



New South Wales

Pawnbrokers and Second-hand Dealers Regulation 2021

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*.

KEVIN ANDERSON, MP
Minister for Better Regulation and Innovation

Explanatory note

The object of this Regulation is to repeal and remake, with minor amendments, the provisions of the *Pawnbrokers and Second-hand Dealers Regulation 2015*, which would otherwise be repealed on 1 September 2021 by section 10(2) of the *Subordinate Legislation Act 1989*.

This Regulation makes provision for the following—

- (a) the definition of the terms *market* and *second-hand goods* for the purposes of the *Pawnbrokers and Second-hand Dealers Act 1996* (the *Act*),
- (b) the keeping of records by pawnbrokers and second-hand dealers,
- (c) the regulation of pawnbrokers and second-hand dealers, including requirements to display licence details and other information, obtain proof of identity from a person offering to sell or pawn goods and identify goods,
- (d) requirements for pawnbrokers, including in relation to records of pledges, redemption of pawned goods and sale of unredeemed goods,
- (e) disputes relating to the ownership of goods held by a pawnbroker or second-hand dealer,
- (f) fees payable for certain applications under the Act,
- (g) the offences under the Act and this Regulation for which a penalty notice may be issued and the amount of the penalty payable,
- (h) other minor, miscellaneous matters.

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

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Pawnbrokers and Second-hand Dealers Regulation 2021

under the

Pawnbrokers and Second-hand Dealers Act 1996

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Pawnbrokers and Second-hand Dealers Regulation 2021*.

2 Commencement

This Regulation commences on the day on which it is published on the NSW legislation website.

Note. This Regulation repeals and replaces the *Pawnbrokers and Second-hand Dealers Regulation 2015*, which would otherwise be repealed on 1 September 2021 by section 10(2) of the *Subordinate Legislation Act 1989*.

3 Definitions

In this Regulation—

ABN has the same meaning as in the *A New Tax System (Australian Business Number) Act 1999* of the Commonwealth.

contract number means the number for a transaction in which goods are pawned or bought and sold that is uniquely assigned by the licensee to distinguish it from each other pledge, sale or purchase arising in the licensee's business.

the Act means the *Pawnbrokers and Second-hand Dealers Act 1996*.

Note. The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this Regulation.

4 Meaning of “market”

(1) For the purposes of the definition of **market** in section 3(1) of the Act, a market does not include—

- (a) a fundraising activity unless space at the activity is allocated for consideration to stallholders or marketeers who are not members of a charitable organisation or other body connected with the promotion of the fundraising activity, or
- (b) an assembly of stallholders or marketeers at which every person selling second-hand goods—
 - (i) is selling second-hand goods in household quantities, and
 - (ii) has provided the promoter of the assembly with a signed declaration that the person has not traded in second-hand goods on more than 6 days in the year ending immediately before the assembly.

(2) In this clause—

fundraising activity means an activity—

- (a) conducted for the purposes of a fundraising appeal within the meaning of the *Charitable Fundraising Act 1991*, and

- (b) promoted by a person who is or is taken to be the holder of an authority under that Act for the appeal.

