



ANALYSIS

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1963, No. 10

**An Act to consolidate and amend the law relating to the
licensing and control of secondhand dealers**

[2 October 1963]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1. Short Title and commencement—(1) This Act may be cited as the Secondhand Dealers Act 1963.

(2) This Act shall come into force on the first day of January, nineteen hundred and sixty-four.

2. Interpretation—(1) In this Act, unless the context otherwise requires,—

“Article”, in relation to a secondhand article, includes a motor vehicle, but does not include any book, pamphlet, magazine, periodical, letterpress, or printed reproduction, any bottle, any firearm or ammunition, or any article which the Governor-General may exclude, under subsection (5) of this section, from the provisions of this Act:

“Itinerant dealer” means a secondhand dealer having no settled place of business:

“Manager” means any person employed by a licensee to manage, superintend, or conduct the business of a secondhand dealer on behalf of the licensee:

“Scrap metal” includes old metal, broken metal, partly manufactured metal goods, defaced or old metal goods, and metal residues from manufacturing processes:

“Secondhand dealer” means a person, including a company, who carries on the business of purchasing, selling, exchanging, or otherwise dealing in secondhand articles (including scrap metal), whether or not he carries on any other business either in conjunction with the business of a secondhand dealer or separately therefrom:

“Secondhand dealer’s licence” or “licence” means a secondhand dealer’s licence granted under this Act; and “licensee” has a corresponding meaning.

(2) Where two or more persons carry on business in partnership as secondhand dealers, each of those persons shall be deemed to be a secondhand dealer.

(3) Notwithstanding the foregoing provisions of this section, any person who—

(a) Carries on the business of an auctioneer; or

(b) Carries on the business of a motor vehicle dealer within the meaning of the Motor Vehicle Dealers Act 1958; or

(c) In the course of his business acquires secondhand articles as part payment for new articles, whether or not he sells those secondhand articles—

shall not, in respect of any such business, be deemed to be a secondhand dealer within the meaning of this Act.

(4) Subject to the provisions of subsection (3) of this section, any person who carries on business as the purchaser of

secondhand articles for the purpose of dismantling or wrecking them, whether or not parts of the articles are subsequently sold, shall, in respect of that business, be deemed to be a secondhand dealer within the meaning of this Act.

(5) The Governor-General may from time to time, by Order in Council, declare any article to be excluded from the provisions of this Act, and any such Order in Council may be at any time in like manner amended or revoked.

(6) Any reference in this Act to a senior member of the Police shall be deemed to be a reference to the senior member, for the time being, of the Police in the place in which is situated the office of the Court from which the licence concerned is to be or was issued.

Cf. 1908, No. 173, s. 2

Licensing of Secondhand Dealers

3. Secondhand dealers to be licensed—(1) Subject to the provisions of this Act, no person shall carry on business as a secondhand dealer unless he is the holder of a licence under this Act for the time being in force in respect of each place of business where he carries on business as aforesaid or, in the case of an itinerant dealer, the area in which he carries on business.

(2) Notwithstanding the provisions of subsection (1) of this section, a charitable organisation which carries on the business of a secondhand dealer shall not be required to be licensed under this Act if none of the articles disposed of in the course of the business is acquired by purchase or any transaction in the nature of a purchase and if all the profits of the business are used for the purposes of the organisation.

(3) Every person who contrary to the provisions of this Act carries on the business of a secondhand dealer commits an offence against this Act.

Cf. 1908, No. 173, s. 3

4. Application for licence—(1) Every person who desires to obtain a licence shall make application in the prescribed form in respect of each place of business where he proposes to carry on business as a secondhand dealer.

(2) An application under this section shall be filed in the Magistrate's Court nearest by the most convenient route to the place named in the application as the place of business of the applicant:

Provided that where the applicant is an itinerant dealer, the application shall be filed in the Magistrate's Court nearest by the most convenient route to his residence.

(3) Where the applicant is a body corporate, the application shall state the name and address of the person proposed to be employed as manager and if the applicant, not being a body corporate, proposes to employ a manager, the name of that person shall be stated in the application.

(4) An application by an itinerant dealer shall state fully the address where he resides and also the area within which he carries on or proposes to carry on business.

(5) Every application under this section shall contain such other particulars as may be prescribed.

(6) The Registrar of the Magistrate's Court at which any application under this section is filed shall forthwith send a copy of the application to the senior member of the Police.

Cf. 1934, No. 20, s. 4

5. Hearing of application—(1) Every application for a licence shall be heard by a Magistrate who, if satisfied that the provisions of this Act have been complied with, and that the applicant is a fit and proper person to carry on the business of a secondhand dealer, shall, on payment of the prescribed fee, grant to the applicant a licence in the prescribed form.

