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Secondhand Goods Dealers Bill

Bill No. 16/2006.

Read the first time on 8th November 2006.

SECONDHAND GOODS DEALERS ACT 2006

(No. of 2006)

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A BILL

i n t i t u l e d

An Act to provide for the licensing and control of dealers in secondhand goods and for matters connected therewith, to repeal the Secondhand Dealers Act (Chapter 288 of the 1985 Revised Edition) and to make consequential amendments to certain other written laws.

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:

Short title and commencement

1. This Act may be cited as the Secondhand Goods Dealers Act 2006 and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

5 Interpretation

2.—(1) In this Act, unless the context otherwise requires —

“appointed day” means the date of commencement of this Act;

“goods” in the expression “secondhand goods” means any of the goods specified in the Schedule;

10 “licence” means a licence issued under section 5;

“Licensing Officer” means the Licensing Officer appointed under section 3 and includes an Assistant Licensing Officer;

“secondhand goods dealer” means any person who deals in secondhand goods;

15 “shop” includes a stall, house, flat, place of business, place of storage of secondhand goods, an administrative office or any other premises from which the business of a secondhand goods dealer is being carried out, whether electronically or otherwise;

20 “stolen property” means property, the possession of which has been transferred by theft, extortion or robbery, which has been criminally misappropriated or in respect of which criminal breach of trust or cheating has been committed, whether the transfer has been made or the misappropriation or breach of trust or cheating has been committed within or out of Singapore; but does not
25 include such property which subsequently comes into the possession of a person legally entitled to the possession thereof.

(2) For the purposes of this Act, a reference to a person who deals in secondhand goods includes a reference to a person in Singapore who deals in secondhand goods through the Internet.

30 (3) Every person in whose shop secondhand goods are found apparently exposed for sale, or who is found in possession of secondhand goods of an unusual quantity, shall be deemed, until the contrary is proved, to be a person who deals in secondhand goods.

Appointment of Licensing Officer and Assistant Licensing Officers

3. The Minister may, by notification in the *Gazette*, appoint a Licensing Officer for the purposes of this Act and may similarly appoint such number of Assistant Licensing Officers as may be necessary.

5 Dealing in secondhand goods

4.—(1) No person shall deal in secondhand goods except under and in accordance with the conditions of a licence issued under section 5.

(2) Any person who contravenes subsection (1) shall be guilty of an offence.

10 Issuance, renewal and conditions of licence

5.—(1) An application for a licence shall be —

(a) made to the Licensing Officer in such form or manner as the Licensing Officer may require; and

(b) accompanied by —

15 (i) such particulars, information and documents as the Licensing Officer may require; and

(ii) the prescribed fee and any other prescribed charge.

20 (2) Upon receipt of an application under subsection (1), the Licensing Officer may, in his discretion, issue a licence to the applicant subject to such conditions as the Licensing Officer may think fit to impose.

(3) The Licensing Officer may at any time add to, vary or revoke any condition of a licence imposed under subsection (2).

(4) The Licensing Officer shall, before adding to, varying or revoking any condition of a licence under subsection (3), give the licensee —

25 (a) notice in writing of his intention to do so; and

(b) an opportunity to be heard, within such time as may be specified in the notice, as to why the condition should not be added to, varied or revoked.

30 (5) Any person who is aggrieved by the decision of the Licensing Officer under this section may, within 14 days of being notified of the decision of the Licensing Officer, appeal in writing to the Minister whose decision shall be final.

5 (a) makes any statement or furnishes any particulars, information or document which he knows to be false or does not believe to be true; or

10 shall be guilty of an offence.

6. A licence shall —

(b) contain the conditions subject to which it is issued; and

15 (c) be valid for such period as may be specified therein.

7.—(1) No person shall transfer his licence to another person except with the consent of the Licensing Officer and upon payment of the prescribed fee.

Revocation or suspension of licence

25 (a) if he is satisfied that the licensee —

(ii) has improperly obtained his licence contrary to the provisions of this Act;

- (iii) is no longer a fit and proper person to continue to hold a licence;
- (iv) has been convicted of any offence involving dishonesty or, if the licensee is a company, any of its officers holding a managerial or an executive position has been convicted of any offence involving dishonesty;
- (v) is carrying on or has carried on the business of a secondhand goods dealer in such a manner as to render him unfit to continue to hold a licence;
- (vi) has failed to comply with any condition of his licence;
- (vii) is contravening or has contravened any of the provision of this Act; or
- (viii) has been convicted of any offence under this Act or, if the licensee is a company, any of its officers holding a managerial or an executive position has been convicted of any offence under this Act; or

(b) if he considers it in the public interest to do so.

