

LAWS OF BRUNEI

CHAPTER 63

PAWNBROKERS

2 of 1919
5 of 1929
(Cap. 63 of 1951)

Amended by:
14 of 1957
S 99/59
S 20/90

LAWS OF BRUNEI

CHAPTER 63
PAWNBROKERS

ARRANGEMENT OF SECTIONS

Section

1. Short title.
2. Interpretation.
3. Persons deemed to be pawnbrokers.
4. Pawnbrokers must hold licences.
5. Application to executors, etc., of pawnbrokers.
6. Act done by servant deemed the act of the pawnbroker.
7. Extension of rights of pawners to their assigns, executors, etc.
8. General obligation of pawnbroker.
9. Pledges over \$500.
10. Profits on pledges.
11. Date of redemption.
12. Pledges for \$100 or under.
13. Pledges for over \$100.
14. Auctions in respect of unredeemed pledges.

15. Rights of pawners in respect of surplus.
16. Pawnshops to be conspicuously marked.
17. Pledges over \$100 to be exhibited.
18. Liability of pawnbroker in case of fire.
19. Damage.
20. Linen, clothing, etc.
21. Legal rates or profits to be exhibited.
22. Holder of a pawn-ticket.
23. No delivery unless ticket produced.
24. Loss of pawn-ticket.
25. Responsibilities of pawnbroker.
26. Articles offered for pawn in suspicious circumstances.
27. Power to make rules.
28. Police to give information to pawnbrokers as to stolen property.
29. Right of search.
30. Penalties.

SCHEDULE

PAWNBROKERS ACT**An Act to consolidate and amend the law relating to the business of pawnbroking***Commencement: 1st January 1920*

1. This Act may be cited as the Pawnbrokers Act.

Short title.

2. In this Act —

Interpretation.

“pawnbroker” includes every person who carries on the business of taking goods and chattels in pawn;

“pawner” means a person delivering an article for pawn to a pawnbroker;

“pledge” means an article pawned with a pawnbroker;

“shop” includes a dwelling-house and warehouse or other place of business or place where business is transacted;

“unfinished goods or materials” includes any goods of any manufacture or of any part or branch of any manufacture either mixed or separate.

3. Any person who receives or takes of or from any person any goods or chattels by way of security for the repayment of any sum or sums of money not exceeding \$2,000 advanced thereon, or who purchases or receives or takes in goods or chattels and pays or advances or lends thereon any sum or sums of money not exceeding \$2,000, with or under an agreement or understanding expressed or implied or to be from the nature and character of the dealing reasonably inferred that those goods or chattels may afterwards be redeemed or repurchased on any terms, shall be deemed to be a person carrying on the business of taking goods in pawn, and every such transaction, article,

Persons
deemed to be
pawnbrokers.

payment, advance and loan shall be deemed a pawning pledge or loan respectively within the meaning of this Act:

Provided that nothing in this Act shall extend to any loan of money exceeding \$100 and secured by pawn or pledge if the rate of interest does not exceed 10 per cent per annum, and if no further or other profit or advantage be taken for or on the loan, or shall extend to prevent a pawnbroker under this Act from taking in pawn goods or chattels exceeding in value the sum of \$2,000 or lending thereon a sum exceeding that amount.

Pawnbrokers
must hold
licences.

4. (1) No person shall carry on the business of a pawnbroker without a licence in that behalf.

(2) A separate non-transferable licence shall be taken out and paid for by a pawnbroker for each pawnbroker's shop kept by him.

[S 20/90]

(3) Minister or such officer as is authorised by him in that behalf by writing may issue licences to such persons in such localities, for such areas and upon such conditions and terms as to payment of fees as he thinks fit.

[S 20/90]

(4) Minister or such officer as is authorised in that behalf may revoke any licences granted under this section without assigning any reason, but such revocation shall not effect the duties and liabilities of a pawnbroker under this Act.

[S 20/90]

(5) A pawnbroker's licence shall not be granted to any person except on the production of satisfactory evidence of good character and on Minister or such officer as is authorised by him in that behalf being satisfied that the premises are suitable for the purpose.

Application
to executors,
etc., of
pawnbrokers.

5. The provisions of this Act relating to pawnbrokers shall extend to and include the executors or administrators of deceased pawnbrokers, except that an executor or administrator shall not be answerable for any penalty or forfeiture, personally or out of his own estate, unless the same is incurred by his own act or neglect.

6. (1) For the purposes of this Act anything done or omitted to be done by the servant or agent of a pawnbroker, in the course of or in the relation to the business of the pawnbroker, shall be deemed to be done or omitted, as the case may be, by the pawnbroker.

Act done by servant deemed the act of the pawnbroker.

(2) Anything by this Act authorised to be done by the pawnbroker may be done by his servant or agent.

