

# PAWNBROKERS ORDINANCE, 1912. <sup>(1)</sup>

No. 25 of 1912.

## An Ordinance to amend the Law regulating the Trade or Business of Pawnbrokers.

**B**E it enacted by the Lieutenant-Governor of the Territory of Papua with the advice and consent of the Legislative Council thereof as follows:—

### PART I.—PRELIMINARY.

1.—(1.) This Ordinance may be cited as the *Pawnbrokers Ordinance, 1912.* <sup>(1)</sup>

(2.) This Ordinance shall commence on a day to be fixed by the Lieutenant-Governor by Proclamation published in the *Gazette.* <sup>(1)</sup>

(3.) This Ordinance is divided into parts as follows:—

Part I.—Preliminary.

Part II.—Licences.

Part III.—Business of Pawnbroking.

Part IV.—Miscellaneous and Legal Procedure.

2.—(1.) The enactment mentioned in the First Schedule hereto is repealed.

Repeal.  
First Schedule.

(2.) All licences granted under the authority of the enactment hereby repealed and existing at the commencement of this Ordinance shall be deemed to have been granted hereunder.

3. In this Ordinance unless the context or subject matter otherwise indicates or requires—

Interpretation.  
N.S.W. No. 66  
of 1902, s. 3.

“Article” includes every species of chattels and goods whatsoever;

“Justice” means justice of the peace;

(1) Particulars of this Ordinance are as follows:—

Date of assent by Lieut.-Gov.	Date notified in Papua Govt. Gaz. as not disallowed by Gov.-Gen. in Council.	Date on which came into operation.
16. 7. 1912	(a)	7. 5. 1913 (Papua Govt. Gaz. of 7. 5. 1913)

(a) No notice of non-disallowance has been published in Papua Govt. Gaz.

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“Licence” means a licence granted under this Ordinance to carry on the trade or business of a pawnbroker;

“Pawnbroker” means a person who carries on business or seeks his livelihood in or by advancing upon interest or for or in expectation of profit gain or reward any sum of money upon security whether collateral or otherwise of any article taken by such person by way of pawn pledge or security.

To whom  
Ordinance not  
to apply.  
N.S.W. No. 66  
of 1902, s. 4.

4. Nothing in this Ordinance shall be construed to apply to loans or advances made on any goods chattels live stock wool bonds bills title-deeds or other security by merchants bankers commission agents brokers or licensed auctioneers in the ordinary and *bonâ-fide* course of mercantile or banking transactions if the interest on any such loans or advances does not exceed the rate of ten per centum per annum.

### PART II.—LICENCES.

Penalty on  
pawnbroking  
without licence.  
N.S.W. *Ib.* s. 5.

5. Whosoever carries on the trade or business of a pawnbroker without having previously obtained a licence shall for such offence be liable to a penalty not exceeding Twenty pounds.

Manner of  
obtaining licence.  
N.S.W. *Ib.* s. 6.

6.—(1.) Any person wishing to obtain a licence shall deliver to the clerk of petty sessions for the petty session district in which he intends to carry on the trade or business of a pawnbroker an application in the form contained in the Second Schedule hereto together with a certificate in the form contained in the said schedule signed by five householders residing in such district.

Second Schedule.

(2.) The justices assembled in the petty sessions for such district next after such notice has been so delivered may if satisfied as to the character of the person so applying grant a licence to such person under their hands in the form contained in the Third Schedule hereto.

Third Schedule.

Applications to  
be heard in open  
court.

(3) All matters of application for licences shall be heard and determined in open court and shall be judicial inquiries.

Delivery of  
licence.

(4.) Every licence shall be delivered to the person applying for it on payment of Ten pounds to be paid over to the Treasurer.

Duration of  
licence.  
N.S.W. *Ib.* s. 7.

7. Every licence shall subject to the provisions of this Ordinance be in force for one year from the date thereof.

Record of  
licences to be  
kept.  
N.S.W. *Ib.* s. 8.

8.—(1.) Every clerk of petty sessions shall keep an alphabetical record of all licences granted by the court of petty sessions of which he is clerk.

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(2.) Every such clerk neglecting so to do shall be liable to a penalty not exceeding Five pounds.

9. No pawnbroker holding a licence shall by virtue of one licence keep more than one house shop or other place for taking in goods or chattels to pawn but for each and every house shop or other place which any person keeps for the purposes aforesaid a separate and distinct licence shall be taken out and paid for.

Separate licence to be taken out for each shop &c.  
N.S.W. No. 66 of 1902, s. 9.

10. Persons in partnership and carrying on the trade or business of a pawnbroker in one house shop or tenement only shall not be obliged to take out more than one licence in any one year for carrying on such trade or business.

Partner's licence.  
N.S.W. *Ib.* s. 10.

PART III.—BUSINESS OF PAWNBROKING.

11.—(1.) Every person who holds a licence shall have his name at length painted in legible characters at least two inches deep with the words "licensed pawnbroker" constantly and permanently remaining and plainly to be seen and read over the door of each shop or other place by him kept or made use of for carrying on the trade or business of a pawnbroker.

Pawnbroker's name &c. to be painted on his premises.  
N.S.W. *Ib.* s. 11.

(2.) Any such person who fails or neglects to comply with the provisions of this section shall for every such offence be liable to a penalty not exceeding Ten pounds.

12.—(1.) Any person holding a licence shall on demand at his licensed house or place wherein or whereat such licence is exercised produce it to any justice or to any constable authorized by any justice by writing under his hand to demand the production thereof.

Production of licence.  
N.S.W. *Ib.* s. 12.

(2.) Any such person who refuses or neglects to produce his licence shall for every such refusal or neglect be liable to a penalty not exceeding Ten pounds unless he gives some reasonable excuse to the satisfaction of the justice or justices hearing the case for the non-production thereof.

Penalty.

13.—(1.) Every licensed pawnbroker taking in pawn any article whereon any money is to be lent shall before advancing any money thereon cause to be entered in a fair and legible manner in some book kept for that purpose—

Entries to be made on taking pledge.  
N.S.W. *Ib.* s. 13.

- (a) a fair and reasonable description of such article;
- (b) the sum of money in the whole advanced thereon with the rate of interest to be charged on the same by the week or month as the case may be;
- (c) the true date at which such article is pawned;

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- (d) the name of the party by or for whom such article is pawned and his place of residence according to the statement of the person pawning into which last-mentioned circumstances the pawnbroker shall inquire of the person pawning before any money is lent or advanced to him;

and where a longer time for redemption than three months is agreed upon—

- (e) the time so agreed upon.

Numbering of entries.  
N.S.W. No. 66  
of 1902, s. 13.

(2.) Every such entry as aforesaid shall be numbered consecutively throughout the year the first pledge received by any pawnbroker on or after the first day of January in each year being respectively numbered one the second two and so on progressively throughout the year.

Penalty.

(3.) Any such pawnbroker who fails to comply with the provisions of this section shall for every such offence be liable to a penalty not exceeding Ten pounds.

Duplicate to be given.  
N.S.W. *Ib.* s. 14.

14.—(1.) Every licensed pawnbroker at the time of taking any article in pawn shall give to the person pawning the same a duplicate of every such entry fairly and legibly written or partly written and partly printed with the signature of such pawnbroker thereto containing every particular inserted in the original entry and corresponding therewith in number.

Penalty.

(2.) Any licensed pawnbroker who fails or neglects to comply with the provisions of the next preceding subsection shall be liable to a penalty not exceeding Ten pounds.

Acceptance of duplicate.

(3.) No pawnbroker shall receive or retain any pledge unless such duplicate is accepted at the time by the party pawning and every such duplicate shall be delivered gratis and shall be produced to the pawnbroker before he shall be obliged to redeliver the articles mentioned therein or any of them.

Duplicate lost or stolen.  
N.S.W. *Ib.* s. 15.

15. If—

- (a) any pawnbroker's duplicate is lost or mislaid by or fraudulently taken or obtained from the owner thereof;
- (b) the articles mentioned therein remain unredeemed; and
- (c) the person representing himself to be such owner produces and leaves with the pawnbroker who gave such duplicate a written declaration in the form prescribed by the *Oaths Ordinance, 1912*,<sup>(2)</sup> duly taken and authenticated by some justice and setting forth the

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(2) Now the *Oaths Ordinance, 1912-1927*.

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circumstances of such loss or otherwise satisfactorily accounting for the non-production of such duplicate such pawnbroker shall at the request of such person deliver him a copy of such duplicate.

16.—(1.) Every person who at any time produces any such duplicate as aforesaid to the pawnbroker who gave the same and requires delivery of the articles therein specified claiming to be the owner or representing himself to be authorized by the owner thereof shall be deemed to be such owner or to be so authorized and shall be entitled to redeem such articles accordingly unless—

Holders of  
duplicates to  
be deemed  
owners of goods  
pawned.  
N.S.W. No. 66  
of 1902, s. 16.

- (a) such pawnbroker has notice from the real owner that such duplicate was lost by him or was fraudulently taken or obtained from him; or
- (b) such pawnbroker has been informed by some credible person that such articles were stolen.

(2.) Whenssoever any such pawnbroker refuses to deliver the articles to the party producing such duplicate he shall immediately give information of such refusal and of the particular grounds thereof to a justice or to some constable together with a description of such party or if known to the pawnbroker such party's name and place of residence.

Refusal of  
pawnbroker to  
deliver articles.  
N.S.W. *Ib.* s. 16.

17.—(1.) Unless a longer time is expressly agreed upon the period during which any article taken in pawn may be redeemed shall be three months, at the expiration of which period or at the expiration of any such longer period as has been so agreed upon every such article shall be deemed forfeited and may be sold.

Period for sale  
of pledges.  
N.S.W. *Ib.* s. 17.

(2.) Any agreement for the forfeiture of any article before the expiration of six months shall be wholly void.

18. Any pawnbroker who under any circumstances or upon any pretence sells or otherwise disposes of or causes or knowingly suffers to be sold or disposed of any article so pawned before the expiration of the said term of three months or of such longer period as was agreed upon shall for every such offence be liable to a penalty not exceeding Twenty pounds over and above any damages for which he is liable to the owner or party injured.

Selling before  
expiration of  
period.  
N.S.W. *Ib.* s. 18.

19.—(1.) All articles forfeited on which in the whole any sum above Five shillings has been lent shall be sold by public auction and not otherwise.

Mode of sale.  
N.S.W. *Ib.* s. 19.

(2.) A notice of every such sale containing a catalogue of all such articles and the time when the same were respectively taken in pawn shall be twice inserted in some public newspaper published

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in the Territory four days at the least before the proposed day of sale.

(3.) Any pawnbroker who offends against the provisions of this section shall forfeit to the owner of any articles sold contrary to the said provisions a sum not exceeding Twenty pounds.

Pawnbroker not to purchase.  
N.S.W. No. 66 of 1902, s. 20.

20. No purchase or pretended purchase by any pawnbroker or person on his behalf of any article pawned with him shall in any case be valid against the owner in any case.

Application of proceeds of sale.  
N.S.W. *Ib.* s. 21.

21.—(1.) If any article pawned is sold for more than the full amount of the principal money and interest thereon which was due at the time of such sale, then the surplus, deducting the necessary charges of such sale, shall, if claimed within twelve months next after such sale, be paid upon demand to the person by or for whom such article was pawned, or his agent or assigns, or in case of death to his executor or administrator.

Penalty.  
N.S.W. *Ib.* s. 21.

