

REPUBLIC OF SOUTH AFRICA

**PORTFOLIO COMMITTEE AMENDMENTS
TO**

SECOND-HAND GOODS BILL

[B 02—2008]

*(As agreed to by the Portfolio Committee on Safety and Security)
(National Assembly)*

AMENDMENTS AGREED TO

SECOND-HAND GOODS BILL
[B02-2008]

CLAUSE 1

1. On page 4, after line 13, to insert the following definition:

“**antique**” means goods representing a previous era in human society and collected or desirable because of its age, rarity, condition, utility, or other unique features;”

2. On page 4, after line 44, to insert the following definition:

“**management**” includes the chief executive officer, chief operating officer, owner, or manager of a registered dealer who is responsible for the day to day control, direction or supervision of the business of a dealer at the premises in question;

3. On page 5, after line 16, to insert the following definition:

“**recycler**” means a person who carries on a business of recycling scrap metal;”

4. On page 5, after line 35, to insert the following definition:

“**valuables**” means personal possessions that have significant monetary value;”

5. On page 5, on line 39, before “goods” to insert “second-hand”.

CLAUSE 2

1. On page 5, after line 39, to omit section 2.

CLAUSE 3

1. On page 6, from line 10, to omit subsection (4).

CLAUSE 4

1. On page 6, after line 18, before “goods” to insert “second-hand”.
2. On page 6, on line 19, to omit “for” and substitute “in respect of”

3. On page 6, from line 24, to omit subsection (4).

CLAUSE 5

1. On page 6, from line 39, to omit subsection (3).

CLAUSE 6

1. On page 6, on line 51, after the word “applicant” to insert:

“, and where applicant applies for registration for more than one premises, the full name and identity number of each person involved in the management of the applicant at each of the premises contemplated in section 4(2)”

2. On page 7, from line 6, to omit subsection (3)

CLAUSE 8

1. On page 7, on line 25, before “goods” to insert “second-hand”.
2. On page 7, from line 37, to omit subsection (6).

CLAUSE 9

1. On page 8, from line 1, to omit subsection (5).

CLAUSE 11

1. On page 8, after line 28, to omit subsection (3) and to substitute:

(3)(a) The National Commissioner may cancel the registration of a registered dealer if the dealer fails to comply with any—
(i) condition of registration; or
(ii) of the provisions of this Act
(b) The National Commissioner must cancel the registration of a registered dealer if the dealer—
(i) is registered on the basis of incorrect or false information; or
(ii) is convicted of an offence of which dishonesty is an element.

2. On page 8, from line 48, to omit subsection (7).

CLAUSE 12

1. On page 9, from line 6, to delete subsection (5).

CLAUSE 13

1. On page 9, from line 30, to omit subsection (5).

CLAUSE 15

1. On page 9, on line 41, after “registered” to insert “as a dealer”
2. On page 9, from line 42, omit paragraph (a) and to substitute:
 - (a) has in the preceding five years, in the Republic or elsewhere, been sentenced to imprisonment without the option of a fine in respect of any offence of fraud, theft or corrupt activities as referred to in the Prevention and Combating of Corrupt Activities Act, 2004(Act No. 12 of 2004)or any contravention of the Corruption Act, 1992 (Act No. 94 of 1992), or the commission of any other offence of which dishonesty is an element.
3. On page 9 in line 47, to omit R200 and to substitute: R 1000.
4. On page 9 in line 52, to omit subsection (2) and to substitute:
 - (2) A company, corporation, partnership or trust may not be registered if a person who is disqualified to hold a certificate in terms of subsection (1)—
 - (a) has an interest in that company, close corporation or trust;
 - (b) is a partner in that partnership; or
 - (c) is a beneficiary under that trust.

CLAUSE 16

1. On page 10, on line 6, to omit “each of”.
2. On page 10, on line 7, to omit “a” and to substitute “such”.
3. On page 10, from line 10, to omit subsection (2).

CLAUSE 17

1. On page 10, on line 18, before “goods” to insert “second-hand”.
2. On page 10, on line 21, after “dealers” to insert “, which may not be of a lower standard than is required under this Act”.