5 Meaning of “second-hand goods”

- (1) For the purposes of the definition of *second-hand goods* in section 3(1) of the Act, the following classes of goods are prescribed—
 - (a) items of jewellery that include gemstones or precious metals, including watches,
 - (b) gemstones and precious metals,
 - (c) electric or electronic goods, including mobile phones, global positioning system equipment and audio devices,
 - (d) computer hardware, including tablet computers and video game consoles,
 - (e) photographic and video equipment, including digital cameras, digital imaging equipment and video recording devices,
 - (f) musical instruments,
 - (g) sporting and recreational goods,
 - (h) watercraft used or capable of being used as a means of transportation on water, including parts of a watercraft,
 - (i) portable engine-powered, motorised and air-powered tools and equipment,
 - (j) car accessories.
- (2) Despite subclause (1), the following classes of goods are not prescribed for the purposes of the definition of *second-hand goods* in section 3(1) of the Act—
 - (a) items that are not easily able to be carried or moved,
Example. A piano that is not electric and industrial or farming machinery that cannot be driven or is not portable.
 - (b) a removable game cartridge or disc for a video games console or computer,
 - (c) wheelchairs and other mobility aids,
 - (d) microwave ovens, refrigerators, washing machines or other whitegoods,
 - (e) watercraft that cannot be lawfully towed or otherwise conveyed by a light vehicle within the meaning of the *Road Transport Act 2013*.
- (3) For the purposes of the Act, none of the following activities constitutes the carrying on of a business of buying or selling second-hand goods if the activity is carried out by a person while, or ancillary to, carrying on a business that does not require a licence under the Act—
 - (a) the sale of goods under a power conferred by the *Uncollected Goods Act 1995*,
 - (b) the taking of goods as a trade-in or the sale of goods taken as a trade-in,
 - (c) the sale of goods that have become second-hand goods because of being used in a rental business conducted by the person,
 - (d) the sale of goods for the purpose of taking or enforcing securities over the goods.
- (4) In this clause—
trade-in, in relation to goods, means the taking of the goods as part payment for new or used goods.

6 Application of Act

- (1) For the purposes of section 4(2)(c) of the Act, the Act does not apply in relation to an act or omission arising in connection with the following—

- (a) conducting a recycling program or rubbish collection program,
 - (b) selling goods collected in a recycling program or rubbish collection program,
 - (c) contracting with another person to give the person ownership of goods collected in a recycling program or rubbish collection program.
- (2) For the purposes of section 4(2)(c) of the Act, the Act does not apply in relation to a person to the extent that the person—
- (a) buys second-hand goods only from a government agency or public authority, or
 - (b) deals only in second-hand goods bought from manufacturers as factory seconds.

7 Exclusion of ADI institutions from operation of section 5 of Act

Section 5 of the Act does not apply to goods received by an authorised deposit-taking institution.

Part 2 Records

8 Definition

In this Part—

electronic record-keeping condition means a condition imposed on a licence under clause 9.

9 Licence condition relating to electronic record-keeping

For the purposes of section 11(2) of the Act, it is a condition of a licence that the licensee create and store records electronically, using software, or software of a kind, specified by the Secretary.

10 Records of goods purchased, pawned, forfeited or sold

- (1) For the purposes of section 16(1) of the Act, the following particulars are prescribed in relation to the acquisition or disposal of second-hand goods, the redemption of pawned goods and the disposal of forfeit pledges—
 - (a) if the vendor, consignor or pledgor is—
 - (i) an individual—the name, residential address and date of birth of the individual, or
 - (ii) a corporation—the name, business address and ABN of the corporation,
 - (b) if the transaction is conducted by an individual acting as agent of the vendor, consignor or pledgor—the name, residential address and date of birth of the agent,
 - (c) the number of each document relied on for the purposes of clause 19(1),
 - (d) the contract number for each transaction in which goods are pawned, bought or sold,
 - (e) the date on which—
 - (i) the goods were purchased, taken on consignment, sold or otherwise dealt with, or
 - (ii) a pledge was taken, forfeited, sold or otherwise dealt with,
 - (f) a description of the goods in the state they were in when the licensee received them, including the matters specified in section 28(2)(a) of the Act,
 - (g) for goods purchased by the licensee—the price paid by the licensee,
 - (h) the location of goods not kept at the business or storage premises of the licensee,
 - (i) evidence of a search in public registers such as the Personal Property Securities Register, within the meaning of the *Personal Property Securities Act 2009* of the Commonwealth, for encumbrances in respect of the goods,
 - (j) for jewellery—particulars specified in a notice served on the licensee by the Commissioner of Police,
 - (k) the sale price, if any,
 - (l) the name and address of the purchaser of the goods or forfeited items, unless—
 - (i) the sale price was less than \$100, or
 - (ii) for a forfeited item—the item was sold by auction conducted away from the business premises of the pawnbroker.
- (2) A record required to be kept by a second-hand dealer under section 16(1) of the Act for the acquisition or consignment of second-hand goods must be made—

