

THE TERRITORY FOR THE SEAT OF GOVERNMENT.

No. 43 of 1936.

AN ORDINANCE

Relating to the Licensing of Hawkers.

BE it ordained by the Governor-General of the Commonwealth of Australia, with the advice of the Federal Executive Council, in pursuance of the powers conferred by the *Seat of Government Acceptance Act* 1909 and the *Seat of Government (Administration) Act* 1910-1933, as follows:—

1. This Ordinance may be cited as the *Hawkers Ordinance* Short title.
1936.

2. The *Hawkers Ordinance* 1926, the *Hawkers Ordinance* 1934 Repeal.
and the *Hawkers Ordinance* 1935 are repealed.

3. A licence issued in pursuance of the provisions of any of the Ordinances repealed by this Ordinance and in force immediately prior to the commencement of this Ordinance, and anything done in pursuance of those provisions shall, subject to this Ordinance, continue in force and have effect as if this Ordinance had been in force when the licence was issued or the thing done and the licence or thing had been issued or done in pursuance of this Ordinance. Licences issued under repealed Ordinances to continue in force.

4. In this Ordinance, unless the contrary intention appears— Definitions.

“authorized officer” means an officer appointed by the Minister as an authorized officer for the purposes of this Ordinance;

“City Area” means the City Area as defined in the *City Area Leases Ordinances* 1936;

“constable” means a member of the Police Force of the Territory;

“goods” means movable property;

“licence” means a licence granted in pursuance of this Ordinance;

“pack” includes bag, box, trunk or case;

“Registrar” means the Registrar of Hawkers’ Licences appointed in pursuance of this Ordinance;

“vehicle” includes boat, vessel and animal.

5. Any person who carries any goods on his person or on any animal or in or on any vehicle for the purpose of selling or offering for sale those goods, or who sells or offers for sale any goods carried Meaning of carrying on business of hawker.

on his person or on any animal or in or on any vehicle, shall be deemed to be carrying on the business of a hawker within the meaning of this Ordinance.

Business of hawker not to be carried on without licence.

6.—(1.) A person shall not carry on the business of a hawker unless he is the holder of a licence so to do.

Penalty: Twenty pounds.

(2.) In any prosecution under this section the burden of proving that he is the holder of a licence shall be on the person accused.

(3.) This section shall not apply to the sale or carrying or offering for sale of any goods in any market or fair established in the Territory, or in any shop occupied by the person so selling or carrying or offering for sale or in any premises approved by the Minister.

Appointment of Registrar of Hawkers' Licences.

7. There shall be a Registrar of Hawkers' Licences who shall be appointed by the Minister.

Applications for licences.

8.—(1.) An application for a licence shall be made to the Registrar who may grant or reject the application as he thinks fit.

(2.) An application for a licence shall be in accordance with Form A in the First Schedule to this Ordinance.

(3.) An applicant for a licence shall be required to produce to the Registrar a certificate signed by the Chief Officer of Police or a member of the Police Force of the Territory thereto authorized in writing by the Chief Officer of Police that the applicant—

(a) is above the age of twenty-one years;

(b) is a person of good character; and

(c) is a fit and proper person to be licensed to trade as a hawker.

Form of licence.

9. Every licence shall be in accordance with Form B in the First Schedule to this Ordinance or a form to the like effect.

Recognizance.

10. Before a licence is granted, the applicant shall be required to enter into a recognizance in accordance with Form C in the First Schedule to this Ordinance before a Justice of the Peace with two sureties approved by the Registrar, each in the sum of Twenty pounds.

Fees and term of licence.

11. Every person to whom a licence under this Ordinance is granted shall pay to the Registrar a fee according to the scale set out in the Second Schedule to this Ordinance, and the licence, unless sooner suspended, cancelled or forfeited, shall remain in force for the full period of twelve months from and including the date of issue.

Power to grant licences for period of less than twelve months.

12. Notwithstanding anything contained in this Ordinance, but without prejudice to any other powers conferred on him by this Ordinance, the Registrar may grant a licence for any period less than twelve months, but not less than one month, and, where

the Registrar does so, the fee payable in respect of the grant of the licence shall bear the same proportion to the fee prescribed under this Ordinance to be payable in respect of the grant of a licence for a period of twelve months, as the period for which the licence is granted bears to the period of twelve months, and the Registrar may for the purposes of this section use the forms in the First Schedule to this Ordinance with such variations as are necessary in any particular case:

Provided that where a licence is granted under this section the fee payable shall not be less than two shillings and sixpence.

13. A licence shall not be of any effect until the prescribed fee has been paid to the Registrar.

Licence of no effect until fee paid.

14. Any constable or authorized officer may seize any person found by him carrying on the business of a hawker without a licence and may detain him until the following day for the purpose of proceeding against him for that offence unless the case can be sooner disposed of.

Power to seize persons hawking without licence.

