

No. 2974.

An Act to amend the Law relating to
Hawkers and Pedlers.

[31st December, 1918.]

BE it enacted by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows (that is to say) :—

1. This Act may be cited as the *Metropolitan Hawkers Act* 1918 and shall be read and construed as one with the *Hawkers and Pedlers Act* 1915 (hereinafter called the Principal Act) which Act and this Act may be cited together as the Hawkers and Pedlers Acts.

Short title
construction
and citation.
No. 2864.

2. In this Act unless inconsistent with the context or subject-matter—

Interpretation.

“Metropolitan hawker's licence” means a licence granted under this Act and in force.

“Metropolitan hawker's licence.”

“Metropolis” means the metropolis within the meaning of the Melbourne and Metropolitan Board of Works Acts.

“Metropolis.”
No. 2696 s. 3.

“Municipality” means the city of Melbourne or any city town borough or shire the district of which is within or partly within the metropolis; and “municipal district” includes the city of Melbourne.

“Municipality.”

“Municipal district.”

“Prescribed” means prescribed by this Act or by the regulations.

“Prescribed.”

“Public place” has the same meaning as in section three of the *Police Offences Act* 1915.

“Public place.”
No. 2708 s. 3.

“Regulations” means regulations made by the Governor in Council under this Act.

“Regulations.”

3. (1) Subject

Non-application
of certain
enactments
&c. to holder
of licence under
this Act.

No. 2664 s. 3-11;
8 Vict. No. 12
s. 25; 11 Vict.
No. 17 s. 6;
No. 572 s. 6;
No. 2013 s. 13.
No. 2636 s. 613.
No. 2690 s. 25.
No. 2811
s. 2 (1) (a).

Metropolitan
hawker not
exempted from
paying tolls in
market &c.
No. 2636 s. 614.

Saving.
No. 2811 s. 2.

Saving as to
health
legislation.

Metropolitan
hawkers to be
licensed under
this Act.
Comp. No. 2664
s. 4.

3. (1) Subject to this Act the provisions of the Principal Act (except so far as incorporated with this Act) and of the Acts relating to the city of Melbourne (except section six of the *Melbourne General Market Site Act 1877* and section thirteen of the *Melbourne General Market Lands Act 1917*) and of section six hundred and thirteen of the *Local Government Act 1915* and of section twenty-five of the *Markets Act 1915* and of paragraph (a) of subsection (1) of section two of the *Local Government Act 1915* (No. 2) and of any by-laws or regulations made pursuant to any of such enactments shall not, with respect to the sale or offering or exposing for sale of fish fruit flowers milk vegetables or victuals of any description or any agricultural produce in any street road or public place within the metropolis, apply to any person holding a metropolitan hawker's licence and so far as the said enactments by-laws or regulations or any of them are inconsistent with this Act the provisions of this Act shall prevail.

(2) For the purposes of section six hundred and fourteen of the *Local Government Act 1915* the expression "licensed hawker" in that section shall be deemed to include the holder of a metropolitan hawker's licence; and the expression "hawker's and pedler's licence" in that section shall, but so far only as the said section is applicable to any market in the metropolis, be deemed to include a metropolitan hawker's licence.

(3) Nothing in this Act shall affect the provisions of section two of the *Local Government Act 1915* (No 2) so far as the same relate to stands in streets roads and public places for street hawkers and itinerant traders; and a person holding an authority under the said section to occupy any such stand shall not for the purpose of dealing in foodstuffs and flowers in connexion with such stand be required to hold a metropolitan hawker's licence.

(4) This Act shall be read and construed as in aid and not in derogation of the provisions of the law relating to the public health.

4. (1) Notwithstanding anything in any Act no person shall in any street road or public place within the metropolis carry on the business of a hawker or pedler of any fish fruit flowers milk vegetables or victuals of any description or any agricultural produce unless he is the holder of a metropolitan hawker's licence.

(2) Any

(2) Any person who in contravention of this section carries on such business shall be liable to a penalty of not more than Twenty pounds. Penalty.

(3) Every person carrying on such business shall be deemed and taken to be unlicensed unless he proves the contrary by the production of his licence or otherwise. Production of licence &c.

5. (1) Notwithstanding anything in any Act the justices assembled at a general meeting of the justices in the police district of Melbourne to consider applications for hawkers' and pedlers' licences pursuant to section six of the Principal Act or a majority of them may issue to any person who makes application to them for a metropolitan hawker's licence and who is approved by them a licence in the prescribed form. Application for licence at general meeting of Justices.
Comp. No. 2664 s. 6.