(2.) Any pawnbroker who offends against the provisions of this section shall for every such offence be liable to a penalty not exceeding Ten pounds.

Entry to be made of all articles sold.  
N.S.W. *Ib.* s. 22.

22.—(1.) Every pawnbroker shall from time to time enter in a book to be kept by him for that purpose a true and just account of the sale of every article which was pawned and which is sold or otherwise disposed of by him specifying the date when such article was pledged and the true number of the entry then made thereof and the name of the person who pledged the same and the day when and the amount for which every such article was sold.

Penalty.  
N.S.W. *Ib.* s. 22.

(2.) Any pawnbroker who offends against the provisions of this section shall for every such offence be liable to a penalty not exceeding Ten pounds.

Pawner may inspect entries.  
N.S.W. *Ib.* s. 23.

23.—(1.) Every person by or for whom any article was pawned shall if such article is sold or otherwise disposed of be permitted to inspect the entry of such sale.

Penalty for refusing inspection.  
N.S.W. *Ib.* s. 23.

(2.) If such person produces the duplicate relating to the articles respecting which such inspection is required and the pawnbroker or person employed by him refuses to permit such person to inspect any such entry or does not produce the book containing such entry such pawnbroker or person employed by him shall for every such offence be liable to a penalty not exceeding Ten pounds.

Pledges not to be taken from children or drunken persons.  
N.S.W. *Ib.* s. 24.

24. If any licensed pawnbroker or any agent or servant employed by any such pawnbroker at any time purchases receives or takes in pawn any article from any person apparently under the

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age of fourteen years or apparently intoxicated with liquor such pawnbroker shall for every such offence be liable to a penalty not exceeding Ten pounds.

25. If any licensed pawnbroker or any agent or servant employed by any such pawnbroker in any case where the value of the pledge or the amount agreed to be lent thereon does not exceed Ten pounds:—

Pawnbroker not to advance &c. anything but money.  
N.S.W. No. 66 of 1902, s. 25.

(a) advances upon any article pawned or offered in pawn anything but money; or

(b) gives sells or exchanges in respect of any such article any goods or property in lieu of or in return for money;

such pawnbroker shall for every such offence be liable to a penalty not exceeding Ten pounds. Penalty.

26.—(1.) No licensed pawnbroker shall receive or take in or permit or suffer to be received or taken in any goods or chattels by way of pawn pledge or in exchange before eight of the clock in the forenoon or after eight o'clock in the evening.

Hours for taking pledges.  
N.S.W. *Ib.* s. 26.

(2.) Any such pawnbroker who offends against the provisions of this section shall for every such offence be liable to a penalty not exceeding Ten pounds.

Penalty.

27.—(1.) No pawnbroker shall in any way exercise or carry on his trade or business as such pawnbroker on any Sunday Christmas Day or Good Friday.

Days on which business not to be carried on.  
N.S.W. *Ib.* s. 27.

(2.) Any pawnbroker who offends against the provisions of this section shall for every such offence be liable to a penalty not exceeding Ten pounds.

Penalty.

**PART IV.—MISCELLANEOUS AND LEGAL PROCEDURE.**

28. In any proceeding before any justice or justices against any person alleged to be a licensed pawnbroker and liable as such to any such proceeding the production of the alphabetical record hereinbefore mentioned shall be evidence both of the personal identity of the person therein named and that the said person is a licensed pawnbroker under this Ordinance:

Record evidence.  
N.S.W. *Ib.* s. 31.

Provided always that any other proof as to the fact of any person holding any such licence may be admitted before any such justice or justices as they in their discretion see fit.

29. In all proceedings under this Ordinance against any person carrying on the trade or business of a pawnbroker without a

Pawnbroker to be deemed unlicensed until contrary shown.  
N.S.W. *Ib.* s. 32.

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licence such person shall for all purposes connected with such proceedings be deemed to be unlicensed unless he produces the licence authorizing him to carry on such trade or business to the justice or justices hearing the case or produce other proof which is satisfactory to them of his being a licensed pawnbroker within the meaning of this Ordinance.

Unlicensed persons keeping up signs, &c. liable to penalty.

N.S.W. No. 66 of 1902, s. 33.

Penalty.

30. Whosoever not holding a licence keeps up any sign writing painting or other mark on or near to his house shop or premises which implies or gives reasonable cause to believe that such shop house or premises is or are the house shop or premises of a licensed pawnbroker shall for every such offence be liable to a penalty not exceeding Ten pounds.

Lending licence. N.S.W. *Ib.* s. 34.

Penalty.

31.—(1) Whosoever having obtained a licence lends it to any other person for the purpose of carrying on business as a pawnbroker under colour of such licence shall for every such offence be liable to a penalty not exceeding Twenty-five pounds.

Licence may be declared void.

(2) Where any person is convicted of an offence against the provisions of this section the justice or justices convicting such person may declare his licence void and such licence shall thereupon become void.

(3) Thereafter no licence shall be granted to any such person for two years from the date of such conviction.

Any justice may compel a pawnbroker to produce books vouchers &c. N.S.W. *Ib.* s. 37.

32.—(1) If in the course of any proceedings whatsoever before any justice whether under this Ordinance or otherwise it appears to him to be material or proper to require the production before him of any book note voucher entry memorandum licence or other paper required by this Ordinance to be kept by or which ought to be in the custody of any pawnbroker such justice may summon such pawnbroker to attend before him and produce the same and such pawnbroker is hereby required to produce every such book duplicate note voucher entry memorandum licence or other paper before such justice accordingly.

Penalty.

(2) Any pawnbroker who does not attend upon such summons or does not produce to such justice any book duplicate or entry so required or produces the same in an altered state and does not show a reasonable excuse in that behalf to that justice shall for every such offence be liable to a penalty not exceeding Ten pounds.

Stolen articles. N.S.W. *Ib.* s. 38.

33.—(1) If any article is stolen or unlawfully obtained from any person or being lawfully obtained is unlawfully deposited pawned pledged sold or exchanged any justice may on complaint being made to him that such article is in possession of any licensed pawnbroker issue a summons or warrant for the appearance of

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such licensed pawnbroker before any two justices and for the production of the article.

(2.) Such two justices may order such article to be delivered up to the owner thereof either without any payment or upon payment of such sum and at such time as the said justices think fit.

(3.) No such order shall bar any such licensed pawnbroker from recovering possession of such article by suit or action at law from the person into whose possession it comes by virtue of the order of the said justices if such action is commenced within three months next after such order is made.

(4.) Any licensed pawnbroker who being so ordered refuses or neglects to deliver up the article or who disposes of or makes away with the same after notice that it was stolen or unlawfully obtained as aforesaid shall forfeit to the owner of such article the full value thereof to be determined by the said justices.

34. Any two justices may order any article unlawfully pawned pledged or exchanged which is brought before them and the ownership of which is established to the satisfaction of such justices to be delivered up to the owner by the person with whom they were so unlawfully pawned pledged or exchanged either without compensation or with such compensation to the party in question as the said justices deem fit.

Justices may order delivery of goods pawned on payment of compensation or otherwise.  
N.S.W. No. 66 of 1902, s. 39.

35. Any pawnbroker who offends against the provisions of this Ordinance where no penalty in that behalf is by this Ordinance specifically provided shall be liable to a penalty not exceeding Twenty pounds.

Penalties.  
N.S.W. *Ib.* s. 40.

36. On the hearing of the matter of any complaint under this Ordinance the justice or justices may proceed although no information was exhibited or taken before such justice or justices and all such proceedings by summons without information shall be as valid and effectual as if an information in writing had been exhibited.

Proceedings without written information.  
N.S.W. *Ib.* s. 41.