(2) The Licensing Officer shall, before revoking or suspending any licence under subsection (1), give the licensee notice in writing of his intention to do so, specifying a date, not less than 14 days after the date of the notice, upon which the revocation or suspension shall take effect and calling upon the licensee to show cause to the Licensing Officer why the licence should not be revoked or suspended.

(3) When the Licensing Officer has revoked or suspended a licence under subsection (1), he shall immediately inform the licensee by notice in writing of the revocation or suspension.

(4) Any person whose licence has been revoked or suspended under subsection (1) may, within 14 days of the receipt of the notice referred to in subsection (3) or such extended period of time as the Minister may allow, appeal in writing against the revocation or suspension to the Minister whose decision shall be final.

(5) Any revocation or suspension of a licence shall not take effect until the expiration of a period of 14 days after the Licensing Officer has informed the licensee of the revocation or suspension in accordance with subsection (3), and if within that period, the licensee gives due notice that an appeal has been made to the Minister, the revocation or suspension

order shall not take effect unless the revocation or suspension order is confirmed by the Minister or the appeal is for any reason dismissed by the Minister.

5 (6) Where any licence has been suspended under subsection (1), the Licensing Officer may, at any time and subject to such conditions as he may think fit to impose, lift the suspension if he considers it appropriate to do so.

Effect of revocation or suspension of licence

10 **9.**—(1) Where any revocation or suspension of a licence becomes effective under section 8(5), the licensee shall cease to carry on the business of a secondhand goods dealer.

(2) Subsection (1) shall not prejudice the enforcement by any person of any right or claim against the licensee or by the licensee of any right or claim against any person arising out of or concerning any matter or thing
15 done prior to the revocation or suspension of the licence.

Keeping proper records

10.—(1) Every secondhand goods dealer shall keep in his shop —

(a) records of the particulars of all goods bought by him, including the dates of purchase, the names and addresses of the persons
20 from whom he bought the goods and such other particulars as may be prescribed; and

(b) records of the particulars of all goods sold by him, including the dates of sale, the names and addresses of the persons whom he sold the goods to and such other particulars as may be
25 prescribed.

(2) Every secondhand goods dealer shall submit to the Licensing Officer the records referred to in subsection (1) at such time and in such format and through such medium (whether electronic or otherwise) as the Licensing Officer may require.

30 (3) Every secondhand goods dealer shall retain the records referred to in subsection (1) for a period of not less than 5 years from the end of the financial year in which the transactions or operations to which those records relate are completed.

(4) Subsection (3) shall also apply in relation to any record kept under section 10 of the Secondhand Dealers Act (Cap. 288) in force immediately before the appointed day.

5 (5) Every secondhand goods dealer shall produce the records referred to in subsection (1) for examination at any time on demand by any Magistrate, Justice of the Peace, the Licensing Officer or a police officer.

(6) Any person who —

- (a) contravenes subsection (2), (3) or (5); or
- 10 (b) in compliance or purported compliance with subsection (2), (3) or (5), fabricates, keeps, submits or produces to the Licensing Officer or to a Magistrate, Justice of the Peace or police officer, any record which he knows is false or misleading,

shall be guilty of an offence.

15 **Information of stolen and lost property to be given to secondhand goods dealers**

11.—(1) Where a police officer has received any information as to any stolen property or as to any property which has been lost, he may, if he thinks it necessary or expedient to assist in the recovery of the property, disseminate the information to all secondhand goods dealers, with lists and descriptions of the stolen or lost property.

(2) If any secondhand goods dealer possesses any property fitting such lists and descriptions referred to in subsection (1) or such property is thereafter offered to or shown to any secondhand goods dealer —

- 25 (a) he shall, without unnecessary delay, make a report to any police officer, with the name and address of the person in whose possession the property was seen; and
- (b) he may detain the person offering or showing him such property until the arrival of a police officer.

30 (3) Any person who contravenes subsection (2)(a) shall be guilty of an offence.

Power to enter and search secondhand goods dealer's shop, etc.

