



ACT DEPARTMENT OF JUSTICE
& COMMUNITY SAFETY

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LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

SECOND-HAND DEALERS REGULATIONS 2002

SUBORDINATE LAW NO SL 2002-8

EXPLANATORY MEMORANDUM

Circulated by authority of the
Attorney General
Mr Jon Stanhope MLA

SECOND-HAND DEALERS REGULATIONS 2002**SUBORDINATE LAW NO SL 2002-8****Outline**

The *Second-hand Dealers Act 1906* (the Act) provides for the licensing and regulation of dealers in second-hand goods. This sector of the market has traditionally been regulated, due to its proximity to the stolen goods market. Thieves have, in the past, utilised unsuspecting second-hand dealers to dispose of the proceeds of their crimes. Regulating this industry limits the potential for stolen goods to be disposed of via second-hand dealers and ensures that any stolen goods sold to second-hand dealers can be identified and recovered by the police.

The Second-hand Dealers Regulations (the regulations) list the items defined as second-hand goods that are to be regulated by the Act. The items include jewellery, sporting and recreational goods, musical instruments, photographic equipment, tools, electronic goods (excluding whitegoods), computers, software, videos and CDs, watercraft, car stereo equipment and mobile phones. This list of goods is based on the goods regulated in NSW and includes items that thieves have, in the past, sold to unsuspecting second-hand dealers and that are capable of recovery by the police. The regulations specifically exclude charities from the application of the Act.

The regulations specify the records that second-hand dealers must compile. Dealers must keep a record when they buy and sell second-hand goods.

The regulations provide that the records must be kept by the second-hand dealer and must be given to the police. The regulations provide that the Chief police officer may, in writing, issue directions to dealers about record keeping and how the records are to be given to the police.

The regulations do not regulate market promoters.

Financial Implications

Nil.

Clause Notes

Regulation 1 – Name of regulations – provides that the regulations are the *Second-hand Dealers Regulations 2002*.

Regulation 2 – Commencement – provides that the regulations commence on the later of either the day they are notified or on 14 March 2002.

Regulation 3 – Dictionary – provides that the dictionary is part of the regulations.

Regulation 4 – Notes – provides that the notes included in the regulations are explanatory and do not form part of the regulations.

Regulation 5 – Kinds of second-hand goods – Act, dict, def of second-hand goods – provides that the goods listed in schedule 1 are second-hand goods for the purposes of the Act and Regulations. Only goods that are listed as second-hand goods are regulated by the Act. The items listed in schedule 1 include jewellery, sporting and recreational goods, photographic equipment, tools, electronic goods (excluding whitegoods), computers, software, car stereo equipment and mobile phones. This list of goods is based on the goods regulated in NSW and includes goods where there is a strong possibility of stolen goods being identified and recovered. This regulation specifically excludes charities and goods sold at a trash and treasure market from the application of the Act. The Act also excludes goods that are taken as a trade-in on the purchase of non-second-hand goods.

Regulation 6 – Meaning of photo identification document – provides a definition of the term ‘photo identification document’. A photo identification document is used to verify the name of persons who sell goods to second-hand dealers. Only the specified identification documents are acceptable verification of the seller’s identity. The seller’s name and particulars of the identification are then recorded by the second-hand dealer and can be used to track the sale of stolen goods.

Regulation 7 – Meaning of non-photo identification document - provides a definition of the term ‘non-photo identification document’. A non-photo identification document is used to verify the name of persons who sell goods to second-hand dealers. Only the specified identification documents are acceptable verification of the seller’s identity. The seller’s name and particulars of the identification are then recorded by the second-hand dealer and can be used to track the sale of stolen goods.

Regulation 8 – Making records about goods bought or received – Act, s 6(1) – specifies the records that second-hand dealers must make about the goods that they buy or receive. Second-hand dealers must keep a record of the date and time they received the goods, a description of the goods, the details of the person from whom the goods were purchased, the price paid and the stock number for the goods. The details of the person from whom the goods were purchased must be verified by one form of the specified photographic identification or three forms of the specified non-photographic identification.

