

Namibia

## Second Hand Goods Act, 1998

Act 23 of 1998

Legislation as at 28 December 2005

FRBR URI: /akn/na/act/1998/23/eng@2005-12-28

There may have been updates since this file was created.

PDF created on 25 April 2024 at 11:05.

*Collection last checked for updates: 19 April 2024.*

[Check for updates](#)



### About this collection

The legislation in this collection has been reproduced as it was originally printed in the Government Gazette, with improved formatting and with minor typographical errors corrected. All amendments have been applied directly to the text and annotated. A scan of the original gazette of each piece of legislation (including amendments) is available for reference.

This is a free download from the Laws.Africa Legislation Commons, a collection of African legislation that is digitised by Laws.Africa and made available for free.

[www.laws.africa](http://www.laws.africa)  
[info@laws.africa](mailto:info@laws.africa)

There is no copyright on the legislative content of this document.  
This PDF copy is licensed under a Creative Commons Attribution 4.0 License (CC BY 4.0). Share widely and freely.

## Second Hand Goods Act, 1998

### Contents

1. Definitions .....	1
2. Application of Act .....	2
Part I – Requirements to carry on business in second hand goods or as pawnbroker .....	3
3. Certificate required .....	3
4. Granting, amendment and withdrawal of certificate .....	3
5. Period of validity of certificate .....	4
6. Appeals .....	4
Part II – Further provisions relating to dealers .....	5
7. Records by dealers .....	5
8. Obtaining of information .....	6
Part III – Further provisions relating to pawnbrokers .....	6
9. Records by pawnbrokers .....	6
10. Restrictions on pawnbrokers .....	7
11. Identification of pawned goods and issue of pawn ticket .....	7
Part IV – Miscellaneous .....	7
12. Further restrictions on dealing in second hand goods and taking goods in pawn .....	7
13. False information and stolen goods .....	7
14. Provisions relating to copper or brass .....	8
15. Verifying entries made in registers by manager, agent or employee .....	8
16. Powers of police .....	9
17. Transfer of certificate .....	9
18. Regulations .....	9
19. Offences and penalties .....	10
20. Cancellation or suspension of exemption or certificate by court .....	11
21. Jurisdiction of magistrates' courts .....	11
22. Transitional provisions .....	11
23. Short title and commencement .....	12



Republic of Namibia  
**Annotated Statutes**

## **Second Hand Goods Act, 1998**

**Act 23 of 1998**

Published in Government Gazette 1955 on 17 September 1998

**Assented to on 3 September 1998**

**Commenced on 1 November 1999 by Commencement of the Second Hand Goods Act, 1998**

**[This is the version of this document from 28 December 2005  
and includes any amendments published up to 19 April 2024.]**

**[Amended by General Law Amendment Act, 2005 (Act 14 of 2005) on 28 December 2005]**

### **ACT**

**To regulate the business of dealers in second hand goods and scrap metal, auctioneers and pawnbrokers;  
and to provide for incidental matters.**

BE IT ENACTED by the Parliament of the Republic of Namibia, as follows:-

#### **1. Definitions**

In this Act, unless the context otherwise indicates -

“**acquire**” includes buying, collecting, receiving and importing into Namibia, and “acquisition” shall bear a corresponding meaning;

“**certificate**” means a certificate referred to in section 3, and includes a certificate referred to in section 22(3);

“**dealer**” means a person who carries on a business of dealing in second hand goods, and includes a scrap metal dealer and an auctioneer;

“**deal in**” includes acquire and dispose of;

“**dispose of**” includes selling, donating, lending, supplying, distributing, exporting out of Namibia and in any manner, whether for any consideration or not, transfer, exchange or deliver;

“**Regional Commander**” means a person appointed under section 4 of the Police Act, 1990 (Act [No. 19 of 1990](#)) to be in command of a police region;

**[This definition is placed as it appears in the Government  
Gazette, but it is not in the correct alphabetical order.]**

**“goods”** means any article of clothing, jewellery, a motor vehicle, including any motor cycle, or any part of accessory thereof, any office or household equipment, any photographic or optical instrument or any part or accessory thereof, any wrought article consisting wholly or principally of gold, silver or steel, any antique, any ferrous metal, lead, copper, tin, aluminium, brass or zinc or any article or substance consisting wholly or principally of one or more of such metals, including scrap metal, and any other article or substance which the Minister may under section 2(2) declare to be goods for the purposes of this Act;

