



Australian Capital Territory

Second-hand Dealers Regulation 2002

SL2002-8

made under the

Second-hand Dealers Act 1906

Republication No 10

Effective: 1 January 2011 – 4 June 2012

Republication date: 1 January 2011

Last amendment made by A2010-54

Authorised by the ACT Parliamentary Counsel

About this republication

The republished law

This is a republication of the *Second-hand Dealers Regulation 2002*, made under the *Second-hand Dealers Act 1906* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 1 January 2011. It also includes any amendment, repeal or expiry affecting the republished law to 1 January 2011.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at www.legislation.act.gov.au):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication does not include amendments made under part 11.3 (see endnote 1).

Uncommenced provisions and amendments

If a provision of the republished law has not commenced or is affected by an uncommenced amendment, the symbol **U** appears immediately before the provision heading. The text of the uncommenced provision or amendment appears only in the last endnote.

Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see *Legislation Act 2001*, section 95.

Penalties

At the republication date, the value of a penalty unit for an offence against this law is \$110 for an individual and \$550 for a corporation (see *Legislation Act 2001*, s 133).



Australian Capital Territory

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Australian Capital Territory

Second-hand Dealers Regulation 2002

made under the

Second-hand Dealers Act 1906

1 Name of regulation

This regulation is the *Second-hand Dealers Regulation 2002*.

3 Dictionary

The dictionary at the end of this regulation is part of this regulation.

Note 1 The dictionary at the end of this regulation defines certain terms used in this regulation, and includes references (*signpost definitions*) to other terms defined elsewhere in this regulation or in other legislation.

For example, the signpost definition '*credit card*—see the *Australian Consumer Law (ACT)*, section 2 (1).' means that the term 'credit card' is defined in that law and the definition applies to this regulation.

Note 2 A definition in the dictionary (including a signpost definition) applies to the entire regulation unless the definition, or another provision of the regulation, provides otherwise or the contrary intention otherwise appears (see Legislation Act, s 155 and s 156 (1)).

4 Notes

A note included in this regulation is explanatory and is not part of this regulation.

Note See the Legislation Act, s 127 (1), (4) and (5) for the legal status of notes.

5 Kinds of second-hand goods—Act, dict, def *second-hand goods*

- (1) Goods of the kinds mentioned in schedule 1 are second-hand goods.
- (2) However, goods are not second-hand goods if they are taken as a trade-in by a person (other than a licensed second-hand dealer) as part of the sale of goods that are not second-hand goods.

5A Exempt entities—Act, s 4 (2)

- (1) The following are exempt entities:
 - (a) charitable organisations;

- (b) people (other than licensed second-hand dealers) offering goods for sale at a trash and treasure market.

Note In this regulation, **exempt entity** includes an entity exempted by the commissioner under the Act, s 4 (3) (see dict).

- (2) In this section:

charitable organisation means a body carried on for a religious, educational, benevolent or charitable purpose, other than a body carried on for the financial benefit of its members.

5B Requirement for displayed lettering—Act, s 5

The height is 5cm.

6 Meaning of *photo identification document*

In this regulation:

photo identification document, for a person, means any of the following kinds of documents issued to the person if the document contains a recent photograph of the person and shows the particulars mentioned in schedule 2, part 2.1, column 3 for the document:

- (a) a current Australian driver licence;
- (b) a current external driver licence written in English;
- (c) a current external driver licence not written in English together with—
 - (i) an international driving permit; or
 - (ii) an official English translation of the licence;
- (d) a current passport written in English;
- (e) a current passport not written in English together with an English translation of the passport;
- (f) a current proof of age card;

- (g) a current Australian student identification card.

7 Meaning of *non-photo identification document*

In this regulation:

non-photo identification document, for a person, means any of the following documents if the document shows the particulars mentioned in schedule 2, part 2.2, column 3 for the document:

- (a) the person's birth certificate;
- (b) the person's citizenship certificate;
- (c) an extract from the electoral roll;
- (d) a record about land titles;
- (e) a current entitlement card;
- (f) a current credit or debit card issued to the person;
- (g) a document issued by a financial institution;
- (h) a service bill;
- (i) a document issued by the Territory.

