

**DELEGATION OF POWERS AND AUTHORISATION
TO PERFORM DUTIES IN TERMS OF THE SECOND-
HAND GOODS ACT, 2009, BY THE NATIONAL
COMMISSIONER:
SOUTH AFRICAN POLICE SERVICE**

By virtue of the powers vested in me by —

- * section 15(1) of the South African Police Service Act, 1995 (Act No. 68 of 1995);
and
- * section 38(2) of the Second-Hand Goods Act, 2009 (Act No. 6 of 2009).

I, Johannes Khomotso Phahlane,

in my capacity as the Acting National Commissioner of the South African Police Service, and Accounting Officer of the Department of Police, hereby delegate the powers to the various functionaries as specified in Annexure A and authorise the said functionaries to perform the functions set out therein.

PROVIDED THAT SUCH POWERS AND FUNCTIONS ARE EXERCISED AND PERFORMED SUBJECT TO, AND IN ACCORDANCE WITH THE PROVISIONS AND CONDITIONS AS SPECIFIED IN ANNEXURE A

AND

I DETERMINE that —

1. the powers thus delegated must be exercised and functionaries thus authorised must perform the functions subject to —
 - (a) the Constitution of the Republic of South Africa, 1996;
 - (b) the South African Police Service Act, 1995 (Act No. 68 of 1995);
 - (c) the Second-Hand Goods Act, 2009 (Act No. 6 of 2009);
 - (d) any other applicable provision of any law or regulation; and
 - (e) any other instruction or direction which I have issued or may issue in this regard;
2. a functionary duly authorised to acting in the capacity of another functionary may exercise all the powers delegated to such functionary and perform the functions that such a functionary is authorised to perform;

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3. **THE POWERS OR FUNCTIONS MUST BE EXERCISED AND PERFORMED STRICTLY WITHIN THE DEFINED OR DEMARCATED FUNCTIONAL AREA OR SPHERE OF RESPONSIBILITY OF DELEGATES OR AUTHORISED FUNCTIONARIES;**
4. a Deputy National Commissioner, Divisional Commissioner and Provincial Commissioner may determine in respect of a power delegated or a function that a functionary is authorised to perform herein, in general or in a specific case, that —
 - (a) such power be exercised or function be performed at another level which is not lower than the level specified in Annexure A; and
 - (b) such power be exercised or function be performed only by specific functionaries at the said level;
5. delegated powers must, subject to practical or efficiency considerations, be exercised at the lowest possible specified post level and that authorised functionaries at the lowest possible specified post level perform the functions;
6. any delegated power provided for in Annexure A, which will result in expenditure for the Service, only be exercised after consultation with Financial Services;
7. standing orders, national instructions or policy made or issued will be deemed to be withdrawn to the extent to which they are inconsistent or irreconcilable with the provisions of this document; and

SIGNED AT PRETORIA ON THIS 23rd DAY OF DECEMBER
2016.


ACTING NATIONAL COMMISSIONER: SOUTH AFRICAN POLICE SERVICE
JK PHAHLANE

LIEUTENANT GENERAL

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	SOURCE	DESCRIPTION OF POWER OR DUTY	LOWEST LEVEL OF DELEGATION OR AUTHORIZATION	CONDITIONS / COMMENTS
1	Section 1 of the SHG Act	The power to designate a member of the Service as a Designated Police Officer for purposes of the SHG Act.	Provincial Commissioner	(1) The functionary may only designate a member appointed in terms of the South African Police Service Act, 1995 (Act No. 68 of 1995) as a Designated Police Officer. (2) The functionary must exercise this power in writing. (3) A designation effected in terms of this provision may only be withdrawn by the Provincial Commissioner and only after another police official has been designated as Designated Police Officer for the relevant police station. (4) A designation effected in terms of this provision must be made for purposes of Second-Hand Goods Control only.
2	Section 3(1)(a) of the SHG Act	The duty to receive an application for registration as a dealer.	Designated Police Officer	
3	Section 3(1)(b) of the SHG Act	The power to require of an applicant for registration as a dealer to provide further information necessary for processing the application.	Designated Police Officer	The functionary must exercise this power in accordance with National Instruction: Second-Hand Goods, Dealers and Recyclers.

