



AUSTRALIAN CAPITAL TERRITORY

Pawnbrokers (Amendment) Act 1990

No. 33 of 1990

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AUSTRALIAN CAPITAL TERRITORY

Pawnbrokers (Amendment) Act 1990

No. 33 of 1990

An Act to amend the Pawnbrokers Act 1902 of the State of New South Wales in its application in the Territory

[Notified in ACT Gazette S72: 30 October 1990]

The Legislative Assembly for the Australian Capital Territory enacts as follows:

Short title

- 1.** This Act may be cited as the *Pawnbrokers (Amendment) Act 1990*.

Commencement

- 2. (1)** Sections 1, 2 and 3 commence on the day on which this Act is notified in the *Gazette*.
- (2)** The remaining provisions commence on a day, or respective days, fixed by the Minister by notice in the *Gazette*.

(3) If a provision referred to in subsection (2) has not commenced before the end of the period of 6 months commencing on the day on which this Act is notified in the *Gazette*, that provision, by force of this subsection, commences on the first day after the end of that period.

Principal Act

3. In this Act, “Principal Act” means the Pawnbrokers Act 1902 of the State of New South Wales in its application in the Territory.

Substitution

4. Section 5 of the Principal Act is repealed and the following section substituted:

Pawnbrokers to be licensed

“5. A person who is not licensed shall not carry on the trade or business of a pawnbroker.

Penalty: \$1,000.”.

Separate licence for each shop

5. Section 9 of the Principal Act is amended by adding at the foot of the section the following penalty:

“Penalty: \$1,000.”.

Pawnbroker’s name on premises

6. Section 11 of the Principal Act is amended—

- (a) by omitting from subsection (1) “have his name at length painted” and substituting “not, without reasonable excuse, fail to have his or her full name displayed”;
- (b) by omitting from subsection (1) “by him”;
- (c) by inserting in subsection (1) “by that person” after “made use of,”;
- (d) by adding at the foot of subsection (1) the following penalty:

“Penalty: \$500.”; and
- (e) by omitting subsection (2).

Substitution

7. Section 12 of the Principal Act is repealed and the following section substituted:

Production of licence

“12. A licensed pawnbroker shall not, without reasonable excuse, fail to produce his or her licence on the premises specified in the licence on demand made by a police officer.

Penalty: \$500.”.

Book entries on taking pledges

8. Section 13 of the Principal Act is amended by omitting subsection (3) and substituting the following subsection:

“(3) A person who, without reasonable excuse, contravenes this section is guilty of an offence punishable, on conviction, by a fine not exceeding \$500.”.

Duplicates of entry to be given

9. Section 14 of the Principal Act is amended—

- (a) by omitting subsection (2); and
- (b) by adding at the foot of the section the following penalty:

“Penalty: \$500.”.

Duplicates lost or stolen

10. Section 15 of the Principal Act is amended by adding at the foot of the section the following penalty:

“Penalty: \$500.”.

Holders of duplicates deemed owners of goods pawned

11. Section 16 of the Principal Act is amended—

- (a) by omitting from subsection (2) “he shall” and substituting “the pawnbroker shall not, without reasonable excuse, fail to”; and
- (b) by adding at the foot of the section the following penalty:

“Penalty: \$500.”.

Substitution

12. Section 18 of the Principal Act is omitted and the following section substituted:

Selling before expiration of redemption period

“18. (1) A pawnbroker shall not, before the expiration of the relevant period, sell or dispose of, or cause or knowingly suffer to be sold or disposed of, an article that has been pawned.

Penalty: \$500.

“(2) In this section—

‘relevant period’ means the period during which an article taken in pawn may be redeemed pursuant to section 17.”.

Mode of sale

13. Section 19 of the Principal Act is amended by omitting from subsection (3) “\$40” and substituting “\$500”.

Substitution

14. Section 21 of the Principal Act is repealed and the following section substituted:

Application of proceeds of sale

“21. (1) Where—

- (a) an article that has been pawned is sold;
- (b) a surplus results from the sale; and
- (c) the person by or for whom the article was pawned claims the surplus within 12 months of the sale;

the pawnbroker shall not, without reasonable excuse, fail to pay to that person within 2 days of his or her claim, the surplus less any necessary charges relating to the sale.

Penalty: \$500.

“(2) In this section—

‘surplus’ means the amount by which the price paid for the article exceeds the sum of—

- (a) the amount of money advanced by the pawnbroker on the security of the article; and
- (b) any interest due at the time of the sale in relation to that advance.”.

