

Secondhand Dealers and Pawnbrokers Regulations 2005

(SR 2005/24)

Pursuant to section 84 of the Secondhand Dealers and Pawnbrokers Act 2004, Her Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, makes the following regulations.

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Note

These regulations are administered by the Ministry of Justice.

*Obligations of licence holders and internet auction
providers*

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Regulations

- 1 Title**
These regulations are the Secondhand Dealers and Pawnbrokers Regulations 2005.

- 2 Commencement**
These regulations come into force on 1 April 2005.

- 3 Interpretation**
In these regulations,—
Act means the Secondhand Dealers and Pawnbrokers Act 2004

retail outlet means premises from which articles, whether new or secondhand, are sold or supplied to members of the public generally; and **retailer** has a corresponding meaning.

Regulation 3 was substituted, as from 1 December 2006, by regulation 4 Secondhand Dealers and Pawnbrokers Amendment Regulations 2006 (SR 2006/323).

*Persons who are not engaged in business as
secondhand dealers*

This heading was substituted, as from 1 December 2006, by regulation 5 Secondhand Dealers and Pawnbrokers Amendment Regulations 2006 (SR 2006/323). The previous heading read “Local authorities not secondhand dealers”

4 Local authority not engaged in business as secondhand dealer

- (1) For the purposes of the Act, a local authority is not engaged in business as a secondhand dealer when selling secondhand articles or scrap metal.
- (2) In this regulation, local authority has the same meaning as in the Local Government Act 2002.

4A Seller of traded-in whiteware not engaged in business as secondhand dealer

For the purposes of the Act, a person who acquires secondhand whiteware as a trade-in when selling new goods is not engaged in business as a secondhand dealer when selling that whiteware.

Regulations 4A and 4B were inserted, as from 1 December 2006, by regulation 6 Secondhand Dealers and Pawnbrokers Amendment Regulations 2006 (SR 2006/323).

4B Firearms dealer not secondhand dealer

- (1) For the purposes of the Act, a licensed dealer is not engaged in business as a secondhand dealer when selling firearms.
- (2) In this regulation, **firearm** and **licensed dealer** have the same meanings as in section 2 of the Arms Act 1983.

Regulations 4A and 4B were inserted, as from 1 December 2006, by regulation 6 Secondhand Dealers and Pawnbrokers Amendment Regulations 2006 (SR 2006/323).

*Applications for licences and certificates***5 Fees**

- (1) The fees payable for applications are as follows:
 - (a) for an application under section 8 of the Act by an individual for a licence, \$350;
 - (b) for an application under section 8 of the Act by a company for a licence—
 - (i) for a company with 1 director, \$350;
 - (ii) for a company with more than 1 director, \$350 for the first director, and \$150 each for each additional director;
 - (c) for an application under section 21 of the Act for a certificate, \$150.
- (2) The fees prescribed in subclause (1) are inclusive of goods and services tax.

6 Photographs accompanying applications for licences and certificates

- (1) The 2 photographs required under section 8(3) of the Act (accompanying a licence application by an individual) and section 21(1)(b) of the Act (accompanying a certificate application) must be standard passport photographs, that is,—
 - (a) identical, recent photographs of the applicant; and
 - (b) a full-front view of the applicant's face, head, and shoulders only; and
 - (c) taken without hats, head coverings, or head bands; and
 - (d) 40 mm wide and 50 mm high.
- (2) The photographs must be authenticated in accordance with regulation 7.

7 Authentication of photographs

- (1) The photographs referred to in regulation 6 must be authenticated by—
 - (a) a barrister or solicitor of the High Court of New Zealand; or
 - (b) a Registrar or Deputy Registrar of a District Court; or
 - (c) a Justice of the Peace; or
 - (d) a member of the police; or

- (e) a registered medical professional; or
 - (f) any other person authorised by law to take statutory declarations in New Zealand.
- (2) That person must not be—
- (a) a relative or part of the family group of the applicant; or
 - (b) a spouse, civil union partner, or de facto partner of the applicant; or
 - (c) a person who lives at the same address as the applicant; or
 - (d) the employer of the applicant; or
 - (e) a business partner of the applicant.
- (3) The person authenticating the 2 photographs referred to in regulation 6 must—
- (a) write on the application form “These photographs are a true likeness of [full name of applicant]” (or words to that effect), and sign and date that statement; and
 - (b) write on the back of one of the photographs “Certified true likeness of [full name of applicant]” (or words to that effect), and sign and date that certificate.
- (4) The person authenticating the photographs must fill out in ink and in his or her own handwriting the part of the application form that relates to the authentication being given by that person, including his or her name written legibly, and the category of person in subclause (1)(a) to (f) to which he or she belongs.

