

[2015] NZSHD 01

LASDP Number: 15 / 020634

IN THE MATTER

of the Secondhand Dealers and
Pawnbrokers Act 2004

AND

IN THE MATTER

of an application for a Certificate
of Approval by **MR A** of Auckland

**BEFORE THE LICENSING AUTHORITY OF
SECONDHAND DEALERS AND PAWNBROKERS**

DECISION

Introduction

[1] On 5 March 2015 Mr A of Auckland (“the applicant”) applied to the Licensing Authority of Secondhand Dealers and Pawnbrokers (“the Authority”) for a certificate of approval (“certificate”) to be issued to him under the Secondhand Dealers and Pawnbrokers Act 2004 (“the Act”).

[2] Because the applicant has been convicted of certain “specified offences” within the past 5 years however, the Authority is precluded by law from issuing a certificate to the applicant and his application must be refused.

Statutory provisions

[3] Section 19 of the Act requires that every person who, with the authority of a licensed secondhand dealer, enters into a transaction on behalf of the dealer or, with the authority of a licensed pawnbroker, issues a pledge ticket on behalf of the pawnbroker, and every person who manages, controls or supervises such a person must hold a certificate. A certificate is defined in s.4 of the Act as a certificate of approval issued under s.28

[4] Section 28(1)(a) of the Act provides that a person is eligible to hold a certificate if the person is not disqualified under s.22 from holding a certificate, or if disqualified, the disqualification has been waived by the Authority under s.23 of the Act.

[5] Section 22(a) to (h) of the Act sets out the various grounds upon which a person is deemed to be disqualified from holding a certificate under the Act.

[6] Under s.22(a) of the Act in particular a person is disqualified from holding a certificate if that person has been convicted of a ‘specified offence’ within the past five years.

[7] A '*specified offence*' is defined in s.4 of the Act as an offence under sections 217 to 265 of the Crimes Act 1961 (which relate to crimes against rights of property), or an offence under the Fair Trading Act 1986.

[8] Section 23 of the Act gives the Authority discretion to waive a disqualification from holding a certificate resulting from 1 or more of the grounds for disqualification as set out in s.22(b) to (h) of the Act, but not for a disqualification resulting from a conviction for a '*specified offence*' under s.22(a).

Discussion

[9] The Authority has completed a check on this application pursuant to sections 21(3) and 24 of the Act.

[10] These checks reveal that the applicant was convicted of four '*specified offences*' within the past five years, namely convictions under s.246 and s.223(x3) of the Crimes Act 1961 in the year 2012.

[11] The Authority is satisfied that the applicant Mr A is the same Mr A who was convicted of the four Crimes Act charges in 2012. The full name, the date of birth and the driver licence number of the convicted person are identical with details supplied by the applicant in his application.

[12] By virtue of being convicted of the four '*specified offences*' the applicant is disqualified from holding a certificate for a period of 5 years from the dates of the convictions pursuant to s.22(a) of the Act.

[13] Because the disqualification results from '*specified offences*' the Authority has no power to waive the disqualification under s.23 of the Act.

[14] The applicant is therefore ineligible to hold a certificate under s.28 of the Act and his application for a certificate must be refused.

Decision

[15] The application by Mr A for a certificate is REFUSED.

DATED at AUCKLAND this 11th day of March 2015

S L Cole
Authority of Secondhand Dealers and Pawnbrokers