15. Every holder of a licence shall have in large legible Roman letters upon some conspicuous part of the vehicle in or with which he so carries on his business the words "Licensed Hawker" together with his name at full length and the number of his licence.

Hawker's vehicle to bear name, &c.

Penalty: Twenty pounds.

16. Every person not being the holder of a licence who has upon any vehicle in, on or with which he conveys any goods the words "Licensed Hawker" or any other words to that effect, shall be guilty of an offence.

Holding out to be licensed hawker.

Penalty: Twenty pounds.

17. Any holder of a licence who at any time upon demand by any constable or authorized officer, or by any person to whom he has within the last preceding twenty-four hours sold or offered to sell any goods, neglects or refuses to produce and show his licence to the constable, authorized officer or person, shall be guilty of an offence.

Refusal to produce licence in certain cases.

Penalty: Ten pounds.

18. Any holder of a licence who carries or has in, on or with his vehicle any fermented or spirituous liquors shall be guilty of an offence.

Carrying spirituous liquors.

Penalty: Fifty pounds or imprisonment for three months.

19. Any person authorized by warrant in pursuance of this Ordinance to examine and search the person pack or vehicle of the holder of the licence, and any constable or authorized officer finding any such liquors carried by any holder of a licence or in, on or with any vehicle of a hawker, may seize them, and the liquors shall be disposed of as the Minister thinks fit.

Seizure of liquors.

Seizure of
liquors
being hawked.

20.—(1.) Any constable may, without a warrant, seize all such fermented or spirituous liquors as are conveyed about or hawked or displayed for sale in any street, road, footpath, or in any booth, tent, stall, shed or in any vehicle or in any place whatsoever by any person not licensed according to law to sell them in that place, and the vessels containing them and all the vessels and utensils used for drinking or measuring them, and the liquors and the vessels and utensils shall be disposed of as the Minister thinks fit.

(2.) In any prosecution under this section, the burden of proving that the liquors were not conveyed about and hawked and displayed for sale shall be upon the person charged.

Dealing in
smuggled or
contraband
goods.

21.—(1.) Any holder of a licence who knowingly deals in any kind of smuggled or contraband goods, or in any goods fraudulently or dishonestly procured, shall be guilty of an offence.

Penalty: One hundred pounds.

(2.) In any prosecution under this section the averment of the prosecutor contained in the information shall be *prima facie* evidence of the matter averred.

Licence not to
be let out or
lent.

22. The holder of a licence who lets out or lends his licence, and any person who carries on the business of a hawker under any licence granted to any other person, or under any licence in which his own real name is not inserted as the name of the person to whom the licence is granted, shall be guilty of an offence.

Penalty: Forty pounds.

Forfeiture of
licences.

23. The licence of any person convicted under either of the last two preceding sections shall be forfeited and he shall not at any time be capable of holding or trading under a new licence.

Power to
search pack or
vehicle of
licensed
hawker.

24.—(1.) If any person has reasonable ground for suspecting that any holder of a licence is offending against the provisions of this Ordinance, the Court of Petty Sessions may, after evidence on oath, grant a warrant to any person to examine and search the person, pack or vehicle of the holder therein named or described, which warrant shall remain in force until such time as is therein mentioned.

(2.) Any constable having any such reasonable ground of suspicion may, without a warrant, examine and search the person, pack or vehicle of the holder of the licence.

Cancellation or
suspension of
licences.

25.—(1.) The Registrar may, subject to the directions of the Minister, cancel, or suspend for such period as he thinks fit, the licence of any person convicted of any offence against this Ordinance or the Regulations, or of any offence punishable by imprisonment.

(2.) The holder of a licence shall within seven days after the expiry of his licence or after the date of the forfeiture, cancellation or suspension of his licence, deliver the licence to the Registrar.

Penalty: Twenty pounds.

26. The punishment of any person under this Ordinance shall not affect his liability to punishment under any other law in force in the Territory in respect of the same matter. Saving of liability under other laws.

27.—(1.) The Minister may, by writing under his hand, delegate any of his powers and functions under this Ordinance (except this power of delegation) in relation to any matters or class of matters, so that the delegated powers and functions may be exercised by the delegate with respect to the matters or class of matters specified in the instrument of delegation. Delegation by Minister.

(2.) Every delegation by the Minister shall be revocable in writing at will, and no delegation shall prevent the exercise of any power by the Minister.

28. The Minister may make regulations, not inconsistent with this Ordinance, prescribing all matters which by this Ordinance are required or permitted to be prescribed, or which are necessary or convenient to be prescribed, for carrying out or giving effect to this Ordinance, and in particular prescribing matters providing for and in relation to the imposition of penalties not exceeding Fifty pounds in respect of breaches of the regulations. Regulations.

THE FIRST SCHEDULE.

Form A.

First Schedule.
Section 8.

The Territory for the Seat of Government.

The *Hawkers Ordinance* 1936.

APPLICATION FOR HAWKER'S LICENCE.