- (a) by the end of the day on which the goods were acquired or taken on consignment by the second-hand dealer, or
 - (b) as soon as possible after the acquisition or consignment of the goods, if the goods were received by, or consigned to, the second-hand dealer at premises other than the premises nominated in the second-hand dealer's application for a licence or afterwards notified to the Secretary.
- (3) A record required to be kept by a licensee under section 16(1) of the Act for the disposal of second-hand goods or forfeit pledge must be made by the end of the day on which the goods were disposed of by the licensee.

11 Records of imported goods

For the purposes of section 16(1) of the Act, if a transaction consists of the acquisition of second-hand goods that are to be or have been imported to Australia from a foreign country by the licensee, the licensee must keep—

- (a) all original documents sent or obtained in relation to the import declaration for the goods in accordance with the *Customs Act 1901* of the Commonwealth, and
- (b) a description of the goods or contract to which the import declaration relates.

12 Contract or stock number to be displayed on item

- (1) A licensee must, for each item taken in trade or pawn, display the contract number or stock number on the item, or on a label attached to the item, at all times the item is in the licensee's possession.

Maximum penalty—20 penalty units.

- (2) This clause does not apply to an item that displays a unique identifier if it is not reasonably practicable to display the contract number or stock number on the item or on a label attached to the item.

Example. Watercraft.

- (3) In this clause—
- stock number** for an item is a number that is—
- (a) uniquely assigned by the licensee to distinguish the item from each other item held by the licensee in the licensee's business, and
 - (b) the same as or different from the contract number for the item, and
 - (c) recorded electronically and in paper form, and
 - (d) linked to the contract number for the item in the electronic and paper record.

13 Records of persons employed in licensed businesses

For the purposes of section 16(2) of the Act, the following particulars are prescribed—

- (a) the name, date of birth and residential address of each person employed in the licensed business,
- (b) the first and last dates of employment of each person employed in the licensed business.

14 Records of markets

For the purposes of section 16(3) of the Act, the following particulars are prescribed—

- (a) the date on which the market is held,

- (b) the location of the market,
- (c) the name and residential address of each unlicensed vendor at the market offering second-hand goods for sale and, if known, the vehicle registration number of the vehicle used by the unlicensed vendor,
- (d) a general description of the goods offered for sale by each unlicensed vendor,
- (e) details of identification documents produced by each unlicensed vendor.

15 Form of records

Records kept by a licensee for the purposes of the Act must—

- (a) be kept in the form required by the licence, and
- (b) permanently record the date on which each record was first made and on which each entry was made, and
- (c) include the contract number for each item taken in trade or pawn.

16 Hard copies in loose-leaf form

- (1) Despite the electronic record-keeping condition, the licensee may keep a hard copy in loose-leaf form of—
 - (a) a written statement as to the ownership of goods obtained from a customer under clause 19(3), and
 - (b) an agreement by which goods were pawned under section 28 of the Act.
- (2) Hard copies kept in loose-leaf form must—
 - (a) include the contract number for each item taken in trade or pawn, and
 - (b) be kept in order of contract number.

17 Providing records to Commissioner of Police

- (1) For the purposes of section 16(5A) of the Act, particulars of a record must be provided to the Commissioner of Police—
 - (a) for records subject to an electronic record-keeping condition—
 - (i) by electronic transmission within 3 days after the record was made, or
 - (ii) if other arrangements have been made by the Commissioner of Police—in accordance with the arrangements, and
 - (b) for records not subject to an electronic record-keeping condition but required to be kept under the Act—if so directed by the Commissioner, in the manner and within the time directed by the Commissioner.
- (2) This clause does not apply to a record required to be kept for the purposes of section 29A of the Act.