8 Making records about goods bought or received—Act, s 6 (1)

- (1) This section applies if a licensed second-hand dealer buys, or receives in another way, second-hand goods from a person other than an exempt entity.
- (2) The dealer must make a record of the following:
 - (a) the date and time when the dealer bought or received the goods from the person;
 - (b) a description of the goods, including colour, any brand name, serial number or other identifiable number and any hallmark, inscription or engraving on the goods;

- (c) the person's verified full name;
 - (d) the person's home address, home telephone number and date of birth;
 - (e) for at least—
 - (i) 1 photo identification document for the person—the kind of document and the required particulars; or
 - (ii) 3 non-photo identification documents for the person, 1 of which must show the person's home address—
 - (A) the required particulars; and
 - (B) for a birth certificate, citizenship certificate or extract from the electoral roll—the kind of document;
 - (f) if the goods were bought by the dealer—the amount paid to the person;
 - (g) if the goods were received in another way by the dealer—the consideration given to the person for the goods;
 - (h) the stock number given to the goods by the dealer.
- (3) For subsection (2) (c), the person's name is verified only if the person shows the dealer—
- (a) at least 1 photo identification document for the person; or
 - (b) at least 3 non-photo identification documents that each show the person's name and the name is the same on each document.

9 Making records about goods sold or disposed of—Act, s 6 (1)

- (1) This section applies if—
- (a) a licensed second-hand dealer—
 - (i) sells second-hand goods to a person; or

- (ii) disposes of second-hand goods in another way to a person; or
 - (iii) disposes of second-hand goods other than to a person; and
- (b) the value of the second-hand goods is more than \$50.
- (2) The dealer must make a record of the following:
 - (a) the date and time when the dealer sold or disposed of the goods;
 - (b) the person's full name and home address or, if the goods were disposed of other than to a person, details of how the goods were disposed of;
 - (c) the stock number given to the goods by the dealer.

**10 Making records—goods bought from exempt entities—
Act, s 6 (1)**

- (1) This section applies if—
 - (a) a licensed second-hand dealer buys second-hand goods from an exempt entity; and
 - (b) the dealer buys the goods for the purpose of selling, or disposing of, them to someone else.
- (2) The dealer must make a record of the following:
 - (a) the date and time when, and place where, the dealer bought the goods;
 - (b) a description of the goods, including colour, any brand name, serial number or other identifiable number and any hallmark, inscription or engraving on the goods;
 - (c) the amount paid for the goods;
 - (d) the stock number given to the goods by the dealer.

- (3) If the goods are sold or disposed of to someone else, the dealer must make a record of the following if the value of the goods is more than \$50:
- (a) the date and time that the dealer sold or disposed of the goods;
 - (b) the other person's full name and home address;
 - (c) the stock number given to the goods by the dealer.

11 Keeping records—Act, s 6 (2)

- (1) A licensed second-hand dealer must keep records mentioned in section 8, section 9 or section 10 in such a way that transactions may be identified on both the basis of the date of the transaction and the kind of goods.
- (2) The chief police officer may, in writing, issue directions to licensed second-hand dealers about the keeping of records.
- (3) A direction is a notifiable instrument.

Note A notifiable instrument must be notified under the Legislation Act.

- (4) If a direction is issued, the chief police officer must also publish a notice of the issuing of the direction in a daily newspaper.
- (5) Subsections (3) and (4) do not apply if the direction is addressed only to a licensed second-hand dealer named in the direction.

Note A direction addressed to a licensed second-hand dealer named in the direction must be given to the dealer in accordance with the Legislation Act, pt 19.5 (Service of documents).

12 Giving records to the police—Act, s 6 (3)

- (1) The chief police officer may, in writing, issue directions to licensed second-hand dealers about the records that must be given and the giving of those records to the police.
- (2) A direction is a notifiable instrument.

Note A notifiable instrument must be notified under the Legislation Act.

- (3) If a direction is issued, the chief police officer must also publish a notice of the issuing of the direction in a daily newspaper.
- (4) Subsections (2) and (3) do not apply if the direction is addressed only to a licensed second-hand dealer named in the direction.

Note A direction addressed to a licensed second-hand dealer named in the direction must be given to the dealer in accordance with the Legislation Act, pt 19.5 (Service of documents).