**“Inspector-General”** means the person appointed as Inspector-General of Police under Article 116 of the Namibian Constitution;

**“Minister”** means the Minister responsible for policing;

[definition of **“Minister”** amended by Act [14 of 2005](#)]

**“member of the police”** means a member of the Namibian Police Force as defined in section 1 of the Police Act, 1990;

**“officer in charge of a police station”** means the member of the police appointed as the officer in charge of a police station;

**“pawnbroker”** means a person who carries on a business of taking goods in pawn;

**“pawned goods”** means any movable goods subject to a pledge;

**“pawner”** means a person who delivers movable goods for pawn to a pawnbroker;

**“prescribed”** means prescribed by regulation;

[The definition of **“Regional Commander”** would appear here if it were in the correct alphabetical order.]

**“register”** includes a register kept by means of a computer as defined in section 1 of the Computer Evidence Act, 1985 (Act [No. 32 of 1985](#));

**“scrap metal dealer”** means a person who carries on a business which consists wholly or partly of the buying or selling of scrap metal, whether the scrap metal sold is in the form in which it was acquired or otherwise, but excludes any person who carries on a business where scrap metal is bought as materials for the manufacture of other articles and such scrap metal is not sold except as a by-product of such manufacture or as surplus materials bought but not required for such manufacture;

**“scrap metal”** includes any used, broken, worn-out, defaced or partly manufactured goods made wholly or partly of ferrous metal, lead, copper, tin, aluminium, brass, or zinc, or any substance of metallic waste or die made of any of the materials commonly known as hard metals or of cemented or sintered metallic carbides;

**“second hand goods”** means goods which have been in use by a person other than the manufacturer or producer thereof or a person dealing therewith for such manufacturer or producer in the course of business;

**“sell”** includes agree to sell, or mark with a selling price, display, advertise, offer or attempt to sell, or exchange, deliver or dispose of for any consideration, or sell by auction or by way of a credit agreement as defined in the Credit Agreements Act, 1980 (Act [No. 75 of 1980](#));

**“this Act”** includes the regulations made thereunder.

## 2. Application of Act

- (1) This Act shall not apply to -
  - (a) any second hand goods sold or disposed of in terms of a writ of execution under a judgement or order of a court of law;
  - (b) a person who acquires second hand goods for repair of articles normally repaired by him or her in the course of his or her business;

- (c) the seller of goods which had been subject to a credit agreement as defined in the Credit Agreements Act, 1980, and which were returned to him or her in terms of that Act where the purchaser has failed to comply with a term of such agreement; and
  - (d) any second hand goods referred to in paragraph (a)(i) of subsection (2) or a person referred to in paragraph (b) of that subsection.
- (2) The Minister may -
- (a) by notice in the Gazette -  
**[The word “Gazette” is not italicised here although it is italicised elsewhere in this Act.]**
    - (i) exclude from the operation of any or all of the provisions of this Act any second hand goods or any class of such goods;
    - (ii) declare any article or substance to be goods for the purposes of this Act or such parts of this Act as may be specified in such notice,and may in like manner amend or repeal any such notice; or
  - (b) by notice in writing addressed to any person exempt, on such conditions as he or she may determine, such person from compliance with any or all of the provisions of this Act, and may in like manner amend or withdraw any such notice.

## **Part I – Requirements to carry on business in second hand goods or as pawnbroker**

### **3. Certificate required**

- (1) Subject to sections 22(1) and (2), no person shall from the date of commencement of this Act carry on a business as a dealer or pawnbroker, except under the authority of, and to the extent specified in, a certificate granted to him or her under section 4.
- (2) Where two or more persons carry on business as dealers or pawnbrokers in a partnership on the same premises, only one certificate shall be issued in the name of that partnership for that purpose.
- (3) In so far as this section provides for a limitation of a fundamental freedom contemplated in Article 21 of the Namibian Constitution, in that it authorizes a limitation upon a person’s right to carry on any occupation, trade or business, such limitation is enacted on authority of Sub-Article (2) of that Article.

