



LAWS OF MALAYSIA

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Act 189

SECOND-HAND DEALERS ACT 1946

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SECOND-HAND DEALERS ACT 1946

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First Reprint 2001

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LAWS OF MALAYSIA**Act 189****SECOND-HAND DEALERS ACT 1946**

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LAWS OF MALAYSIA**Act 189****SECOND-HAND DEALERS ACT 1946**

An Act to provide for the control and licensing of dealers in second-hand goods.

[1 August 1946]

Short title and application

1. (1) This Act may be cited as the Second-hand Dealers Act 1946, and shall come into operation on the first day of August 1946.

(2) This Act shall apply only in Peninsular Malaysia.

Interpretation

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

“district” means any area administered as a Police district or sub-district;

“licensed dealer” means a dealer licensed under this Act or exempted from being so licensed who deals in second-hand goods only, or in such goods together with goods which are not second-hand;

“licensing officer” means the Chief Police Officer and includes any police officer to whom he may have deputed his powers under section 3;

“Minister” means the Minister charged with responsibility for the regulation of dealers in second-hand goods;

“motor vehicle” means a mechanically propelled vehicle intended or adapted for use on roads;

“motor vehicle part” means any component part of a motor vehicle and any tyre, tube, lamp, tool or other fitting, accessory, attachment or equipment of a motor vehicle;

“person” includes a firm or a person carrying on business in a firm’s name;

“shop” includes a house, place of business or other premises;

“stolen property” means property the possession whereof has been transferred by theft, or by extortion, or by robbery, and property which has been criminally misappropriated or in respect of which criminal breach of trust or cheating has been committed, whether the transfer has been made or the misappropriation or breach of trust or cheating has been committed within or without Malaysia; but, if such property subsequently comes into the possession of a person legally entitled to the possession thereof, it then ceases to be stolen property;

“Peninsular Malaysia” has the meaning assigned thereto by section 3 of the Interpretation Acts 1948 and 1967 [*Act 388*], and includes the Federal Territory.

Presumption

(2) Every person in whose possession second-hand goods are found apparently exposed for sale, or who is found in possession of second-hand goods in an unusual quantity, shall be deemed, until the contrary is proved, to be a dealer in second-hand goods.

Exemption

(3) Nothing in this Act shall apply to the repurchase by a goldsmith or jeweller of articles of jewellery sold by him.

Licensing officers

3. In each State the Chief Police Officer shall be the licensing officer but he may depute his powers in respect of any district of such State to any police officer not below the rank of Inspector.

Issue of licences discretionary

4. A licensing officer may in his discretion issue licences under this Act to persons approved by him on payment of the prescribed fee and any other prescribed charges.

Exemptions

5. In any State the Chief Police Officer may, at his discretion and on payment of the prescribed fee, exempt any person carrying on business within the State from any of the provisions of this Act, other than section 8 or section 14, upon the conditions and to the extent mentioned in the exemption.

Licences

6. No person unless exempted from this section shall deal in second-hand goods except in accordance with the conditions of a licence issued under this Act in the form in the First Schedule, and in the place specified in the licence:

Provided that any person who deals exclusively in the goods specified in the Second Schedule or any of them may be granted a licence in the form in the Third Schedule. Sections 7, 12, 13, 15 and 16 shall not apply to such licensee, nor need the licence specify his

place of business, but every such licensee shall carry his licence on his person and shall produce the same for inspection at any time on demand by any police officer.

Licences to be posted

7. (1) Every licensed dealer shall keep his licence posted in a conspicuous place in his shop.

(2) Every licensed dealer shall keep exhibited at or over the outer door of his shop a sign-board, of such size and in such position as the licensing officer directs, which shall have printed thereon in the National Language and in the English, Chinese and Tamil languages the words "Licensed Dealer in Second-hand Goods".

(3) Any licensed dealer who fails to comply with this section shall, on conviction, be liable to a fine not exceeding two hundred ringgit.

Hours of business

8. No licensed dealer shall receive, purchase, sell or deliver any goods between the hours of 7 p.m. and 7 a.m.

Penalty

9. Any person who contravenes section 6 or section 8 shall, on conviction, be liable, for a first offence, to a fine not exceeding one thousand ringgit or to imprisonment for a term which may extend to three months, or to both, and, for a second or subsequent offence, to a fine not exceeding five thousand ringgit or to imprisonment for a term which may extend to two years, or to both, and, if the goods dealt in consist, in whole or in part, of motor vehicle parts, shall, on conviction, be liable, whether for a first or subsequent offence, to a fine not exceeding twenty thousand ringgit or to imprisonment for a term which may extend to five years, or to both.

Issue of licences

10. A licence issued under this Act—

- (a) shall be issued by the licensing officer of the area wherein the person licensed carries on business, on payment of the prescribed fee;
- (b) shall expire on the thirty-first day of December in the year in which it is issued; and
- (c) shall not be transferable except with the consent of the Chief Police Officer and on payment of the prescribed fee,

but in no case shall such a licence be issued unless the fingerprints of the person applying to be licensed have been taken by the licensing officer.

Cancellation

11. In any State the Menteri Besar or Chief Minister, as the case may be, and in the Federal Territory, the Minister, may at his discretion at any time cancel any licence issued or exemption made under this Act.

Books of account

12. (1) Every licensed dealer shall keep in his shop—

- (a) a book, legibly written in the National Language or in English, in which he shall enter the particulars of all goods bought by him, with the date of the purchase, the price paid for them and the name and address of the person from whom he bought them and such other particulars as may be prescribed; and
- (b) a book, legibly written, in the National Language or in English in which he shall enter the particulars of all goods sold by him with the date of sale, the price

received for them and the name and address of the person to whom he sold them and such other particulars as may be prescribed.

(2) Such books shall be produced for examination at any time on demand by a Magistrate or by a police officer not below the rank of sergeant.

(3) Any licensed dealer who fails to comply with this section shall, on conviction, be liable, for a first offence, to a fine not exceeding two thousand ringgit or to imprisonment for a term which may extend to six months, or to both, and, for a second or subsequent offence, to imprisonment for a term which may extend to two years.

Information of stolen property

13. (1) Information as to any stolen property or as to any property which has been lost shall be given by the police, as soon as possible after the theft or loss, to all licensed dealers, with lists and descriptions of the same.

(2) If any property answering to the lists and descriptions is in the possession of any licensed dealer or is thereafter offered to or shown to any licensed dealer, he shall without unnecessary delay give information to that effect at the nearest police station or to any police officer, with the name and address of the person from whom he acquired or who offered or showed him the same.

(3) Any licensed dealer failing to give information as required by subsection (2) shall, on conviction, be liable, for a first offence, to a fine not exceeding two thousand ringgit or to imprisonment for a term which may extend to six months, or to both, and, for a second or subsequent offence, to imprisonment for a term which may extend to two years, and, where the stolen property consists, in whole or in part, of motor vehicle parts, the licensed dealer shall, on conviction, be liable, whether for a first or subsequent offence, to a fine not exceeding twenty thousand ringgit or to imprisonment for a term which may extend to five years, or to both.

(4) The licensed dealer in such case may also detain the person offering or showing such property until the arrival of the police.

Reports of purchases or sales of motor vehicle parts

14. (1) Every licensed dealer who deals in motor vehicle parts shall, when so required by order in writing by the licensing officer, in respect of such period and in such manner as may be specified in such order, report in writing to the nearest police station full details of any motor vehicle parts which he has bought or sold with the price paid and, the name and address of the vendor or purchaser thereof, as the case may be. Such reports shall, be legibly written, in the National Language or in English.

(2) Any licensed dealer who, without reasonable excuse, fails to comply with such order, shall, on conviction, be liable to imprisonment for a term not exceeding three months or to a fine not exceeding one thousand ringgit or to both.

Police officers may enter and search licensed dealers' shops, etc.

15. Any police officer not below the rank of corporal or any police officer employed on detective duties, and any police officer specially authorized in writing by the licensing officer to act under this Act, may enter any licensed dealer's shop at any time and may search without warrant the shop of such licensed dealer for any property which he has reason to suspect to be therein and to be stolen property or to have been lost.

Loitering

16. (1) Any police officer having reason to believe that a person in or loitering about a licensed dealer's shop under suspicious circumstances has with him any stolen property may detain such person and require him to produce any property which he has with him.

(2) If any property is produced which the police officer has reason to suspect to be stolen property, he may take or cause to be taken the person and property to the nearest police station, there to be dealt with according to law.

(3) If any person so required to produce such property refuses to be searched, the police officer may take him or cause him to be taken before a Magistrate, who, if he sees fit, may search or order to be searched such person and, if any such property is found, may detain him with the property so found to be dealt with according to law.

Delivery to owner

17. (1) If any person is convicted in any court of an offence against Chapter XVII of the Penal Code [*Act 574*] in respect of any property, and it appears to the court that the same has been sold to a licensed dealer, the court, on proof of the ownership of the property, may, if it thinks fit, order the delivery thereof to the owner either on payment to the licensed dealer of the amount of the purchase price or any part thereof or without payment thereof or of any part thereof as to the court, according to the conduct of the owner and the other circumstances of the case, may seem just and fitting.