Schedule 1 Goods that are second-hand goods

(see s 5)

column 1 item	column 2 goods
1	jewellery that includes gemstones or precious metals
2	gemstones
3	precious metals
4	watches
5	sporting and recreational goods, other than— (a) clothes; or (b) shoes; or (c) goods sold by the Defence Force
6	bicycles
7	musical instruments
8	photographic equipment
9	tools, including tool kits and portable engine-powered tools, portable motorised tools or portable air-powered tools, other than tools sold by the Defence Force
10	portable engine-powered, portable motorised or portable air-powered equipment, other than— (a) motorised wheelchairs, wheeled lounges, spinal carriages and other similar goods designed to carry a person with a disability; or (b) goods sold by the Defence Force
11	electrical or electronic goods, including microwave ovens, compact disc readers, compact disc writers and compact disc rewriters, other than refrigerators, washing machines and other whitegoods
12	computer hardware
13	computer software
14	audio cassettes and records (singles and albums)

Schedule 1 Goods that are second-hand goods

column 1 item	column 2 goods
15	video cassettes, floppy disks, compact (laser-read) discs, digital videodiscs and other electronic information storage devices
16	watercraft
17	parts of watercraft
18	car radios, car stereos and car sound equipment
19	mobile telephones
20	mobile telephone accessories

Schedule 2 Photo and non-photo identification documents

(see s 6 and s 7)

Part 2.1 Photo identification documents

column 1 item	column 2 kind of document	column 3 particulars
1	current Australian driver licence	(a) issuing jurisdiction; and (b) licence number
2	current external driver licence written in English	(a) issuing jurisdiction; and (b) licence number
3	current external driver licence not written in English together with— (a) an international driving permit; or (b) an official English translation of the licence	(a) issuing jurisdiction; and (b) licence number; and (c) for the permit— (i) issuing body; and (ii) permit number
4	current passport written in English	(a) issuing jurisdiction; and (b) passport number
5	current passport not written in English together with an English translation of the passport	(a) issuing jurisdiction; and (b) passport number
6	current proof of age card	(a) issuing jurisdiction; and (b) card number
7	current Australian student identification card	(a) issuing institution; and (b) the student number shown on the card

Part 2.2 Non-photo identification documents

column 1 item	column 2 kind of document	column 3 particulars
1	birth certificate	(a) issuing jurisdiction; and (b) registration number; and (c) date of issue
2	citizenship certificate	(a) certificate number; and (b) date of issue
3	extract from the electoral roll	date of issue
4	record about land titles	(a) issuing jurisdiction; and (b) type of document; and Examples of type of document 1 mortgage 2 certificate of title (c) date of issue
5	entitlement card	(a) issuing jurisdiction; and (b) type of card; and Example of type of card age pension card (c) customer reference number
6	credit or debit card	(a) name of the issuer of the card; and (b) type of card Example ABC Bank, visa card

column 1 item	column 2 kind of document	column 3 particulars
7	document issued by a financial institution	<p>(a) name of the financial institution; and</p> <p>(b) type of account; and</p> <p>Examples</p> <p>1 Cheap Home Loans, mortgage account</p> <p>2 XYZ credit union, savings account</p> <p>(c) date of issue</p>
8	service bill	<p>(a) name of the biller; and</p> <p>(b) type of service; and</p> <p>Example</p> <p>ACTEW/AGL, electricity bill</p> <p>(c) date of issue</p>
9	document issued by the Territory	<p>(a) name of the Territory entity that issued the document; and</p> <p>(b) type of document; and</p> <p>Examples</p> <p>1 a rates notice</p> <p>2 a registration certificate for a dog</p> <p>(c) date of issue</p>

Note An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

Dictionary

(see s 3)

Note 1 The Legislation Act contains definitions and other provisions relevant to this regulation.

Note 2 For example, the Legislation Act, dict, pt 1 defines the following terms:

- Australian Consumer Law (ACT)
- Australian driver license
- authorised deposit-taking entity
- body
- chief police officer
- daily newspaper
- entity
- home address
- registrar-general.

Note 3 Terms used in this regulation have the same meaning that they have in the *Second-hand Dealers Act 1906* (see Legislation Act, s 148.) For example, the following terms are defined in the *Second-hand Dealers Act 1906*, dict:

- commissioner
- licensed second-hand dealer.

