

AUSTRALIAN CAPITAL TERRITORY

New South Wales Acts Ordinance 1986

No. 91 of 1986

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, hereby make the following Ordinance under the *Seat of Government (Administration) Act 1910*.

Dated 18 December 1986.

N. M. STEPHEN
Governor-General

By His Excellency's Command,

LIONEL BOWEN
Attorney-General

An Ordinance relating to certain Acts of the State of New South Wales that apply in the Territory

Short title

1. This Ordinance may be cited as the *New South Wales Acts Ordinance 1986*.¹

Interpretation

2. (1) In this Ordinance, other than a Schedule to this Ordinance—
- (a) a reference to a continued State Act shall be read as a reference to an Act of the State of New South Wales that—
 - (i) was continued in force in the Territory by section 6 of the *Seat of Government Acceptance Act 1909*; and

- (ii) has effect in the Territory as a law of the Territory as provided by section 4 of the *Seat of Government (Administration) Act 1910*,

being the Act as amended and in force in that State immediately before the commencement of the *Seat of Government Acceptance Act 1909* and, in a case where the Act had been amended by an Ordinance of the Territory before the date of commencement of this Ordinance, as so amended; and

- (b) a reference to the amendment of a continued State Act shall be read as a reference to the modification of the Act by—
 - (i) the repeal or omission of any provision or other part of the Act, either with or without the substitution of a new provision or part in its place; or
 - (ii) the insertion in, or addition to, the Act of a new provision.

(2) Without limiting the operation of paragraph (1) (a), a reference in this Ordinance (other than in a Schedule to this Ordinance) to a continued State Act shall, in relation to an Act of the State of New South Wales that was amended by the *New South Wales Acts Application Ordinance 1985*, be read as a reference to that Act as so amended to the extent only that the amendments made by that Ordinance continued to have effect upon the disallowance of that Ordinance under section 12 of the *Seat of Government (Administration) Act 1910*.

Repeal

3. The Public Gates Act, 1901 and the Stock Act, 1901 of the State of New South Wales, to the extent to which they were in force in the Territory immediately before the commencement of this Ordinance, shall cease to be in force in the Territory.

Amendment of certain continued State Acts

4. (1) Subject to sub-section (2), a continued State Act specified in column 1 of Schedule 1 shall be deemed to be amended by this Ordinance to the extent necessary for it to have effect in the Territory as a law of the Territory in the terms set out in Schedule 2.

(2) Where—

- (a) a provision (in this sub-section referred to as the relevant provision) of a continued State Act so specified amends another continued State Act so specified; and
- (b) the relevant provision has been omitted from the text of that first-mentioned continued State Act as set out in Schedule 2 (the amendment made by the relevant provision having been incorporated in the text of that other continued State Act as set out in Schedule 2),

sub-section (1) shall not be taken to effect the repeal of the relevant provision.

Application of certain continued State Acts

5. Nothing in section 4 shall be taken to prevent the continued State Acts specified in column 1 of Schedule 1, being those Acts as amended by this Ordinance, from continuing in force in the Territory, after the commencement of this Ordinance, under, and in accordance with, the provisions of section 6 of the *Seat of Government Acceptance Act 1909* and section 4 of the *Seat of Government (Administration) Act 1910*.

Inconsistencies between continued Acts and other laws

6. (1) Where, upon the commencement of this Ordinance, a provision of a continued State Act as amended by this Ordinance (being a continued State Act specified in column 1 of Schedule 1) is inconsistent with a provision of another law in force in the Territory (not being a prescribed law), the provision of that other law prevails and the provision of that continued State Act, to the extent of the inconsistency, has no force or effect in the Territory.

(2) In this section, a reference to a prescribed law shall be read as a reference to—

- (a) a continued State Act as amended by this Ordinance or any other Ordinance; or
- (b) an Imperial Act that—
 - (i) was in force in the State of New South Wales immediately before the commencement of the *Seat of Government Acceptance Act 1909*; and
 - (ii) was continued in force in the Territory by section 6 of that Act, being that Act as amended and in force in the Territory immediately before the commencement of this Ordinance.

Interpretation of Acts set out in Schedule 2

7. In an Act of New South Wales set out in Schedule 2, in its application in the Territory, unless the contrary intention appears—

- (a) a reference in the Act to the Supreme Court shall be read as a reference to the Supreme Court of the Australian Capital Territory;
- (b) a reference in the Act to the Magistrates Court shall be read as a reference to the Magistrates Court for the Territory;
- (c) a reference in the Act to the Minister shall be read as a reference to the Minister for the time being administering the Act in its application in the Territory and as including a reference to a Minister or Member of the Executive Council for the time being acting for and on behalf of that Minister;
- (d) a reference in the Act to a Magistrate shall be read as a reference to a Magistrate within the meaning of the *Magistrates Court Ordinance 1930*;
- (e) a reference in the Act to the Commissioner of Police or to a Deputy Commissioner of Police shall be read as a reference to the person holding, or performing the duties of, the office of Commissioner of Police or Deputy Commissioner of Police, as the case may be, under the *Australian Federal Police Act 1979*;
- (f) a reference in the Act to an officer of police or member of a police force shall be read as a reference to a member, or a special member, of the Australian Federal Police; and
- (g) a reference in the Act to a member of a police force holding a particular rank shall be read as a reference to a member, or special member, of the Australian Federal Police holding that rank but, if that rank does not exist as a rank in the Australian Federal Police, as a reference to a member, or a special member, of the Australian Federal Police holding the rank that is declared by regulations in force under the *Australian Federal Police Act 1979* to be the equivalent of that particular rank.

Footnotes to continued Acts

8. The footnotes appearing at the end of a Part of Schedule 2 do not form part—

- (a) of the continued State Act the text of which is set out in that Part of that Schedule; or

(b) of this Ordinance.

Administration of Acts

9. (1) A continued State Act the short title of which is specified in column 1 of Schedule 1 shall be administered by the Minister of State of the Commonwealth specified in column 2 of that Schedule opposite to the short title of that Act in column 1.

(2) The Crimes Act, 1900 and the Lunacy Act, 1898 of the State of New South Wales, as amended and in force in the Territory, shall be administered by the Attorney-General.

(3) The Inebriates Act, 1900 and the Inebriates (Amendment) Act, 1909 of the State of New South Wales, as amended and in force in the Territory, shall be administered by the Minister for Territories.

Administration of Ordinances

10. (1) The *New South Wales Acts Application Ordinance 1984* shall, except as otherwise provided by that Ordinance, be administered by the Attorney-General.

(2) This Ordinance shall, except as otherwise provided by it, be administered by the Attorney-General.

New South Wales Acts Application Ordinance 1984—amendments

11. (1) In this section, “Principal Ordinance” means the *New South Wales Acts Application Ordinance 1984*.²

(2) Section 2 of the Principal Ordinance is amended by omitting all the words after the end of paragraph (a) to the end of the section and substituting the following word and paragraph:

“and (b) a reference to the amendment of a continued State Act shall be read as a reference to the modification of the Act by—

(i) the repeal or omission of any provision or other part of the Act, either with or without the substitution of a new provision or part in its place; or

(ii) the insertion in, or addition to, the Act of a new provision.”.

(3) Section 5 of the Principal Act is amended by omitting paragraph (2) (c) and substituting the following paragraph:

“(c) any Imperial Act that—

- (i) was in force in the State of New South Wales immediately before the commencement of the *Seat of Government Acceptance Act 1909*;
- (ii) was continued in force in the Territory by section 6 of that Act; and
- (iii) was in force in the Territory immediately before the commencement of this Ordinance,

being that Act as amended and in force in the Territory immediately before the commencement of this Ordinance.”.

SCHEDULE 1

Sub-section 4 (1)
and section 9

**ADMINISTRATION OF CONTINUED STATE ACTS THAT ARE
AMENDED BY THIS ORDINANCE**

Column 1	Column 2
Short title of Act	Minister by whom administered
Partition Act 1900	Attorney-General
Pawnbrokers Act 1902	Minister for Territories
Piracy Punishment Act 1902	Attorney-General
Public Instruction Act 1880.....	Minister for Territories
Public Roads Act 1902.....	Minister for Territories
Second-Hand Dealers and Collectors Act 1906	Minister for Territories
Truck Act 1900.....	Minister for Territories

SCHEDULE 2

Sub-section 4 (1)

PART 1

PARTITION ACT 1900

No. 24, 1900

An Act to consolidate enactments relating to partition

Short title

1. This Act may be cited as the Partition Act 1900.

Court

3. In the interpretation of this Act, the term “Court” means the Supreme Court.

Power of Court to order sale instead of division

4. (1) In a suit for partition, where, but for this Act or the Act hereby repealed, a decree for partition might have been made—

- (a) if it appears to the Court that, by reason of the nature of the property to which the suit relates, or of the number of the parties interested or presumptively interested therein, or of the absence or disability of some of those parties, or of any other circumstances, a sale of the property and a distribution of the proceeds would be more beneficial for the parties interested than a division of the property between or among them, the Court may, on the request of any of the parties interested, or on their behalf as hereinafter provided, and notwithstanding the dissent or disability of any others of them, order a sale of the property accordingly; and
- (b) if parties interested collectively to the extent of one moiety or upwards, or some persons as hereinafter provided on their behalf, request the Court to direct a sale of the property and a distribution of the proceeds instead a division of the property between or among the parties interested, the Court shall, unless it sees good reason to the contrary, order a sale of the property accordingly; and
- (c) if any party interested, or some person on his behalf as hereinafter provided, requests the Court to direct a sale of the property and a distribution of the proceeds instead of a division of the property

between or among the parties interested, the Court may, unless the other parties interested in the property or some of them, or some persons on behalf of such parties respectively as hereinafter provided, undertake to purchase the share of the party requesting a sale, order a sale of the property.