12.—(1) Any police officer may enter the shop of any secondhand goods dealer at any time and may, without a warrant, search the shop for

any property which he has reason to suspect to be therein and to be stolen property or property that has been lost.

(2) Any police officer may at any time enter and search without a warrant any shop where he has reason to suspect that any person is
5 dealing in secondhand goods without a licence issued under this Act.

(3) For the purposes of exercising his powers under this section, a police officer may, with such assistance as he considers necessary, break open any door, window, lock, fastener, floor, wall, ceiling, compartment, box, container or any other thing.

10 (4) Any police officer may seize any secondhand goods found in any shop referred to in subsection (1) or (2).

Power to arrest persons loitering suspiciously about secondhand goods dealer's shop

15 **13.**—(1) Any police officer, having reason to believe that a person in or loitering about the shop of any secondhand goods dealer under suspicious circumstances has with him any stolen property, may arrest that person and require him to produce any property which he has with him.

(2) Where any property is produced by any person under subsection (1) and if the police officer has reason to suspect that property to be stolen
20 property, the police officer may take the person and the property, or cause the person and property to be taken, to a police station to be dealt with according to law.

Delivery to owner of property

25 **14.**—(1) If any person is convicted in any court of an offence under Chapter XVII of the Penal Code (Cap. 224) in respect of any property, and it appears to the court that the property has been sold to a secondhand goods dealer, the court may, on proof of the ownership of the property and if it thinks fit, order the delivery thereof to the owner either on payment to the secondhand goods dealer of the amount of the purchase price or any
30 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.

(2) The court may also adjourn the proceedings for the attendance of the secondhand goods dealer and may summon the secondhand goods dealer
35 to attend at the adjourned hearing.

(3) If after hearing the secondhand goods dealer the court is satisfied that the secondhand goods dealer, before purchasing the property referred to in subsection (1) —

- 5 (a) ought reasonably to have known or suspected that the property was stolen property; and
- (b) did not exercise due care and diligence to ascertain that the property was not stolen property,

the court may order the secondhand goods dealer to pay a financial penalty not exceeding \$2,000.

10 **Offences by bodies corporate, etc.**

15.—(1) Where an offence under this Act committed by a body corporate is proved —

- (a) to have been committed with the consent or connivance of an officer; or
- 15 (b) to be attributable to any neglect on his part,

the officer as well as the body corporate shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

(3) Where an offence under this Act committed by a partnership is proved —

- 25 (a) to have been committed with the consent or connivance of a partner; or
- (b) to be attributable to any neglect on his part,

the partner as well as the partnership shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(4) Where an offence under this Act committed by an unincorporated association (other than a partnership) is proved —

- 30 (a) to have been committed with the consent or connivance of an officer of the unincorporated association or a member of its governing body; or

(b) to be attributable to any neglect on the part of such an officer or member,

the officer or member as well as the unincorporated association shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(5) In this section —

“body corporate” includes a limited liability partnership which has the same meaning as in section 2(1) of the Limited Liability Partnerships Act 2005 (Act 5 of 2005);

“officer” —

(a) in relation to a body corporate, means any director, partner, member of the committee of management, chief executive, manager, secretary or other similar officer of the body corporate and includes any person purporting to act in any such capacity; or

(b) in relation to an unincorporated association (other than a partnership), means the president, the secretary, or any member of the committee of the unincorporated association, or any person holding a position analogous to that of president, secretary or member of a committee and includes any person purporting to act in any such capacity;

“partner” includes a person purporting to act as a partner.

Liability for offences

16.—(1) Where an offence under this Act is committed by any person acting as an agent or employee of another person, or being otherwise subject to the supervision or instruction of another person for the purposes of any employment in the course of which the offence was committed, that other person shall, without prejudice to the liability of the first-mentioned person, be liable under this Act in the same manner and to the same extent as if he had personally committed the offence if it is proved that the act which constituted the offence was committed with his consent or connivance or that it was attributable to any neglect on his part.

(2) Where any person, being an agent or employee employed by a secondhand goods dealer in the course of his business as such secondhand goods dealer, wilfully does any act or commits any omission that

constitutes an offence under this Act, that person shall also be guilty of that offence and shall be liable to the fine or punishment prescribed for that offence, as if he were the person carrying on such business as a secondhand goods dealer.

5 **Jurisdiction of court**

17. Notwithstanding any provision to the contrary in the Criminal Procedure Code (Cap. 68), a District Court shall have jurisdiction to try any offence under this Act and shall have power to impose the full penalty or punishment in respect of the offence.