7. The rights, powers and benefits by this Act reserved to and conferred on pawners shall extend to, and be deemed to be reserved to, and conferred on, the assignees of pawners, and to and on the executors or administrators of deceased pawners; but any person representing himself to a pawnbroker to be the assign, executor or administrator of a pawner shall, if required by the pawnbroker, produce to the pawnbroker the assignment, probate, letters of administration or other instruments under which he claims.

Extension of rights of pawners to their assigns, executors, etc.

8. (1) Every pawnbroker shall —

General obligations of pawnbroker.

(a) before taking any goods in pawn enter clearly and legibly in a book to be kept by him for the purpose a description of all such goods received by him in pawn and also the sum of money lent thereon, the hour, day of the month and year of such loan, the name, sex and nationality of the person pawning such goods and the name of the place and street where such person resides;

(b) take a clear impression in ink of the right thumb of the pawner against the particulars entered under paragraph (a);

(c) keep a book in which he shall enter clearly and legibly all particulars regarding unredeemed pledges which have been sold including a description thereof, the name of the pawner, the date of sale and the sum realised;

(d) on taking a pledge in pawn give to the pawner a pawn-ticket; and the pawnbroker shall not take a pledge in pawn unless the pawner takes the pawn-ticket;

(e) at any time on demand by any magistrate or by the Commissioner of Police or by any police officer not below the rank of the sergeant produce for examination all books kept by him for the purposes of his business; and every magistrate and every such police officer as aforesaid shall be entitled to enter at any time during business hours the shop of any pawnbroker without warrant to search for and examine the said books and to take extracts and copies therefrom.

(2) Any pawnbroker who fails in any respect to comply with this section shall be guilty of an offence against this Act.

Pledges over
\$500.

9. A pawnbroker shall not take in pawn any article exceeding \$500 in value except upon reference to some householder who shall vouch for the responsibility of the pawner and undertake to trace him if necessary.

Profits on
pledges.

10. (1) A pawnbroker may take profit on a loan on a pledge at a rate not exceeding that specified in the Schedule to this Act.

(2) A pawnbroker shall, if required at the time of redemption give a receipt for the amount of the loan and profit paid to him.

Date of
redemption.

11. Every pledge shall be redeemable within 6 months from the day of pawning exclusive of that day.

Pledges for
\$100 or under.

12. A pledge pawned for \$100 or under shall at the end of the time of redemption become and be the absolute property of the pawnbroker.

Pledges for
over \$100.

13. A pledge pawned for any sum exceeding \$100 shall after the time of redemption be disposed by sale of auction and such pledge shall be redeemable by the pawner at any time before the fall of the hammer.

Auctions in
respect of
unredeemed
pledges.
[S 20/90]

14. (1) Auctions in respect of unredeemed pledges shall be held not less than 4 times in each year at a place and on a date fixed by the Minister or such other officer as is authorised by him in that behalf by writing.

(2) Every pawnbroker shall, at least 7 days before such auction, post in a conspicuous place in his shop a list of pledges which it is intended to auction, and such pledges shall be publicly exhibited for at least 3 days before the auction at a police station or other place appointed by the Minister or such other officer as is authorised by him in that behalf by writing. [S 20/90]

(3) Every pawnbroker shall, within 7 days of the date of such auction, send a statement showing the results of such auction to the Commissioner of Police who shall cause the statement to be displayed in a place easily accessible to the public.

15. When a pledge pawned for above \$100 is sold and appears from the statement referred to in subsection (3) of section 14 to have been sold for more than the amount of the loan and profit due at the time of sale, the holder of the pawn-ticket may within 3 months from the date of exhibition of such statement apply to the Minister or such other officer as is authorised by him in that behalf by writing for an order calling on the pawnbroker to show cause why he should not pay to the holder of the pawn-ticket any surplus less the necessary costs and charges of the sale. Rights of pawners in respect of surplus. [S 20/90]

16. Every pawnbroker shall keep fixed in a conspicuous place outside his pawnshop a board bearing the words “Licensed Pawnbroker” in Malay, Chinese and English, in letters not less than 2 inches long. Pawnshops to be conspicuously marked.

17. A pawnbroker shall exhibit for 3 days in a conspicuous place in his shop every pledge taken in pawn exceeding \$100. Pledges over \$100 to be exhibited.

18. (1) When a pledge is destroyed or damaged by or in consequence of fire, the pawnbroker shall nevertheless be liable, on application within the period during which the pledge would have been redeemable, to pay the value of the pledge after deducting the amount of the loan and profit, such value to be the amount of the loan and profit and 24 per centum on the amount of the loan. Liability of pawnbroker in case of fire.

(2) A pawnbroker shall be entitled to insure to the extent of the value so estimated.