Source references

“SHG Act” refers to the Second-Hand Goods Act, 2009 (Act No. 6 of 2009);

“Regulations for Dealers and Recyclers” refers to the Regulations for Dealers and Recyclers, 2012; and

“Regulations for Accreditation of Second-hand Goods Dealers’ Associations” refers to the Regulations for Accreditation of Second-Hand Goods Dealers’ Associations, 2010.

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4	Section 3(3) of the SHG Act read with Regulation 4(1) of the Regulations for Dealers and Recyclers	The power to register an applicant as a dealer and issue a registration certificate.	Station Commander	<ol style="list-style-type: none"> (1) The functionary may only exercise this power after receipt and consideration of an application for registration. (2) An applicant may only be registered a dealer if the application complies with the requirements set out in Regulation 3 of the Regulations for Dealers and Recyclers and he or she is not disqualified in terms of section 14 of the SHG Act. (3) The functionary must consider a recommendation regarding the application from an accredited dealers association, if applicable. (4) The functionary may impose conditions as set out in Regulation 4(2) of Regulations for Dealers and Recyclers on the registration. (5) The functionary must describe the principle business activities of the applicant in the certificate of registration as set out in Regulation 4(4) or (5) of the Regulations for Dealers and Recyclers.
5	Regulation 4(3) of the Regulations for Dealers and Recyclers read with section 7(1)(c) of the SHG Act	The power to impose additional conditions for a dealer to carry on business in a particular type of or category of business.	Station Commander	
6	Sections 4(2) and 5(2) of the SHG Act	The power to require — <ul style="list-style-type: none"> • the applicant to furnish additional information or particulars, 	Designated Police Officer	The functionary must exercise this power in accordance with the provisions of the National Instruction: Second-Hand Goods, Dealers and Recyclers.

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		<ul style="list-style-type: none"> • that the applicant's fingerprints be taken; or • a natural person involved in the management of the applicant, including the person contemplated in section 2(2), to furnish additional information or particulars and that such person's fingerprints be taken. 		
7	Section 6(1) of the SHG Act read with sections 6(2) and 6(3) of the SHG Act	The power to refuse an application that does not comply with the requirements of the Act and to inform the dealer of the refusal of the application.	Station Commander	<ol style="list-style-type: none"> (1) In order to consider the matter, a Station Commander must obtain a report with a recommendation from the relevant Designated Police Officer (2) Before exercising this power, the functionary must— <ol style="list-style-type: none"> (a) give the dealer written notice of the intention to refuse the application; (b) give the dealer 30 days to submit written representations as to why the functionary should not make the intended decision; and (c) consider any such representations and the facts pertaining to the matter. (3) The functionary must notify the dealer in writing of any decision taken under this section and state the reasons for and the date on which the decision takes effect in such notice. (4) If in doubt, the functionary may consult the relevant Legal and Policy Services before exercising the power.

