

This PUBLIC BILL originated in the HOUSE OF REPRESENTATIVES, and, having this day passed as now printed, is transmitted to the LEGISLATIVE COUNCIL for its concurrence.

*House of Representatives,
12th October, 1896.*

Hon. Mr. Seddon.

HAWKERS.

ANALYSIS.

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A BILL INTITULED

AN ACT to provide for the Licensing of Hawkers.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. The Short Title of this Act is "The Hawkers Act, 1896."

2. In this Act, if not inconsistent with the context,—

"Conveyance" means any vehicle, vessel, or other contrivance of any sort whatsoever which may be used for the carriage of goods either by land or water:

"Local authority" means the Council or Board of any borough or town district; and outside of such places means the Council of any county, or such Road or Town Board as may be administering the functions of a County Council:

A town district, for the purposes of this Act, shall be deemed not to form part of the county wherein it is comprised:

Title.

Short Title.

Interpretation.

“Local district” means any portion of the colony under the administration of a local authority as herein defined :

“Magistrate” means a Stipendiary Magistrate appointed under “The Magistrates’ Courts Act, 1893” :

“Provincial district” means any portion of the colony within the boundaries of a provincial district as existing at the time of the abolition of the provincial districts : 5

And for the purposes of this Act,—

“Hawker” shall also mean and include any person who travels to any place in which he does not usually reside or carry on business, and there sells or exposes for sale by retail any goods, wares, or merchandise in any house, shop, room, store, or place, whether hired or used by him for that purpose. 10

HAWKERS AND HAWKERS’ LICENSES. 15

3. Every person who carries on business by the sale of goods hawked or carried about in any manner for sale shall be deemed a hawker within the meaning of this Act.

4. From and after the first day of January, one thousand eight hundred and ninety-seven, it shall not be lawful for any person to in any way carry on the business of a hawker except pursuant to the authority of a license issued to him under this Act, and within the district for which such license is issued. 20

5. Licenses under this Act shall be of four classes, as follows:—

- (1.) Local licenses ; 25
- (2.) Local personal licenses ;
- (3.) Extended licenses ;
- (4.) Extended personal licenses.

6. A local license shall authorise the holder thereof to carry on business within the local district for which it is issued (but not outside the same) as a hawker with goods hawked or carried about in any manner; and the holder of such license shall pay in respect thereof an annual fee of *ten* shillings. 30

7. A local personal license shall authorise the holder thereof to carry on business within the local district for which it is issued (but not outside the same) as a hawker with goods hawked or carried about on or about the person, on foot only, but not on any animal or in any conveyance; and the holder of such license shall pay in respect thereof an annual fee of *five* shillings. 35

METHOD OF OBTAINING LICENSES. 40

8. It shall not be lawful for any person to hold a license under this Act unless—

(1.) He is a British subject, or has been naturalised in the colony for not less than twelve months on the date on which the application for the license is lodged, as hereinafter provided; nor unless 45

(2.) He has resided in the colony continuously for not less than twelve months next preceding the aforesaid date :

and if any license is issued to any person not qualified as aforesaid the license shall be void. 50

Definition of
“hawker.”

All hawkers to be
licensed.

Classes of licenses.

Extent of local
license, and fee
therefor.

Local personal
license and fee.

Qualifications for
license.

9. Any qualified person who wishes to obtain for the first time a license under this Act shall sign and lodge with the Clerk of the Magistrate's Court holden nearest to the applicant's usual place of abode a notice of intention to apply for such license.

Notice of intention to apply for license.

5 10. Such notice shall be in the form or to the effect set forth in the *First* Schedule hereto, and shall specify—

Form of notice.

(1.) The applicant's full and true name and place of abode; and also,

10 (2.) The class of license to be applied for, and the district for which it is to be issued.

11. No such notice shall be lodged as aforesaid unless it contains at the foot thereof a certificate of character, in the form in the said Schedule, signed by at least four ratepayers resident for not less than six months in the locality wherein the applicant resides.

Certificate of character.

15 12. The Clerk of such Court shall, on receiving such notice as aforesaid,—

Hearing of application for license.

(1.) Fix a convenient day for the hearing of the application, and inform the applicant or person lodging the notice of the day so fixed, being not less than *ten* clear days from the lodging of the notice; and also

20 (2.) Forthwith transmit a copy thereof to the police-station nearest to the Courthouse.

13. (1.) The Clerk shall also cause a list of all applications, with the names and residences of the respective applicants and the certifying ratepayers, to be posted in some conspicuous place inside and outside of the Courthouse for at least *seven* days before the applications are heard.

List of applications to be posted up.

(2.) Any person may lodge objections to any application at any time before the same is disposed of.

Objections.

30 14. The Magistrate exercising jurisdiction at the Courthouse shall hear and dispose of each such application, and inquire into any objections thereto, and for such purpose may examine witnesses on oath.

Magistrate to hear application.

35 15. If satisfied that the applicant is a qualified person, and of good character, and also that the application has been duly lodged, the Magistrate may in his discretion, and on payment of the prescribed license-fee, issue the license applied for.

Magistrate may issue license on payment of fee.

40 16. The license shall be in the form in the *Second* Schedule hereto, and shall bear the seal of the Court, and be signed by the Magistrate and countersigned by the Clerk.

Form of license.

45 17. If not satisfied as aforesaid, the Magistrate may reject any such application, or adjourn the consideration thereof from time to time, as he sees fit: Provided that such adjournments do not in the whole exceed *three* weeks from the day when such application was first heard.

Or may reject or adjourn application.