Damage.

19. Every pawnbroker shall so conduct his business that no pledge pawned with him shall be diminished in value by or through any neglect, default or wilful misbehaviour of himself or his agents.

Linen,
clothing, etc.

20. No pawnbroker shall knowingly receive in pawn any linen or clothing or unfinished goods or materials entrusted to any person to wash, iron, mend, manufacture or make up.

Legal rates or
profits to be
exhibited.

21. Every pawnbroker shall exhibit in a conspicuous place in his shop so as to be near and visible to all comers a legible copy in Malay, Chinese and English, of the rates of profit he may lawfully take under this Act.

Holder of a
pawn-ticket.

22. The holder for the time being of a pawn-ticket shall be presumed to be the person entitled to redeem the pledge and, subject to the provisions of this Act, the pawnbroker shall, on payment of the loan and profit, deliver the pledge to the person producing the pawn-ticket; and he is hereby indemnified for so doing.

No delivery
unless ticket
produced.

23. A pawnbroker shall not, except as in this Act provided, be bound to deliver back a pledge unless the pawn-ticket for it is delivered to him.

Loss of
pawn-ticket.

24. (1) Any person claiming to be the owner of a pledge but not being able for any reason to produce the pawn-ticket may make a sworn declaration of his claim before a magistrate and, on producing to the pawnbroker such sworn declaration, such person shall have as between himself and the pawnbroker all the same rights and remedies as if he produced before the pawnbroker the pawn-ticket:

Provided that such declaration be produced within 3 days of its being sworn before a magistrate and that the pawnbroker shall not be compelled to deliver up the pledge till the expiry of a further period of 3 days from the date on which such declaration was produced before him.

(2) Every declaration under this section shall be deemed to be a declaration with the meaning of sections 199 and 200 of the Penal Code.

25. No pawnbroker shall do any of the following things, that is to say —

Responsibilities of pawnbroker.

- (i) take an article in pawn from any person who appears to be intoxicated or from any child apparently under the age of 15 years; or
- (ii) purchase or take in pawn or exchange a pawn-ticket issued by another pawnbroker; or
- (iii) employ any servant or other person under the age of 16 years to take pledges in pawn; or
- (iv) suffer any pledge while in pawn with him to be redeemed with a view of his purchasing it; or
- (v) make any contract or agreement with any person pawning or offering to pawn any article or with the owner thereof for the purchase, sale or disposition thereof within the time of redemption; or
- (vi) sell, pawn or otherwise dispose of any pledge pawned with him except at such time and in such manner as authorised by this Act;
- (vii) under any pretence purchase except at auction any pledge while in pawn with him;
- (viii) take any goods or chattels in pawn from any person before 8 a.m. or after 8 p.m.

26. If any person in suspicious circumstances offers any articles in pawn to a pawnbroker, or if any person without having any colour of title by law to redeem a pledge attempts to redeem the same and the pawnbroker has reason to suspect such

Articles offered for pawn in suspicious circumstances.

want of title, it shall be the duty of such pawnbroker to make reasonable inquiries concerning the person and as to how he came by the articles or the pawn-ticket, as the case may be, and if the person is not able or refuses to give a satisfactory account of himself or of the means by which he became possessed of such articles or pawn-ticket, or wilfully gives false information concerning such articles or pawn-ticket or of his name and address or as to the name or address of the owner of such articles, or if there is any other reason to suspect that such articles or pawn-ticket have been stolen or otherwise illegally or clandestinely obtained, such pawnbroker may seize and detain the person offering the articles or pawn-ticket and shall deliver him with the articles or pawn-ticket into the custody of a police officer who shall take the person with the articles or pawn-ticket before a magistrate to be dealt with according to law.

Power to
make rules.
[S 20/90]

27. The Minister with the approval of His Majesty the Sultan and Yang Di-Pertuan may make rules prescribing —

- (a) the form of the books to be kept by pawnbrokers and the particulars to be entered therein;
- (b) the form of the note or pawn-ticket to be issued by pawnbrokers and the particulars to be entered thereon;
- (c) generally the manner and conditions in and under which the business of pawnbroking shall be conducted;
- (d) the fees to be paid for licences by pawnbrokers;
- (e) the manner in which sales by auction under this Act are to be conducted;
- (f) the period for which licences may be issued.

Police to give
information to
pawnbrokers
as to stolen
property.

28. (1) Information as to property lost, stolen or otherwise fraudulently disposed of shall be given by the police as soon as possible after such loss or fraud to all pawnbrokers with lists and descriptions of the same.

(2) If any property answering to such lists and descriptions is in the possession of any pawnbroker or is thereafter offered or shown to any pawnbroker he shall without unnecessary delay give information to that effect to the nearest police station or to any police officer with the name and address of the person in whose possession such property was seen.