10 **General penalty**

18. Any person who is guilty of an offence under this Act shall be liable on conviction to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 12 months or to both.

Composition of offences

15 **19.**—(1) The Licensing Officer may, in his discretion, compound any offence under this Act which is prescribed as a compoundable offence by collecting from a person reasonably suspected of having committed the offence a sum not exceeding \$2,000.

20 (2) On payment of such sum of money, no further proceedings shall be taken against that person in respect of the offence.

(3) The Minister may make rules to prescribe the offences which may be compounded.

Exemption

25 **20.**—(1) The Minister may, by order published in the *Gazette*, with or without conditions, exempt any person or class of persons from any or all of the provisions of this Act.

(2) If any exemption is granted under this section with conditions, the exemption operates only if the conditions are complied with.

Amendment of Schedule

30 **21.** The Minister may, by order published in the *Gazette*, amend the Schedule.

Rules

22. The Minister may make rules for any of the following purposes:

- (a) to prescribe the fees and charges payable for the purposes of this Act;
- 5 (b) to prescribe the forms to be used for the purposes of this Act;
- (c) to prescribe the records to be kept by secondhand goods dealers and the particulars to be entered therein;
- (d) generally to carry out the purposes of this Act.

Repeal

10 23. The Secondhand Dealers Act (Cap. 288) is repealed.

Consequential amendments to other written laws

24.—(1) Item 35 in the Third Schedule to the Central Provident Fund Act (Cap. 36) is deleted and the following item substituted therefor:

“35. Secondhand Goods Dealers Act 2006”.

15 (2) Part II of the First Schedule to the Registration of Criminals Act (Cap. 268) is amended by deleting the item relating to “Secondhand Dealers Act” and substituting the following item:

“Secondhand Goods Dealers Act 2006 ... Section 10(6).”.

20 (3) Section 8 of the Vandalism Act (Cap. 341) is repealed and the following section substituted therefor:

“Revocation of secondhand goods dealer’s licence upon conviction

25 8. Where any secondhand goods dealer within the meaning of the Secondhand Goods Dealers Act 2006 is convicted under section 411 of the Penal Code (Cap. 224) and the stolen property concerned is public property, the court shall, in addition to any other penalty that it may impose, revoke any licence or exemption granted under that Act to the secondhand goods dealer.”.

Transitional and savings provisions

25.—(1) Any licence issued under the repealed Secondhand Dealers Act (Cap. 288, 1985 Ed.) and in force immediately before the appointed day shall, so far as it is not inconsistent with the provisions of this Act, be deemed to be a licence issued under section 5 of this Act, except that the
5 licence shall expire on 31st December of the year in respect of which it was issued.

(2) Any exemption granted under section 5 of the repealed Secondhand Dealers Act and in force immediately before the appointed day shall be
10 deemed to be an exemption granted under section 20 of this Act except that the exemption shall expire on 31st December of the year in respect of which it was granted.

THE SCHEDULE

Section 2(1)

15

SECONDHAND GOODS

1. Cameras, video-graphic and photographic equipment including lenses.
 2. Computers including Tablet Personal Computers, Laptops, Palmtops, Personal Digital Assistants and computer accessories.
 3. Handphones, Personal Digital Assistant handphones and Smartphones.
 - 20 4. Compact Disc players and Moving Picture Experts Group-1 Audio Layer 3 players and Moving Picture Experts Group-1 Audio Layer 4 players.
 5. Jewellery set with precious stones including but not limited to diamonds, jade, rubies, sapphires and emeralds.
 6. Jewellery made from platinum, gold and white gold without precious stones.
 - 25 7. Pawn tickets.
 8. Watches.
 9. Cables and wires made of copper.
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EXPLANATORY STATEMENT

This Bill provides for the licensing and control of dealers in secondhand goods and for matters connected therewith, for the repeal of the Secondhand Dealers Act (Cap. 288) and for consequential amendments to be made to certain other written laws.

Clause 1 relates to the short title and commencement.

Clause 2 defines certain terms used in the Bill.

Clause 3 empowers the Minister to appoint a Licensing Officer and such number of Assistant Licensing Officers as may be necessary.

Clause 4 provides that no person is to deal in secondhand goods except in accordance with the conditions of a licence issued under the Bill.