Australian student identification card means a card issued to a person who is a student at an Australian secondary or tertiary education institution to identify the person as a student at the institution.

birth certificate, for a person, means the person's birth certificate, or a certified extract from the register about the person's birth, under the *Births, Deaths and Marriages Registration Act 1997* or a corresponding law of a State, an external Territory or New Zealand.

citizenship certificate, for a person, means the person's citizenship certificate issued under the *Australian Citizenship Act 1948* (Cwlth), section 46 (Issue and proof of certificates of Australian citizenship) or a certified copy of the entry in the register about the person under that Act, section 44 (Evidence of entries in register).

credit card—see the *Australian Consumer Law (ACT)*, section 2 (1).

debit card—see the *Australian Consumer Law (ACT)*, section 2 (1).

document issued by a financial institution, for a person, means a document issued to the person by a financial institution from its records about the person's account with the institution.

document issued by the Territory, for a person, means a document issued to the person by the Territory from its records.

entitlement card, for a person, means a card issued to the person by the Commonwealth, a State, an external Territory or New Zealand as evidence of the person's entitlement to a financial benefit.

exempt entity means an entity—

- (a) exempted under section 5A; or
- (b) exempted by the commissioner under the Act, section 4 (3).

external driver licence—see the *Road Transport (Driver Licensing) Act 1999*, dictionary.

extract from the electoral roll, for a person, means an extract about the person made by the Australian Electoral Office from the electoral roll.

financial institution means—

- (a) an authorised deposit-taking institution; or
- (b) a credit provider, registered or licensed under the *National Consumer Credit Protection Act 2009 (Cwlth)* or a corresponding law of an external Territory or New Zealand, that carries on the business of providing home loans.

international driving permit—see the *Road Transport (Driver Licensing) Regulation 2000*, dictionary.

non-photo identification document—see section 7.

official English translation, of a licence—see the *Road Transport (Driver Licensing) Regulation 2000*, dictionary.

photo identification document—see section 6.

proof of age card means a proof of age card issued under—

- (a) the *Liquor Act 2010*, section 210 (Proof of age cards); or
- (b) the law of a state, an external territory or New Zealand.

record about land titles, for a person, means a copy of a record issued under a law about land titles relating to the person's interest in land that is certified by the registrar-general or a corresponding person under a law of a State, an external Territory or New Zealand.

required particulars—

- (a) for a photo identification document—the particulars mentioned in schedule 2, part 2.1, column 3 for the document; or
- (b) for a non-photo identification document—the particulars mentioned in schedule 2, part 2.2, column 3 for the document.

service bill, for a person, means a bill issued to the person for the use of a utility service, telephone service or internet service.

utility service—see the *Utilities Act 2000*, dictionary.

Endnotes

1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws and expiries are listed in the legislation history and the amendment history. These details are underlined. Uncommenced provisions and amendments are not included in the republished law but are set out in the last endnote.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

2 Abbreviation key

A = Act	NI = Notifiable instrument
AF = Approved form	o = order
am = amended	om = omitted/repealed
amdt = amendment	ord = ordinance
AR = Assembly resolution	orig = original
ch = chapter	par = paragraph/subparagraph
CN = Commencement notice	pres = present
def = definition	prev = previous
DI = Disallowable instrument	(prev...) = previously
dict = dictionary	pt = part
disallowed = disallowed by the Legislative Assembly	r = rule/subrule
div = division	reloc = relocated
exp = expires/expired	renum = renumbered
Gaz = gazette	R[X] = Republication No
hdg = heading	RI = reissue
IA = Interpretation Act 1967	s = section/subsection
ins = inserted/added	sch = schedule
LA = Legislation Act 2001	sdiv = subdivision
LR = legislation register	SL = Subordinate law
LRA = Legislation (Republication) Act 1996	sub = substituted
mod = modified/modification	<u>underlining</u> = whole or part not commenced or to be expired

3 Legislation history

This regulation was originally the *Second-hand Dealers Regulations 2002*. It was renamed under the *Legislation Act 2001*.

