

(30 April 2012 - to date)

## **SECOND-HAND GOODS ACT 6 OF 2009**

*(Gazette No. 32087, Notice No. 392, dated 1 April 2009. Commencement date: 30 April 2012, unless otherwise indicated [Proc. 68, Gazette No. 34837, dated 9 December 2011]; [Proc. 1, Gazette No. 34942, dated 13 January 2012]; [Proc. 28, Gazette No. 35270, dated 20 April 2012])*

## **REGULATIONS FOR DEALERS AND RECYCLERS, 2012**

*Government Notice R285 in Government Gazette 35220, dated 3 April 2012. Commencement date:*  
*30 April 2012.*

The Minister of Police has, under section 41(1) of the Second-Hand Goods Act, 2009 (Act No. 6 of 2009), made the Regulations in the Schedule

## **SCHEDULE**

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### **ANNEXURES**

## 1. Definitions

In these Regulations any word or expression to which a meaning has been assigned in the Act, shall have that meaning and, unless the context otherwise indicates -

**"applicant"** means the person applying to be registered as a dealer or recycler in terms of the Act and includes any person contemplated in section 5(1)(d) of the Act;

**"certificate of registration"** means the certificate of registration contemplated in regulation 4 and includes all conditions determined by the National Commissioner;

**"Designated Police Officer"** means the Designated Police Officer designated for the area in which the premises from which the applicant conducts business, is or will be situated;

**"responsible person"** means the natural person contemplated in section 2(2) of the Act who is nominated in writing by a dealers' association to act on behalf of that dealers' association;

**"statement"** means a statement made before a Commissioner of Oaths under oath or affirmation; and

**"the Act"** means the Second-Hand Goods Act, 2009 (Act No. 6 of 2009); [sic]

## 2. Application for registration as dealer

- (1) Any person intending to apply for registration as a dealer in terms of the Act must obtain the relevant application form from the office of the Designated Police Officer or the official Internet website of the South African Police Service at [www.saps.gov.za](http://www.saps.gov.za) and complete and sign the application form.
- (2) The application form contemplated in subregulation (1) must essentially be in the form and contain the particulars as set out in Annexure "A" to these regulations
- (3) The applicant must ensure that the duly completed application form and all the documents referred to in these regulations are lodged with the office of the Designated Police Officer.

## 3. Documents to accompany application for registration

An application for registration contemplated in section 3 of the Act must be accompanied by -

- (a) a statement which confirms that -
  - (i) applicant or any other person contemplated in section 5(1)(d) of the Act is not disqualified from being registered as a dealer; and

- (ii) applicant undertakes to ensure compliance with the requirements of other legislation regulating that business or industry.
- (b) a certified copy of the identity document of the applicant and every person responsible for the management or day-to-day control of the business in question;
- (c) a recent utility account or the lease agreement verifying the address of the premises to which the application relates;
- (d) written proof of the business' bank account;
- (e) a copy of applicant's fingerprints, or where more than one person are involved in the day to day management of the business, a copy of the fingerprints of each person so involved; and
- (f) where applicable -
  - (i) documents which verify applicant's founding as a company, close corporation, trust, business trust, partnership or any other business form;
  - (ii) a certified copy of the identity document of each responsible person;
  - (iii) proof of VAT registration;
  - (iv) a copy of the membership certificate which verifies that applicant is a member of an accredited dealers' association at the time of the application;
  - (v) floor plan of the premises to which the application relates; and
  - (vi) any other documentation that applicant wishes to submit in support of the application, including a copy of any certificate or permit relating to other legislation regulating that industry.