3. On page 10, on line 22, after “inspect” to insert “any business practice, registers, stock and”.

CLAUSE 21

1. On page 11, on line 17, after “21” to insert “(1) “
2. On page 11, after line 17, to insert the following subsection (2):

(2) The provisions of section 29 applies with the necessary changes in respect of an association.

CLAUSE 22

1. On page 11, on line 23, before “goods” to insert “second-hand”
2. On page 11, on line 25, before “goods” to insert “second-hand”.
3. On page 11, on line 31, before “goods” to insert “second-hand”.
4. On page 11, on line 32, before “goods” to insert “second-hand”.
5. On page 11, on line 34, before “goods” to insert “second-hand”.
6. On page 11, on line 37, before “goods” to insert “second-hand”.
7. On page 11, on line 38, before “goods” to insert “second-hand”.
8. On page 11, on line 42, before “goods” to insert “second-hand”.
9. On page 11, on line 50, before “goods” to insert “second-hand”.
10. On page 11, from line 52, to omit subsection (8).
11. On Page 11, from line 54, to omit subsection (9).

CLAUSE 23

1. On page 12, on line 5, after “suspects” to insert “, or on reasonable grounds should suspect,”.
2. On page 12, after line 13, to omit subsection (2) and to substitute:

(2) Upon receipt of a report referred to in subsection (1), the police official involved must take down the report in the prescribed manner and immediately provide the person who made the report with the prescribed acknowledgement of receipt.
3. On page 12, after line 15, to omit subsection (3) and to substitute:

(3) A person required to make a report in terms of subsection (1) concerning a suspicion that any other person intends to commit or has committed an offence in terms of this Act, may not continue with and carry out any transaction to which such a suspicion relates.

4. On page 12, after line 18, to insert a new subsection (4):

(4) The police official taking down a report contemplated in subsection (2), must immediately provide the Designated Police Officer with a copy of such report, together with any particulars regarding the registering of any investigation dockets arising from such report.

CLAUSE 24

1. On page 12, from line 35, to omit subsection (3).

CLAUSE 25

1. On page 13, from line 6, to omit subsection (6).

CLAUSE 26

1. On page 13, from line 23 to omit subsection (4) and to substitute:

(4) No person may—

- (a) have in his or her possession any apparatus which can be used for the recycling of any controlled metal or any article or substance containing any controlled metal, unless—
 - (i) such person is registered as a recycler; or
 - (ii) in the case of precious metals, such a person is authorised to possess and recycle precious metals under the Precious Metals Act, 2005 (Act No. 37 of 2005), or any other applicable legislation;
- (b) acquire or dispose of any cable consisting of controlled metal of which the cover has been burnt, unless the seller thereof is able to provide a reasonable explanation for the burnt cover, and only after the matter has been reported to a police official in the manner contemplated in section 23(1)(a); or
- (c) be in possession of any cable consisting of controlled metal of which the cover has been burnt, unless such person is able to provide a reasonable explanation for the burnt cover.

2. On page 13 from line 30 to omit subsection (5) and to substitute:

(5) If a recycler suspects, or on reasonable grounds should suspect, that the appearance or aspects of any scrap metal offered to such recycler has

been tampered or there was an attempt to alter the appearance or aspects thereof in order to conceal the identity of the scrap metal, such recycler must make a report contemplated in section 23(1)(c) which applies with the changes required by the context.

CLAUSE 27

1. On page 14, from line 1, to omit subsection (6).

CLAUSE 28

1. On page 14, in line 9, after “certificate” to insert “issued by the National Commissioner”.

CLAUSE 29

1. On page 14, from line 22, to omit subsection (2) and to substitute:

(2) If, upon any inspection, a police official discovers that any method of dealing, recording of transactions in registers or storage that is being used is in contravention of this Act, the police official may–

- (a) demand immediate discontinuation of the method; and
- (b) afford the dealer a period of no more than seven days to rectify such method in order to ensure compliance with the Act.

2. On page 14, after line 28, to omit subsection (4) and to substitute:

(4)(a) A police official must conduct at least one comprehensive annual inspection of each registered premises, during which the records contemplated in section 22(1) must be examined.

