



This Frequently Asked Questions (FAQ) document is to assist with questions on the Second-hand Dealers and Pawnbrokers Act and Regulations which may arise from persons in the second-hand goods industries or members of the public.

For a broader understanding of the legislation it is recommended this document be read in conjunction with the current Second-hand Dealers and Pawnbrokers Act and Regulations. This can be obtained online at South Australian Legislation (www.legislation.sa.gov.au)

For the latest information on Second-hand dealers please refer to the SA Police website South Australia Police website under Services. (www.police.sa.gov.au)

Business Registration

Q. 1 *What is a second-hand dealer?*

Answer A second-hand dealer is a person who carries on the business of buying or selling second-hand goods either as a principal or agent. A person may be considered a second-hand dealer if the person has, within a 12 month period done one of the following things:

- on six or more occasions sold or advertised for sale different second-hand goods;
- conducted six or more auctions for the sale of second-hand goods for another person.

Q. 2 *I intend to start up a second-hand business - do I need to have a second-hand dealers licence if I intend buying or selling second-hand goods?*

Answer A licence is not required; however any person who proposes to commence to carry on business as a second-hand dealer or pawnbroker is required to notify the Commissioner of Police **1 month** prior to commencing business. A person wishing to register is required to complete a **PD 173** which can be obtained from local police stations or the SA Police website. A registered Second-hand dealer is also required to notify the Commissioner of Police in writing of any change of personal or business details which may be done on a **PD 175**, also available from local police stations or the SA Police website.

Q. 3 *Do I need to pay a fee to register as a second-hand dealer, pawnbroker or market operator?*

Answer No application or renewal fees are payable for registering with the Commissioner of Police. Simply fill an application form (PD173) and submit it to your local police station or mail to address on the form.

Q. 4 *Is a Police Clearance Certificate required when making an application to register as a second-hand dealer/market operator?*

Answer No. When an application is received by Information Services Branch (INSB) checks are conducted on the applicant's criminal history to ascertain whether the applicant is approved to operate as a second-hand dealer pursuant to the Section 6 of the Second-hand Dealers and



Pawnbrokers Act 1996. The applicant will be sent a letter advising of the outcome of approval to operate or not.

Q. 5 *What are 'prescribed goods'?*

Answer **Prescribed goods** are listed in Section 3 of the Regulations and include commonly stolen and traded items. The categories of items include precious stones; precious metals such as gold and silver; jewellery, sporting or recreational goods (not including clothing or footwear); watercraft; musical instruments (not including pianos); portable engine powered or motorised tools or equipment; tool kits; photographic equipment and video camera equipment; computer hardware and interactive game consoles; electric or electronic goods (not including whitegoods); mobile phones, CDs and DVDs; bicycles; caravans, trailers motor vehicles and motor vehicle components. A full list is provided in Regulations.

Q. 6 *What are non-prescribed goods?*

Answer **Non-prescribed** goods are those goods which are less commonly stolen and traded and include such things as clothing and footwear, bric-a-brack, whitegoods such as fridges/freezers, furniture and antiques, kitchenware and utensils, books and magazines etc.

Q. 7 *I am a dealer of second-hand goods and regularly have customers offering prescribed and non-prescribed goods. Do I have to record what identification these customers' produce?*

Answer When offered **prescribed goods** for sale a second-hand dealer is required to obtain, verify and record any identification that is produced. Sufficient identification includes:

- A State or Commonwealth Government card or document that contains a person's full name, address, signature and photograph;
- If there is no photographic identification produced then at least two cards or official documents are needed – at least one of which must be issued by a State or Commonwealth Government. Any documents or cards produced must together contain a full name, address and signature of the customer.

It is the responsibility of the second-hand dealer to ensure:

- The identification produced does not appear to have been forged or tampered with;
- The identification produced contains a name and address matching the name and address given by the customer;
- The identification produced contains a signature matching the signature of the customer;
- If there is a photograph, that it is a good likeness to the customer;
- Any identifying number on the identification is recorded;
- If no number then the date of issue must be recorded;



- There is sufficient details to identify the body or person who issued the document or card.