Clause 5 empowers the Licensing Officer to issue or renew licences in his discretion and to impose such conditions as he deems fit. The Licensing Officer may also at any time add to, vary or revoke any condition imposed but he is required to notify the licensee of such intention and to grant the licensee an opportunity to be heard before doing so. Any person who is aggrieved by the decision of the Licensing Officer may appeal in writing to the Minister within 14 days of being notified of the decision.

Clause 6 sets out the form of a licence and the validity thereof.

Clause 7 prohibits the transfer of a licence to another person except with the consent of the Licensing Officer and upon payment of the prescribed fee.

Clause 8 empowers the Licensing Officer to revoke a licence or suspend a licence for such period as he thinks fit under certain circumstances and provides for the procedure of such revocation or suspension and the procedure for an appeal to the Minister. The clause also allows the Licensing Officer to lift a suspension of a licence at any time.

Clause 9 provides that where the revocation or suspension of a licence becomes effective, the licensee has to cease to carry on the business of a secondhand goods dealer.

Clause 10 relates to the keeping of records by secondhand goods dealers and provides for the submission of such records to the Licensing Officer in any format or medium as may be required by the Licensing Officer and at such time as the Licensing Officer may require. The clause also provides for secondhand goods dealers to retain the records for a period of not less than 5 years and to produce such records for examination at any time on demand by any Magistrate, Justice of the Peace, the Licensing Officer or a police officer.

Clause 11 provides that a police officer may notify secondhand goods dealers of any stolen or lost secondhand goods. The clause also makes it an offence for any secondhand goods dealer who was notified of such information to fail to report any such stolen or lost goods which was offered or shown to him.

Clause 12 enables a police officer to enter the shop of any secondhand goods dealer without a warrant to conduct a search if he has reason to suspect that there is any stolen

or lost property within the shop. The clause also authorises a police officer to enter and search any shop without a warrant at any time if he has reason to suspect that any person who is not exempted under the Bill is dealing in secondhand goods without a licence. For the purpose of exercising his powers under the clause, a police officer is authorised to break open any door, window, lock, fastener, floor, wall, ceiling, compartment, box, container or any other thing and to seize any secondhand goods found in such shops.

Clause 13 empowers a police officer to arrest any person loitering about the shop of a secondhand goods dealer under suspicious circumstances.

Clause 14 allows the court to order the delivery of a stolen property to the owner thereof where a person has been convicted of an offence under Chapter XVII of the Penal Code (Cap. 224) in respect of that property and that property has been sold to a secondhand goods dealer. The clause also allows the court, in certain circumstances, to impose a financial penalty of up to \$2,000 on the secondhand goods dealer who purchased the stolen property.

Clause 15 makes certain officers of a body corporate or an unincorporated association liable for offences committed by the body corporate or unincorporated association.

Clause 16 makes a person liable, in certain circumstances, for the offences under the Bill which are committed by his agent or employee. The clause also makes an agent or employee of a secondhand goods dealer liable for any wilful act or omission that constitutes an offence under the Bill.

Clause 17 confers on a District Court jurisdiction to try any offence under the Bill and the power to impose the full penalty or punishment in respect of the offence.

Clause 18 provides for a person who is guilty of an offence under the Bill to be liable on conviction to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 12 months or to both.

Clause 19 empowers the Licensing Officer to compound any offence under the Bill which is prescribed as a compoundable offence by collecting from the person reasonably suspected of having committed the offence a sum not exceeding \$2,000. The clause also empowers the Minister to make rules to prescribe the offences which may be compounded.

Clause 20 empowers the Minister to exempt any person or class of persons, with or without conditions, from any or all of the provisions of the Bill and provides that such exemption operates only if the conditions are complied with.

Clause 21 empowers the Minister to amend the Schedule by order published in the *Gazette*.

Clause 22 empowers the Minister to make rules for the purposes of the Bill.

Clause 23 repeals the Secondhand Dealers Act (Cap. 288).

Clause 24 makes consequential amendments to the Central Provident Fund Act (Cap. 36), the Registration of Criminals Act (Cap. 268) and the Vandalism Act (Cap. 341).

Clause 25 deals with transitional and savings matters.

The Schedule sets out the list of secondhand goods which are subject to the Bill.

EXPENDITURE OF PUBLIC MONEY

This Bill will not involve the Government in any extra financial expenditure.

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