(2) If such undertaking is given, the Court may order a valuation of the share of the party requesting a sale in such manner as the Court thinks fit.

(3) The Court when making any order under this Act shall give all necessary consequential directions.

Authority for parties interested to bid

5. On any sale under this Act the Court may allow any of the parties interested in the property to bid at the sale on such terms as to non-payment of deposit or as to setting off or accounting for the purchase money or any part thereof instead of paying the same or as to any other matters as to the Court may seem reasonable.

Court may appoint trustees to receive and apply moneys arising from sales otherwise the moneys to be paid into Court

7. (1) All money to be received on any sale under the authority of this Act may, if the Court thinks fit, be paid to any trustees of whom it approves, or otherwise the same shall be paid into Court.

(2) Such money shall be applied as the Court directs to some one or more of the following purposes; namely:

- (a) the discharge or redemption of any incumbrance affecting the hereditaments in respect of which such money was paid or affecting any other hereditaments subject to the same uses and trusts;
- (b) the purchase of other hereditaments to be settled in the same manner as the hereditaments in respect of which the money was paid; or
- (c) the payment to any person becoming absolutely entitled.

Trustees may apply moneys in certain cases without application to Court

8. The application of the money in manner aforesaid may, if the Court so directs, be made by the trustees (if any) without any application to the Court or otherwise shall be made upon an order of the Court upon the application of the person who would be entitled to the possession or to the receipt of the rents and profits of the land if the money had been invested in the purchase of land.

Until money can be applied to be invested and dividends to be paid to parties entitled

9. (1) Until the money can be applied as aforesaid, the same shall be dealt with as provided for by the rules of Court relating to the deposit and investment of moneys in Court.

(2) The interest and proceeds shall be paid to the person who would have been entitled to the rents and profits of the land if the money had been invested in the purchase of land.

Parties to partition suits

10. (1) Any person who, but for this Act or the Act hereby repealed, might have maintained a suit for partition, may maintain such suit against any of the parties interested without serving the others (if any) of those parties, and it shall not be competent for any defendant in the suit to object for want of parties.

(2) At the hearing of the suit, the Court may direct such inquiries as to the nature of the property and the persons interested therein and other matters as it thinks necessary or proper with a view to an order for partition or sale being made on further consideration.

(3) All persons who, if this Act or the Act hereby repealed had not been passed, would have been necessary parties to the suit shall be served with notice of the decree or order on the hearing, and, after such notice, shall be bound by the proceedings as if they had been originally parties to the suit and shall be deemed parties to the suit.

(4) All such persons may have liberty to attend the proceedings, and any such person may, within a time limited by rule of Court, apply to the Court to add to the decree or order.

Power to dispense with service of notice of decree or order in special cases

11. (1) Where notice of the decree or order on the hearing of the suit cannot be served on all the persons on whom that notice is herinbefore required to be served, or cannot be so served without expense disproportionate to the value of the property to which the suit relates, the Court may, on the request of any of the parties interested in the property, and notwithstanding the dissent or disability of any others of them, by order, dispense with that service on any person or class of persons specified in the order, and instead thereof may direct advertisements to be published at such times and in such manner as the Court thinks fit calling upon all persons claiming to be interested in such property

who have not been so served to come in and establish their respective claims in respect thereof before the Court, within a time to be thereby limited.

(2) After the expiration of the time so limited, all persons who have not so come in and established such claims, whether they are within or without the jurisdiction of the Court (including persons under any disability), shall be bound by the proceedings in the suit as if, on the day of the date of the order dispensing with service, they had been served with notice of the decree or order service whereof is dispensed with, and thereupon the powers of the Court under the Trustee Act 1925, in its application in the Territory, shall extend to their interest in the property to which the suit relates as if they had been the parties to the suit, and the Court may thereupon, if it thinks fit, direct a sale of the property and give all necessary consequential directions.

Proceedings where service is dispensed

12. Where an order is made under this Act dispensing with service of notice on any person or class of persons, and property is sold by order of the Court, the following provisions shall have effect:

- (a) The proceeds of sale shall be paid into Court to abide the further order of the Court.
- (b) The Court shall, by order, fix a time at the expiration of which the proceeds will be distributed and may from time to time, by further order, extend that time.
- (c) The Court shall direct such notices to be given by advertisement or otherwise as it thinks best adapted for notifying to any person on whom service is dispensed with who may not have previously come in and established their claims, the fact of the sale, the time of the intended distributions, and the time within which a claim to participate in the proceeds must be made.
- (d) If, at the expiration of the time so fixed or extended, the interests of all the persons interested have been ascertained, the Court shall distribute the proceeds in accordance with the rights of those persons.
- (e) If, at the expiration of the time so fixed or extended, the interests of all the persons interested have not been ascertained, and it appears to the Court that they cannot be ascertained or cannot be ascertained without expense disproportionate to the value of the property, or of the unascertained interests, the Court shall distribute the proceeds in such manner as appears to the Court to be most in accordance with the rights of the persons whose claims to participate in the proceeds have

been established, whether all those persons are or are not before the Court, and with such reservations (if any) as to the Court may seem fit in favour of any other persons (whether ascertained or not) who may appear to have any prima facie right which ought to be so provided for although such right may not have been fully established, but to the exclusion of all other persons, and thereupon all such other persons shall by virtue of this Act be excluded from participation in those proceeds on the distribution thereof, but notwithstanding the distribution any excluded person may recover from any participating person any portion received by him of the share of the excluded person.

Provision for case of successive sales in the same suit

13. Where in a suit for partition two or more sales are made, if any person who has, by virtue of this Act, been excluded from participation in the proceeds of any of those sales establishes his claim to participate in the proceeds of a subsequent sale, the shares of the other persons interested in the proceeds of the subsequent sale shall abate to the extent (if any) to which they were increased by the non-participation of the excluded person in the proceeds of the previous sale, and shall to that extent be applied in or towards payment to that person of the share to which he would have been entitled in the proceeds of the previous sale if his claim thereto had been established in due time.

Request by infant, or person under disability

14. (1) In a suit for partition, a request for sale may be made or an undertaking to purchase given on the part of—

- (a) an infant by his next friend or guardian ad litem;
- (d) a person of unsound mind (whether so found by inquisition or not) by his committee, next friend or guardian ad litem, as the case requires; or
- (e) any other person under disability by the person authorized to act on his behalf.

(2) The Court shall not be bound to comply with any such request or undertaking on the part of any such person unless it appears that the sale or purchase will be for his benefit.

Sales, how effected

15. Wherever the Court orders of sale under this Act, it may order such sale to be effected—

- (a) by the Court;
- (b) out of Court, subject to such restriction as the Court thinks fit; or
- (c) altogether out of Court.

Power to Court to direct sale of portion of property and partition of the remainder

16. In any suit for partition, where, by this Act, the Court is empowered to direct a sale of the property to which the suit relates, the Court may, if it thinks fit, direct a sale of a portion of the property, and a partition of the remainder.

Suit for partition to include suit for sale and distribution of the proceeds

17. For the purposes of this Act, a suit for partition shall include a suit for sale and distribution of the proceeds, and, in a suit for partition, it shall be sufficient to claim a sale and distribution of the proceeds, and it shall not be necessary to claim a partition.

Costs in suits for partition

18. In a suit for partition, the Court may make such order as it thinks just respecting costs up to the time of the hearing.

NOTES

- (a) The Partition Act 1900, in its application in the Territory, comprises the Partition Act 1900 as repealed in part by the *New South Wales Acts Application Ordinance 1985* and as amended by the *New South Wales Acts Ordinance 1986*. The amendments so made have been incorporated in the text of the Partition Act 1900 in Part 1 of this Schedule. The *New South Wales Acts Application Ordinance 1985* also made amendments to the Partition Act 1900 but these ceased to have effect by reason of the disallowance of that Ordinance.
- (b) Sections 2, 6, 19 and 20 were repealed by the *New South Wales Acts Application Ordinance 1985*.
- (c) Paragraphs 14 (1) (b) and (c) were omitted by the *New South Wales Acts Application Ordinance 1985*.
- (d) The Act repealed by the Partition Act 1900 of New South Wales was Act 41 Vic. No. 17.

