

No. 8 of 1893.

An Ordinance relating to Pawnbrokers.

WHEREAS it is expedient to provide for the regulation of the business of pawnbrokers: Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows: Preamble.

1 This Ordinance may be cited as "The Pawnbrokers' Ordinance, 1893." Short title.

2 In this Ordinance— Interpretation.

"Pawnbroker" includes every person who carries on the business of taking goods in pawn.

"Pawner" means a person delivering an article for pawn to a pawnbroker.

"Pledge" means an article pawned with a pawnbroker.

"Shop" includes dwelling house and warehouse, or other place of business, or place where business is transacted.

"Unfinished goods or materials" include any goods of any manufacture or of any part or branch of any manufacture either mixed or separate, or any materials whatever plainly intended for the composing or manufacturing of any goods, after such goods or materials are put into a state or course of manufacture, or into a state for any process or operation to be performed thereupon or therewith, and before the same are completed or finished for the purpose of wear or consumption.

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Keepers of certain shops to be deemed pawnbrokers.

3 The following persons shall be deemed to be persons carrying on the business of taking goods in pawn (that is to say), every person who keeps a shop for the purchase or sale of goods, or for taking in goods by way of security for money advanced thereon, and who purchases or receives or takes in goods, and pays or advances or lends thereon any sum of money not exceeding five hundred rupees, 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 may be afterwards redeemed or re-purchased on any terms; and every such transaction, article, payment, advance, and loan shall be deemed a pawning, pledge, and loan respectively, within this Ordinance.

Application of Ordinance.

4 This Ordinance shall apply only where the sum lent by a pawnbroker at any one time does not exceed five hundred rupees.

Pawnbrokers to keep books as in schedule.

5 (1) A pawnbroker shall keep and use in his business such books and documents as are described in schedule I. to this Ordinance, in the forms therein indicated, and shall from time to time, as occasion demands, enter therein in a fair and legible manner the particulars indicated in and in accordance with the directions of that schedule, and shall make all inquiries necessary for that purpose. Such books, documents, and forms may be kept and used in English, Sinhalese, or Tamil.

Name to be painted over door.

(2) A pawnbroker shall always keep exhibited in large characters over the outer door of his shop his name, with the word "Pawnbroker" affixed in the English, Sinhalese, and Tamil languages.

Hours of business.

(3) A pawnbroker shall not take any article on pawn before 8 A.M. in the morning and after 8 P.M. at night.

Penalty.

(4) If a pawnbroker fails in any respect to comply with the requisitions of this section, he shall be guilty of an offence against this Ordinance, and be liable on conviction to a fine not exceeding one hundred rupees.

Pawn tickets to be given for pledges.

6 A pawnbroker shall, on taking any article in pawn, give to the pawner a pawn ticket, and shall not take any article in pawn unless the pawner takes the pawn ticket.

Agents, servants, &c., of a pawnbroker.

7 For the purpose of this Ordinance, anything done or omitted by the servant or agent of a pawnbroker in the course of or in relation to the business of the pawnbroker shall be deemed to be done or omitted (as the case may be) by the pawnbroker, and anything by this Ordinance authorized to be done by a pawnbroker may be done by his servant or agent.

Profit and charges allowed to pawnbrokers.

8 A pawnbroker may take profit on a loan on a pledge at a rate not exceeding that specified in schedule II. to this Ordinance.

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A pawnbroker may demand and take the charges specified in the same schedule, in the cases and according to the rules therein stated and prescribed.

A pawnbroker shall not, in respect of a loan on a pledge, take any profit or demand or take any charge or sum whatever other than those specified in the same schedule.

A pawnbroker shall, if required at the time of redemption, give a receipt for the amount of loan and profit paid to him ; and such a receipt shall not be liable to stamp duty unless the profit amounts to twenty rupees or more.

9 Every pledge shall be redeemable within twelve months from the day of pawning, exclusive of that day ; and there shall be added to that year of redemption seven days of grace within which every pledge, if not already redeemed, shall continue to be redeemable.

Pledges redeemable within one year, and seven days of grace.

