



Pawnbrokers and Second-hand Dealers Amendment (Miscellaneous) Regulation 2003

under the

Pawnbrokers and Second-hand Dealers Act 1996

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

REBA PAIGE MEAGHER, M.P.,
Minister for Fair Trading

Explanatory note

The *Pawnbrokers and Second-hand Dealers Act 1996* was amended by the *Pawnbrokers and Second-hand Dealers Amendment Act 2002*. Most of those amendments will commence on 15 December 2003.

The *Pawnbrokers and Second-hand Dealers Regulation 2003* contains a Schedule of amendments to that Regulation that were intended to commence when the amendments to the Act commenced.

The object of this Regulation is to provide for most of that Schedule of amendments to the Regulation to commence on 15 December 2003. The amendments that are being commenced concern the application and operation of the *Pawnbrokers and Second-hand Dealers Act 1996*, the licensing of pawnbrokers and second-hand dealers, the regulation of the business of pawnbroking and second-hand dealing and the regulation of markets. The remainder of the amendments to the Regulation will commence when the remainder of the amendments to the Act commence, which is anticipated to be 1 July 2004. The amendments that are not being commenced concern the retention of goods, pawnbroker's records of pledges, agreements to extend redemption periods, variation of pawn agreements, the simultaneous discharge of pawn agreements and re-pawning of goods, the sale of unredeemed goods, notices as to proceeds of sale, interest charges able to be debited under a pawn agreement and the implications of a sale or transfer of a business.

2003 No 797

Pawnbrokers and Second-hand Dealers Amendment (Miscellaneous) Regulation 2003

Explanatory note

This Regulation is made under the *Pawnbrokers and Second-hand Dealers Act 1996*, including section 43 (the general regulation-making power).

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Pawnbrokers and Second-hand Dealers Act 1996

1 Name of Regulation

This Regulation is the *Pawnbrokers and Second-hand Dealers Amendment (Miscellaneous) Regulation 2003*.

2 Amendment of Pawnbrokers and Second-hand Dealers Regulation 2003

The *Pawnbrokers and Second-hand Dealers Regulation 2003* is amended as set out in Schedule 1.

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Pawnbrokers and Second-hand Dealers Amendment (Miscellaneous)
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Schedule 1 Amendments

Schedule 1 Amendments

(Clause 2)

[1] Clause 2 Commencement

Omit “subclause (2)” from clause 2 (1).

Insert instead “subclauses (2) and (3)”.

[2] Clause 2 (2) and (3)

Omit clause 2 (2). Insert instead:

(2) The following provisions commence on 15 December 2003:

- (a) clause 30,
- (b) Schedule 4 [1]–[9] and [12]–[15],
- (c) Schedule 4 [16] (to the extent that it inserts clauses 23A and 23B into this Regulation),
- (d) Schedule 4 [19], [20], [21], [22A], [24] and [25].

(3) The following provisions commence on 1 July 2004:

- (a) Schedule 4 [10] and [11],
- (b) Schedule 4 [16] (to the extent that it omits clause 23 of this Regulation and inserts a new clause 23),
- (c) Schedule 4 [17], [18], [22] and [23].

[3] Schedule 4 Amendment of this Regulation

Insert after Schedule 4 [22]:

[22A] Schedule 1, Forms 3 and 4

Insert after Form 2:

**Form 3 Pawnbrokers and Second-hand Dealers Act
1996**

(Clause 23A of Pawnbrokers and Second-hand Dealers Regulation
2003)

Notice to person pawning goods

Note. The information contained in this notice is to be treated only as a guide to your rights and obligations. In order to fully ascertain your legal rights and obligations you should refer to the relevant legislation.