8 Information required in application by individual for licence

- (1) An application for a licence made by an individual must contain, in addition to the information required under section 8(3) of the Act, the following information about the applicant:
- (a) any other name the applicant is or has been known by;
 - (b) gender;
 - (c) driver licence number, if any;
 - (d) contact telephone number, if any;
 - (e) contact email address, if any.
- (2) If an individual applying for a licence is in partnership, in addition to the full name and date of birth of every partner in the partnership (as required under section 8(3)(e) of the Act), the

application for the licence must contain the following information about every partner of the applicant:

- (a) any other name the partner is or has been known by:
- (b) gender:
- (c) driver licence number, if any:
- (d) contact telephone number, if any:
- (e) contact email address, if any:
- (f) residential street address.

9 Information required in application by company for licence

An application for a licence made by a company must contain, in addition to the full name and date of birth of every person involved in the management of the company (as required under section 8(4)(d) of the Act), the following information about every person involved in the management of the company:

- (a) any other name the person is or has been known by:
- (b) gender:
- (c) driver licence number, if any:
- (d) contact telephone number, if any:
- (e) contact email address, if any:
- (f) residential street address.

10 Contact details required in application for certificate

An application for a certificate must contain, in addition to the information required under section 21 of the Act, the following contact details of the applicant:

- (a) any other name the person is or has been known by:
- (b) gender:
- (c) driver licence number, if any:
- (d) contact telephone number, if any:
- (e) contact email address, if any.

*Obligations of licence holders and internet
auction providers*

11 Dealers record-keeping requirements not to apply to certain items

The requirements of section 42(2) of the Act in regard to the information shown in a dealers record do not apply to items in which the copper is of negligible commercial value, unless that item is otherwise an article.

11A Dealers record-keeping requirements not to apply to article acquired free of charge

The requirements of section 42(2) of the Act in regard to the information shown in a dealers record do not apply to any article the dealer acquires free of charge.

Regulation 11A was inserted, as from 1 December 2006, by regulation 7 Secondhand Dealers and Pawnbrokers Amendment Regulations 2006 (SR 2006/323).

12 Dealers record-keeping requirements not to apply to certain circumstances

- (1) If a dealer acquires goods in one of the situations set out in section 43(3) of the Act (where the dealer need not obtain evidence of the identity of a person from whom goods are acquired), the dealers record need not show the full name, contact address, and contact telephone number (if any) of the person from whom the dealer acquired the goods.
- (2) The dealers record must show the auction name, address of the auction, and item lot number (if any) for any goods that the licensed secondhand dealer acquires in the situation set out in section 43(3)(a) of the Act (which relates to some public auctions).
- (3) The dealers record must show the website address, on-line trading identity, and email address of the seller from whom a licensed secondhand dealer acquires goods in the situation set out in section 43(3)(b) of the Act (which relates to some internet auctions).
- (4) The dealers record must show the address at which a licensed secondhand dealer acquires goods in the situation set out in

section 43(3)(c) of the Act (which relates to some garage sales).

12A Dealers record-keeping requirements for article acquired from retail outlet

The dealers record of a dealer who, in the course of business as a secondhand dealer, acquires an article from a retail outlet need not show the information listed in section 42(2)(a) of the Act (which relates to the identity of the person from whom the article is acquired), but must show—

- (a) the name and position of the person acting in the transaction on behalf of the retailer; and
- (b) the address of the retail outlet; and
- (c) the licence number and licence holder's name, if a licence is displayed at the retail outlet.

Regulations 12A to 12C were inserted, as from 1 December 2006, by regulation 8 Secondhand Dealers and Pawnbrokers Amendment Regulations 2006 (SR 2006/323).