Entries of articles sold

15. Section 22 of the Principal Act is amended—

- (a) by omitting from subsection (1) “a true and just account” and substituting “an account”;
- (b) by omitting from subsection (1) “true” (second occurring);
- (c) by adding at the foot of subsection (1) the following penalty:
“Penalty: \$500.”; and
- (d) by omitting subsection (2) and substituting the following subsection:

“(2) A pawnbroker shall not knowingly or recklessly make a false entry in a book kept pursuant to subsection (1).

Penalty: \$500.”.

Substitution

16. Sections 23 and 24 of the Principal Act are repealed and the following sections substituted:

Pawner may inspect entries

“23. Where—

- (a) an article that has been pawned is sold or otherwise disposed of;
- (b) the person by or for whom the article was pawned produces the duplicate in respect of the article; and

(c) that person requests inspection of the entry of sale of the article;
the pawnbroker or his or her employee shall not, without reasonable excuse, fail to—

(d) produce the book or document containing the entry; or

(e) permit the person to inspect the entry.

Penalty: \$500.

Children and intoxicated persons

“24. A person who is a licensed pawnbroker or his or her agent or employee shall not purchase, receive or take in pawn an article from a person who is or is reasonably believed by the pawnbroker, agent or employee to be—

(a) under the age of 14 years; or

(b) intoxicated with liquor.

Penalty: \$1,000.”.

Repeal

17. Section 25 of the Principal Act is repealed.

Days and hours of business

18. Section 26 of the Principal Act is amended—

(a) by adding at the foot of subsection (1) the following penalty:

“Penalty: \$500.”; and

(b) by omitting subsection (2).

Substitution

19. Sections 32 and 33 of the Principal Act are repealed and the following sections substituted:

Evidentiary certificates

“32. (1) The Clerk of the Magistrates Court may issue a certificate stating whether a specified person was or was not on a specified date or during a specified period the holder of a licence.

“(2) A certificate issued under subsection (1) is evidence of the facts stated in the certificate.

Advertisements

“33. An unlicensed person shall not display any sign on or near premises which he or she occupies which states or gives reasonable cause to believe that those premises are being used to carry on the trade or business of a pawnbroker.

Penalty: \$500.”.

Lending licences

20. Section 34 of the Principal Act is amended by omitting subsection (1) and substituting the following subsection:

“(1) A licensed pawnbroker shall not lend his or her licence to a person for the purpose of enabling that person to carry on business as a pawnbroker.

Penalty: \$1,000.”.

Substitution

21. Section 35 of the Principal Act is repealed and the following section substituted:

Forged or altered licences

“35. A person shall not—

- (a) forge or alter a licence;
- (b) cause a licence to be forged or altered; or
- (c) produce a licence that is forged or has been altered to a person entitled to demand production of that licence.

Penalty: \$5,000 or imprisonment for 2 years, or both.”.

Forging etc. duplicates

22. Section 36 is amended by omitting all the words after “offence” and substituting “punishable, on conviction, by a fine not exceeding \$5,000 or by imprisonment for a period not exceeding 2 years, or both”.

Pawnbroker to produce books etc.

23. Section 37 of the Principal Act is amended by omitting subsection (2) and substituting the following subsection:

“(2) A pawnbroker shall not, without reasonable excuse—

- (a) fail to attend on a summons under subsection (1);
- (b) fail to produce a book, duplicate or entry referred to in the summons; or
- (c) produce a book, duplicate or entry so referred to that has been altered.

Penalty: \$1,000 or imprisonment for 6 months, or both.”.

Repeal

24. Section 40 of the Principal Act is repealed.

Further amendments

25. The Principal Act is amended as set out in the Schedule.

SCHEDULE

Section 25

FURTHER AMENDMENTS**Paragraph 13 (1) (d)—**

Insert “or her” after “his” and “him”.

Subsection 14 (3)—

Insert “or she” after “he”.

Paragraph 15 (c)—

Insert “or herself” after “himself”.

Section 15—

Insert “or her” after “him”.

Subsection 16 (1)—

Insert “or herself” after “himself”.

Paragraph 16 (1) (a)—

Insert “or her” after “him” (wherever occurring).

Section 20—

Insert “or her” after “his” and “him”.

Subsection 21 (1)—

Insert “or her” after “his” (wherever occurring).

Subsection 22 (1)—

Insert “or her” after “him” (wherever occurring).

Paragraph 26 (1) (b)—

Insert “or her” after “his”.

Section 29—

Insert “or her” after “him”.

Subsection 34 (2)—

Insert “or her” after “his”.

Section 46—

(a) Insert “or her” after “him”.

(b) Insert “or she” after “he”.

Second Schedule—

(a) Insert “or her” after “him” (wherever occurring).

(b) Insert “or she” after “he”.

[Presentation speech made in Assembly on 18 September 1990.]