Dealers are not required to obtain identification from persons offering to sell non-prescribed goods.

Q. 8 *I am a pawnbroker and regularly have customers offering prescribed and non-prescribed goods for loans. Do I have to record what identification these customers' produce?*

Answer Yes. A pawnbroker is required to obtain, verify and record identification from all persons offering any (prescribed or non-prescribed) pawned goods.

Second-hand dealers

Q. 9 *I regularly buy and sell prescribed second-hand goods. Is there a period of time I need to retain these goods before I can offer them for sale?*

Answer The Act requires dealers to retain 'prescribed' goods in the form in which they were received for 10 business days.

Prescribed goods may be sold after 3 days provided full identity details of the purchaser are obtained and recorded.

Note: The 3 day retention period does not apply to gemstones or precious metals, items of jewellery that include gemstones or precious metals and watches.

Q. 10 *I am a manager of a retail business selling computer games and related products including consoles, accessories, second-hand games and gaming consoles. Second-hand games and consoles are often accepted in exchange for store credit. Am I still required to comply with record keeping and retention requirements?*

Answer The Act defines the term 'sell' to include "barter or exchange" which would include the exchange of second-hand goods in return for store credit. As a result, dealers are required to comply with record-keeping and retention period.

Q. 11 *Apart from retaining prescribed goods what else am I required to do with these goods?*

Answer Prescribed goods coming into the possession of a second-hand dealer are required to be labelled with a 'unique' identification code.

Q. 12 *If I suspect that I have had stolen goods produced to me what do I do?*

Answer If a second-hand dealer suspects for any reason they have bought or received goods which are stolen, then they must immediately notify the police.



Q. 13 *What happens if Police suspect goods I have in my possession may be stolen?*

Answer If Police suspect goods in the possession of a second-hand dealer or pawnbroker may be stolen they can take a number of steps:

- Seize the goods for evidentiary purposes
- Serve a notice requiring the second-hand dealer or pawnbroker not to part with the goods until provided a written authority by a member of the police force. This is often referred to as a 'Hold' notice.

Q. 14 *I have been asked by Police to look out for particular stolen goods, what am I supposed to do?*

Answer Police can provide a second-hand dealer or pawnbroker a written notice which describes goods that are suspected of being stolen. The dealer must check if they have bought or are in possession of such goods. Any goods which subsequently come into the dealer's possession should also be checked against the notice. If a dealer believes they have bought or received goods that appear on the notice they must immediately notify the police and not part with those goods without written authority of a member of Police.

Q. 15 *If a person believes goods that I have are his or her stolen goods, am I required to do anything?*

Answer If a person claims to be entitled to goods in possession of a second-hand dealer or pawnbroker then a *Schedule 1-Notice of claim to goods in possession of second-hand dealer* as per the Regulations must be supplied by the dealer and completed by both parties. A copy of the notice is held by the dealer with a copy supplied to the claimant and police. The dealer must notify police of the claim as soon as possible. The goods in question cannot be sold or parted with without written authority of a member of the Police force.

Q. 16 *I own three second-hand and pawnbroker stores and regularly transfer stock between these three stores. Am I required to retain items transferred from one store to another for a further 10 day period or am I able to sell the goods immediately?*

Answer Goods must be retained for 10 days at the original store after which they may be moved to another store. There is no requirement for the transferee to retain the goods for a further 10 days provided you are able to produce a copy of a certificate signed by the second-hand dealer who retained the good for the 10 days after purchase.

Q. 17 *I am an antique dealer principally of antique furniture and bric-a-brac however, occasionally I am offered and sometimes buy from customers antique jewellery (rings, bracelets, fob watches etc.) which I then offer for sale in my premises. Do I need to record these transactions?*

Answer Yes. If during the course of your business you acquire 'prescribed goods' such as jewellery and watches (whether antique or not), you will need to verify the customers identity, record your transactions, tag and retain the goods.



