

Act No. 30, 1906.

An Act to provide for the licensing and regulation of second-hand dealers in and collectors of certain old wares; to regulate the sale of second-hand articles and old wares; to amend the Early Closing Act, 1899, and the Early Closing (Amendment) Act, 1900; and for other purposes. [12th December, 1906.]

SECOND-HAND
DEALERS AND
COLLECTORS.

BE it enacted by the King'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:—

Preliminary.

1. This Act may be cited as the "Second-hand Dealers and Collectors Act, 1906," and shall come into force on the first day of January, one thousand nine hundred and seven. Short title.

2. In this Act, unless inconsistent with the subject-matter or context, the following terms have the meanings hereinafter respectively assigned to them (that is to say):— Definition.

"Collector" means any person engaged in collecting old wares of any kind, whether on his own behalf or on behalf of an employer, for the purposes of sale or trade, but shall not include a person who buys old wares at a bona fide advertised auction sale conducted by a licensed auctioneer. Collector.

"Court" means any stipendiary or police magistrate, or any two justices of the peace.

"License" means license under this Act.

"Old wares" means partly-manufactured metal goods, second-hand anchors, cables, sails, old junk, rags, bones, bottles, syphons, syphon tops, old copper, old iron, old brass, old lead, old muntz metal, scrap metal, broken metal, defaced metal goods, old wearing apparel, old boots, second-hand furniture, second-hand tools, second-hand drapery goods, second-hand jewellery, and old stores of every description. Special wares.

"Ship-chandler" means any shopkeeper in a seaport town whose principal business is the sale of cordage, canvas, and other furniture, and general necessaries of ships.

"Second-hand

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Second-hand dealer.

“Second-hand dealer” means any person, other than a ship-chandler or ship-owner, who carries on the business of dealing in or buying and selling old wares of any kind, whether such person deals in any other goods or not.

“Truck” means truck, handcart, cart, barrow, or vehicle of any kind whatsoever.

PART I.

Second-hand dealers.

Dealers must be licensed.
South Australian Act 1899, No. 716, s. 8.

3. Any person who carries on business as a second-hand dealer without being licensed so to do shall be guilty of an offence under this Act.

Application for dealer's license or transfer.
Ibid., s. 9.

4. A second-hand dealer's license, in the Form in the First Schedule hereto, may be granted and issued, and a transfer thereof to any person or premises may be permitted by the court nearest to the premises in respect of which the license is applied for or was granted.

Such license, unless sooner cancelled, shall remain in force for one year from the date on which it was issued, but may, on application to a court in the prescribed manner, be renewed from year to year as the court thinks fit. The sum of one pound shall be paid for every such license, and for every renewal thereof.

Notice of application for license or transfer thereof.
Ibid., s. 10.

5. No second-hand dealer's license shall be granted or issued, nor shall any transfer thereof be permitted, unless the applicant therefor, ten days at the least before his application, gives or sends by registered letter to the clerk of the court at which he intends to apply, and to the senior officer of the police district in which his premises are situated or in which he resides, a notice in writing signed by him of his intention to apply for the same, setting forth his name and address and the place where his business is intended to be carried on. Such officer, or any person authorised by him, may show cause against the granting of any such application.

Police may show cause.

Proposed transferee to be applicant.
Ibid., s. 11.

6. Every application for permission to transfer a second-hand dealer's license to any person shall be made by the proposed transferee.

Indorsement of permission to transfer.
Ibid., s. 12.

7. When the transfer of a second-hand dealer's license to any person or premises is permitted, the fact and date of such permission, and the name and description of the person to whom, or description of the premises to which, the license is permitted to be transferred, shall be indorsed upon such license, and the person named as the transferee, or the premises described in such indorsement, shall thereupon and thenceforth for all purposes be deemed to be the person to whom or the premises in respect of which the license was granted.