(2) Where the applicant is a company, the Magistrate may require the production of evidence as to the character and fitness of such of the officers of the company as he thinks fit.

(3) The powers conferred on a Magistrate by this section may, with the approval of the Magistrate or, if there is more than one Magistrate exercising jurisdiction in the place where the application is made, the senior Magistrate in that place, be exercised by the Registrar in any case where the member of the Police to whom the application was forwarded certifies that the applicant is a fit and proper person to carry on the business of a secondhand dealer. Any such approval may be given either generally or in respect of any particular case or class of case.

(4) The fact that the Registrar grants any application under this section shall be conclusive evidence of his authority to do so.

(5) Where any application for a licence is refused by the Registrar, he shall, if the applicant so requests, refer the application forthwith to a Magistrate for reconsideration, and the Magistrate may in his discretion confirm or reverse the decision of the Registrar.

(6) Where an application for a licence contains the name of a proposed manager in accordance with subsection (3) of section 4 of this Act, the Magistrate or, as the case may be, the Registrar shall when dealing with the application determine whether or not the proposed manager is a fit and proper person to manage the business. If the Registrar does not approve the appointment of the manager, the provisions of subsection (5) of this section shall, with the necessary modifications, apply.

Cf. 1934, No. 20, s. 4

6. Effect of licence—(1) A licence shall authorise the licensee to carry on the business of a secondhand dealer at the place named in the licence or, in the case of an itinerant dealer, within the area named in the licence.

(2) Any licensee and any manager employed by a licensee who carries on business as a secondhand dealer at any place not named in the licence or, as the case may require, outside the area named in the licence commits an offence against this Act.

(3) Where the licensee is an itinerant dealer, the licence shall be subject to such conditions as to notification to the Police of the movements of the licensee, or any manager employed by the licensee, in the course of the business of the licensee as may be prescribed in regulations under this Act, and any such licensee or manager who fails to comply with any such condition commits an offence against this Act.

7. Change of address—(1) A licensee who wishes to change the address of his business or, in the case of an itinerant dealer, to change the address of his residence or to carry on business in any area not named in the licence shall apply to the Registrar of the Court where the licence was issued and the Registrar, on payment of the prescribed fee, shall amend the licence in accordance with the application.

(2) The Registrar shall forthwith notify the senior member of the Police of any amendment made under this section.

(3) Where any amendment is made under this section, the Registrar shall forward the records of the Court in respect of the licence to the Registrar of the Court to which the application for the licence would have been made if the changed address had been the original address and, in any such case, that Court shall, for the purpose of this Act, be deemed to be the Court where the licence was issued.

Cf. 1908, No. 173, s. 18

8. Employment of managers—(1) Subject to the provisions of this Act, no licensee shall employ, for longer than fourteen days, a manager of the business to which the licence relates without the approval of the senior member of the Police.

(2) Any approval under subsection (1) of this section may at any time be revoked by the senior member of the Police.

(3) Where any approval under subsection (1) of this section is refused or where an approval is revoked under subsection (2) of this section, the licensee concerned may apply to a Magistrate to reverse the decision and the Magistrate, after making such inquiries and hearing such evidence as he thinks fit, may make an order confirming or reversing the decision, and the order shall have effect according to its tenor.

(4) Where an application under section 4 of this Act contains the name of a proposed manager no further application for the approval of the manager shall be required under this section.

(5) Where it appears to the senior member of the Police that any person employed as a manager with the approval of a Magistrate, whether pursuant to an application under section 4 of this Act or otherwise, is no longer a fit and proper person to be so employed, any member of the Police may apply to the same or any other Magistrate for the revocation of the approval, and the Magistrate, after making such inquiries and hearing such evidence as he thinks fit, may make an order confirming or revoking the approval and the order shall have effect according to its tenor.

(6) Every application under this section shall be filed in the office of the Court from which the licence was issued.

(7) Every licensee who, contrary to the provisions of this section, employs a manager otherwise than pursuant to an approval under this Act for the time being in force and every person who acts as a manager for longer than fourteen days otherwise than pursuant to any such approval commits an offence against this Act.

9. Duration of licence—Every licence shall continue in force until it is cancelled in accordance with this Act.

Cf. 1934, No. 20, s. 3

10. Licence not transferable—Subject to the provisions of section 11 of this Act, a licence under this Act shall not be transferable, and shall not vest by operation of law in any person other than the licensee.