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8	Section 7(1) of the SHG Act read with section 7(2) of the SHG Act and Regulation 4(2) of the Regulations for Dealers and Recyclers	The duty to issue the certificate of registration to a dealer, authorising the dealer to carry on business.	Station Commander	<ol style="list-style-type: none"> (1) The functionary may only exercise this power after approving the application for registration in terms of section 3(3) of the SHG Act. (2) The certificate of registration must contain the following conditions: <ol style="list-style-type: none"> (a) the classes of second-hand goods the dealer may deal in; (b) particulars of the premises from which the dealer may carry on a business or store goods; and (c) particulars of the business hours during which the Dealer may acquire or dispose of goods; and (d) a Dealer may only acquire or dispose of goods to another Dealer or Recycler, if such Dealer or Recycler is registered. (3) A separate certificate of registration must be issued for every premises from which the dealer carries on business or where goods are stored and which is situated within the policing area of the functionary. (4) If a person other than a natural person carries on business as a dealer, the certificate must be issued in the name of the person contemplated in section 2(2) of the SHG Act.
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9	Section 8(2) of the SHG Act read with Section 8(3) of the SHG Act	The duty to amend the certificate of registration.	Station Commander	<ul style="list-style-type: none"> (1) The duty will be performed upon receipt of a notice in terms of section 8(1) of the SHG Act. (2) The functionary must be satisfied that the holder of the certificate still complies with all the requirements of this Act (3) The functionary must issue an amended certificate of registration, reflecting all changes, to the dealer.
10	Section 9(1) of the SHG Act read with sections 9(2) and 9(3) of the SHG Act	The power to limit or vary the conditions of registration of a registered dealer.	Station Commander	<ul style="list-style-type: none"> (1) Before performing this duty, the functionary must— <ul style="list-style-type: none"> (a) give the dealer written notice of the intention to vary or limit any condition of registration; (b) give the dealer 30 days to submit written representations as to why the functionary should not make the intended decision; and (c) duly consider any such representations and the facts pertaining to the matter. In order to consider the matter, a Station Commander must obtain a report with a recommendation from the relevant Designated Police Officer. (2) The functionary must notify the dealer in writing of any decision taken under this section and state the reasons for and the date on which the decision takes effect in such notice.
11	Section 10(2) of the SHG Act	The duty to receive a notice from a dealer who stopped trading or is unable to carry on business.	Designated Police Officer	The functionary may only perform this duty in accordance with National Instruction: Second-Hand Goods, Dealers and Recyclers and may only receive the

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				notice if complies with the format determined by the National Commissioner.
12	Section 10(3)(a) of the SHG Act	The power to cancel the registration of a registered dealer	Station Commander	<p>(1) The functionary may only exercise this power if the dealer fails to comply with any—</p> <p>(a) condition of registration; or</p> <p>(b) of the provisions of the SHG Act.</p> <p>(2) The functionary may only perform this duty if the dealer—</p> <p>(a) is registered on the basis of incorrect or false information; or</p> <p>(b) is convicted of an offence of which dishonesty is an element</p> <p>(3) Before performing this duty the functionary must—</p> <p>(a) give the dealer written notice of the intention to cancel;</p> <p>(b) give the dealer 30 days to submit written representations as to why his or her registration should not be cancelled; and</p> <p>(c) consider any such representations and the facts pertaining to the matter.</p> <p>(4) In order to consider the matter, a Station Commander may obtain a report with a recommendation from the relevant Designated Police Officer.</p> <p>(5) The functionary must notify the dealer in writing of any decision taken under this section and state the reasons for and the date on which the decision takes effect in such notice (see section 10(3) of the SHG Act).</p>

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13	Section 10(6) of the SHG Act	The duty to receive a certificate handed in by the dealer on termination of registration.	Designated Police Officer	The functionary may only perform this duty in accordance with National Instruction: Second-Hand Goods, Dealers and Recyclers.
14	Section 11(2) of the SHG Act	The duty to receive an application for renewal of a dealer registration.	Designated Police Officer	The functionary may only perform this duty in accordance with National Instruction: Second-Hand Goods, Dealers and Recyclers.
15	Section 11(3) of the SHG Act	The power to approve an application for the renewal of registration.	Station Commander	The functionary may only exercise this power if he or she is satisfied that the applicant continues to comply with the requirements of registration and is not disqualified in terms of section 14 of the SHG Act.
16	Section 12(3) of the SHG Act	The duty to receive a surrendered certificate upon the issuing of a new registration certificate.	Designated Police Officer	The functionary must perform this duty in accordance with National Instruction: Second-Hand Goods, Dealers and Recyclers.
17	Section 12(4) of the SHG Act	The power to approve an application that an agent, may conduct the business of dealer on behalf of an executor, curator, administrator, trustee or liquidator of the dealer.	Station Commander	<ol style="list-style-type: none"> (1) The application may only be approved to conduct the business of dealer on behalf of a executor, curator, administrator, trustee or liquidator of the dealer, if the agent is not disqualified in terms of section 14 of the SHG Act. (2) In order to consider the matter, a Station Commander must obtain a report with a recommendation from the relevant Designated Police Officer (3) If the functionary decides not to approve the application, the functionary must first — <ol style="list-style-type: none"> (a) give the executor, curator, administrator, trustee or liquidator written notice of the intention to refuse the application; (b) give the executor, curator, administrator, trustee or liquidator 30 days to submit written