Part 3 Regulation of licensed businesses

18 Display of licence details and other information

- (1) For the purposes of section 14(1) and (2) of the Act, a licensee must display the following particulars—
 - (a) the name of the licensee,
 - (b) the licence number,
 - (c) the business authorised by the licence to be carried on by the licensee,
 - (d) a statement containing the words “information provided to the licensee by or about a customer in relation to the trading of second-hand goods may be given to the police”.
- (2) For the purposes of section 14(2) of the Act, the particulars must—
 - (a) be displayed on a sign in a prominent position at each place at which the licensee carries on the business of a licensee, and
 - (b) be clearly visible and easily read by the public.

19 Evidence of identity and title of supplier of goods

- (1) For the purposes of section 15(1A) of the Act, the documentary evidence for a person by whom goods are being offered (the *customer*) may be one of the following—
 - (a) a card or other document that—
 - (i) bears the customer’s photograph, and
 - (ii) is issued by an Australian authority, and
 - (iii) includes the customer’s name, signature and residential address,
 - (b) a combination of cards or other documents that—
 - (i) are issued by organisations or persons other than the customer and that include the customer’s name, signature and residential address, and
 - (ii) includes a card or document issued by an Australian authority,
 - (c) a card or other document, such as a foreign passport, issued by a foreign authority that—
 - (i) bears the customer’s photograph, and
 - (ii) includes the customer’s name, signature and residential address, which may be a permanent or temporary residential address in Australia,
 - (d) a combination of cards or other documents, such as a foreign passport, that includes—
 - (i) a card or document issued by a foreign authority that bears the customer’s photograph and includes the customer’s name, signature and residential address, which is not a permanent or temporary residential address in Australia, and
 - (ii) a document, such as a letter from a landlord or owner of a hotel or similar premises, that includes the customer’s permanent or temporary residential address in Australia.
- (2) For the purposes of section 15(1A) and (1B) of the Act, the following further particulars of a customer are required—
 - (a) for a customer who is an individual—the customer’s date of birth shown in a document issued by an Australian or foreign authority,
 - (b) for a customer who is a corporation—the customer’s ABN shown in a document issued by an Australian authority.

- (3) For the purposes of section 15(3) of the Act, the licensee must obtain from the customer a written statement, in the form approved by the Secretary, identifying the owner of the goods.
- (4) A licensee must not accept as evidence of the identity of a customer a card or document that appears to the licensee to have been forged or tampered with.
- (5) In this clause—
Australian authority means the government or a statutory authority of New South Wales, the Commonwealth, another State or a Territory.
foreign authority means the government or a government authority of a foreign country or a state or other part of a foreign country.

20 Exemptions from evidence requirements for overseas supplier of goods

A licensee is exempted from the operation of section 15(1) and (3) of the Act if—

- (a) the goods being offered for sale to the licensee are to be or have been imported to Australia from a foreign country by the licensee, and
- (b) the licensee has communicated an import declaration for the goods in accordance with the *Customs Act 1901* of the Commonwealth.

21 Retention of goods by licensee

- (1) Section 21(1) of the Act does not apply to—
 - (a) goods on consignment with a licensee for sale, or
 - (b) goods purchased by a licensee at auction, or
 - (c) goods purchased by a licensee from another licensee if, before the purchase, the other licensee kept the goods for a period required by section 21 of the Act or a notice under that section, or
 - (d) pawned goods, or
 - (e) goods purchased by tender or auction from a government agency, a State owned corporation or a statutory authority constituted by or under an Act for a public purpose.
- (2) For the purposes of section 21(1)(a) of the Act, a licensee may keep watercraft at a convenient place in New South Wales.