10 A pledge pawned for five rupees or under, if not redeemed within the year of redemption and days of grace, shall, at the end of the days of grace, become and be the pawnbroker's absolute property.

Pledges for five rupees and under, not redeemed in time, forfeited.

11 A pledge pawned for above five rupees shall further continue redeemable until it is disposed of as in this Ordinance provided, although the year of redemption and days of grace are expired.

Pledges above five rupees redeemable until sale.

12 A pledge pawned for above five rupees shall, when disposed of by the pawnbroker, be disposed of by sale by public auction and not otherwise ; and the regulations in schedule III. to this Ordinance shall be observed with reference to the sale.

Sale by auction of pledges above five rupees.

A pawnbroker may bid for and purchase at a sale by auction, made or purporting to be made under this Ordinance, a pledge pawned with him ; and on such purchase he shall be deemed the absolute owner of the pledge purchased.

13 If an auctioneer does anything in contravention of the provisions of this Ordinance relating to auctioneers, or fails to do anything which he is required by this Ordinance to do, he shall be guilty of an offence, and shall be liable on conviction to a fine not exceeding one hundred rupees.

Offences by auctioneer.

14 At any time within two years after the auction at which a pledge pawned for above five rupees is sold, the holder of the pawn ticket may inspect the entry of the sale in the pawnbroker's book and in the filled-up catalogue of the auction authenticated by the signature of the auctioneer, or in either of them. Where such pledge appears to have been sold for more than the amount of the loan and interest due at the time of the sale, the pawnbroker shall on demand pay the surplus to the holder of the pawn ticket, in case the demand is made within two years after sale, deducting the necessary costs and charges of the sale.

Power to inspect sale books.

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Offences as to pledges above five rupees.

15 If, in regard to pledges for loans of above five rupees, a pawnbroker—

- (1) Does not *bonâ fide*, according to the direction of this Ordinance, sell a pledge pawned with him ;
- (2) Enters in his book a pledge as sold for less than the sum for which it was sold, or fails duly to enter the same ;
- (3) Refuses to permit any person entitled under this Ordinance to inspection of an entry of sale in the pawnbroker's book, or of a filled-up catalogue of the auction authenticated by the auctioneer's signature, to inspect the same ; or
- (4) Fails without lawful excuse (proof whereof shall lie on him) to produce such a catalogue on lawful demand ; or
- (5) Refuses to pay on demand the surplus to the person entitled to receive the same ; or
- (6) Takes in respect of any loan or a pledge any profit or demand other than that specified in schedule II.,

he shall in every such case be guilty of an offence, and shall be liable on conviction before a police court to a fine not exceeding one hundred rupees.

Holder of pawn ticket entitled to redeem.

16 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 Ordinance 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. Provided, however, if the pawnbroker has reason to suspect that such holder has stolen or otherwise illegally obtained possession of the pawn ticket, the pawnbroker may seize and detain the person and the ticket and deliver them as soon as may be to an officer of police or village headman, who shall forthwith convey the person and the ticket before a court of competent jurisdiction to be dealt with according to law.

Liability of pawnbrokers in case of fire.

17 Where a pledge is destroyed or damaged by or in consequence of fire, the pawnbroker shall nevertheless be liable, on demand, within the period of redemption, to pay the value of the pledge, after deducting the amount of the loan and interest.

A pawnbroker shall be entitled to insure to the extent of the value of the article pawned.

Compensation for depreciation of pledge.

18 If a person entitled and offering to redeem a pledge shows to the satisfaction of a civil court of competent jurisdiction that the pledge has become, or has been rendered, of less value than it was at the time of the pawning thereof, by or through the default, neglect, or wilful misbehaviour of the pawnbroker, the court may, if it thinks fit, award a reasonable satisfaction to the owner of the pledge, and the

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amount awarded shall be deducted from the amount payable to the pawnbroker, or shall be paid by the pawnbroker in such manner as the court directs.

