

NORTHERN TERRITORY OF AUSTRALIA

CONSUMER AFFAIRS AND FAIR TRADING (PAWNBROKERS AND SECOND-HAND DEALERS) REGULATIONS

As in force at 1 July 2006

Table of provisions

Part 1 Preliminary

1	Citation	1
2	Commencement	1
3	Exempt second-hand goods	1

Part 2 Licence applications

4	Fees	1
5	Details to be included on licence application	3
6	Details to be published in newspaper	3
7	Evidence of identity for licence application	4
8	Licence to expire before 1 March in a year	4

Part 3 Identification

9	Particulars to be kept in Register	4
10	Identification to be worn by employee entering into contract	5
11	Identification of persons entering into contract	6

Part 4 Records to be kept

12	Records to be made by pawnbroker	6
13	Records to be provided by second-hand dealer	7
14	Keeping of records by pawnbrokers	7
15	Keeping of records by second-hand dealers	7
16	Records to be kept in relation to compact discs	7
17	Access for enforcement purposes to information about goods	8

Schedule Goods not to be treated as second-hand goods

ENDNOTES

NORTHERN TERRITORY OF AUSTRALIA

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CONSUMER AFFAIRS AND FAIR TRADING (PAWNBROKERS AND SECOND-HAND DEALERS) REGULATIONS

Regulations under the *Consumer Affairs and Fair Trading Act*

Part 1 Preliminary

1 Citation

These Regulations may be cited as the *Consumer Affairs and Fair Trading (Pawnbrokers and Second-hand Dealers) Regulations*.

2 Commencement

These Regulations come into operation on the commencement of Part 14 of the *Consumer Affairs and Fair Trading Act*.

3 Exempt second-hand goods

For the purposes of the definition of ***second-hand goods*** in section 244(1) of the Act, goods that have been worn or otherwise used and that are goods specified in the Schedule are not to be treated as second-hand goods for the purposes of the Act.

Part 2 Licence applications

4 Fees

- (1) For the purposes of sections 251(1)(b) and 255(1)(b) of the Act, in relation to an application for the grant or renewal of a pawnbroker's licence or second-hand dealer's licence, the fee is:

- (a) where the applicant is a natural person – \$50 plus:
 - (i) where the application is for a licence for one year - \$150;
 - (ii) where the application is for a licence for 2 years – \$250;
- or

- (iii) where the application is for a licence for 3 years – \$350;
or
 - (b) where the applicant is a corporation – \$100 plus:
 - (i) where the application is for a licence for one year - \$150;
 - (ii) where the application is for a licence for 2 years – \$250;
or
 - (iii) where the application is for a licence for 3 years – \$350;
 - (c) where the Commissioner, under section 253 of the Act, waives the requirement for the publication of a notice under section 251 of the Act in relation to the application – \$100;
 - (d) where the licence will relate to more than one business premises – \$100 in relation to each additional business premises; and
 - (e) where the application is for renewal of a licence later than 28 days before the day on which the licence is due to expire - \$150.
- (2) For the purposes of sections 251(1)(b) and 255(1)(b) of the Act, in relation to an application for the grant or renewal of a pawnbroker/second-hand dealer's licence, the fee is:
- (a) where the applicant is a natural person – \$75 plus:
 - (i) where the application is for a licence for one year - \$200;
 - (ii) where the application is for a licence for 2 years – \$350;
or
 - (iii) where the application is for a licence for 3 years – \$450;
or
 - (b) where the applicant is a corporation – \$150 plus:
 - (i) where the application is for a licence for one year - \$200;
 - (ii) where the application is for a licence for 2 years – \$350;
or
 - (iii) where the application is for a licence for 3 years – \$450;
 - (c) where the Commissioner, under section 253 of the Act, waives the requirement for the publication of a notice under section 251 of the Act in relation to the application – \$100;

- (d) where the licence will relate to more than one business premises – \$100 in relation to each additional business premises; and
 - (e) where the application is for renewal of a licence on a day later than 28 days before the day on which the licence is due to expire – \$150.
- (3) The fee for the purposes of section 268(2) of the Act is \$5.
- (4) Where a licence is, in accordance with regulation, to be issued:
- (a) for less than 12 months – the fee payable is, for each whole month for which the licence is issued, 1/12th of the fee for issue of a licence for 12 months;
 - (b) for more than 1 year but less than 2 years – for each whole month for which the licence is issued, 1/12th of the fee for issue of a licence for 2 years; or
 - (c) for more than 2 years but less than 3 years – for each whole month for which the licence is issued, 1/12th of the fee for issue of a licence for 3 years.

5 Details to be included on licence application

For the purposes of section 251(1)(a) of the Act, the following details are prescribed:

- (a) the applicant's name;
- (b) if the application is made by a corporation – the name of each director of the corporation;
- (c) the business name under which the applicant proposes to conduct business as a pawnbroker, second-hand dealer or pawnbroker/second-hand dealer;
- (d) the business premises and storage premises to which the licence, if granted, will apply.

