



ANNO TRICESIMO SEXTO

**ELIZABETHAE II REGINAE**

**A.D. 1987**

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**No. 102 of 1987**

**An Act to amend the Summary Offences Act, 1953; and to repeal the  
Second-hand Goods Act, 1985.**

*[Assented to 17 December 1987]*

The Parliament of South Australia enacts as follows:

**Short title.** 1. (1) This Act may be cited as the "Summary Offences Act Amendment Act (No. 2), 1987".

(2) The Summary Offences Act, 1953, is in this Act referred to as "the principal Act".

**Commencement.** 2. This Act will come into operation on a day to be fixed by proclamation.

**Insertion of new ss. 49 to 49e.** 3. The following heading and sections are inserted after section 48 of the principal Act:

*Second-hand Goods*

**Interpretation.** 49. (1) In this Division (ss. 49-49g), unless the contrary intention appears—

"goods" means any form of personal property except intangible property:

"second-hand dealer" means a person who carries on the business of buying or selling, or otherwise dealing in, second-hand goods either as a principal or agent:

"second-hand goods" means goods that have been used, or taken from other goods that have been used, for a purpose not connected with their manufacture or sale:

"second-hand goods market" means a market at which second-hand goods are sold (whether or not any other goods are also sold there):

"to sell" includes—

(a) to barter or exchange;

(b) to offer, or expose, for sale, barter or exchange;

or

(c) to cause or permit to be offered, or exposed, for sale, barter or exchange,

and other forms of "to sell" have corresponding meanings:

"stolen goods" includes goods obtained by any illegal means.

(2) In the interpretation of this Division—

(a) second-hand goods will be regarded as being in the possession of a second-hand dealer when they are at any premises or place that is occupied by, or is under the control of, the dealer or when they are in any vehicle that is under the control of the dealer;

and

(b) the act or omission of an employee or agent of a second-hand dealer will be regarded as the act or omission of the dealer unless the dealer proves that the employee or agent was not acting in the course of the employment or agency.

49a. (1) A second-hand dealer must maintain a record of second-hand goods bought or received by the dealer.

Records to be maintained in relation to second-hand goods.

(2) The record must contain the following information:

(a) an accurate description of the second-hand goods;

(b) the serial number (if any) of the goods;

(c) a description of any mark or label on or attached to the goods identifying ownership;

(d) the date on which the goods were bought or received;

(e) the full name and the address of the person from whom the goods were bought or received.

(3) A second-hand dealer must obtain written confirmation of the information recorded under subsection (2) from the person from whom the dealer buys or receives second-hand goods.

(4) A second-hand dealer is not required to comply with subsections (2) and (3) in relation to second-hand goods imported into Australia by the dealer but the dealer must, in relation to those goods, maintain a record that accurately describes the goods and includes the date on which they entered Australia.

(5) The Governor may, by regulation, exempt any specified person or class of persons from compliance with this section (either unconditionally or subject to conditions).

(6) A person who fails to comply with this section is guilty of an offence.

Penalty: \$2 000.

(7) It is a defence to a charge of an offence against this section to prove that the defendant did everything reasonably practicable to comply with this section.

Where second-hand goods suspected of being stolen.

49b. (1) A member of the police force may give to a second-hand dealer personally or by post a notice describing goods that have been stolen and the dealer must check goods that are in the dealer's possession, and goods that the dealer buys or receives, against the descriptions in the notice.

(2) A second-hand dealer—

(a) who has possession of goods, or who buys or receives goods, that appear to be goods described in a notice given to the dealer under subsection (1);

or

(b) who suspects for any other reason that goods in the dealers possession are stolen,

must immediately inform a member of the police force.

Penalty: \$2 000.

(3) The dealer must not surrender possession of those goods without the authority of a member of the police force.

Penalty: \$2 000.

Powers of entry and inspection in relation to second-hand goods.

49c. (1) A member of the police force may enter the place of business of a second-hand dealer during ordinary business hours and if entry is refused the member may employ such force as is reasonably necessary to gain entry.

(2) If a member of the police force suspects on reasonable grounds that stolen goods are at the place of business of a second-hand dealer, the member may enter that place at any time and may employ such force as is reasonably necessary for that purpose.

(3) A member of the police force may inspect any goods that are at the place of business of a second-hand dealer or any records kept by the dealer pursuant to this Act and, for that purpose, may require the dealer, or an employee or agent of the dealer, to produce the goods or records.

(4) A member of the police force may—

(a) enter any premises or place at which a second-hand goods market is being, or is to be, held;

(b) inspect any goods apparently in the possession or under the control of a person who is—

(i) attending the market to sell goods;

or

(ii) leaving the market after attending it to sell goods;

and

(c) require any such person to state his or her full name and address.

(5) A person who—

(a) hinders a member of the police force in the exercise of powers under this section;

(b) refuses or fails to comply with a requirement made under this section;

or

- (c) in response to a requirement made under this section to state his or her full name and address, makes a statement that is false in any particular,

is guilty of an offence.

Penalty: \$2 000.

49d. (1) Where a court convicts a second-hand dealer of an offence against this Division or an offence involving dishonesty, the court may, in addition to any other order it makes, by order prohibit the offender from carrying on the business of buying or selling, or otherwise dealing in, second-hand goods (either as a principal or agent) for such period as the court thinks fit.

Orders prohibiting a person carrying on business as a second-hand dealer.

(2) A person who contravenes an order under subsection (1) is guilty of an offence.

Penalty: \$5 000.

(3) Subsection (2) does not limit the court's power to punish for contempt.

49e. If in proceedings for an offence against this Division it is established that, within the period of 12 months immediately preceding the date of the alleged offence, the defendant—

Evidentiary provision.

- (a) sold second-hand goods (not being second-hand vehicles) on not less than six different days;

- (b) sold six or more second-hand vehicles;

or

- (c) conducted six or more auctions for the sale of second-hand goods on behalf of other persons,

it will be presumed, in the absence of proof to the contrary, that the defendant was carrying on business as a second-hand dealer on the date of the alleged offence.

49f. If a body corporate is guilty of an offence against this Division each of its directors is guilty of an offence and is liable to the same penalty as is prescribed for the principal offence unless it is proved that the director could not, by the exercise of reasonable diligence, have prevented the commission of the offence by the body corporate.

Offences by directors of bodies corporate.

49g. Proceedings for an offence against this Division must be commenced within 12 months after the commission of the offence.

Time for proceedings.

4. Section 77 of the principal Act is repealed and the following section is substituted:

Repeal of s. 77 and substitution of new section.

77. (1) If a person to whom any property is offered (for sale, as a pawn or in some other kind of commercial transaction) has reasonable cause to suspect that the person offering the property has stolen it, or obtained it by unlawful means, the person may—

Apprehension of person offering property suspected of being stolen, etc., and seizure of such property.

- (a) apprehend and detain that other person until he or she can be delivered into the custody of a member of the police force;

and

(b) seize and detain the property until it can be delivered into the custody of a member of the police force.

(2) A person who exercises a power of apprehension or seizure under this section must take the necessary action to have the person or property delivered into the custody of a member of the police force as soon as practicable.

Repeat of the  
Second-hand  
Goods Act, 1985.

5. The Second-hand Goods Act, 1985, is repealed.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor