

PAWNBROKERS ACT, 1888-1934.

BEING

THE PAWNBROKERS ACT, 1888, No. 433 OF 1888
[ASSENTED TO 8TH DECEMBER, 1888.]

AS AMENDED BY

STATUTE LAW REVISION ACT, 1934, No. 2168 OF 1934
[ASSENTED TO 15TH NOVEMBER, 1934.]

An Act to amend the law as to pawnbrokers.

Preamble.

WHEREAS it is desirable to amend the law as to pawnbrokers—Be it therefore enacted by the Governor of the Province of South Australia, with the advice and consent of the Legislative Council and House of Assembly of the said province, in this present Parliament assembled, as follows:

Short title.

1. This Act may be called the “Pawnbrokers Act, 1888-1934.”

Commence-
ment of Act.

2. This Act shall, except as otherwise expressed, commence and take effect from and immediately after the twenty-first day of December, one thousand eight hundred and eighty-eight, which day is hereinafter referred to as the commencement of this Act, and the schedules to this Act, including the notes thereto, shall have effect as part of this Act.

Repeal of
16, 1851.

3. The Act No. 16 of 1851, for regulating the trade or business of pawnbrokers in South Australia, as far as the same relates to the business of pawnbrokers in relation to loans made by them on pledges pawned with them, and to those pledges, and to the pawning, redemption, and sale thereof, and to transactions and matters connected therewith, shall, on the commencement of this Act, be repealed; but this repeal shall not affect the past operation of that Act, or any right, title, obligation, or liability incurred, or the validity or invalidity of any contract made or of anything done or suffered under that Act before the commencement of this Act; nor shall this repeal interfere with the institution or prosecution of any proceeding in respect of any offence committed against, or any penalty or forfeiture incurred under, that Act, or take away or abridge any protection or benefit conferred or secured by that Act, in relation to anything done thereunder before the commencement of this Act.

Definitions—Application of Act.

4. In this Act—

“pawnbroker” includes every person who carries on the business of taking goods and chattels in pawn:

“pawner” means a person delivering an article for pawn to a pawnbroker:

“pledge” means an article pawned with a pawnbroker:

“shop” includes dwelling-house and warehouse, or other place of business, or place where business is transacted:

“unfinished goods or materials” includes any goods of any manufacture, or of any part or branch of any manufacture, either mixed or separate, or any materials whatever plainly intended for the composing or manufacturing of any goods, after such goods or materials are put into a state or course of manufacture, or into a state for any process or operation to be performed thereupon or therewith, and before the same are completed for the purpose of wear or consumption:

“constable” includes any peace officer:

“justice” means justice of the peace:

“perishable articles” means woollens, feathers, and furs, and articles in part consisting of woollens, feathers, or furs:

“two justices” means a court of summary jurisdiction:

“summarily convicted,” “summary conviction,” and the like, refer to a summary conviction before a court of summary jurisdiction.

Interpretation.

Cf. U.K.
35 & 36
Vict. c. 93,
s. 5.

Amended by
S.L.R. Act,
1934

5. In order to prevent evasion of the provisions of this Act, the following persons shall be deemed to be persons carrying on the business of taking goods and chattels in pawn, that is to say—Every person who keeps a shop for the purchase or sale of goods or chattels, or for taking in goods or chattels, by way of security for money advanced thereon, and who purchases or receives or takes in goods or chattels, and pays or advances or lends thereon any sum of money not exceeding ten pounds, with or under an agreement or understanding, expressed or implied, or to be, from the nature and

Extension of
Act to
keepers of
certain shops.
U.K. 35 & 36
Vict. c. 93,
s. 6.

S. 4. JACOBS V. DANIELS (1880) 14 S.A.L.R. 172. Held under Act 16 of 1851 that there must be a public holding out as a pawnbroker and a habitual dealing in that business to render a person liable to conviction under that Act for carrying on business as a pawnbroker without a licence.

character of the dealing, reasonably inferred, that those goods or chattels may be afterwards redeemed or repurchased on any terms, and every such transaction, article, payment, advance, and loan shall be deemed a pawning, pledge, and loan respectively within this Act.

Executors,
etc., of pawn-
brokers.
U.K. 35 & 36
Vict. c. 93,
s. 7.

6. The provisions of this Act relating to pawnbrokers shall extend to and include the executors or administrators of deceased pawnbrokers, except that an executor or administrator shall not be answerable for any penalty or forfeiture personally or out of his own estate, unless the same is incurred by his own act or neglect.

Agents, ser-
vants, appren-
tices, &c., of
pawnbrokers.
U.K. 35 & 36
Vict. c. 93,
s. 8.

7. For the purposes of this Act, anything done or omitted by the servant, apprentice, or agent of a pawnbroker in the course of, or in relation to, the business of the pawnbroker, shall be deemed to be done or omitted, as the case may be, by the pawnbroker, and anything by this Act authorised to be done by a pawnbroker may be done by his servant, apprentice, or agent.

Assigns,
executors,
etc., of
pawners.
U.K. 35 & 36
Vict. c. 93,
s. 9.

8. The rights, powers, and benefits by this Act reserved to and conferred on pawners shall extend to, and be deemed to be reserved to and conferred on the assigns of pawners; and to and on the executors or administrators of deceased pawners; but any person representing himself to a pawnbroker to be the assign, executor, or administrator of a pawner shall, if required by the pawnbroker, produce to the pawnbroker the assignment, probate, letters of administration, or other instrument under which he claims.

Application of
Act in respect
of loans.
Of U.K.
35 & 36
Vict. c. 93,
s. 10.

9. This Act shall apply—

- (1) to every loan by a pawnbroker of five pounds or under:
- (2) to every loan by a pawnbroker of above five pounds and not above twenty pounds, except as in this Act otherwise provided in relation to cases where a special contract respecting the terms of the loan (as authorised by this Act) is made between the pawner and the pawnbroker at the time of the pawning.

Nothing in this Act shall apply to a loan by a pawnbroker of above twenty pounds, or to the pledge on which the loan is made, or to the pawnbroker or pawner in relation to the loan or pledge: And, notwithstanding anything in this Act, a person shall not be deemed a pawnbroker by reason only of

his paying, advancing, or lending, on any terms, any sum or sums of above ten pounds.

10. Nothing in this Act shall apply to a loan made by a pawnbroker before the commencement of this Act, or to the pledge on which the loan is made, or to the pawnbroker or pawner in relation to the loan or pledge; and the enactments in force at the time of the making of the loan shall, after and notwithstanding the commencement of this Act, have effect in relation to every such loan and pledge as if this Act had not been passed.

Exception of
loans before
commencement
of Act.
U.K. 35 & 36
Vict. c. 93,
s. 11.

11. A pawnbroker shall keep and use in his business such books and documents as are described in the first schedule to this Act in the forms therein indicated, or to the like effect, and shall from time to time, as occasion requires, enter therein in a fair and legible manner the particulars indicated in and in accordance with the directions of that schedule, and shall make all inquiries necessary for that purpose.

Pawnbrokers
to keep books,
etc., as in
Schedule.
U.K. 35 & 36
Vict. c. 93,
s. 12.

If a pawnbroker fails in any respect to comply with the requisitions of this section, he shall be guilty of an offence against this Act.

12. A pawnbroker shall observe the following rules—

(1) He shall always keep exhibited in large characters over the outer door of his shop his surname and other name or names, with the word pawnbroker:

Pawnbrokers
to keep names
over doors,
and tables of
rates, &c.,
exhibited in
shops.
U.K. 35 & 36
Vict. c. 93,
s. 13.

(2) He shall always keep placed in a conspicuous part of his shop (so as to be legible by every person pawning or redeeming pledges standing in any box or place provided in the shop for persons pawning or redeeming pledges) the same information as is by the rules of the first schedule to this Act required to be printed on pawntickets.

If a pawnbroker fails in any respect to comply with the requisitions of this section, he shall be guilty of an offence against this Act.

Pawning, Redemption, Sale.

13. A pawnbroker shall, on taking a pledge in pawn, give to the pawner a pawnticket in accordance with the schedules to this Act, and shall not take a pledge in pawn unless the pawner takes the pawnticket.

Pawntickets
to be given
for pledges.
U.K. 35 & 36
Vict. c. 93,
s. 14.

Profit and charges allowed to pawnbrokers. U.K. 35 & 36 Vict. c. 93, s. 15.

14. A pawnbroker may take profit on a loan on a pledge at a rate not exceeding that specified in the second schedule to this Act.

A pawnbroker may demand and take the charges specified in the same schedule, in the cases and according to the rules therein stated and prescribed.

A pawnbroker shall not, in respect of a loan on a pledge, take any profit, or demand or take any charge or sum whatever, other than those specified in the same schedule.

A pawnbroker shall, if required at the time of redemption, give a receipt for the amount of loan and profit paid to him.

Perishable articles redeemable in three months.

15. Perishable articles taken in pledge shall be redeemable within three months from the day of pawning, exclusive of that day and after the expiration of three months shall vest or be disposed of as in this Act provided in the case of pledges where the year of redemption and days of grace have elapsed.

Other pledges redeemable for six months, with seven days of grace. Cf. U.K. 35 & 36 Vict. c. 93, s. 16.

16. Every other pledge shall be redeemable within six months from the day of pawning, exclusive of that day; and there shall be added to that period of redemption seven days of grace, within which every pledge (if not redeemed within the period of redemption) shall continue to be redeemable.

Pledges for ten shillings or under not redeemed in time forfeited. U.K. 35 & 36 Vict. c. 93, s. 17.

17. A pledge pawned for ten shillings or under, if not redeemed within the year of redemption and days of grace, shall at the end of the days of grace become and be the pawnbroker's absolute property, unless all interest due thereon shall have been paid.

Pledges above ten shillings redeemable until sale. U.K. 35 & 36 Vict. c. 93, s. 18.

18. A pledge pawned for above ten shillings shall further continue redeemable until it is disposed of, as in this Act provided, although the year of redemption and days of grace are expired.

Sale by auction of pledges above ten shillings. U.K. 35 & 36 Vict. c. 93, s. 19.

19. A pledge pawned for above ten shillings shall, when disposed of by the pawnbroker, be disposed of by sale by public auction, and not otherwise; and the regulations in the third schedule to this Act shall be observed with reference to the sale.

A pawnbroker may bid for and purchase at a sale by auction, made or purporting to be made under this Act, a pledge pawned with him, and on such purchase he shall be deemed the absolute owner of the pledge purchased.

20. If an auctioneer does anything in contravention of the provisions of this Act relating to auctioneers, or fails to do anything which he is required by this Act to do, he shall be guilty of an offence against this Act.

Offences by
auctioneers.
U.K. 35 & 36
Vict. c. 93,
s. 20.

21. At any time within three years after the auction at which a pledge pawned for above ten shillings is sold, the holder of the pawnticket may inspect the entry of the sale in the pawnbroker's book, and in the filled-up catalogue of the auction (authenticated by the signature of the auctioneer), or in either of them.

