of paragraph (b) and inserting a semicolon instead;
 - (c) after paragraph (b) by inserting the following —

“

 - (c) from a licensee; or
 - (d) from a public authority.

”.
- (4) Regulation 15(4) is amended as follows:
 - (a) in paragraph (a) after “(free of charge)”, by inserting —

“ , or is approved by the Commissioner, ”;

- (b) by deleting paragraph (b) and inserting the following paragraph instead —

“

- (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) Regulation 15(5) is amended before “the person may” by inserting —

“ , subject to subregulations (5a) and (5b), ”.

- (6) After regulation 15(5) the following subregulations are inserted —

“

- (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.

”.

10. Part 7 inserted

After regulation 31 the following Part is inserted —

“

Part 7 — Prescribed offences and modified penalties

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).

Table

Item	Section	Description of offence	Modified penalty \$
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 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

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By Command of the Administrator,

M. C. WAUCHOPE, Clerk of the Executive Council.