37.—(1.) Any justice or justices before whom any information is laid in writing against any person or before whom any person is convicted of an offence against the provisions of this Ordinance may cause the information and the conviction to be drawn up according to the forms respectively given in the Fourth Schedule hereto or any other forms to the same effect as the case requires.

Form of information and conviction.  
N.S.W. *Ib.* s. 42.

Fourth Schedule.

(2.) Nothing in this section contained shall invalidate any information or conviction laid or drawn in any other form which is specially suited to the case or is provided by law.

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SCHEDULES.

FIRST SCHEDULE.

Section 2.

Reference to enactment.	Title.	Extent of repeal.
13 Vic. No. 37	An Act for regulating the trade or business of pawnbrokers in New South Wales (Queensland adopted).	The whole.

Section 6 (1).

SECOND SCHEDULE.

FORM OF APPLICATION FOR A PAWNBROKER'S LICENCE.

To the worshipful the justices of the peace acting in and for Territory of Papua. I A.B. [*state the trade or occupation*] now residing at in the district of do hereby give notice that it is my intention to apply to the court of petty sessions to be holden for this district on the day of next for a licence to carry on the trade or business of a pawnbroker in the house and appurtenances thereunto belonging situated at [*here describe the house proposed to be licensed specifying the situation of it the person of whom rented the present occupier and whether now licensed*] and which I intend to keep as a pawnbroker's shop.

Given under my hand at this day of One thousand nine hundred and

Section 6 (1).

FORM OF HOUSEHOLDER'S CERTIFICATE TO BE APPENDED TO THE ABOVE.

We the undersigned householders residing within the district of do hereby certify that the above A.B. is a person of good fame and reputation and fit and proper to be licensed to carry on the trade or business of a pawnbroker.

Witness our hands this day of One thousand nine hundred and

One.....  
Two.....  
Three.....  
Four.....  
Five.....

Section 6 (2).

THIRD SCHEDULE.

Papua petty sessions district }  
of to wit. }

WHEREAS A.B. of the petty sessions district of has applied to us the justices assembled in petty sessions in and for such district holden at this day of in the year of our Lord One thousand nine hundred and for a licence to carry on the business of a pawnbroker in the house and premises now occupied by him situate in street in the petty sessions district of : Now we the said justices having inquired into the character of the said A.B. and being satisfied that he is a fit person to have such licence granted to him do hereby authorize and empower him to carry on the trade or business of a pawnbroker in the said house and premises and not

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elsewhere and this licence shall continue in force for the space of twelve months from the date hereof and no longer.

Granted by the court of petty sessions at \_\_\_\_\_ aforesaid the  
day of \_\_\_\_\_ One thousand nine hundred and \_\_\_\_\_

[Signed]

FOURTH SCHEDULE.

Section 37.

FORM OF INFORMATION.

Papua }  
to wit }

BE it remembered that \_\_\_\_\_ of \_\_\_\_\_ in the Territory  
of Papua came on the \_\_\_\_\_ day of \_\_\_\_\_ in the  
year of our Lord One thousand nine hundred and \_\_\_\_\_ before  
me [or us] J.P. one [or more] of His Majesty's justices of the peace assigned  
to keep the peace in and for the said Territory and gave me [or us] to  
understand and be informed that \_\_\_\_\_ hath been guilty of  
[here describe the offence].

FORM OF CONVICTION.

BE it remembered that on the \_\_\_\_\_ day of \_\_\_\_\_  
in the year of our Lord One thousand nine hundred and \_\_\_\_\_ is  
brought before me [or us] J.P. one [or more] of His Majesty's justices  
assigned to keep the peace in and for the Territory of Papua and is charged  
before me [or us] with having [here describe the offence] and it appearing to  
me [or us] that the said \_\_\_\_\_ is guilty of the said offence I [or  
we] do therefore adjudge the said [insert the adjudication.]

Given under my [or our] hand [or hands] the day and year first above  
written.