Power to in-
spect sale-
book.
U.K. 35 & 36
Vict. c. 93,
s. 21.

22. Where a pledge pawned for above ten shillings is sold, and appears from the pawnbroker's book to have been sold for more than the amount of the loan and profit due at the time of sale, the pawnbroker shall, on demand, pay the surplus to the holder of the pawnticket, in case the demand is made within three years after the sale, the necessary costs and charges of the sale being first deducted.

Pawnbroker
to account for
surplus within
three years,
subject to
set-off.
U.K. 35 & 36
Vict. c. 93,
s. 22.

If, on any such demand, it appears from the pawnbroker's book that the sale of a pledge or pledges has resulted in a surplus, and that, within twelve months before or after the sale, the sale of another pledge, or other pledges, of the same person has resulted in a deficit, the pawnbroker may set off the deficit against the surplus, and shall be liable to pay the balance only after such set-off.

23. If, with respect to pledges for loans of above ten shillings, a pawnbroker—

Offences as to
pledges for
above ten
shillings.

(1) does not *bona fide*, according to the directions of this Act, sell a pledge pawned with him:

U.K. 35 & 36
Vict. c. 93,
s. 23.

(2) enters in his book a pledge as sold for less than the sum for which it was sold, or fails duly to enter the same:

(3) refuses to permit any person entitled under this Act to inspection of an entry of sale in the pawnbroker's book, or of a filled-up catalogue of the auction authenticated by the auctioneer's signature, to inspect the same:

(4) fails, without lawful excuse (proof whereof shall lie on him), to produce such catalogue on lawful demand:

(5) refuses to pay on demand the surplus to the person entitled to receive the same:

he shall in every such case be guilty of an offence against this Act, and shall be liable, on conviction thereof before two justices, to forfeit to the person aggrieved a sum not exceeding ten pounds.

Special Contracts.

Power to make special contracts, subject to restrictions.

U.K. 35 & 36
Vict. c. 93,
s. 24.

24. Notwithstanding anything in this Act, a pawnbroker may make a special contract with a pawner in respect of a pledge on which the pawnbroker makes a loan of above five pounds, provided always that—

- (1) the pawnbroker at the time of pawning shall deliver to the pawner a special contract pawnticket, signed by the pawnbroker:
- (2) a duplicate of the special contract pawnticket shall be signed by the pawner.

The provisions of this Act, save as far as the application thereof is excluded by the terms of the special contract, shall apply thereto.

Delivery up of Pledge.

Holder of pawnticket entitled to redeem.

U.K. 35 & 36
Vict. c. 93,
s. 25.

25. The holder for the time being of a pawnticket shall be presumed to be the person entitled to redeem the pledge, and, subject to the provisions of this Act, the pawnbroker shall accordingly (on payment of the loan and profit) deliver the pledge to the person producing the pawnticket, and is hereby indemnified for so doing.

Production of pawnticket on redemption.

U.K. 35 & 36
Vict. c. 93,
s. 26.

26. A pawnbroker shall not (except as in this Act provided) be bound to deliver back a pledge unless the pawnticket for it is delivered to him.

Liability of pawnbroker in case of fire.

U.K. 35 & 36
Vict. c. 93,
s. 27.

27. Where a pledge is destroyed or damaged by or in consequence of fire, the pawnbroker shall nevertheless be liable, on application within the period during which the pledge would have been redeemable, to pay the value of the pledge, after deducting the loan and profit, such value to be the amount of the loan and profit and twenty-five per cent. on the amount of the loan.

A pawnbroker shall be entitled to insure to the extent of the value so estimated.

Compensation for depreciation of pledge.

U.K. 35 & 36
Vict. c. 93,
s. 28.

28. If a person entitled and offering to redeem a pledge, shows to the satisfaction of two justices that the pledge has become or has been rendered of less value than it was at the time of the pawning thereof, by or through the default,

neglect, or wilful misbehaviour of the pawnbroker, the court may, if it thinks fit, award a reasonable satisfaction to the owner of the pledge in respect of the damage, and the amount awarded shall be deducted from the amount payable to the pawnbroker, or shall be paid by the pawnbroker (as the case requires) in such manner as the court directs.

29. The following provisions shall have effect for protection of owners of articles pawned, and of pawners not having their pawntickets to produce—

Protection of
owners and
of pawners
not having
pawntickets.

U.K. 35 & 36
Vict. c. 93,
s. 29.

- (1) any person claiming to be the owner of a pledge, but not holding the pawnticket, or any person claiming to be entitled to hold a pawnticket, but alleging that the same has been lost, mislaid, destroyed, or stolen, or fraudulently obtained from him, may apply to the pawnbroker for a printed form of declaration, which the pawnbroker shall deliver to him in the form numbered iv. or numbered v. in the first schedule hereto, as the case may be:
- (2) if the applicant delivers back to the pawnbroker the declaration duly made before a justice by the applicant, and by a person identifying him, the applicant shall thereupon have, as between him and the pawnbroker, all the same rights and remedies as if he produced the pawnticket: Provided that such a declaration shall not be effectual for that purpose unless it is duly made and delivered back to the pawnbroker not later than on the third day after the day on which the form is delivered to the applicant by the pawnbroker (exclusive of a day or days on which the pawnbroker is prohibited from carrying on business):
- (3) the pawnbroker is hereby indemnified for not delivering the pledge to any person until the expiration of the period aforesaid:
- (4) the pawnbroker is further hereby indemnified for delivering the pledge, or otherwise acting in conformity with the declaration, unless he has actual or constructive notice that the declaration is fraudulent or is false in any material particular.

If any person makes a declaration under this Act, either as an applicant or as identifying an applicant, knowing the same to be false in any material particular, he shall be guilty of

a misdemeanour, and shall be liable to the punishment attaching by law to perjury.

Delivery to
owner of
property un-
lawfully
pawned.
U.K. 35 & 36
Vict. c. 93,
s. 30.

30. In each of the following cases—

- (1) if any person is summarily convicted or otherwise under this Act of knowingly and designedly pawning with a pawnbroker anything being the property of another person, the pawner not being employed or authorised by the owner thereof to pawn the same:
- (2) if any person is convicted in any court of feloniously taking or fraudulently obtaining any goods and chattels, and it appears to the court that the same have been pawned with a pawnbroker:
- (3) if, in any proceedings before two justices, it appears to the court that any goods and chattels brought before the court have been unlawfully pawned with a pawnbroker:

the court, on proof of the ownership of the goods and chattels, may, if it thinks fit, order the delivery thereof to the owner, either on payment to the pawnbroker of the amount of the loan or of any part thereof, or without payment thereof or of any part thereof, as to the court, according to the conduct of the owner and the other circumstances of the case, seems just and fitting.

Summary
order for
delivery of
pledge to
person en-
titled.
U.K. 35 & 36
Vict. c. 93,
s. 31.

31. If a pawnbroker, without reasonable excuse (proof whereof shall lie on him), neglects or refuses to deliver a pledge to the person entitled to have delivery thereof under this Act, he shall be guilty of an offence against this Act, and two justices may, if they think fit, with or without imposing a penalty, order the delivery of the pledge on payment of the loan and profit.

General Restrictions on Pawnbrokers.

Prohibition
of purchasing
pledges, taking
pledges from
children, &c.
U.K. 35 & 36
Vict. c. 93,
s. 32
Cf. U.K.
23 Geo. 5
c. 12 s. 8.

32. If a pawnbroker does any of the following things—

- (1) takes an article in pawn from any person appearing to be under the age of fourteen years, or to be intoxicated:
- (2) purchases, or takes in pawn or exchange, a pawn-ticket issued by another pawnbroker:
- (3) employs any servant or apprentice or other person under the age of sixteen years to take pledges in pawn:

- (4) carries on the business of a pawnbroker on Sunday, Good Friday, or Christmas Day, or before the hour of eight o'clock in the forenoon or after nine o'clock in the evening, except on Saturday evenings, the evening preceding Good Friday, and the evening preceding Christmas Day, on which evenings pledges may be taken until eleven o'clock p.m.:
- (5) under any pretence purchases, except at public auction, any pledge while in pawn with him:
- (6) suffers any pledge while in pawn with him to be redeemed with a view to his purchasing it:
- (7) makes any contract or agreement with any person pawning, or offering to pawn, any article, or with the owner thereof, for the purchase, sale, or disposition thereof, within the time of redemption:
- (8) directly or indirectly makes any advance or part thereof on the security of any pledge in any way but in money:
- (9) sells or otherwise disposes of any pledge pawned with him except at such time and in such manner as authorised by this Act:

he shall be deemed guilty of an offence against this Act.

Unlawful Pawning and Taking in Pawn.

33. If any person knowingly and designedly pawns with a pawnbroker anything being the property of another person, the pawner not being employed or authorised by the owner thereof to pawn the same, the pawner shall be guilty of an offence against this Act, and shall be liable, on summary conviction thereof, to forfeit any sum not exceeding ten pounds, and, in addition thereto, any sum not exceeding the full value of the pledge as ascertained by the court.

Unlawful
pawning of
goods not
property of
pawner.
U.K. 35 & 36
Vict. c. 93,
s. 33.

The forfeitures, when recovered, shall be applied towards making satisfaction thereout to the party injured, and defraying the costs of prosecution as the court directs; but if the party injured declines to accept of such satisfaction and costs, or if there is any surplus of the forfeitures, then the forfeitures and surpluses (as the case may be) shall be paid to the Treasurer for the public purposes of the State.

s. 33. The expression "province" altered to "State" pursuant to the Acts Republication Act, 1934.

Proceedings where persons offering articles in pawn do not give a good account of themselves, etc.

U.K. 35 & 36
Vict. c. 93,
s. 34.

34. If any person does any of the following things—

- (1) offers to a pawnbroker any articles by way of pawn, being unable or refusing to give a satisfactory account of the means by which he became possessed of the article:
- (2) wilfully gives false information to a pawnbroker as to whether an article offered by him in pawn to the pawnbroker is his own property or not, or as to his name and address, or as to the name and address of the owner of the article:
- (3) not being entitled to redeem, and not having any colour of title by law to redeem a pledge, attempts or endeavours to redeem the same:

he shall be guilty of an offence against this Act.

In every such case, and also in any case where, on an article being offered in pawn to a pawnbroker, he reasonably suspects that it has been stolen or otherwise illegally or clandestinely obtained, the pawnbroker may seize and detain the person and the article, or either of them, and shall deliver the person and the article, or either of them (as the case may be), as soon as may be, into the custody of a constable, who shall, as soon as may be, convey the person, if so detained, before a justice, to be dealt with according to law.