PART 2

PAWNBROKERS ACT 1902

No. 66, 1902

An Act to consolidate the enactments regulating the trade or business of pawnbrokers

PART I—PRELIMINARY

Short title

1. This Act may be cited as the Pawnbrokers Act 1902.

Interpretation

3. In this Act, unless the context or subject-matter otherwise indicates or requires—

“article” includes every species of chattels and goods whatsoever;

“licence” means a licence granted under this Act to carry on the trade or business of a pawnbroker;

“pawnbroker” means a person who carries on business or seeks his livelihood in or by advancing upon interest, or for or in expectation of profit, gain, or reward, any sum of money upon security, whether collateral or otherwise, of any article taken by such person by way of pawn, pledge, or security.

To whom Act not to apply

4. Nothing in this Act shall be construed to apply to loans or advances made on any goods, chattels, live-stock, wool, bonds, bills, title-deeds, or other security by merchants, bankers, commission agents, brokers, or licensed auctioneers in the ordinary and bona fide course of mercantile or banking transactions if the interest on any such loans or advances does not exceed the rate of 14 per centum per annum.

PART II—LICENCES

Penalty on pawnbroking without licence

5. Whosoever carries on the trade or business of a pawnbroker without having previously obtained a licence, shall, for such offence, be liable to a penalty not exceeding \$40.

Manner of obtaining licence

6. (1) Any person wishing to obtain a licence shall deliver to the Clerk of the Magistrates Court an application, in the form contained in the First Schedule, together with a certificate in the form contained in the said Schedule, signed by 5 householders residing in the Territory.

(2) The Magistrates Court may, if satisfied as to the character of the person so applying, grant a licence to such person in the form contained in the Second Schedule.

(3) All matters of applications for licences shall be heard and determined in open court, and shall be judicial inquiries.

(4) Every licence shall be delivered to the person applying for it on payment of a fee of \$20.

Duration of licence

7. Every licence shall, subject to the provisions of this Act, be in force for one year from the date thereof.

Record of licence to be kept

8. The Clerk of the Magistrates Court shall keep an alphabetical record of all licences granted by the Magistrates Court.

Separate licence to be taken out for each shop, &c.

9. No pawnbroker holding a licence shall, by virtue of one licence, keep more than one house, shop, or other place for taking in goods or chattels to pawn, but, for each and every house, shop, or other place which any person keeps for the purposes aforesaid, a separate and distinct licence shall be taken out and paid for.

Partner's licence

10. Persons in partnership and carrying on the trade or business of a pawnbroker in one house, shop, or tenement only shall not be obliged to take out more than one licence in any one year for carrying on such trade or business.

PART III—BUSINESS OF PAWNBROKING

Pawnbroker's name, &c., to be painted on his premises

11. (1) Every person who holds a licence shall have his name at length painted, in legible characters at least 5 centimetres deep, with the words “licensed pawnbroker” constantly and permanently remaining and plainly to be seen and read over the door of each shop or other place by him kept, or made use of, for carrying on the trade or business of a pawnbroker.

(2) Any such person who fails or neglects to comply with the provisions of this section shall for every such offence be liable to a penalty not exceeding \$20.

Production of licence

12. (1) Any person holding a licence shall, on demand at his licensed house or place wherein or whereat such licence is exercised, produce it to any officer of police.

(2) Any such person who refuses or neglects to produce his licence shall for every such refusal or neglect be liable to a penalty not exceeding \$20 unless he gives some reasonable excuse.

Entries to be made on taking pledge

13. (1) Every licensed pawnbroker taking in pawn any article whereon any money is to be lent shall, before advancing any money thereon, cause to be entered in a fair and legible manner in some book kept for that purpose—

- (a) a fair and reasonable description of such article;
- (b) the sum of money in the whole advanced thereon, with the rate of interest to be charged on the same by the week or month, as the case may be;
- (c) the true date at which such article is pawned; and
- (d) the name of the party by or for whom such article is pawned, and his place of residence, according to the statement of the person pawning, into which last-mentioned circumstances the pawnbroker shall inquire of the person pawning before any money is lent or advanced to him,

and, where a longer time for redemption than 3 months is agreed upon, the time so agreed upon.

(2) Every such entry as aforesaid shall be numbered consecutively throughout the year, the first pledge received by any pawnbroker on or after the first day of January in each year being numbered one, the second two, and so on progressively throughout the year.

(3) Any such pawnbroker who fails to comply with the provisions of this section shall, for every such offence, be liable to a penalty not exceeding \$20.

Duplicate to be given

14. (1) Every licensed pawnbroker, at the time of taking any article in pawn, shall give to the person pawning the same a duplicate of every such entry fairly and legibly written, or partly written and partly printed, with the signature of such pawnbroker thereto, containing every particular inserted in the original entry, and corresponding therewith in number.

(2) Any licensed pawnbroker who fails or neglects to comply with the provisions of sub-section (1) shall be liable to a penalty not exceeding \$20.

(3) No pawnbroker shall receive or retain any pledge unless such duplicate is accepted, at the time, by the party pawning, and every such duplicate shall be delivered gratis, and shall be produced to the pawnbroker before he shall be obliged to redeliver the articles mentioned therein, or any of them.

Duplicates lost or stolen

15. If—

- (a) any pawnbroker's duplicate is lost or mislaid by, or fraudulently taken or obtained from, the owner thereof;
- (b) the articles mentioned therein remain unredeemed; and
- (c) the person representing himself to be such owner produces and leaves with the pawnbroker who gave such duplicate a written declaration in accordance with the form in the Schedule to the *Statutory Declarations Act 1959* of the Commonwealth, duly made as required by that Act, and setting forth the circumstances of such loss or otherwise satisfactorily accounting for the non-production of such duplicate,

such pawnbroker shall, at the request of such person, deliver to him a copy of such duplicate.

Holders of duplicates to be deemed owners of goods pawned

16. (1) Every person who, at any time, produces any such duplicate as aforesaid to the pawnbroker who gave the same, and requires delivery of the articles therein specified, claiming to be the owner or representing himself to be authorised by the owner thereof, shall be deemed to be such owner or to be so authorised, and shall be entitled to redeem such articles accordingly unless—

- (a) such pawnbroker has notice from the real owner that such duplicate was lost by him or was fraudulently taken or obtained from him; or
- (b) such pawnbroker has been informed by some credible person that such articles were stolen.

(2) Whenever any such pawnbroker refuses to deliver the articles to the party producing such duplicate, he shall immediately give information of such refusal and of the particular grounds thereof to an officer of police, together with a description of such party, or, if known to the pawnbroker, such party's name and place of residence.

Period for sale of pledges

17. (1) Unless a longer time is expressly agreed upon, the period during which any article taken in pawn may be deemed shall be 3 months, at the expiration of which period, or at the expiration of any such longer period as has been so agreed upon, every such article shall be deemed forfeited, and may be sold.

(2) Any agreement for the forfeiture of any article before the expiration of 3 months shall be wholly void.

Selling before expiration of period

18. Any pawnbroker who, under any circumstances or upon any pretence, sells or otherwise disposes of, or causes or knowingly suffers to be sold or disposed of, any articles so pawned before the expiration of the said term of 3 months, or of such longer period as was agreed upon, shall, for every such offence, be liable to a penalty not exceeding \$40 over and above any damages for which he is liable to the owner or party injured.

Mode of sale

19. (1) All articles forfeited on which in the whole any sum above \$10 has been lent, shall be sold by public auction, and not otherwise.

(2) A notice of every such sale, containing a catalogue of all such articles and the time when the same were respectively taken in pawn, shall be twice inserted in some public newspaper, published in the Territory, 4 days at the least before the proposed day of sale.

(3) Any pawnbroker who offends against the provisions of this section shall forfeit to the owner of any article sold contrary to the said provisions a sum not exceeding \$40.

Pawnbroker not to purchase

20. No purchase or pretended purchase by any pawnbroker or person on his behalf of any article pawned with him shall in any case be valid against the owner in any case.

Application of proceeds of sale

21. (1) If any article pawned is sold for more than the full amount of the principal money and interest thereon which was due at the time of such sale, then the surplus, deducting the necessary charges of such sale, shall, if claimed within 12 months next after such sale, be paid upon demand to the person by or for whom such article was pawned, or his agent or assigns, or in the case of death, to his executor or administrator.

(2) Any pawnbroker who offends against the provisions of this section shall, for every such offence, be liable to a penalty not exceeding \$20.

Entry to be made of all articles sold

22. (1) Every pawnbroker shall, from time to time, enter in a book to be kept by him for that purpose a true and just account of the sale of every article which was pawned, and is sold or otherwise disposed of by him, specifying the date when such article was pledged and the true number of the entry then made thereof, and the name of the person who pledged the same and the day when and the amount for which every such article was sold.

(2) Any pawnbroker who offends against the provisions of this section shall for every such offence be liable to a penalty not exceeding \$20.

Pawner may inspect entries

23. (1) Every person by or for whom any article was pawned shall, if such article is sold or otherwise disposed of, be permitted to inspect the entry of such sale.