#### **4. Certificate of registration and conditions**

- (1) After consideration of the application, the National Commissioner may issue a certificate of registration or temporary registration, depending on the circumstances.
- (2) The National Commissioner may authorize such dealer to carry on business subject to any of the following conditions:
  - (a) the dealer may only carry on business of dealing in the goods or classes of goods specified on the certificate;

- (b) the dealer may acquire or dispose of second-hand goods only during the business hours specified on the certificate; and
  - (c) where such dealer acquires or disposes of second-hand goods to other dealers or recyclers, that the dealer concerned may only acquire such goods from or dispose of such goods to another registered dealer or recycler.
- (3) If the National Commissioner is satisfied that crime trends in a station area or areas indicate that specific steps are necessary to regulate trade in a certain type or category of second-hand goods, he may authorise a dealer to carry on business in that type or category of second-hand goods subject to one or more of the following additional conditions:
- (a) such dealer must make a daily, weekly or monthly report to the Designated Police Officer, reporting on all transactions regarding a certain type or category of goods;
  - (b) such dealer must deliver a copy of any records that must be kept in terms of the Act or as a condition of membership to an accredited association, to the Designated Police Officer on a daily, weekly or monthly basis; or
  - (c) such dealer must make a weekly or monthly report to the Designated Police Officer containing the full particulars of any person in the employ of that dealer, where such dealer knows or suspects, or should reasonably know or suspect that such employee would be disqualified from registration in terms of section 14(1)(a), (b), (c) or (e) of the Act.
- (4) The National Commissioner may describe the principal business activities of the applicant on the certificate of registration as a -
- (a) general dealer;
  - (b) auctioneer;
  - (c) jeweller;
  - (d) motor vehicle dealer;
  - (e) scrap metal dealer; or
  - (f) recycler.
- (5) In the case of a dealer whose principal business activities do not fall under one of the categories set out in subregulation (4), the National Commissioner may describe such principal activities of such

dealer on the registration certificate together with such conditions as he or she may deem appropriate to ensure compliance with section 21(2) of the Act.

## **5. Display and maintenance of membership certificates**

- (1) A dealer or recycler who is a member of an accredited association must display the membership certificate -
  - (a) in a prominent place clearly visible to the public on the premises; and
  - (b) in proximity to the certificate of registration contemplated in section 15 of the Act;
- (2) In the event that the dealer or recycler is a member of an accredited association whose members have been exempted from any or all of the provisions of the Act, such dealer or recycler must be in possession of a copy of the *Gazette* which contains the notice contemplated in section 42(2)(b) of the Act.
- (3) The certificate and notice contemplated in this regulation must be maintained in such a manner that it can be produced undamaged and in a legible condition.

## **6. Application for renewal of registration**

- (1) Any person intending to apply in terms of the Act for renewal of registration as a dealer or recycler must obtain the relevant application form from the office of the Designated Police Officer or the official Internet website of the South African Police Service at [www.saps.gov.za](http://www.saps.gov.za) and complete and sign the application form.
- (2) The applicant must ensure that the duly completed application form together with the statement and undertaking referred to in (3) as well as all other documents required in terms of these regulations are submitted to the office of the Designated Police Officer.
- (3) The applicant must, together with the application form submit -
  - (a) a statement under oath or affirmation confirming that applicant [*sic*] -
    - (i) applicant continues to comply with the Act and regulations; and
    - (ii) applicant undertakes to ensure continued compliance with the requirements of other legislation regulating that business or industry.

## **7. Temporary registration**

- (1) If the National Commissioner is satisfied that an applicant for registration as a dealer or recycler shows good cause that -
  - (a) such applicant cannot meet one or more of the requirements for registration at the time of application;
  - (b) failure to meet such requirement cannot be attributed to the applicant;
  - (c) there is a reasonable prospect that the failure can be rectified within a period of 12 months; and
  - (d) the applicant shall suffer irreparable economic harm if such business cannot be registered,the National Commissioner may, subject to subregulation (2), issue a temporary registration certificate to such applicant.
- (2) A dealer or recycler who is issued with a temporary registration certificate must submit a monthly report to the Designated Police Officer, reporting on the steps he or she has taken to meet the requirement or requirements contemplated in subregulation (1)(a).
- (3) A dealer or recycler who is issued with a temporary registration certificate must apply for registration as a dealer or recycler immediately upon being in a position to meet the requirement contemplated in subregulation (1)(a).
- (4) The National Commissioner may issue a temporary registration certificate subject to the same conditions as contemplated in regulation 4(2) and (3).