The justice may, if he thinks fit, on the request of the pawnbroker, grant to him a certificate of the amount of the compensation which the justice deems reasonable for the pawnbroker's expenses, trouble, and loss of time in and about the seizure, detention, and delivery, which certificate shall have the effect of an order of court for the payment of the expenses of a prosecution made under the Criminal Law Consolidation Act, 1876, and any Acts amending the same, and the sum mentioned in the certificate shall be paid as money mentioned in such an order, and the certificate shall be subject to the like regulations as certificates mentioned in the said Acts.

Prohibition of taking in pawn linen, clothing, unfinished goods, &c., in certain cases.
U.K. 35 & 36
Vict. c. 93,
s. 35.

35. If a pawnbroker knowingly takes in pawn any linen or apparel, or unfinished goods or materials entrusted to any person to wash, scour, iron, mend, manufacture, work up, finish, or make up, he shall be guilty of an offence against this Act, and shall be liable, on conviction thereof before two justices, to forfeit a sum not exceeding double the amount

s. 34. The Criminal Law Consolidation Act, 1876, has been repealed and superseded by the Criminal Law Consolidation Act, 1935.

of the loan, and the pawnbroker shall likewise restore the pledge to the owner thereof in the presence of the court, or as the court directs.

36. If the owner of any linen or apparel, or unfinished goods or materials entrusted to any person as aforesaid, and unlawfully pawned with a pawnbroker, or the owner of any other article unlawfully pawned with a pawnbroker (the last-mentioned owner having on oath satisfied a justice that his goods have been unlawfully obtained and taken from him), makes out on oath before a justice that there is good cause to suspect that a pawnbroker has taken in pawn the linen, apparel, goods, materials, or articles aforesaid, without the privity or authority of the owner, and makes appear to the satisfaction of the justice probable ground for such suspicion, the justice may issue his warrant for searching, within the hours of business, the shop of the pawnbroker.

Search war-
rant for linen,
etc., unlaw-
fully pawned.
U.K. 35 & 36
Vict. c. 93,
s. 36.

If the pawnbroker, on request by a constable authorised by the warrant, refuses to open the shop and permit it to be searched, a constable may break it open within the hours of business, and search as he thinks fit therein for the linen, apparel, goods, materials, or article aforesaid, doing no wilful damage: and if any pawnbroker or other person opposes or hinders the search he shall be guilty of an offence against this Act.

If, on the search, any linen, apparel, goods, materials, or article aforesaid, is or are found, and the property of the owner thereof is made out to the satisfaction of two justices, they shall cause the same to be forthwith restored to the owner thereof.

Pawnbrokers' Licences.

37. Every pawnbroker shall yearly take out from the Treasurer a licence for carrying on the business of pawnbroking in the form in the fourth schedule to this Act, on which licence there shall be charged and paid, for the public uses of the State, a duty of ten pounds.

Yearly licence
Of U.K.
35 & 36
Vict. c. 93,
s. 37.

Every licence shall be dated on the day on which it is issued, and shall determine on the thirty-first day of July.

A separate licence shall be taken out and paid for by a pawnbroker for each pawnbroker's shop kept by him.

s. 37. The expression "province" altered to "State" pursuant to the Acts Reproduction Act, 1934.

If a person acts as a pawnbroker without having in force a proper licence he shall, for every such offence, be liable to a penalty not exceeding fifty pounds.

Cesser of
licence on
conviction.

U.K. 35 & 36
Vict. c. 93,
s. 38.

38. If a pawnbroker is convicted on indictment or information in the Supreme Court of any fraud in his business, or of receiving stolen goods knowing them to be stolen, the Judge before whom he is convicted may direct that his licence shall cease to have effect, and the same shall so cease accordingly.

Licences not
to be granted
without certi-
ficate.

U.K. 35 & 36
Vict. c. 93,
s. 39.

39. After the passing of this Act a pawnbroker's licence shall not be granted to any person except on the production and in pursuance of the authority of a certificate granted under this Act, save that it shall not be necessary for any person being at the commencement of this Act a licensed pawnbroker, or for his executors, administrators, assigns, or successors to obtain such a certificate.

Any licence granted in contravention of this section shall be void.

Certificates to
be granted by
special magis-
trate.

Of U.K.
35 & 36
Vict. c. 93,
s. 40.

40. Certificates under this Act shall be granted by the special magistrate presiding at the local court nearest to the place of business in respect of which the licence is to be applied for.

Form and
duration of
certificate.

U.K. 35 & 36
Vict. c. 93,
s. 41.

41. A certificate under this Act shall be in the form given in the fifth schedule to this Act, or to the like effect, and shall be in force one year from its date.

Notice of first
application.

U.K. 35 & 36
Vict. c. 93,
s. 42.

42. A person intending to apply for the first time for a certificate under this Act shall, ten days at least before his application, give or send by registered letter to the clerk of the local court and to the Commissioner of Police a notice in writing of the intention to apply, signed by the applicant, and setting forth his names and address, and the place where his business is intended to be carried on.

Grounds of
refusal of
certificate.

U.K. 35 & 36
Vict. c. 93,
s. 43.

43. An application for a certificate shall not be refused, except on the following grounds, or one of them—

- (1) that the applicant has failed to produce satisfactory evidence of good character:
- (2) that the shop in which he intends to carry on the business of a pawnbroker, or any adjacent house or place owned or occupied by him, is frequented by thieves or persons of bad character:

(3) that the shop in which he intends to carry on business is unsuitable for the preservation of goods:

(4) that he has not complied with the last preceding section.