(2) If such person produces the duplicate relating to the articles respecting which such inspection is required, and the pawnbroker or person employed by

him refuses to permit such person to inspect any such entry or does not produce the book containing such entry, such pawnbroker or person employed by him shall for every such offence be liable to a penalty not exceeding \$20.

Pledges not to be taken from children or drunken persons

24. If any licensed pawnbroker or any agent or servant employed by any such pawnbroker at any time purchases, receives, or takes in pawn any article from any person apparently under the age of 14 years or apparently intoxicated with liquor, such pawnbroker shall, for every such offence, be liable to a penalty not exceeding \$20.

Pawnbroker not to advance, &c., anything but money

25. If any licensed pawnbroker, or any agent or servant employed by any such pawnbroker, in any case where the value of the pledge or the amount agreed to be lent thereon does not exceed \$20—

- (a) advances upon any articles pawned or offered in pawn anything but money; or
- (b) gives, sells, or exchanges in respect of any such articles any goods or property in lieu of or in return for money,

such pawnbroker shall for every such offence be liable to a penalty not exceeding \$20.

Days and hours when business may be carried on

26. (1) A licensed pawnbroker shall not—

- (a) receive or take in, or permit or suffer to be received or taken in, any goods or chattels by way of pawn, pledge or exchange; or
- (b) in any other way, exercise or carry on his trade or business of a pawnbroker,

on any day, or at any time on any day, when the sale of goods at a shop is prohibited by virtue of any of the following paragraphs of the *Trading Hours Ordinance 1962*, that is to say, paragraphs 7 (2) (a) to (g) (inclusive).

(2) A pawnbroker who offends against the provisions of sub-section (1) shall, for every such offence, be liable to a penalty not exceeding \$20.

Persons attempting to redeem article when not entitled to do so may be apprehended

29. If any person not entitled nor having any colour of title by law to redeem any article in pledge or pawn attempts or endeavours to redeem the same, any pawnbroker with whom such articles is in pledge, or the servant or agent of such pawnbroker, may seize and detain such person and deliver him immediately into the custody of an officer of police to be dealt with according to law.

PART IV—MISCELLANEOUS AND LEGAL PROCEDURE**Record evidence**

31. In any proceeding before the Magistrates Court against any person alleged to be a licensed pawnbroker and liable as such to any such proceeding, the production of the alphabetical record hereinbefore mentioned shall be evidence both of the personal identity of the person therein named and that the said person is a licensed pawnbroker under this Act:

Provided always that any other proof as to the fact of any person holding any such licence may be admitted before the Magistrates Court as it, in its discretion, sees fit.

Pawnbroker to be deemed unlicensed until contrary shown

32. In all proceedings under this Act against any person carrying on the trade or business of a pawnbroker without a licence, such person shall, for all purposes connected with such proceedings, be deemed to be unlicensed unless he produces the licence authorizing him to carry on such trade or business to the Magistrates Court, or produces other proof which is satisfactory to that Court of his being a licensed pawnbroker within the meaning of this Act.

Unlicensed persons keeping up signs, &c., liable to a penalty

33. Whosoever, not holding a licence, keeps up any sign, writing, painting, or other mark on or near to his house, shop, or premises which implies or gives reasonable cause to believe that such house, shop, or premises is or are the house, shop, or premises of a licensed pawnbroker shall for every such offence be liable to a penalty not exceeding \$20.

Lending licence

34. (1) Whosoever, having obtained a licence, lends it to any other person for the purpose of carrying on business as a pawnbroker under colour of such licence shall for every such offence be liable to a penalty not exceeding \$50.

(2) Where any person is convicted of an offence against the provisions of this section, the Magistrates Court may declare his licence void, and such licence shall thereupon become void.

(3) Thereafter no licence shall be granted to any such person for 2 years from the date of such conviction.

Forged licences

35. Whosoever forges, counterfeits, or alters, or causes to be forged, counterfeited, or altered, any licence, or produces or shows any such forged, counterfeited, or altered licence to any person entitled to demand the production thereof, shall be guilty of an offence, and shall be liable to such punishment by fine or imprisonment for any term not exceeding 3 years, or by both fine and imprisonment as aforesaid, as the court thinks fit.

Forging, &c., duplicates

36. Whosoever—

- (a)** forges or alters, or causes to be forged or altered, or knowingly assists in forging or altering any such pawnbroker's duplicate, or utters, sells, disposes of, or puts off such duplicate so forged or altered, knowing the same to be so forged or altered, with intent to defraud any person whatsoever; or
- (b)** steals or unlawfully takes any such pawnbroker's duplicate with a fraudulent intent, to deprive the owner of the same, or of any article specified therein,

shall be guilty of an offence, and shall be liable to such punishment by fine or imprisonment for any term not exceeding 2 years, or by both fine and imprisonment as aforesaid, as the court thinks fit.

Court may compel a pawnbroker to produce books, vouchers, &c.

37. (1) If, in the course of any proceedings whatsoever before a court, whether under this Act or otherwise, it appears to the court to be material or proper to require the production before it of any book, note, voucher, entry, memorandum, licence, or other paper required by this Act to be kept by, or which ought to be in the custody of, any pawnbroker, the court may summon

such pawnbroker to attend before it and produce the same, and such pawnbroker is hereby required to produce every such book, duplicate, note, voucher, entry, memorandum, licence, or other paper before the court accordingly.

(2) Any pawnbroker who does not attend upon such summons or does not produce to the court any book, duplicate, or entry so required, or produces the same in an altered state, and does not show a reasonable excuse in that behalf to the court, shall, for every such offence, be liable to a penalty not exceeding \$20.

Court may order delivery of goods pawned on payment of compensation or otherwise

39. (1) The Magistrates Court may order any article unlawfully pawned, pledged or exchanged which is brought before it, and the ownership of which is established to the satisfaction of the Court, to be delivered up to the owner by the person with whom they were so unlawfully pawned, pledged or exchanged either without compensation or with such compensation to the party in question as the Court deems fit.

Penalties

40. Any pawnbroker who offends against the provisions of this Act where no penalty in that behalf is by this Act specifically provided shall be liable to a penalty not exceeding \$40.

General issue

46. If any person is sued for any matter or thing done by him in the execution of this Act, he may plead the general issue and give the special matter in evidence.

SCHEDULES

FIRST SCHEDULE

Sub-section 6 (1)

Form of application for a pawnbroker's licence.

I, A.B. (state the trade or occupation) now residing at
do hereby give notice that it is my intention to apply to the Magistrates Court,
to be holden on the _____ day of _____ next, for
a licence to carry on the trade or business of a pawnbroker in the premises,
situated at _____ (*here describe the
premises proposed to be licensed, specifying the situation of it, the person of
whom rented, the present occupier, and whether now licensed*) and which I
intend to keep as a pawnbroker's shop.

Given under my hand at _____ this _____ day
of _____ one thousand nine hundred and _____

Form of householders' certificates to be appended to the above.

We, the undersigned householders, residing in the Australian Capital
Territory, do hereby certify that the above A.B. _____ is
a person of good fame and reputation, and fit and proper to be licensed to carry
on the trade or business of a pawnbroker.

Witness our hands this _____ day of _____ one
thousand nine hundred and _____

- One _____
- Two _____
- Three _____
- Four _____
- Five _____

SECOND SCHEDULE

Sub-section 6 (2)

PAWNBROKER'S LICENCE

Australian Capital Territory

to wit.

WHEREAS A.B. of _____ has applied to the
Magistrates Court on this _____ day of _____ in the year 198 _____ for
a licence to carry on the business of a pawnbroker in the premises now
occupied _____ by _____ him, _____ situated
_____ :

Now the Magistrates Court, having inquired into the character of the said
A.B., and being satisfied that he is a fit person to have such licence granted to
him, hereby authorizes and empowers him to carry on the trade or business of a
pawnbroker, in the said premises, and not elsewhere, and this licence shall
continue in force for the space of 12 months from the date hereof, and no
longer.

Granted by the Magistrates Court at

_____ aforesaid the _____ day of _____ one
thousand nine hundred and _____ .

(Signed) _____ C.D. Magistrate.

Registered
A.B.

Clerk of the Magistrates Court.

NOTES

- (a) The Pawnbrokers Act 1902, in its application in the Territory, comprises the
Pawnbrokers Act 1902 as amended by the *Magistrates Court Ordinance 1985*, as
repealed in part by the *New South Wales Acts Application Ordinance 1985* and as
amended by the *New South Wales Acts Ordinance 1986*. The amendments so made
have been incorporated in the text of the Pawnbrokers Act 1902 in Part 2 of this
Schedule. The *New South Wales Acts Application Ordinance 1985* also made
amendments to the Pawnbrokers Act 1902 but these ceased to have effect by reason
of the disallowance of that Ordinance.
- (b) Sections 2, 28, 30, 38 and 41 to 45, and the Third Schedule were repealed by the
New South Wales Acts Application Ordinance 1985.
- (c) Sections 26 and 27 were repealed by the *New South Wales Acts Application
Ordinance 1985* and a new section 26 was inserted by the *New South Wales Acts
Ordinance 1986*.