- Q. 18** *My company deals with new caravans and camper trailers. We accept second-hand caravans and camper trailers as trade-ins and sell the second-hand caravans from our yards. We don't acquire caravans or camper trailers other than via trade-ins. Does my business need to be registered as a second-hand dealer?*
- Answer** Yes, if your company is buying or selling second-hand goods (including trade-ins) you are required to be registered under the Act and comply with other transaction requirements.
- Q. 19** *I sell second-hand clothing and costume jewellery, I get a lot of teenagers wanting to buy these 'retro' outfits. Does the legislation affect who I can sell to?*
- Answer** No, there is no age restriction on who you can sell goods to.
- Q. 20** *I am a proprietor of a retail store selling new and second-hand gaming consoles and games. Frequently I am approached by young kids offering to sell PS3 and Xbox games and consoles. Is there any age restriction on who I can buy these goods from?*
- Answer** The Act prohibits a second-hand dealer from buying from persons under the age of 16 years. A contract of pawn can also not be entered into with a person under 16 years.
The legislation does not however, prevent persons under the age of 16 years from buying second-hand goods such as computer games and consoles.
- Q. 21** *I am the proprietor of a mobile phone service/repair centre. The principal business activity is the repair of damaged mobile phones. A small part of our business however, is the sale of second-hand mobile phones acquired through people not collecting or failing to pay for the repairs. Do I need to be registered or record details of the acquisition of these mobile phones?*
- Answer** Regulations exempt a business of repairing prescribed goods for customers from the requirement to be registered, make records, labelling and retention of second-hand goods.
- Q. 22** *I am the proprietor of a second-hand book shop and regularly buy and sell second-hand books, magazines /stamps /coins etc. Do I need to record who I buy these items from and who I sell them to?*
- Answer** Books and magazines, stamps and coins are not 'prescribed goods' and as such you are not subject to the record keeping, tagging and retention provisions of the Act and Regulations.
- Q. 23** *My second-hand business does not deal with 'prescribed goods'. Do any parts of the current Act apply to me?*
- Answer** Yes, there are a number of sections that apply to all second-hand dealers including the following:
- register with the Commissioner of Police at least one month prior to commencing trade
 - the requirement to report to Police suspected stolen goods



- the requirement to report to Police suspected stolen goods
- the ability for Police to place a 'hold' on suspected stolen goods
- the provision for Police to inspect premises or business records
- not buying or entering into contracts of pawn with persons under 16 years.

Q. 24 *I am a licensed dealer in second-hand motor vehicles. Do I have to be registered as a second-hand dealer under this Act?*

Answer No, both the buying and selling of second-hand motor vehicles (for resale, not scrapping) is covered in other Acts and as such is not covered under this legislation.

Pawnbrokers

Q. 25 *As a pawnbroker what can I do with goods that are not redeemed by the person who pawned them. I can't keep holding onto them and need to get back the money I lent on the items.*

Answer If the goods are not redeemed you must, as soon as reasonably practicable, sell the goods in a manner conducive to securing the best price reasonably obtainable.
In relation to the sale you must also record against the entry relating to the second-hand goods, details of the sale of the goods including date of the sale and the amount for which the goods were sold.
If the proceeds of the sale of the pawned goods exceed the amount owing, the balance of the proceeds is recoverable from the pawnbroker as a debt by the person who would have been entitled to redeem the goods if not sold.

Q. 26 *What extra requirements are applicable to pawnbrokers?*

Answer Pawnbrokers will have further requirements including:

- Minimum pawn agreement of 1 month (unless the item is redeemed).
- Recording, tagging and retention of all items pawned.

Q. 27 *What is a pawn ticket and what information does it have to have on it?*

Answer A 'pawn ticket is basically the record of the pawn or pawn contract which is required to be completed at the time of the pawn. There are a number of details which are required to be contained in the pawn ticket and Section 13(2) of the Act and Regulation 11 of the Regulations should be referred to for the complete details required.



Auctioneers

Q. 28 *As an auctioneer I do not buy and sell second-hand goods only conduct the auctions. Do I have to Register or comply with any other requirements?*

Answer Under the Act a person who in a 12 month period conducts six (6) or more auctions for the sale of second-hand goods on behalf of other persons is considered to be carrying on the business as a second-hand dealer, and as such is required to be registered with the Commissioner of Police.