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

(3) If, after hearing the licensed dealer, the court is of the opinion that the licensed dealer has not exercised due care in purchasing any stolen property, it may order the licensed dealer to pay a fine not exceeding two thousand ringgit or to undergo imprisonment for a term which may extend to three months, or to suffer both such penalties and, if the property consists, in whole or in part, of motor vehicle parts, the court may order the licensed dealer to pay a fine not exceeding twenty thousand ringgit or to undergo imprisonment for a term which may extend to three years, or to suffer both such penalties.

Liability of dealer and servant for acts of servant

18. (1) Where any act or thing is done or omitted to be done by any agent or servant employed by a licensed dealer, which if done or omitted to be done by the licensed dealer himself would constitute an offence under this Act, the licensed dealer shall be liable for such offence as if the act or thing had been done or omitted to be done by him.

(2) Every agent or servant employed by a licensed dealer in the course of his business as such who does or omits to do anything which would, under this Act, be an offence if done or omitted to be done by the licensed dealer, shall be deemed to be guilty of the offence and shall be liable to the punishment prescribed therefor.

Jurisdiction

19. Notwithstanding any provision to the contrary contained in any law for the time being in force, a Sessions Court or a Magistrates Court shall have jurisdiction to try any offence under this Act and to award any punishment prescribed therefor.

Rules

20. In any State the State Authority, and, in the Federal Territory, the Yang di-Pertuan Agong, may make rules for any of the following purposes:

- (a) to prescribe the fees for licences and exemptions and transfers of licences under this Act;
- (b) to prescribe the form of the exemptions under this Act;
- (c) to prescribe the conditions to be endorsed on licences issued under this Act;

- (d) to prescribe the books to be kept by licensed dealers and the particulars to be entered therein; and
- (e) generally to carry out the purpose of this Act.

Power to vary Second Schedule

21. The Minister may by notification in the *Gazette* vary the Second Schedule.

Repeals

22. The Ordinance and Enactments specified in the Fourth Schedule to this Act are hereby repealed.

FIRST SCHEDULE

[Section 6]

Federal Territory/State of

SECOND-HAND DEALERS ACT 1946

LICENCE TO DEAL IN SECOND-HAND GOODS

Permission is hereby granted to

Full name.....

Occupation

to deal in second-hand goods at
(here state the address of the licensed premises) subject to the provisions of the Second-hand Dealers Act 1946 and of any rules and order for the time being in force thereunder and to the following conditions:

Fee paid RM.....

.....
Chief Police Officer

SECOND SCHEDULE

[Section 6]

- (a) Gunny bags, sail cloth, canvas.
- (b) Bottles.
- (c) Old iron and metals other than brass, copper, lead, zinc and block tin.
- (d) Wooden and tin-lined boxes and cases.
- (e) Kerosene tins, old drums, and other similar empty receptacles.

THIRD SCHEDULE

[Section 6]

Federal Territory/State of

Permission is hereby granted toof
..... to deal in second-hand goods of the description
thereunder mentioned.

- (a) Gunny bags, sail cloth, canvas.
- (b) Bottles.
- (c) Old iron and metals other than brass, copper, lead, zinc and block tin.
- (d) Wooden and tin-lined boxes and cases.
- (e) Kerosene tins, old drums, and other similar empty receptacles.

.....
Chief Police Officer

FOURTH SCHEDULE

[Section 22]

The Second-hand Dealers Enactment of the Federated Malay States (Chapter 86).

The Second-hand Dealers Ordinance of the Straits Settlements (Chapter 215).

The Second-hand Dealers Enactment (No. 50) of the State of Johore.

The Second-hand Dealers Enactment of the State of Trengganu (Enactment No. 35 of 1356).

LAWS OF MALAYSIA**Act 189****SECOND-HAND DEALERS ACT 1946**

LIST OF AMENDMENTS

Amending law	Short title	In force from
M.U. Ord. 31/1946	Second-hand Dealers (Amendment) Ordinance 1946	01-01-1947
F.M. Ord. 1/1948	Transfer of Powers Ordinance 1948	06-03-1948
L.N 332/1958	Federal Constitution (Modification of Laws) (Ordinances and Proclamations) Order 1958	13-11-1958
Act 29/1961	Second-hand Dealers (Amendment) Act 1961	21-09-1961

LAWS OF MALAYSIA**Act 189****SECOND-HAND DEALERS ACT 1946**

LIST OF SECTIONS AMENDED

Section	Amending authority	In force from
2	Ord. 31/1946 Act 29/1961	01-01-1947 21-09-1961
3	L.N. 332/1958	13-11-1958
5	L.N. 332/1958	13-11-1958
11	L.N. 332/1958	13-11-1958
12	Ord. 31/1946	01-01-1947
14	Ord. 31/1946 Act 29/1961	01-01-1947 21-09-1961
First Schedule	L.N. 332/1958	13-11-1958
Third Schedule	L.N. 332/1958	13-11-1958
Fourth Schedule	Ord. 31/1946	01-01-1947