22 Lending or parting with licence

- (1) A licensee must not purport to transfer, and must not lend, the licence to another person or allow the use of the licence by another person.
- (2) A person must not purport to obtain a transfer of, or borrow or use, another person's licence except in accordance with clause 23.
Maximum penalty—20 penalty units.

23 Carrying on of business on behalf of licensee's estate or following bankruptcy

- (1) If a licensee dies, becomes mentally incapacitated or is declared bankrupt, the legal personal representative or trustee of the licensee's estate may, in person or by a designated agent, carry on the business authorised by the licence for the relevant period.
- (2) A person carrying on a business in accordance with this clause must immediately notify the Secretary of that fact.
- (3) For the purposes of the Act and this Regulation—

- (a) a person carrying on a business in accordance with this clause is taken, while so doing, to be the licensee, and
 - (b) an agent through whom the person acts for the purposes of the business is taken to be an employee of the business.
- (4) If the licence concerned expires during the relevant period, sections 6 and 7 of the Act do not apply so as to make the person carrying on business in accordance with this clause guilty of an offence because of doing so.
- (5) The Secretary may, by written notice to a person carrying on business in accordance with this clause, revoke the authority conferred by this clause, if the Secretary considers it appropriate in the circumstances.
- (6) In this clause—
relevant period means the period of 3 months after the death or incapacity of the licensee or a court order declaring the licensee bankrupt.

24 Unique identifier for combined licence

Despite section 20(3)(b)(i) of the *Licensing and Registration (Uniform Procedures) Act 2002*, the same unique identifier may relate to a pawnbroker's licence and a second-hand dealer's licence if both are contained in the same document, as referred to in section 20(5) of that Act.

Part 4 Special provisions relating to pawnbrokers

25 Equivalent annual interest rate

- (1) For the purposes of section 28(2)(c) of the Act, the equivalent annual interest rate is the periodic interest rate multiplied by the number of times the interest period occurs in 1 year.

Example. If the interest period is 1 month, the equivalent annual interest rate is 12 times the periodic interest rate.

- (2) In this clause—

interest period means the period of time during which a rate of interest applies.

periodic interest rate means the rate, expressed as a percentage, for each interest period at which interest accrues on the portion of the loan that remains unpaid.

26 Exemptions relating to pawnbroker's record of pledges

A licensee is exempt from the operation of section 28(2)(a) of the Act, to the extent it requires the licensee to record a serial number appearing on pawned goods that are batteries, or chargers, for cordless second-hand goods.

27 Pawnbroker's record of pledges

- (1) For the purposes of section 28(2)(a) of the Act, a fair and reasonable description of goods must include—

- (a) for a mobile phone—the International Mobile Equipment Identity (IMEI) number of the mobile phone, and
- (b) for a mobile phone, tablet, computer or laptop, containing a wireless local area network (WLAN) interface—the media access control (MAC) address for the interface.

- (2) For the purposes of section 28(2)(f) of the Act, the following particulars are required to be included—

- (a) if the owner of the goods is an individual—the owner's date of birth shown in a document issued by an Australian or foreign authority,
- (b) if the owner of the goods is a corporation—the owner's ABN shown in a document issued by an Australian authority,
- (c) if the goods are pawned by an individual as the agent of the owner—the agent's date of birth shown in a document issued by an Australian or foreign authority,
- (d) the identity of the person who took the pawn on behalf of the pawnbroker, which may be indicated by the name of the person or by a number by which the licensee can identify the person,
- (e) a statement of the frequency with which interest charges are to be debited and of the times at which interest charges are payable,
- (f) a statement to the effect that, if provision is made for interest charges to be payable at intervals of greater than 1 month, the interest charges may instead be paid at monthly intervals at the option of the person who pawned the goods,
- (g) the address of the premises where the goods will be located during the redemption period,
- (h) if the goods consist of more than 1 item—a statement as to whether or not the goods may be separately redeemed,
- (i) the date on which the redemption period ends.