6 Details to be published in newspaper

For the purposes of section 251(4)(b) of the Act, the following details are prescribed:

- (a) the applicant's name;
- (b) if the application is made by a corporation – the name of each director of the corporation;

- (c) the business name under which the applicant proposes to conduct business as a pawnbroker, second-hand dealer or pawnbroker/second-hand dealer, as the case may be;
- (d) the business premises to which the licence, if granted, will apply.

7 Evidence of identity for licence application

For the purposes of section 254(a)(iv) of the Act, evidence of the identity of a person applying for the grant of a licence may consist of any one of the following:

- (a) a certificate as to the applicant's Australian citizenship;
- (b) a document establishing the discharge of the applicant from an Australian defence force;
- (c) a document establishing the applicant has been appointed a Commissioner for Oaths under the *Oaths Act* or a Justice of the Peace under the *Justices of the Peace Act*;
- (d) a document, issued by the department of the Commonwealth with primary responsibility for the administration of immigration, evidencing that the applicant has been granted permanent residency in Australia.

8 Licence to expire before 1 March in a year

The Commissioner may only grant or renew a licence if it will expire immediately before 1 March in a year.

Part 3 Identification

9 Particulars to be kept in Register

For the purposes of section 268(1)(e) of the Act, the following particulars are prescribed:

- (a) the address of the storage premises to which the licence applies;
- (b) where the holder of a licence is a corporation:
 - (i) the name and address of each director of the corporation;
 - (ii) the registration number, within the meaning of the Corporations Act 2001, of the corporation; and

- (iii) the registered office within Australia, within the meaning of the Corporations Act 2001, of the corporation;
- (c) where the holder of a licence is a partnership – the name of each partner;
- (d) where the holder of a licence is a natural person – his or her residential address;
- (e) a waiver under section 253 of the Act in relation to the licence;
- (f) the number assigned by the Commissioner to the licence;
- (g) the date on which the licence was granted;
- (h) details of the conditions or restrictions to which the licence is subject;
- (j) the surrender of the licence and the date on which it was surrendered;
- (k) the revocation of the licence and the date of and the reasons for the revocation;
- (m) the suspension of the licence, the date of and duration of the suspension and the reasons for the suspension;
- (n) a summary of each conviction for a breach of the Act by:
 - (i) the holder of the licence;
 - (ii) a partner in a partnership that is the holder of the licence; or
 - (iii) a director of a corporation that is the holder of the licence,

whether the conviction occurred before or after the commencement of Part 14 of the Act.

10 Identification to be worn by employee entering into contract

- (1) For the purposes of section 275(4) of the Act, a person employed at business premises whose functions include entering into contracts at the premises is to display a badge, worn at chest height, on which:
 - (a) his or her name appears in legible letters not less than 7 mm in height;

- (b) the business name of the business at the premises appears in legible letters not less than 7 mm in height; and
 - (c) no advertising material, other than the business logo, appears.
- (2) For the purposes of subregulation (1)(a), the person's name is to correspond with his or her name as kept under section 275(1)(a) of the Act, except that it may be reduced to his or her first given name and surname only.

11 Identification of persons entering into contract

- (1) For the purposes of section 277(1)(b)(iii) of the Act, a document issued by:

- (a) an Agency of the Territory;
 - (b) a department or statutory authority of the Commonwealth or a State or another Territory of the Commonwealth; or
 - (c) a local government of the Territory, a State or another Territory of the Commonwealth,

that contains a current photograph of the person, the person's name and an unique identifying number is a prescribed means by which a person's identity may be identified.

- (2) If a person cannot provide a document referred to in subregulation (1), 2 documents issued by:

- (a) an Agency of the Territory;
 - (b) a department or statutory authority of the Commonwealth or a State or another Territory of the Commonwealth; or
 - (c) a local government of the Territory, a State or another Territory of the Commonwealth,

that contain the person's name and an unique identifying number is a prescribed means by which a person's identity may be identified.

Part 4 Records to be kept

12 Records to be made by pawnbroker

For the purposes of section 279(s) of the Act, the sale price of unredeemed goods that are sold by the pawnbroker is prescribed.

13 Records to be provided by second-hand dealer

For the purposes of section 282(1)(a) of the Act, the records specified in section 281(a) to (g) (inclusive) of the Act are prescribed.

14 Keeping of records by pawnbrokers

- (1) For the purposes of section 283(1)(b) of the Act, all records required under section 279 of the Act to be recorded by a pawnbroker in relation to each contract entered into by or on behalf of the pawnbroker are to be kept:
 - (a) in an electronic form or in a bound book; and
 - (b) in the numerical order of the distinguishing number required to be recorded in relation to the contract under section 279(a) of the Act.
- (2) For the purposes of section 283(1)(b) of the Act, all affidavits provided to a pawnbroker under section 286 of the Act are to be kept together in a file.

