

Pawnbrokers Bill

Bill No. 42/2014.

Read the first time on 4 November 2014.

PAWNBROKERS ACT 2014

(No. of 2014)

ARRANGEMENT OF SECTIONS

PART 1

PRELIMINARY

Section

1. Short title and commencement
2. General interpretation
3. Meanings of “pawn”, “pawnbroker”, “pawner” and “pledge”, etc.
4. Application of Act
5. Appointment of Registrar, Deputy Registrars and Assistant Registrars

PART 2

REGULATION OF PAWNBROKERS, ETC.

Division 1 — Licensing of pawnbrokers

6. No pawnbroking without licence, etc.
7. Grant of licence
8. Duration of licence
9. Renewal of licence
10. Grounds for refusing to grant or renew licence
11. Appeal to Minister

Division 2 — Approval of substantial shareholders, directors and managers

12. Substantial shareholding, etc., to be approved by Registrar

Section

13. Grounds for declining to approve substantial shareholding, etc.
14. Directors and managers to be approved by Registrar
15. Grounds for declining to approve director or manager, etc.
16. Registrar to give opportunity to make representations before withdrawing approval under section 12 or 14
17. Appeal to Minister

*Division 3 — Conditions of licence and
statutory duties of licensee*

18. Conditions of licence
19. Licensee to comply with statutory duties
20. Licensee to maintain paid-up share capital
21. Carrying on of pawnbroking business and other businesses, etc.
22. Licensee to display sign and rates, etc.
23. Licensee to keep records of pawnbroking business and transactions
24. Licensee to submit statement on pawnbroking business and transactions
25. Licensee to conduct annual audit
26. Licensee to maintain adequate insurance
27. Licensee to maintain security deposit
28. Licensee to inform Registrar if substantial shareholder, etc., becomes disqualified person
29. Licensee to inform Registrar of proceedings, etc.

Division 4 — Investigative powers

30. Power to order production of information, document or thing
31. Power to seize property, etc., in certain circumstances
32. Power of court over seized property, etc.
33. Registrar's powers may be exercised by authorised persons

Division 5 — Regulatory action

34. Power to give directions
35. Composition of offences
36. Variation, suspension or revocation of licence
37. Financial penalty and forfeiture of security deposit
38. Registrar to give opportunity to make representations before taking action under section 36 or 37
39. Appeal to Minister

Division 6 — Lapsing, expiry or revocation of licence

Section

- 40. Lapsing of licence
- 41. Registrar's powers when licence expires, lapses or is revoked
- 42. Validity of transactions not affected

Division 7 — Waivers

- 43. Waiver certificate
- 44. Revocation, etc., of waiver certificate
- 45. Minister to give opportunity to make representations before revoking waiver certificate, etc.
- 46. Class waiver
- 47. Validity of transactions not affected by variation or revocation of waiver

PART 3

RIGHTS AND OBLIGATIONS
WHEN GOODS ARE PAWNED*Division 1 — Pawning of goods*

- 48. Valuation to be given beforehand
- 49. Pawn ticket to be issued
- 50. Permitted profit and fees
- 51. Sections 48, 49 and 50 to apply, with modifications, to agreement to extend redemption period

Division 2 — Redemption of pledges

- 52. Persons entitled to redeem
- 53. Right to redeem may be freely transferred, etc.
- 54. Time for redeeming pledge
- 55. Extension of redemption period
- 56. How pledge may be redeemed
- 57. Pawnbroker to allow redemption of pledge except in certain circumstances
- 58. Protection from liability when pawnbroker acts according to section 57
- 59. Pawnbroker's obligations when goods redeemed
- 60. Pawnbroker's liability if unable to produce goods, etc., upon redemption

Division 3 — Forfeiture of unredeemed pledges

Section

- 61. Forfeiture and effect
- 62. Notice of forfeiture
- 63. Time for, and manner of, serving notice of forfeiture
- 64. Forfeiture to be sole remedy of pawnbroker
- 65. Consequences if pawnbroker purports to realise security interest other than by forfeiture

Division 4 — Related matters

- 66. Protection of person entitled to redeem pledge but not having pawn ticket
- 67. Protection of rightful owner of goods wrongfully pawned
- 68. Preservation of rights and remedies
- 69. No contracting out of this Part or any rule of law

PART 4

OFFENCES

- 70. Providing false information to Registrar
- 71. Offences relating to pawning of goods and redemption of pledges
- 72. Offences by pawnbroker
- 73. Offences, etc., when goods are reported to be lost, etc.

PART 5

PREVENTION OF MONEY LAUNDERING
AND FINANCING OF TERRORISM

- 74. Programmes and measures to prevent money laundering and terrorism financing
- 75. Customer due diligence measures, additional measures and measures relating to targeted financial sanctions
- 76. Record-keeping

PART 6

MISCELLANEOUS

- 77. Power of court when goods wrongfully pawned
- 78. Provisions relating to appeals to Minister
- 79. General penalty
- 80. Offences by bodies corporate, etc.
- 81. Jurisdiction of District and Magistrates' Courts

Section

- 82. Amendment of Schedules
 - 83. Rules
 - 84. Repeal
 - 85. Savings and transitional provisions
 - 86. Consequential amendments to other written laws
 - First Schedule — Transactions where goods are deemed to be or not to be pawned
 - Second Schedule — Permitted profit and fees
 - Third Schedule — Measures for prevention of money laundering and financing of terrorism
 - Fourth Schedule — Consequential amendments to other written laws
-

A BILL

intituled

An Act to repeal and re-enact the Pawnbrokers Act (Chapter 222 of the 1994 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:

PART 1
PRELIMINARY

Short title and commencement

5 **1.** This Act may be cited as the Pawnbrokers Act 2014 and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

General interpretation

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

10 “company” means a company limited by shares under the Companies Act (Cap. 50);

“identification information” means —

(a) in relation to an individual —

- 15 (i) the individual’s full name (including any alias);
- (ii) the individual’s address in Singapore for the service of any notice or document for the purposes of this Act;
- 20 (iii) the individual’s country of citizenship;
- (iv) if the individual is a citizen or permanent resident of Singapore, the individual’s Singapore identity card number;
- (v) if the individual is not a citizen or permanent resident of Singapore, the individual’s foreign passport number; and
- 25 (vi) where provided by the individual, the individual’s telephone number or email address (or any other means by which the individual can be contacted); or

(b) in relation to an entity —

- 30 (i) its full name;
- (ii) the address of its registered office or place of business in Singapore;

- (iii) its legal form;
- (iv) its place of incorporation or registration;
- (v) if it is incorporated or registered in Singapore, its unique entity number;
- (vi) if it is not incorporated or registered in Singapore, its foreign incorporation or registration number; and 5
- (vii) where provided by the entity, its telephone number or email address (or any other means by which it can be contacted); 10

“licence” means a licence for pawnbroking granted or renewed under this Act;

“licensed place of business” means a place specified in a licence as a place at which a licensee can carry on the business of pawnbroking; 15

“licensee” means a person holding a licence, and includes a person whose licence is suspended;

“limited liability partnership” has the same meaning as in section 2(1) of the Limited Liability Partnerships Act (Cap. 163A); 20

“loan agreement” means an agreement for the loan of money on the security of a pledge;

“manager”, in relation to a pawnbroker, means a person (including a director of the pawnbroker) responsible for managing the whole or any part of the pawnbroker’s business of pawnbroking; 25

“Monetary Authority of Singapore” means the Monetary Authority of Singapore established under section 3 of the Monetary Authority of Singapore Act (Cap. 186);

“profit”, in relation to a loan secured by a pledge, includes interest on the loan; 30

“redemption period”, in relation to a pledge, is to be reckoned in accordance with section 54(2) and (3);

“Registrar” means the Registrar of Pawnbrokers appointed under section 5, and includes any Deputy Registrar of Pawnbrokers or Assistant Registrar of Pawnbrokers exercising the functions of the Registrar;

5 “repealed Act” means the repealed Pawnbrokers Act (Cap. 222, 1994 Ed.) in force immediately before the date of commencement of this Act;

“sell” includes agree to sell;

10 “substantial shareholder”, in relation to a company, has the same meaning as in section 81 of the Companies Act.

(2) For the purposes of this Act —

(a) an entity is a disqualified person if —

(i) it has been convicted of an offence under this Act or the repealed Act;

15 (ii) it has contravened a provision of this Act or the repealed Act;

(iii) it has been convicted of any offence under sections 43 to 48 of the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (Cap. 65A), the Terrorism (Suppression of Financing) Act (Cap. 325) or any regulations made under the United Nations Act (Cap. 339);

20 (iv) it has been convicted in Singapore or elsewhere of an offence involving fraud or dishonesty, or a finding of fraud or dishonesty;

(v) it is a company and has been ordered to be wound up or liquidated under the Companies Act; or

(vi) it has been ordered to be dissolved under any written law; and

30 (b) an individual is a disqualified person if —

(i) the individual has been convicted of an offence under this Act or the repealed Act;

- (ii) the individual has contravened a provision of this Act or the repealed Act;
- (iii) the individual has been convicted of any offence under sections 43 to 48 of the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act, the Terrorism (Suppression of Financing) Act or any regulations made under the United Nations Act; 5
- (iv) the individual has been convicted in Singapore or elsewhere of an offence involving fraud or dishonesty, or a finding of fraud or dishonesty; 10
- (v) the individual is or was a director or substantial shareholder of an entity and, in such capacity, consented to or connived in the commission by the entity of an offence under this Act or the repealed Act; or 15
- (vi) the individual is an undischarged bankrupt.

Meanings of “pawn”, “pawnbroker”, “pawner” and “pledge”, etc.

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

“business of pawnbroking” means the business of lending money on the security of pledges; 20

“pawn” means to give possession of goods to a lender of money as security for the repayment of a loan;

“pawnbroker” means a person who carries on a business of lending money on the security of pledges; 25

“pawnbroking” means lending money on the security of a pledge;

“pawner” means a person who pawns goods to a pawnbroker, whether or not the person has any title to, or is authorised to deal in, those goods; 30

“pledge” means goods that are taken into possession by a lender of money as security for the repayment of a loan.

(2) In this Act, unless the context otherwise requires, goods are taken in pawn if the goods are taken into possession by a lender of money as security for the repayment of a loan.

5 (3) For the purposes of this Act, in determining whether a person is lending money on the security of a pledge, and whether goods have been pawned —

(a) regard must be had —

(i) to the substance of the transaction and not to its form or legal technicalities; and

10 (ii) in particular, to the ordinary understanding of the person giving possession of the goods as to —

(A) the nature of the transaction; and

(B) the reason or basis on which possession of goods is given to the lender;

15 (b) it does not matter that the terms of the loan transaction provide that the lender has taken possession of the goods at the request of or on behalf of the person giving possession of the goods or otherwise, so as to give the appearance that the lender does not rely on possession of the goods as security for the repayment of the loan; and

20 (c) goods can be considered pawned, and money can be considered lent, on the security of a pledge even if the loan also gives rise to a mortgage of the goods.

(4) For the purposes of this Act, the First Schedule may specify —

25 (a) any transaction where goods are deemed or deemed not to be pawned; and

(b) in respect of any transaction where goods are deemed to be pawned —

(i) the person deemed to be the pawner;

30 (ii) the sum deemed to be loaned; and

(iii) the profit deemed to be taken for the loan.

Application of Act

4. This Act does not apply to any entity regulated or exempted by the Monetary Authority of Singapore under any written law, to the extent that such entity is permitted or authorised to carry on the business of pawnbroking or is not prohibited from carrying on the business of pawnbroking under that written law.

5

Appointment of Registrar, Deputy Registrars and Assistant Registrars

5.—(1) The Minister must appoint a Registrar of Pawnbrokers.

(2) The Minister may in addition appoint Deputy Registrars of Pawnbrokers and Assistant Registrars of Pawnbrokers.

10

(3) Subject to such directions as the Registrar of Pawnbrokers may give, a Deputy Registrar of Pawnbrokers or an Assistant Registrar of Pawnbrokers may exercise and perform all or any of the powers, duties and functions of the Registrar of Pawnbrokers under this Act.

15

PART 2

REGULATION OF PAWNBROKERS, ETC.

Division 1 — Licensing of pawnbrokers

No pawnbroking without licence, etc.

6.—(1) Subject to subsection (2), it shall be an offence for a person to carry on the business of pawnbroking in Singapore or to hold out that the person is carrying on such business.

20

(2) A person may carry on the business of pawnbroking, and hold out that the person is carrying on such business, only in accordance with —

25

- (a) a licence granted under this Act;
- (b) the Registrar's directions under section 41;
- (c) a waiver certificate under section 43; or
- (d) a class waiver under section 46.

(3) A person guilty of an offence under subsection (1) shall be liable on conviction —

(a) if the person has no previous qualifying conviction, to a fine not exceeding \$50,000; and

5 (b) if the person has any previous qualifying conviction, to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 12 months or to both.

10 (4) In subsection (3), “qualifying conviction” means a conviction for an offence under subsection (1) or under section 8(5) of the repealed Act.

Grant of licence

7.—(1) The Registrar may grant a licence in accordance with this Act.

(2) An application for the grant of a licence must be —

15 (a) made in the form and manner specified by the Registrar; and

(b) accompanied by the payment of the prescribed fee.

(3) The Registrar may grant more than one licence to a person.

Duration of licence

8.—(1) A licence takes effect on the date it is granted.

