

Second-hand Dealers and Pawnbrokers Bill

EXPLANATORY MEMORANDUM

PART 1—PRELIMINARY

Clause 1 sets out the purposes of the Bill.

Clause 2 provides for the commencement of the Act.

Clause 3 defines key terms in the Bill.

Clause 4 provides for the exemption of certain persons or goods from the operation of the Act.

PART 2—LICENSING

Clause 5 sets out the types of licences which may be granted under the Act. They are:

- (a) a second-hand dealer's business premises licence;
- (b) a second-hand dealer's market licence; and
- (c) a pawnbroker's business premises licence.

Clause 6 requires pawnbrokers and second-hand dealers to be licensed.

Clause 7 specifies the council to which a licence application must be made.

Clause 8 specifies the police officer who must be notified regarding licence applications.

Clause 9 requires that applications be made in the approved form and accompanied by the appropriate fee.

Clause 10 sets out procedures governing the grant of a licence.

Clause 11 provides that a licence lasts for 3 years unless sooner revoked or surrendered. The clause also sets out the procedure for the renewal of a licence.

Clause 12 governs corporate licensees and nominees.

Clause 13 allows for changes in business premises by a licensee.

Clause 14 provides for the variation of licence conditions.

Clause 15 provides for the revocation of a licence.

Clause 16 creates rights of appeal to the Administrative Appeals Tribunal against licensing decisions.

Clause 17 specifies when a licensing decision takes effect and makes it clear that there is no obligation on a council to afford a hearing before making a decision about a licence.

Clause 18 makes it an offence to make a false statement in connection with an application.

PART 3—CONDUCT OF BUSINESS

Clause 19 requires second-hand dealers and pawnbrokers to verify the identity of persons from whom they receive goods.

Clause 20 requires dealers and pawnbrokers to keep accurate and complete records of all transactions by which they receive goods.

Clause 21 requires dealers and pawnbrokers to retain goods for 7 days after receiving them.

Clause 22 requires dealers and pawnbrokers to check their goods against any notice which the police give them describing stolen goods. A dealer or pawnbroker who suspects that goods are stolen must inform the police immediately.

Clause 23 imposes certain controls on pawn contracts. A pawnbroker may not receive goods in pawn from a person under 16 years of age. A pawnbroker may not charge more than the interest rate allowed by the *Credit Act* 1984 for a credit contract (currently 48 per cent) and must notify the customer of the interest rates charged. "Buy-back" contracts with a pawnbroker are deemed to be pawn contracts.

PART 4—DISPUTES AS TO THE OWNERSHIP OF GOODS

Clause 24 provides a procedure by which Magistrates' Courts can resolve disputes about the entitlement to possession of goods held by a pawnbroker or second-hand dealer.

PART 5—ENFORCEMENT

Clause 25 confers certain enforcement powers on police. They include the power to enter business premises of a pawnbroker or second-hand dealer and to require the production of goods, a licence and transaction records.

Clause 26 allows police to require a dealer or pawnbroker to retain goods for 21 days if they are suspected to be stolen. This quarantine period may be extended once.

PART 6—GENERAL

Clause 27 provides for the service of documents and notices.

Clause 28 allows local councils to delegate their powers under the Act.

Clause 29 contains evidentiary provisions.

Clause 30 sets out the liability of bodies corporate.

Clause 31 empowers the Governor in Council to make regulations.

Clause 32 provides for the charging of fees.

PART 7—REPEALS, AMENDMENTS AND TRANSITIONAL

Clause 33 repeals the *Second-hand Dealers Act* 1958, the *Pawnbrokers Act* 1958 and the *Marine Stores and Old Metals Act* 1958.

Clause 34 repeals section 28 of the *Goods Act* 1958, which deals with the sale of goods in a market overt.

Clause 35 makes consequential amendments and repeals.