### **4. Granting, amendment and withdrawal of certificate**

- (1) An application for a certificate required under section 3 shall be lodged in the prescribed form, together with the prescribed fee and prescribed particulars or information, if any, to be furnished with such application, with the Regional Commander of the police region within which the applicant intends to carry on a business referred to in that section, or with the officer in charge of a police station within such region.
- (2) The Regional Commander or the officer in charge referred to in subsection (1) shall forward an application referred to in that section which has been lodged with him or her, together with his or her recommendations thereon, to the Inspector-General.
- (3) (a) The Inspector-General, or a member of the police authorised thereto by the Inspector-General, may, after consideration of the application and recommendation referred to in subsection (2), and upon being satisfied that the applicant has not at any time been found guilty of an offence involving dishonesty, grant the application and issue a certificate authorising the applicant to carry on the business in question, and, where applicable, to deal in all classes or kinds of second hand goods or such classes or kinds of second hand goods as

the Inspector-General or such member of the police, as the case may be, may determine and specify or cause to be specified in the certificate in question.

- (b) The Minister may, upon application and if in his or her opinion good reasons exists, in writing declare a person to be released from the disqualification referred to in paragraph (a) with regard to having been found guilty of an offence involving dishonesty.

[The verb “exists” should be “exist” to be grammatically correct.]

- (4) A certificate referred to in subsection (3) may, in addition to a condition referred to in that subsection and such conditions as may be prescribed, be made subject to such other conditions as the Inspector-General or member of the police contemplated in that subsection, as the case may be, may determine and set out or cause to be set out in such certificate.
- (5) The Inspector-General, or a member of the police authorised thereto by the Inspector-General, may -
  - (a) amend a certificate to correct an error therein; or
  - (b) on the application of the person to whom a certificate has been granted, amend or withdraw in such certificate any condition other than a prescribed condition.
- (6) An application referred to in subsection (5)(b) shall be lodged in writing, together with the prescribed fee, if any, with the Regional Commander of the police region within which the business in question is being carried on or with the officer in charge of a police station within such region, who shall forward such application, together with his or her recommendation thereon, to the Inspector General.
- (7) The Inspector-General may at any time during the period of validity of a certificate, and after having afforded the dealer or pawnbroker concerned an opportunity to be heard, withdraw such certificate if he or she is satisfied that the dealer or pawnbroker to whom such certificate has been granted has refused or failed to comply with any condition of such certificate.
- (8) An applicant shall in writing be notified of any decision taken under subsection (3), (5) or (7).
- (9) In so far as this section provides for a limitation of a fundamental freedom contemplated in Article 21 of the Namibian Constitution, in that it authorizes a limitation upon a person's right to carry on any occupation, trade or business, such limitation is enacted on authority of Sub-Article (2) of that Article.

## 5. Period of validity of certificate

A certificate shall expire on a date three years from the date of issue thereof.

## 6. Appeals

- (1) Any person who is aggrieved by a decision taken in terms of subsection (3), (5) or (7) of section 4 may, within 30 days of receiving the notice referred to in subsection (8) of that section, appeal in writing to the Minister against that decision.
- (2) The Minister may in respect of an appeal lodged in terms of subsection (1), upon consideration of the grounds of appeal and after consultation with the Inspector-General -
  - (a) confirm, set aside, or amend the decision in question; or
  - (b) make such order with regard thereto as he or she may deem expedient.

## Part II – Further provisions relating to dealers

### 7. Records by dealers

- (1) Subject to subsection (2), every dealer shall keep in the official language registers of all his or her dealings in second hand goods.
- (2) Separate registers shall be kept in respect of acquisitions and disposals of goods referred to in subsection (1) and, if the Minister by notice in the Gazette so directs, also in respect of different classes of such goods as may be specified in such notice.
- (3) Every dealer shall record, in respect of every acquisition or disposal of second hand goods, in the relevant register referred to in subsection (2) -
  - (a) the name, address and identity number of the person from whom such goods are acquired or to whom such goods are disposed of, and where such person is a dealer, his or her business address;
  - (b) the date and time of acquisition or disposal of such goods and of delivery or removal thereof at or from the dealer's premises;
  - (c) the consideration given or received for such goods;
  - (d) a full description of such goods, indicating the quantity and colour thereof, any identification marks and any other distinguishing features thereon and, subject to paragraph (h), the form in which any metals are acquired or disposed of;
  - (e) the number assigned to such goods by the dealer under subsection (9) at the time of acquisition thereof;
  - (f) in the case of a motor vehicle, the number of the engine, chassis and registration, respectively; and
  - (h) in the case of scrap metal -
    - (i) the description and weight of the scrap metal at the time of its acquisition and disposal; and
    - (ii) the value of the scrap metal at the time of its acquisition and disposal as estimated by such dealer.

