



ANNO VICESIMO QUINTO

GEORGII V REGIS.

A.D. 1934.

No. 2194.

An Act to consolidate and amend the statute law
relating to hawkers.

[Assented to, November 29th, 1934.]

BE IT ENACTED by the Governor of the State of South
Australia, with the advice and consent of the Parliament,
thereof, as follows :

1. This Act may be cited as the "Hawkers Act, 1934". Short title.

2. (1) The Acts mentioned in the First Schedule are repealed. Repeal and
savings.

(2) Notwithstanding the said repeal any hawker's or servant's
licence granted under the said Acts and in force at the com-
mencement of this Act shall remain in force during the period
for which it was granted, and shall be of the same force and
effect as if this Act had been in force when it was granted and
it had been granted under this Act. A servant's licence granted
under the said repealed Acts shall be deemed an employee's
licence under this Act.

3. In this Act, unless the context otherwise requires or some Interpretation.
other meaning is clearly intended—

"Commissioner" means the Commissioner of Police for the
time being in office :

"hawker" means any person who travels either personally or Cf. Imp. Act,
51 & 52 Vict.,
c. 33, s. 2.
by his servants or agents by any means of locomotion

Hawkers Act.—1934.

(whether by land, air, or water, and whether with or without a vehicle) from place to place or from house to house carrying or exposing goods for sale by retail: Provided that the term "hawker" shall not include a person who sells goods or exposes goods for sale only from premises such as a house, shop, room, stall, tent, or marquee :

"hawker's licence" means a hawker's licence granted under this Act and for the time being in force :

"employee's licence" means a licence granted under this Act to the employee of a hawker and for the time being in force :

"licence" means hawker's licence or employee's licence :

"vehicle" includes vehicle or conveyance of any kind :

"boat" includes ship, boat, or any vessel for transport by water.

Duty to obtain
hawker's and
employee's
licence.

4. (1) No person shall carry on business as a hawker—

(a) unless he is the holder of a hawker's licence ;

(b) otherwise than in accordance with the terms and conditions of a hawker's licence granted to himself.

Penalty—Ten pounds.

(2) No hawker shall employ any person in the business of hawking unless an employee's licence has been obtained for that person.

Penalty—Twenty pounds.

Exemptions.

5. No hawker's licence shall be required—

(a) for the sale of printed papers, fish, fruit, victuals (not being tea, coffee, or cocoa), timber, fuel, vegetables, hay, straw, or other food for cattle :

(b) by the actual worker or maker (not being a body corporate) of any goods, wares, or merchandise, or his children, apprentices, or servants usually residing in the same house with him selling or exposing for sale goods, wares, or merchandise made by such worker or maker :

(c) by any person selling or exposing for sale goods, wares, or merchandise to persons who are traders therein and who buy to sell again :

(d) by any person carrying about either personally or by his employees (elsewhere than on the River Murray or any of the lakes connected therewith or any

Hawkers Act.—1934.

other inland waters connected with the said river or lakes) any mead, wine, cider, or perry the produce of his own vineyard or orchard for sale in accordance with the laws relating to the sale of such liquors :

- (e) for the sale of any goods in any market :
- (f) for the sale of goods on any show grounds whilst any agricultural, horticultural, pastoral, or other like show is being held :
- (g) for the sale of goods at any fair, fete, bazaar, or other like function held for charitable or benevolent purposes.

6. (1) Every application for a licence shall be made to and considered and determined by the Commissioner of Police. Applications
for licences.

(2) The Commissioner shall not entertain any application (other than an application for a licence by way of renewal of a prior licence) unless the applicant produces to him or to some person authorised by him a certificate signed by two reputable inhabitants of the State certifying that the person sought to be licensed is of good character and reputation and is a fit person to exercise the trade of a hawker: Provided that where a hawker's licence is applied for by a body corporate, the Commissioner may dispense with the production of a certificate.

(3) Every certificate shall be in such form as the Commissioner fixes.

