



AUSTRALIAN CAPITAL TERRITORY

## **Pawnbrokers (Amendment) Act 1995**

**No. 15 of 1995**

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### **An Act to amend the Pawnbrokers Act 1902 of the State of New South Wales in its application in the Territory**

*[Notified in ACT Gazette S135: 30 June 1995]*

The Legislative Assembly for the Australian Capital Territory enacts as follows:

#### **Short title**

1. This Act may be cited as the *Pawnbrokers (Amendment) Act 1995*.

#### **Commencement**

2. This Act commences on the day on which it is notified in the *Gazette*.

#### **Principal Act**

3. In this Act, “Principal Act” means the Pawnbrokers Act 1902 of the State of New South Wales in its application in the Territory.<sup>1</sup>

#### **Interpretation**

4. Section 3 of the Principal Act is amended by inserting the following definitions:

“ ‘charge’ means a charge that has not been dealt with by a court, but does not include a charge that has been withdrawn or otherwise not been proceeded with;

‘convicted’ includes being discharged under section 556A of the *Crimes Act 1900* or an equivalent provision of a law of the Commonwealth, a State, another Territory or another country, but does not include a

reference to a conviction that has been set aside on appeal or review;

‘Court’ means the Magistrates Court;

‘Registrar’ means the Registrar of the Court;”.

### **Substitution**

5. Sections 6, 7 and 8 of the Principal Act are repealed and the following sections substituted:

#### **Applications for licences**

“6. (1) A person who has attained the age of 18 years may apply to the Court for a licence by lodging with the Registrar—

- (a) an application in accordance with Schedule 1;
- (b) a copy of the application; and
- (c) where the applicant is not the holder of a licence—references as to the applicant’s character and suitability for holding a licence given by 3 qualified persons.

“(2) In this section—

‘elector’ has the same meaning as it has in the *Electoral Act 1992*;

‘qualified person’ means—

- (a) an elector who is a person referred to in the Schedule to the Statutory Declarations Regulations of the Commonwealth; or
- (b) another person approved by the Court.

#### **Licences**

“6A. (1) Upon lodgment of the documents referred to in subsection 6 (1), the Registrar shall—

- (a) appoint a date for the hearing of the application by the Court, being a date not earlier than 21 days after the date on which the application is lodged;
- (b) endorse on the copy of the application a notice stating the date so fixed; and
- (c) return the copy to the applicant.

“(2) The applicant shall, within 24 hours after receiving the copy of the application under paragraph (1) (c), lodge it with the Commissioner of Police.

#### **Certificates of convictions**

“7. (1) The Commissioner shall, not later than 5 days before the date appointed for the hearing of an application for a licence, furnish to the

Registrar for the use of the Court a certificate stating whether, according to the records held by the Commissioner, it appears that the applicant has been charged with, or convicted of, any offence against a law of the Territory, the Commonwealth, a State, another Territory or another country.

“(2) The applicant is entitled to inspect a certificate under subsection (1).

### **Objections to granting of licences**

“7A. (1) Subject to subsection (2), the Commissioner of Police may, upon the hearing of an application for a licence, object to the granting of the licence on the ground that the applicant is not a fit and proper person to be the holder of a licence.

“(2) The Commissioner of Police is not entitled to object to the granting of a licence unless, not later than 7 days before the date appointed for the hearing of the application for the licence, he or she—

- (a) lodges with the Registrar a notice of objection setting out particulars of the ground of objection; and
- (b) serves a copy of the notice on the applicant.

### **Grant of licences**

“8. (1) Where, on the hearing of an application for a licence, the applicant satisfies the Court that he or she is a fit and proper person to be the holder of a licence, the Court may direct the Registrar to issue a licence to the applicant and the Registrar shall issue a licence to the applicant in accordance with the form in Schedule 2.

“(2) For the purpose of determining whether an applicant for a licence is a fit and proper person to hold the licence, the Court may have regard to whether he or she—

- (a) has been convicted of, or is subject to, a charge in relation to an offence—
  - (i) that involves fraud or dishonesty; or
  - (ii) against this Act or a corresponding law; or
- (b) has been refused a licence under this Act or a corresponding law.

“(3) The Court may, on the hearing of an application for a licence, request the Commissioner of Police to make such further inquiries as the Court thinks fit and may adjourn the hearing to enable the Commissioner to make the inquiries and furnish the report.

“(4) Where the granting of a licence to an applicant who is already the holder of a licence is not objected to, the application may be determined in chambers.

“(5) In this section—

‘corresponding law’ means a law of a State, another Territory or another country that deals with the licensing or conduct of pawnbrokers.

### Duration of licences

“8A. Subject to this Act, a licence is in force for 1 year from the day on which it is issued.

### Record of licences to be kept

“8B. The Registrar shall keep a record of all licences granted by the Court.”.

### Other amendments

6. The following provisions of the Principal Act are amended by omitting “Magistrates”:

Section 31 (wherever occurring) and subsections 32 (1), 34 (2) and 39 (1).

### Schedules

7. (1) The heading to the Schedules to the Principal Act is omitted.

(2) The First Schedule to the Principal Act is repealed and the Schedule set out in the Schedule to this Act substituted.

(3) The heading to the Second Schedule to the Principal Act is omitted and the following heading substituted:

#### “SCHEDULE 2

Subsection 8 (1)”.

### Transitional

8. Subject to the Principal Act as amended by this Act, a licence issued under the Principal Act before the commencement of this Act continues in force until the expiry of the period of 1 year from the day on which it was issued.

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#### SCHEDULE

Subsection 7 (2)

#### SCHEDULE 1

Subsection 6 (1)

#### *Form of application for a pawnbroker’s licence*

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

Dated \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ 19 .

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*(Signature of applicant)*

**NOTE**

**Principal Act**

1. Reprinted as at 31 August 1993. See also Act No. 81, 1994.

*[Presentation speech made in Assembly on 1 June 1995]*

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