15 Keeping of records by second-hand dealers

For the purposes of section 283(2)(b) of the Act, all records required under section 281 of the Act to be made by a second-hand dealer in relation to contracts entered into by or on behalf of the second-hand dealer are to be kept:

- (a) in an electronic form or in a bound book; and
- (b) in the numerical order of the distinguishing number required to be recorded in relation to the contract under section 281(1)(a) of the Act.

16 Records to be kept in relation to compact discs

A pawnbroker or second-hand dealer must ensure that where a contract is entered into in relation to a compact disc, the title of the disc and the name of the artist are recorded as soon as the information becomes available to the pawnbroker or second-hand dealer or a person entering into the contract on behalf of the pawnbroker or second-hand dealer.

17 Access for enforcement purposes to information about goods

- (1) For the purposes of section 316 of the Act, the following persons are prescribed:
 - (a) authorized officers;
 - (b) members of the Police Force.
- (2) For the purposes of section 316 of the Act, a pawnbroker is, at the request of a person prescribed under subregulation (1), to enable the person to view the computer database or the bound book in which the information specified in section 279(a) to (e) (inclusive) of the Act is recorded in relation to each contract entered into by the pawnbroker.
- (3) For the purposes of section 316 of the Act, a second-hand dealer is, at the request of a person prescribed under subregulation (1), to enable the person to view the computer database or the bound book in which the information specified in section 281(1)(a) to (e) (inclusive) of the Act is recorded in relation to each contract entered into by the second-hand dealer.

Schedule Goods not to be treated as second-hand goods

regulation 3

1. Boats (but not including outboard motors or other marine equipment).
2. Books, magazines and periodicals.
3. Ferrous and non-ferrous scrap metals (other than gold or silver).
4. Goods collected under a recycling scheme for the purposes of a municipal council, or a community government council, within the meaning of the *Local Government Act*.
5. Goods (other than jewellery) purchased for the purpose of manufacturing another article from the goods.
6. Clothing, including footwear.
7. Furniture, including lamps and light fittings (other than electrical or electronic appliances or movable heaters, where the second-hand dealer's retail sale price is greater than \$30).
8. Household soft furnishings, including rugs, curtains and manchester.
9. Household decorative goods, including statues, figurines, paintings, prints and drawings.
10. Kitchenware, including pots, pans, crockery and cutlery (but not domestic, electrical or electronic appliances where the second-hand dealer's retail sale price is greater than \$30).
11. Motor vehicles.
12. Mining machinery and parts.
13. Farming machinery and parts (but not accessories such as audio equipment, electronic monitoring equipment or lamps, other than those required under the *Motor Vehicles Act*).
14. Rags.
15. Bones.
16. Glassware, including bottles.
17. Cans.
18. Waste plastic materials.

19. Waste paper materials.
20. Salvaged building materials including doors, window frames, tiles, bricks and timber.
21. White goods in the nature of large domestic electrical equipment, including refrigerators, freezers, washing machines, clothes dryers, ovens and ironing presses (but not portable or camping refrigerators or microwave or microwave/convection ovens).
22. Camping equipment and fishing gear where the second-hand dealer's retail sale price is or will be less than \$30.
23. Collectables such as stamps, trading cards, dolls, toys and military memorabilia.
24. Records and cassette tapes.

ENDNOTES

1**KEY**

Key to abbreviations

amd = amended
 app = appendix
 bl = by-law
 ch = Chapter
 cl = clause
 div = Division
 exp = expires/expired
 f = forms
 Gaz = Gazette
 hdg = heading
 ins = inserted
 lt = long title
 nc = not commenced

od = order
 om = omitted
 pt = Part
 r = regulation/rule
 rem = remainder
 renum = renumbered
 rep = repealed
 s = section
 sch = Schedule
 sdiv = Subdivision
 SL = Subordinate Legislation
 sub = substituted

2**LIST OF LEGISLATION**

Consumer Affairs and Fair Trading (Pawnbrokers and Second-hand Dealers) Regulations (SL No. 20, 1998)

Assent date	1 July 1998
Commenced	1 July 1998

Amendment of Consumer Affairs and Fair Trading (Pawnbrokers and Second-hand Dealers) Regulations (SL No. 25, 2000)

Assent date	14 June 2000
Commenced	14 June 2000

Corporations Reform (Consequential Amendments NT) Act 2001 (Act No. 17, 2001)

Assent date	29 June 2001
Commenced	15 July 2001 (s 2, s 2 Corporations Act 2001 (Act No. 50, 2001) (Cth) and Cth Gaz S285, 13 July 2001)

Consumer Affairs and Fair Trading Amendment Regulations 2006 (SL No. 15, 2006)

Assent date	31 May 2006
Commenced	1 July 2006 (r 2, s 2 Consumer Affairs and Fair Trading Amendment Act 2002 (Act No. 41, 2002) and Gaz G20, 17 May 2006, p 6)

3**LIST OF AMENDMENTS**

r 4	amd No. 15, 2006, r 6
r 5	amd No. 15, 2006, r 7
r 6	amd No. 15, 2006, r 8
r 9	amd Act No. 17, 2001, s 22
r 11	amd No. 25, 2000