20 (2) Unless a licence earlier lapses or is revoked, the licence has effect until —

(a) 31 December of the year in which it is granted; or

(b) such other date as the Registrar may specify.

Renewal of licence

25 9.—(1) A licensee must inform the Registrar, no later than one month before the date of expiry of its licence, whether it intends to apply to renew the licence.

(2) The Registrar may, on the application of a licensee, renew its licence in accordance with this Act.

- (3) An application for the renewal of a licence must be —
- (a) made in the form and manner specified by the Registrar; and
 - (b) accompanied by the payment of the prescribed fee.
- (4) The renewal of a licence takes effect from —
- (a) the date on which the licence would have expired but for the renewal; or 5
 - (b) such other date as the Registrar may specify.
- (5) Unless a renewed licence earlier lapses or is revoked, the renewed licence has effect until —
- (a) 31 December of the year in which it is renewed; or 10
 - (b) such other date as the Registrar may specify.

Grounds for refusing to grant or renew licence

- 10.—**(1) A licence cannot be granted to a person who is not a company incorporated in Singapore.
- (2) A licence may be granted or renewed only in such circumstances as may be prescribed. 15
- (3) The Registrar may, in particular, refuse to grant or renew a licence on the following grounds:
- (a) the prescribed fee for the grant or renewal (as the case may be) of the licence is not paid; 20
 - (b) the application for the grant or renewal (as the case may be) —
 - (i) contains materially false or misleading information; or
 - (ii) is materially incomplete;
 - (c) the applicant for the grant or renewal (as the case may be) — 25
 - (i) does not have a paid-up share capital that is equal to or greater than the prescribed amount; or
 - (ii) has carried on the business of pawnbroking in Singapore or elsewhere in a way that, in the opinion

of the Registrar, renders the applicant unfit to hold a licence;

(d) in the Registrar's opinion, the proposed place of business —

(i) is unsuitable for carrying on the business of pawnbroking; or

(ii) is situated at a location that is unsuitable for carrying on the business of pawnbroking;

(e) a substantial shareholder of the applicant —

(i) is a disqualified person; or

(ii) has carried on the business of pawnbroking in Singapore or elsewhere in a way that, in the opinion of the Registrar, renders the applicant unfit to hold a licence;

(f) a person who is (or is proposed to be) a director or a manager of the applicant —

(i) is below 21 years of age;

(ii) is a disqualified person;

(iii) is, in the opinion of the Registrar, not of good character;

(iv) is, in the opinion of the Registrar, not a fit and proper person to carry on or manage the applicant's business of pawnbroking; or

(v) has carried on the business of pawnbroking in Singapore or elsewhere in a way that, in the opinion of the Registrar, renders the applicant unfit to hold a licence; or

(g) a person who is (or is proposed to be) a manager of the applicant —

(i) is not ordinarily resident in Singapore;

(ii) will not be ordinarily resident in Singapore while the person holds such position; or

- (iii) does not, in the opinion of the Registrar, possess adequate qualifications or experience for such position.

Appeal to Minister

11. A person aggrieved by the Registrar's refusal to grant or renew a licence may appeal to the Minister. 5

*Division 2 — Approval of substantial shareholders,
directors and managers*

Substantial shareholding, etc., to be approved by Registrar

12.—(1) It shall be an offence for a person to — 10

- (a) become a substantial shareholder of a licensee by increasing the person's shareholding in the licensee without the Registrar's approval;
- (b) increase the person's substantial shareholding in a licensee without the Registrar's approval; or 15
- (c) refuse to comply with the Registrar's direction under subsection (2)(c) to reduce the person's shareholding in a licensee.

(2) For the purposes of subsection (1), the Registrar may —

- (a) approve a person to become a substantial shareholder of a licensee by an increase of the person's shareholding; 20
- (b) approve an increase of a person's substantial shareholding in a licensee; or
- (c) subject to section 16, direct a substantial shareholder to reduce its shareholding in a licensee. 25

(3) A direction under subsection (2)(c) may not require a person's shareholding to be reduced beyond what is necessary for the person to cease to be a substantial shareholder in the licensee.

Grounds for declining to approve substantial shareholding, etc.

13. Approval under section 12(2)(a) or (b) may be refused, and a direction under section 12(2)(c) may be given, on the following grounds in particular:

- 5 (a) the relevant person is a disqualified person; or
- (b) the relevant person has carried on the business of pawnbroking in Singapore or elsewhere in a way that, in the opinion of the Registrar, renders the person unfit to hold a licence.

10 **Directors and managers to be approved by Registrar**

14.—(1) A person cannot be appointed or act as a director or a manager of a licensee without the Registrar's approval.

(2) Where a person contravenes subsection (1), the person and the licensee shall each be guilty of an offence.

- 15 (3) For the purposes of subsection (1), the Registrar may —
 - (a) approve a person to be appointed or to act as a director or a manager of the licensee; or
 - (b) subject to section 16, withdraw any such approval.

Grounds for declining to approve director or manager, etc.

20 15. Approval under section 14(3) may, in particular, be refused or withdrawn if the relevant person —

- (a) is below 21 years of age;
- (b) is or becomes a disqualified person;
- (c) is, in the opinion of the Registrar, not of good character;
- 25 (d) is, in the opinion of the Registrar, not a fit and proper person to carry on or manage the licensee's business of pawnbroking;
- (e) has carried on the business of pawnbroking in Singapore or elsewhere in a way that, in the opinion of the Registrar, renders the licensee unfit to hold a licence; or

- (f) in any case where the approval is for the person to be appointed or to act as a manager of the licensee —
- (i) is not ordinarily resident in Singapore;
 - (ii) will not be ordinarily resident in Singapore while the person holds such position; or
 - (iii) does not in the opinion of the Registrar, possess adequate qualifications or experience for such position.

5

Registrar to give opportunity to make representations before withdrawing approval under section 12 or 14

10

16.—(1) The following provisions are to apply before the Registrar makes a decision to give a direction under section 12(2)(c) or withdraw any approval under section 14(3)(b).

(2) The Registrar must give the affected person written notice of —

- (a) the Registrar’s intention to make the decision; and
- (b) the date on which the Registrar intends to make the decision.

15

(3) The date in subsection (2)(b) must not be earlier than 21 days after the date of the written notice in subsection (2).

(4) The affected person may make representations to the Registrar at any time before the date in subsection (2)(b).

20

(5) The Registrar must consider any representation made by the affected person before the date in subsection (2)(b).

(6) The Registrar must, on or after the date in subsection (2)(b), give the affected person written notice of the Registrar’s final decision.

(7) The Registrar’s final decision takes effect 14 days (or such longer period as the Registrar may specify) after the date of the written notice in subsection (6).

25

(8) In this section, “affected person”, in relation to a decision under section 14(3)(b), includes the licensee whose director or manager is affected.

30

Appeal to Minister

17. A person aggrieved by any of the following decisions of the Registrar may appeal to the Minister:

- (a) the refusal of any approval under section 12(2)(a) or (b);
- 5 (b) a direction under section 12(2)(c);
- (c) the refusal of any approval under section 14(3)(a) or withdrawal of any approval under section 14(3)(b).

Division 3 — Conditions of licence and statutory duties of licensee

10 **Conditions of licence**

18.—(1) A licensee must comply with such conditions of its licence as the Registrar may specify.

(2) For the purpose of subsection (1), the Registrar may specify —

- (a) conditions applicable to all licensees;
- 15 (b) conditions applicable to a specified class of licensees; or
- (c) conditions applicable to a specified licensee only.

(3) The Registrar may, by written notice to a licensee, add to, vary or cancel any condition of a licence.

Licensee to comply with statutory duties

20 19.—(1) A licensee must comply with its statutory duties in sections 20 to 29.

(2) A licensee which fails to comply with any of its statutory duties in sections 20 to 29 shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$20,000.

25 **Licensee to maintain paid-up share capital**

20. A licensee must maintain such paid-up share capital as may be prescribed.

Carrying on of pawnbroking business and other businesses, etc.

21.—(1) A licensee must not carry on the business of pawnbroking at any place other than a licensed place of business, unless the Registrar gives written permission.

(2) A licensee must not carry on any business other than the business of pawnbroking at a licensed place of business, unless the Registrar gives written permission. 5

(3) A licensee must —

(a) keep each licensed place of business in a suitable condition for carrying on the business of pawnbroking; and 10

(b) comply with such requirements as the Registrar may specify for this purpose.

(4) A licensee must comply with such security requirements for each licensed place of business as the Registrar may specify.

Licensee to display sign and rates, etc. 15

22.—(1) A licensee must display, at each of its licensed places of business, a conspicuous sign stating, in English, the licensee’s name and the words “Pawnbroker’s Shop”, “Pawnbroker” or “Pawnshop”.

(2) A licensee must display, at each of its licensed places of business, a conspicuous notice stating, in English, the maximum profit and the fees it can charge under section 50. 20

Licensee to keep records of pawnbroking business and transactions

23.—(1) A licensee must keep such records as may be prescribed in relation to — 25

(a) its business of pawnbroking; and

(b) its transactions.

(2) The records under subsection (1) —

(a) must be kept —

(i) in English; 30

- (ii) in electronic form;
- (iii) from such time as may be prescribed;
- (iv) for such period as may be prescribed, or such longer period as the Registrar may require in writing; and
- 5 (v) in accordance with such other requirements as may be prescribed; and

(b) must be kept or be available for inspection at the licensed place of business where the goods are pawned.

Licensee to submit statement on pawnbroking business and transactions

10 **24.**—(1) A licensee must submit to the Registrar, at such intervals and in such form and manner as the Registrar may require, statements containing such particulars as may be prescribed in relation to —

- (a) its business of pawnbroking; and
- 15 (b) its transactions.

(2) A licensee must explain any particular in a statement submitted under subsection (1) if the Registrar so requires.

Licensee to conduct annual audit

20 **25.** A licensee must at its own cost appoint an auditor to carry out annual audits of its business of pawnbroking, including an audit of such matters as the Registrar may specifically require.

Licensee to maintain adequate insurance

25 **26.** A licensee must maintain adequate and appropriate insurance, or such other forms of protection as the Registrar may approve in writing, against the damage, theft or loss of all pledges taken by it.

Licensee to maintain security deposit

27.—(1) A licensee must place with the Accountant-General a deposit of such amount as may be prescribed.

(2) The deposit must be in cash or such other form as the Registrar may allow in writing.

(3) The deposit is to be security for the licensee's compliance with the conditions of its licence and the provisions of this Act, including the payment of any financial penalty imposed under section 37(2)(a).

(4) If the deposit or part of the deposit is forfeited by the Registrar, the licensee must replace the forfeited amount within 14 days (or such longer period as the Registrar may allow) after the forfeiture.

Licensee to inform Registrar if substantial shareholder, etc., becomes disqualified person

28. A licensee must, within 7 days after it becomes aware or has reason to believe that any of the following persons is or has become a disqualified person, inform the Registrar in writing of the fact:

- (a) a substantial shareholder of the licensee;
- (b) a director of the licensee;
- (c) a manager of the licensee.

Licensee to inform Registrar of proceedings, etc.

29.—(1) A licensee must notify the Registrar in writing of the occurrence of any of the following events, no later than 14 days after the licensee becomes aware that the event has occurred:

- (a) a receiver or a manager is or will be appointed in respect of the property of the licensee;
- (b) a meeting of the creditors or shareholders of the licensee has been summoned for the purpose of winding up the licensee;
- (c) an application has been made to the court for an order summoning all or any class of the creditors or shareholders of the licensee to meet for the purpose of a proposed compromise or arrangement between the licensee and those creditors or shareholders;
- (d) an application has been made to the court for a judicial management order under the Companies Act (Cap. 50) in respect of the licensee;
- (e) an application has been made to the court for the licensee to be wound up or otherwise dissolved under the Companies Act;

- (f) legal proceedings have been commenced against the licensee;
- (g) any event in paragraphs (a) to (f) occurs in relation to a company that is a substantial shareholder of the licensee (instead of the licensee);
- 5 (h) an entity that is a substantial shareholder of the licensee is dissolved under the law applicable to the entity;
- (i) such other event as may be prescribed.

(2) When a licensee notifies the Registrar of an event under subsection (1) —

- 10 (a) the Registrar may require the licensee to notify the Registrar of any further event in relation to that event; and
- (b) the licensee must notify the Registrar of the further event no later than 14 days after the licensee becomes aware that the further event has occurred.

15 *Division 4 — Investigative powers*

Power to order production of information, document or thing

30.—(1) The Registrar may, in writing, order a person —

- 20 (a) to produce any information, document or thing in the person's possession or control that the Registrar considers relevant for deciding whether this Act has been contravened; or
- (b) to give the Registrar access to such information, document or thing.

25 (2) Subsection (1) does not apply to customer information (as defined in section 40A of the Banking Act (Cap. 19)) kept by a financial institution.

(3) A person ordered to produce any information, document or thing may cause the information, document or thing to be produced instead of producing it in person.

(4) It shall be an offence for a person to —

- 30 (a) fail to comply with the Registrar's order under subsection (1) without reasonable excuse; or

- (b) knowingly obstruct or prevent, or attempt to obstruct or prevent, a person from complying with the Registrar’s order under subsection (1).