**[This paragraph is mislettered as (h) instead of (g) in the Government Gazette; there is no paragraph (g).]**

- (4) Any person acquiring second hand goods from or disposing second hand goods to a dealer shall furnish such dealer his or her full name, address and the original of any document of proof of his or her identity, provided that such document bears a photograph of such person.
- (5) A dealer shall obtain a photocopy of -
  - (a) the document referred to in subsection (4); and
  - (b) where applicable, the written authorization referred to in section 14(1)(b).
- (6) Any -
  - (a) register which a dealer has to keep under subsection (2);
  - (b) photocopy referred to in subsection (5),

shall be retained by the dealer concerned for a period of three years from the date of the transaction to which it relates.

- (7) A dealer shall, during the period referred to in subsection (6), on demand of a member of the police make a register or photocopy which he or she has to retain under that subsection available for inspection by such member, and such member may seize any such register, photocopy or written authorisation which he or she on reasonable grounds believes afford evidence of a contravention of a provision of this Act or the commission of any other offence.
- (8) An entry to be made under subsection (3) in respect of every acquisition or disposal of second hand goods by a dealer shall be effected at the time such acquisition or disposal takes place: Provided that in the case of goods disposed of at a public auction, the entry in respect of such disposal shall be made at any time within 24 hours after such auction has taken place.
- (9) For the purposes of paragraph (e) of subsection (3), a dealer shall assign a number to every article of second hand goods acquired by him or her, a new series of numbers being commenced for each month, and the number assigned to any such goods shall be marked by such dealer on such goods or, in the case of goods acquired in bulk, on the container thereof.

## 8. Obtaining of information

The Minister may by notice -

- (a) in the Gazette order any dealer or pawnbroker; or
- (b) in writing addressed to any dealer or pawnbroker order such dealer or pawnbroker,

who is dealing in or has dealt in any second hand goods or has taken in pawn any goods specified in that notice to furnish the Inspector-General with such information or documentation and within such time as may be so specified.

## Part III – Further provisions relating to pawnbrokers

## 9. Records by pawnbrokers

- (1) Every pawnbroker shall in the official language keep a register, in which shall be recorded in respect of all goods taken in pawn by him or her -
  - (a) the name, address and identity number of the person from whom such pawned goods are received;
  - (b) the date and time of taking the goods in question in pawn;
  - (c) a full description of the goods taken in pawn, indicating any identification marks and any other distinguishing features thereon and, in the case of metals, the type and form of such metals;
  - (d) the number assigned to both the pawned goods and the relevant pawn ticket issued under section 12 in respect thereof; and
  - (e) the date and time the pawned goods are redeemed or otherwise disposed of.
- (2) Any person pawning goods shall furnish the pawnbroker with his or her full name, address and the original of any document of proof of his or her identity, provided that such document bears a photograph of such person.
- (3) A pawnbroker shall obtain a photocopy of -
  - (a) the document referred to in subsection (2); and
  - (b) where applicable, the written authorization referred to in section 14(1)(b).
- (4) Any -
  - (a) register which a pawnbroker has to keep under subsection (1); or



- (b) photocopy referred to in subsection (3),

shall be retained by the pawnbroker concerned for a period of three years from the date of the transaction to which it relates.

- (5) A pawnbroker shall, during the period referred to in subsection (4), on demand of a member of the police make a register or photocopy which he or she has to retain under that subsection available for inspection by such member, and such member may seize any such register, photocopy or written authorisation which he or she on reasonable grounds believes afford evidence of a contravention of a provision of this Act or the commission of any other offence.
- (6) An entry to be made under subsection (1) in respect of any goods taken in pawn by a pawnbroker shall be effected at the time such goods are taken in pawn by him or her.

## **10. Restrictions on pawnbrokers**

No pawnbroker shall purchase or take in pawn a pawn ticket issued by himself or herself or any other pawnbroker.

## **11. Identification of pawned goods and issue of pawn ticket**

- (1) Every article taken in pawn shall be identified by a number assigned to such article by the pawnbroker concerned and such number shall correspond with the number of a pawn ticket issued in respect of that article by that pawnbroker, and the number so assigned shall be marked on the article in question or, in the case of goods in bulk, on the container thereof.
- (2) A pawn ticket shall be issued by the pawnbroker to the pawner at the time of taking the goods in question in pawn.