7. (1) The Commissioner upon being satisfied that the applicant is a fit and proper person to hold a licence, and upon payment of the fee prescribed by this Act, may issue a licence to the applicant. Issue of
licences.

(2) The Commissioner may refuse to issue a licence to any person if he is satisfied that that person is not a fit and proper person to hold a licence.

(3) Every licence shall be in the form fixed by the Commissioner.

(4) The Commissioner may from time to time fix or vary the form of licence.

(5) No licence shall be issued to any alien except on proof to the satisfaction of the Commissioner that the alien has sufficient knowledge of the English language for the exercise of the trade of a hawker.

8. Every licence shall, unless sooner revoked or suspended, remain in force until the twenty-fifth of March next after the issue thereof. Duration of
licence.

Hawkers Act.—1934.

Fee for licence.

9. (1) The fees payable for licences shall be as set out in the Second Schedule.

(2) No licence shall be issued until the fee payable therefor has been paid to the Commissioner.

Effect of licence in relation to local by-laws.

10. (1) Every hawker's licence shall contain a condition that the holder thereof shall comply with all by-laws relating to hawking (other than by-laws requiring hawkers to be licensed or to pay any fees) which are in force in any district or municipality in which he hawks.

(2) The holder of a hawker's licence shall be entitled to hawk in accordance therewith without obtaining any licence to hawk from, or paying any fees to, any other authority.

Duty of hawker to display certain information.

11. (1) Every licensed hawker selling goods or exposing them for sale from a vehicle, boat, aeroplane, or pack shall keep his name and the words "Licensed Hawker" and the number of his licence visibly and legibly written, painted, or printed in Roman capitals upon such vehicle, boat, aeroplane, or pack.

(2) Any person who fails to comply with any requirement of this section shall be guilty of an offence and liable to a penalty not exceeding five pounds.

Duty to produce a licence.

12. Any justice of the peace or any member of the police force or any person to whom the licensed hawker or employee of a licensed hawker has within twenty-four hours previously sold or offered to sell any goods may demand of any licensed hawker or employee of a licensed hawker that he produce and show his licence to the person making such demand, and if any licensed hawker or employee of a licensed hawker to whom any such demand is made fails within forty-eight hours after the making of the demand to produce his licence and show it to the person making such demand, he shall be guilty of an offence and liable to a penalty of not more than ten pounds.

Penalty for refusal of hawker to leave premises, &c.

13. If any hawker or employee of a hawker—

(a) having entered upon any premises, with or without the permission of the owner or occupier thereof, neglects or refuses to leave such premises immediately when directed to do so by such owner or occupier or his servant or agent ; or

(b) uses insulting or offensive language, or is guilty of rude, offensive, or insulting behaviour, whilst in pursuit of his occupation as a hawker or employee of a hawker, in any place, whether private or public,

Hawkers Act.—1934.

he shall be guilty of an offence against this Act and be liable to a penalty of not more than ten pounds.

14. Any person not being the holder of a hawker's licence who uses or exhibits the words "licensed hawker" or any words importing that he carries on the trade of a hawker or is licensed so to do shall be guilty of an offence and liable to a penalty of not more than ten pounds.

Penalty on wrongful use of term "licensed hawker."

15. Any person who forges any licence, or travels with or produces or shows with intent to use the same as a genuine instrument any forged licence, shall be guilty of a misdemeanour, and shall be liable on conviction before the Supreme Court to imprisonment for not more than twelve months.

Penalty for forgery.

16. (1) Any person who lets on hire or lends to any person any licence granted to him under this Act shall be guilty of an offence and liable to a penalty of not more than ten pounds.

Penalty for lending or hiring licence.

(2) Any person who trades with or under colour of a licence granted to any person other than himself or his employer shall be guilty of an offence and liable to a penalty of not more than ten pounds.

17. (1) The Commissioner of Police may on complaint apply to a court of summary jurisdiction for an order directing any one or more of the following things :—

Power to revoke or suspend licence or disqualify from holding licence.

(a) that the licence of any licensed hawker or employee of a licensed hawker be revoked or suspended :

(b) that any licensed hawker or employee of a licensed hawker or any person who has previously held a licence shall be disqualified either temporarily or permanently from obtaining any licence.

(2) If the Commissioner satisfies the court that the person against whom the order is sought has been convicted of any felony, misdemeanour, or other offence, and has by committing such felony, misdemeanour, or offence shown himself to be an unfit person to hold a licence under this Act, the court may make such order of the kind mentioned in subsection (1) as the court thinks just.

18. Proceedings for offences against this Act shall except where this Act otherwise provides be disposed of summarily.

Summary proceedings for offences.

19. The Governor may make any regulations necessary or convenient for carrying this Act into operation, and may by regulation create offences punishable summarily, and impose penalties therefor not exceeding ten pounds.

Regulations.

Hawkers Act.—1934.

Powers of local
governing
bodies as to
visiting traders.

20. Any municipal or district council may make by-laws under the Local Government Act, 1934, providing for the licensing of persons who do not usually reside or carry on business within the area of the council making the by-law, but who visit any place or places in such area and there sell or expose for sale any goods, wares, or merchandise in or at any house, shop, room, stall, or other premises hired or used for that purpose.

Any such by-laws may fix the fees to be paid for a licence thereunder, not exceeding two pounds per day or portion of a day, and may provide for the imposition of fines, not exceeding five pounds, recoverable summarily, for any breach of any by-law.

Disposal of
fees.

21. All fees received under this Act, in excess of the cost of the administration of this Act, shall be paid into the Main Roads Fund established under the Highways Act, 1926.

In the name and on behalf of His Majesty, I hereby
assent to this Bill.

W. DUGAN, Governor.

Hawkers Act.—1934.

SCHEDULES.

THE FIRST SCHEDULE.

ACTS REPEALED.

No. and Year of Act.	Title of Act.
3 of 1863	Licensed Hawkers Act, 1863.
710 of 1898	The Licensed Hawkers Amendment Act, 1898.
1086 of 1912	The Licensed Hawkers Act Amendment Act, 1912.
1793 of 1927	Licensed Hawkers Act Amendment Act, 1927.

THE SECOND SCHEDULE.

FEES FOR HAWKERS' LICENCES.

(1) The fee for a licence for a full year shall be as follows :—

	£	s.	d.
1. For a licence to hawk with a four-wheeled vehicle drawn by horses or other animals, per annum	4	0	0
2. For a licence to hawk with a two-wheeled vehicle drawn by horses or other animals, per annum	3	0	0
3. For a licence to hawk with a hand-cart, per annum	2	0	0
4. For a licence to hawk with a pack or basket, per annum	0	10	0
5. For a licence to hawk with a ship, boat, or other conveyance on the River Murray and the lakes connected therewith, and other inland waters connected with the said river or lakes	10	0	0
6. For a licence to hawk with a ship, boat, or other conveyance elsewhere than on the said river, lakes, and other waters, per annum	4	0	0
7. For a licence to hawk with a motor vehicle (not being a motor cycle), per annum	4	0	0
8. For a licence to hawk with a motor vehicle (not being a motor cycle) to which a trailer is attached, per annum	6	0	0
9. For a licence to hawk with a motor cycle or motor cycle and side-car, per annum	2	0	0
10. For a licence to hawk with a bicycle or tricycle, per annum	2	0	0
11. For a licence to hawk with one pack animal, per annum	2	0	0
12. For a licence to hawk with more than one pack animal, per annum, £2 for the first pack animal, plus £1 for every additional pack animal, but so that the total fee shall not exceed	6	0	0
13. For a licence to hawk by aeroplane	4	0	0
14. For an employee's licence—Half the fee set out above according to the nature of the hawking in which the employee is employed.			

(2) Where a licence is issued after the twenty-fourth of September and before the twenty-fifth of March following the fee shall be one-half of that payable for a full year.