Power to seize property, etc., in certain circumstances

- 31.—**(1) The Registrar may seize any property — 5
- (a) in respect of which a contravention of this Act is suspected to have been committed;
 - (b) that is suspected to have been used or intended to be used in a contravention of this Act; or
 - (c) that is suspected to constitute evidence of a contravention of this Act. 10
- (2) Subsection (1) does not apply to property held or suspected to be held in an account or a safe deposit box in a financial institution.
- (3) The occupier or person-in-charge of a place from which property is to be seized under subsection (1), or a representative of the occupier or person-in-charge, may attend during the seizure. 15
- (4) The Registrar must prepare and sign a list of any property seized under subsection (1), recording the location from which each item of property is seized.
- (5) A signed copy of the list must be given to the occupier or person-in-charge of the place from which property was seized, or a representative of the occupier or person-in-charge. 20
- (6) Instead of seizing any property under subsection (1), the Registrar may, by order in writing —
- (a) prohibit any person from dealing with such property; and 25
 - (b) require any person to affix the order or a copy of the order on or near such property.
- (7) It shall be an offence for a person to —
- (a) knowingly obstruct or prevent, or attempt to obstruct or prevent, the Registrar from exercising the powers under subsection (1) or (6); or 30

- (b) dispose of or deal in any property contrary to the Registrar's order under subsection (6).

Power of court over seized property, etc.

5 **32.**—(1) Sections 370, 371 and 372 of the Criminal Procedure Code (Cap. 68) are to apply, with the necessary modifications, when the Registrar seizes property or prohibits any dealing in property under section 31.

10 (2) Notwithstanding subsection (1), when the Registrar seizes a pledge or prohibits any dealing in a pledge under section 31, the court may, at any time and on the application of a person interested in the pledge, order that the pledge be released to the person or dealt with as the court sees fit.

Registrar's powers may be exercised by authorised persons

15 **33.**—(1) Subject to subsection (2), the Registrar's powers and duties under this Division may be exercised and performed by a person authorised by the Registrar.

(2) The Minister may prescribe —

- 20 (a) any class of persons who may, or cannot, be authorised to exercise the Registrar's powers and perform the Registrar's duties under this Division; and
- (b) the conditions to be complied with by any person authorised under subsection (1) to exercise the Registrar's powers or perform the Registrar's duties.

Division 5 — Regulatory action

25 **Power to give directions**

34.—(1) For the purpose of carrying out the provisions of this Act, the Registrar may give written directions, either of a general or specific nature, to a licensee.

30 (2) The Registrar may, in particular, give directions setting out the manner in which a licensee is to conduct the business of pawnbroking.

(3) A licensee which fails or refuses to comply with a direction under subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$20,000.

(4) A direction under subsection (1) need not be published in the *Gazette*.

5

Composition of offences

35.—(1) The Minister may prescribe any offence under this Act as a compoundable offence.

(2) The Registrar may compound any offence under this Act that is prescribed as a compoundable offence by collecting a sum not exceeding \$5,000 from a person reasonably suspected of having committed the offence.

10

(3) On payment of such sum of money under subsection (2), no further criminal proceedings are to be taken against that person in respect of the offence.

15

(4) All sums collected under this section must be paid into the Consolidated Fund.

Variation, suspension or revocation of licence

36.—(1) This section applies where —

- (a) a licensee is convicted of an offence under this Act;
- (b) the Registrar compounds an offence under this Act committed by the licensee;
- (c) a licensee contravenes a provision of this Act, which contravention is not an offence;
- (d) the Registrar is satisfied that a licensee has conducted its business of pawnbroking in an improper or unsatisfactory manner; or
- (e) the Registrar is satisfied that a licensee is not able to carry on its business of pawnbroking in a proper and satisfactory manner.

20

25

30

(2) On the occurrence of any event specified in subsection (1), the Registrar may —

(a) do either or both of the following:

(i) vary any condition of the licensee's licence;

(ii) suspend the licensee's licence in respect of all or any of the licensee's places of business; or

5 (b) revoke the licensee's licence with effect from a specified date.

Financial penalty and forfeiture of security deposit

37.—(1) This section applies where —

(a) a licensee contravenes a provision of this Act, which contravention is not an offence;

10 (b) the Registrar is satisfied that a licensee has conducted its business of pawnbroking in an improper or unsatisfactory manner; or

15 (c) the Registrar is satisfied that a licensee is not able to carry on its business of pawnbroking in a proper and satisfactory manner.

(2) On the occurrence of an event specified in subsection (1), the Registrar may, in addition to taking any action under section 36(2) —

20 (a) order the licensee to pay a financial penalty of an amount not exceeding \$20,000 for each occurrence of the event, up to a cumulative maximum of \$100,000 at a time; and

(b) if the licensee fails to pay any financial penalty ordered under paragraph (a), enforce the payment by forfeiting the whole or any part of the deposit placed by the licensee under section 27.

Registrar to give opportunity to make representations before taking action under section 36 or 37

38.—(1) The following provisions apply before the Registrar makes a decision to take any action against a licensee under section 36 or 37.

(2) The Registrar must give the licensee written notice of —

30 (a) the Registrar's intention to make the decision; and

(b) the date on which the Registrar intends to make the decision.

(3) The date in subsection (2)(b) must not be earlier than 21 days after the date of the written notice in subsection (2).

(4) The licensee may make representations to the Registrar at any time before the date in subsection (2)(b).

(5) The Registrar must consider any representation made by the licensee before the date in subsection (2)(b). 5

(6) The Registrar must, on or after the date in subsection (2)(b), give the licensee written notice of the Registrar's final decision.

(7) In the case of a decision to suspend or revoke a licence, the Registrar's final decision takes effect 14 days (or such longer period as the Registrar may specify) after the date of the written notice in subsection (6). 10

Appeal to Minister

39. A person aggrieved by the Registrar's decision under section 36 or 37 may appeal to the Minister. 15

Division 6 — Lapsing, expiry or revocation of licence

Lapsing of licence

40. A licence lapses on the earliest of the following dates (so far as they are applicable):

(a) on the date the Registrar approves the licensee's application to surrender the licence; 20

(b) on the date the licensee goes into liquidation or is wound up or otherwise dissolved under the Companies Act (Cap. 50);

(c) where the licensee has not commenced the business of pawnbroking for a continuous period of 6 months (or such longer period as the Registrar may allow) after the grant of or renewal of the licence, on the date immediately after the expiry of that period; 25

(d) where the licensee has ceased to carry on its business of pawnbroking for a continuous period of 6 months (or such longer period as the Registrar may allow), on the date immediately after the expiry of that period; 30

(e) on such other dates as may be prescribed.

Registrar's powers when licence expires, lapses or is revoked

41.—(1) This section applies —

(a) where a licence has lapsed;

5 (b) where a licence has expired; or

(c) where a licensee has been informed by the Registrar under section 38(6) of the Registrar's final decision to revoke the licence under section 36(2)(b), even if the licensee has appealed against the Registrar's decision.

10 (2) This section has effect for the purposes of securing the orderly cessation of the licensee's business of pawnbroking, protecting the interests of pawners and securing the licensee's compliance with the provisions of this Act.

(3) The Registrar may, for the purposes of this section —

15 (a) give directions to —

(i) the licensee;

(ii) any director or manager of the licensee; and

20 (iii) if there is no such director or manager who is able to comply with the directions of the Registrar, any person who was a director of the licensee in the 6 months before the date of the relevant event in subsection (1);

(b) in particular, give all or any of the following directions:

(i) direct the licensee to continue complying with all or any of its statutory duties under Division 3;

25 (ii) direct that any records kept by the licensee be delivered to the Registrar, a police officer, the liquidator of the licensee (if any) or any other person;

30 (iii) direct that the licensee's place or places of business be kept open for the redemption of pledges for such period and at such times as the Registrar may specify;

- (iv) direct the licensee to forfeit and sell any pledges taken by it that are unredeemed;
 - (c) intervene in any proceedings involving the licensee; and
 - (d) apply or forfeit the whole or any part of the deposit placed by the licensee under section 27(1). 5
- (4) The Registrar may not take any action under subsection (1) that is inconsistent with any order of court in any proceedings involving the licensee.
- (5) A person who complies with a direction of the Registrar under subsection (3)(a) or (b) is not liable for any loss or damage suffered by any person as a result. 10
- (6) A person who, without reasonable excuse, fails to comply with a direction of the Registrar under subsection (3)(a) or (b) shall be guilty of an offence.
- (7) In this section, “licensee” includes a pawnbroker whose licence has expired or lapsed or is revoked. 15

Validity of transactions not affected

42. The lapsing, expiration or revocation of a licence does not affect the validity of any transaction entered into by the licensee.

Division 7 — Waivers

20

Waiver certificate

- 43.—**(1) The Minister may, on the application of a person —
- (a) grant a waiver certificate, with or without conditions, waiving the application of all or any of the requirements of this Act as they concern the person, for such period as the Minister may specify; 25
 - (b) add to, vary or cancel any condition of such waiver; or
 - (c) extend the period of such waiver.
- (2) The Minister may require a person granted a waiver certificate under subsection (1)(a) to pay a fee for the purpose of recovering the 30

costs of regulating the person's compliance with the conditions of the waiver.

(3) A waiver certificate granted under subsection (1)(a) need not be published in the *Gazette*.

5 (4) An application under this section —

(a) must be made in such form as the Registrar may specify;

(b) must include such information as the Registrar may require in any case; and

(c) must be accompanied by the payment of the prescribed fee.

10 **Revocation, etc., of waiver certificate**

44. Subject to section 45, the Minister may by notice in writing to a person granted a waiver certificate under section 43(1)(a) —

(a) add to, vary or cancel any condition of the waiver;

(b) reduce the period of the waiver; or

15 (c) revoke the waiver.

Minister to give opportunity to make representations before revoking waiver certificate, etc.

20 **45.—**(1) The following provisions are to apply before the Minister makes a decision under section 44 in relation to a person granted a waiver certificate under section 43(1)(a).

(2) The Minister must give the person written notice of —

(a) the Minister's intention to make the decision; and

(b) the date on which the Minister intends to make the decision.

25 (3) The date in subsection (2)(b) must not be earlier than 21 days after the date of the written notice in subsection (2).

(4) The person may make representations to the Minister at any time before the date in subsection (2)(b).

(5) The Minister must consider any representation made by the person before the date in subsection (2)(b).

(6) The Minister must, on or after the date in subsection (2)(b), give the person written notice of the Minister's final decision.

(7) The Minister's final decision takes effect 14 days (or such longer period as the Minister may specify) after the date of the written notice in subsection (6).

5

Class waiver

46. The Minister may make rules for the waiver of the application of any (but not all) of the requirements of this Act as they concern any class of persons, subject to such conditions as may be prescribed in those rules.

10

Validity of transactions not affected by variation or revocation of waiver

47. The variation or revocation of a waiver certificate granted to a person under section 43(1)(a), or a class waiver under section 46 which applied to a person, does not affect the validity of any transaction entered into by the person before the variation or revocation, as the case may be.

15

PART 3

RIGHTS AND OBLIGATIONS WHEN GOODS ARE PAWNED

20

Division 1 — Pawning of goods

Valuation to be given beforehand

48.—(1) A pawnbroker must, before taking goods in pawn, give the person offering to pawn the goods a valuation of the goods offered to be pawned.

25

(2) A loan agreement is voidable at the instance of the pawner unless subsection (1) is fully complied with.

(3) A pawnbroker is not liable for any loss or damage suffered (whether by the pawner or by any third party) as a result of relying on a valuation given under subsection (1), unless the pawnbroker did not

30

act in good faith, or did not take reasonable care, in giving the valuation.

Pawn ticket to be issued

5 **49.**—(1) A pawnbroker must not take goods in pawn unless the pawnbroker issues to the pawner a pawn ticket in accordance with this section.

(2) A pawn ticket must be marked with a unique identification number, and must contain such particulars in such format as may be prescribed.

10 (3) The pawner must sign a copy of the pawn ticket.

(4) The pawnbroker must keep a signed copy of the pawn ticket.

(5) A loan agreement is voidable at the instance of the pawner unless subsections (1), (2), (3) and (4) are fully complied with.

Permitted profit and fees

15 **50.**—(1) When a pawnbroker lends money on the security of a pledge, the pawnbroker must not take any profit on the loan or charge any fee other than what is permitted under the Second Schedule.

(2) A loan agreement is void to the extent that it purports to confer on a pawnbroker a right to take any profit on the loan or charge any fee
20 other than what is permitted under the Second Schedule.

(3) A pawnbroker which contravenes subsection (1) shall be guilty of an offence.

Sections 48, 49 and 50 to apply, with modifications, to agreement to extend redemption period

25 **51.**—(1) Where the redemption period for a pledge is extended by agreement, sections 48, 49 and 50 apply as if the pledge is offered to be pawned for the first time, subject to the modifications in subsections (2) to (5).

(2) The pawnbroker must cancel the original pawn ticket.

(3) The new pawn ticket issued by the pawnbroker must state the profit due at the date of the agreement to extend the redemption period, in addition to the particulars required under section 49(2).

(4) The rights and obligations under the original agreement to pawn the goods are deemed to have merged in the agreement to extend the redemption period. 5

(5) Where the pawnbroker fails to give a valuation in accordance with section 48(1), or purports to take any profit or charge any fee contrary to section 50(1) —

- (a) the validity of the agreement to extend the redemption period is not thereby affected; but 10
- (b) the pawnbroker is not entitled to take any profit on the loan in respect of the extended redemption period.