12B Exemption from requirement to verify identity when article acquired free of charge

A dealer who acquires an article free of charge need not obtain evidence of the identity of the person from whom the article is acquired.

Regulations 12A to 12C were inserted, as from 1 December 2006, by regulation 8 Secondhand Dealers and Pawnbrokers Amendment Regulations 2006 (SR 2006/323).

12C Exemption from requirement to verify identity when acquiring article from retailer

A dealer who, in the course of business as a secondhand dealer, acquires a secondhand article from a retail outlet need not obtain evidence of the identity of the retailer.

Regulations 12A to 12C were inserted, as from 1 December 2006, by regulation 8 Secondhand Dealers and Pawnbrokers Amendment Regulations 2006 (SR 2006/323).

13 Label for articles

The label required to be affixed to an article must be in the form set out in the Schedule, and may include additional information, such as the price and description of the article.

14 Label for pawned goods

The label required to be affixed to pawned goods must be in the form set out in the Schedule, and may include additional information.

15 Internet auction website requirements

An internet auction website on which a pawnbroker offers pawned goods for sale under section 63 of the Act must be a website run by a person who is not—

- (a) the pawnbroker; or
- (b) the pawnbroker's spouse, civil union partner, de facto partner, parent, child, or sibling; or
- (c) an employee of the pawnbroker; or
- (d) in the case of a pawnbroker that is a company, a person concerned in the management of the company.

16 Internet auction providers record

An internet auction providers record must show, in addition to the information required under section 69(2)(a) of the Act, the on-line trading identity and IP address (that is, the internet protocol address) of every person offering secondhand articles or scrap metal for sale on the internet auction provider's website.

Licensing Authority and transitional licences

17 Matters to be contained in annual report

The annual report of the Licensing Authority must include the following matters:

- (a) the number of applications for licences received under section 8 of the Act; and
- (b) the number of new licences issued to individual applicants under section 9 of the Act; and

- (c) the number of renewed licences issued to individual applicants under section 9 of the Act; and
- (d) the number of new licences issued to company applicants under section 10 of the Act; and
- (e) the number of renewed licences issued to company applicants under section 10 of the Act; and
- (f) the number of refusals to issue a licence under section 11 of the Act; and
- (g) the number of, and reasons for, licence cancellations under section 16 of the Act; and
- (h) the number of applications for certificates received under section 21 of the Act; and
- (i) the number of waivers of disqualification under section 23 of the Act; and
- (j) the number of police objections under section 25 of the Act; and
- (k) the number of hearings conducted into police objections under section 27 of the Act; and
- (l) the number of police objections upheld under section 27 of the Act; and
- (m) the number of police objections dismissed under section 27 of the Act; and
- (n) the number of complaints by the Commissioner of Police under section 29 of the Act; and
- (o) the number of complaints upheld by the Licensing Authority under section 29 of the Act; and
- (p) the number of, and reasons for, certificate cancellations under section 31 of the Act; and
- (q) the number of, and reasons for, certificate suspensions under section 31 of the Act; and
- (r) the number of certificate suspensions lifted under section 31 of the Act; and
- (s) any other matters relating to the administration of the Act on which the Licensing Authority wishes to comment.

18 Auctioneers' transitional licences

- (1) In this regulation, transitional licence has the same meaning as it has in section 85 of the Act.

- (2) An auctioneer who holds a transitional licence under the Act is not engaged in business as a secondhand dealer solely because he or she sells secondhand articles or scrap metal at a public auction conducted by him or her.

Schedule
Prescribed labels

rr 13, 14

Label for articles and pawned goods

Number:

Rebecca Kitteridge,
Acting for Clerk of the Executive Council.

Explanatory note

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations, which come into force on 1 April 2005, prescribe certain matters under the Secondhand Dealers and Pawnbrokers Act 2004, including—

- application fees for licences and certificates:
- authentication of photographs:
- additional information required for licence and certificate applications:
- information in dealers and internet auction providers records:
- labels:
- requirements for internet auction websites used to sell unredeemed pawned goods:

- matters to be contained in the Licensing Authority's annual report.
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