## **Part IV – Miscellaneous**

## **12. Further restrictions on dealing in second hand goods and taking goods in pawn**

No dealer or pawnbroker shall -

- (a) except with the written permission of the officer in charge of the nearest police station, store any second hand goods relating to his or her business in respect of which he or she has obtained a certificate or pawned goods, as the case may be, elsewhere than on the premises on which he or she carries on such business; or
- (b) acquire from a person who is not a person as contemplated in section 14(1)(a), any second hand goods or pawned goods consisting wholly or substantially of copper or brass and which weigh with regard to the transaction in question one kilogram or more, unless such person is in respect of such goods in possession of a written authorisation referred to in section 14(3).

## **13. False information and stolen goods**

- (1) Whenever any dealer or pawnbroker on reasonable grounds suspects that -
- (a) any name, address or document of identity furnished to him or her under the provisions of this Act is false; or
- (b) second-hand goods or goods for pawn, as the case may be, offered to him or her are stolen goods,

**[Elsewhere in the Act, the term “second hand” appears without a hyphen.]**

such dealer or pawnbroker shall immediately report the matter to the officer in charge of the nearest police station.

- (2) Notwithstanding anything to the contrary in any other law contained, if any dealer or pawnbroker acquires or receives into his or her possession from any other person any second hand goods or pawned goods which such dealer or pawnbroker knows to be stolen, or of which such dealer or pawnbroker does not have reasonable cause at the time of such acquisition or receipt to believe that such goods are the property of that person or that such person has been duly authorised by the owner thereof to possess or deal in such goods, such dealer or pawnbroker shall be guilty of an offence, and on conviction be liable to the penalties which may be imposed on a conviction of receiving stolen property knowing it to be stolen.
- (3) For the purposes of subsection (2), any dealer or pawnbroker who wilfully makes in a register required to be kept by him or her under this Act an entry which he or she knows is false or misleading or of which he or she does not have reasonable grounds to believe that it is correct shall, in the event of the goods pertaining to such entry being proven to be stolen, be deemed, in the absence of evidence to the contrary, to have known that such goods had been stolen.

#### **14. Provisions relating to copper or brass**

- (1) No person shall deal in second hand goods or take goods in pawn which consists wholly or substantially of copper or brass and which, with regard to the transaction in question, weigh one kilogram or more, unless such person is -
  - (a) the holder of a certificate and, in the case of a dealer, is authorised in such certificate to deal in such kind or class of second hand goods; or
  - (b) the holder of a written authorisation referred to in subsection (3) authorising him or her to deal with such second hand goods.
- (2) Any person who is not a person referred to in subsection (1)(a) and who is desirous to deal in second hand goods consisting wholly or principally of copper or brass of a weight of one kilogram or more, shall apply to the officer in charge of any police station for authorisation to deal in such goods.
- (3) An officer in charge of a police station may grant an application made to him or her under subsection (2) upon being satisfied that the person desiring to deal in second hand goods referred to in that subsection is -
  - (a) the owner of the goods in question; or
  - (b) has been authorised by the owner thereof to deal with such goods,and issue the applicant or cause such applicant to be issued with a written authorisation in which are set out -
  - (i) the name, address and identity number of the person authorised to deal in such goods;
  - (ii) the description of the goods to which such authorisation pertains;
  - (iii) the period for which such authorisation shall remain valid; and
  - (iv) such conditions as the officer in charge may determine.

#### **15. Verifying entries made in registers by manager, agent or employee**

- (1) Where any manager, agent or employee of a dealer or pawnbroker makes any entry in a register which such dealer or pawnbroker is required to keep under this Act, the dealer or pawnbroker concerned, as the case may be, shall not later than the start of business on the next working day verify with his or her signature the correctness of such entry.
- (2) Whenever any manager, agent or employee of a dealer or pawnbroker does or omits to do an act which would be an offence under this Act for such dealer or pawnbroker to do or omit to do, he or she shall be liable to be convicted and sentenced in respect thereof as if he or she was the dealer or pawnbroker.