- (3) In this clause—

Australian authority and *foreign authority* have the same meanings as in clause 19.

28 Notice of rights and obligations of person pawning goods

For the purposes of section 28(5A)(a) of the Act, a notice incorporating or accompanying a pawn ticket must—

- (a) be legible, and
- (b) not include wording other than the wording required by the form approved for the notice.

29 Replacement pawn tickets

- (1) During the 3-year period commencing on the date a person pawns goods to the licensee, if requested by the person, a licensee must provide the person with a copy of the pawn ticket for the goods free of charge.
- (2) Before providing the copy of the pawn ticket to the person, the licensee must obtain evidence of the person's identity of a kind specified in clause 19(1).

30 Redemption of pawned goods

- (1) For the purposes of section 29(6) of the Act, the identity of the person (the *customer*) attempting to redeem pawned goods from a licensee's premises may be ascertained by—
 - (a) the customer producing the pawn ticket and reproducing, in the presence of the licensee or an employee of the licensee, the signature shown on the ticket, or
 - (b) if the customer does not produce a pawn ticket—evidence of the customer's identity of a kind specified in clause 19(1).
- (2) A customer who does not produce the pawn ticket must produce—
 - (a) a written declaration that the customer is the owner of the goods, or
 - (b) a written notice signed by the owner that—
 - (i) specifies the name and address of the owner of the goods, and
 - (ii) authorises the goods to be collected by the customer, or
 - (c) evidence reasonably sufficient in the circumstances to prove the death or incapacity of the owner or the owner's inability to sign an authority.

31 Record of an extending agreement

For the purposes of section 29A(5) of the Act, the record of an extending agreement must specify the amount of a rate, fee or charge payable under the extending agreement, if known by the licensee.

32 Sale of unredeemed goods

For the purposes of section 30(1) of the Act, the prescribed amount is \$100.

33 Notice as to proceeds of sale

For the purposes of section 31A(2)(b) of the Act, the prescribed amount is \$100.

Part 5 Disputes as to ownership of goods and restoration of goods

34 Restoration notices

- (1) For the purposes of section 32F(3) of the Act, a restoration notice must contain the following particulars and information—
 - (a) if the claimant is an individual—the claimant’s name, address, date of birth and signature,
 - (b) if the claimant is a corporation—
 - (i) the corporation’s name, business address and ABN, and
 - (ii) a signed statement by an executive officer of the corporation authorising a named individual to act on behalf of the corporation, and
 - (iii) the name and the signature of the individual acting on behalf of the corporation,
 - (c) the connection between the claimant and the goods concerned,
 - (d) evidence supporting the claimant’s title to the goods,
 - (e) the present location of the goods,
 - (f) a description of the goods, including a serial number, if any,
 - (g) alternative means of identifying the goods,
Example. An etching or permanent marking.
 - (h) if there is a theft report for the goods—the COPS event number,
 - (i) the date the matter was first reported to a police officer,
 - (j) the police description of the goods,
 - (k) the contract number for the goods,
 - (l) the name, contact details and signature of the police officer issuing the notice,
 - (m) if an insurance claim has been made in relation to the goods—the name and business address of the insurer,
 - (n) the name and licence number of the licensee, including, if the licensee is a corporation, the names of the directors of the corporation,
 - (o) the address of the business and storage premises of the licensee.
- (2) For the purposes of section 32F(7) of the Act, a restoration notice ceases to be operative if the claimant withdraws the allegation made under section 32F(1) of the Act.

35 Jurisdiction of Local Court

- (1) For the purposes of section 32I(1)(a) of the Act, the Local Court has jurisdiction to determine an action referred to in section 93 of the *Civil Procedure Act 2005* brought by a claimant for goods in the possession of a licensee and to which a restoration notice relates.
- (2) This clause does not apply if the licensee makes an application under section 32G of the Act in relation to the goods within 28 days after the restoration notice is served.

