

# THE TERRITORY FOR THE SEAT OF GOVERNMENT.

No. 13 of 1926.

## AN ORDINANCE

Relating to the Licensing of Hawkers.

**B**E 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, as follows :—

1. This Ordinance may be cited as the *Hawkers Ordinance* 1926. Short title.
  2. This Ordinance shall commence on a date to be fixed by the Commencement,  
Federal Capital Commission by notice in the *Gazette*.
  - 3.—(1.) The *Hawkers and Pedlers Act* 1901 of New South Wales, Repeal.  
in its application to the Territory, in this section referred to as “the Act”, is repealed.
    - (2.) The repeal of the Act shall not—
      - (a) revive anything not in force or existing at the time at which the repeal takes effect ;
      - (b) affect the previous operation of the Act, or anything duly done or suffered under the Act ;
      - (c) affect any right, privilege, obligation, or liability acquired, accrued or incurred under the Act ;
      - (d) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against the Act ; or
      - (e) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment,
- and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed, as if the Act had not been repealed.

C.14742.

## Definitions.

4. In this Ordinance, unless the contrary intention appears—
- “authorized officer” means an officer authorized by the Federal Capital Commission ;
- “constable” means a member of the Police Force of the Commonwealth or of a State ;
- “goods” means movable property ;
- “licence” means a licence granted in pursuance of this Ordinance ;
- “pack” includes bag, box, trunk or case ;
- “vehicle” includes boat, vessel and animal.

## Meaning of carrying on business of hawker.

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 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.) No person shall carry on the business of a hawker unless he is the holder of a licence.

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—

- (a) the sale or carrying or offering for sale of any printed newspapers, books, pamphlets, periodicals or other printed publications or of any fish, fruit, water, fuel, milk, vegetables or victuals of any description, or of any agricultural products ;
- (b) the sale or carrying or offering for sale by the actual maker, or the children, apprentice, agents or servants of and residing with the maker, of any goods ; and
- (c) the sale or carrying or offering for sale of any goods in any market or fair established in the Territory, or in any house or shop occupied by the person so selling or carrying or offering for sale.

## Applications for licences.

7.—(1.) An application for a licence shall be made to the Federal Capital Commission which may grant or reject the application as it thinks fit.

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

(3.) An applicant for a licence shall be required to produce to the Federal Capital Commission a certificate signed by the senior member

stationed in the Territory of the Police Force performing police duties in the Territory or a member of that Force thereto authorized in writing by the senior member that—

- (i) the applicant is above the age of twenty-one years ;
- (ii) he is a person of good character ; and
- (iii) he is a fit and proper person to be licensed to trade as a hawker.

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

9. Before a licence is granted, the applicant shall be required to Recognizance enter into a recognizance in accordance with Form C in the Schedule to this Ordinance before two Justices with two sureties approved by the Federal Capital Commission, each in the sum of Twenty pounds.

10.—(1.) Every person to whom a licence under this Ordinance is granted shall pay to the Commission a fee of Two pounds, and the licence, unless sooner suspended, cancelled or forfeited, shall expire upon the thirtieth day of June then next ensuing from the date of the licence : Fees.

Provided that any registration made in the month of June in any year shall not expire until the thirtieth day of June of the following year :

Provided further that where a licence is granted after the thirty-first day of December in any year the fee payable shall be One pound.

(2.) No licence shall be of any effect until the prescribed fee has been paid to the Federal Capital Commission.

11. 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.

12. 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.

13. 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.

Refusal to produce licence in certain cases.

**14.** 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.

Penalty : Ten pounds.

Carrying spirituous liquors.

**15.** 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.

Penalty : Fifty pounds or imprisonment for three months.

Seizure of liquors.

**16.** Any person authorized by warrant in pursuance of this Ordinance 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 Federal Capital Commission thinks fit.

Seizure of liquors being hawked.

**17.—(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 Federal Capital Commission 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.

**18.—(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.

**19.** 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.

**20.** 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. Forfeiture of licences.

**21.**—(1.) If any person has reasonable ground for suspecting that any holder of a licence is offending against the provisions of this Ordinance, a warrant may be granted, after evidence on oath, authorizing a constable or an authorized officer 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. Power to search pack or vehicle of licensed hawkers.

(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.

**22.**—(1.) The Federal Capital Commission may cancel, or suspend for such period as it thinks fit, the licence of any person convicted of any offence against this Ordinance or the Regulations, or of any offence punishable by imprisonment. Cancellation or suspension of licences.

(2.) The holder of a licence shall within three 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 Federal Capital Commission.

Penalty : Twenty pounds.

**23.** 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.

**24.**—(1.) The Federal Capital Commission may, by writing under its seal, delegate any of its 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 Commission.

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

**25.** The Commission 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 SCHEDULE.

Form A.

THE TERRITORY FOR THE SEAT OF GOVERNMENT.

*The Hawkers Ordinance 1926.*

APPLICATION FOR HAWKER'S LICENCE.

The Secretary,  
Federal Capital Commission,  
Canberra.

I hereby apply for a Hawker's Licence authorizing me to carry goods for the purpose of sale within the Territory for the Seat of Government, in accordance with the *Hawkers Ordinance 1926*, and I forward herewith (postal note, money order or cheque, *as the case may be*) for the sum of Two pounds, being the prescribed fee.

Name in full  
Address  
Method of conveyance  
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 a 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 Collector, Federal Capital Commission. Stamps will not be accepted in payment. BOTH COPIES should be filled in and forwarded.

Form B.

THE TERRITORY FOR THE SEAT OF GOVERNMENT.

*The Hawkers Ordinance 1926.*

HAWKER'S LICENCE.

Whereas \_\_\_\_\_ of \_\_\_\_\_ has applied to the Federal Capital Commission for a Hawker's Licence, authorizing him to carry goods for the purpose of sale on his own person or in or on a vehicle within the meaning of the *Hawkers Ordinance 1926*, to wit Now I, the Delegate of the Federal Capital Commission, being satisfied that the said \_\_\_\_\_ 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 from the date hereof until the 30th day of June then next ensuing and no longer unless sooner suspended, cancelled or forfeited.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 192 .

Delegate of the Federal Capital Commission.

## THE TERRITORY FOR THE SEAT OF GOVERNMENT.

*The Hawkers Ordinance 1926.*

## FORM OF RECOGNIZANCE.

Be it remembered that on the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_  
of \_\_\_\_\_ of \_\_\_\_\_  
of \_\_\_\_\_ came personally before us  
Esquires, Justices 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 tenements, 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.

The conditions of this recognizance are such that whereas  
is to be licensed pursuant to the *Hawkers Ordinance 1926* to carry goods for sale on  
his own person or in or on a vehicle to wit \_\_\_\_\_ within the  
Territory for the Seat of Government, for a period which will expire on the 30th day  
of June next 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 us—

Dated this twenty-fourth day of November, One thousand nine  
hundred and twenty-six.

STONEHAVEN,  
Governor-General.

By His Excellency's Command,  
T. W. GLASGOW,  
Minister of State for Home and Territories.