Regulation 9 – Making records about goods sold or disposed of – Act, s 6(1) – specifies the records that second-hand dealers must make about the goods that they sell or dispose of. Where the

goods are valued at over \$50 the dealer must record the date and time of the sale or disposal of the goods, a description of the goods, the name and address of the purchaser and the stock number for the goods.

Regulation 10 – Making records – certain goods bought by second-hand dealers – Act, s 6(1) – specifies the records that second-hand dealers must make if they purchase goods from charitable organisations or from a trash and treasure market with the purpose of selling or disposing of the goods to someone else. The records are similar to those specified in regulations 8 and 9.

Regulation 11 – Keeping records – Act, s 6(2) – specifies the way in which second-hand dealers under regulations 8, 9 and 10 must keep records. This regulation also empowers the chief police officer to issue directions to second-hand dealers about record keeping.

Regulation 12 – Giving records to the police – Act, s 6(3) – empowers the chief police officer to direct second-hand dealers about how the records made under regulations 8, 9 and 10 must be given to the police.

Regulation 13 – Transitional - records – provides that from the commencement of these regulations to 30 June 2002, a licensed second-hand dealer can choose to make records in the ‘old way’, or to make and keep records in accordance with regulations 8, 9, 10 and 11(1). However, there are two changes to records made in the ‘old way’. Firstly, the records must be of second-hand goods under the amended Act and secondly, records of the buyers of second-hand goods only have to be kept where the value of the goods is over \$50.

Schedule 1 – Goods that are second-hand goods – lists the goods that are considered second-hand goods for the purposes of the Act and Regulations. Goods that fall outside of the list in Schedule 1 to the Regulations are not deemed to be second-hand goods and are not regulated by the Act.

Schedule 2 – Photo and non-photo identification documents – lists the documents that are accepted under regulations 6 and 7 to identify the seller. The schedule also lists the particulars that must be recorded by the second-hand dealer for each form of identification used by the seller to verify their identity. The second-hand dealer must record the particulars for either one form of photo identification or three forms of non-photo identification.

REGULATION IMPACT STATEMENT

The following is a Regulation Impact Statement relating to the Second-hand Dealers Regulations (the Regulations). The regulations list the second-hand goods that are to be regulated by the *Second-hand Dealers Act 1906* (the Act) and the records that second-hand dealers are to keep on the items they buy and sell. The regulations give effect to recent amendments to the Act.

This sector of the retail market has traditionally been regulated due to its proximity to the stolen goods market. Thieves have, in the past, utilised unsuspecting second-hand dealers to dispose of the proceeds of their crimes. Regulating this industry limits the potential for stolen goods to be disposed of via second-hand dealers and increases the likelihood of the police recovering any stolen goods sold to second-hand dealers.

Identification of the problem

- The recent amendments to the Act provide that the regulations are to specify the goods to be regulated as ‘second-hand goods’ and the specific records that second-hand dealers are to keep on the goods that they buy and sell. Without these regulations, there will be no requirement for second-hand dealers to keep records on the goods they buy or sell and there will be confusion in the market as to the goods to be regulated by the Act.

Objectives of the Regulations

- The recent amendments to the Act provide that the regulations are to specify the goods to be regulated as ‘second-hand goods’ and the specific records that second-hand dealers are to keep on the goods that they buy and sell.

Options for achieving the objectives

- The only option for defining ‘second-hand goods’ and making record keeping requirements is to amend the Act. This will not simplify the process, and will cause confusion in the industry prior to the commencement of any amendment to the Act.
- A further option is to remove the requirements for second-hand dealers to keep records of the goods they buy and sell. Removing this requirement would decrease the likelihood of the police recovering stolen goods sold to second-hand dealers and would remove a valuable source of police intelligence on theft.

Conclusion and recommended option

- The making of these regulations is recommended, as it will clarify the rights and responsibilities of second-hand dealers by specifying the goods to be regulated as ‘second-hand goods’ and the specific records that second-hand dealers are to keep on the goods that they buy and sell.