Second-hand Dealers Regulation 2002 SL No 8

notified LR 15 April 2002

s 1, s 2 commenced 15 April 2002 (LA s 75)

remainder commenced 16 April 2002 (s 2)

as amended by

Justice and Community Safety Legislation Amendment Act 2002 A2002-27pt 15

notified LR 9 September 2002

s 1, s 2 commenced 9 September 2002 (LA s 75)

pt 15 commenced 7 October 2002 (s 2 (2))

Justice and Community Safety Legislation Amendment Act 2003 (No 2) A2003-47 pt 11

notified LR 31 October 2003

s 1, s 2 commenced 31 October 2003 (LA s 75 (1))

pt 11 commenced 1 November 2003 (s 2)

Statute Law Amendment Act 2009 A2009-20 sch 3 pt 3.68

notified LR 1 September 2009

s 1, s 2 commenced 1 September 2009 (LA s 75 (1))

sch 3 pt 3.68 commenced 22 September 2009 (s 2)

Statute Law Amendment Act 2009 (No 2) A2009-49 sch 3 pt 3.69

notified LR 26 November 2009

s 1, s 2 commenced 26 November 2009 (LA s 75 (1))

sch 3 pt 3.69 commenced 17 December 2009 (s 2)

Justice and Community Safety Legislation Amendment Act 2010 (No 3) A2010-40 sch 1 pt 1.11

notified LR 5 October 2010

s 1, s 2 commenced 5 October 2010 (LA s 75 (1))

s 3, sch 1 pt 1.11 commenced 6 October 2010 (s 2 (1))

Liquor (Consequential Amendments) Act 2010 A2010-43 sch 1 pt 1.20

notified LR 8 November 2010

s 1, s 2 commenced 8 November 2010 (LA s 75 (1))

sch 1 pt 1.20 commenced 1 December 2010 (s 2 (4) and see Liquor Act 2010 A2010-35, s 2 (3) (as am by A2010-43 amdt 1.19) and CN2010-14)

Fair Trading (Australian Consumer Law) Amendment Act 2010 A2010-54 sch 3 pt 3.23

notified LR 16 December 2010

s 1, s 2 commenced 16 December 2010 (LA s 75 (1))

sch 3 pt 3.23 commenced 1 January 2011 (s 2 (1))

4 Amendment history**Name of regulation**

s 1 am R5 LA

Commencement

s 2 om LA s 89 (4)

Dictionary

s 3 am A2010-54 amdt 3.54

Kinds of second-hand goods—Act, dict, def of *second-hand goods*

s 5 am Act 2002 No 27 s 70

Exempt entities—Act, s 4 (2)

s 5A ins Act 2002 No 27 s 71

am A2003-47 s 38

Requirement for displayed lettering—Act, s 5

s 5B ins A2003-47 s 39

Making records about goods bought or received—Act, s 6 (1)

s 8 am Act 2002 No 27 s 72

Making records about goods sold or disposed of—Act, s 6 (1)

s 9 am Act 2002 No 27 s 73

Making records—goods bought from exempt entities—Act, s 6 (1)

s 10 hdg sub Act 2002 No 27 s 74

s 10 am Act 2002 No 27 s 75

Keeping records—Act, s 6 (2)

s 11 am A2009-20 amdt 3.193

Giving records to the police—Act, s 6 (3)

s 12 am A2009-20 amdt 3.193

Endnotes

5 Earlier republications

Transitional—records

s 13 exp 1 July 2002 (s 13 (5))

Photo and non-photo identification documents

sch 2 am A2009-49 amdt 3.180

Dictionary

dict am A2009-20 amdt 3.194; A2009-49 amdt 3.181; A2010-54 amdt 3.55
def **credit card** sub A2010-54 amdt 3.56
def **debit card** sub A2010-54 amdt 3.56
def **exempt entity** ins Act 2002 No 27 s 76 sub A2003-47 s 40
def **financial institution** am A2010-40 amdt 1.34
def **proof of age card** sub A2010-43 amdt 1.67

5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (*) in column 1. Electronic and printed versions of an authorised republication are identical.

Republication No	Amendments to	Republication date
1	not amended	17 April 2002
2	not amended	3 October 2002
3	A2002-27	7 October 2002
4	A2003-47	1 November 2003
5	A2003-47	1 November 2004
6	A2009-20	22 September 2009
7	A2009-49	17 December 2009
8	A2010-40	6 October 2010
9	A2010-43	1 December 2010

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