(2) Every person desirous of obtaining any such licence shall seven days at the least before making such application deliver or cause to be delivered to the clerk of the court of petty sessions at Melbourne a notice in writing in the prescribed form of his intention to apply for the same accompanied by a certificate of good character from at least two known and respectable persons residing in the metropolis. Notice to clerk of petty sessions.
Comp. ib. s. 7.

Certificate of character.
Comp. ib. s. 8.

6. (1) Every person in whose favour a licence has been granted as aforesaid shall if the licence is for the full period of twelve months pay to the clerk of petty sessions aforesaid the sum of Twenty shillings. Fees for licences.
Comp. ib. s. 10.

(2) No such licence shall be of any force or effect whatsoever until the sum payable as aforesaid has been paid to the clerk of petty sessions as aforesaid. Licence of no effect till fee paid.

7. Every metropolitan hawker's licence shall unless revoked or suspended be in force from the first day of the month next following the grant thereof to the thirty-first day of December following and no longer. Period of licence.
Comp. ib. s. 11.

8. Notwithstanding anything in any Act or any by-law or regulation made pursuant to any Act every person who holds a metropolitan hawker's licence— Effect of licence under this Act.

shall be entitled subject to this Act to sell or offer or expose for sale any articles specified in his licence in any street road or public place throughout the metropolis without payment of any market tolls fees charges or dues ; but shall

shall be subject to any by-laws made by the council of any municipality prescribing the limits whether as to time or place within which such selling or offering or exposing for sale is permitted within its municipal district; and every such council is hereby authorized subject to the approval of the Governor in Council to make such by-laws in manner provided by the *Local Government Act 1915* and to take proceedings for the recovery of penalties for offences against such by-laws.

Incorporation of certain provisions of the *Hawkers and Pedlers Act 1915*.

No. 2664
ss. 12-26.

9. The provisions of sections twelve to twenty-six of the Principal Act with such alterations additions omissions modifications and substitutions as are necessary for carrying out the purposes of this Act are hereby incorporated with this Act:

Provided that for the purposes of this section any reference in the said sections to a licence or licences granted under the provisions of the Principal Act shall be read and construed as a reference to a metropolitan hawker's licence or licences, and any reference in the said sections to a hawker or pedler (whether licensed or not) shall be read and construed as a reference to a person (whether licensed or not) required by this Act to hold a metropolitan hawker's licence :

Ib. ss. 13, 14.

Provided further that for the purposes of this section the provisions of sections thirteen and fourteen of the Principal Act shall take effect as if for the words "Licensed Hawker" (wherever occurring in the said sections) there were substituted the words "Licensed Metropolitan Hawker."

Revocation of licence.
Comp. No. 2689
s. 12.

10. (1) Any member of the police force above the rank of sergeant may apply to a court of petty sessions to revoke any licence.

Notice.

(2) At least fourteen days' notice of the hearing of such application and of the grounds thereof shall be given to the licensee.

(3) If upon the hearing of the application the court is satisfied that the licensee has been convicted of felony or of any breach of any of the provisions of this Act it may revoke his licence.

11. A court

11. A court of petty sessions upon being satisfied that a licence has been lost or destroyed may on payment to the clerk of petty sessions of a fee of Five shillings cause to be issued a duplicate licence which shall be of the same force as the original licence.

Lost licence.
Comp. No. 2883
s. 124.

12. (1) The Governor in Council may make regulations for or with respect to—

Regulations.

- (a) the suspension or revocation of licences under this Act ;
- (b) the animals and vehicles used and the apparatus to be used by the holder of a metropolitan hawker's licence ;
- (c) securing the wholesomeness and cleanliness of the commodities offered or exposed for sale by any such person ;
- (d) the conduct of the holder of any such licence while engaged in selling such commodities or in the offering or exposing of the same for sale ;
- (e) regulating the selling of such commodities or the offering or exposing of the same for sale ;
- (f) prescribing penalties not exceeding Ten pounds for breaches of any of the regulations ;
- (g) forms of applications notices and licences ; and
- (h) generally, all matters and things necessary or convenient for the more effectual carrying out of the purposes of this Act.

(2) All such regulations shall be published in the *Government Gazette* and shall be laid before both Houses of Parliament within fourteen days after the making thereof if Parliament is then sitting and if Parliament is not then sitting then within fourteen days after the next meeting of Parliament.