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				<p>representations as to why the functionary should not make the intended decision; and</p> <p>(c) consider any such representations and the facts pertaining to the matter.</p> <p>(4) The functionary must notify the executor, curator, administrator, trustee or liquidator in writing of any decision taken under this section and state the reasons for and the date on which the decision takes effect in such notice.</p>
18	Section 13(1) of the SHG Act read with Regulations 7 and 13(1) of the Regulations for dealers and recyclers.	The power to grant temporary registration as a dealer.	Station Commander	<p>(1) The functionary may only exercise this power after being satisfied that —</p> <p>(a) an applicant cannot meet one or more requirements for registration at the time of application;</p> <p>(b) failure to meet such requirement cannot be attributed to the applicant;</p> <p>(c) there is a reasonable prospect that the failure can be rectified within a period of twelve (12) months; and</p> <p>(d) the applicant shall suffer irreparable economic harm if such business cannot be registered.</p> <p>(2) The certificate of registration must contain the following conditions:</p> <p>(a) the classes of second-hand goods the dealer may deal in;</p> <p>(b) particulars of the premises from which the dealer may carry on a business or store goods; and</p> <p>(c) particulars of the business hours during which the Dealer may acquire or dispose of goods; and</p>

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				<p>(d) a Dealer may only acquire or dispose of goods to another Dealer or Recycler, if such Dealer or Recycler is registered.</p> <p>(3) A separate certificate of registration must be issued for every premises from which the dealer carries on business or where goods are stored and which is situated within the policing area of the functionary.</p> <p>(4) If a person other than a natural person carries on business as a dealer, the certificate must be issued in the name of the person contemplated in section 2(2) of the SHG Act.</p> <p>(5) The functionary may impose conditions as set out in Regulation 4(2) of Regulations for Dealers and Recyclers on the registration.</p>
19	Section 13(2) of the SHG Act	The power to withdraw temporary registration of a dealer.	Station Commander	The functionary may exercise the power if a condition contemplated in section 13(1)(b) of the SHG Act has not been complied with.
20	Section 16(f) of the SHG Act	The power to request an accredited dealers' association for advise on industry standards and technological developments in the industry which may affect the application of the SHG Act.	A functionary at holding at least the rank of Brigadier attached to Second-Hand Goods Control (FLASH) in the Division: Visible Policing.	

