

**SECOND-HAND DEALERS AND COLLECTORS
(AMENDMENT) ACT, 1978, No. 70**

New South Wales



ANNO VICESIMO SEPTIMO

ELIZABETHÆ II REGINÆ

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Act No. 70, 1978.

An Act to amend the Second-hand Dealers and Collectors Act, 1906, so as to authorise licensed second-hand dealers to carry on business at markets. [Assented to, 6th April, 1978.]

Second-hand Dealers and Collectors (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

1. This Act may be cited as the "Second-hand Dealers and Short title. Collectors (Amendment) Act, 1978".

2. (1) This section and section 1 shall commence on the Commencement date of assent to this Act.

(2) Except as provided in subsection (1), this Act shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

3. The Second-hand Dealers and Collectors Act, 1906, is ^{Amendment of Act No.} amended in the manner set forth in Schedule 1. _{30, 1906.}

SCHEDULE 1.

Sec. 3.

AMENDMENTS TO THE SECOND-HAND DEALERS AND COLLECTORS ACT, 1906.

(1) Section 2—

After the definition of "Licensed auctioneer", insert :—

"Market indorsement" means an indorsement referred to in section 4AA (7).

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(2) Section 4AA—

After section 4, insert :—

Market
indorse-
ments.

4AA. (1) In this section, “market” means—

- (a) any market provided, maintained, controlled or managed by the Sydney Farm Produce Market Authority or by a council within the meaning of the Local Government Act, 1919, but only on such days or dates and during such hours as that Authority or the council permits second-hand goods to be bought and sold thereat; or
- (b) any other place declared to be a market by order under subsection (2), but only on such days or dates and during such hours as are specified in the order in relation to the place.

(2) For the purposes of this section, the Minister may, by order published in the Gazette, declare any place described in the order to be a market on such days or dates and during such hours as are specified in the order in relation to the place.

(3) An application for a market indorsement may be made only—

- (a) by a person—

- (i) making application for a second-hand dealer's license; or

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE SECOND-HAND DEALERS AND COLLECTORS ACT, 1906—*continued.*

(ii) holding a second-hand dealer's license issued to him and in force at the time the application is made;

(b) in the prescribed manner; and

(c) if accompanied by the prescribed fee.

(4) An application under this section may be made in respect of one market only, but more than one market indorsement may be made on a second-hand dealer's license.

(5) As soon as practicable after an application under this section has been made, the clerk of the court at which it was made shall refer a copy of the application to the senior officer of police for the police district in which is situated the market in respect of which the application was made, for the purpose of enabling that officer to make a report on the application.

(6) An application under this section may be granted—

(a) where a report referred to in subsection (5) contains no objection to the making of the market indorsement or one month has elapsed since the copy of the application was referred to the senior officer of police in accordance with subsection (5) and no report has been made to the clerk by that officer—by the clerk of the court at which the application was made; or

(b) in any other case—by the court at which the application was made,

and may be granted subject to conditions.

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SCHEDULE 1—*continued.*AMENDMENTS TO THE SECOND-HAND DEALERS AND COLLECTORS ACT, 1906—*continued.*

(7) Where an application under this section is granted, the court that, or the clerk of the court who, grants the application—

(a) shall indorse or cause to be indorsed on the second-hand dealer's license of the person who made the application—

(i) a description of the market to which the indorsement relates; and

(ii) any conditions subject to which the indorsement is made; and

(b) may indorse or cause to be indorsed on the license a description of the market stall or pitch to which the indorsement relates.

(8) A market indorsement is, unless sooner cancelled, in force while the license on which it is made is in force.

(9) A market indorsement shall be deemed to be cancelled where the license on which it is made is permitted to be transferred to any person under section 4 (1).

(10) While a market indorsement is in force, the holder of the license on which the indorsement is made is authorised, subject to this Act and to his complying with the conditions, if any, of the indorsement, to carry on the business of a second-hand dealer—

(a) except as provided by paragraph (b)—at the market; or

Second-hand Dealers and Collectors (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE SECOND-HAND DEALERS AND COLLECTORS
ACT, 1906—*continued.*

(b) if a description under subsection (7) (b) is indorsed on the license—at the market stall or pitch,
described in the indorsement.

(3) Section 4A (1)—

Omit the subsection, insert instead :—

(1) In this section—

“exhibition” does not include a market within the meaning of section 4AA;

“exhibition license” means a license granted under subsection (3);

“fair” does not include a market within the meaning of section 4AA;

“function” does not include a market within the meaning of section 4AA.

(4) (a) Section 5—

After “license” where secondly occurring, insert “or in which is situated a market in respect of which an application for a market indorsement has been made”.

(b) Section 5—

After “application” where secondly occurring, insert “or the making of the market indorsement”.

*Second-hand Dealers and Collectors (Amendment).*SCHEDULE 1—*continued.*AMENDMENTS TO THE SECOND-HAND DEALERS AND COLLECTORS ACT, 1906—*continued.*

(5) Section 8 (1A)—

After section 8 (1), insert :—

(1A) cause to be displayed, in such manner as may be prescribed, his name in full and the words “licensed dealer in second-hand goods” at any market stall or pitch at which he is carrying on business pursuant to a market indorsement; and

(6) (a) Section 8B (2) (a1)—

After section 8B (2) (a), insert :—

(a1) where his second-hand dealer's license bears a market indorsement, in his possession at a place (being the market, or the market stall or pitch, as the case may be, at which he is authorised by section 4AA (10) to carry on the business of a second-hand dealer) but only if the goods—

- (i) were acquired by him at that place; and
- (ii) are retained by him at that place only for as long as is reasonably necessary before they are removed to the premises in respect of which he holds a second-hand dealer's license;

(b) Section 8B (2) (c)—

Omit “give; or”, insert instead “give;”.

(c) Section 8B (2) (d)—

Omit “paragraph (c).”, insert instead “paragraph (c); or”.

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE SECOND-HAND DEALERS AND COLLECTORS
ACT, 1906—*continued.*

(d) Section 8B (2) (e)—

After section 8B (2) (d), insert :—

(e) in bona fide transit between a place referred to in paragraph (a1) and premises referred to in paragraph (a1) (ii).

(7) Section 9—

At the end of the section, insert :—

Paragraph (1) does not apply in respect of a licensed second-hand dealer carrying on the business of a second-hand dealer as authorised by section 4AA (10).

(8) Section 18—

Omit “license, cancel such license”, insert instead “license or to carry on business at any market to which a market indorsement made on any license relates, cancel the license or any market indorsement made thereon”.

(9) (a) Section 19—

After “cancelled,”, insert “or at which any market indorsement is made or cancelled.”

(b) Section 19—

After “permit,”, insert “market indorsement”.

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SCHEDULE 1—*continued.*AMENDMENTS TO THE SECOND-HAND DEALERS AND COLLECTORS
ACT, 1906—*continued.*

(10) Section 24 (8A)—

After section 24 (8), insert :—

(8A) the fee to be paid for or in relation to an application
for a market indorsement;