## 16. Powers of police

- (1) Any member of the police may at all reasonable times -
  - (a) enter any place occupied or vehicle used by a person who on reasonable grounds is believed to be a dealer or pawnbroker;
  - (b) inspect any goods found in any such place or on any such vehicle and any book, record or document which is suspected to contain any information relating to such goods;
  - (c) require from the owner or any person in charge of such place or vehicle or any goods therein or thereon, information in regard to any such goods;
  - (d) require from the owner or any person in charge of such place or vehicle to explain any entry in any book, record or document found therein or thereon;
  - (e) seize any goods, books, records or documents which may afford evidence of a contravention of any provision of this Act.
- (2) A dealer, pawnbroker, owner, or person in charge of a place or vehicle referred to in subsection (1) shall on demand afford any member of the police such assistance and facilities as such member of the police may require in connection with the performance of his or her functions under this section.
- (3) In so far as this section provides for a limitation of a fundamental right contemplated in Article 13 of the Namibian Constitution, in that it authorises interference with the privacy of a person's home, correspondence or communications, such limitation is enacted on authority of the said Article 13.

## 17. Transfer of certificate

- (1) A dealer or pawnbroker (including the executor, trustee or other administrator of the estate of such dealer or pawnbroker) may transfer to another person a certificate issued to such dealer or pawnbroker, provided that the Inspector-General approves such transfer in writing upon being satisfied that the person to whom the transfer is intended has not at any time been found guilty of an offence involving dishonesty.
- (2) The Minister may, upon application and if in his or her opinion good reasons exists, in writing declare a person to whom a transfer is intended in terms of subsection (1) to be released from the disqualification referred to in that subsection with regard to having been found guilty of an offence involving dishonesty.

[The verb “exists” should be “exist” to be grammatically correct.]

- (3) In so far as this section provides for a limitation of a fundamental freedom contemplated in Article 21 of the Namibian Constitution, in that it authorizes a limitation upon a person's right to carry on any occupation, trade or business, such limitation is enacted on authority of Sub-Article (2) of that Article.

## 18. Regulations

- (1) The Minister may make regulations as to -
  - (a) the form and manner in which any application required under this Act may be made;
  - (b) the form of a certificate which may be issued under this Act;
  - (c) the conditions to which a certificate shall be subject, and different conditions may be prescribed with regard to dealing in different classes or kinds of second hand goods;

- (d) the fees payable for any application or certificate;

and, generally, any matter which is required by this Act to be prescribed or which the Minister considers necessary or expedient to prescribe in order to achieve the objects of this Act.

- (2) A regulation may provide penalties for any contravention thereof or failure to comply therewith, and different penalties may be prescribed in case of any second or subsequent contravention or non-compliance thereof, but no such penalty shall exceed a fine of N\$2 000 or a period of imprisonment of six months, or both such fine and imprisonment.

## 19. Offences and penalties

- (1) Any person who -
  - (a) contravenes or fails to comply with section 3(1), 7, 8, 9, 10, 11, 12, 13(1), 14 (1), or 15(1);
  - (b) wilfully makes an entry which is false or misleading in a register required to be kept by him or her under this Act; or
  - (c) wilfully furnishes the Inspector-General with information or documentation which is false or misleading under an order applicable to him or her under section 8,shall be guilty of an offence.
- (2) Any dealer, pawnbroker, owner, or person in charge of a place or vehicle referred to in section 16(1) who -
  - (a) hinders or obstructs any member of the police in the performance of his or her functions under that section;
  - (b) without valid excuse refuses or fails to answer to the best of his or her ability any question which a member of the police in the performance of his or her functions under that section has put to him or her, or wilfully makes a statement to such member which is false or misleading; or
  - (c) refuses or fails to comply to the best of his or her ability with any requirement made by a member of the police in the performance of his or her functions under that section,shall be guilty of an offence.
- (3) Any person found guilty of an offence under this Act shall on conviction be liable -
  - (a) in the case of a first conviction, to a fine not exceeding N\$ 30 000 or to imprisonment for a period not exceeding three years, or to both such fine and such imprisonment;
  - (b) in the case of a second conviction, to a fine not exceeding N\$ 50 000 or to imprisonment for a period not exceeding five years, or to both such fine and such imprisonment; and
  - (c) in the case of a third or subsequent conviction, to imprisonment for a period of not exceeding ten years.
- (4) Notwithstanding subsection (3), the court may summarily enquire into and determine the monetary value of any advantage or potential advantage which a person convicted of an offence under this Act has gained or could have gained in consequence of that offence, and may, instead of the fine referred to in that subsection in respect of the offence in question, impose a fine equal to three times the value so determined.
- (5) Notwithstanding anything to the contrary in any other law contained, no person shall on a third or subsequent conviction for a contravention of this Act be dealt with under section 297(4) of the Criminal Procedure Act, 1977 (Act [No. 51 of 1977](#)), if such person was at the time of the commission of such contravention eighteen years old or older or such third or subsequent conviction was committed within seven years after the previous conviction.