## **8. Records by dealers**

- (1) Subject to the provisions of Regulation 9, the register contemplated in section 21(1) of the Act must essentially be in the form and contain the particulars as set out in Annexure "B" to these Regulations.
- (2) Where a dealer or recycler keeps any register in an electronic format, that dealer or recycler must ensure that an inspecting police official may inspect such register through access to the software program with which such electronic register is kept.
- (3) Where a dealer or recycler keeps registers in an electronic format and in the event of an inspection by a police official in terms of section 28(1) of the Act, the dealer, recycler, owner, employee or person in charge of the premises must -
  - (a) provide the police official inspecting the register with -
    - (i) the most recent certificate contemplated in section 28(4)(b)(ii) of the Act; and

- (ii) a compact disk or other similar storage device with an electronic copy of or extract from the register reflecting all transactions since the most recent certificate contemplated in (i); and
- (b) comply with any reasonable request from such police official to produce a printout of or an extract from the register which reflects the stock that dealer or recycler has on hand at the premises in question.

## **9. Registers**

A dealer or recycler must keep the applicable register set out in Annexure "B" that corresponds with the description of the principal business activity of that particular dealer or recycler on his or her certificate of registration.

## **10. Report of false information or stolen goods**

- (1) A dealer or recycler reporting an incident as contemplated in section 22(1) of the Act, must retain any photographic or other evidence regarding the person providing the false information or the suspected stolen goods.
- (2) A police official to whom the incident contemplated in subregulation (1) is reported, must immediately upon receiving such report make an entry into the applicable occurrence book of the police station where that official is stationed and allocate a serial number to such entry.
- (3) The police official must supply the person making the report with the serial number allocated to the relevant occurrence book entry, provided that a person making the report telephonically may request the police member to supply that serial number telephonically to him or her.
- (4) In the event that a dealer or recycler is of the opinion that a person who offers for sale cable consisting of controlled metal of which the cover has been burnt, has a reasonable explanation for the burnt cover, that dealer or recycler must note such explanation in the acquisition register.

## **11. Application to register as recycler**

- (1) Any person intending to apply for registration as a recycler in terms of section 25 of the Act, must obtain the relevant application form from the office of the Designated Police Officer or the official Internet website of the South African Police Service at [www.saps.gov.za](http://www.saps.gov.za), complete the appropriate portion and sign the application form.
- (2) The application form contemplated in subregulation (1) must essentially be in the form and contain the particulars as set out in Annexure "A" to these regulations

- (3) The applicant must ensure that the duly completed application form and all the documents referred to in these regulations are lodged with the office of the Designated Police Officer.

## **12. Documents to accompany application for registration as recycler**

An application for registration as a recycler under section 25 of the Act which is not lodged simultaneously with an application for registration as a dealer under section 3 of the Act must be accompanied by -

- (a) a statement which confirms that -
  - (i) applicant is registered or in the process of being registered as a dealer;
  - (ii) applicant or any other person contemplated in section 5(1)(d) of the Act is not disqualified from being registered as a dealer or recycler;
  - (iii) applicant undertakes to ensure compliance with the requirements of other legislation regulating that business or industry; and
- (b) any other documentation that applicant wishes to submit in support of the application, including a copy of any certificate or permit relating to other legislation regulating that industry.

## **13. Certificate of registration as a recycler and conditions**

- (1) After consideration of the application, the National Commissioner may issue a certificate of registration or temporary registration, depending on the circumstances.
- (2) The National Commissioner may authorize such recycler to carry on business subject to any of the following conditions:
  - (a) the recycler may only carry on business of dealing in the goods or classes of goods specified on the certificate;
  - (b) the recycler may acquire or dispose of second-hand goods only during the business hours specified on the certificate; and
  - (c) where such recycler acquires or disposes of second-hand goods to other dealers or recyclers, that the recycler concerned may only acquire such goods from or dispose of such goods to another registered dealer or recycler.

