



Australian Capital Territory

# **Second-hand Dealers Regulation 2002**

**SL2002-8**

made under the

**Second-hand Dealers Act 1906**

**Republication No 6**

**Effective: 22 September 2009 – 16 December 2009**

Republication date: 22 September 2009

Last amendment made by A2009-20

Authorised by the ACT Parliamentary Counsel

## About this republication

### The republished law

This is a republication of the *Second-hand Dealers Regulation 2002*, made under the *Second-hand Dealers Act 1906* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 22 September 2009. It also includes any amendment, repeal or expiry affecting the republished law to 22 September 2009.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

### Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at [www.legislation.act.gov.au](http://www.legislation.act.gov.au)):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

### Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication includes amendments made under part 11.3 (see endnote 1).

### Uncommenced provisions and amendments

If a provision of the republished law has not commenced or is affected by an uncommenced amendment, the symbol **U** appears immediately before the provision heading. The text of the uncommenced provision or amendment appears only in the last endnote.

### Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see *Legislation Act 2001*, section 95.

### Penalties

The value of a penalty unit for an offence against this republished law at the republication date is—

- (a) if the person charged is an individual—\$100; or
- (b) if the person charged is a corporation—\$500.



Australian Capital Territory

# Second-hand Dealers Regulation 2002

made under the

**Second-hand Dealers Act 1906**

## Contents

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	Page
1 Name of regulation	2
3 Dictionary	2
4 Notes	2
5 Kinds of second-hand goods—Act, dict, def <i>second-hand goods</i>	2
5A Exempt entities—Act, s 4 (2)	3
5B Requirement for displayed lettering—Act, s 5	3
6 Meaning of <i>photo identification document</i>	3
7 Meaning of <i>non-photo identification document</i>	4
8 Making records about goods bought or received—Act, s 6 (1)	4
9 Making records about goods sold or disposed of—Act, s 6 (1)	6
10 Making records—goods bought from exempt entities—Act, s 6 (1)	6
11 Keeping records—Act, s 6 (2)	7
12 Giving records to the police—Act, s 6 (3)	8

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R6  
22/09/09

Second-hand Dealers Regulation 2002  
Effective: 22/09/09-16/12/09

contents 1

## Contents

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<b>Schedule 1</b>	<b>Goods that are second-hand goods</b>	Page 9
<b>Schedule 2</b>	<b>Photo and non-photo identification documents</b>	11
<b>Part 2.1</b>	<b>Photo identification documents</b>	11
<b>Part 2.2</b>	<b>Non-photo identification documents</b>	13
<b>Dictionary</b>		16
<b>Endnotes</b>		
1	About the endnotes	19
2	Abbreviation key	19
3	Legislation history	20
4	Amendment history	20
5	Earlier republications	21



Australian Capital Territory

## **Second-hand Dealers Regulation 2002**

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made under the

**Second-hand Dealers Act 1906**

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**1 Name of regulation**

This regulation is the *Second-hand Dealers Regulation 2002*.

**3 Dictionary**

The dictionary at the end of this regulation is part of this regulation.

*Note 1* The dictionary at the end of this regulation defines certain terms used in this regulation, and includes references (*signpost definitions*) to other terms defined elsewhere in this regulation or in other legislation.

For example, the signpost definition ‘*credit card*—see the *Fair Trading Act 1992*, section 28 (Unsolicited credit and debit cards).’ means that the term ‘credit card’ is defined in that section and the definition applies to this regulation.

*Note 2* A definition in the dictionary (including a signpost definition) applies to the entire regulation unless the definition, or another provision of the regulation, provides otherwise or the contrary intention otherwise appears (see Legislation Act, s 155 and s 156 (1)).

**4 Notes**

A note included in this regulation is explanatory and is not part of this regulation.

*Note* See the Legislation Act, s 127 (1), (4) and (5) for the legal status of notes.

**5 Kinds of second-hand goods—Act, dict, def *second-hand goods***

- (1) Goods of the kinds mentioned in schedule 1 are second-hand goods.
- (2) However, goods are not second-hand goods if they are taken as a trade-in by a person (other than a licensed second-hand dealer) as part of the sale of goods that are not second-hand goods.

**5A Exempt entities—Act, s 4 (2)**

- (1) The following are exempt entities:
- (a) charitable organisations;
  - (b) people (other than licensed second-hand dealers) offering goods for sale at a trash and treasure market.