44. If any person forges a certificate, or tenders a certificate, knowing it to be forged, he shall be liable, on conviction before two justices in a summary way, to a penalty not exceeding twenty pounds, or, in the discretion of the court, to imprisonment for any term not exceeding six months, with or without hard labour.

Forgery of certificate.
U.K. 35 & 36
Vict. c. 93,
s. 44.

A licence granted in pursuance of a forged certificate shall be void; and if any person makes use of a forged certificate, knowing it to be forged, he shall be disqualified from obtaining at any time thereafter a pawnbroker's licence.

Penalties and Legal Proceedings.

45. If a pawnbroker or other person is guilty of an offence against this Act, in respect whereof a specific forfeiture or penalty is not prescribed by this Act, he shall be liable, on conviction thereof before two justices, to a penalty not exceeding ten pounds.

General penalty for offences.
U.K. 35 & 36
Vict. c. 93,
s. 45.

46. Penalties recovered under this Act, not directed to be otherwise applied, may be applied under direction of the court in which they are recovered, as follows—

Application of penalties.
U.K. 35 & 36
Vict. c. 93,
s. 46.

(1) where the complainant is the party aggrieved, one moiety of the penalty may be paid to him:

(2) where the complainant is not the party aggrieved, there shall be paid to him no part, or such part only of the penalty as the court thinks fit.

47. Where an information or complaint of an offence against this Act (not being an offence against any provision of this Act relating to licences) is laid or made before a justice and is not further prosecuted, or if any such information or complaint is further prosecuted, but it appears to two justices, on the hearing of the same, that there was no sufficient ground for the making of the charge, the justices shall have power to award such amends, not exceeding the sum of five pounds, to be paid by the informer or complainant to the party informed or complained against for his loss of time and expenses in the matter, as to the justices seem meet;

Amends for frivolous informations.
U.K. 35 & 36
Vict. c. 93,
s. 47.

and every sum so awarded shall be recoverable as penalties under this Act are recoverable.

Penalty on
common in-
formers com-
pounding
informations.
U.K. 35 & 36
Vict. c. 93,
s. 48.

48. If any person lodges an information for an offence alleged to have been committed against this Act by which he was not personally aggrieved, and afterwards directly or indirectly receives, without the permission of a justice, any sum of money, or other reward, for compounding, delaying, or withdrawing the information, he shall be guilty of an offence against this Act.

Detention of
persons offer-
ing forged
pawntickets,
etc.
U.K. 35 & 36
Vict. c. 93,
s. 49.

49. If any person utters, produces, shows, or offers to a pawnbroker a pawnticket which the pawnbroker reasonably suspects to have been counterfeited, forged, or altered, the pawnbroker may seize and detain the person and the ticket or either of them, and shall deliver the person and the ticket, or either of them (as the case may be), as soon as may be, into the custody of a constable, who shall, as soon as may be, convey the person, if so detained, before a justice to be dealt with according to law.

Production
of books,
etc., before
justices.
U.K. 35 & 36
Vict. c. 93,
s. 50

50. A pawnbroker shall at any time, when ordered or summoned by a justice of the peace, attend before two justices and produce all books and papers relating to his business which he is required by the court to produce. If he fails to do so he shall be guilty of an offence against this Act.

Contracts
not void on
account of
offences.
U.K. 35 & 36
Vict. c. 93,
s. 51.

51. Where a pawnbroker is guilty of an offence against this Act—not being an offence against any provision of this Act relating to licences—any contract of pawn, or other contract made by him, in relation to his business of pawnbroker, shall nevertheless not be void by reason only of that offence, nor shall he by reason only of that offence lose his lien on or right to the pledge or to the loan and profit; but nothing in this section shall restrict the operation of any provision of this Act providing for the delivery of any goods and chattels, or the restoration of any linen, apparel, goods, materials, or article to the owner, under the order of any court.

Protection of
persons exe-
cuting Act.
U.K. 35 & 36
Vict. c. 93,
s. 55.

52. If any person is sued or prosecuted for anything done by him in pursuance, or execution or intended execution, of this Act, he may plead generally that the same was done in pursuance, or execution or intended execution, of this Act, and give the special matter in evidence.

53. All proceedings before justices and for offences against this Act shall be disposed of summarily

Summary proceedings.

Substituted by S.L.R. Act, 1934.

* * * * *

Ss. 54 and 55 repealed by S.L.R. Act, 1934.

56. All moneys received for penalties imposed for offences against this Act, or the regulations, shall be paid to the Treasurer on behalf of Her Majesty, Her heirs and successors, for the public uses of the State, and in support of the Government thereof.

Appropriation of penalties.

SCHEDULES REFERRED TO.

THE FIRST SCHEDULE.

Forms of Books and Documents.

I. PLEDGEBOOK.

of
of , Pawnbroker,
18 .

Secs. 11 and 12.

Of U.K. 35 & 36
Vict. c. 93,
3rd. Sch.

[For date of redemption.]	[For profit charged.]	£ s. d. [For amount of loan.]	[For No. of Pledge in the month.]	[For name of pawner.]	[For address of pawner.]	[For list of articles pawned, as described on pawn ticket.]
---------------------------	-----------------------	----------------------------------	-----------------------------------	-----------------------	--------------------------	---

s. 56. The expression "said province" altered to "State" pursuant to the Acts Reproduction Act, 1934.

Rule.

All entries in the last three columns respecting each pledge shall be made on the day of the pawning thereof, or within four hours after the end of that day.

Secs. 11 and
12.