(3) The pawnbroker in such case shall also have power to detain the person offering or showing such property until the arrival of the police.

29. The Commissioner of Police and any police officer holding a written authority from the Commissioner of Police authorising him to act under this Act may enter any pawnbroker's shop at any time during business hours and may search without warrant the house, shop or premises of such pawnbroker for any articles that he may have reason to suspect to be therein and to have been dishonestly obtained or dishonestly placed there.

Right of
search.

30. (1) Any pawnbroker who, contrary to this Act or any rule made hereunder —

Penalties.

(a) does any act or thing which he is forbidden to do; or

(b) fails to do any act or thing he is directed to do,

shall be guilty of an offence against this Act.

(2) Any pawnbroker or any person committing an offence against this Act or any rule made hereunder shall be guilty of an offence: Penalty, a fine of \$2,500.

SCHEDULE

(Section 10)

Profits allowed to Pawnbrokers

On any sum not exceeding one dollar, for every ten cents of a dollar for every month or part of a month.	<i>One half cent.</i>
On any sum exceeding one dollar and not exceeding ten dollars, for each dollar for every month or part of a month.	<i>Three and a half cents.</i>
On any sum exceeding ten dollars and not exceeding fifty dollars, for each dollar for every month or part of a month.	<i>Two and a half cents.</i>
On any sum exceeding fifty dollars for each dollar for every month or part of a month.	<i>Two cents.</i>

SUBSIDIARY LEGISLATION

Rules under section 27

PAWNBROKERS RULES

ARRANGEMENT OF RULES

Rules

1. Citation.
2. Interpretation.
3. Form of *Buku Gadaian*.
4. Form of *Buku Barang Lelap*.
5. Form of *Surat Gadai*.
6. Validity of licences.
7. No other business to be conducted in premises used by a pawnbroker.

SCHEDULE

SUBSIDIARY LEGISLATION

Rules under section 27

PAWNBROKERS RULES

Commencement: 1st January 1934

1. These Rules may be cited as the Pawnbrokers Rules. Citation.
2. In these Rules — Interpretation.

“the Act” means the Pawnbrokers Act;

“Buku Barang Lelap” means the book containing particulars of unredeemed pledges required to be kept by a pawnbroker by paragraph (c) of subsection (1) of section 8 of the Act;

“Buku Gadaian” means the book containing particulars of goods received in pawn required to be kept by a pawnbroker by virtue of paragraph (a) and (b) of subsection (1) of section 8 of the Act;

“Surat Gadai” means the pawn-ticket required to be issued by a pawnbroker to a pawner by virtue of the provisions of paragraph (d) of subsection (1) of section 8 of the Act.
3. Every *Buku Gadaian* shall be kept in romanised Malay and shall be in Form 1 in the Schedule. Form of *Buku Gadaian*.
4. Every *Buku Barang Lelap* shall be kept in romanised Malay and shall be in Form 2 in the Schedule. Form of *Buku Barang Lelap*.
5. Every *Surat Gadai* shall be written in romanised Malay and shall be in Form 3 in the Schedule. Form of *Surat Gadai*.
6. The pawnbrokers licence shall be issued for a period of not more than 2 years. Validity of licences.
7. The business of pawnbroking shall be conducted in premises devoted exclusively to that business. No other business to be conducted in premises used by a pawnbroker.

SCHEDULE

FORM 1

BUKU GADAIAN

1	No. gadaian	
2	Tarikh gadaian	
3	Nama, bangsa dan cap ibu jari kanan penggadai	
4	Alamat tempat tinggal penggadai	
5	Nama dan bangsa pemilik - jika lain daripada penggadai	
6	Alamat tempat tinggal pemilik jika lain daripada penggadai	
7	Harga gadaian	
8	Keadaan barang gadaian	
9	Nama dan alamat tempat tinggal penjamin	
10	Tarikh tebusan	
11	Kadar keuntungan	
12	Tarikh jualan lelong	
13	Nama dan alamat tempat tinggal pembeli jualan lelong	

FORM 2

BUKU BARANG LELAP

1	2	3	4	5	6	7	8	9
No. gadaian	Nama penggadai	Tarikh gadaian	Keadaan barang	Harga gadaian	Kadar keuntungan	Tarikh jualan lelong	Tarikh jualan lelong ditetapkan oleh pelelong	Lebih dalam tangan Penerima gadaian
				\$ cts	\$ cts			

FORM 3

SURAT GADAI

Nombor	Nama pemegang pajak gadai	
Surat	Alamat	
Gadai	Tarikh gadaian	
	Nama dan alamat tempat tinggal penggadai	
Harga gadaian		
Barang gadaian dan keadaannya		

.....

.....

.....

.....