## 20. Cancellation or suspension of exemption or certificate by court

Where a court convicts a person of an offence under this Act and such person -

- (a) has no previous conviction under this Act, the court may, in addition to any other penalty it may impose, suspend for such period as the court may determine any exemption granted to such person in terms of section 2(2)(b) or certificate issued to such person;
- (b) has one previous conviction under this Act, the court shall, in addition to any other penalty it may impose, suspend for a period of not less than twelve months any such exemption or certificate; and
- (c) has more than one previous conviction under this Act, the court shall, in addition to any other penalty it may impose, cancel any such exemption or certificate.

## 21. Jurisdiction of magistrates' courts

Notwithstanding anything to the contrary in any other law contained, magistrates' courts shall have jurisdiction to impose any penalty provided for under this Act.

## 22. Transitional provisions

- (1) Any person who immediately prior to the date of commencement of this Act carried on a business as a dealer or pawnbroker shall, subject to subsections (2) and (4), from such date be deemed to carry on such business under a certificate granted in terms of this Act.
- (2) Any person referred to in subsection (1) who wishes to continue after the date of commencement of this Act with his or her business referred to in that subsection shall, within a period of 90 days from such date, or such longer period as may on good cause shown be allowed by the Inspector-General in writing, furnish the Inspector-General with a written notice in which it is declared -
  - (a) that he or she wishes to continue to carry on his or her business as contemplated in that subsection;
  - (b) the nature of the business in question; and
  - (c) where applicable, the classes or kinds of second hand goods he or she deals in.
- (3) The Inspector-General shall furnish a person referred to in subsection (2) with a certificate to carry on the business in question, and, where applicable, to deal in such classes or kinds of goods as that person had set out in the notice he or she had submitted in terms of that subsection: Provided that where two or more persons carry on a business as dealers or pawnbrokers in a partnership on the same premises, only one certificate shall be issued in the name of the partnership for that purpose in terms of this subsection.
- (4) Any person who immediately prior to the date of commencement of this Act carried on a business as a dealer or pawnbroker shall, within a period of 90 days from such date of commencement, or such longer period as may on good cause shown be allowed by the Inspector-General in writing, enter in a register kept for the purpose all the second hand goods or pawned goods, as the case may be, held by such person for such business purposes during the period from such date of commencement and up to and including the last day of the said period or extended period, as the case may be.
- (5) An entry referred to in subsection (4) shall set out a full description of goods in question, indicating the quantity and colour thereof, any identification marks and any other distinguishing features thereon and, in the case of metal, its description and weight and the value thereof as estimated by the dealer or pawnbroker concerned.
- (6) The final and last entry in a register referred to in subsection (4) shall be endorsed by the officer in charge of a police station -
  - (a) at such entry in such register; or

- (b) where such register is kept by means of a computer, at such entry on a computer print-out as defined in section 1 of the Computer Evidence Act, 1985 (Act [No. 32 of 1985](#)), of such register.
- (7) Where, from the date of commencement of this Act -
  - (a) a dealer disposes of goods referred to in subsection (4) of this section, the provisions of section 7(1), (2), (3)(a), (b), (c), (d), (f), (h), (4), (5) and (6) shall apply; or
  - (b) a pawnbroker redeems or otherwise disposes of pawned goods referred to in subsection (4) of this section, the provisions of section 9(1)(g), (3), (4) and (5) shall apply.
- (8) A person referred to in subsection (1) who contravenes or fails to comply with any of the provisions of -
  - (a) subsection (2) shall be deemed, and this Act shall apply, as if the business in question had been established after the commencement of this Act;
  - (b) subsection (4), (5) or (6) shall be guilty of an offence, and on conviction be liable to a fine not exceeding N\$30 000 or to imprisonment for a period not exceeding three years, or to both such fine and such imprisonment.

### 23. Short title and commencement

This Act shall be called the Second Hand Goods Act, 1998, and shall come into operation on a date to be determined by the Minister by notice in the Gazette.