

The Pawnbrokers Act 1860-1984

Terms of Reference

In 1984 the Commission was asked to review the *Pawnbrokers Act 1860–1984* (WA) ("the Act") having regard to the requirements of associated legislation.

Background of Reference

The reference arose as a result of a complaint of an abuse of pawnbroking practice which the *Pawnbrokers Amendment Act 1984* (WA) was designed to correct. The Government announced that a review of the Act would be undertaken as a matter of priority. Accordingly in September 1984 the Attorney-General asked the Commission to undertake the task.

After many years in decline, the pawnbroking industry underwent a resurgence in Western Australia in the early 1980s. Consequently, both the number of pawnbroking licenses and the total value of pawnbroking transactions, substantially increased. The Commission recognised that existing legislation was archaic and often confusing and did not contain safeguards to ensure fair dealing. Of further concern was the lack of an appropriate licensing system and specific mechanism for enforcement.

Nature and Extent of Consultation

The Commission issued a discussion paper in January 1985 after taking into consideration the response to an earlier public request for preliminary submissions. The paper outlined proposals for reform of the legislation and was widely distributed amongst interested groups and the general public inviting further submissions. Commission officers also conducted a number of interviews with licensed pawnbrokers. As a result of this, the Commission received a large number of written and oral submissions from a wide range of persons and organisations including the Association of Western Australian Pawnbrokers, individual pawnbrokers, the Commissioner of Police, the Council for Civil Liberties and several community law centres and social welfare groups. After consideration of all submissions, the Commission delivered its final report in June 1985.¹

Recommendations

The Commission's principal recommendation was that the Act should be redrafted in modern terms with amendments that address the legislative concerns outlined in the report. Primary areas to be addressed included:

- The development of an appropriate licensing system.
- The regulation of the relationship between pawnbroker and client.
- The general duties of a pawnbroker.
- Powers of the police and other authorities in relation to enforcing provisions of the legislation.

A comprehensive outline of the Commission's recommendations may be found in chapter seven of the final report.

Legislative or Other Action Undertaken

The Act was replaced by the *Pawnbrokers and Secondhand Dealers Act 1994* (WA) which substantially implemented the recommendations contained in the Commission's report.

1 Law Reform Commission of Western Australia, *The Pawnbrokers Act 1860–1984*, Project No 81 (1985).