*Note* In this regulation, *exempt entity* includes an entity exempted by the commissioner under the Act, s 4 (3) (see dict).

- (2) In this section:

*charitable organisation* means a body carried on for a religious, educational, benevolent or charitable purpose, other than a body carried on for the financial benefit of its members.

**5B Requirement for displayed lettering—Act, s 5**

The height is 5cm.

**6 Meaning of *photo identification document***

In this regulation:

*photo identification document*, for a person, means any of the following kinds of documents issued to the person if the document contains a recent photograph of the person and shows the particulars mentioned in schedule 2, part 2.1, column 3 for the document:

- (a) a current Australian driver licence;
- (b) a current external driver licence written in English;
- (c) a current external driver licence not written in English together with—
  - (i) an international driving permit; or
  - (ii) an official English translation of the licence;
- (d) a current passport written in English;

- (e) a current passport not written in English together with an English translation of the passport;
- (f) a current proof of age card;
- (g) a current Australian student identification card.

**7 Meaning of *non-photo identification document***

In this regulation:

*non-photo identification document*, for a person, means any of the following documents if the document shows the particulars mentioned in schedule 2, part 2.2, column 3 for the document:

- (a) the person's birth certificate;
- (b) the person's citizenship certificate;
- (c) an extract from the electoral roll;
- (d) a record about land titles;
- (e) a current entitlement card;
- (f) a current credit or debit card issued to the person;
- (g) a document issued by a financial institution;
- (h) a service bill;
- (i) a document issued by the Territory.

**8 Making records about goods bought or received—Act, s 6 (1)**

- (1) This section applies if a licensed second-hand dealer buys, or receives in another way, second-hand goods from a person other than an exempt entity.



- (2) The dealer must make a record of the following:
- (a) the date and time when the dealer bought or received the goods from the person;
  - (b) a description of the goods, including colour, any brand name, serial number or other identifiable number and any hallmark, inscription or engraving on the goods;
  - (c) the person's verified full name;
  - (d) the person's home address, home telephone number and date of birth;
  - (e) for at least—
    - (i) 1 photo identification document for the person—the kind of document and the required particulars; or
    - (ii) 3 non-photo identification documents for the person, 1 of which must show the person's home address—
      - (A) the required particulars; and
      - (B) for a birth certificate, citizenship certificate or extract from the electoral roll—the kind of document;
  - (f) if the goods were bought by the dealer—the amount paid to the person;
  - (g) if the goods were received in another way by the dealer—the consideration given to the person for the goods;
  - (h) the stock number given to the goods by the dealer.
- (3) For subsection (2) (c), the person's name is verified only if the person shows the dealer—
- (a) at least 1 photo identification document for the person; or
  - (b) at least 3 non-photo identification documents that each show the person's name and the name is the same on each document.

**9 Making records about goods sold or disposed of—Act, s 6 (1)**

- (1) This section applies if—
  - (a) a licensed second-hand dealer—
    - (i) sells second-hand goods to a person; or
    - (ii) disposes of second-hand goods in another way to a person; or
    - (iii) disposes of second-hand goods other than to a person; and
  - (b) the value of the second-hand goods is more than \$50.
- (2) The dealer must make a record of the following:
  - (a) the date and time when the dealer sold or disposed of the goods;
  - (b) the person's full name and home address or, if the goods were disposed of other than to a person, details of how the goods were disposed of;
  - (c) the stock number given to the goods by the dealer.

**10 Making records—goods bought from exempt entities—Act, s 6 (1)**

- (1) This section applies if—
  - (a) a licensed second-hand dealer buys second-hand goods from an exempt entity; and
  - (b) the dealer buys the goods for the purpose of selling, or disposing of, them to someone else.
- (2) The dealer must make a record of the following:
  - (a) the date and time when, and place where, the dealer bought the goods;

- (b) a description of the goods, including colour, any brand name, serial number or other identifiable number and any hallmark, inscription or engraving on the goods;
  - (c) the amount paid for the goods;
  - (d) the stock number given to the goods by the dealer.
- (3) If the goods are sold or disposed of to someone else, the dealer must make a record of the following if the value of the goods is more than \$50:
- (a) the date and time that the dealer sold or disposed of the goods;
  - (b) the other person's full name and home address;
  - (c) the stock number given to the goods by the dealer.