36 Signage to be displayed

For the purposes of section 32L of the Act, the notice must contain the following statement—

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 a police station and a police officer will advise you of your rights and what you will need to do.

Part 6 Fees

37 Fees

- (1) The fees payable for the purposes of the Act are listed in Schedule 2.
- (2) An amount specified in relation to an application fee as the processing component is taken to be a processing fee for the purposes of Part 2 of the *Licensing and Registration (Uniform Procedures) Act 2002*.
- (3) The prescribed fees for items 1–4 in Schedule 2, Part 1 are the total amount of fees payable by all applicants carrying on business as a partnership.

38 Partial refund of application fees for certain licences

- (1) This clause applies to an application fee for a licence with a term of 3 or 5 years, paid by or on behalf of a person who—
 - (a) has surrendered the licence, or
 - (b) if the fee was paid by or on behalf of an individual—has died.
- (2) The following persons may apply to the Secretary for a refund of an application fee—
 - (a) the person who paid the application fee,
 - (b) a person on behalf of the person who paid the application fee,
 - (c) the legal representative of a deceased individual who paid the application fee.
- (3) A person may not apply for a refund if the licence was surrendered as a result of disciplinary action.
- (4) The amount of the refund is—
 - (a) for a licence with a term of 3 years—one-third of the fixed component of the application fee paid for each complete year remaining for the licence, or
 - (b) for a licence with a term of 5 years—one-fifth of the fixed component of the application fee paid for each complete year remaining for the licence.
- (5) In this clause—

application fee means an application fee for the following—

 - (a) the grant of a licence,
 - (b) the renewal of a licence,
 - (c) the restoration of a licence.

fixed component, of an application fee, is the amount set out in Column 2 of Part 1 of Schedule 2 in relation to the fee.

39 Secretary's power to waive, reduce, postpone or refund fees

The Secretary may waive, reduce, postpone or refund, in whole or part, a fee payable or paid under the Act or this Regulation if the Secretary is satisfied it is appropriate because—

- (a) the person who is to pay or has paid the fee is suffering financial hardship, or
- (b) special circumstances exist.

Example. Special circumstances include a natural disaster or recovery from a natural disaster.

Part 7 Miscellaneous

40 Certification of number of demerit points

For the purposes of section 27(6) of the Act, the Secretary is a prescribed officer.

41 Records to be kept in English language

A record, notice, sign or other document required to be kept under this Regulation is required to be kept in the English language.

42 Repeal and savings

- (1) The *Pawnbrokers and Second-hand Dealers Regulation 2015* is repealed.
- (2) Any act, matter or thing that, immediately before the repeal of the *Pawnbrokers and Second-hand Dealers Regulation 2015*, had effect under that Regulation continues to have effect under this Regulation.
- (3) An existing licence is not subject to the electronic record-keeping condition under clause 9 of this Regulation until 1 January 2023.
- (4) In this clause—
existing licence means a licence that, immediately before the repeal of the *Pawnbrokers and Second-hand Dealers Regulation 2015*, was in force and was not subject to an electronic record-keeping condition under clause 12 of that Regulation.

Schedule 1 Penalty notice offences and demerit points

Application of Schedule

- (1) For the purposes of sections 26 and 27 of the Act—
 - (a) each offence created by a provision specified in this Schedule is an offence for which a penalty notice may be issued, and
 - (b) the amount payable for the penalty notice is the amount specified in Column 2 opposite the provision, and
 - (c) the number of demerit points prescribed for the offence is the number specified in Column 3 opposite the provision.
- (2) If the provision is qualified by words that restrict its operation to limited kinds of offences or to offences committed in limited circumstances, the penalty notice may be issued only for—
 - (a) that limited kind of offence, or
 - (b) an offence committed in those limited circumstances.

Column 1	Column 2	Column 3
Provision	Penalty	Number of demerit points
Offences under the Act		
Section 6	\$1,100 for an individual or \$2,200 for a corporation	Nil
Section 7	\$1,100 for an individual or \$2,200 for a corporation	Nil
Section 12(2)	\$330	2
Section 12A(2)	\$330	2
Section 12B(2)	\$550	2
Section 14	\$330	Nil
Section 15(1)	\$330	2
Section 15(3)	\$330	2
Section 15A(1)	\$330	Nil
Section 16(1), (2), (3), (5) and (5A)	\$550	2
Section 16(6)	\$330	2
Section 17(6)	\$330	2
Section 20(4)	\$330	2
Section 21(4)	\$550	2
Section 28(7)	\$550	2
Section 29	\$330	2
Section 29A(11)	\$330	2
Section 29B(2)	\$550	2
Section 30(1) and (3)	\$330	2
Section 31(2)	\$330	2

Column 1	Column 2	Column 3
Provision	Penalty	Number of demerit points
Section 31A(1)	\$550	2
Section 32(4)	\$330	2
Section 32C	\$330	Nil
Section 32F(4)	\$550	2
Section 32L	\$330	Nil
Section 37	\$110	Nil
Offences under this Regulation		
Clause 12(1)	\$330	2
Clause 22	\$330	2

Schedule 2 Fees

Part 1 Fees payable

clause 37

Item	Column 1	Column 2	Column 3	Column 4
	Type of fee	Fixed component (in fee units)	Processing component (in fee units)	Total (in fee units)
1	Application for grant of licence			
	(a) 1 year	3.35	1.91	5.26
	(b) 3 years	10.05	1.91	11.96
	(c) 5 years	16.75	1.91	18.66
2	Application for renewal of licence			
	(a) 1 year	3.35	0.45	3.8
	(b) 3 years	10.05	0.45	10.5
	(c) 5 years	16.75	0.45	17.2
3	Application for restoration of licence			
	(a) 1 year	3.35	0.92	4.27
	(b) 3 years	10.05	0.92	10.97
	(c) 5 years	16.75	0.92	17.67
4	Application for replacement of licence	Nil	0.46	0.46
5	Application for certificate containing extract from register	0.18	Nil	0.18

Part 2 Adjustment of fees for inflation

1 Definitions

In this Schedule—

CPI number means the Consumer Price Index (All Groups Index) for Sydney published by the Australian Bureau of Statistics in the latest published series of that index.

fee unit—see clause 2.

financial year means a period of 12 months commencing on 1 July.

2 Calculation of fee unit

- (1) For the purposes of this Schedule, a **fee unit** is—
- in the financial year 2020–2021—\$105.48, and
 - in each subsequent financial year—the amount calculated as follows—

$$\$100 \times \frac{A}{B}$$

where—

A is the CPI number for the March quarter in the financial year immediately preceding the financial year for which the amount is calculated.

B is the CPI number for the March quarter of 2017.

- (2) The amount of a fee unit is to be rounded to the nearest cent and an amount of 0.5 cent is to be rounded down.
- (3) However, if the amount of a fee unit calculated for a financial year is less than the amount that applied for the previous financial year, the amount for the previous financial year applies instead.

3 Rounding of fee amounts and contributions

The amount of a fee calculated by reference to a fee unit, including the amount of a component of a fee, is to be rounded to the nearest dollar and an amount of 50 cents is to be rounded down.

4 Notice of indexed fees

- (1) As soon as practicable after the CPI number for the March quarter is first published by the Australian Statistician, the Secretary is required to—
 - (a) notify the Parliamentary Counsel of the amount of the fee unit for the next financial year so that notice of the amount can be published on the NSW legislation website, and
 - (b) give public notice on an appropriate government website of the actual amounts of the fees applying in each financial year resulting from the application of the amount of a fee unit calculated under this Part.
- (2) This Part operates to change an amount of a fee that is calculated by reference to a fee unit and the change is not dependent on the notification or other notice required by this clause.