- (3) If the National Commissioner is satisfied that crime trends in a station area or areas indicate that specific steps are necessary to regulate trade in a certain type or category of second-hand goods, he may authorise a recycler to carry on business in that type or category of second-hand goods subject to one or more of the following additional conditions:
- (a) such recycler must make a daily, weekly or monthly report to the Designated Police Officer, reporting on all transactions regarding a certain type or category of goods;
  - (b) such recycler must deliver a copy of any records that must be kept in terms of the Act or as a condition of membership to an accredited association, to the Designated Police Officer on a daily, weekly or monthly basis; or
  - (c) such recycler must make a weekly or monthly report to the Designated Police Officer containing the full particulars of any person in the employ of that recycler, where such recycler knows or suspects, or should reasonably know or suspect that such employee would be disqualified from registration in terms of section 14(1)(a), (b), (c) or (e) of the Act.

#### **14. Manner of appeal**

- (1) Any dealer or recycler wishing to appeal against a decision contemplated in section 33(1) of the Act, must lodge a statement and all documents or copies of documents pertaining to the matter at the office of the Minister, either by hand or by registered post, within 30 days from the date of the relevant decision.
- (2) The statement referred to in (1) must set out the circumstances of the appeal and all grounds upon which the appellant rely in order to enable the Minister to reach a final decision.

#### **15. Offences and penalties**

Any dealer or recycler who -

- (a) contravenes or fails to comply with regulation 5(1)(a), 5(1)(b), 5(2) or 5(3);
- (b) contravenes or fails to comply with regulation 7(2) or 7(3);
- (c) contravenes or fails to comply with regulation 8(3)(a)(i), 8(3)(a)(ii), or 8(3)(b); or
- (d) contravenes or fails to comply with regulation 10(1) or (4).

is guilty of an offence and liable on conviction to a fine or imprisonment not exceeding 12 months or both such fine or imprisonment.

**16. Short Title**

These Regulations shall be called the Regulations for Dealers and Recyclers, 2012 and shall come into operation on the date of the coming into operation of the Second-Hand Goods Act, 2009.

**ANNEXURE "A"**

**MINIMUM PARTICULARS TO BE IN APPLICATION FORM**

**1. PARTICULARS OF APPLICANT**

- 1.1. Name
- 1.2. ID Number / Passport Number
- 1.3. Residential Address
- 1.4. Postal Address
- 1.5. Telephone numbers
- 1.6. e-Mail
- 1.7. SA Citizen
- 1.8. Disqualification (section 14)

**2. PARTICULARS OF BUSINESS**

- 2.1. Name of Business
- 2.2. Business Address
- 2.3. Postal Address
- 2.4. Telephone numbers
- 2.5. e-Mail
- 2.6. Registered as Company / Close Corporation / Trust / Business trust
- 2.7. Registered name
- 2.8. Trading name
- 2.9. Registration Number

**3. RESPONSIBLE PERSON**

- 3.1. Name
- 3.2. ID Number / Passport Number
- 3.3. Residential Address
- 3.4. Postal Address
- 3.5. Telephone numbers
- 3.6. e-Mail
- 3.7. SA Citizen

**4. PERSON IN CONTROL OF/OR RESPONSIBLE FOR MANAGEMENT OF THE COMPANY, CLOSE CORPORATION, TRUST OR PARTNERS IN CASE OF A PARTNERSHIP**

- 4.1. Name
- 4.2. ID Number / Passport Number

- 4.3. Residential Address
- 4.4. Postal Address
- 4.5. Telephone numbers
- 4.6. e-Mail
- 4.7. SA Citizen

## **5. MEMBERSHIP OF ACCREDITED ASSOCIATION**

- 5.1. Name of Association
- 5.2. Accreditation Number
- 5.3. Responsible person
- 5.4. Office Address
- 5.5. Postal Address
- 5.6. Telephone numbers
- 5.7. e-Mail
- 5.8. Membership Number
- 5.9. Category of membership

## **6. PARTICULARS OF BUSINESS**

- 6.1. General dealer
- 6.2. Auctioneer
- 6.3. Jeweller
- 6.4. Motor vehicle dealer
- 6.5. Scrap metal dealer
- 6.6. Recycler
- 6.7. Other

## **7. GOODS TO BE TRADED IN**

- 7.1. Type of goods
- 7.2. Category
- 7.3. Business Hours

## **8. PREMISES**

- 8.1. Type of premises
- 8.2. More than one premises
- 8.3. Floor plan
- 8.4. Recycling equipment

