



No. 46 of 2011

PAWNBROKERS AND SECONDHAND DEALERS ACT, 2011

AN ACT TO PROVIDE FOR THE ACTIVITIES OF PAWNBROKERS
AND SECONDHAND DEALERS.

[Date of Assent – 5th December, 2011]

Enacted by the Parliament of The Bahamas

PART I - PRELIMINARY

1. Short title and commencement.

- (1) This Act may be cited as the Pawnbrokers and Secondhand Dealers Act, 2011.
- (2) This Act shall come into operation on such day as the Minister may by notice published in the *Gazette* appoint.

2. Interpretation.

In this Act —

“**Act**” means the Pawnbrokers and Secondhand Dealers Act, 2011;

“**article**” means any item of value for the purpose of trade, not prohibited in the *First Schedule*;

“**dealer**” means any pawnbroker or secondhand dealer;

“**jewellery**” includes precious and semi precious stones and all articles of personal use or adornment composed wholly or partly of gold, silver, platinum, gold plate or silver plate or any combination thereof, excluding any chemical or any automotive, photographic, electrical, medical, or dental material or electronic part;

“**Minister**” means the Minister responsible for Finance;

“**pawnbroker**” means a person who, in expectation of profit, gain, or reward, lends money on the security of articles of which the person takes possession, but not ownership;

“**scrap metal**” includes —

- (a) copper in any form, old metal, broken metal, partly manufactured metal goods, defaced or old metal goods, and metal residues from manufacturing processes;
- (b) items that are —
 - (i) made entirely or substantially of metal; and
 - (ii) no longer fit for the purpose for which they were designed or intended;

“**secondhand dealer**” or “**secondhand dealing**” means any person —

- (a) who buys for the purpose of trade, sale, exchange, or otherwise deals in any previously owned article, scrap or precious metal, whether altering the same after acquisition or not;
- (b) that conducts business within The Bahamas and contracts with persons or entities outside The Bahamas to purchase or sell any previously owned article, scrap or precious metal;

“**Secretary**” means the Secretary of Revenue as defined under the Business Licence Act (*No. 25 of 2010*);

“**seller**” means any person who has absolute authority to offer an article for purchase.

3. Purpose of Act.

- (1) The purpose of this Act is —
 - (a) to monitor and regulate the activities of pawnbrokers and secondhand dealers;
 - (b) to deter unlawful property transactions through pawnbrokers and secondhand dealers; and
 - (c) to facilitate the efforts of law enforcement in recovering stolen articles and solving property crimes.
- (2) The category of persons listed in the *Second Schedule* are exempt for the purposes of this Act.
- (3) The Minister may, by Order, amend the *First* and *Second Schedules*.

4. Prohibits pawnbroking or secondhand dealing without a valid business licence.

- (1) No person shall carry on the business of pawnbroking or secondhand dealing, unless that person has been granted a licence in accordance with the requirements of the Business Licence Act (*No. 25 of 2010*).
- (2) Any person who has been granted a licence pursuant to subsection (1) shall comply with the provisions of this Act.
- (3) Prior to the granting of a licence under the Business Licence Act (*No. 25 of 2010*), the Minister may, upon the recommendation of the Secretary, cause such inquiry and investigation as he thinks fit regarding the character, antecedents, financial position and competence of an applicant, to be made.
- (4) A licence issued pursuant to the Business Licence Act (*No. 25 of 2010*) may specify such terms, conditions and restrictions to which the licence is subject, in accordance with section 4(5) of the Business Licence Act (*No. 25 of 2010*).

5. Dealers currently engaged in pawnbroking and secondhand dealing.

It shall be unlawful at any time more than three months after the commencement of this Act, for any person to be engaged in the business of pawnbroking and secondhand dealing without a valid business licence.

6. Suspension, revocation, amendment or cancellation of licences.

The Secretary may at any time, suspend, revoke, amend or cancel a licence or impose conditions or restrictions on a licence in accordance with section 7 of the Business Licence Act (*No. 25 of 2010*).

PART II – ADMINISTRATION OF THE ACT

7. Commissioner to designate officers to perform functions under Act.

- (1) The Commissioner of Police shall designate such number of officers, as he considers necessary, from within The Royal Bahamas Police Force to perform the functions under this Part.
- (2) The Commissioner of Police shall appoint from among such officers, an administrator.
- (3) The administrator shall —

- (a) be charged with the overall responsibility of monitoring the activities of dealers regulated under this Act; and
 - (b) cause regular inspections of premises to be carried out to ensure compliance with the Act.
- (4) No officer shall be personally liable for any act done or omission made while acting in good faith while performing or intending to perform his functions under this Act.

8. Powers of a peace officer.

In addition to any other powers conferred under any other Act, a designated officer acting on reasonable suspicion shall have the power —

- (a) to enter the premises of a dealer and request the production of all articles in possession of that dealer for the inspection thereof;
- (b) to request the production and copies of records required to be kept by a dealer.

9. Power to seize and forfeit articles.

- (1) Where an officer has reasonable grounds to suspect that any article held by a dealer is stolen, that officer may issue a “hold notice” to that dealer in the form prescribed not to dispose of the article for twenty-eight days from the date of the notice.
- (2) Where any article referred to under subsection (1) is required as evidence in any prosecution for an offence under this Act, that article may be seized and liable to forfeiture.
- (3) Any article seized and detained under this Act shall be —
 - (a) clearly labelled by the dealer, and a signed acknowledgement of receipt of same shall be provided for by the officer taking the article, in the form prescribed;
 - (b) taken to such place of security designated by the Commissioner of Police.
- (4) Subject to the direction of the Attorney-General, the Commissioner of Police may, at any time prior to the commencement or on the completion of any proceedings under this Act, relating to any article which has been seized under this Act, release such article and return it to the person from whom it was seized.

PART III – OPERATION OF PREMISES

10. Hours of operation.

A dealer shall carry on business during normal working hours at the premises specified in his business licence.

11. Premises to be secured.

Every dealer shall ensure that his business premises are ---

- (a) adequately secured by one or more alarm systems sufficient to detect and signal unauthorised entry to the premises;
- (b) equipped with surveillance cameras providing coverage of all entry and exit points to the premises; and
- (c) equipped with such other measures as may be prescribed by Regulations.

PART IV – DUTIES OF A DEALER

12. Eligibility.

No dealer shall conduct a transaction with a person who ---

- (a) is under the age of eighteen years; or
- (b) appears to be under the influence of drugs or alcohol.

13. Verification of identity.

- (1) A dealer shall verify the identity of every person with whom he conducts a transaction by ---
 - (a) requesting and retaining a copy of his photo identification;
 - (b) recording in the record that he has personal knowledge of the person with whom he is transacting with; or
 - (c) any other prescribed method,and the dealer shall require such persons to sign a declaration that he has the authority to sell or pawn the article.
- (2) Where a dealer verifies the identity of a person in accordance with subsection (1)(b), and the dealer knowingly records information that is incorrect, the dealer is guilty of making a false entry and commits an offence.

14. Records to be kept by dealers.

- (1) In relation to every transaction that is conducted by a dealer, that dealer shall keep and maintain electronic records detailing the prescribed particulars in relation to such transaction, for a period of not less than five years after the completion of that transaction.
- (2) A dealer shall clearly label every article acquired during the course of his dealings and every article shall bear such particulars as may be prescribed.

15. Inspection of articles.

A dealer shall present, upon request from a designated peace officer ---

- (a) any records required to be kept under this Act; and
- (b) all or any of the articles in the possession of the dealer.

16. Obligation to retain article in an unaltered state.

- (1) Subject to section 18, a dealer shall retain in an unaltered state every article acquired during the course of his dealings for a minimum period of seven days from the date of the transaction.
- (2) Every article retained shall be stored in a safe place from which it can be conveniently ascertained for inspection, if required to do so.

17. Duty to hold and report stolen articles.

- (1) Where a dealer has possession of, or is offered for sale or pawn, any article that he knows or suspects to be stolen, he shall report the article to the police as soon as practicable and hold it for twenty-one days from the date of the report to the police.
- (2) Where a dealer has been notified by the police that a specified article is, or is alleged to be a stolen article, that dealer shall ---
 - (a) verify whether the specified article is in his possession and, if so, report the article to the police;
 - (b) notify the police immediately if the specified article is subsequently offered to him for sale or pawn.
- (3) A dealer may dispose of a specified article that he has reported to the police under this section after holding it for the minimum period of twenty-one days unless, before the expiry of the twenty-one days, the police issues a hold notice under section 9 with respect to the article.