## **11 Keeping records—Act, s 6 (2)**

- (1) A licensed second-hand dealer must keep records mentioned in section 8, section 9 or section 10 in such a way that transactions may be identified on both the basis of the date of the transaction and the kind of goods.
- (2) The chief police officer may, in writing, issue directions to licensed second-hand dealers about the keeping of records.
- (3) A direction is a notifiable instrument.

*Note* A notifiable instrument must be notified under the Legislation Act.

- (4) If a direction is issued, the chief police officer must also publish a notice of the issuing of the direction in a daily newspaper.
- (5) Subsections (3) and (4) do not apply if the direction is addressed only to a licensed second-hand dealer named in the direction.

*Note* A direction addressed to a licensed second-hand dealer named in the direction must be given to the dealer in accordance with the Legislation Act, pt 19.5 (Service of documents).

**12 Giving records to the police—Act, s 6 (3)**

(1) The chief police officer may, in writing, issue directions to licensed second-hand dealers about the records that must be given and the giving of those records to the police.

(2) A direction is a notifiable instrument.

*Note* A notifiable instrument must be notified under the Legislation Act.

(3) If a direction is issued, the chief police officer must also publish a notice of the issuing of the direction in a daily newspaper.

(4) Subsections (2) and (3) do not apply if the direction is addressed only to a licensed second-hand dealer named in the direction.

*Note* A direction addressed to a licensed second-hand dealer named in the direction must be given to the dealer in accordance with the Legislation Act, pt 19.5 (Service of documents).

## Schedule 1 Goods that are second-hand goods

(see s 5)

column 1 item	column 2 goods
1	jewellery that includes gemstones or precious metals
2	gemstones
3	precious metals
4	watches
5	sporting and recreational goods, other than— (a) clothes; or (b) shoes; or (c) goods sold by the Defence Force
6	bicycles
7	musical instruments
8	photographic equipment
9	tools, including tool kits and portable engine-powered tools, portable motorised tools or portable air-powered tools, other than tools sold by the Defence Force
10	portable engine-powered, portable motorised or portable air-powered equipment, other than— (a) motorised wheelchairs, wheeled lounges, spinal carriages and other similar goods designed to carry a person with a disability; or (b) goods sold by the Defence Force

**Schedule 1** Goods that are second-hand goods

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<b>column 1 item</b>	<b>column 2 goods</b>
11	electrical or electronic goods, including microwave ovens, compact disc readers, compact disc writers and compact disc rewriters, other than refrigerators, washing machines and other whitegoods
12	computer hardware
13	computer software
14	audio cassettes and records (singles and albums)
15	video cassettes, floppy disks, compact (laser-read) discs, digital videodiscs and other electronic information storage devices
16	watercraft
17	parts of watercraft
18	car radios, car stereos and car sound equipment
19	mobile telephones
20	mobile telephone accessories

## **Schedule 2      Photo and non-photo identification documents**

(see s 6 and s 7)

### **Part 2.1              Photo identification documents**

<b>column 1 item</b>	<b>column 2 kind of document</b>	<b>column 3 particulars</b>
1	current Australian driver licence	(a) issuing jurisdiction; and (b) licence number
2	current external driver licence written in English	(a) issuing jurisdiction; and (b) licence number
3	current external driver licence not written in English together with— (a) an international driving permit; or (b) an official English translation of the licence	(a) issuing jurisdiction; and (b) licence number; and (c) for the permit— (i) issuing body; and (ii) permit number
4	current passport written in English	(a) issuing jurisdiction; and (b) passport number

**Schedule 2**  
**Part 2.1**

Photo and non-photo identification documents  
Photo identification documents

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<b>column 1 item</b>	<b>column 2 kind of document</b>	<b>column 3 particulars</b>
5	current passport not written in English together with an English translation of the passport	(a) issuing jurisdiction; and (b) passport number
6	current proof of age card	(a) issuing jurisdiction; and (b) card number
7	current Australian student identification card	(a) issuing institution; and (b) the student number shown on the card



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## **Part 2.2**                      **Non-photo identification documents**

<b>column 1 item</b>	<b>column 2 kind of document</b>	<b>column 3 particulars</b>
1	birth certificate	(a) issuing jurisdiction; and (b) registration number; and (c) date of issue
2	citizenship certificate	(a) certificate number; and (b) date of issue
3	extract from the electoral roll	date of issue
4	record about land titles	(a) issuing jurisdiction; and (b) type of document; and <b>Examples of type of document</b> 1 mortgage 2 certificate of title (c) date of issue

**Schedule 2**  
**Part 2.2**

Photo and non-photo identification documents  
Non-photo identification documents

column 1 item	column 2 kind of document	column 3 particulars
5	entitlement card	(a) issuing jurisdiction; and  (b) type of card; and <b>Example of type of card</b> age pension card  (c) customer reference number
6	credit or debit card	(a) name of the issuer of the card; and  (b) type of card <b>Example</b> ABC Bank, visa card
7	document issued by a financial institution	(a) name of the financial institution; and  (b) type of account; and <b>Examples</b> 1 Cheap Home Loans, mortgage account 2 XYZ credit union, savings account  (c) date of issue
8	service bill	(a) name of the biller; and  (b) type of service; and <b>Example</b> ACTEW/AGL, electricity bill  (c) date of issue

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<b>column 1 item</b>	<b>column 2 kind of document</b>	<b>column 3 particulars</b>
9	document issued by the Territory	(a) name of the Territory entity that issued the document; and  (b) type of document; and  <b>Examples</b> 1 ACT Revenue Office, rates notice 2 Urban Services, certificate of dog registration  (c) date of issue

*Note* An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

## Dictionary

(see s 3)

*Note 1* The Legislation Act contains definitions and other provisions relevant to this regulation.

*Note 2* For example, the Legislation Act, dict, pt 1 defines the following terms:

- Australian driver license
- authorised deposit-taking entity
- body
- chief police officer
- daily newspaper
- entity
- registrar-general.

*Note 3* Terms used in this regulation have the same meaning that they have in the *Second-hand Dealers Act 1906* (see Legislation Act, s 148.) For example, the following terms are defined in the *Second-hand Dealers Act 1906*, dict:

- commissioner
- licensed second-hand dealer.

***Australian student identification card*** means a card issued to a person who is a student at an Australian secondary or tertiary education institution to identify the person as a student at the institution.

***birth certificate***, for a person, means the person's birth certificate, or a certified extract from the register about the person's birth, under the *Births, Deaths and Marriages Registration Act 1997* or a corresponding law of a State, an external Territory or New Zealand.

***citizenship certificate***, for a person, means the person's citizenship certificate issued under the *Australian Citizenship Act 1948* (Cwlth), section 46 (Issue and proof of certificates of Australian citizenship) or a certified copy of the entry in the register about the person under that Act, section 44 (Evidence of entries in register).

**credit card**—see the *Fair Trading Act 1992*, section 28 (Unsolicited credit and debit cards).

**debit card**—see the *Fair Trading Act 1992*, section 28 (Unsolicited credit and debit cards).

**document issued by a financial institution**, for a person, means a document issued to the person by a financial institution from its records about the person's account with the institution.

**document issued by the Territory**, for a person, means a document issued to the person by the Territory from its records.

**entitlement card**, for a person, means a card issued to the person by the Commonwealth, a State, an external Territory or New Zealand as evidence of the person's entitlement to a financial benefit.

**exempt entity** means an entity—

- (a) exempted under section 5A; or
- (b) exempted by the commissioner under the Act, section 4 (3).

**external driver licence**—see the *Road Transport (Driver Licensing) Act 1999*, dictionary.

**extract from the electoral roll**, for a person, means an extract about the person made by the Australian Electoral Office from the electoral roll.

**financial institution** means—

- (a) an authorised deposit-taking institution; or
- (b) a credit provider, registered under the *Consumer Credit (Administration) Act 1996* or a corresponding law of a State, an external Territory or New Zealand, that carries on the business of providing home loans.

**international driving permit**—see the *Road Transport (Driver Licensing) Regulation 2000*, dictionary.

**non-photo identification document**—see section 7.

**official English translation**, of a licence—see the *Road Transport (Driver Licensing) Regulation 2000*, dictionary.

**photo identification document**—see section 6.

**proof of age card** means a proof of age card issued under the *Liquor Act 1975* or a law of a State, an external Territory or New Zealand.

**record about land titles**, for a person, means a copy of a record issued under a law about land titles relating to the person's interest in land that is certified by the registrar-general or a corresponding person under a law of a State, an external Territory or New Zealand.