ANNEXURE "B1-1"	ACQUISITION REGISTER: GENERAL DEALER
ANNEXURE "B1-1"	DISPOSAL REGISTER: GENERAL DEALER
ANNEXURE "B2-1"	ACQUISITION REGISTER: AUCTIONEER
ANNEXURE "B2-2"	DISPOSAL REGISTER: AUCTIONEER
ANNEXURE "B3-1"	ACQUISITION REGISTER: JEWELLER

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ANNEXURE "B3-2"	DISPOSAL REGISTER: JEWELLER
ANNEXURE "B4-1"	ACQUISITION REGISTER: VEHICLE DEALER
ANNEXURE "B4-2"	DISPOSAL REGISTER: VEHICLE DEALER
ANNEXURE "B5-1"	REGISTER OF ACQUISITION: SCRAP METAL DEALERS
ANNEXURE "B5-2"	REGISTER OF DISPOSAL: SCRAP METAL DEALERS

**ANNEXURE "B1-1"****ACQUISITION REGISTER: GENERAL DEALER**

ACQUIRED FROM	NUMBER ASSIGNED TO GOODS OR DESCRIPTION	PERSON CONDUCTING TRANSACTION ON BEHALF OF DEALER	DATE AND TIME OF TRANSACTION	DATE GOODS SOLD OR MANNER DISPOSED OF
Full names:	Make:	Full names:	Date:	Date:
Identity Number:	Model:			
Manner in which Identity verified:	Serial Number:	PURCHASE PRICE  R	Time:	Manner of Disposal:
Contact Address:	Communication Equipment IMEI number:			
Telephone Number:	Other particulars:			

**ANNEXURE "B1-1"****DISPOSAL REGISTER: GENERAL DEALER**

DISPOSED TO	NUMBER ASSIGNED TO GOODS OR DESCRIPTION	PERSON CONDUCTING DISPOSAL TRANSACTION ON BEHALF OF DEALER	DATE AND TIME OF TRANSACTION	
Full names:	Make:	Full names:	Date:	
Identity Number:	Model:			
Manner in which Identity verified:	Serial Number:		Time:	
Contact Address:	Other particulars:			
Telephone number:				

Prepared by:

## ANNEXURE "B2-1"

### ACQUISITION REGISTER: AUCTIONEER

ACQUIRED FROM	PERSON CONDUCTING AUCTION	DATE AND TIME OF TRANSACTION	DATE GOODS SOLD
Full names:		Date:	Date:
Identity Number:			
Manner in which Identity verified:		Time:	Manner of Disposal:
Contact Address:			
Telephone Number:			
<b>NUMBER / LOT ASSIGNED TO ITEM</b>	<b>FULL DESCRIPTION OF ITEM</b>		
	Make:		
	Model:		
	Serial Number:		
	In case of communication equipment, the IMEI number:		
	Vehicle Registration Number:		
	Vehicle Identification Number :		
	Vehicle Engine Number:		
	Vehicle Chassis Number:		
	Vehicle Odometer Reading:		
	Vehicle Exterior and Trim Colour:		
Microdot Particulars:			

Prepared by:

**ANNEXURE "B2-2"****DISPOSAL REGISTER: AUCTIONEER**

<b>DISPOSED TO</b>	<b>PERSON CONDUCTING AUCTION</b>	<b>DATE AND TIME OF TRANSACTION</b>	<b>DATE GOODS SOLD</b>
Full names:	Full names:	Date:	Date:
Identity Number:			
Manner in which Identity verified:		Time:	Manner of Disposal:
Contact Address:			
Telephone Number:			
<b>NUMBER / LOT ASSIGNED TO ITEM</b>	<b>FULL DESCRIPTION OF ITEM</b>		
	Make:		
	Model:		
	Serial Number:		
	In case of communication equipment, the IMEI number:		
	Vehicle registration number		
	Vehicle Identification Number :		
	Vehicle Engine Number:		
	Vehicle Chassis Number:		
	Vehicle Odometer Reading:		
	Vehicle Exterior and Trim Colour:		
Microdot Particulars:			

Prepared by:

**ANNEXURE "B3-1"**  
**ACQUISITION REGISTER: JEWELLER**

ACQUIRED FROM	FULL DESCRIPTION OF ITEM	PERSON CONDUCTING TRANSACTION ON BEHALF OF DEALER	DATE AND TIME OF TRANSACTION	DATE GOODS SOLD OR MANNER DISPOSED OF
Full names:		Full names:	Date:	Date:
Identity Number:		PURCHASE PRICE	Time:	Manner of Disposal:
Manner in which Identity verified:				
Contact Address:				
Telephone Number:		Photograph of item: YES / NO	R	

**ANNEXURE "B3-2"**  
**DISPOSAL REGISTER: JEWELLER**

DISPOSED TO	FULL DESCRIPTION OF GOODS	PERSON CONDUCTING DISPOSAL TRANSACTION ON BEHALF OF DEALER	DATE AND TIME OF TRANSACTION
Full names:		Full names:	Date:
Identity Number:			Time:
Manner in which Identity verified:			
Contact Address:			
Telephone number:			

Prepared by:

## ANNEXURE "B4-1"

### ACQUISITION REGISTER: VEHICLE DEALER

ACQUIRED FROM	PERSON CONDUCTING TRANSACTION	DATE AND TIME OF TRANSACTION	DATE GOODS SOLD
Full names:	Full names:	Date:	Date:
Identity Number:		Time:	Manner of Disposal:
Manner in which Identity verified:			
Contact Address:			
Telephone Number:			
FULL DESCRIPTION OF VEHICLE		DISPOSAL REGISTER REFERENCE NUMBER	PURCHASE PRICE
Make:			
Model:			
Registration Number:			
Vehicle Identification Number :			
Vehicle Engine Number:			
Vehicle Chassis Number:			
Vehicle Odometer Reading:			
Vehicle Exterior and Trim Colour:			
Microdot Particulars:			
Other features:			

Prepared by:

**ANNEXURE "B4-2"****DISPOSAL REGISTER: VEHICLE DEALER**

DISPOSED OF TO	PERSON CONDUCTING TRANSACTION	DATE AND TIME OF TRANSACTION	DATE GOODS SOLD
Full names:	Full names:	Date:	Date:
Identity Number:		Time:	Manner of Disposal:
Manner in which Identity verified:			
Contact Address:			
Telephone Number:			
FULL DESCRIPTION OF VEHICLE		REFERENCE NUMBER	PURCHASE PRICE
Make:			
Model:			
Registration Number:			
Vehicle Identification Number :			
Vehicle Engine Number:			
Vehicle Chassis Number:			
Vehicle Odometer Reading:			
Vehicle Exterior and Trim Colour:			
Microdot Particulars:			
Other features:			

Prepared by:

**ANNEXURE "B5-1"****REGISTER OF ACQUISITION: SCRAP METAL DEALERS**

ACQUIRED FROM	FULL DESCRIPTION OF ITEM	PERSON CONDUCTING TRANSACTION ON BEHALF OF DEALER	DATE AND TIME OF TRANSACTION	DATE ITEM SOLD AND MANNER DISPOSED OF
Full names:		Full names:	Date:	Date:
Identity Number:		PURCHASE PRICE	Time:	Manner of Disposal:
Manner in which Identity verified:				
Contact Address:				
Vehicle registration:		Weight:	R	
Telephone Number:	Photograph of goods: YES / NO			
In the event that the item is cable consisting of controlled metal of which the cover has been burnt, the explanation provided by the seller for the burnt cover:				

**ANNEXURE "B5-2"****REGISTER OF DISPOSAL: SCRAP METAL DEALERS**

	COLUMN 1 DISPOSED TO	COLUMN 2 WEIGHT AND FULL DESCRIPTION OF GOODS	COLUMN 3 PERSON CONDUCTING DISPOSAL TRANSACTION ON BEHALF OF DEALER	COLUMN 4 DATE AND TIME OF TRANSACTION
ROW 1			Full names:	Date:
ROW 2	Full names:			
ROW 3	Identity Number:			
ROW 4	Manner in which Identity verified:			
ROW 5	Contact Address:			
ROW 6	Telephone number:			

Prepared by: