

# *The Pawned Property (Recording) Regulations*

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[Chapter P-4.2 Reg 1](#) (effective March 15, 2004).

## **NOTE:**

This consolidation is not official. Amendments have been incorporated for convenience of reference and the original statutes and regulations should be consulted for all purposes of interpretation and application of the law. In order to preserve the integrity of the original statutes and regulations, errors that may have appeared are reproduced in this consolidation.

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## CHAPTER P-4.2 REG 1

### *The Pawned Property (Recording) Act*

#### **Title**

- 1** These regulations may be cited as *The Pawned Property (Recording) Regulations*.

#### **Interpretation**

- 2** In these regulations, “**Act**” means *The Pawned Property (Recording) Act*.

5 Mar 2004 cP-4.2 Reg 1 s2.

#### **Circumstances when Act does not apply**

- 3** The Act does not apply in the following circumstances:

- (a) following a retail sales transaction, if an article is returned to the retailer by a dissatisfied customer for the purpose of a refund, exchange for other merchandise or credit;
- (b) if an article is acquired by a pawnbroker from a law enforcement agency or officer acting in an official capacity;
- (c) if an article is acquired by a pawnbroker from a merchant, retailer or wholesaler with a permanent place of business;
- (d) if an article is acquired by a pawnbroker from a trustee in bankruptcy, executor, administrator or receiver who has presented to the pawnbroker proof of his or her position;
- (e) if an article is acquired by a pawnbroker from a public official who is acting under judicial process or authority and who has presented to the pawnbroker proof of his or her position;
- (f) if any of the following articles are the subject of the transaction:
  - (i) second-hand books, magazines, journals, periodicals and other similar printed materials;
  - (ii) postage stamps;
  - (iii) second-hand infant’s, toddler’s or children’s clothing, shoes, equipment, furniture or safety devices;
  - (iv) adult clothing or shoes, except leather or fur jackets and coats;
  - (v) second-hand cookware, glassware and eating utensils that do not contain precious metals;
  - (vi) waste paper, waste cardboard and waste glass;
  - (vii) second-hand furniture;
  - (viii) second-hand appliances including refrigerators, freezers, stoves, washers, dryers, dishwashers and garbage compactors;
  - (ix) non-motorized lawn or garden equipment and tools.

5 Mar 2004 cP-4.2 Reg 1 s3.

**What information is to be obtained and recorded**

4(1) For the purposes of subsection 7(1) of the Act, a pawnbroker shall obtain the following information before entering into a pawn transaction with respect to any article or before purchasing an article through an unconditional sale:

- (a) the name, address, telephone number and date of birth of the person pawning the article or selling the article through an unconditional sale;
- (b) a description of the person pawning the article or selling the article through an unconditional sale including the height, weight, gender, hair colour and eye colour of the person;
- (c) the identification record numbers from two pieces of identification of the person pawning the article or selling the article through an unconditional sale:
  - (i) one of which must be one of the following types of identification but only if it contains a photograph of the person pawning the article or selling the article through an unconditional sale:
    - (A) a valid driver's licence issued by a Canadian province or territory or by a state in the United States of America;
    - (B) a passport issued by the government of origin;
    - (C) a Certificate of Indian Status Card issued by the Government of Canada;
    - (D) a Certificate of Citizenship Card issued by the Government of Canada;
    - (E) a Conditional Release Card issued by Correctional Services of Canada; or
  - (ii) an original birth certificate but only if the accompanying second piece of identification contains a photograph of the person pawning the article or selling the article through an unconditional sale;
- (d) a detailed description of the article that is reasonably sufficient to identify it and to distinguish it from other articles of the same type including, if applicable, each of the following:
  - (i) the manufacturer of the article;
  - (ii) the year the article was manufactured;
  - (iii) the make and model of the article;
  - (iv) any serial number on the article;
  - (v) any identifying marks on the article;
  - (vi) any title appearing on the article;
  - (vii) what type of media the article is, including a compact disc, tape, vinyl record, DVD or VHS tape;
  - (viii) with respect to jewellery, the following additional information:
    - (A) the type of jewellery;
    - (B) the weight;
    - (C) the karat;

- (D) any engraving or micro-reference;
  - (E) the number of gemstones and the type, colour, clarity and shape of each gemstone;
  - (F) whether the item is typically worn by a man or a woman;
  - (ix) a photograph of the item, if the pawnbroker has been given notice in accordance with section 8 by the chief of police that one is required for that type of article.
- (2) Every pawnbroker who enters into a pawn transaction with respect to any article or purchases an article through an unconditional sale shall:
- (a) record the following information for the purposes of section 6:
    - (i) the information obtained pursuant to subsection (1);
    - (ii) the day, month, year and time of the pawn transaction or unconditional sale;
    - (iii) as applicable:
      - (A) the price paid or amount given for an article that is the subject of a transaction;
      - (B) the amount loaned on pawn for the article; or
      - (C) the agreed selling price for consignment of the article and the interest rate charged by the pawnbroker;
    - (iv) the name of the pawnbroker, employee, apprentice or agent of a pawnbroker conducting the pawn transaction or unconditional sale;
  - (b) issue a receipt to the person from whom the article was acquired; and
  - (c) retain a hard copy of the receipt that includes:
    - (i) the original signature of the person from whom the article was acquired; and
    - (ii) the original signature of the pawnbroker, employee, apprentice or agent of a pawnbroker.

