

No. 5 of 1978

## AN ORDINANCE

To amend the *Hawkers Ordinance 1936*

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, hereby make the following Ordinance under the *Seat of Government (Administration) Act 1910*.

Dated this twenty-sixth day of January 1978.

ZELMAN COWEN  
Governor-General

By His Excellency's Command,

R. ELLICOTT  
Minister of State for the Capital Territory

### HAWKERS (AMENDMENT) ORDINANCE 1978

1. This Ordinance may be cited as the *Hawkers (Amendment) Ordinance 1978*.<sup>\*</sup> Short title

2. In this Ordinance, "Principal Ordinance" means the *Hawkers Ordinance 1936*.<sup>†</sup> Principal Ordinance

3. Section 4 of the Principal Ordinance is amended— Interpretation

- (a) by omitting the definition of "City Area"; and
- (b) by inserting after the definition of "pack" the following definition:

" 'permit' means a permit under sub-section 6B (2);".

4. Section 6B of the Principal Ordinance is amended by omitting sub-section (2) and substituting the following sub-section:

" (2) The Registrar may grant to a licensed hawker a permit for such period as is specified in the permit, being a period not exceeding 6 months, authorizing the hawker to carry on the business of a hawker at a place specified in the permit during the hours and on a day specified in the permit. " Hawkers may sell goods at authorized places

<sup>\*</sup> Notified in the *Commonwealth of Australia Gazette* on 2 February 1978.

<sup>†</sup> Ordinance No. 43, 1936 as amended by Nos. 25 and 35, 1938; No. 1, 1941; No. 8, 1948; No. 21, 1959; No. 15, 1962; No. 19, 1966; No. 29, 1968; No. 47, 1974; and No. 17, 1975.

5. After section 10 of the Principal Ordinance the following section is inserted:

Fees for  
permit

“10A. (1) A person to whom a permit is granted for a period of 6 months shall pay to the Registrar a fee according to the scale set out in Part I of Schedule 2.

“(2) A person to whom a permit is granted for a period of less than 6 months shall pay to the Registrar a fee that, subject to sub-section (3), bears the same proportion to the fee prescribed under sub-section (1) as the period for which the permit is granted bears to the period of 6 months.

“(3) Where a permit is granted for a period of less than 6 months, the fee payable shall not be less than \$3.”.

Power  
to grant  
hawkers'  
licences for  
period of  
less than  
12 months

6. Section 12 of the Principal Ordinance is amended by omitting “, 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”.

Hawker's  
licence or  
permit of  
no effect  
until fee  
paid

7. Section 13 of the Principal Ordinance is amended by inserting “or permit” after “licence”.

8. After section 25 of the Principal Ordinance the following sections are inserted:

Revocation  
of permit

“25A. The Registrar may revoke a permit if—

- (a) the place specified in the permit as the place at which the holder of the permit may carry on the business of a hawker—
  - (i) is, or forms part of, a public road within the meaning of the *Roads and Public Places Ordinance* 1937 and the road has, under section 4 of that Ordinance, been temporarily closed against vehicular or other traffic; or
  - (ii) is, or forms part of, a public place within the meaning of the *Roads and Public Places Ordinance* 1937 and a person has been granted permission under section 9 of that Ordinance to make or place a culvert, bridge, crossing or drain across a watertable, watercourse or footpath in, or to open up or break the surface of, that place;
- (b) the carrying on of the business of a hawker at the place specified in the permit is likely to adversely affect the carrying out of road works or the supply, installation, maintenance or repair of electrical equipment; or
- (c) the Registrar has reasonable grounds for believing that it is contrary to the public interest for the holder of the permit to carry on the business of a hawker at the place, during the hours or on the day specified in the permit.

“ 25B. (1) Where the Registrar revokes a permit under section 25A, the Commonwealth shall repay to the person who held the permit such amount of the fee paid for the grant of the permit as bears the same proportion to the fee so paid as the relevant period bears to the period for which the permit was granted. Partial refund of fee on revocation of permit

“ (2) In this section, ‘relevant period’, in relation to a permit that has been revoked, means the period consisting of the number of complete weeks in the period commencing on the expiration of the day on which the permit was revoked and ending on the expiration of the last day on which the permit would, but for its revocation, have been in force.”

9. After section 26 of the Principal Ordinance the following sections are inserted:

“ 27. (1) Where the Registrar—

- (a) refuses to grant or vary a licence; or
- (b) cancels or suspends a licence,

Appeal  
against  
decision of  
Registrar

the applicant, or the holder or former holder of the licence, as the case may be, may appeal to the Minister against the decision of the Registrar.

“ (2) A licensed hawker may appeal to the Minister against a decision of the Registrar—

- (a) refusing to grant a permit;
- (b) granting to the licensed hawker a permit in respect of the place, hours and day specified in the permit; or
- (c) revoking a permit.

“ (3) The Minister shall hear and determine an appeal under this section and may affirm, vary or set aside the Registrar’s decision.

“ (4) Where the Minister sets aside a decision of the Registrar refusing to grant a permit, the Minister shall direct the Registrar to grant to the appellant a permit for such period, place, hours and day as is specified by the Minister and the Registrar shall comply with such a direction.

“ 27A. (1) Application may be made to the Tribunal for a review of a decision of the Minister affirming or varying, under section 27, a decision of the Registrar. Review of decisions of Minister

“ (2) In this section, ‘Tribunal’ means the Administrative Appeals Tribunal established by the *Administrative Appeals Tribunal Act 1975*.”

Schedule 2

10. The Second Schedule to the Principal Ordinance is repealed and the following Schedule substituted:

## SCHEDULE 2

Sections 10A, 11, 12

## PART I

## SCALE OF FEES CHARGEABLE FOR PERMITS

	Fee for period of 6 months \$
1. Where the holder of the permit carries the goods for sale on his person ..	10.00
2. Where the holder of the permit carries the goods for sale in or on a vehicle of a weight not exceeding 2 tonnes .. .. .	40.00
3. Where the holder of the permit carries the goods for sale in or on a vehicle of a weight exceeding 2 tonnes .. .. .	60.00

## PART II

## SCALE OF FEES CHARGEABLE FOR HAWKERS' LICENCES

	Fee for period of 12 months \$
1. Where the holder of the licence carries the goods for sale on his person ..	10.00
2. Where the holder of the licence carries the goods for sale in or on a vehicle of a weight not exceeding 2 tonnes .. .. .	20.00
3. Where the holder of the licence carries the goods for sale in or on a vehicle of a weight exceeding 2 tonnes .. .. .	30.00

Additional  
amendments

11. The Principal Ordinance is amended as set out in the following table:

Provision amended	Omit—	Substitute—
Sub-section 6A (2) .. ..	the last preceding sub-section	sub-section (1)
Sub-section 6A (3) .. ..	the next succeeding section	section 6A
Sub-section 6A (4) .. ..	the last preceding sub-section	sub-section (3)
Sub-section 6A (5) .. ..	sub-section (3) of this section	sub-section (3)
Paragraph 6B (3) (a) .. ..	sub-section (1) of this section	sub-section (1)
Paragraph 6B (3) (b) .. ..	the last preceding sub-section	sub-section (2)
Sub-section 6B (3) .. ..	the last preceding section	section 6A
Sub-paragraph 8 (1A) (c) (ii)	the Second Schedule to this Ordinance	Part II of Schedule 2
Sub-section 10 (1) .. ..	the First Schedule	Schedule 1
Section 11 .. ..	the Second Schedule to this Ordinance	Part II of Schedule 2
Section 23 .. ..	either of the last two preceding sections	section 21 or 22
First Schedule .. ..	THE FIRST SCHEDULE	SCHEDULE 1