**required particulars**—

- (a) for a photo identification document—the particulars mentioned in schedule 2, part 2.1, column 3 for the document; or
- (b) for a non-photo identification document—the particulars mentioned in schedule 2, part 2.2, column 3 for the document.

**service bill**, for a person, means a bill issued to the person for the use of a utility service, telephone service or internet service.

**utility service**—see the *Utilities Act 2000*, dictionary.

## Endnotes

### 1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws and expiries are listed in the legislation history and the amendment history. These details are underlined. Uncommenced provisions and amendments are not included in the republished law but are set out in the last endnote.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

### 2 Abbreviation key

am = amended	ord = ordinance
amdt = amendment	orig = original
ch = chapter	par = paragraph/subparagraph
def = definition	pres = present
dict = dictionary	prev = previous
disallowed = disallowed by the Legislative Assembly	(prev...) = previously
div = division	pt = part
exp = expires/expired	r = rule/subrule
Gaz = gazette	renum = renumbered
hdg = heading	reloc = relocated
IA = Interpretation Act 1967	R[X] = Republication No
ins = inserted/added	RI = reissue
LA = Legislation Act 2001	s = section/subsection
LR = legislation register	sch = schedule
LRA = Legislation (Republication) Act 1996	sdiv = subdivision
mod = modified/modification	sub = substituted
o = order	SL = Subordinate Law
om = omitted/repealed	<u>underlining</u> = whole or part not commenced or to be expired

## Endnotes

3 Legislation history

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### 3 Legislation history

This regulation was originally the *Second-hand Dealers Regulations 2002*. It was renamed under the *Legislation Act 2001*.

#### **Second-hand Dealers Regulation 2002 SL No 8**

notified LR 15 April 2002

s 1, s 2 commenced 15 April 2002 (LA s 75)

remainder commenced 16 April 2002 (s 2)

as amended by

#### **Justice and Community Safety Legislation Amendment Act 2002 A2002-27pt 15**

notified LR 9 September 2002

s 1, s 2 commenced 9 September 2002 (LA s 75)

pt 15 commenced 7 October 2002 (s 2 (2))

#### **Justice and Community Safety Legislation Amendment Act 2003 (No 2) A2003-47 pt 11**

notified LR 31 October 2003

s 1, s 2 commenced 31 October 2003 (LA s 75 (1))

pt 11 commenced 1 November 2003 (s 2)

#### **Statute Law Amendment Act 2009 A2009-20 sch 3 pt 3.68**

notified LR 1 September 2009

s 1, s 2 commenced 1 September 2009 (LA s 75 (1))

sch 3 pt 3.68 commenced 22 September 2009 (s 2)

### 4 Amendment history

#### **Name of regulation**

s 1 am R5 LA

#### **Commencement**

s 2 om LA s 89 (4)

#### **Kinds of second-hand goods—Act, dict, def of *second-hand goods***

s 5 am Act 2002 No 27 s 70

#### **Exempt entities—Act, s 4 (2)**

s 5A ins Act 2002 No 27 s 71  
am A2003-47 s 38



**Requirement for displayed lettering—Act, s 5**

s 5B ins A2003-47 s 39

**Making records about goods bought or received—Act, s 6 (1)**

s 8 am Act 2002 No 27 s 72

**Making records about goods sold or disposed of—Act, s 6 (1)**

s 9 am Act 2002 No 27 s 73

**Making records—goods bought from exempt entities—Act, s 6 (1)**

s 10 hdg sub Act 2002 No 27 s 74

s 10 am Act 2002 No 27 s 75

**Keeping records—Act, s 6 (2)**

s 11 am A2009-20 amdt 3.193

**Giving records to the police—Act, s 6 (3)**

s 12 am A2009-20 amdt 3.193

**Transitional—records**

s 13 exp 1 July 2002 (s 13 (5))

**Dictionary**

dict am A2009-20 amdt 3.194

def **exempt entity** ins Act 2002 No 27 s 76

sub A2003-47 s 40

**5 Earlier republications**

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (\*) in column 1. Electronic and printed versions of an authorised republication are identical.

Republication No	Amendments to	Republication date
1	not amended	17 April 2002
2	not amended	3 October 2002
3	A2002-27	7 October 2002
4	A2003-47	1 November 2003
5	A2003-47	1 November 2004

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