18. Disposal of articles by dealers.

Notwithstanding section 16, and subject to section 17, an article need not be retained for the minimum period of fourteen days if ---

- (a) the article was acquired from another dealer;
- (b) the article is returned to the person from whom the dealer acquired it; or
- (c) the article is being sold by the dealer as agent for the owner, and the dealer indicates in his record —
 - (i) the full name, date of birth, contact address, contact telephone number, and email address (if any) of the purchaser;
 - (ii) the manner in which the dealer verified the identity of the purchaser; and
 - (iii) the signature of the purchaser.

19. Export of articles.

Where any dealer is desirous of exporting any article, whether in its original or altered state, that dealer shall keep and maintain records in the prescribed form.

PART V - TRANSACTIONS OF PAWNBROKERS

20. Application of Part.

This Part relates specifically to the transactions of pawnbrokers.

21. Insurance.

A pawnbroker shall maintain general liability and fire insurance with an insurance company registered under the Insurance Act (*Ch. 347*), sufficient to protect pledged goods.

22. Pawnbroker to issue receipt for articles received.

- (1) A pawnbroker may advance only cash to a person on receiving an article (hereinafter referred to as a "pledge").
- (2) A pawnbroker shall give a person who pawns an article (hereinafter referred to as "a pledger") a receipt, in the form prescribed, (hereinafter referred to as "a pledge ticket").

23. Sale of pawned articles.

No pawnbroker shall sell or otherwise dispose of any pawned article on or before the date agreed to between the pawnbroker and the pledger (hereinafter referred to as "the redemption date").

24. Sale of article by pledger to pawnbroker.

- (1) If, after pledging an article a pledger is desirous of selling the article to the pawnbroker, the pawnbroker may buy the article if —
 - (a) the purchase price of the article is not less than the redemption price; and
 - (b) the difference between the redemption price and the purchase price is paid in cash at the time of the sale.
- (2) For the purposes of this section redemption price includes the total fee payable by the pledger on redemption of the article.

25. Fees and charges of pawnbrokers.

Any fee or charge imposed by a pawnbroker shall not exceed the amount prescribed by regulations.

PART VI - MISCELLANEOUS

26. Offences.

Any person who —

- (a) fails to obtain a licence in accordance with the Business Licence Act (*No. 25 of 2010*);
- (b) knowingly furnishes false information under this Act or any regulations made thereunder;
- (c) fails to keep any books or records required to be kept;
- (d) fails to furnish any return required to be furnished;
- (e) knowingly sells or pawns or attempts to sell or pawn off any stolen articles;
- (f) fails to retain in an unaltered state every article acquired during the course of his dealings for the minimum period of seven days from the date of the transaction;
- (g) contravenes any provision of this Act,

commits an offence and is liable on summary conviction to a fine not exceeding twenty thousand dollars or to a term of imprisonment not exceeding two years, or to both such fine and imprisonment.

27. Regulations.

The Minister may make regulations —

- (a) prescribing any forms to be used for the purposes of this Act;

- (b) prescribing the manner of the verification of identity for the purposes of this Act;
- (c) prescribing the manner in which records are to be kept and the particulars to be entered therein;
- (e) to establish fees and charges that may be imposed by dealers; and
- (f) generally for the better carrying out of the objects and purposes of this Act.

FIRST SCHEDULE

(section 2)

PROHIBITED TRADE ARTICLES

- 1. Firearms
- 2. Prohibited goods specified under any law
- 3. Illegal substances
- 4. Ammunition
- 5. Explosives

SECOND SCHEDULE

(section 3)

PERSONS EXEMPT FROM PROVISIONS OF ACT

- 1. Registered Non-profit, religious or charitable organisations or any school-sponsored association or organisation that sells secondhand articles, or scrap metal, but only if—
 - (i) none of the scrap metal sold is acquired by the organisation by purchase or for valuable consideration; and
 - (ii) the proceeds of sale are used solely for the purposes of the organisation.
- 2. Trustees in bankruptcy, executors, administrators, or receivers who presents proof of such status.
- 3. Public officials acting under judicial process or authority who presents proof of such status.
- 4. Persons acting pursuant to any process issued by a court and presents proof of same.
- 5. Garage sale operators who hold garage sales less than ten weekends per year.

6. Persons who sell household personal property as an agent for the property owner or their representative pursuant to a written agreement.
7. Agents of the Crown.