



New South Wales

Pawnbrokers and Second-hand Dealers Amendment Regulation 1999

under the

Pawnbrokers and Second-hand Dealers Act 1996

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Pawnbrokers and Second-hand Dealers Act 1996*.

JOHN WATKINS, M.P.,
Minister for Fair Trading

Explanatory note

The object of this Regulation is to amend the *Pawnbrokers and Second-hand Dealers Regulation 1997* so as:

- (a) to clarify the application of a transitional provision concerning exemptions from the keeping of computer records, and
- (b) to provide that a separate fee for an application for a licence or renewal of a licence is not payable by each applicant or licensee in a business carried on in partnership, and
- (c) to require the date of birth of a person who pawns goods to be recorded on a pawn pledge, and
- (d) to prescribe certain offences relating to the keeping of records as offences that may be dealt with by the issue of a penalty notice, and
- (e) to make other minor amendments.

This Regulation is made under the *Pawnbrokers and Second-hand Dealers Act 1996*, including sections 16 (Records), 26 (Penalty notices), 28 (Pawnbroker's record of pledges) and 43 (the general regulation-making power).

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Clause 1

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1 Name of Regulation

This Regulation is the *Pawnbrokers and Second-hand Dealers Amendment Regulation 1999*.

2 Amendment of Pawnbrokers and Second-hand Dealers Regulation 1997

The *Pawnbrokers and Second-hand Dealers Regulation 1997* is amended as set out in Schedule 1.

3 Notes

The explanatory note does not form part of this Regulation.

Schedule 1 Amendments

(Clause 2)

[1] Clause 13A Special provisions relating to the keeping of records by certain licensees

Insert “second-hand dealer’s” before “licence” where firstly occurring in clause 13A (1).

[2] Clause 13A (1)

Insert “(being a licence authorising the person to carry on the business of a second-hand dealer, but not the business of a pawnbroker)” after “1 January 1999”.

[3] Clause 13A (7A)–(7C)

Insert after clause 13A (7):

(7A) If, on such evidence as the Director-General may require, the Director-General is satisfied that:

- (a) a second-hand dealer’s licence under the *Second-hand Dealers and Collectors Act 1906* was held by a person for the purposes of a business carried on by a corporation or partnership, and
- (b) in the case of a partnership, there has not been any change in the membership of the partnership since the licence was held on its behalf (except for any person ceasing to be a partner or any spouse of an existing partner becoming a partner),

the Director-General may determine that the corporation or each of those partners is to be regarded, for the purposes of this clause, as the holder of the licence. The determination has effect accordingly.

(7B) For the purposes of subclause (7A), *spouse* includes the other party to a de facto relationship within the meaning of the *Property (Relationships) Act 1984*.

(7C) A reference in subclause (1) to a licence issued under the *Second-hand Dealers and Collectors Act 1906* includes a reference to a licence issued after 30 April 1997 pursuant to

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Schedule 1 Amendments

an application that was made but not dealt with before that date.

[4] Clause 22A

Insert after clause 22:

22A Pawnbroker's record of pledges

For the purposes of section 28 (2) (f) of the Act, particulars of the date of birth of the owner of the goods and of any agent through whom they are pawned are prescribed as particulars required to be included in the record of an agreement by which goods are pawned.

[5] Clause 27A

Insert after clause 27:

27A Carrying on of business in partnership

- (1) The prescribed fees under clauses 8 and 9A are the total amount of the fees payable by all applicants who carry on business in partnership. Accordingly, no amount is payable in connection with an application for a licence or the renewal of a licence by any such applicant if, at that time or during the previous 12 months, the requisite amount has been paid by any other partner in the partnership (whether the payment is for an application for a licence or for the renewal of a licence).
- (2) The Director-General may, for the purposes of clause 13A (6), treat the gross receipts of a business partnership as the gross receipts of the business of each licensee in the partnership.

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Amendments

Schedule 1

[6] Schedule 2 Penalty notices, demerit points and short descriptions of offences

Insert in numerical order of sections in Columns 1, 2, 3 and 4 of Schedule 2:

Section 16 (1)	Records of business not kept	500	2
Section 16 (2)	Records of employment not kept	500	2
Section 16 (3)	Records not kept by promoter of market	500	2
Section 16 (5)	Records not retained	500	2

[7] Schedule 2

Omit “Goods not opened” from Column 2 of the matter relating to section 20.

Insert instead “Inspection of goods not permitted”.

BY AUTHORITY