



# Civic Government (Scotland) Act 1982

## 1982 CHAPTER 45

### PART II

#### LICENSING AND REGULATION—PARTICULAR ACTIVITIES

##### *Licensing and regulation of second-hand dealers*

#### **24 Second-hand dealers' licences.**

- (1) Subject to subsection (3) below, a licence, to be known as a “second-hand dealer’s licence”, shall be required for carrying on business as a second-hand dealer.
- (2) In this section and in sections 25 to 27 and 36 of this Act “second-hand dealer” means a person carrying on a business as a dealer in second-hand goods or articles of any description.
- (3) A second-hand dealer’s licence shall not be required for carrying on—
  - (a) the business of a pawnbroker (that is to say, a person who, under a regulated agreement under the <sup>M1</sup>Consumer Credit Act 1974, takes an article in pawn);
  - (b) a business as a wholesale dealer purchasing exclusively from second-hand dealers licensed under this Act;
  - [<sup>F1</sup>(c) the business of a charity (that is to say, a body which is entered in the Scottish Charity Register);]
  - (d) a business as a dealer in second-hand goods or articles incidentally to another business not being that of a dealer in such goods or articles;
  - (e) a business either of financing the acquisition of goods by means of hire-purchase agreements, conditional sale agreements or credit sale agreements (as defined in section 189(1) of the <sup>M2</sup>Consumer Credit Act 1974) or of financing the use of goods by means of hiring agreements.
- (4) Without prejudice to paragraph 5 of Schedule 1 to this Act, a licensing authority may, after consultation with the chief constable, attach conditions to a second-hand dealer’s licence requiring the keeping of records in relation to the dealer’s stock-in-trade; and

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conditions so attached may, without prejudice to the authority’s power under this subsection, include provision as to—

- (a) the information to be included in these records;
  - (b) their form;
  - (c) the premises where they are to be kept; and
  - (d) the period for which they are to be kept.
- (5) A second-hand dealer acquiring a second-hand motor vehicle for the purpose of its re-sale in the course of his business shall keep a record of the mileage reading on the vehicle’s odometer when he acquired it.
- (6) Any person who contravenes subsection (5) above shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding [<sup>F2</sup>level 3 on the standard scale].
- (7) It shall be a defence for a person charged with an offence under subsection (6) above to prove that he used all due diligence to prevent the commission of the offence.

#### Textual Amendments

- F1** S. 24(3)(c) substituted (1.4.2006) by [Charities and Trustee Investment \(Scotland\) Act 2005 \(asp 10\)](#), s. 107(2), [sch. 4 para. 5\(a\)](#); [S.S.I. 2006/189](#), art. 2(1), sch. Pt. 1
- F2** Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), s. 289G

#### Marginal Citations

- M1** 1974 c. 39.
- M2** 1974 c. 39.

## 25 Disposal of stock-in-trade.

- (1) Subject to subsections (2) and (3) below and section 27 of this Act, a second-hand dealer shall not dispose of any item of his stock-in-trade until the expiry of 48 hours (excluding any time on Saturdays or Sundays) after he acquired it.
- (2) Subsection (1) above shall not apply to any article acquired by the dealer in a public roup and disposed of by him without being brought to his place of business.
- (3) A licensing authority may, on granting a second-hand dealer’s licence or at any time thereafter, on application by the dealer and after consultation with the chief constable, order that subsection (1) above shall not apply to the disposal by the dealer of any item, or any specified item or class of items, of his stock-in-trade or any specified part of it.
- (4) An order under subsection (3) above may—
- (a) be made subject to such conditions as the authority think fit;
  - (b) relate to stock-in-trade or items thereof still to be acquired by the dealer to whom the order relates; or
  - (c) be varied or revoked at any time by the licensing authority.
- (5) In subsection (3) above, “specified” means specified in an order under that subsection.
- (6) A holder of a second-hand dealer’s licence may appeal to the sheriff against a decision of the licensing authority under this section and paragraph 24(3) to (9) and (11) and (12) of Schedule 1 to this Act shall, with any necessary modifications, apply to an appeal under this subsection.

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- (7) Any person who contravenes subsection (1) above shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding [<sup>F3</sup>level 3 on the standard scale].

#### Textual Amendments

**F3** Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), s. 289G

## 26 Sellers of second-hand goods: offences etc.

- (1) Any person who, when selling anything to a second-hand dealer, gives the dealer a false name or address shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding [<sup>F4</sup>level 3 on the standard scale].
- (2) If anything is offered to a second-hand dealer in the course of his business and he has reason to believe that it has been stolen or otherwise unlawfully obtained he may, subject to subsection (3) below, detain the person offering it and a constable may arrest that person and take possession of it.
- (3) Nothing in subsection (2) above authorises a second-hand dealer to detain a person longer than is reasonably necessary for obtaining the attendance of a constable.
- (4) No civil liability shall arise as a result only of the detention in good faith of a person under subsection (2) above.

#### Textual Amendments

**F4** Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), s. 289G

## 27 Functions of the court in relation to second-hand dealers convicted of offences.

- (1) Where a second-hand dealer is convicted of an offence relating to second-hand dealing, the court by which he is convicted may make any order which it is competent to make under section 7(6) of this Act and an extract of such conviction and sentence (if any) shall, within 6 days after the date of the conviction, be transmitted by the clerk of the court to the licensing authority which granted the licence.
- (2) Where a second-hand dealer is convicted—
- (a) of an offence relating to second-hand dealing; or
  - (b) of an offence which in the opinion of the court is an offence involving dishonesty,
- the court may, in addition to any other order which it is competent to make, order that he shall not dispose of any second-hand goods acquired by him until the expiry of a period of 7 days after their acquisition.
- (3) In making an order under subsection (2) above, the court shall specify a period not exceeding 2 years for which it is to remain in force, but the court may revoke such an order at any time on the application of the person to whom it relates.
- (4) Any person who fails to comply with an order made in relation to him under subsection (2) above shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding [<sup>F5</sup>level 4 on the standard scale] or to imprisonment for a period not exceeding 60 days or to both.

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#### **Textual Amendments**

**F5** Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), **s. 289G**

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