PART 3

An Act to consolidate the statutes relating to the punishment for piracy

Short title

1. This Act may be cited as the Piracy Punishment Act 1902.

Punishment where piracy accompanied by assault with intent to murder, &c.

4. Whosoever, with intent to commit, or at the time of, or immediately before, or immediately after, committing, the crime of piracy, in respect of any ship or vessel, assaults, with intent to murder, any person being on board of, or belonging to, such ship or vessel, or stabs, cuts or wounds any such person, or unlawfully does any act by which the life of any such person may be endangered, shall be liable to imprisonment for life.

Punishment in other cases

5. Whosoever commits any offence which, by any of the Imperial Acts mentioned in the Schedule, amounts to the crime of piracy and is thereby made punishable with death, shall be liable to imprisonment for any term not exceeding 15 years.

Punishment of accessories

6. In the case of every offence punishable under this Act—
 - (a) every principal in the second degree, and every accessory before the fact, shall be punishable in the same manner as the principal in the first degree is by this Act punishable; and
 - (b) every accessory after the fact shall be liable to imprisonment for any term not exceeding 2 years.

Nothing herein to affect Acts regulating management of prisons

8. Nothing in this Act shall affect the provisions of any Act relating to the management and control of prisons.

SCHEDULE**Section 5**

Reference to Act	Title
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28 Hen. VIII, c. 15	An Act for the punishment of pirates and robbers at sea.
11 & 12 Will. III, c. 7	An Act for the more effectual suppression of piracy.
4 Geo. I, c. 11, s. 7	An Act for the further preventing robbery, burglary, and other felonies; and for the more effectual transportation of felons and unlawful exporters of wool; and for declaring the law upon some points relating to pirates.
8 Geo. I, c. 24 . . .	An Act for the more effectual suppressing of piracy.
18 Geo. II, c. 30 . . .	An Act to amend an Act made in the eleventh year of the reign of King William the Third intituled an Act for the more effectual suppression of piracy.

NOTES

- (a) The Piracy Punishment Act 1902, in its application in the Territory, comprises the Piracy Punishment Act 1902 as amended by the *Crimes Ordinance 1968*, as repealed in part by the *New South Wales Acts Application Ordinance 1985* and as amended by the *New South Wales Acts Ordinance 1986*. The amendments so made have been incorporated in the text of the Piracy Punishment Act 1902 in Part 3 of this Schedule. The *New South Wales Acts Application Ordinance 1985* also made amendments to the Piracy Punishment Act 1902 but these ceased to have effect by reason of the disallowance of that Ordinance.
- (b) Sections 2, 3 and 7 were repealed by the *New South Wales Acts Application Ordinance 1985*.
- (c) Sections 4 and 6 were amended by section 19 of the *Crimes Ordinance 1968*. For the application of those amendments, see sub-section 20 (2) of the Ordinance.
- (d) The third Act listed in the Schedule was incorrectly given the citation of 4 Geo. I, c. 2 by the Piracy Punishment Act 1902 as enacted in New South Wales. The correct citation of the Act is 4 Geo. I, c. 11. The Schedule was amended by the *New South Wales Acts Ordinance 1986* to substitute the correct citation for the incorrect citation.

PART 4

PUBLIC INSTRUCTION ACT 1880

43 Vic. No. 23

An Act to make more adequate provision for public education

Secular instruction

7. In all schools, the teaching shall be strictly non-sectarian but the words “secular instruction” shall be held to include general religious teaching as distinguished from dogmatical or polemical theology.

Hours for secular instruction

17. In every school, 4 hours during each school-day shall be devoted to secular instruction exclusively and a portion of each day, not more than 1 hour, shall be set apart when the children of any one religious persuasion may be instructed by the clergyman or other religious teacher of such persuasion but, in all cases, the pupils receiving such religious instruction shall be separated from the other pupils of the school. And the hour during which such religious instruction may be given shall be fixed by mutual agreement between the School Board in consultation with the principal of such school and the clergyman of the district or such other person as may be duly authorized to act in his stead and any class-room of a school may be used for such religious instruction by like agreement:

Provided that the religious instruction to be so given shall in every case be the religious instruction authorized by the Church to which the clergyman or other religious teacher may belong:

Provided further that in case of the non-attendance of any clergyman or religious teacher during any portion of the period agreed to be set apart for religious instruction such period shall be devoted to the ordinary secular instruction in such school.

Objection to religious instruction

18. Notwithstanding anything to the contrary in section 17, no pupil in a school shall be required to receive any general or special religious instruction if the parents or guardians of such pupil object to such religious instruction being given.

Interpretation of terms

39. In the construction and for the purposes of this Act, the following terms shall, if not inconsistent with the context or subject matter, have the respective meanings hereby assigned to them that is to say—

“Guardian” shall mean any person legally appointed as such or any person known to have habitual charge of a child;

“Principal”, in relation to a school, means the person occupying, or performing the duties of, the office of principal of the school;

“School” means a primary school, high school or secondary college conducted in the Territory by the Australian Capital Territory Schools Authority on behalf of the Commonwealth;

“School board”, in relation to a school, means the board established for the school under the *Schools Authority Ordinance 1976*.

Short title

40. This Act may be cited as the Public Instruction Act 1880.

NOTES

- (a) The Public Instruction Act 1880, in its application in the Territory, comprises the Public Instruction Act 1880 as amended before 1 January 1911 by the Free Education Act 1906, as repealed in part after that date by the *New South Wales Acts Application Ordinance 1985* and as amended by the *New South Wales Acts Ordinance 1986*. The amendments so made have been incorporated in the text of the Public Instruction Act 1880 in Part 4 of this Schedule. The *New South Wales Acts Application Ordinance 1985* also made amendments to the Public Instruction Act 1880 but these ceased to have effect by reason of the disallowance of that Ordinance.
- (b) Sections 1 to 6, 8 to 16 and 19 to 38 and Schedule A were repealed by the *New South Wales Acts Application Ordinance 1985*.

PART 5

PUBLIC ROADS ACT 1902

No. 95, 1902

An Act to consolidate the Acts relating to the opening, closing, survey, altering and improving of roads and the alignment and alteration of the alignment of streets in municipalities

Repeal, Savings and Interpretation

Short title

1. This Act may be cited as the Public Roads Act 1902.

Interpretation

6. In this Act, unless the context or subject-matter otherwise indicates or requires—

“Local newspaper” means a newspaper published or circulating in the Territory.

“Road”, wherever used in this Act, includes any land proclaimed, dedicated, resumed or otherwise provided before or after the passing of this Act, as a public thoroughfare or way and, wherever used in sections 18 to 20 (inclusive), also includes any land defined, reserved or left, before or after the passing of this Act, as a road in any subdivision of land of the Crown in right of the Commonwealth or the State of New South Wales or in the measurement or granting of any such land as indicated upon the official plans of the same.

Dedication of roads

Lands reserved as roads may be declared public roads

18. The Minister may, by notification in the *Commonwealth of Australia Gazette*, declare any road to be a public road and, thereupon, the road shall be dedicated to the public accordingly and shall be withdrawn from any lease or licence from the Commonwealth under which it was held and no compensation shall be payable in respect thereof.

Closing of unnecessary roads

Notices of intention to close unnecessary roads

19. (1) If the Minister is of opinion that it is expedient to close any road or part thereof, notice to that effect shall be published in the *Commonwealth of Australia Gazette* and in some local newspaper and written notice to the like effect shall be posted by registered letter to the owners or occupiers of all lands having frontage to the road or part thereof (as the case may be) if their names and addresses are known.

(2) Such a notice shall call upon all persons interested to set forth, in writing addressed to the Minister, within 1 month from the date of the publication thereof, any objections which may appear to them to exist to the closing of the road or the part thereof.

Closing of unnecessary road

20. (1) After due consideration of all such objections (if any), the Minister may, after the expiration of the month, by notification in the *Commonwealth of Australia Gazette*, close the aforesaid road.

(2) The lands comprised therein shall thereupon be freed and discharged from any rights of the public or any person to the same as a highway and shall become vested in the Commonwealth.

Re-marking Roads

Minister may re-mark

23. Whenever the position and boundaries of a road required for public traffic cannot be identified through the absence or loss of the survey marks, the Minister may cause the road to be re-marked.

Notice of re-marking of road to be published

25. (1) After the road has been re-marked as aforesaid, notice may be published in the *Commonwealth of Australia Gazette* and in some local newspaper setting forth generally the extent and direction of the road.

(2) Such notice shall—

- (a) refer to a plan of survey of the re-marking of the road;
- (b) state where the plan may be inspected;
- (c) state that it is intended, subject to consideration of any objections received, to approve the plan; and
- (d) call upon all persons interested to set forth, in writing, addressed to the Minister, within 1 month of the date of the notice, any objections they may have to the road as re-marked.

(4) After due consideration of all such objections (if any), the Minister may, by notice in the *Commonwealth of Australia Gazette* after the expiration of the month, approve the plan either with or without alteration and the road as re-marked according to the plan so approved shall represent and be deemed to be the original road.