The Registrar,

Canberra.

I hereby apply for a Hawker's Licence authorizing me to carry* for the purpose of sale within the Territory for the Seat of Government, in accordance with the *Hawkers Ordinance* 1936, and I forward herewith (postal note, money order or cheque, as the case may be) for the sum of _____ pounds, _____ shillings and _____ pence, being the prescribed fee.

* Here set out the nature of the goods for which the licence is to be granted and method of conveyance.

Name in full

Address

Date

CERTIFICATE BY POLICE.

I hereby certify—

- (1) that the applicant is above the age of 21 years;
- (2) that he is a person of good character; and
- (3) that he is a fit and proper person to be licensed to trade as a hawker.

Police Officer

Stationed at

Date

Remittances may be made by crossed cheque, postal note, or money order, made payable to the Receiver of Public Moneys, Department of the Interior. Stamps will not be accepted in payment. BOTH COPIES should be filled in and forwarded.

Section 9.

The Territory for the Seat of Government.
The *Hawkers Ordinance* 1936.

HAWKER'S LICENCE.

* Here set out the nature of the goods for which the licence is granted.

† Here set out method of conveyance.

Whereas _____ of _____
has applied to the Registrar for a Hawker's Licence, authorizing him to carry* _____, for the purpose of sale†
Now I, the Registrar, being satisfied that _____ is a fit person to have such a Licence granted to him, hereby authorize and empower him to trade as such Hawker as aforesaid within the Territory for the Seat of Government, and this Licence shall be and continue in force until the _____ day of _____ 19____, and no longer unless sooner suspended, cancelled or forfeited.

Dated this _____

day of _____

19 ____

Registrar.

Section 10.

The Territory for the Seat of Government.
The *Hawkers Ordinance* 1936.

FORM OF RECOGNIZANCE.

Be it remembered that on the _____ day of _____ 19____
of _____ of _____
_____ came personally before me
Esquire, Justice of the Peace, acting in and for the Territory for the Seat of Government and acknowledged themselves to owe to our Sovereign Lord the King, to wit the said _____ the sum of Twenty pounds the said _____ the sum of Twenty pounds and the said _____ the sum of Twenty pounds of lawful money of Great Britain to be respectively levied on their several goods and chattels, lands and tenement, to the use of our said Lord the King, His Heirs and Successors in case default shall be made in the performance of the conditions hereunder written.

* Here set out the nature of the goods for which the licence is granted.

† Here set out method of conveyance

The conditions of this recognizance are such that whereas _____ is to be licensed pursuant to the *Hawkers Ordinance* 1936 to carry* _____ for sale†
_____ within the Territory for the Seat of Government, for a period which will expire on the _____ day of _____ One thousand nine hundred and _____ unless the licence to be granted to the said _____ is sooner suspended, cancelled or forfeited; if the said _____ shall conform in all respects to the provisions of the said Ordinance during the said period then the said recognizance shall be void, but if the said _____ shall be lawfully convicted of any offence during the said period against the provisions of the said Ordinance, or against the provisions of any other Ordinance or law in force for the time being relating to Hawkers, then this recognizance shall remain in full force and effect.

Taken and acknowledged the day and year above written.

Before me—

Second
Schedule.
Sections 11, 12.

THE SECOND SCHEDULE.
SCALE OF FEES CHARGEABLE FOR HAWKERS' LICENCES.

	Fee per annum.		
	£	s.	d.
1. Where the licensee is the actual maker of the goods in respect of which the licence is granted	0	2	6
2. Where the licensee is the apprentice, agent or servant of the person who actually makes the goods in respect of which the licence is granted and resides with that person	0	2	6

THE SECOND SCHEDULE—*continued.*

		Fees per annum.		
		£	s.	d.
3.	Where the licence is granted in respect of goods, other than newspapers, fish, fruit, fuel, milk, vegetables or victuals of any description, or any agricultural produce, and not being goods in respect of which a licence may be granted in pursuance of item 1 or 2 of this Schedule—			
	In respect of goods carried for sale on the person ..	2	0	0
	In respect of goods carried for sale in or on a vehicle ..	4	0	0
4.	Where the licence is granted in respect of fish, fruit, fuel, milk, vegetables or victuals of any description, or agricultural produce—			
	In respect of goods carried for sale in the City Area—			
	on the person	0	10	0
	in or on a vehicle	1	0	0
	In respect of goods carried for sale outside the City Area	0	2	6
5.	Where the licence is granted in respect of newspapers, books, pamphlets, periodicals or other printed publications, works of art or photographs, and not being goods in respect of which a licence may be granted in pursuance of item 1 or 2 of this Schedule	0	5	0.

Dated this fourteenth day of October, 1936.

GOWRIE

Governor-General.

By His Excellency's Command,

T. PATERSON

Minister of State for the Interior.

By Authority: L. F. JOHNSTON, Commonwealth Government Printer, Canberra.