

Secondhand Dealers and Pawnbrokers (Electronic Records) Amendment Bill

Member's Bill

Explanatory note

General policy statement

The purpose of this Bill is to amend the Secondhand Dealers and Pawnbrokers Act 2004 (the **principal Act**) to enable the New Zealand Police to recover and trace stolen property, as well as apprehend offenders involved in this activity.

While the principal Act provides for Police to achieve this where property is suspected of having been stolen and traded to secondhand dealers (**dealers**) licensed under the principal Act, the legal requirements of the principal Act have not kept pace with changes in technology.

Most dealers appear to keep only handwritten records or print computer copies to comply with their obligation to provide copies to Police under the Act. Both of these methods make transfer and processing of data extremely difficult and resource intensive.¹

Technological advances have enabled Police to read electronic computer records in an automated manner. However the group of dealers who supply Police with “machine-readable” formats is very small.

Counties Manukau Police have developed a computer program called Serial Number Automated Checker (**SNAC**), which is able to read and mass-process dealer records. It alerts Police when an item of stolen property or an illicit or repeat trader is detailed

¹ Conservatively, an average physical secondhand dealer check (coded 5V) will take a Police officer approximately 60 minutes. This comprises going to the dealer's location, uplifting the records, copying the records and returning the records. This does not include the actual checking of the records, which could number in the tens to hundreds of documents depending on the dealer and frequency of Police checks.

in the record. It effectively gives Police a list of potential suspects to better resolve property crime.

The SNAC program has already been directly responsible for resolving 99 burglaries and recovering 177 stolen items in the past 2 years. Currently, SNAC is limited to Counties Manukau with 24 dealers participating. There are over 400 secondhand or scrap metal dealers across Auckland, which provides huge opportunity to expand the success, resolutions, and savings of this local initiative.

A legislative amendment is required to ensure that all dealers keep and supply records in a “machine-readable” format. This would allow Police to receive the records by email, to process them electronically in an automated manner, and to compare the output data against records of known burglars and stolen property.

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 is the commencement clause. It provides that the Bill comes into force 3 months after the date on which this Bill receives the Royal assent.

Clause 3 provides that the Bill amends the Secondhand Dealers and Pawnbrokers Act 2004 (the **principal Act**).

Clause 4 amends section 4 to insert definitions of **dealers record**, **Internet auction providers record**, and **pawnbrokers record**.

Clause 5 amends section 42 to remove the requirement for the dealers record to show the signatures of various parties.

Clause 6 replaces *section 45* to require that a licensed secondhand dealer must provide access (including an electronic copy) of his or her dealers record in a suitable form, which includes that they are electronically readable and usable by Police computers. The licensed dealer is subject to a fine not exceeding \$10,000 if he or she fails without reasonable excuse to comply with this section.

Clause 7 amends section 47 to remove the reference to the purchaser’s signature being noted on the dealers record.

Clause 8 amends section 51 to remove the requirement for the pawnbrokers record to show the signatures of various parties.

Clause 9 replaces *section 54* to require that a licensed pawnbroker must provide access (including an electronic copy) to his or her dealers record in a suitable form, which includes that they are electronically readable and usable by Police computers. The licensed pawnbroker is subject to a fine not exceeding \$10,000 if he or she fails without reasonable excuse to comply with this section.

Clause 10 amends section 69 to require that a licensed Internet auction provider must provide access (including an electronic copy) of its record in a suitable form, which includes that they are electronically readable and usable by Police computers.

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Secondhand Dealers and Pawnbrokers (Electronic Records) Amendment Act **2021**.

2 Commencement

This Act comes into force 3 months after the date on which this Act receives the Royal assent.

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3 Principal Act

This Act amends the Secondhand Dealers and Pawnbrokers Act 2004 (the **principal Act**).

4 Section 4 amended (Interpretation)

In section 4, insert in its appropriate alphabetical order:

dealers record means an electronic computer record or database required to be kept by a licensed secondhand dealer under section 42

Internet auction providers record means an electronic computer record or database required to be kept by an Internet auction provider under section 69

pawnbrokers record means an electronic computer record or database required to be kept by a licensed pawnbroker under section 51

5 Section 42 amended (Dealers record)

- (1) Delete section 42(2)(a)(iv).
- (2) In section 42(2)(e), delete “and signature”.
- (3) In section 42(3)(c), delete “and signature”.

6 Section 45 replaced (Police access to dealers record)

Replace section 45 with:

45 Police access to dealers record

- (1) A licensed secondhand dealer must, when required to do so by a constable,—
 - (a) provide access to his or her dealers record and any information contained in it; and
 - (b) provide an electronic copy of his or her dealers record or specified parts of it.
- (2) The information provided under **subsection (1)(b)** must be supplied—
 - (a) either—
 - (i) on request; or
 - (ii) on dates specified by the constable; and
 - (b) by email or other electronic means as specified by the constable.
- (3) The dealers record provided under **subsection (1)(b)** must be electronically readable and usable by Police computers.
- (4) A licensed secondhand dealer commits an offence and is liable on conviction to a fine not exceeding \$10,000, if he or she fails without reasonable excuse to comply with this section.
- (5) Section 83 applies to a charge under **subsection (4)**.

7 Section 47 amended (Articles to be kept for 14 days)

- (1) In section 47(3)(c)(ii), delete “; and”, and replace it with “.”.
- (2) Delete section 47(3)(c)(iii).

8 Section 51 amended (Pawnbrokers record)

- (1) In section 51(2)(a)(ii), delete “; and”, and replace it with “.”. 5
- (2) Delete section 51(2)(a)(iii).
- (3) In section 51(2)(d), delete “and signature”.

9 Section 54 replaced (Police access to pawnbrokers record)

Replace section 54 with:

54 Police access to pawnbrokers record 10

- (1) A licensed pawnbroker must, when required to do so by a constable,—
 - (a) provide access to his or her pawnbrokers record and any information contained in it; and
 - (b) provide an electronic copy of his or her pawnbrokers record or specified parts of it. 15
- (2) The information provided under **subsection (1)(b)** must be supplied—
 - (a) either—
 - (i) on request; or
 - (ii) on dates specified by the constable; and
 - (b) by email or other electronic means as specified by the constable. 20
- (3) The pawnbrokers record provided under **subsection (1)(b)** must be electronically readable and usable by Police computers.
- (4) A licensed pawnbroker commits an offence and is liable on conviction to a fine not exceeding \$10,000, if he or she fails without reasonable excuse to comply with this section. 25
- (5) Section 83 applies to a charge under **subsection (4)**.

10 Section 69 amended (Internet auction providers record)

- (1) Replace section 69(4) with:
- (4) An Internet auction provider must, when required to do so by a constable,—
 - (a) provide access to his or her Internet auction providers record and any information contained in it; and 30
 - (b) provide an electronic copy of his or her Internet auction providers record or specified parts of it.
- (4A) The information provided under **subsection (4)** must be supplied—
 - (a) either— 35

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- (i) on request; or
- (ii) on dates specified by the constable; and
- (b) by email or other electronic means as specified by the constable.
- (4B) The Internet auction providers record provided under **subsection (4)(b)** must be electronically readable and usable by Police computers.
- (2) Replace section 69(5)(c) with:
- (c) fails without reasonable excuse to comply with **subsections (4), (4A), or (4B)**.

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