5 Mar 2004 cP-4.2 Reg 1 s4.

#### **Articles bearing serial numbers**

**5** No pawnbroker shall enter into a pawn transaction with respect to an article or purchase an article through an unconditional sale if that article bears or customarily bears a serial number unless the serial number is clearly legible and has not been totally or partially altered, removed or obscured.

5 Mar 2004 cP-4.2 Reg 1 s5.

**Information to be recorded and provided electronically**

**6(1)** Immediately after entering into a pawn transaction or purchasing an article through an unconditional sale, a pawnbroker shall record the information set out in clause 4(2)(a) electronically in a format approved by the chief of police.

(2) A pawnbroker shall provide the information recorded pursuant to clause 4(2)(a) to the chief of police:

- (a) in an electronic format approved by the chief of police;
- (b) in a form acceptable to the chief of police; and
- (c) as soon as is practicable after the information is recorded.

(3) Without restricting the requirement of clause (2)(c), a pawnbroker shall provide the chief of police a report at least once each day that the pawnbroker is open for business containing:

- (a) all the information recorded pursuant to clause 4(2)(a) for that day; or
- (b) if the pawnbroker has not entered into any pawn transactions or unconditional sales on that day, a statement that no pawn transactions or unconditional sales were entered into.

(4) For the purposes of this section, the chief of police may:

- (a) establish standards respecting the recording and providing of information by pawnbrokers, and may establish different standards for different classes of pawnbroker; and
- (b) require a pawnbroker:
  - (i) notwithstanding clause (2)(c) and subsection (3), to provide the information recorded pursuant to clause 4(2)(a) immediately to the chief of police;
  - (ii) to maintain and retain the information recorded pursuant to clause 4(2)(a) in a particular electronic format that is acceptable to the chief of police; and
  - (iii) to maintain any computer equipment, operating system or software necessary for the purposes of subclauses (i) and (ii).

(5) A pawnbroker shall pay any fees and costs required for:

- (a) obtaining or operating any computer equipment, operating system or software required for the purpose of these regulations; and
- (b) the use of, or access to, an automated reporting system for the purpose of electronically recording and transmitting the information required pursuant to these regulations.

5 Mar 2004 cP-4.2 Reg 1 s6.

**Procedures to be implemented when computer malfunctions**

**7(1)** The chief of police shall establish procedures to be followed by a pawnbroker in the event of a malfunction of any computer equipment, operating system or software required to be used and maintained by the pawnbroker pursuant to section 6.

- (2) The procedures established pursuant to subsection (1):
- (a) are to continue in effect and be followed by the pawnbroker for the period that the chief of police determines is appropriate in the circumstances; and
  - (b) may include any or all of the following:
    - (i) a procedure requiring a pawnbroker whose computer equipment, operating system or software has malfunctioned to notify the chief of police of the malfunction immediately;
    - (ii) a procedure prohibiting a pawnbroker from entering into any pawn transaction with respect to any article or purchasing an article through an unconditional sale for the period that the procedures are in effect;
    - (iii) a procedure requiring the creation and maintenance of records in a manner and form that is determined by the chief of police.
- (3) If a malfunction mentioned in subsection (1) occurs, no pawnbroker shall fail to comply with the procedures established in this section as required by this section.

5 Mar 2004 cP-4.2 Reg 1 s7.

#### **Notice to pawnbrokers**

**8** For the purposes of subsection 7(4) of the Act, the chief of police shall provide notice to every pawnbroker operating in the municipality:

- (a) by publishing a notice in three consecutive issues of a newspaper having general circulation in that municipality that:
  - (i) sets out the coming into force of section 7 of the Act for that municipality; and
  - (ii) complies with the 90-day notice period required by subsection 7(4) of the Act; or
- (b) by providing a written notice to each pawnbroker by personal service that:
  - (i) sets out the coming into force of section 7 of the Act for that municipality; and
  - (ii) complies with the 90-day notice period required by subsection 7(4) of the Act.

5 Mar 2004 cP-4.2 Reg 1 s8.

#### **Coming into force**

**9(1)** Subject to subsection (2), these regulations come into force on the day on which *The Pawned Property (Recording) Act* comes into force.

(2) If *The Pawned Property (Recording) Act* comes into force before the day on which these regulations are filed with the Registrar of Regulations, these regulations come into force on the day on which they are filed with the Registrar of Regulations.

5 Mar 2004 cP-4.2 Reg 1 s9.