Division 2 — Redemption of pledges

Persons entitled to redeem

 15

52. The following persons are entitled to redeem a pledge, unless they have assigned or otherwise transferred the right to do so:

- (a) the pawner;
- (b) a person stated on the pawn ticket as the person on whose behalf the goods are pawned; 20
- (c) a person to whom the right of redemption has been assigned or otherwise transferred.

Right to redeem may be freely transferred, etc.

53.—(1) A pawn ticket, and the right to redeem a pledge, may be assigned or otherwise transferred to any person (including to the pawnbroker who issued the pawn ticket and any other pawnbroker) at any time (including during the redemption period). 25

(2) An agreement is void to the extent that it purports —

- (a) to provide that a pawn ticket, or the right to redeem a pledge, may not be assigned or otherwise transferred; or 30

(b) to place any restriction or condition on such assignment or transfer.

(3) In particular, the following terms of an agreement are void:

(a) a term that requires a person to offer to assign or otherwise transfer a pawn ticket to the pawnbroker which issued the pawn ticket before the person can assign or transfer the pawn ticket to any other person;

(b) a term that requires a person to offer to assign or otherwise transfer the right to redeem a pledge to the pawnbroker which issued the pawn ticket before the person can assign or transfer the right to any other person.

Time for redeeming pledge

54.—(1) A pledge can be redeemed —

(a) at any time during the redemption period; and

(b) at any time after the end of the redemption period but before the pledge is forfeited.

(2) Subject to subsection (3), the redemption period is 6 months after the date on which the pledge was made, or such longer period as the parties may agree in the loan agreement or in a subsequent agreement.

(3) Where the redemption period under subsection (2) ends on a day when the pawnbroker is closed for business —

(a) the redemption period is extended to the next day the pawnbroker is open for business; and

(b) the pawnbroker must not charge any further profit or fee if a pledge is redeemed on the day referred to in paragraph (a).

Extension of redemption period

55.—(1) The redemption period may be extended for one or more times by agreement between the pawnbroker and a person entitled to redeem the pledge.

(2) The redemption period may be extended even after it has expired.

(3) Section 51 applies to every extension of the redemption period under this section.

How pledge may be redeemed

56. A person entitled to redeem a pledge may do so by complying with all of the following requirements at any time within the redemption period or before the pledge is forfeited: 5

- (a) presenting the pawn ticket (including a replacement pawn ticket but excluding any pawn ticket which has been cancelled);
- (b) repaying the loan and profit secured by the pledge; 10
- (c) providing the person's identification information.

Pawnbroker to allow redemption of pledge except in certain circumstances

57.—(1) A pawnbroker must allow a person who has complied with section 56 to redeem a pledge, except in the circumstances in subsection (2). 15

(2) A pawnbroker must not allow a person to redeem a pledge in any of the following circumstances:

- (a) the pawnbroker knows that the person presenting the pawn ticket is not a person entitled to redeem the pledge; 20
- (b) the pawnbroker has reason to believe that the person presenting the pawn ticket is not a person entitled to redeem the pledge, and continues to have reason to so believe even after taking reasonable steps to ascertain whether the person is entitled to redeem the pledge; 25
- (c) the pawn ticket is a replacement pawn ticket issued by the pawnbroker pursuant to an application under section 66, and the pawnbroker, after the application is made, becomes aware or has reason to believe that the matters stated in the application are materially false or incomplete. 30

Protection from liability when pawnbroker acts according to section 57

5 **58.**—(1) Subject to subsection (2), a pawnbroker is not liable to any person for any loss or damage suffered as a result of the pawnbroker allowing or refusing, in accordance with section 57, the redemption of a pledge.

10 (2) Subsection (1) does not exclude a pawnbroker’s liability (if any) to the rightful owner of goods pawned without the owner’s authority, unless the pawnbroker has, before taking possession of the goods as a pledge, taken reasonable steps to satisfy itself that the pawner was the rightful owner of the goods or had the authority to pawn them.

Pawnbroker’s obligations when goods redeemed

15 **59.**—(1) When a pledge is redeemed, a pawnbroker must —
 (a) issue a receipt to the person redeeming the goods; and
 (b) cancel the pawn ticket.

(2) The receipt must be in such form as the Registrar may specify.

Pawnbroker’s liability if unable to produce goods, etc., upon redemption

20 **60.**—(1) This section applies where —
 (a) a pawnbroker is required under section 57 to allow a person to redeem the pledge; but
 (b) the pawnbroker is unable for any reason to —
 (i) produce the pledge; or
 (ii) produce the pledge in the physical condition the pledge
 25 was in when the pawnbroker first took possession of the pledge.

(2) Where the pawnbroker is unable to produce the pledge, the pawnbroker is liable to compensate the person for the value of the pledge.

30 (3) Where the pawnbroker is unable to produce the pledge in the physical condition the pledge was in when the pawnbroker first took

possession of the pledge, the person may choose either of the following remedies:

- (a) compensation by the pawnbroker for the value of the pledge;
- (b) the return of the pledge, and compensation by the pawnbroker for any decrease in the value of the pledge caused by the change in physical condition.

5

(4) If the person chooses the remedy in subsection (3)(a), the pledge becomes the absolute property of the pawnbroker.

(5) For the purposes of this section, the value of the pledge is the value as determined by the valuation provided under section 48(1) when the pawnbroker first took possession of the pledge.

10

Division 3 — Forfeiture of unredeemed pledges

Forfeiture and effect

61.—(1) A pledge is forfeited one month after the pawnbroker serves a notice of forfeiture in accordance with sections 62 and 63, unless it is earlier redeemed.

15

(2) When a pledge is forfeited —

- (a) the pledge becomes the pawnbroker's absolute property; and
- (b) the loan and any profit secured on the pledge are deemed to be fully repaid.

20

Notice of forfeiture

62.—(1) A notice of forfeiture must contain the following information:

- (a) the name of the pawnbroker;
- (b) the pawn ticket number;
- (c) a statement that the pledge will be forfeited one month after the date on which the notice is served, and that the pledge may be redeemed at any time before it is forfeited;
- (d) the amount to be paid to redeem the pledge or extend the redemption period;

25

30

- (e) a valuation of the pledge at the time the notice is issued;
- (f) the address and business hours of the licensed place of business at which the pledge can be redeemed;
- (g) such other particulars as may be prescribed.

5 (2) A pawnbroker is not liable for any loss or damage suffered (whether by the pawner or by any other person) as a result of relying on a valuation provided under subsection (1)(e), unless the pawnbroker did not act in good faith or take reasonable care in providing the valuation.

10 **Time for, and manner of, serving notice of forfeiture**

63.—(1) A notice of forfeiture must be served —

- (a) within 2 months after the expiry of the redemption period;
- (b) in the prescribed manner; and
- (c) at the pawnbroker’s cost.

15 (2) A notice of forfeiture is deemed to be served in such circumstances as may be prescribed.

Forfeiture to be sole remedy of pawnbroker

64. A pawnbroker —

- (a) cannot sue, in debt or otherwise, for the loan or profit secured by the pledge; and
- (b) cannot realise the pawnbroker’s security interest in the pledge other than by forfeiture under section 61.

Consequences if pawnbroker purports to realise security interest other than by forfeiture

25 **65.**—(1) Where a pawnbroker purports to realise the pawnbroker’s security interest in a pledge other than by forfeiture under section 61 —

- (a) if the value of the pledge exceeds the loan and profit secured by the pledge, the pawnbroker is liable to the person entitled to redeem the pledge for the surplus;

(b) if the value of the pledge is equal to or less than the total amount of the loan and profit secured by the pledge, the loan and profit are extinguished; and

(c) the pawnbroker does not thereby acquire any property in the pledge. 5

(2) For the purposes of subsection (1), the value of the pledge is the value as determined by the valuation provided under section 48(1) when the pawnbroker first took possession of the pledge.

Division 4 — Related matters

Protection of person entitled to redeem pledge but not having pawn ticket 10

66.—(1) This section seeks to protect a person who is entitled to redeem a pledge but does not have a pawn ticket.

(2) A person who claims to be entitled to redeem a pledge, but who does not have a pawn ticket, may make an application to a pawnbroker in accordance with this section. 15

(3) An application under this section must state —

(a) the identification information of the applicant;

(b) the grounds on which the applicant claims to be entitled to redeem a pledge; 20

(c) such matters as the applicant relies on in support of paragraph (b);

(d) that the applicant has not assigned or otherwise transferred the applicant's right to redeem the pledge; and

(e) such other matters as may be prescribed. 25

(4) Upon receiving an application under this section and the prescribed fee, the pawnbroker must make reasonable inquiries as to the truth of the matters stated in the application, including inquiries with the pawner.

(5) After a pawnbroker has made reasonable inquiries under subsection (4), the pawnbroker must issue a replacement pawn ticket to the applicant and cancel the existing pawn ticket, unless the 30

pawnbroker knows or has any reason to believe that the applicant is not entitled to redeem the pledge.

5 (6) An applicant who has been issued a pawn ticket under subsection (5) has such rights and remedies against the pawnbroker as the pawner would have, and may freely assign or otherwise transfer the pawn ticket.

10 (7) A pawnbroker which, in relation to a pledge, does or omits to do anything in accordance with this section is not liable to any person entitled to redeem the pledge for any loss or damage caused by such act or omission.

(8) An application under this section is deemed to be a declaration for the purposes of sections 199 and 200 of the Penal Code (Cap. 224).

Protection of rightful owner of goods wrongfully pawned

15 **67.—**(1) This section seeks to protect the rightful owner of goods that are wrongfully pawned.

(2) A person who claims to be the rightful owner of goods that are wrongfully pawned may serve a notice on a pawnbroker in accordance with this section.

(3) A notice under this section must state —

- 20 (a) the identification information of the person serving the notice;
- (b) that the person is the owner of goods which have been wrongfully pawned;
- (c) such matters as the person relies on in support of paragraph (b); and
- 25 (d) such other information as may be prescribed.

(4) Upon receiving a notice under this section and the prescribed fee —

- 30 (a) if there is a court order for the pledge to be disposed or otherwise dealt with, the pawnbroker must deal with the pledge according to the court order; or
- (b) if there is no court order for the pledge to be disposed or otherwise dealt with, the pawnbroker may refuse to deal with

the pledge, including by refusing to allow the pledge to be redeemed —

(i) for a period of 3 months after the date on which the notice is served on the pawnbroker; or

(ii) if an action is commenced in respect of that pledge within the period in sub-paragraph (i), for so long as that action is pending. 5

(5) A pawnbroker which, in relation to a pledge, does or omits to do anything in accordance with subsection (4) is not liable to any person for any loss or damage caused by such act or omission. 10

(6) No profit is chargeable on the loan secured on the pledge during the period that the pawnbroker refuses to deal with the pledge under subsection (4)(b).

(7) A notice under this section is deemed to be a declaration for the purposes of sections 199 and 200 of the Penal Code (Cap. 224). 15

Preservation of rights and remedies

68. Unless the context otherwise requires, nothing in this Part limits, restricts or otherwise affects any right, title, interest, privilege, obligation or liability of a person.

No contracting out of this Part or any rule of law 20

69. Any term of an agreement, and anything stated on a pawn ticket, is void to the extent that it purports to exclude or modify the operation of this Part or any rule of law relating to the pawning of goods.

PART 4

OFFENCES 25

Providing false information to Registrar

70.—(1) A person —

(a) must not provide to the Registrar, for the purposes of this Act, any information that the person knows or has reason to believe is materially false or misleading; and 30

(b) must not omit to provide any information to the Registrar for the purposes of this Act, if the person knows or has reason to believe that such omission will create a materially false or misleading impression.

5 (2) A person who contravenes subsection (1)(a) or (b) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$40,000 or to imprisonment for a term not exceeding 12 months or to both.

10 **Offences relating to pawning of goods and redemption of pledges**

71. A person shall be guilty of an offence if —

(a) the person pawns or attempts to pawn any goods, knowing or having reason to believe that the person is not authorised by the owner of the goods to pawn the goods;

15 (b) the person pawns or attempts to pawn any goods which the person knows or has reason to believe were stolen or obtained through fraudulent or dishonest means;

(c) the person redeems or attempts to redeem a pledge when the person knows or has reason to believe that the person has no title to the goods and is not entitled to redeem the goods;

20

(d) the person redeems or attempts to redeem a pledge with a pawn ticket which the person knows or has reason to believe was forged or fraudulently obtained; or

(e) the person knowingly gives any false information when pawning goods or redeeming a pledge.

25

Offences by pawnbroker

72.—(1) It shall be an offence for a pawnbroker to take goods in pawn —

(a) from a person who appears to be intoxicated;

30 (b) from a person below the age of 18 years; or

- (c) without taking reasonable steps to satisfy itself that the goods were not stolen or obtained through fraudulent or dishonest means.

(2) It shall be an offence for a pawnbroker to make an advance on a pledge in any manner other than in money that is legal tender in Singapore. 5

Offences, etc., when goods are reported to be lost, etc.

73.—(1) A police officer may provide a pawnbroker with information concerning property that is lost, stolen or fraudulently or dishonestly disposed of. 10

(2) If a pawnbroker discovers that any goods in the possession of the pawnbroker, or offered to be pawned to the pawnbroker, have been reported to the police as lost, stolen or fraudulently or dishonestly obtained, the pawnbroker —

- (a) must immediately detain the goods; 15
- (b) must, as soon as practicable, inform a police officer; and
- (c) may detain the person offering the goods until the arrival of a police officer.

(3) A pawnbroker which fails to comply with subsection (2)(a) or (b) shall be guilty of an offence. 20

PART 5

PREVENTION OF MONEY LAUNDERING
AND FINANCING OF TERRORISM

Programmes and measures to prevent money laundering and terrorism financing 25

74.—(1) A pawnbroker must implement adequate programmes and measures to prevent money laundering and terrorism financing.

(2) A pawnbroker must, in particular —

- (a) take appropriate steps to identify, assess and understand the money laundering and terrorism financing risks in relation to — 30

- (i) its pawners;
 - (ii) the countries or jurisdictions which its pawners are from or in;
 - 5 (iii) the countries or jurisdictions in which it has operations; and
 - (iv) its products, services, transactions and delivery channels;
- (b) for the purpose of paragraph (a) —
- (i) document its risk assessments;
 - 10 (ii) consider all relevant risk factors before determining the overall level of risk and the appropriate type and extent of mitigation to be applied;
 - (iii) keep its risk assessments up to date; and
 - (iv) have appropriate mechanisms to provide its risk
 - 15 assessments to the Registrar;
- (c) develop and implement internal policies, procedures and controls, which must be approved by its senior management, to manage and effectively mitigate the money laundering and terrorism financing risks identified by it or notified to it by the Registrar, including —
- 20 (i) making appropriate compliance management arrangements, including the appointment of a compliance officer at the management level; and
 - (ii) applying adequate screening procedures when hiring
 - 25 employees;
- (d) have an ongoing programme to train employees on the internal policies, procedures and controls in paragraph (c);
- (e) have an independent audit function to test the internal policies, procedures and controls in paragraph (c); and
- 30 (f) monitor the implementation of the internal policies, procedures and controls in paragraph (c), and enhance them if necessary.

(3) The type and extent of the measures to be taken under subsections (1) and (2) must be appropriate having regard to the risk of money laundering and terrorism financing and the size of the pawnbroker's business.

(4) Where a pawnbroker is a company incorporated in Singapore and has a branch or subsidiary, whether in Singapore or elsewhere, the pawnbroker must develop and implement a group-level programme to prevent money laundering and terrorism financing, which programme — 5

(a) must be applicable to the pawnbroker's branches and subsidiaries, whether in Singapore or elsewhere; 10

(b) must include the measures specified under subsection (2);

(c) must be appropriate to the business of the pawnbroker's branches and subsidiaries;

(d) must be implemented effectively at the level of the pawnbroker's branches and subsidiaries; 15

(e) must include policies and procedures for providing and sharing information required for the purposes of customer due diligence measures under Part 2 of the Third Schedule and generally for the management of risks relating to money laundering and terrorism financing; and 20

(f) must include adequate safeguards on the confidentiality and use of information exchanged between the pawnbroker and its branches and subsidiaries.

(5) Where a pawnbroker referred to in subsection (4) has a branch or subsidiary in a country or territory outside Singapore that has laws for the prevention of money laundering or the financing of terrorism that differ from those in Singapore — 25

(a) the pawnbroker must require the management of that branch or subsidiary to apply the more stringent set of laws, to the extent that the law of the host country or territory permits; and 30

(b) where that branch or subsidiary is unable to fully apply the more stringent set of laws, the pawnbroker must report this to

the Registrar and must, in lieu of paragraph (a), comply with such directions as may be given by the Registrar.

(6) A pawnbroker which contravenes subsection (1), (2), (4) or (5) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$100,000.

Customer due diligence measures, additional measures and measures relating to targeted financial sanctions

75.—(1) A pawnbroker must perform the customer due diligence measures specified in Part 2 of the Third Schedule.

(2) A pawnbroker must perform the additional measures specified in Part 3 of the Third Schedule.

(3) A pawnbroker must perform the measures relating to targeted financial sanctions against terrorism in Part 4 of the Third Schedule.

(4) A pawnbroker which contravenes subsection (1), (2) or (3) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$100,000.

Record-keeping

76.—(1) A pawnbroker must keep all documents and information (including any analysis performed) relating to a person that the pawnbroker obtained as a result of performing the measures specified in the Third Schedule, for a period of 5 years after the latest of the following dates (so far as they are applicable):

(a) the date on which the person offered to pawn goods to the pawnbroker;

(b) the date on which the person redeemed a pledge from the pawnbroker;

(c) the date on which the pawnbroker forfeited a pledge made by the person;

(d) the date on which the pawnbroker ended any transaction or relationship with the person;

(e) the date of occurrence of such other matter relating to this Part as may be prescribed.

(2) A pawnbroker must keep the documents and information required to be kept under subsection (1) in such form as may be prescribed.

(3) A pawnbroker must make the documents and information required to be kept under subsection (1) available upon request to the Registrar and such other authorities as may be prescribed. 5

(4) A pawnbroker which contravenes subsection (1), (2) or (3) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$100,000.

(5) This section is in addition to the pawnbroker's statutory duty under section 23. 10

PART 6

MISCELLANEOUS

Power of court when goods wrongfully pawned

77. When in any civil or criminal proceedings the court finds that goods have been wrongfully pawned, the court may — 15

- (a) order that the goods be delivered to their rightful owner, with or without a further order that the rightful owner pays a sum to another person;
- (b) order the sale of the goods and the payment of the proceeds to the rightful owner of the goods or into court; 20
- (c) order that compensation be paid to the rightful owner of the goods; or
- (d) forfeit the goods.

Provisions relating to appeals to Minister 25

78.—(1) An appeal to the Minister against a decision of the Registrar must be made within 14 days after the date of the decision appealed against.

(2) Subject to subsection (3), a decision appealed against is suspended until the appeal is determined, unless the Minister or Registrar otherwise orders. 30

(3) Any part of a decision that is not appealed against continues to have effect.

(4) The Minister may determine an appeal by confirming, varying or reversing the Registrar's decision.

5 (5) The Minister's decision in an appeal is final.

General penalty

10 **79.** A person guilty of an offence under this Act for which no penalty is expressly provided 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.

Offences by bodies corporate, etc.

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

15 (a) to have been committed with the consent or connivance of an officer; or

(b) to be attributable to any neglect on the part of an officer,
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.

20 (2) Where the affairs of a body corporate are managed by its members, subsection (1) applies in relation to the acts and defaults of a member in connection with the member's functions of management as if the member 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 the part of a partner,
the partner as well as the partnership shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

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

(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,

5

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;

10

“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

15

(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 such a committee, and includes any person purporting to act in any such capacity;

20

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

Jurisdiction of District and Magistrates’ Courts

25

81. Notwithstanding any provision to the contrary in the Criminal Procedure Code (Cap. 68), a District Court or a Magistrate’s Court —

(a) may try any offence under this Act; and

(b) may impose the full punishment for the offence.

Amendment of Schedules

30

82.—(1) The Minister may, by order published in the *Gazette*, amend the First, Second or Third Schedule.

(2) The Minister may, in an order under subsection (1), make such incidental, consequential or supplementary provisions as may be necessary or expedient.

5 (3) An order made under subsection (1) must be presented to Parliament as soon as possible after publication in the *Gazette*.

Rules

83.—(1) The Minister may make rules —

- (a) prescribing the circumstances in which a licence must not be granted or renewed;
- 10 (b) prescribing different classes of licences, the persons eligible to hold each class of licence, and the conditions applicable to each class of licence;
- (c) prescribing the records to be kept by a pawnbroker and the manner in which the records are to be kept;
- 15 (d) prescribing the form of the pawn ticket to be issued by a pawnbroker and the particulars to be entered therein;
- (e) prescribing generally the manner in which, and the conditions under which, the business of pawnbroking is to be conducted;
- (f) prescribing the fees to be paid for the purposes of this Act, including licence fees;
- 20 (g) prescribing the procedure to be followed by an applicant for a licence;
- (h) to provide for the prevention of money laundering and terrorism financing, or for the reporting of transactions which may involve money laundering or terrorism financing;
- 25 (i) prescribing the offences under this Act which may be compounded;
- (j) prescribing anything that is required or permitted to be prescribed under this Act; and
- 30 (k) generally for carrying out the purposes of and giving effect to the provisions of this Act.

(2) The rules made under this section may provide that any contravention of any provision of the rules shall be an offence punishable with a fine not exceeding \$20,000 or with imprisonment for a term not exceeding 12 months or with both.

Repeal

5

84. The Pawnbrokers Act (Cap. 222, 1994 Ed.) is repealed.

Savings and transitional provisions

85.—(1) The persons appointed as the Registrar of Pawnbrokers and Assistant Registrars of Pawnbrokers under the repealed Act are deemed to be appointed as the Registrar of Pawnbrokers and Assistant Registrars of Pawnbrokers, respectively, under this Act.

10

(2) An offence under the repealed Act may be investigated under the Criminal Procedure Code (Cap. 68) and the provisions of this Act.

(3) A licence which was granted under the repealed Act and which was in force immediately before the date of commencement of this Act is deemed to be granted under section 7(1), and continues to have effect until 31 December of the year in which it was granted, subject to the provisions of this Act.

15

(4) A licence which is deemed under subsection (3) to be granted under section 7(1) may be renewed under section 9(2), subject to the provisions of this Act.

20

(5) An application for the grant of a licence under the repealed Act which was pending immediately before the date of commencement of this Act is deemed to be made under this Act.

(6) A substantial shareholder of a pawnbroker granted a licence under the repealed Act is, if the licence was in force immediately before the date of commencement of this Act, deemed to have been approved under section 12(2)(a), but only until 31 December of the year in which the licence was granted and subject to the provisions of this Act.

25

30

(7) A director of a pawnbroker granted a licence under the repealed Act is, if the licence was in force immediately before the date of commencement of this Act, deemed to have been approved under

section 14(3)(a), but only until 31 December of the year in which the licence was granted and subject to the provisions of this Act.

5 (8) A manager of a pawnbroker granted a licence under the repealed Act is, if the licence was in force immediately before the date of commencement of this Act, deemed to have been approved under section 14(3)(a), but only until 31 December of the year in which the licence was granted and subject to the provisions of this Act.

(9) Where an article (referred to in this subsection as the pledge) is pawned with a pawnbroker under the repealed Act —

10 (a) subject to paragraph (b), the pledge may be redeemed in accordance with sections 17 and 19 of the repealed Act as if those sections had not been repealed;

15 (b) the period under section 17 of the repealed Act within which the pledge is redeemable may be extended by agreement in accordance with section 55, and upon such extension of that period, this Act applies to the pledge and to the agreement to extend that period; and

20 (c) if the pledge is not redeemed in accordance with sections 17 and 19 of the repealed Act and the period referred to in paragraph (b) is not extended by agreement in accordance with section 55, the pledge must be disposed of as follows:

(i) if the pledge is pawned for \$50 or less, the pledge must be disposed of in accordance with section 18 of the repealed Act as if that section had not been repealed; or

25 (ii) if the pledge is pawned for more than \$50 —

(A) the pledge must be disposed of —

30 (AA) by sale by an auctioneer in accordance with section 20 of the repealed Act as if that section had not been repealed, if the disposal occurs within the period of 8 months after the date of commencement of this Act; or

(AB) by sale in such manner as the Registrar may specify, if the disposal occurs after

the period referred to in sub-paragraph (AA);

(B) where the pledge is sold at a price exceeding the loan and profit secured by the pledge, the surplus must be dealt with — 5

(BA) in accordance with sections 23 and 24(1), (2), (3), (5) and (6) of the repealed Act as if those provisions had not been repealed; and

(BB) in accordance with sub-paragraph (C); and 10

(C) where a claim is made to the Registrar for any surplus paid to the Accountant-General under section 24(2) of the repealed Act read with sub-paragraph (B), the Registrar may, if the Registrar considers the claimant to be entitled to the surplus, order the Accountant-General to pay the surplus to the claimant. 15

(10) Any subsidiary legislation made under the repealed Act and in force immediately before the date of commencement of this Act continues in force as if made under this Act, so far as the subsidiary legislation is not inconsistent with the provisions of this Act and until the subsidiary legislation is revoked or repealed. 20

(11) Any written law or document referring to the repealed Act or any provision of that Act is, as far as may be necessary for preserving its effect, to be construed as referring, or as including a reference to, this Act or the corresponding provision of this Act, as the case may be. 25

(12) For a period of 2 years after the date of commencement of this Act, the Minister may, by rules, prescribe such additional provisions of a savings or transitional nature consequent on the enactment of this Act as the Minister may consider necessary or expedient. 30

Consequential amendments to other written laws

86. The provisions of the Acts specified in the first column of the Fourth Schedule are amended in the manner set out in the second column thereof.

5

FIRST SCHEDULE

Section 3(4)

TRANSACTIONS WHERE GOODS ARE DEEMED TO BE OR NOT TO BE PAWNED

Sale and re-purchase agreement

10 1.—(1) This paragraph applies to an agreement between 2 persons, X and Y, where —

- (a) X sells goods to Y for a price; and
- (b) X is required to re-purchase the goods from Y at a higher price.

(2) In such an agreement —

- 15 (a) the goods are deemed to be pawned;
- (b) X is deemed to be the pawner;
- (c) the sale price is deemed to be the sum loaned; and
- (d) the difference between the sale price and the re-purchase price is deemed to be the profit taken for the loan.

20

SECOND SCHEDULE

Section 50

PERMITTED PROFIT AND FEES

1. A pawnbroker must not take profit on a loan at a rate of more than 1.5% per month.

25 2. A pawnbroker must not take, or continue to take, any profit on a loan 2 months after the expiry of the redemption period.

3. A pawnbroker must not take any profit for any period that the pawnbroker refuses to deal with a pledge upon being served a notice under section 67.

4. A pawnbroker may charge only the following fees:

- 30 (a) for an application under section 66 by a person claiming to be entitled to redeem a pledge but not having a pawn ticket — \$10;

SECOND SCHEDULE — *continued*

- (b) for a notice under section 67 by a person claiming to the rightful owner of goods wrongfully pawned — \$10.

THIRD SCHEDULE

Sections 74(4), 75 and 76(1) 5

MEASURES FOR PREVENTION OF MONEY LAUNDERING AND
FINANCING OF TERRORISM

PART 1

PRELIMINARY

Definitions 10

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

“beneficial owner”, in relation to an entity or a legal arrangement, means —

(a) the individual who ultimately owns all the assets or undertakings of the entity or legal arrangement; or

(b) the individual who exercises effective control over the entity or legal arrangement; 15

“close associate”, in relation to a politically-exposed person, means —

(a) a partner of the politically-exposed person;

(b) a person accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of the politically-exposed person; 20

(c) a person whose directions, instructions or wishes the politically-exposed person is accustomed or under an obligation, whether formal or informal, to act in accordance with; or

(d) a person with whom the politically-exposed person has an agreement or arrangement, whether oral or in writing and whether express or implied, to act together; 25

“family member”, in relation to a politically-exposed person, means a spouse or child, an adopted child, or a step-child, sibling or parent, of the politically-exposed person; 30

“FATF” means the intergovernmental body known as the Financial Action Task Force;

THIRD SCHEDULE — *continued*

“foreign government entity” means the government of a foreign country or territory, a ministry or department within such a government, or an agency established by written law in such a country or territory;

5 “officer” has the same meaning as in section 80;

“pawner” includes a person offering to pawn goods;

“politically-exposed person” means an individual who is or has been entrusted with a prominent public function —

(a) in Singapore;

10 (b) in a country or territory outside Singapore; or

(c) in or in relation to an international organisation;

“prominent public function” includes the role held by a head of state, head of government, government minister, senior civil or public servant, senior judicial or military official, senior executive of a state-owned corporation, senior political party official, member of the legislature or member of the senior management of an international organisation (including a director, deputy director or member of a board or an equivalent function);

20 “relevant foreign regulatory authority”, in relation to a pawnbroker, means an authority of a country or territory outside Singapore exercising any function in respect of the pawnbroker that corresponds to a regulatory function of the Registrar under this Act;

“relevant loan” means a loan exceeding \$20,000;

“Singapore government entity” means a ministry or department of the Government, an organ of State or a statutory board.

25 (2) In this Schedule, unless the context otherwise requires, a reference to a financial institution supervised by the Monetary Authority of Singapore does not include a person who is exempted from being licensed, approved, registered or otherwise regulated by the Monetary Authority of Singapore under any written law.

30

PART 2

CUSTOMER DUE DILIGENCE MEASURES

Pawnbroker to perform customer due diligence measures in certain circumstances

35 2.—(1) A pawnbroker must perform the customer due diligence measures specified in paragraph 3 in the following circumstances:

THIRD SCHEDULE — *continued*

- (a) before the pawnbroker makes a relevant loan;
 - (b) where the pawnbroker has reason to suspect money laundering or terrorism financing;
 - (c) where the pawnbroker has reason to doubt the veracity or adequacy of information obtained from earlier customer due diligence measures. 5
- (2) For the purposes of sub-paragraph (1)(a), where a pawnbroker suspects that 2 or more loans are or may be related, linked or the result of a deliberate restructuring of an otherwise single relevant loan into smaller transactions in order to evade the provisions of this Part, the pawnbroker must aggregate them and treat them as a single loan. 10
- (3) A pawnbroker may choose not to perform or complete performing any measure it is required to perform under this Part if —
- (a) the pawnbroker has reason to suspect that the transaction relates to money laundering or terrorism financing; and 15
 - (b) the pawnbroker has reason to believe that performing the measure will tip-off the pawner or any other person.
- (4) Where, in relation to any pawner, a pawnbroker is unable or chooses not to complete performing any measure it is required to perform under this Part for any reason, the pawnbroker must — 20
- (a) decline to enter into any transaction with the pawner;
 - (b) terminate any transaction entered into with the pawner;
 - (c) determine whether to make a disclosure under section 39 of the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (Cap. 65A) or Part III of the Terrorism (Suppression of Financing) Act (Cap. 325); and 25
 - (d) record the basis of its determination under sub-paragraph (c).

Customer due diligence measures: generally

- 3.—(1) For the purposes of paragraph 2(1), a pawnbroker must perform the customer due diligence measures specified in this paragraph. 30
- (2) The pawnbroker must identify and verify the identity of the pawner, any person on whose behalf the pawner is acting, and any beneficial owner of such person, in accordance with paragraphs 4, 5 and 6 (as applicable). For this purpose, the pawnbroker may rely on information already obtained in accordance with paragraph 7, or rely on third parties in accordance with paragraph 8. 35

THIRD SCHEDULE — *continued*

(3) The pawnbroker must understand and, where appropriate, obtain information on the purpose and intended nature of the business relationship with the pawner.

5 (4) The pawnbroker must conduct ongoing due diligence on the business relationship with the pawner, and scrutinise all transactions entered into with the pawner throughout the course of that relationship, to ensure that the transactions are consistent with the pawnbroker's knowledge of the pawner, the pawner's business and the pawner's risk profile, including the pawner's source of funds.

10 (5) A pawnbroker must perform the measures in sub-paragraphs (2), (3) and (4) in a face-to-face meeting with the pawner, unless the pawnbroker assesses that the risks of money laundering and terrorism financing are low.

15 (6) The pawnbroker must, in addition to performing the measures in sub-paragraphs (2), (3) and (4), perform the enhanced customer due diligence measures required under paragraph 9, in the circumstances specified in that paragraph.

(7) The pawnbroker may, in lieu of performing the measures in sub-paragraphs (2), (3) and (4), perform simplified customer due diligence measures in accordance with paragraph 10.

20 **Pawnbroker to ascertain whether pawner acting on own behalf or on behalf of another person**

4.—(1) A pawnbroker must obtain the pawner's identification information.

(2) A pawnbroker must ascertain whether a pawner is acting on the pawner's own behalf or on behalf of another person.

25 (3) Where a pawnbroker ascertains that a pawner is acting on behalf of another person, the pawnbroker must —

(a) identify and verify the identity of the person in accordance with paragraph 5 or 6, as the case may be, depending on whether the person is an individual, an entity or a legal arrangement; and

(b) verify that the pawner is authorised to act on behalf of the person.

30 **Pawner acting on behalf of individual**

5.—(1) This paragraph applies where a pawner is acting on behalf of an individual.

(2) The pawnbroker must identify and verify the identity of the individual by obtaining the individual's identification information.

THIRD SCHEDULE — *continued***Pawner acting on behalf of entity or legal arrangement**

6.—(1) This paragraph applies where a pawner is acting on behalf of a person which is an entity or a legal arrangement (referred to in this paragraph as the legal person). 5

(2) The pawnbroker must identify and verify the identity of the legal person by obtaining the following information:

- (a) the name of the legal person;
- (b) the legal form of the legal person;
- (c) proof of the legal person's existence; 10
- (d) the place under which the legal person is incorporated, registered or otherwise constituted;
- (e) the instrument under which the legal person is constituted;
- (f) if the legal person is incorporated or registered in Singapore, its unique entity number; 15
- (g) if the legal person is incorporated or registered outside Singapore, its foreign incorporation or registration number;
- (h) if the legal person is an entity, the identity of each individual having a senior management position in the legal person;
- (i) the address of the legal person's registered office and its principal place of business. 20

(3) The pawnbroker must identify each beneficial owner of the legal person and take reasonable measures to verify the identity of each beneficial owner by obtaining the following information:

- (a) if the legal person is an entity — 25
 - (i) the identification information of each individual (if any) who ultimately has a controlling ownership interest in the legal person, according to the law and instrument under which the legal person is constituted;
 - (ii) if it is doubtful whether all or any of the individuals who ultimately have a controlling interest in the legal person are its beneficial owners, or where no individual exerts control through ownership interests, the identification information of each individual (if any) exercising control of the legal person through other means; or 30 35

THIRD SCHEDULE — *continued*

(iii) if no individual is identified under sub-paragraphs (i) and (ii), the identification information of each individual having a senior management position in the legal person;

5 (b) if the legal person is a legal arrangement —

(i) in any case where the legal arrangement is a trust, the identities of —

(A) the settlor;

(B) each trustee;

10 (C) the protector (if any);

(D) each beneficiary or class of beneficiaries; and

(E) any other individual exercising ultimate effective control over the trust; or

15 (ii) in any case where the legal arrangement is not a trust, the identity of each person holding a position equivalent or similar to any position in sub-paragraph (i).

(4) A pawnbroker need not identify each beneficial owner of the legal person where the legal person is —

(a) a Singapore government entity;

20 (b) a foreign government entity;

(c) an entity listed on the Singapore Exchange;

(d) a financial institution supervised by the Monetary Authority of Singapore; or

25 (e) a financial institution incorporated or established outside Singapore that is subject to and supervised for compliance with requirements for the prevention of money laundering and the financing of terrorism consistent with standards set by the FATF.

(5) Where a pawnbroker determines that the legal person is of a type specified in sub-paragraph (4), the pawnbroker must record the basis for its determination.

30 **Reliance on identification and verification already obtained**

7. Where a pawnbroker is required to identify and verify the identity of a person under paragraph 4, 5 or 6, the pawnbroker may rely on the information that it has obtained through prior customer due diligence measures conducted on the person, unless the pawnbroker has doubts about the veracity of that information.

THIRD SCHEDULE — *continued***Reliance on third parties**

- 8.—(1) A pawnbroker may rely on a third party to perform the customer due diligence measures which the pawnbroker is required to perform under paragraphs 4, 5 and 6, only if — 5
- (a) the pawnbroker has obtained the prior written approval of the Registrar to rely on the third party; and
 - (b) the pawnbroker complies with all conditions and restrictions imposed by the Registrar in giving such written approval.
- (2) The Registrar must refuse to grant written approval under sub-paragraph (1) unless the Registrar is satisfied that — 10
- (a) the pawnbroker will immediately obtain the identification information and any relevant documentation from the third party; and
 - (b) the third party —
 - (i) is subject to and supervised for compliance with requirements for the prevention of money laundering and the financing of terrorism consistent with standards set by the FATF; and 15
 - (ii) has adequate measures in place to comply with those requirements.
- (3) The Registrar may, where the Registrar considers it necessary or expedient, grant written approval under sub-paragraph (1) in respect of a class or description of pawners or third parties. 20
- (4) To avoid doubt, the pawnbroker remains responsible for compliance with its obligations to perform the customer due diligence measures under paragraphs 4, 5 and 6 notwithstanding its use of a third party under this paragraph. 25

Enhanced customer due diligence measures

- 9.—(1) A pawnbroker must perform enhanced customer due diligence measures if —
- (a) the relevant loan referred to in paragraph 2(1)(a) is complex or unusually large; 30
 - (b) the pawner has taken up 2 or more relevant loans that have no apparent or visible economic or lawful purpose;
 - (c) the relevant loan referred to in paragraph 2(1)(a) is granted to a person from or in a higher-risk foreign country; or

THIRD SCHEDULE — *continued*

(d) the pawnbroker has reason to believe that the pawner, or the relevant loan referred to in paragraph 2(1)(a), may present a high risk of money laundering or terrorism financing.

5 (2) A pawnbroker must keep a record of —

(a) the pawnbroker’s reasons for performing enhanced customer due diligence measures;

(b) the enhanced customer due diligence measures that the pawnbroker has performed; and

10 (c) the pawnbroker’s findings from performing the enhanced customer due diligence measures.

(3) In this paragraph —

“enhanced customer due diligence measures” includes —

15 (a) examining, so far as reasonably possible, the background and purpose of the relevant loan; and

(b) increasing the degree and nature of monitoring of the business relationship with the pawner, in order to determine whether the relevant loan is unusual or suspicious;

20 “higher-risk foreign country” means a country which is identified by the FATF as a higher-risk and non-cooperative jurisdiction or which the Registrar, by notice to the pawnbroker, identifies as a higher-risk country.

Simplified customer due diligence measures

10.—(1) A pawnbroker may perform simplified customer due diligence measures proposed by the pawnbroker instead of the measures referred to in paragraph 3(2), (3) and (4), only if —

(a) the pawnbroker has assessed that the risks of money laundering and terrorism financing are low;

(b) the pawnbroker has obtained the prior written approval of the Registrar to perform the simplified customer due diligence measures; and

30 (c) the pawnbroker complies with any conditions imposed by the Registrar in giving such written approval.

(2) The Registrar must not grant written approval under sub-paragraph (1) if the Registrar is of the view that —

(a) either or both of the following apply:

35 (i) any of the circumstances in paragraph 9(1)(a) to (d) exists;

THIRD SCHEDULE — *continued*

- (ii) the pawner, any person on whose behalf the pawner is acting, or any beneficial owner of such person, is a politically-exposed person or a family member or close associate of a politically-exposed person; 5
- (b) the risks of money laundering or terrorism financing are high; or
- (c) the simplified customer due diligence measures proposed by the pawnbroker will not effectively identify and verify the identity of the pawner, any person on whose behalf the pawner is acting, or any beneficial owner of such person. 10
- (3) The Registrar may, where the Registrar considers it necessary or expedient, grant written approval under sub-paragraph (1) in respect of a class or description of pawners.

Existing pawners

- 11.—(1) A pawnbroker must perform customer due diligence measures in respect of its existing pawners with effect from the date of commencement of this Act, and must perform those measures within 12 months after that date. 15
- (2) For the purposes of sub-paragraph (1), customer due diligence measures must be performed —
- (a) having regard to the pawnbroker’s assessment of materiality and risk; and 20
- (b) at appropriate times, having regard to whether and when customer due diligence measures have previously been undertaken and to the adequacy of the information obtained.

Ongoing customer due diligence

12. A pawnbroker must, from time to time, review the information and documents obtained as a result of measures taken under this Part, in particular in cases where there is a higher risk of money laundering or terrorism financing, to ensure that such information and documents are kept up-to-date and relevant. 25

Suspicious transaction reporting

- 13.—(1) A pawnbroker must consider whether to make a disclosure under section 39(1) of the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (Cap. 65A) or Part III of the Terrorism (Suppression of Financing) Act (Cap. 325), and document the basis for its determination, in the following circumstances: 30
- (a) the pawnbroker is unable to complete performing the customer due diligence measures in this Part for any reason; 35

THIRD SCHEDULE — *continued*

(b) a pawnbroker is unable or unwilling to provide any information requested by the pawnbroker, or decides to withdraw the application for the relevant loan when requested to provide information;

5 (c) the relevant loan is part of an unusual pattern of loans with no apparent economic or lawful purpose;

(d) any other circumstance exists for the making of a disclosure under section 39(1) of the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act or Part III of the Terrorism (Suppression of Financing) Act.

10

(2) If the pawnbroker decides to make such a disclosure, it must submit a copy of the report relating to the disclosure to the Registrar.

PART 3

ADDITIONAL MEASURES

15 **Pawnbroker to assess whether pawnbroker, etc., is politically-exposed person**

14.—(1) A pawnbroker must have appropriate risk-management systems, and take reasonable measures, to assess whether a relevant person is a politically-exposed person or a family member or close associate of a politically-exposed person.

20 (2) Where the pawnbroker determines that a relevant person is a politically-exposed person or a family member or close associate of a politically-exposed person, the pawnbroker must —

(a) obtain the approval of one of the pawnbroker's directors or managers for establishing or continuing any business relationship with the relevant person;

25

(b) take reasonable measures to establish the relevant person's source of wealth and source of funds; and

(c) conduct enhanced ongoing monitoring of any business relationship with the relevant person.

30 (3) Where the pawnbroker assesses that a relevant person is a politically-exposed person or a family member or close associate of a politically-exposed person, the pawnbroker must record the basis of its assessment.

(4) To avoid doubt, the measures that a pawnbroker is required to take under this paragraph are in addition to any other measures that the pawnbroker is required to take under this Schedule.

35

THIRD SCHEDULE — *continued*

(5) In this paragraph, “relevant person” means a pawner, any person on whose behalf a pawner is acting, and any beneficial owner of such person.

New technologies

15. A pawnbroker must, before it launches a new product or a new business practice (including a new delivery mechanism) or uses a new or developing technology for any new or existing product — 5

(a) identify and assess the money laundering or terrorism financing risks that may arise in relation to the product, business practice or technology; and

(b) take appropriate measures to mitigate such risks. 10

PART 4

MEASURES RELATING TO
TARGETED FINANCIAL SANCTIONS AGAINST TERRORISM**Pawnbroker to assess whether pawner, etc., is terrorist or terrorist entity**

16.—(1) A pawnbroker must, before making a relevant loan, take reasonable measures to assess whether the relevant person is a terrorist or terrorist entity under the First Schedule to the Terrorism (Suppression of Financing) Act (Cap. 325). 15

(2) If a pawnbroker has reason to suspect that a relevant person is a terrorist or terrorist entity under the First Schedule to the Terrorism (Suppression of Financing) Act, the pawnbroker must — 20

(a) decline to enter into any transaction with the relevant person;

(b) terminate any transaction entered into with the relevant person; and

(c) make a report to the police.

(3) In this paragraph, “relevant person” means a pawner, any person on whose behalf a pawner is acting, and any beneficial owner of such person. 25

FOURTH SCHEDULE

Section 86

CONSEQUENTIAL AMENDMENTS TO OTHER WRITTEN LAWS

*First column**Second column*

- | | |
|---|--|
| <p>1. Banking Act
(Chapter 19, 2008 Ed.)</p> <p>Section 76</p> | <p>Delete the words “Pawnbrokers Act (Cap. 222)” in paragraph (b) and substitute the words “Pawnbrokers Act 2014”.</p> |
| <p>2. Central Provident Fund Act
(Chapter 36, 2013 Ed.)</p> <p>Third Schedule</p> | <p>Delete item 27 and substitute the following item:</p> <p>“27. Pawnbrokers Act 2014.”.</p> |
| <p>3. Finance Companies Act
(Chapter 108, 2011 Ed.)</p> <p>Section 53(1)</p> | <p>Delete the words “Pawnbrokers Act (Cap. 222)” in paragraph (b) and substitute the words “Pawnbrokers Act 2014”.</p> |
| <p>4. Moneylenders Act
(Chapter 188, 2010 Ed.)</p> <p>Section 2</p> | <p>Delete the words “Pawnbrokers Act (Cap. 222)” in paragraph (d) of the definition of “excluded moneylender” and substitute the words “Pawnbrokers Act 2014”.</p> |
-

EXPLANATORY STATEMENT

This Bill seeks to repeal and re-enact the Pawnbrokers Act (Cap. 222).

PART 1

PRELIMINARY

Clause 1 relates to the short title and commencement.

Clause 2 defines certain terms used in the Bill.

Clause 3(1) defines the following key terms used in the Bill:

- (a) “pawn” means giving possession of goods to a lender of money as security for the repayment of a loan, and “taking in pawn” has a corresponding meaning;
- (b) “pawnbroker” means a person who carries on a business of lending money on the security of pledges, and “business of pawnbroking” means the business of lending money on the security of pledges;
- (c) “pawner” means a person who pawns goods to a pawnbroker, whether the person has any title to, or is authorised to deal in, those goods;
- (d) “pledge” means goods that are taken into possession by a lender of money as security for the repayment of a loan.

Clause 3(2) explains the meaning of taking goods in pawn. Clause 3(3) sets out the matters to be considered in determining whether a person is lending money on the security of a pledge, and whether goods have been pawned. Generally, regard is to be had to the substance of the transaction and not to its form or legal technicalities. Clause 3(4) provides that the First Schedule may specify transactions where goods are deemed to be or deemed not to be pawned. Where goods are deemed to be pawned, the First Schedule may specify the person deemed to be the pawner, the sum deemed to be loaned and the profit deemed to be taken for the loan.

Clause 4 excludes from the application of the Bill entities that are regulated by the Monetary Authority of Singapore under any written law, to the extent that such entities are allowed or not prohibited from carrying on the business of pawnbroking under such written law.

Clause 5 provides for a Registrar of Pawnbrokers (the Registrar) to be appointed by the Minister, and empowers the Minister to appoint Deputy Registrars of Pawnbrokers and Assistant Registrars of Pawnbrokers.

PART 2

REGULATION OF PAWNBROKERS, ETC.

Part 2 (consisting of 7 Divisions) concerns the regulation of pawnbrokers and related matters.

Division 1 (consisting of clauses 6 to 11) concerns the licensing of pawnbrokers.

Clause 6 makes it an offence to carry on the business of pawnbroking in Singapore save in accordance with the Bill.

Clause 7 empowers the Registrar to grant a pawnbroking licence in accordance with the Bill.

Clause 8 provides for the duration of a licence.

Clause 9 empowers the Registrar to renew a licence, and provides for the duration of a renewed licence.

Clause 10 provides that a licence must not be granted to a person other than a company incorporated in Singapore. A licence must also not be granted or renewed in such circumstances as may be prescribed. The clause also sets out particular grounds on which the Registrar may refuse to grant or renew a licence.

Clause 11 provides for an appeal to the Minister against the Registrar's refusal to grant or renew a licence.

Division 2 (consisting of clauses 12 to 17) concerns the approval of the substantial shareholders, directors and managers of a licensee.

Clause 12(1) makes it an offence for a person to (a) become a substantial shareholder of a licensee without the Registrar's approval; (b) increase the person's substantial shareholding in a licensee without the Registrar's approval; or (c) refuse to comply with the Registrar's direction to reduce the person's substantial shareholding in a licensee. Clause 12(2) provides that clause 12(1)(a) does not apply to a person who becomes a substantial shareholder without any increase in the person's shareholding. Clause 12(3) empowers the Registrar to give the relevant approvals and directions.

Clause 13 sets out particular grounds on which approval under clause 12(2) may be refused or withdrawn.

Clause 14(1) prohibits a person from being appointed or acting as a director or manager of a licensee without the Registrar's approval. Clause 14(2) provides that, when a person contravenes clause 14(1), the person and the licensee are each guilty of an offence. Clause 14(3) empowers the Registrar to give and withdraw the necessary approvals.

Clause 15 sets out particular grounds on which approval under clause 14(3) may be refused or withdrawn.

Clause 16 requires the Registrar to give an affected person an opportunity to make representations before giving a direction under clause 12(2)(c) or withdrawing any approval under clause 14(3)(b).

Clause 17 provides for an appeal to the Minister against the Registrar's decision to refuse any approval under clause 12(2)(a) or (b), to give a direction under clause 12(2)(c), to refuse any approval under clause 14(3)(a) or to withdraw any approval under clause 14(3)(b).

Division 3 (consisting of clauses 18 to 29) concerns the conditions of a licence and the statutory duties of a licensee.

Clause 18 requires a licensee to comply with the conditions of its licence. The clause also empowers the Registrar to specify and vary licence conditions, whether generally or specifically.

Clause 19 requires a licensee to comply with its statutory duties in clauses 20 to 29. Failure to do so is an offence.

Clause 20 requires a licensee to maintain the prescribed paid-up share capital.

Clause 21 prohibits a licensee from carrying on the business of pawnbroking other than at a licensed place of business, and from carrying on any business other than pawnbroking at a licensed place of business. A licensee must also keep its licensed place of business in a suitable condition for carrying on the business of pawnbroking.

Clause 22 requires a licensee to display, at each of its licensed places of business, a conspicuous sign stating its name and the words "Pawnbroker's Shop", "Pawnbroker" or "Pawnshop". A licensee must also display a conspicuous notice stating the maximum profit and fees it can charge under clause 50.

Clause 23 requires a licensee to keep records in relation to its business of pawnbroking and its pawnbroking transactions.

Clause 24 requires a licensee to submit a statement on its business of pawnbroking and its pawnbroking transactions to the Registrar at specified intervals. The statement must contain the prescribed particulars and the Registrar may require the licensee to account for or explain any of those particulars.

Clause 25 requires a licensee to conduct annual audits of its business.

Clause 26 requires a licensee to maintain insurance against the damage, theft or loss of pledges taken by it.

Clause 27 requires a licensee to maintain the prescribed security deposit, and to replace the deposit if it is forfeited. The deposit will secure the licensee's compliance with its licence conditions and the provisions of the Bill.

Clause 28 requires a licensee to inform the Registrar if a substantial shareholder, director or manager of the licensee is or has become a disqualified person.

Clause 29 requires a licensee to inform the Registrar of certain events. The events are generally those that may lead to the end of the licensee, or an entity that is a substantial shareholder of the licensee, as a going concern.

Division 4 (consisting of clauses 30 to 33) sets out the investigative powers of the Registrar.

Clause 30 empowers the Registrar to order a person to produce any information, document or thing in the person's possession or control that the Registrar considers relevant for deciding whether the provisions of the Bill have been contravened, or to give the Registrar access to such information, document or thing. The Registrar's power does not extend to customer information kept by a financial institution.

Clause 31 empowers the Registrar to seize any property related to a contravention of the Bill and, alternatively, to prohibit any person from dealing with such property. The Registrar's power does not apply to property held or suspected to be held in an account or a safe deposit box in a financial institution. The occupier or person-in-charge of the place where property is to be seized may attend during the seizure. The Registrar must prepare a signed list of any property seized, and a signed copy must be given to the occupier or person-in-charge.

Clause 32 provides for sections 370, 371 and 372 of the Criminal Procedure Code (Cap. 68) (concerning the reporting of seized property to a Magistrate's Court and the disposal of the property by the Court) to apply when the Registrar seizes property or prohibits any dealing in property under clause 31. In addition, when the Registrar seizes a pledge or prohibits any dealing in a pledge under clause 31, the court may at any time order the pledge to be released to a person interested in the pledge or deal with the pledge as it sees fit.

Clause 33 provides for the Registrar's powers and duties under Division 4 to be exercised and performed by persons authorised by the Registrar.

Division 5 (consisting of clauses 34 to 39) sets out the regulatory actions that the Registrar may take.

Clause 34 empowers the Registrar to give directions to a licensee.

Clause 35 empowers the Minister to prescribe any offence under the Bill to be a compoundable offence. It also empowers the Registrar to compound a compoundable offence.

Clause 36 empowers the Registrar to revoke a licence in certain circumstances, e.g. if the licensee is convicted of an offence under the Bill. Alternatively, the Registrar may suspend a licence or vary the conditions of the licence, or both.

Clause 37 empowers the Registrar to impose a financial penalty in certain circumstances. The payment of a financial penalty may be enforced by forfeiting the security deposit placed by the licensee under clause 27. The clause does not apply when a licensee contravenes a provision of the Bill, which contravention amounts to an offence.

Clause 38 requires the Registrar to give a licensee the opportunity to make representations before taking action under clause 36 or 37.

Clause 39 provides for an appeal to the Minister against the Registrar's decision under clause 36 or 37.

Division 6 (consisting of clauses 40 to 42) concerns the lapsing, expiry or revocation of a licence.

Clause 40 defines the circumstances where a licence lapses.

Clause 41 provides for the Registrar's powers in "end-of-life" scenarios, i.e. where a licence lapses or expires, or where the licensee has been informed of the Registrar's decision to revoke the licence. The powers are intended to secure the orderly cessation of the licensee's pawnbroking business, protect the interest of pawners and secure the licensee's compliance with the provisions of the Bill. For these purposes, the Registrar may give directions to the licensee, any director or manager of the licensee, or a person who was a director of the licensee 6 months before the relevant "end-of-life" event. The Registrar may, in particular, direct that the licensee delivers its records to the Registrar, and keeps its premises open for the redemption of pledges, among other things.

Clause 42 provides that the lapsing, expiration or revocation of a licence does not affect the validity of any transaction entered into by the licensee.

Division 7 (consisting of clauses 43 to 47) relates to waivers from the provisions of the Bill.

Clause 43 empowers the Minister to issue a waiver certificate for the waiver of the application of all or any of the requirements of the Bill as they concern a person. The waiver may be conditional or unconditional.

Clause 44 empowers the Minister to vary or revoke a waiver certificate granted under clause 43.

Clause 45 requires the Minister to give a person the opportunity to make representations before varying or revoking a waiver certificate granted to the person.

Clause 46 empowers the Minister to make rules for the waiver of the application of any (but not all) of the requirements of the Bill as they concern any class of persons. The class waiver may be conditional or unconditional.

Clause 47 provides that the variation or revocation of a waiver certificate or class waiver does not affect the validity of transactions entered into by a person before the variation or revocation.

PART 3 RIGHTS AND OBLIGATIONS WHEN GOODS ARE PAWNED

Part 3 (consisting of 4 Divisions) sets out the rights and obligations when goods are pawned. The provisions are directed at transactions with pawnbrokers. They therefore do not apply to the pawning of goods in other contexts, which will remain governed by the common law.

Division 1 (consisting of clauses 48 to 51) deals with the pawning of goods.

Clause 48 requires a pawnbroker to give a valuation of goods offered to be pawned before lending money on the security of a pledge. This will help a person make an informed decision whether to pawn goods. A loan agreement will be voidable at the instance of the pawner unless such a valuation is given. The pawnbroker will not be liable for any loss or damage suffered by any person relying on the valuation, unless the pawnbroker did not act in good faith or with reasonable care in giving the valuation.

Clause 49 requires a pawn ticket to be issued when a pawnbroker lends money on the security of a pledge. The pawn ticket must contain the prescribed particulars. A copy of the pawn ticket must be signed by the pawner. The pawnbroker must keep a signed copy of the pawn ticket. A loan agreement will be voidable at the instance of the pawner unless these requirements are fully complied with.

Clause 50 prohibits a pawnbroker from taking profit on a loan or from charging any fee other than what is permitted under the Second Schedule. A loan agreement will be void to the extent that it provides otherwise. The maximum rate of profit allowed under the Second Schedule is 1.5% of the loan per month, and the pawnbroker is prohibited from taking profit 2 months after the expiry of the redemption period.

Clause 51 provides that, when the redemption period for a pledge is extended by agreement, clauses 48, 49 and 50 will apply as if the pledge is offered to be pawned for the first time, with certain modifications. The pawnbroker must therefore give a fresh valuation as required by clause 48 and issue a new pawn ticket as required by clause 49; the pawnbroker is also subject to the limits on profit and fees imposed by clause 50 and the Second Schedule. The modifications are (a) the pawnbroker must cancel the original pawn ticket; (b) the new pawn ticket issued by the pawnbroker must state the profit due at the date of the agreement to extend the redemption period; and (c) the rights and obligations under the original agreement to pawn the goods are deemed to have merged in the agreement to extend the redemption

period. Also, if the pawnbroker fails to give a valuation in accordance with clause 48(1), or purports to charge any profit or fee not permitted under clause 50 and the Second Schedule, the validity of the agreement to extend the redemption period will not be affected but the pawnbroker will not be entitled to take any profit on the loan in respect of the extended redemption period.

Division 2 (consisting of clauses 52 to 60) relates to the redemption of pledges.

Clause 52 specifies the persons who are entitled to redeem a pledge.

Clause 53 provides that a pawn ticket and the right to redeem a pledge may be freely assigned or transferred. An agreement will void to the extent that it purports to prevent or fetter the assignment or transfer of a pawn ticket or the right to redeem a pledge. The provisions are intended to protect a pawner who is unable to redeem a pledge. Such a pawner will be able to recover part of the value of the pledge through selling the pawn ticket.

Clause 54 provides that a pledge may be redeemed at any time during the redemption period, and at any time thereafter but before it is forfeited. The redemption period is defined as 6 months after the date on which the pledge was made, or such longer period as parties may agree. If the redemption so defined ends on a non-business day, it is extended to the next business day.

Clause 55 provides that the redemption period may be extended by agreement between the pawnbroker and a person entitled to redeem the pledge.

Clause 56 sets out how a pledge may be redeemed by a person entitled to redeem it. The person must present the pawn ticket, repay the pawnbroker the loan and interest secured by the pledge, and provide the person's identification information. These may be done at any time during the redemption period or before the pledge is forfeited.

Clause 57 requires a pawnbroker to allow a person who has complied with clause 56 to redeem a pledge, save in certain circumstances where the person presenting the pawn ticket may not be entitled to redeem the pledge.

Clause 58 provides that a pawnbroker is not liable to any person for any loss or damage when the pawnbroker allows or refuses to allow a pledge to be redeemed in accordance with clause 57. In the case of a beneficial owner of goods pawned without the owner's authority, this applies only if the pawnbroker has taken reasonable steps to satisfy itself that the pawner was the beneficial owner of the goods.

Clause 59 requires a pawnbroker to issue a receipt to a person redeeming a pledge and cancel the pawn ticket.

Clause 60 provides for the liability of a pawnbroker who is required under clause 57 to allow a person to redeem a pledge, but who is unable to produce a pledge, or unable to produce it in the same physical condition it was in when the

pawnbroker first took possession. If the pawnbroker is unable to produce the pledge, the pawnbroker will be liable for the pledge's value. If the pawnbroker is unable to produce the pledge in the same physical condition it was in when the pawnbroker first took possession, the person redeeming the pledge can choose from 2 remedies: (a) compensation by the pawnbroker for the value of the pledge; or (b) the return of the pledge, and compensation by the pawnbroker for any decrease in the value of the pledge caused by the change in physical condition. For these purposes, the pledge's value is taken to be that determined by the valuation given when the pawnbroker first took possession of the pledge.

Division 3 (consisting of clauses 61 to 65) relates to the statutory remedy of forfeiture, which will replace the existing requirement for sale by auction under the Pawnbrokers Act (Cap. 222, 1994 Ed.).

Clause 61 provides that, unless it is earlier redeemed, a pledge is forfeited one month after the pawnbroker serves a notice of forfeiture in accordance with clauses 62 and 63. When a pledge is forfeited it becomes the pawnbroker's absolute property and the loan and any profit secured on it is deemed to be fully repaid. The pawnbroker therefore takes the risk and benefit of any difference between the pledge's value and the loan and interest secured on the pledge.

Clause 62 sets out the information that must be contained in a notice of forfeiture. This includes a statement that the pledge will be forfeited one month after the notice has been served, and that the pledge may be redeemed at any time before that; the amount to be paid to redeem the pledge or extend the redemption period; and a valuation of the pledge at the time the notice is issued. The information will help the pawner make an informed decision whether to redeem the pledge or, if the pawner is unable to redeem the pledge, to recover part of the value of the pledge by selling the pawn ticket and the right to redeem the pledge. The pawnbroker will not be liable for any loss or damage suffered by any person relying on the valuation in the notice of forfeiture, unless the pawnbroker did not act in good faith or with reasonable care in giving the valuation.

Clause 63 requires a notice of forfeiture to be served within 2 months after the expiry of the redemption period, in the prescribed manner, and at the pawnbroker's cost.

Clause 64 excludes other remedies the pawnbroker may have in respect of the loan or profit secured by the pledge, provides that the pawnbroker may only realise its security interest in the pledge by forfeiture in accordance with clause 61. The effect is to make forfeiture the sole remedy of the pawnbroker. For example, the pawnbroker will not be able to sue for the loan or profit when these exceed the value of the pledge.

Clause 65 provides for the consequences if a pawnbroker purports to realise its security interest in a pledge other than by forfeiture in accordance with clause 61. If the pledge's value exceeds the loan and profit secured on it, the pawnbroker will be

liable for the surplus. If the pledge's value is equal to or less than the loan and profit secured on it, the loan and profit are extinguished. For these purposes, the pledge's value is taken to be that determined by the valuation given when the pawnbroker first took possession of the pledge. In all cases the pawnbroker will not acquire any property in the pledge, and will therefore be unable to give good title to the pledge to third parties.

Division 4 (consisting of clauses 66 to 69) deals with related matters.

Clause 66 applies for the protection of a person entitled to redeem a pledge but who does not have a pawn ticket. Such a person may apply to a pawnbroker. Upon receiving an application, the pawnbroker must make reasonable inquiries and must thereafter issue a replacement pawn ticket to the applicant, unless the pawnbroker knows or has reason to believe that the matters stated in the application are materially false or incomplete. A pawnbroker which does or omits to do anything in accordance with the clause will be protected from liability to any person entitled to redeem the pledge.

Clause 67 applies for the protection of the rightful owner of goods that are wrongfully pawned. Such a person may serve a notice on the pawnbroker. Clause 67(4) provides that, upon being served the notice, the pawnbroker must deal with the pledge in accordance with any court order. If there is no court order, the pawnbroker may refuse to deal with the pledge for 3 months after receiving the notice, and for so long thereafter as an action relating to the pledge is pending. A pawnbroker which does or omits to do anything in accordance with clause 67(4) will be protected from liability.

Clause 68 provides that, unless the context otherwise requires, nothing in Part 3 limits, restricts or affects any right, title, interest, privilege, obligation or liability of a person.

Clause 69 provides that any exclusion or modification of Part 3, or any rule of law relating to the pawning of goods, is void.

PART 4

OFFENCES

Part 4 creates offences.

Clause 70 makes it an offence to provide false or misleading information to the Registrar.

Clause 71 creates certain offences relating to the fraudulent, dishonest or otherwise wrongful pawning of goods and the redemption of pledges.

Clause 72 makes it an offence for a pawnbroker to take goods in pawn in certain circumstances, and to make an advance on pledge other than in money that is legal tender in Singapore.

Clause 73 requires a pawnbroker to detain goods and make a police report when it discovers that the goods are reported to the police as lost, stolen or fraudulently or dishonestly obtained. A pawnbroker which fails to do so commits an offence. The pawnbroker may also detain a person offering such goods to be pawned.

PART 5

PREVENTION OF MONEY LAUNDERING AND FINANCING OF TERRORISM

Part 5 and the Third Schedule concern the prevention of money laundering and terrorism financing. The provisions implement the relevant recommendations of the Financial Action Task Force in relation to pawnbrokers. The approach is risk-based.

Clause 74 requires a pawnbroker to implement adequate programmes and measures to prevent money laundering and terrorism financing.

Clause 75 requires a pawnbroker to perform the customer due diligence measures, additional measures and measures relating to targeted financial sanctions specified in the Third Schedule. The measures include —

- (a) verifying the identity of a pawner, any person for whom a pawner is acting and any beneficial owner of a pawner;
- (b) enhanced customer due diligence measures in certain circumstances;
- (c) assessing whether a pawner, any person for whom a pawner is acting and any beneficial owner of a pawner is a politically-exposed person; and
- (d) verifying whether a pawner, any person for whom a pawner is acting and any beneficial owner of a pawner is a terrorist or terrorist entity.

Clause 76 requires a pawnbroker to keep records in respect of the measures it is required to perform under the Third Schedule, and to make such records available to the Registrar and prescribed authorities upon request.

PART 6

MISCELLANEOUS

Part 6 makes miscellaneous provisions.

Clause 77 confers certain powers on the court when goods are wrongfully pawned.

Clause 78 makes certain provisions concerning appeals to the Minister.

Clause 79 imposes general penalties for offences under the Bill for which no specific penalty is provided.

Clause 80 provides for the criminal liability of the officers of an entity when the entity commits an offence under the Bill.

Clause 81 confers jurisdiction on District and Magistrates' Courts to try any offence under the Bill and to impose the full punishment for the offence.

Clause 82 empowers the Minister to amend the First, Second and Third Schedules.

Clause 83 empowers the Minister to make rules for the purposes of the Bill.

Clause 84 repeals the Pawnbrokers Act (Cap. 222, 1994 Ed.).

Clause 85 makes savings and transitional provisions.

Clause 86 and the Fourth Schedule make consequential amendments to certain other written laws.

EXPENDITURE OF PUBLIC MONEY

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