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8. If any licensed second-hand dealer does not—
- (1) cause to be painted and kept painted in such manner as may be prescribed his name in full, and the words "licensed dealer in old wares" upon some conspicuous part of the outside of the premises in respect of which his license is granted; and Name, &c., to be painted on outside of premises.
South Australian Act, 1899, No. 716, s. 13.
 - (2) enter in a book, in the form in the Second Schedule to this Act, the name of every person to whom he shall lend or let on hire, whether gratuitously or otherwise, any truck, and the date when and the period for which such truck was lent or let on hire, and the amount (if any) charged for such lending or hire; and Entry to be made on letting truck.
 - (3) keep a book in the form of the Third Schedule hereto, and enter correctly therein all particulars mentioned in such Schedule; and Book to be kept showing old wares purchased or received.
 - (4) keep a book, in the form of the Fourth Schedule hereto, and enter correctly therein all particulars mentioned in such Schedule; and Book to be kept showing old wares sold or disposed of.
 - (5) produce to any member of the police force, whenever requested, the book or books by this Act required to be kept by him, and any old wares purchased or received by him then in his possession; and
 - (6) without delay give notice to the officer on duty at the police station nearest to any place where he carries on business of any article which may come into his possession answering the description of any article described as having been stolen, embezzled, or fraudulently obtained, in any written or printed or verbal information given to him by any member of the police force; and Dealer to inform police when articles supposed to be stolen come into his possession.
 - (7) keep all old wares purchased or received by him, excepting old wares purchased from a licensed auctioneer, without changing the form in which they were when so purchased, or disposing of the same in any way for a period of five days after such wares have been purchased or received, Form of old wares not to be changed for five days.
- he shall be guilty of an offence under this Act.
9. If any licensed second-hand dealer—
- (1) carries on the business of a second-hand dealer upon any other premises than those to which his license applies; or Dealer to carry on business on licensed premises only.
 - (2) at any time upon demand made to him, upon any part of the premises upon which he carries on the business of a second-hand dealer, by any member of the police force, refuses or, without reasonable excuse, fails to produce and show his license in force at the time of such demand; or Dealer to produce license.
Ibid.
 - (3) lends or lets on hire any truck to any person other than a licensed collector; or Trucks to be lent to licensed collectors only.
 - (4) charges for the use or hire of any truck any sum exceeding the maximum amount prescribed; or Not to make excessive charge for use of trucks.
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Old wares not to be purchased from persons under fourteen.

Restriction on purchase or receipt of special wares.

- (5) by himself or any other person on his behalf purchases or receives any old wares from any person apparently under the age of fourteen years; or
- (6) by himself or any other person on his behalf carries on business before the hour of seven o'clock in the morning, he shall be guilty of an offence under this Act.

PART II.

Collectors.

Collectors to be licensed.
South Australian Act, 1899, No. 716, s. 3.

No license to be issued to persons under the age of fourteen years.

Effect and duration of license.

Fee.

Collector to leave address with police officer and report himself.
Ibid. s. 5.

Change of address to be notified to police.

License to be produced on demand.

10. (1) Any person carrying on the business of a collector and wishing to obtain a collector's license shall deliver to the clerk of a court within the police district in which he resides an application in form contained in the Fifth Schedule hereto, together with a certificate signed by an officer of police of or above the rank of sergeant stationed in the said district, in the form contained in the Fifth Schedule.

(2) Upon such application the court may issue a license in the form of the Sixth Schedule hereto: Provided always that no such license shall be issued to any person under the age of fourteen years.

(3) Such license shall entitle the holder thereof to carry on the business of collector in all parts of the state, and unless sooner cancelled shall continue in force for one year from the date on which it was issued, but may, on a similar application and with a like certificate, be renewed from year to year as the court thinks fit.

(4) There shall be payable in respect of every such license, and of every annual renewal thereof, the fee of one shilling.

11. If any collector shall not—

- (1) within seven days after being licensed, leave the address of his place of abode in writing, signed by him, with the officer in charge of the police station nearest to the place of such address, and also within the same period, report himself and exhibit his license to such police officer; and
- (2) whenever and so often as he changes his place of abode, notify by writing, signed by him, such change to the officer in charge of the police station at which he had left his address in compliance with the last preceding subsection within seven days after having so changed his abode; and
- (3) at any time, upon demand, produce his license to any member of the police force, or to any person from whom he has within twenty-four hours previously bought or offered to buy, or collected or offered to collect, any old wares without reasonable excuse; and

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- (4) unless he shall sooner sell the same to a licensed dealer, keep all old wares other than bottles purchased or received by him, or old wares purchased from a licensed auctioneer, in the same state and condition as they were in when so purchased or received for four days at least next after such purchase or receipt, or if he sell the same within the said period, deliver the same to the licensed dealer purchasing the same in the same state and condition as when purchased or received,

Special wares to be kept for four days.

he shall be guilty of an offence under this Act.

12. If any collector—

- (1) lends or lets out on hire his license to any person whomsoever, whether licensed or not ; or Licenses not to be let out. South Australian Act, 1899, No. 716, s. 6.
- (2) sells or otherwise disposes of any old wares other than bottles, syphons, or syphon tops to any person other than a licensed second-hand dealer; or Collectors to sell to licensed dealers only.
- (3) sells or otherwise disposes of bottles, syphons, or syphon tops which bear a registered trade mark to any person other than a licensed second-hand dealer or the owner of such registered trade mark or his agent; or
- (4) carries on his business of collecting old wares or of buying or selling the same before seven o'clock in the morning, or after six o'clock at night; or Collectors to observe certain hours.
- (5) uses any truck for the purposes of his business which shall not have painted or marked upon it in such manner, and with such letters, as may be prescribed, a number, and also the name in full and the address of the owner thereof, whether the collector using the truck shall be the owner or not; or Trucks to have address on them.
- (6) allows any person other than a licensed collector, or allows more than one licensed collector, to accompany him when using a truck in the business of collecting old wares; or Two persons only to attend truck.
- (7) enters any premises without the permission of the owner or occupier thereof; or Collectors not to enter premises without permission.
- (8) having entered upon any premises, with or without the permission of the owner or occupier thereof, neglects or refuses to immediately leave such premises when directed to do so by such owner or occupier or his servant or agent; or To depart when directed.
- (9) uses insulting or offensive language, or is guilty of insulting behaviour, whilst in pursuit of his occupation as a collector in any place, whether private or public, Not to use offensive language or behaviour.

he shall be guilty of an offence under this Act.

On a second conviction for any offence against subsection one of this section the offender's license shall be from thenceforth forfeited and void, and he shall be thenceforth incapable of holding a collector's license.

Any

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May be arrested
without warrant.

Any person may, without warrant, arrest any offender against any of the provisions of subsections seven and eight of this section and deliver him into the custody of any member of the police force, who shall then apprehend such offender and take him in due course before any court to be dealt with for his offence.

Collectors to be licensed.
South Australian Act,
1890, No. 710, s. 7.

License not to be
borrowed.

Dealers only to
purchase old wares.

No one but a
licensed collector to
accompany truck.

13. If any person—

- (1) acts as a collector without being licensed so to do; or
 - (2) hires or borrows or acts as a collector with or under colour of any license issued to any other person, or of any license in which his own real name is not inserted as the name of the person to whom the same is granted; or
 - (3) not being a licensed second-hand dealer, purchases or receives from any collector any old wares other than bottles, syphons, or syphon tops; or
 - (4) not being a licensed collector, accompanies any truck then being used in the business of collecting old wares,
- he shall be guilty of an offence under this Act.

PART III.

Miscellaneous.

Ceasing to be licensed.
Ibid. s. 15.

14. Every person ceases to be licensed on the expiration, cancellation, or forfeiture of his license.

Presumption that
persons unlicensed.
Ibid. s. 17.

15. In any prosecution under this Act, any allegation in any information that any person is unlicensed need not be proved, and such person shall be deemed to be unlicensed until the contrary be proved by the production of a license or otherwise.

Presumption of
possession of old
wares.
Ibid. s. 18.

16. Old wares shall be deemed to be in the possession of a second-hand dealer when they are placed in any house, outhouse, yard, garden, or place occupied by him, or have been removed with his knowledge and permission to any other place without a bona fide sale of such old wares having been made by him.

Entries in dealer's
books deemed made
by him.
Ibid. s. 19.

17. Every entry in any book kept or belonging to any second-hand dealer, or found on his licensed premises, shall be deemed, unless the contrary be shown, to have been made by or with the authority of such dealer.

Licenses may be
revoked.
Ibid. s. 20.

18. Any stipendiary or police magistrate or two justices of the peace sitting in open court may, on the complaint of any person that any licensed person has been guilty of any violation of any of the provisions of this Act, or of any regulations, or that such person is in any other respect unfit to hold any license, cancel such license by any order under his or their hands and seals.

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19. The clerk of any court at which any license is granted, permitted to be transferred, or cancelled, shall enter particulars of the same in a register to be kept in such court, and shall send a copy of such entries to the senior officer of the police district in which such court is situated, who shall cause the same to be entered in a register to be kept at his office and at any other place which may be prescribed.

20. Any officer of the police force above the rank of senior constable, may, at any time by day or night, demand entrance into the place of business of any second-hand dealer, or the appurtenances thereof, and inspect the old wares and books of any such dealer therein, and may record in the books by this Act required to be kept the day and hour of his visit, and write his initials or name opposite the entry relating to any article examined by him.

If, after demand, admittance be refused, or be delayed for such time as shall make it appear that wilful delay was intended, the offender shall be guilty of an offence under this Act, and such officer of the police force may break into such place of business or the appurtenances thereof.

21. Any justice of the peace, upon complaint made before him by any person that the complainant has reason to believe, and does believe, that any old wares stolen or unlawfully obtained are kept in any house, shop, room, or place by any second-hand dealer, may, by warrant, authorise any member of the police force, with such assistance as may be necessary, to enter such house, shop, room, or place, either by day or night, and to search for and seize all such old wares there found, and to carry the same before the same or some other justice, and such justice shall thereupon issue a summons requiring such dealer to appear before such justices as may be present at a time and place to be named in such summons, and if such dealer does not then and there prove to the satisfaction of such justices how he came by such wares, or if it is proved to the satisfaction of such justices that at the time such dealer received such wares, or any of them, he had reasonable cause to believe them, or some of them, to have been stolen or unlawfully obtained, then, and in either of such cases, such dealer shall be liable to a penalty not exceeding ten pounds, or, at the discretion of such justices, to imprisonment with or without hard labour for a term not exceeding three months:

Provided always that nothing herein contained shall interfere with or affect any proceeding as for an indictable offence to which such dealer may be liable for feloniously and knowingly receiving stolen goods, but no person shall be prosecuted for an indictable offence and proceeded against under this Act upon the same facts.

22. In case any person who offers to any second-hand dealer, his servant, or agent by way of sale or exchange, any old wares, is unable or refuses to give a satisfactory account of himself or

Register to be kept.
South Australian
Act, 1899, No. 716,
s. 21.

Inspectors, &c., to
visit dealers'
premises.
Ibid. s. 22.

Constable may be
authorised to search
dealer's premises.

Suspicious offering
of old wares.
Cf. *Ibid.* 21.

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of the means by which he came possessed of such wares, or wilfully gives any false information to such dealer, or to his servant, or agent as to whether such wares are his own property or not, or of his name or place of abode, or of the name and place of abode of the owner of the said wares, or if there is any other reason to suspect that such wares are stolen or otherwise illegally or clandestinely obtained, such dealer, or his servant, or agent to whom such wares are so offered may seize and detain such person and the said wares, and deliver such person immediately into the custody of a constable or other police officer, who shall as soon as practicable convey such person and the said wares so offered before a court near to the place where such person was apprehended; and if upon examination and inquiry, it appears to the satisfaction of the court that the said wares were stolen or illegally or clandestinely obtained, such person shall be deemed guilty of an offence under this Act.

Proceedings.

23. All proceedings against any person accused of an offence against this Act may be heard and determined in a summary manner by the court before which he is brought, and any person convicted of such an offence shall be liable to a penalty not exceeding ten pounds.

Regulations.

South Australian
Act, 1899, No. 716,
s. 30.

24. The Governor may make regulations for prescribing—

- (1) the form, manner, and place of registration of licenses, renewals, cancellations and other matters requiring registration under this Act, where not specially provided for in this Act;
- (2) means for circulating throughout New South Wales generally, or any part thereof, lists of licenses and revocations and forfeitures thereof;
- (3) all such observances as may not be specifically provided for in this Act and which the Governor considers it desirable that collectors should comply with in carrying on their business;
- (4) the manner in which any truck used by any collector shall be painted or otherwise distinguished, and the mode of painting or otherwise marking the name and address of the owner, whether a collector or second-hand dealer, upon such truck, and of numbering and marking the number upon any truck;
- (5) the maximum amount which may be taken by any second-hand dealer from a collector for the use or hire of any truck;
- (6) the manner and situation in which the names of second-hand dealers shall be painted upon the premises upon which they are licensed to carry on their business as second-hand dealers;

and generally for carrying into effect the provisions of this Act.