Pawn ticket

- (1) You must sign an original record of your pawn agreement that contains all the required information.
- (2) You must be given a copy of this record (a pawn ticket) and this ticket must include the following information:
 - (a) The total amount lent on the goods, together with the rate or rates of interest charged by week, month or other period, as the case may be, and any other charges.
 - (b) The date the pawn was made.
 - (c) The equivalent annual interest rate.
 - (d) A fair and reasonable description of your goods, including any serial numbers or other identifying numbers and any hallmark, inscription or engraving.
 - (e) The name, address and date of birth of the owner of the goods and any agent.
- (3) The following information must be included either on the pawn ticket or in a notice accompanying the pawn ticket:
 - (a) A statement in itemised form of:
 - (i) the types of fees and charges that are or may become payable, including those that are or may become deductible from the proceeds of the sale of the goods concerned, and
 - (ii) if they are known, the amounts of those fees and charges and if they are not known, then how those fees and charges will be calculated.
 - (b) The date that the redemption period ends.
 - (c) If the goods consist of more than one item, whether or not the items can be separately redeemed.
 - (d) How often interest will be charged, with an option to pay interest monthly if you want to.
 - (e) The address where the goods will be kept during the redemption period.
 - (f) By what method your goods may be sold if you were not to redeem them, for example, sold by auction at other premises (the address must be given).
- (4) A pawn ticket must not contain or be accompanied by any statement or claim that tries to exclude or misrepresent your rights. Neither can it contain any statement that tries to reduce a pawnbroker's responsibility under common law for the loss of, or damage to, your goods in the pawnbroker's possession.

Redemption of goods

- (1) You may reclaim the goods that you have pawned by paying the outstanding amount of the loan, and any interest due and any fees and charges payable, as stated on your pawn ticket. You must also produce

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Schedule 1 Amendments

your pawn ticket to the pawnbroker and reproduce the signature on the ticket. If you have lost your ticket, you can provide evidence of your identity and a statutory declaration that you are the owner of the goods instead. If you wish an agent to collect the goods on your behalf they will need an authorisation from you or evidence that you are unable to collect the goods yourself or provide an authorisation.

- (2) You may reclaim the goods at any time before the pawnbroker sells or disposes of them, even if the period of the loan has passed. The pawnbroker cannot charge interest after the end of the loan period but may charge you a safekeeping fee (this must be on your pawn ticket). This safekeeping fee cannot be more than that stated on the pawn ticket and the sign in the pawnbroking shop.

Period of loan and payments

- (1) The pawnbroker must provide you with a minimum 3-month loan period. The period of the loan commences on the day the goods are pawned.
- (2) You have a right to pay your interest charges on a monthly basis, the interest does not all have to be paid at the end of the loan period and you can make an interest payment to the pawnbroker at any time during business hours.

Lost or stolen pawn ticket

If your pawn ticket is lost or stolen and you give the pawnbroker a statutory declaration stating that you are the owner of the goods, or an authority from the owner to collect the goods and you also produce proof of your identity, you have a right to redeem the goods.

Sale of unredeemed goods and payment of surplus

If the period of the loan expires and you have not reclaimed the pawned goods the pawnbroker may sell the goods.

If the amount loaned to you for the goods is greater than \$50.00, then the pawnbroker must sell the goods by public auction as soon as it is practical to do so.

The only fees and charges that may be taken off the price paid for the goods are those that are stated on your pawn agreement (these must also be shown on a sign in the pawnbroking shop).

If the goods are sold for more than the loan and any interest or charges payable, then that excess money (or surplus) is payable to you. It is your right to collect that money within 12 months of the sale.

The pawnbroker, or an employee of the pawnbroker, or a person acting on behalf of the pawnbroker, cannot buy the goods. If they do so they will not have legal ownership of the goods.

**Form 4 Pawnbrokers and Second-hand Dealers Act
1996**

(Clause 25C of Pawnbrokers and Second-hand Dealers Regulation
2003)

Disputes about ownership and restoration of goods

You have a legal right to claim goods from these premises that you have good reason to believe are yours. Go to any Police Station and a police officer will advise you of your rights and what you will need to do.

[4] Schedule 4 [23]

Omit “Insert after Form 2”.

Insert instead “Omit the Forms. Insert instead:”