Protection to Crown

29. No suit or action shall be maintainable against the Commonwealth for injury or damage resulting from any alignment or alteration of alignment under this Act.

Gazette notices

Gazette notice conclusive evidence of due publication

35. (1) The production of a copy of the *Commonwealth of Australia Gazette* containing a notification purporting to be made under this Act shall, in

all cases, be conclusive evidence of the due publication of the notification in accordance with the provisions of this Act and of the regularity of all proceedings relating thereto.

(2) The Minister may, by notification in the *Commonwealth of Australia Gazette*, limit, correct or alter the terms of any such notification as aforesaid and such limitation, correction or alteration shall, unless otherwise specified, relate back to the date of the original notification.

NOTES

- (a) The Public Roads Act 1902, in its application in the Territory, comprises the Public Roads Act 1902 as repealed in part by the *New South Wales Acts Application Ordinance 1985* and as amended by the *New South Wales Acts Ordinance 1986*. The amendments so made have been incorporated in the text of the Public Roads Act 1902 in Part 5 of this Schedule. The *New South Wales Acts Application Ordinance 1985* also made amendments to the Public Roads Act 1902 but these ceased to have effect by reason of the disallowance of that Ordinance.
- (b) Sections 2 to 5, 7 to 17, 21, 22, 24, 26 to 28, 30 to 34, 36 and the Schedule were repealed by the *New South Wales Acts Application Ordinance 1985*.
- (c) Sub-sections 18 (2), (3) and (4), 19 (3) and (4), 20 (3) and 25 (3) were omitted by the *New South Wales Acts Application Ordinance 1985*.

PART 6

SECOND-HAND DEALERS AND

No. 30, 1906

COLLECTORS ACT 1906

An Act to provide for the licensing and regulation of second-hand dealers in and collectors of certain old wares; to regulate the sale of second-hand articles and old wares; and for other purposes

Short title

1. This Act may be cited as the Second-hand Dealers and Collectors Act 1906.

Interpretation

2. In this Act, unless inconsistent with the subject-matter or context, the following terms have the meanings hereinafter respectively assigned to them (that is to say)—

“Collector” means any person engaged in collecting old wares of any kind, whether on his own behalf or on behalf of an employer, for the purposes of sale or trade, but shall not include a person who buys old wares at a bona fide advertised auction sale conducted by a licensed auctioneer.

“Court” means the Magistrates Court.

“Licence” means licence under this Act.

“Old wares” means partly manufactured metal goods, second-hand anchors, cables, sails, old junk, rags, bones, bottles, syphons, syphon tops, old copper, old iron, old brass, old lead, old muntz-metal, scrap metal, broken metal, defaced metal goods, old wearing apparel, old boots, second-hand furniture, second-hand tools, second-hand drapery goods, second-hand jewellery, and old stores of every description.

“Ship-chandler” means any shopkeeper whose principal business is the sale of cordage, canvas, and other furniture, and general necessaries of ships.

“Second-hand dealer” means any person, other than a ship-chandler or ship-owner, who carries on the business of dealing in or buying and selling old wares of any kind, whether such person deals in any other goods or not.

“Truck” means truck, handcart, cart, barrow or vehicle of any kind whatsoever.

PART I—SECOND-HAND DEALERS

Dealers must be licensed

3. Any person who carries on business as a second-hand dealer without being licensed so to do shall be guilty of an offence under this Act.

Application for dealer’s licence or transfer

4. A second-hand dealer’s licence, in the Form in the First Schedule, may be granted and issued, and a transfer thereof to any person or premises may be permitted, by the Court.

Such licence, unless sooner cancelled, shall remain in force for 1 year from the date on which it was issued, but may, on application to the Court, be

renewed from year to year as the Court thinks fit. The sum of \$25 shall be paid for every such licence, and for every renewal thereof.

Notice of application for licence or transfer thereof

5. No second-hand dealer's licence shall be granted or issued, nor shall any transfer thereof be permitted, unless the applicant therefor, 10 days at the least before his application, gives or sends by registered letter to the Clerk of the Court and the Commissioner of Police, a notice in writing signed by him of his intention to apply for the same, setting forth his name and address and the place where his business is intended to be carried on. Such officer or any person authorized by him, may show cause against the granting of any such application.

Proposed transferee to be applicant

6. Every application for permission to transfer a second-hand dealer's licence to any person shall be made by the proposed transferee.

Indorsement of permission to transfer

7. When the transfer of a second-hand dealer's licence to any person or premises is permitted, the fact and date of such permission, and the name and description of the person to whom, or description of the premises to which, the licence is permitted to be transferred, shall be indorsed upon such licence, and the person named as the transferee, or the premises described in such indorsement, shall thereupon and thenceforth for all purposes be deemed to be the person to whom or the premises in respect of which the licence was granted.

Name, &c., to be painted on outside of premises

8. If any licensed second-hand dealer does not—

- (1) cause to be painted and kept painted, his name in full, and the words "licensed dealer in old wares" upon some conspicuous part of the outside of the premises in respect of which his licence is granted in letters not less than 10 centimetres high;
- (2) enter in a book, in the form in the Second Schedule, the name of every person to whom he shall lend or let on hire, whether gratuitously or otherwise, any truck, and the date when and the period for which such truck was lent or let on hire, and the amount (if any) charged for such lending or hire;
- (3) keep a book, in the form of the Third Schedule, and enter correctly therein all particulars mentioned in that Schedule;

- (4) keep a book, in the form of the Fourth Schedule, and enter correctly therein all particulars mentioned in that Schedule;
- (5) produce to any member of the police force, whenever requested, the book or books by this Act required to be kept by him, and any old wares purchased or received by him then in his possession;
- (6) without delay, give notice to the officer on duty at the police station nearest to any place where he carries on business of any article which may come into his possession answering the description of any article described as having been stolen, embezzled, or fraudulently obtained, in any written or printed or verbal information given to him by any member of the police force;
- (7) keep all old wares purchased or received by him, excepting old wares purchased from a licensed auctioneer, without changing the form in which they were when so purchased or received, and without disposing of the same in any way for a period of 5 days after such wares have been purchased or received; and
- (8) keep all old wares purchased or received by him from a licensed collector, other than bottles, separate and distinct from old wares purchased or received from any other person, and labeled with the name of the licensed collector from whom they were purchased or received, for a period of 5 days after the old wares were so purchased or received,

he shall be guilty of an offence under this Act.

Dealer to carry on business on licensed premises only

9. If any licensed second-hand dealer—

- (1) carries on the business of a second-hand dealer upon any other premises than those to which his licence applies;
- (2) at any time, upon demand made to him, upon any part of the premises upon which he carries on the business of a second-hand dealer, by any member of the police force, refuses or, without reasonable excuse, fails to produce and show his licence in force at the time of such demand;
- (3) lends or lets on hire any truck to any person other than a licensed collector;

- (5) by himself or any other person on his behalf, purchases or receives any old wares from any person apparently under the age of 14 years; or
- (6) by himself or any other person on his behalf, carries on business before the hour of 7 o'clock in the morning,

he shall be guilty of an offence under this Act.

PART II—COLLECTORS

Collectors to be licensed

10. (1) Any person carrying on the business of a collector and wishing to obtain a collector's licence shall deliver to the Clerk of the Court an application in the form contained in the Fifth Schedule, together with a certificate signed by an officer of police of or above the rank of sergeant in the form contained in the Fifth Schedule.

(2) Upon such application, the Court may issue a licence in the form of the Sixth Schedule: Provided always that no such licence shall be issued to any person under the age of 15 years.

(3) Such licence shall entitle the holder thereof to carry on the business of collector in all parts of the Territory, and, unless sooner cancelled, shall continue in force for 1 year from the date on which it was issued, but may, on a similar application and with a like certificate, be renewed from year to year as the Court thinks fit.

(4) There shall be payable in respect of every such licence, and of every annual renewal thereof, the fee of \$25.

Collector to leave address with police officer and report himself

11. If any collector shall not—

- (2) whenever and so often as he changes his place of abode, notify by writing signed by him, such change to the Commissioner of Police within 7 days after having so changed his abode;
- (3) at any time, upon demand, produce his licence to any member of the police force, or to any person from whom he has within 24 hours previously bought or offered to buy, or collected or offered to collect, any old wares, without reasonable excuse; and

- (4) unless he shall sooner sell the same to a licensed dealer, keep all old wares other than bottles purchased or received by him, or old wares purchased from a licensed auctioneer, in the same state and condition as they were in when so purchased or received for 4 days at least next after such purchase or receipt, or, if he sell the same within the said period, deliver the same to the licensed dealer purchasing the same in the same state and condition as when purchased or received,

he shall be guilty of an offence under this Act.