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21	Section 17(1) read with section 18(1) of the SHG Act	The power to accredit a dealers' association in the prescribed manner.	A functionary at holding at least the rank of Major General attached to Second-Hand Goods Control (FLASH) in the Division: Visible Policing.	<p>(1) The functionary may only exercise the power if an application complying with the requirements and criteria set out in the Regulations for Accreditation of Second-hand Goods Dealers' Associations has been received.</p> <p>(2) If the functionary is considering to refuse the application he or she must—</p> <ul style="list-style-type: none"> (a) give the dealers' association written notice of the intention to refuse the accreditation; (b) give the dealers' association 30 days to submit written representations as to (c) why he or she should not make the intended decision; and (d) duly consider any such representations and the facts pertaining to the matter. <p>(3) The functionary must notify the dealers' association in writing of any decision taken under this section and state the reasons for and the date on which the decision takes effect in such notice.</p>
22	Section 19(1) of the SHG Act	The power to cancel an accreditation if there is non-compliance by the dealers' association concerned with a criterion for accreditation.	A functionary at holding at least the rank of Major General attached to Second-Hand Goods Control (FLASH) in the Division: Visible Policing	<p>The functionary must, before cancelling an accreditation—</p> <ul style="list-style-type: none"> (a) give the dealers' association written notice of the intention to refuse the accreditation; (b) give the dealers' association 30 days to submit written representations as to (c) why he or she should not make the intended decision; (d) duly consider any such representations and the facts pertaining to the matter; and (e) notify the dealers' association in writing of any decision taken under this section.

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23	Section 20(1) of the SHG Act	The duty to receive an annual report of an Accredited Association.	A functionary at holding at least the rank of Major General attached to Second-Hand Goods Control (FLASH) in the Division: Visible Policing .	
24	Section 25(3) of the SHG Act read with Regulation 13(1) of the Regulations for Dealers and Recyclers	The power to register an applicant as a recycler	Station Commander	<ol style="list-style-type: none"> (1) The functionary may only exercise the power in respect of an application that complies with requirements set out in Regulation 12 of the Regulations for Dealers and Recyclers. (2) The functionary may impose conditions on the registration as set out in Regulation 13(2) of the Regulations for dealers and recyclers. (3) An applicant may only be registered a dealer if the application complies with the requirements set out in Regulation 3 of the Regulations for Dealers and Recyclers and he or she is not disqualified in terms of section 14 of the SHG Act.
25	Section 37 of the SHG Act	The power to issue a copy of a certificate issued in terms of the SHG Act.	Station Commander	The functionary may only exercise the power if an application for the issue of a copy of the certificate has been received in the prescribed format.
26	Section 39 of the SHG Act	The power to , on good cause shown and on grounds which are not in conflict with the objects of the SHG Act, extend a period contemplated in the SHG Act	A functionary at holding at least the rank of Colonel attached to Second-Hand Goods Control (FLASH) in the Division: Visible Policing or attached to the relevant Provincial Office.	
27	Section 39 of the SHG Act and Regulation 4 of the Regulations	The power to, on good cause shown and on grounds which are not in conflict with the objects of the SHG Act, condone any disqualification contemplated in section 14 of the SHG Act.	A functionary at holding at least the rank of Brigadier attached to Second-Hand	In respect of an application to be accredited as a dealers' association, the functionary may only exercise this power if a statement contemplated in Regulation 4 of the Regulations for Accreditation of Second-hand

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	for Accreditation of Second-hand Goods Dealers' Associations		Goods Control (FLASH) in the Division: Visible Policing.	Goods Dealers' Associations has been received from the responsible person.
28	Regulation 13(3) of the Regulations for dealers and recyclers	The power to impose additional conditions on the registration of a recycler.	A Station Commander	
29	Regulation 14(2) of the Regulations for Accreditation of Second-hand Goods Dealers' Associations	The power, on good cause shown, to dispense with a provision of Regulation 14(1) of the Regulations for Accreditation of Second-hand Goods Dealers' Associations in respect of the membership to a Dealers' Association.	A functionary at holding at least the rank of Major General attached to Second-Hand Goods Control (FLASH) in the Division: Visible Policing.	
30	Regulation 17(3) of the Regulations for Accreditation of Second-hand Goods Dealers' Associations	The power to approve the extension of time relating to the submission of the annual report of a Dealers' Association.	A functionary at holding at least the rank of Major General attached to Second-Hand Goods Control (FLASH) in the Division: Visible Policing.	The power may only be exercised if an application was received from the Dealers' Association in the format determined by the National Commissioner and if sufficient grounds exist for the extension.