And may in such regulations impose penalties not to exceed in any case the sum of ten pounds for any breaches thereof.

All

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All such regulations shall be published in the Gazette, and shall within fourteen days after such publication be laid before Parliament, if then in session, and if not, then within fourteen days after the next ensuing session. Upon such publication, if not disallowed by either House of Parliament, such regulations shall have the full force of law.

SCHEDULES.

FIRST SCHEDULE.

Section 4.

SECOND-HAND DEALERS AND COLLECTORS ACT, 1905.

Second-hand dealer's license.

Whereas A.B., of [address and description], has applied to us for a license to act as a dealer: Now we, being satisfied that the said A.B. is a fit person to have such license granted to him, do hereby authorise and empower him, the said A.B., to act as a second-hand dealer, and to carry on the business of dealing in, and buying and selling, old wares at the premises occupied by him in [name of street and name of place], and this license shall (unless the same be sooner cancelled or forfeited) be and continue in force for one year from the date hereof.

Given under our hand and the seal of the said court, at _____, the _____ day of _____, 19 ____.

Registered No. _____ (L.S.)
Clerk of the court at [name of court.]

SECOND SCHEDULE.

Section 8, subsection (3).

SECOND-HAND DEALERS AND COLLECTORS ACT, 1905.

Entry of trucks, handcarts, carts, or vehicles lent or let out on hire.

Name of collector to whom truck, &c., lent or let on hire.	Date on which truck, &c., lent or let on hire.	Whether on hire or gratuitously; and if on hire, at what price.	Period for which truck, &c., is lent or let.	No. on trucks, &c., lent or let on hire.

THIRD SCHEDULE.

Section 8, subsection (4).

SECOND-HAND DEALERS AND COLLECTORS ACT, 1905.

Entry of purchases and receipts.

Day of purchase or receipt, and hour of day.	Description of old wares purchased or received.	Name and surname of person by or through whom purchased or received.	Name and surname of person from whom purchased or received.	Business and place of abode of person from whom purchased or received.

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subsection (5).

FOURTH SCHEDULE.

SECOND-HAND DEALERS AND COLLECTORS ACT, 1905.

Entry of sales and dispositions.

Day of sale.	Description of old wares sold or disposed of.	Name and surname of person by or through whom sold or disposed of.	Name and surname of person to whom sold or disposed of.	Business and place of abode of person to whom sold or disposed of.

Section 10.

FIFTH SCHEDULE.

SECOND-HAND DEALERS AND COLLECTORS ACT, 1905.

Application for collector's license.

I, A.B. [address and description], do hereby declare that I am of the full age of fourteen years, and apply for a collector's license under the above Act; and I undertake, if the said license be issued to me, to observe faithfully all the provisions of the said Act and the regulations made thereunder. Attached is the police certificate required by the said Act.

Dated the _____ day of _____, 19 .

[Signature of applicant.]

Police certificate in support of collector's license.

I, C.D. [here state police rank] hereby certify that the above named [name of applicant] is a fit person to receive a collector's license under the above-named Act.

Dated the _____ day of _____, 19 .

[Signature.]

Section 10.

SIXTH SCHEDULE.

SECOND-HAND DEALERS AND COLLECTORS ACT, 1905.

Collector's license.

A.B., of [address and description], is authorised and empowered to act as a collector, and to carry on the business of collecting old wares within all parts of the State of New South Wales: and this license shall (unless the same be sooner cancelled or forfeited) be and continue in force for one year from the date hereof.

Granted at _____, this _____ day of _____, 19 .

Registered No. _____ (t.s.)

(Signed.)

Clerk of the court at _____ .

This license is not to be let on hire or lent to any person.

The collector, if he change his abode, must report his new place of abode to the police officer of the station nearest to the same and to the police officer of the station nearest to his last former place of abode.

Specially notice.— This license is subject to cancellation or forfeiture if the collector be guilty of any breach of the Act or any regulation, or of any improper conduct whatever.

Act