Auto-dismantlers

Q. 29 *I am an auto repairer / dismantler and acquire cars to on-sell the parts. How does the current legislation affect me?*

Answer If you buy cars from the general public to on-sell the parts, you are classed as a second-hand dealer and therefore need to be registered and comply with the legislation. If these parts are 'prescribed goods' then you must comply with the record keeping, tagging and retention requirements outlined previously.

Q. 30 *My business is primarily scrap metal however I do take in old cars, car body parts and shells of cars for the scrap metal. Do I have to be registered?*

Answer If your business is acquiring these goods (including prescribed goods) for the purposes of recycling metal and selling scrap metal obtained from those goods you do not have to be registered, make records, label or retain the goods..

Q. 31 *As an auto-dismantler I buy crashed vehicles from the auctions, how does this affect my business?*

Answer If the vehicle bought at auction is a written-off vehicle under the Motor Vehicle Act (MVA) the requirement to label and retain the goods does not apply in relation to the written-off vehicle or a motor vehicle component from a written-off vehicle if you record the serial number of the written-off vehicle notice.

Markets

Q. 32 *I am a weekend market operator where stall-holders sell a variety of second-hand goods including CD's, DVD's, electrical tools and appliances and other second-hand bric-a-brack. Do I need to register with the Commissioner of police?*

Answer Yes. Any person proposing to commence carry on business as a market operator where any 'prescribed' second-hand goods are offered for sale is required to notify the Commissioner of Police **1 month** prior to commencing business. A person wishing to register as a market operator is required to complete a **PD 174** which can be obtained from local police



stations or the SA Police website.

A registered Market Operator is also required to notify the Commissioner of Police in writing of any change of personal or business details which may be done on a **PD 176**, also available from local police stations or the SA Police website.

Note: Markets where only '*non-prescribed*' goods such as fresh produce, handicrafts, books, magazines and general bric-a-brack are sold, are not required to be registered.

Q. 33 *Once I am registered as a market operator so I have to anything else in relation to the recording the names of the stall holders each week?*

Answer If any stall holders are selling prescribed goods there is the requirement to record the date and place at which the market is held and record the full names and residential or business address of each person who sells prescribed goods. The identity of the person is to be verified according to the regulation 9.

Q. 34 *I am the Chairperson of our local school fund raising committee. We are holding our annual fete where we will be selling some second-hand goods donated by parents and businesses. Do I or the school have to be registered as a second-hand market?*

Answer No, if the fete / market only sells donated goods on behalf of a religious, educational or other charitable or beneficial community purpose, then you and the school are not required to be registered and none of the other provisions of the Act will apply to you.

Q. 35 *As operator of a market where people sell prescribed second-hand goods what authority do I have to ask for their name and other details?*

Answer There is no specific section making it an offence to fail or refuse to provide details to you, however as the market operator you are required to obtain and verify details of persons intending to sell 'prescribed goods'. As such as part of the conditions of entry to sell prescribed goods the person must comply with supplying his or her details.
If a person refuses to provide the details or identity they could be advised they cannot sell those goods and possibly leave the market. If you have suspicions about the goods or difficulties with the person you could always request police attendance.

Garage Sales

Q. 36 *I have previously held a garage sale at my home address where I disposed of various pre-loved items, including some which would be classified as prescribed goods. Under the current legislation do I need to register as a second-hand dealer if I want to conduct another garage sale?*

Answer The common house-hold garage sales held occasionally do not fall within the provisions of the Act. If however you are regularly acquiring prescribed



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goods for the purpose of resale and you do this by way of regular garage sales, you may be deemed to be acting as a second-hand dealer and therefore may be required to be registered and comply with other provisions of the legislation.

e-Bay

Q. 37 ***e-Bay and other internet based sales platforms appear to be increasing and surely this would be a good way to dispose of stolen property without the need to be registered?***

Answer Internet sales of second-hand goods are not specifically covered under the current legislation. However, if this is found to be the platform where persons are disposing of prescribed items, acquired for the purpose of resale, then investigations may be undertaken by Police to determine the source of these items and / or whether or not this person is acting as a second-hand dealer. If so, he or she would have to be registered and comply with other provisions of the legislation.