- (b) On each occasion when a police official inspects a register in terms of subsection (1)(b), such police official must–
 - (i) sign his or her name immediately after the last entry in that register, and append his or her number and rank and the date on which the inspection was conducted; or
 - (ii) certify in the manner that the National Commissioner may from time to time direct, that the records were inspected.

3. On page 14, from line 33, to omit subsection (5).

CLAUSE 33

1. That the following be a new clause:

Offences and penalties

33. (1) A person who -
- (a) fails to comply with section 3(1);
 - (b) fails to apply for registration of all premises in terms of section 3(2);
 - (c) furnishes false information in support of an application in terms of section 5;
 - (d) furnishes false information in support of an application in terms of section 6;
 - (e) fails to comply with section 8(1);
 - (f) contravenes or fails to comply with section 9;
 - (g) contravenes or fails to comply with section 11;
 - (h) fails to renew registration in terms of section 12(1) and who continues to conduct the business of a dealer;
 - (i) fails to surrender or transfers a certificate other than in the manner prescribed in section 13;
 - (j) contravenes or fails to comply with section 16;
 - (k) contravenes or fails to comply with section 22(1), (3), (4), (5), (6), or (7);
 - (l) contravenes or fails to comply with section 23(1) or (3);
 - (m) contravenes or fails to comply with section 24;
 - (n) contravenes or fails to comply with section 25(1), (3), (4) or (5);
 - (o) contravenes or fails to comply with section 26(1), (4) or (5);
 - (p) contravenes or fails to comply with section 27;
 - (q) as a dealer contravenes or fails to comply with section 29;
 - (r) contravenes or fails to comply with section 38; or
 - (s) contravenes or fails to comply with section 43,
- is guilty of an offence.

(2) Any person convicted of a contravention of or a failure to comply with any section mentioned in Column 1 of Schedule 4, may be sentenced to a fine or to imprisonment for a period not exceeding the period mentioned in Column 2 of that Schedule opposite the number of that section, or to both such fine and imprisonment.

CLAUSE 42

1. On page 17, on line 30, before “goods” to insert “second-hand”.
2. On page 17, on line 31, before “goods” to insert “second-hand”.

NEW CLAUSE 43

On page 17, after line 51, to insert new clause 43:

Application of Act and Promotion of Administrative Justice Act, 2000

43. (1) This Act does not apply to—

- (a) any second-hand goods sold or disposed of by way of public auction authorised by a warrant of execution under a judgment or order of a court of law; or
- (b) any dealer who is a member of an accredited association to the extent that the Minister by notice in the Gazette exempts members of such an association from any or all of the provisions of this Act.

(2) The Minister may only exempt members of associations that are accredited by the National Commissioner and capable of introducing adequate levels of self-regulation in order to achieve the objects of this Act.

(3) Any administrative process conducted, or decision taken, in terms of this Act must be conducted or taken in accordance with the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000), unless otherwise provided for in this Act.

SCHEDULE 1

1. On page 19, after line 22, to insert the words “shop-fitting equipment”

SCHEDULE 2

1. On page 17, in line 30, after the word “bronze” to insert “, cobalt”

NEW SCHEDULE 4

1. To insert after Schedule 3, the following new Schedule

SCHEDULE 4

(Section 33)

| Section | Maximum period of imprisonment |
|----------------|---------------------------------------|
| 3(1) | Ten years |
| 4(2) | Ten years |
| 5 | Ten years |
| 6 | Ten years |
| 8(1) | Five years |
| 9 | Three years |

| | |
|---------------------------------|-------------|
| 11 | Three years |
| 12(1) | Three years |
| 13 | Three years |
| 16 | Three years |
| 22(1) | Ten years |
| 22(3), (4), (5), (6), or (7) | Five years |
| 23(1) or (3) | Ten years |
| 24 | Ten years |
| 25(1) | Ten years |
| 25(3), (4), or (5) | Five years |
| 26(1), ((4) or (5) | Ten years |
| 27 | Ten years |
| 29 | Ten years |
| 38 | Three years |
| 43 | Three years |