II. PAWNTICKET.

A. For a loan of Ten Shillings or under.

Pawned with [John Smith] pawnbroker, [236, High Street, Adelaide], this [17th] day of [March, 1893], by [Henry Williams], of [25, King Street, Port Augusta], for the sum of [ten] shillings [one black frock coat].

[The following is to be printed on the ticket, on the front or back, or partly on the front and partly on the back.]

The pawnbroker is entitled to charge for this ticket one penny; for profit on each two shillings and sixpence, or part of two shillings and sixpence, lent on this pledge for not more than one calendar month, one and a half pence [and so on at same rate per calendar month].

After the first calendar month any time not exceeding fourteen days will be charged as half a month, and any time exceeding fourteen days and not more than one month will be charged as one month.

This pledge must be redeemed within six calendar months and seven days [or, in the case of perishable goods, three months] from the date of pledging. At the end of that time it becomes the property of the pawnbroker.

If the pledge is destroyed or damaged by fire, the pawnbroker will be bound to pay the value of the pledge, after deducting the amount of the loan and profit, such value to be the amount of the loan and profit, and twenty-five per cent. on the amount of the loan.

If this ticket is lost, mislaid, or stolen, the pawner should at once apply to the pawnbroker for a form of declaration, to be made before a magistrate, or the pawnbroker will be bound to deliver the pledge to any person who produces this ticket to him and claims to redeem the same.

B. For a loan of above ten shillings.

Pawned with [John Smith] pawnbroker, [236, High Street, Adelaide], this [18th] day of [March, 1893], by [Henry Williams], of [25, King Street, Port Augusta], for the sum of [eleven] shillings [one grey tweed coat].

[The following is to be printed on the ticket, on the front or back, or partly on the front and partly on the back.]

The pawnbroker is entitled to charge for this ticket one penny; for profit on each two shillings and sixpence, or part of two shillings and sixpence, lent on this pledge for not more than one calendar month one penny [and so on at the same rate per calendar month].

After the first calendar month any time not exceeding fourteen days will be charged as a half a month, and any time exceeding fourteen days and not more than one month will be charged as one month.

If this pledge is not redeemed within six calendar months and seven days [or in the case of perishable goods, three months] from the day of pledging, it may be sold by auction by the pawnbroker; but it may be redeemed at any time before the day of sale.

Within three years after the sale the pawner may inspect the account of the sale in the pawnbroker's books on payment of one penny, and receive any surplus produced by the sale. But deficit on sale of one pledge may be set off by the pawnbroker against surplus on another.

If the pledge is destroyed or damaged by fire, the pawnbroker will be bound to pay the value of the pledge, after deducting the amount of the loan and profit, such value to be the amount of the loan and profit, and twenty-five per cent. on the amount of the loan.

If this ticket is lost or mislaid, the pawner should at once apply to the pawnbroker for a form of declaration, to be made before a magistrate, or the pawnbroker will be bound to deliver the pledge to any person who produces the ticket to him and claims to redeem the same.

III. SALE BOOK OF PLEDGES FOR LOANS OF ABOVE TEN SHILLINGS.

[Date and place of sale.]

Sec. 11.

[Name and place of business of auctioneer.]

[For No. of pledge as in pledgebook.]	[For date of pawning.]	[For name of pawner.]	£ s. d. [For amount of loan.]	£ s. d. [For amount for which pledge sold as stated by auctioneer.]

IV. DECLARATION WHERE PLEDGE CLAIMED BY OWNER.

Secs. 11 and 29.

Take notice, if this declaration is false, the person making it is punishable as for perjury.

Unless this printed form is taken before a magistrate, and declared to and signed and delivered back to the pawnbroker not later than the day of , the articles mentioned in it will be delivered to any person producing the pawn ticket.

I, A. B., of in pursuance of The Pawnbrokers Act, 1888, do solemnly and sincerely declare that the article [or articles] described below is [or are] my property, and that I believe they are pledged at the shop of

The article [or articles] above referred to is [or are] the following:—
And I, C. D., of in pursuance of the same Act, do solemnly and sincerely declare that I know the person now making the foregoing declaration to be A. B.

of
Declared before me, one of Her Majesty's
Justices of the Peace for the State of
South Australia, this
day of

18 .

V. DECLARATION WHERE PAWNTICKET LOST, &c.

Secs. 11 and 29.

Take notice, if this declaration is false, the person making it is punishable as for perjury.

Unless this printed form is taken before a magistrate, and declared and signed and delivered back to the pawnbroker not later than the day of , the articles mentioned in it will be delivered to any person producing the pawnticket.

I, A. B., of in pursuance of The Pawnbrokers Act, 1888, do solemnly and sincerely declare that pledged at the shop of pawnbroker, the article

Para. IV. The expression "province" altered to "State" pursuant to the Acts Republication Act, 1934.

Para. V. The expression "province" altered to "State" pursuant to the Acts Republication Act, 1934.

[or articles] described below, being property, and received a pawnticket for the same, which has since been by _____, and that the pawnticket has not been sold or transferred to any person by _____ or to _____ knowledge or belief.

The article [or articles] above referred to is [or are] the following:—

And I, C. D., _____, of _____, in pursuance of the same Act, do solemnly and sincerely declare that I know the person now making the foregoing declaration to be A. B., of _____

Declared before me, one of Her Majesty's
Justices of the Peace for the State of
South Australia, this
day of _____

Secs. 11 and
14.

VI. RECEIPTS.

[Date.]

Received on redemption of pledge No. .—	
Amount of loan	
Profit	
Total	

[A. B.], Pawnbroker.

Sec. 24.