19 (1) Any person claiming to be the owner of a pledge, but not holding the ticket, or any person claiming to be entitled to hold a pawn ticket, but alleging that the same has been lost, stolen, mislaid, destroyed, or fraudulently obtained from him, who shall deliver to the pawnbroker a declaration in the form prescribed in schedule IV., duly made before a justice of the peace by himself and by the person identifying him, shall thereupon have, as between himself and the pawnbroker, all the same rights and remedies as if he produced the pawn ticket.

Protection of owners and of pawners not having pawn tickets.

(2) The pawnbroker is hereby indemnified for delivering the pledge or otherwise acting in conformity with the declaration, unless he has actual or constructive notice that the declaration is fraudulent or false in any material particular.

Pawnbroker indemnified when acting in conformity to declaration.

(3) If any person makes a declaration under this Ordinance either for himself or as identifying another knowing the same to be false in any material particular, he shall be guilty of an offence, and shall be liable on conviction to be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one hundred rupees, or with both.

Penalty for false declaration.

20 If any person without lawful excuse pawns with a pawnbroker anything, being the property of another person, he shall be guilty of an offence, and shall be liable on conviction to be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Unlawful pawning of goods not property of pawner.

21 If any person—

- (a) Offers to a pawnbroker an article by way of pawn, but refuses or is unable to give a satisfactory account of the means by which he became possessed of it; or
- (b) Wilfully gives false information to a pawnbroker as to whether an article offered by him in pawn to the pawnbroker is his own property or not, or as to his name and address, or as to the name and address of the owner of the article; or
- (c) Attempts or endeavours to redeem a pledge, not being entitled to redeem,

Proceedings where persons offering articles in pawn do not give a good account of themselves.

he shall be guilty of an offence, and be liable on conviction to a fine not exceeding one hundred rupees.

In every such case, and also in any case where, on an article being offered in pawn, a pawnbroker has reason to suspect that it has been stolen or otherwise illegally obtained, he may seize and detain the person and the article and deliver them, as soon as may be, into the custody of an officer of police or village headman, who shall forthwith convey the person and the article before a court of competent jurisdiction to be dealt with according to law.

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Prohibition of taking in pawn linen, clothing, unfinished goods, &c., in certain cases.

22 If a pawnbroker knowingly takes in pawn any linen or apparel, or unfinished goods or materials entrusted to any person to wash, scour, iron, mend, manufacture, work up, finish, or make up, he shall be guilty of an offence, and shall be liable on conviction to a fine not exceeding one hundred rupees; and the pawnbroker shall also restore the pledge to the owner thereof in the presence of the court or as the court directs.

Whenever, in any proceeding under this Ordinance, it shall be made to appear to a court that any article is in the unlawful possession of any pawnbroker, it shall be competent to such court to order the production of the article and its delivery to any person named by such court, under such terms, if any, as it may think proper.

Offences by pawnbrokers.

23 If a pawnbroker does any of the following things:

- (1) Takes an article in pawn from any person appearing to be under the age of sixteen years or to be intoxicated; or takes an article in pawn without giving the pawner a pawn ticket;
- (2) Purchases, or takes in pawn or exchange, a pawn ticket issued by another pawnbroker;
- (3) Employs any servant apparently under the age of twenty-one years to take articles in pawn;
- (4) Purchases, except at public auction, any pledge while in pawn with him;
- (5) Suffers any pledge while in pawn with him to be redeemed with a view to his purchasing it;
- (6) Agrees with any person, pawning or offering to pawn any article, for the purchase, sale, or disposition thereof within the time of redemption;
- (7) Sells or otherwise disposes of any pledge pawned with him, except at such time and in such manner as is authorized by this Ordinance;
- (8) Seizes or detains any person under the provisions of section 16 or 21 without reasonable or probable cause;

he shall be deemed guilty of an offence, and be liable on conviction to a fine not exceeding one hundred rupees, or to imprisonment, either rigorous or simple, for a term not exceeding six months.

Yearly license.

24 Every pawnbroker shall yearly take out from the government agent of the province or the assistant government agent of the district where the pawnbroker resides, a license for carrying on his business, and such license shall be in the form contained in schedule I., and shall bear a stamp of twenty rupees. And such government agent and assistant government agent shall forward to the Inspector-General of Police for his information a copy of each license issued.

Every license shall be dated on the day on which it is issued, and shall determine on the thirty-first day of July next ensuing.

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If a person acts as a pawnbroker without a license as herein provided, he shall be liable for every such act to a fine not exceeding one hundred rupees, or to imprisonment, either rigorous or simple, for a term not exceeding six months.

25 A license shall not be refused except on any of the following grounds :

Refusal of licenses.

- (1) That the applicant has failed to produce satisfactory evidence of good character ; or is an auctioneer ; or has been at any time within five years from the date of such application found guilty of any acts rendered punishable under the 11th, 13th, 17th, or 18th chapters of the Penal Code, or under the provisions of this Ordinance ;
- (2) That the shop in which he intends to carry on the business of a pawnbroker, or any adjacent house or place possessed by him, is frequented by thieves or persons of bad character, or is used for the sale of intoxicating liquor, opium, or bhang.

26 If a pawnbroker is convicted of any offence under this Ordinance, or of any fraud in his business, or of receiving stolen goods knowing them to be stolen, the government agent shall, if he thinks fit, withdraw any such pawnbroker's license and publish notice of such withdrawal in the *Government Gazette*, and such license shall thereupon be deemed and taken to be withdrawn, and shall be of no further force or effect ; and any such pawnbroker who shall carry on his business after such withdrawal shall be guilty of an offence, and be liable on conviction to six months' rigorous imprisonment.

Cesser of license on conviction.

27 It shall not be lawful for a pawnbroker to act as or carry on the business of an auctioneer, and any pawnbroker committing a breach of this section shall be guilty of an offence, and shall be liable on conviction to rigorous imprisonment for a term not exceeding six months.

Pawnbroker must not carry on business of auctioneer.

28 It shall be lawful for a police magistrate to order a pawnbroker to attend before him on a day and hour to be named in writing, and to produce for examination all books and papers relating to his business.

Pawnbroker's book subject to examination.

If upon the receipt of such an order he fails without lawful cause to appear with his books and papers, he shall be liable on conviction to a fine not exceeding one hundred rupees.

29 It shall be lawful for any officer of police not below the rank of inspector to enter any pawnbroker's shop or residence at any hour of the day and examine and take note of any article pledged with the pawnbroker, or any books and papers kept by him.

Inspector of police may enter and search pawnbroker's residence.

Whoever resists such officer of police in the execution of this duty shall be liable on conviction to a fine not exceeding one hundred rupees.

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Accused may give evidence.

30 A person charged with an offence against this Ordinance may, if he thinks fit, tender himself to be examined on his own behalf, and thereupon may give evidence in the same manner and with the like effect and consequences as any other witness.

Imprisonment in default of payment of fine.

31 It shall be competent for the court before which any person has been convicted of any offence under this Ordinance and sentenced to pay a fine, to award, in default of payment of such fine, imprisonment, either rigorous or simple, for a term not exceeding six months, anything in the Ceylon Penal Code to the contrary notwithstanding.

Ordinance only to have effect within limits appointed by Governor.

32 This Ordinance shall have effect only within such limits as the Governor shall by Proclamation from time to time appoint; and it shall be lawful for the Governor from time to time, by Proclamation, to alter, amend, or cancel any Proclamation issued under this section.

SCHEDULE I.

1.—Form of Pledge Book.

Pledge Book of _____, Pawnbroker, of _____.

No. of Pledge in the Month.	Amount of Loan upon each Article.		Profit or Interest charged upon each Article.	Name of Pawner.	Address of Pawner.	Name of Owner, if other than Pawner.	Description of each Article Pawned.	Value of each Article.		Date of Redemption.	Name and Address of person redeeming.
	Rs.	c.						Rs.	c.		

2.—Pawn Ticket.

No. of Ticket, _____.

Pawned with _____, Pawnbroker, residing at No. _____ of _____ street, this _____ day of _____, 18 __, by _____, of _____, for _____ rupees (*name and description of articles*), valued at _____ rupees.

Signature of Pawnbroker.

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3.—Sale Book of Pledges.

Date and Place of Sale : _____.

Name and Address of Auctioneer : _____.

Number of Pledge as in Pledge Book.	Date of Pawning.	Name of Pawner.	Amount of Loan.	Amount for which each Pledge was sold by Auctioneer.	Name and Address of Purchaser.

4.—Receipt.

Date : _____.

Received on redemption of Pledge No. _____ :	Rs.	c.
Amount of loan
Profit or interest
_____ Total ...	_____	_____

5.—Form of License.

(Section 24.)

I, _____, Government Agent of the _____ Province (or Assistant Government Agent for the _____ District), do hereby authorize and license _____, of _____, to carry on the business of a Pawnbroker at _____, within the limits of _____, in the _____ District, under the provisions of "The Pawnbrokers' Ordinance, 1893."

This license will expire on July 31, 18 —.

SCHEDULE II.

Profit and Charges allowed to Pawnbrokers.

Part I.—Profit on Loan.

A.—On a loan of twenty rupees or under :	Cents.
For any time during which the pledge remains in pawn, not exceeding one month, for every rupee or fraction of a rupee lent ...	2
For every month after the first, including the current month in which the pledge is redeemed, although that month is not expired, for every rupee or fraction of a rupee lent ...	2
<i>Proviso.</i> —If the pledge is redeemed before the end of the first fourteen days after the expiration of any month, the pawnbroker shall, in respect of those fourteen days, be entitled to take half of the amount which he would be entitled to take for the whole month.	
B.—On a loan of above twenty rupees :	
For every month or part of a month, for every sum of one rupee and twenty-five cents or fraction of a sum of one rupee and twenty-five cents ...	2
<i>Part II.—Charge on Pawn Ticket.</i>	
Where the loan is five rupees or under ...	2
Where the loan is above five rupees...	4

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SCHEDULE III.

Regulations as to Auctions of Pledges above Five Rupees.

1. The auctioneer shall cause all pledges to be exposed to public view.
2. He shall publish catalogues of the pledges, stating—
 - (1) The pawnbroker's name and place of business ;
 - (2) The month in which each pledge was pawned ;
 - (3) The number of each pledge as entered at the time of pawning in the pledge book.
3. The pledges of each pawnbroker in the catalogue shall be separate from any pledges of any other pawnbroker.
4. The auctioneer shall insert in some public newspaper an advertisement giving notice of the sale, and stating—
 - (1) The pawnbroker's name and place of business ;
 - (2) The months in which the pledges were pawned.
5. The advertisement shall be inserted on two several days in the same newspaper, and the second advertisement shall be inserted at least ten clear days before the first day of sale.
6. Where a pawnbroker bids at a sale, the auctioneer shall not take the bidding in any other form than that in which he takes the biddings of other persons at the same sale ; and the auctioneer on knocking down any article to a pawnbroker shall forthwith declare audibly the name of the pawnbroker as purchaser.
7. The auctioneer shall, within fourteen days after the sale, deliver to the pawnbroker a copy of the catalogue, or of so much thereof as relates to the pledges of that pawnbroker, filled up with the amounts for which the several pledges of that pawnbroker were sold, and authenticated by the signature of the auctioneer.
8. The pawnbroker shall preserve every such catalogue for three years at least after the auction.

SCHEDULE IV.

Declaration where Pawn Ticket lost, &c.

☞ Take notice, if this declaration is false the person making it is punishable.

I, *A. B.*, _____, of _____, in pursuance of "The Pawnbrokers' Ordinance, 1893," do solemnly and sincerely declare that _____ pledged at the shop of _____, Pawnbroker, the article (or articles) described below, being _____ property, and received a pawn ticket for the same, which has since been _____ by _____, and that the pawn ticket has not been sold or transferred to any person by _____ or to _____ knowledge or belief.

The article (or articles) above referred to is (or are) the following :

And I, *C. D.*, _____, of _____, in pursuance of the same Ordinance, do solemnly and sincerely declare that I know the person now making the foregoing declaration to be *A. B.*, _____ of _____.

Declared before me }
this _____ day of _____, 18—, }

Justice of the Peace.

12th December, 1893.