11. Temporary licences—(1) Any person being—

- (a) The personal representative of deceased licensee; or
- (b) The assignee in bankruptcy of a licensee who has been adjudged a bankrupt; or
- (c) The liquidator of a company which is a licensee; or
- (d) In the case of a licensee whose estate the Public Trustee is authorised to administer under the Mental Health Act 1911, or of whose estate the Public Trustee or any other person has been appointed the committee under that Act, the Public Trustee, or, as the case may be, the committee of the estate of the licensee; or
- (e) In the case of a licensee in respect of whom a protection order is in force under the Aged and Infirm Persons Protection Act 1912, the manager of his estate—

may carry on, or appoint some other person to carry on, the business of a secondhand dealer for a period not exceeding six months or such further periods as a Magistrate, pursuant to an application in that behalf, may determine.

(2) While any person carries on any business pursuant to subsection (1) of this section, he shall for the purposes of this Act be deemed to be the holder of the licence.

Duties of Secondhand Dealers

12. Register of articles to be kept—(1) Every licensee shall keep in the prescribed form a register in which shall be entered particulars sufficient to identify each secondhand article acquired or disposed of by him, the date of the transaction, and, in the case of every secondhand article acquired, the name, residence, and occupation of the person from whom he acquired it:

Provided that, in the case of scrap metal acquired by the licensee, it shall be sufficient compliance with this subsection if the date of the transaction and a full description of the nature and quantity of the metal is included in the entry.

(2) Every entry in the register shall be made on the date on which the transaction takes place.

(3) Every entry relating to any secondhand article other than scrap metal shall be given a number and a corresponding number shall forthwith be affixed to the article to which the entry relates and shall at all times while it remains in the licensee's possession be kept affixed to the article.

(4) Every register under this section shall be kept at the place of business specified in the licence or, in the case of an

itinerant dealer, at his residence or wherever he may be for the time being in the course of his business.

(5) Every such register shall be kept for six years from the date of the last entry therein.

(6) Every person who fails to comply with or acts in contravention of this section or who knowingly makes or causes to be made any false entry in any register under this section commits an offence against this Act.

(7) Any person convicted under this section of knowingly making or causing to be made any false entry in any register shall be liable on summary conviction to imprisonment for a term not exceeding one month, or to a fine not exceeding fifty pounds, or to both.

Cf. 1908, No. 173, s. 8

13. Restrictions as to purchase—Any licensee who, by himself or by any other person, acquires any secondhand article from any person apparently under the age of fifteen years commits an offence against this Act.

Cf. 1908, No. 173, s. 10

14. Retention of certain articles for period—(1) Every licensee who acquires otherwise than from another licensee any secondhand article of a class for the time being included in the First Schedule to this Act, shall retain it in his possession for not less than one month before disposing of it or in any way altering its condition or appearance so as to make it not readily identifiable.

(2) Every person who fails to comply with or acts in contravention of subsection (1) of this section commits an offence against this Act.

(3) The Governor-General may from time to time, by Order in Council, amend the First Schedule to this Act by adding to or omitting from the list of classes of secondhand articles specified in that Schedule any class of secondhand articles specified in the Order in Council.

Cf. 1934, No. 20, s. 6

15. Dealing by secondhand dealers as agents—(1) Except under the authority of a licence granted under any other Act, no licensee under this Act shall act or agree to act as agent for any person with or without commission in the acquisition or disposal of any secondhand article unless the provisions of section 12 of this Act, and, if the article is one to which

section 14 of this Act applies, the provisions of the said section 14, are complied with in all respects as if it were acquired or disposed of by him on his own behalf.

(2) Every person who, contrary to the provisions of this section, acts or agrees to act as agent commits an offence against this Act.

Cf. 1934, No. 20, s. 6A; 1950, No. 91, s. 33

16. Licences to be produced on demand—(1) Every licensee shall at all reasonable times on demand at his place of business or, in the case of an itinerant dealer, on demand at his residence or wherever he may be for the time being in the course of his business, produce his licence to any member of the Police and permit that member to inspect his place of business or any other place where articles acquired by him in the course of his business are for the time being kept and to inspect all such articles in his possession and the register required by section 12 of this Act to be kept by him.

(2) The provisions of subsection (1) of this section shall apply with respect to any manager employed by a licensee.

(3) Every person who fails to comply with or acts in contravention of this section commits an offence against this Act and shall be liable to a fine not exceeding twenty pounds.

Cf. 1934, No. 20, s. 8

Cancellation of Licences

17. Cancellation of licences—(1) A licence may be cancelled on any one or more of the following grounds:

(a) If the licensee is convicted of an offence under this Act or an offence under Part X of the Crimes Act 1961, other than an offence under sections 293 to 305 of that Act; or

(b) If on any ground the licensee is no longer, in the opinion of a Magistrate, a fit and proper person to be the holder of a licence; or

(c) If the licensee has died, or, in the case of a company, has been dissolved; or

(d) If the licensee has not at any time during the immediately preceding period of twelve months carried on business as a secondhand dealer at the place or in the area specified in the licence.