VII. SPECIAL CONTRACT.

SPECIAL CONTRACT UNDER ACT OF PARLIAMENT.

Pawned with [John Smith], pawnbroker [236, High Street, Adelaide], this [17th] day of [April, 1893], by [Henry Williams], of [25, King Street, Port Augusta], for the sum of [forty-eight shillings], [one marble clock].

TERMS OF THE SPECIAL CONTRACT.

[The following is to be printed on the ticket, on the front or back, or partly on the front and partly on the back.]

The pawnbroker charges for this ticket profit at the rate per calendar month of _____

After the first calendar month any time not exceeding fourteen days will be charged as half a month, and any time exceeding fourteen days and not more than one month will be charged as one month.

The charge for storage of this pledge will be _____ per calendar month, or any part of a month, in addition to the charges abovementioned.

This pledge is pawned for the period of _____ months.

After the expiration of that time the pledge may be sold by auction by the pawnbroker. But it may be redeemed by the pawner at any time before the day of sale.

Within three years after the sale, the pawner may inspect the account of the sale in the pawnbroker's books on payment of _____, and receive any surplus produced by the sale. But deficit on sale of one pledge may be set off by the pawnbroker against surplus on another.

If the pledge is destroyed or damaged by fire, the pawnbroker will be bound to pay the whole of the value of the pledge, after deducting the amount of the loan and profit, and twenty-five per cent. on the amount of the loan, unless otherwise agreed upon by the pawner and pawnbroker.

If this ticket is lost or mislaid the pawner should at once apply to the pawnbroker for a form of declaration to be made before a magistrate, or the pawnbroker will be bound to deliver the pledge to any person who produces this ticket to him and claims to redeem the same.

(Signed) [John Smith], pawnbroker.

(Signed) [Henry Williams], pawner.

THE SECOND SCHEDULE.

Profit and Charges allowed to Pawnbrokers.

PART I.—PROFIT ON LOAN.

For any time during which the pledge remains in pawn not exceeding one month, for every two shillings and sixpence or fraction of two shillings and sixpence lent, one and a half pence.

For every month after the first, including the current month in which the pledge is redeemed, although that month is not expired, for every two shillings and sixpence or fraction of two shillings and sixpence lent, one and a half pence.

Provisoes.

1. If the pledge is redeemed before the end of the first fourteen days after the expiration of any month, the pawnbroker shall, in respect of those fourteen days, be entitled to take half of the amount which he would be entitled to take for the whole month

PART II.

Charge on pawn ticket One Penny.

PART III. CHARGE ON INSPECTION OF SALEBOOK.

For the inspection of the entry of a sale One Penny.

PART IV. CHARGE ON FORM OF DECLARATION.

Where the loan is five shillings or under One Halfpenny.

Where the loan is above five shillings One Penny.

Rule.

The sum is to be paid by the applicant at the time of application.

Sec. 14.

Of. U.K.

35 & 36

Vict. c. 93,

4th Sch.

THE THIRD SCHEDULE.

Regulations as to Auctions of Pledges above Ten Shillings.

Sec. 19.

U.K. 35 & 36

Vict. c. 93,

5th. Sch.

1. The auctioneer shall cause all pledges to be exposed to public view.
2. He shall publish catalogues of the pledges, stating—
 - (1) the pawnbroker's name and place of business;
 - (2) the month in which each pledge was pawned.
3. The number of each pledge as entered at the time of pawning in the pledge-book. [The pledges of each pawnbroker in the catalogue shall be separate from any pledges of any other pawnbroker.]
4. The auctioneer shall insert in some public newspaper an advertisement giving notice of the sale, and stating—
 - (1) the pawnbroker's name and place of business;
 - (2) the months in which the pledges were pawned.
5. The advertisement shall be inserted on two several days in the same newspaper, and the second advertisement shall be inserted at least three clear days before the first day of sale.
6. Where a pawnbroker bids at a sale the auctioneer shall not take the bidding in any other form than that in which he takes the biddings of other persons at the same sale; and the auctioneer, on knocking down any article to a pawnbroker, shall forthwith declare audibly the name of the pawnbroker as purchaser.
7. The auctioneer shall, within fourteen days after the sale, deliver to the pawnbroker a copy of the catalogue, or of so much thereof as relates to the pledges of that pawnbroker, filled up with the amounts for which the several pledges of that pawnbroker were sold, and authenticated by the signature of the auctioneer.
8. The pawnbroker shall preserve every such catalogue for three years at least after the auction.

Sec. 37.

THE FOURTH SCHEDULE.

Form of Treasurer's Licence.

SOUTH AUSTRALIA. } WHEREAS A. B., of _____ has produced me the certi-
to wit. } cate of a special magistrate, authorising the grant to the
said A. B. of a licence to carry on the business of a pawnbroker at the house
and shop now occupied by _____ within the township of _____ [or
other place, as the case may be]: Now therefore I do hereby grant to the said A. B.
licence to carry on the said business at the house and shop aforesaid: And this
licence shall continue in force for the space of twelve months from the 31st day
of July, 18____, and no longer.

Dated, &c.

[*Treasurer.*]

Sec. 41.

U.K. 35 & 36
 Vict. c. 93,
 6th Sch.

THE FIFTH SCHEDULE.

Form of Certificate of Special Magistrate.

I [here insert name and description of the magistrate], do hereby certify that I authorise the grant to A. B., of _____ of a licence to carry on the business of pawnbroker at the house and shop now occupied by _____ within the township of _____ [or other place, as the case may be]

Witness my hand this day of , 18 .