Licences not to be let out

12. If any collector—

- (1) lends or lets out on hire his licence to any person whomsoever, whether licensed or not;
- (2) sells, or otherwise disposes of, any old wares, other than bottles or drink cans, to any person other than a licensed second-hand dealer;
- (4) carries on his business of collecting old wares, or buying or selling the same, before 7 o'clock in the morning, or after 6 o'clock at night;
- (5) uses any truck for the purposes of his business which shall not have painted or marked upon the near side of the truck, in such manner as to be clearly visible, the name in full and the address of the owner thereof, whether the collector using the truck shall be the owner or not, and the number of the collector's licence;
- (7) enters any premises without the permission of the owner or occupier thereof;
- (8) having entered upon any premises, with or without the permission of the owner or occupier thereof, neglects or refuses to immediately leave such premises when directed to do so by such owner or occupier or his servant or agent; or
- (9) uses insulting or offensive language, or is guilty of insulting behaviour, whilst in pursuit of his occupation as a collector in any place, whether private or public,

he shall be guilty of an offence under this Act.

On a second conviction for any offence against sub-section (1), the offender's licence shall be from thenceforth forfeited and void, and he shall be thenceforth incapable of holding a collector's licence.

Any person may, without warrant, arrest any offender against any of the provisions of sub-sections (7) and (8) and deliver him into the custody of any member of the police force, who shall then apprehend such offender and take him in due course before any court to be dealt with for his offence.

Collectors to be licensed

13. If any person—

- (1) acts as a collector without being licensed so to do;
- (2) hires or borrows or acts as a collector with or under colour of any licence issued to any other person, or of any license in which his own real name is not inserted as the name of the person to whom the same is granted; or
- (3) not being a licensed second-hand dealer, purchases or receives from any collector any old wares other than bottles or drink cans,

he shall be guilty of an offence under this Act.

PART III—MISCELLANEOUS

Ceasing to be licensed

14. Every person ceases to be licensed on the expiration, cancellation, or forfeiture of his licence.

Presumption that persons unlicensed

15. In any prosecution under this Act, any allegation in any information that any person is unlicensed need not be proved, and such person shall be deemed to be unlicensed until the contrary be proved by the production of a licence or otherwise.

Presumption of possession of old wares

16. Old wares shall be deemed to be in the possession of a second-hand dealer when they are placed in any house, outhouse, yard, garden, or place occupied by him, or have been removed with his knowledge and permission to any other place without a bona fide sale of such old wares having been made by him.

Entries in dealer's books deemed made by him

17. Every entry in any book kept by, or belonging to, any second-hand dealer, or found on his licensed premises, shall be deemed, unless the contrary be shown, to have been made by or with the authority of such dealer.

Licences may be revoked

18. The Court may, upon application made by any person claiming that any licensed person has been guilty of any violation of any of the provisions of this Act, or of any regulations, or that such person is in any other respect unfit to hold any licence, cancel such licence.

Register to be kept

19. The Clerk of the Court shall enter particulars of any licence granted, permitted to be transferred or cancelled in a register to be kept in the office of the Court, and shall send copies of such entries to the Commissioner of Police.

Inspectors, &c., to visit dealers premises

20. Any officer of the police force above the rank of senior constable may, at any time by day or night, demand entrance into the place of business of any second-hand dealer, or the appurtenances thereof, and inspect the old wares and books of any such dealer therein, and may record in the books by this Act required to be kept the day and hour of his visit, and write his initials or name opposite the entry relating to any article examined by him.

If, after demand, admittance be refused or be delayed for such time as shall make it appear that wilful delay was intended, the offender shall be guilty of an offence under this Act, and such offender of the police force may break into such place of business or the appurtenances thereof.

Suspicious offering of old wares

22. In case any person who offers to any second-hand dealer, his servant, or agent, by way of sale or exchange, any old wares is unable or refuses to give a satisfactory account of himself or of the means by which he became possessed of such wares, or wilfully gives any false information to such dealer, or to his servant, or agent, as to whether such wares are his own property or not, or of his name or place of abode, or of the name and place of abode of the owner of the said wares, or if there is any other reason to suspect that such wares are stolen or otherwise illegally or clandestinely obtained, such dealer, or his servant, or agent, to whom such wares are so offered may seize and detain such person and the said wares, and deliver such person immediately into the custody of a constable or other police officer, who shall as soon as practicable

convey such person and the said wares so offered before the Court; and if, upon examination and inquiry, it appears to the satisfaction of the Court that the said wares were stolen or illegally or clandestinely obtained, such person shall be deemed guilty of an offence under this Act.

Proceedings

23. All proceedings against any person accused of an offence against this Act may be heard and determined in a summary manner by the Court, and any person convicted of such an offence shall be liable to a penalty not exceeding \$20.

SCHEDULES

FIRST SCHEDULE

Section 4

SECOND-HAND DEALERS AND COLLECTORS ACT 1906

Second-hand dealer's licence

Whereas A.B., of [*address and description*], has applied to us for a licence to act as a dealer: Now, the Magistrates Court, being satisfied that the said A.B. is a fit person to have such licence granted to him, hereby authorises and empowers him, the said A.B., to act as a second-hand dealer, and to carry on the business of dealing in, and buying and selling, old wares at the premises occupied by him in [*name of street and name of place*], and this licence shall (unless the same be sooner cancelled or forfeited) be and continue in force for one year from the date hereof. Granted at _____, the _____ day of, 19

Registered No.

(L.S.)

Clerk of the Magistrates Court

SECOND SCHEDULE

Sub-section 8 (2)

SECOND-HAND DEALERS AND COLLECTORS ACT 1906

Entry of trucks, handcarts, carts, or vehicles lent or let out on hire

Name of	Date on	Whether on	Period for	No. on trucks,
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collector to whom truck, &c., lent or let on hire	which truck, &c., lent or let on hire	hire or gratuitously: and if on hire, at what price	which truck, &c., is lent or let	&c., lent or let on hire
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THIRD SCHEDULE

Sub-section 8 (3)

SECOND-HAND DEALERS AND COLLECTORS ACT 1906

Entry of purchases and receipts

Day of purchase or receipt, and hour of day	Description of old wares purchased or received	Name and surname of person by or through whom purchased or received	Name and surname of person from whom purchased or received	Business and place of abode of person from whom purchased or received
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FOURTH SCHEDULE

Sub-section 8 (4)

SECOND-HAND DEALERS AND COLLECTORS ACT 1906

Entry of sales and dispositions

Day of sale	Description of old wares sold or disposed of	Name and surname of person by or through whom sold or disposed of	Name and surname of person to whom sold or disposed of	Business and place of abode of person to whom sold or disposed of
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FIFTH SCHEDULE

Section 10

SECOND-HAND DEALERS AND COLLECTORS ACT 1906

Application for collector's licence

I, A.B. [*address and description*], do hereby declare that I am of the full age of 15 years, and apply for a collector's licence under the above Act; and I undertake, if the said licence be issued to me, to observe faithfully all the provisions of the said Act and the regulations made thereunder. Attached is the police certificate required by the said Act.

Dated the _____ day of _____, 19 ____ .

[*Signature of applicant*]

Police certificate in support of collector's licence

I, C.D. [*here state police rank*] hereby certify that the above-named [*name of applicant*] is a fit person to receive a collector's licence under the above-named Act.

Dated the _____ day of _____, 19 ____ .

[*Signature*]

SIXTH SCHEDULE

Section 10

SECOND-HAND DEALERS AND COLLECTORS ACT 1906

Collector's licence

A.B., of [*address and description*], is authorized and empowered to act as a collector, and to carry on the business of collecting old wares within all parts of the Australian Capital Territory; and this licence shall (unless the same be sooner or cancelled or forfeited) be and continue in force for one year from the date thereof.

Granted at _____, this _____ day of _____
19 ____ .

Registered No.
(L.S.)

(Signed)

Clerk of the Magistrates Court

This licence is not to be let on hire or lent to any person.

The collector, if he changes his abode, must report his new place of abode to the Commissioner of Police.

Specially notice—This licence is subject to cancellation or forfeiture if the collector be guilty of any breach of the Act or any regulation, or of any improper conduct whatever.

NOTES

- (a) The Second-hand Dealers and Collectors Act 1906, in its application in the Territory, comprises the Second-hand Dealers and Collectors Act 1906 as amended by the *Magistrates Court Ordinance 1985*, as repealed in part by the *New South Wales Acts Application Ordinance 1985* and as amended by the *New South Wales Acts Ordinance 1986*. The amendments so made have been incorporated in the text of the Second-hand Dealers and Collectors Act 1906 in Part 6 of this Schedule. The *New South Wales Acts Application Ordinance 1985* also made amendments to the Second-hand Dealers and Collectors Act 1906 but these ceased to have effect by reason of the disallowance of that Ordinance.
- (b) Sections 21 and 24 were repealed by the *New South Wales Acts Application Ordinance 1985*.
- (c) Sub-sections 9 (4), 11 (1), 12 (3), 12 (6) and 13 (4) were omitted by the *New South Wales Acts Application Ordinance 1985*.
- (d) Sub-section 8 (8) was inserted by the *New South Wales Acts Ordinance 1986*.

PART 7

TRUCK ACT 1900

No. 55, 1900

An Act to regulate contracts made with respect to, and the payment of, wages; to prohibit such payment being made in goods or otherwise than in money; and to regulate the service of legal process

Wages to be payable in money

1. (1) In every contract hereafter made with any workman, the wages of such workman shall be made payable in money only, and not otherwise; and if by agreement, custom, or otherwise, a workman is entitled to receive, in anticipation of the regular period of the payment of his wages, an advance as part, or on account, thereof, it shall not be lawful for the employer to withhold such advance, or make any deduction in respect of such advance, on account of poundage, discount or interest, or any similar charge.

(2) If, in any such contract, the whole, or any part, of such wages shall be made payable in any manner other than in money, or shall provide for any deduction or charge as aforesaid in respect of any advance of the whole, or part, of the wages of such workman, such contract shall be, and is hereby declared, illegal and void in so far as any promise or consideration made or given by, arising out of, such contract relates to the payment of such wages otherwise than in money, or as to making any such deduction or charge as aforesaid; and such promise or consideration shall be deemed to be severable from the other part of the contract, which shall otherwise be and remain in force.

No contract to stipulate as to mode of spending wages

2. No employer shall, directly or indirectly, by himself or his agent, impose as a condition, express or implied, in or for the employment of any workman, any terms as to the place where, the manner in which or the person with whom any wages, or portion of wages, paid to the workman are or is to be expended, or any terms requiring him to reside upon the lands of such employer; and no employer shall, by himself or his agent, dismiss any workman from his employment on account of the place where, the manner in which or the person with whom any wages, or portion of wages, paid by the employer to such workman were or was expended, or were or was not expended, or on account of the workman not residing upon the lands of the employer.

All wages to be paid in money

3. The entire amount of the wages earned by, or payable to, any workman shall be actually paid to such workman in money, and not otherwise, at intervals of not more than 14 days, if demanded, any contract to the contrary notwithstanding; and every payment made to any such workman by his employer of, or in respect of, any such wages by the delivering to him of goods, or otherwise than in money, except as hereinafter mentioned, shall be, and is hereby declared, illegal and void; and every workman shall be entitled to recover from his employer, in any court of competent jurisdiction, the whole, or

so much, of the wages earned by such workman as shall not have been actually paid to him by his employer in money.

No set-off to be allowed for goods supplied to workman by employer

4. In any action brought or commenced by any workman against his employer for the recovery of any sum of money due to such workman as his wages—

- (1) the defendant shall not be allowed to make any set-off, nor to claim any reduction of the plaintiff's demand, by reason, or in respect, of any goods had or received by the plaintiff as or on account of his wages, or by reason, or in respect, of any goods sold, delivered or supplied at any shop, store, house, or premises kept by or belonging to such employer, or in the profits of which such employer shall have any share or interest; and
- (2) the defendant shall not be entitled to any set-off in respect of any goods supplied to the plaintiff by any person under any order or direction of the defendant or his agent.

Employer not to have action for goods supplied to workman

5. No employer shall have, or be entitled to maintain, any action in any court against any workman for, or in respect of, any goods sold, delivered or supplied to any such workman by any such employer whilst in his employment as, or on account of, his wages, or for, or in respect of, any goods sold, delivered or supplied to such workman at any shop, store, house, or premises kept by, or belonging to, such employer, or in the profits of which such employer shall have any share or interest.

No deduction from wages for sharpening or repairing tools, except by agreement

6. No deduction shall be made from the wages of a workman for sharpening or repairing tools, except by agreement.

Payment of wages may be made by cheque

7. Nothing contained in this Act shall be construed to prohibit the making of, or render invalid, any contract for the payment, or any actual payment, to any workman of the whole or any part of his wages in a cheque or draft, payable to the bearer on demand and drawn upon any bank carrying on business in the Territory or in an order in writing for the payment of money to the bearer on demand drawn upon any person, company or association carrying on business in the Territory, other than a retail shopkeeper, or publican, if such

workman shall freely consent to receive such cheque, draft, or order, but all payments so made with such consent, shall, for the purposes of this Act, be as valid as if made in money: Provided that if wages shall be paid to any workman by a cheque, draft, or order in writing as aforesaid, and the same shall be dishonoured, such workman shall be entitled to recover from his employer, in addition to any wages due or payable to any such workman, such reasonable damages as he may have sustained in consequence of the dishonour of such cheque, draft, or order in writing, and such damages shall be recoverable in any court of competent jurisdiction.

Service of legal process

8. Service of any legal process for, or incidental to, the recovery of wages, or damages for non-payment thereof, or with respect to the dishonour of any cheque, draft, or order given in respect of such wages, may be effected on the employer by leaving such process with, or delivering the same to, the manager or overseer for the time being of the works at, or in respect of which, such wages shall have been earned. This section shall not affect any other mode of service allowed by law.

Penalties for breaches of Act

9. If the employer of any workman shall, by himself or the agency of any other person or persons, directly or indirectly enter into any contract, or make any payment, hereby declared to be illegal and void, wholly or in part, or if the employer or his agent contravenes, or fails to comply with, any of the foregoing provisions of this Act, such employer or agent, as the case may be, shall be deemed guilty of an offence, and be liable to the following penalties:—For the first offence, a penalty not exceeding \$20; for the second offence, a penalty not exceeding \$50; for any subsequent offence, a penalty not exceeding \$100.

Cases to which this Act does not apply

10. This Act shall not extend or apply—

- (1) where an employer or his agent supplies or contracts to supply, to any workman any medicine or medical attendance, or any fuel, materials, tools, appliances, or implements to be, by any such workman, employed in his trade, labour or occupation;
- (2) where an employer or his agent supplies, or contracts to supply, to any workman who has engaged with him to fell bush, to ringbark trees or to clear land of bush the necessary outfit and means of support and materials or tools requisite for commencing his engagement, to any

amount, not exceeding, in any case, the amount of 2 months' wages, to be earned by such workman in such engagement;

- (3) where such employer of his agent supplies, or contracts to supply, to any workman any hay, corn or other provender to be consumed by any horse or other beast of burden employed by any such workman in his trade, labour or occupation;
- (4) where such employer or his agent allows such workman the use of a tenement as part of his wages, or in addition to his wages, or any other allowance or privilege in addition to money wages as a remuneration for his services;
- (5) to prevent any employer from advancing any money for the relief of such workman or his wife or family in sickness, or from advancing any money to any member of the family of such workman by his order, nor from deducting or contracting to deduct any such sum or sums of money as aforesaid from the wages of such workman;
- (6) to seamen or domestic servants or to persons employed in or in connection with agricultural or pastoral pursuits;

Provided that no deduction, or stoppage of wages, shall exceed the amount of money advanced, or the value of any fuel, tools, implements, hay, corn, provender, victuals, drink or materials supplied to such workman.

Definitions

12. In this Act, unless inconsistent with the context, the word—

“Contract” includes any agreement, understanding, device, contrivance, collusion, or arrangement whatsoever on the subject of wages, whether written or oral, direct or indirect, to which the employer and workman are parties, or are assenting, or by which they are mutually bound to each other, or whereby either of them shall have endeavoured to impose an obligation on the other of them.

“Employer” includes any master, manager, foreman, clerk, or other person engaged in the hiring, employment or superintendence of the service, work or labour of any workman within the meaning of this Act.

“Money” means currency of Australia provided for by the *Currency Act 1965* of the Commonwealth, Australian notes within the meaning of Part V of the *Reserve Bank Act 1959* of the Commonwealth or postal orders issued by the Australian Postal Commission.

“Wages” includes any money or thing had, or contracted to be paid, delivered or given, as a recompense, reward or remuneration for any service, work or labour done, or to be done, whether within a certain time, to a certain amount or for a time or amount uncertain.

“Workman” means any person in any manner employed in work of any kind or in manual labour, whether under the age of 21 years or above that age.

Short title

13. This Act may be cited as the Truck Act 1900.

NOTES

- (a) The Truck Act 1900, in its application in the Territory, comprises the Truck Act 1900 as amended before 1 January 1911 by the Truck Act Amendment Act of 1901, as repealed in part after that date by the *New South Wales Acts Application Ordinance 1985* and as amended by the *New South Wales Acts Ordinance 1986*. The amendments so made have been incorporated in the text of the Truck Act 1900 in Part 7 of this Schedule. The *New South Wales Acts Application Ordinance 1985* also made amendments to the Truck Act 1900 but these ceased to have effect by reason of the disallowance of that Ordinance.
- (b) The words inserted in sub-section 10 (1) by the Truck Act Amendment Act of 1901 were omitted by the *New South Wales Acts Application Ordinance 1985*.
- (c) Section 11 was repealed by the *New South Wales Acts Application Ordinance 1985*.
- (d) The definition of “Money” in section 12 was omitted by the *New South Wales Acts Application Ordinance 1985* and a new definition inserted by the *New South Wales Acts Ordinance 1986*.

NOTES

1. Notified in the *Commonwealth of Australia Gazette* on 12 January 1987.
2. No. 41, 1984 as amended by No. 58, 1984; No. 67, 1985; No. 5, 1986.