(2) The Court before which any person is convicted of any offence may of its own motion cancel his licence in any case where the conviction is a ground for the cancellation of the licence.

(3) Application for the cancellation of a licence on any of the grounds referred to in subsection (1) of this section may be made by any member of the Police, and shall be made by filing the application in the Magistrate's Court in which the licence was issued and thereupon any Magistrate shall have power to hear the application and either dismiss it or cancel the licence.

(4) Notice of every application under subsection (3) of this section shall be given to the licensee not less than ten days before the date fixed for the hearing of the application:

Provided that if the licensee has died or cannot be found any Magistrate may dispense with service of a notice under this subsection.

(5) Any licensee may at any time apply to the Registrar of the Court from which the licence was issued for a cancellation of his licence and the Registrar shall forthwith cancel the licence.

(6) The Registrar of the Court shall give notice of any cancellation of a licence under this section to the senior member of the Police.

Cf. 1934, No. 20, s. 9 (1)

18. Cancelled licence to be returned to Court—(1) Where any licence is cancelled it shall forthwith be returned by the holder to the Registrar of the Court from which it was issued.

(2) Any person who fails to return a cancelled licence in accordance with this section commits an offence against this Act.

Cf. 1934, No. 20, s. 9 (2)

Miscellaneous

19. Offences—(1) Every person, not being the holder of a licence under this Act for the time being in force, who in any way or by any method or device holds himself out to be a licensed secondhand dealer, commits an offence against this Act.

(2) Every person who makes any statement in any application under this Act knowing the same to be false in any particular, commits an offence against this Act.

(3) Where under section 12, section 13, section 14, or section 15 of this Act any obligation or duty is imposed on a licensee, the obligation or duty shall be deemed to be imposed as well on any manager employed by the licensee and, if the

manager fails to comply with any such duty or obligation, he commits an offence against this Act and shall be liable to the same penalty as the licensee in respect of the same offence.

Cf. 1908, No. 173, s. 11

20. Penalties—Every person who commits an offence against this Act or any regulations under this Act for which no other penalty is specifically provided shall be liable on summary conviction to a fine not exceeding one hundred pounds.

Cf. 1934, No. 20, s. 12

21. Existing licences—Every person who immediately before the commencement of this Act was the holder of a secondhand dealer's licence under the Secondhand Dealers Act 1908 shall continue to be the holder of the licence until the date of its expiry under that Act and the provisions of that Act shall, until that date, apply with respect to the licence in all respects as if this Act had not been passed.

22. Disposition of fees—All fees received under this Act shall be paid into the Public Account to the credit of the Consolidated Fund.

Cf. 1908, No. 173, s. 13

23. Regulations—The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:

- (a) Prescribing forms required for the purposes of this Act:
- (b) Prescribing fees payable under this Act:
- (c) Providing for such matters as are contemplated by or necessary for giving full effect to the provisions of this Act and for the due administration thereof.

24. Repeals—The enactments specified in the Second Schedule to this Act are hereby repealed.

SCHEDULES

Section 14

FIRST SCHEDULE

ARTICLES TO BE RETAINED FOR ONE MONTH

- ARTICLES of gold, silver, platinum, copper, brass, bronze, or pewter or any combination of any such metals.
- Bicycles and spare parts and accessories thereof.
 - Cameras.
 - Clocks and watches.
 - Field glasses and other optical instruments of any kind.
 - Film projectors.
 - Furs.
 - Gramophones and radiograms.
 - Jewellery and jewels and all articles of personal adornment.
 - Lawnmowers and motormowers.
 - Musical instruments other than pianos.
 - Overcoats, raincoats and men's suits.
 - Radio and television receiving and transmitting instruments and all parts thereof, and apparatus and articles used in connection therewith.
 - Scrap gold, silver, or platinum or any combination of those metals.
 - Tape recorders and other recording apparatus.
 - Tools of trade.
 - Tools, parts, and accessories of motor vehicles of all kinds.
 - Travelling rugs.
 - Typewriters.
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Section 24

SECOND SCHEDULE

ENACTMENTS REPEALED

- 1908, No. 173—The Secondhand Dealers Act 1908. (1957 Reprint, Vol. 13, p. 721.)
 - 1934, No. 20—The Secondhand Dealers Amendment Act 1934. (1957 Reprint, Vol. 13, p. 738.)
 - 1950, No. 91—The Statutes Amendment Act 1950: Section 33. (1957 Reprint, Vol. 13, p. 740.)
 - 1952, No. 36—The Secondhand Dealers Amendment Act 1952. (1957 Reprint, Vol. 13, p. 740.)
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This Act is administered in the Department of Justice.