CURRENCY AND RENEWAL OF LICENSES.

50 18. Every license issued under this Act shall take effect from the date of the issue thereof, and, unless sooner forfeited, shall expire on the thirty-first day of December thereafter, but may be renewed from year to year in manner hereinafter provided.

Duration of licenses.

19. Any licensee under this Act who desires to obtain a renewal of his license shall make application therefor in the same

Application for renewal.

manner and at the same Courthouse as in the case of his original application for the license, save that the ratepayers' certificate shall not be necessary; and all the provisions of this Act relating to the original application and the proceedings thereon shall, *mutatis mutandis*, apply to the application for renewal:

Provided that the renewal may be effected by indorsing on the original license the words "renewed until 31st December, 18," with the signatures of the Magistrate and the Clerk of the Court.

20. The Clerk shall keep a register wherein shall be entered from time to time the name of every licensee, the number and class of his license, the district for which it is issued, the date of its issue, renewal, or forfeiture, as the case may be, and the amount of the license-fee received in respect of its issue or renewal.

DUTIES AND LIABILITIES OF LICENSEES AND OTHERS.

21. It shall not be lawful for any person not being a licensee under this Act to in any way or by any method or device hold himself out to be a licensed hawker.

22. It shall not be lawful for any licensee under this Act to in any way carry on business as a hawker outside the boundaries of the local or provincial district named in his license.

23. It shall not be lawful for any licensee under this Act to have any fermented or spirituous liquor in any pack or other receptacle or in any conveyance used by him in the course of his business.

24. Any Justice, police officer, or constable having reasonable grounds for suspicion as aforesaid may at any time, without a warrant, search every pack, receptacle, and conveyance of any sort of any licensee under this Act.

25. If fermented or spirituous liquor is at any time being hawked or carried about or exposed for sale in any place whatsoever by any person not licensed according to law to sell the same in such place, then such liquor, and the vessels containing the same, and all the utensils used for drinking or measuring the same, and any animal or vehicle employed in drawing or carrying the same, may without warrant be seized by any Justice, officer of police, or constable.

26. If any Justice is satisfied, after due inquiry and examination, that any fermented or spirituous liquors seized under the provisions of this Act were carried contrary to law, or were hawked or carried about for the purpose of being illegally sold, he may (subject to the right of appeal under "The Justices of the Peace Act, 1882") adjudge the said liquors, and the vessels, utensils, animals, and vehicles seized therewith, to be condemned and forfeited, and in such case the same shall be sold, and the proceeds thereof shall be deemed to be penalties recovered under this Act.

27. In all cases where fermented or spirituous liquors are carried from one place to another, the burden of proving that such liquors were not so carried contrary to law, or for the purposes of illegal sale, shall lie upon the party carrying them.

28. If any licensee under this Act is convicted of knowingly dealing in or selling any kind of smuggled or contraband goods, or any goods fraudulently procured, either by himself or through the

Registers of licenses issued or renewed.

Unlicensed person not to act as hawker.

Hawker not to carry on business outside his district.

Hawker not to have alcoholic liquor in his possession.

Pack may be searched without warrant.

Seizure of liquor and vessels, &c.

Justice may adjudge liquor, vessels, &c., forfeited.

Burden of proof when such liquors carried.

Penalty for dealing in smuggled or contraband goods.

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medium of others with his privity, then, in addition to any other penalty or punishment to which he is liable, his license shall be forfeited; and for such period, not exceeding two years, as the convicting Court determines, he shall be incapable of obtaining any new
5 license.

29. Any constable may, without warrant, seize and detain any person, not being a licensee under this Act, who is found carrying on the business of a hawker, and may keep him so detained until the following day for the purpose of being proceeded against for such
10 offence, unless the same can be sooner disposed of.

Constable may detain unlicensed hawker.

30. Every licensee under this Act shall, within a reasonable period after demand therefor, produce his license to any Justice, police officer, or constable, or to any person to whom he within the previous twenty-four hours sold or offered to sell any goods.

Production of hawker's license.

15 31. (1.) Every local authority and every Harbour Board may, in manner provided by any Act authorising such local authority or Harbour Board to make by-laws, from time to time make by-laws to regulate the conduct and provide against the misconduct of licensees under this Act.

By-laws.

20 (2.) Every breach of any such by-law shall entail such penalty as the local authority or Harbour Board thinks fit to prescribe, not exceeding the maximum penalty authorised by such Act for breach of a by-law.

25 32. Every licensed hawker who has improperly obtained a license contrary to the true meaning of this Act commits an offence, and on conviction thereof such license shall be forfeited.

Forfeiture of license improperly obtained.

30 33. Every person is liable to a penalty not exceeding *twenty* pounds who lets out or hires or lends any license issued to him under this Act, or trades with or under colour of any license issued to any other person, or of any license in which his own name is not inserted as the name of the licensee.

Penalty for letting out or hiring license.

35 34. In all proceedings against any person for having acted as a hawker without a license, he shall be deemed to have been unlicensed unless he produces his license or brings other satisfactory proof of his having been licensed at the time when the alleged offence was committed.

Person deemed unlicensed unless license produced.

40 35. (1.) In all proceedings against a licensee under this Act, in respect of any offence under this Act, he shall produce to the Court his license, and every conviction for any such offence shall by the convicting Court be indorsed on the license.

License to be produced in Court.

(2.) If any licensee under this Act is convicted of an offence under this Act, and thereafter is convicted of a second or any subsequent offence of any kind under this Act, the convicting Court may, in addition to any other penalty, forfeit his license.

License may be forfeited on second conviction.

45 36. If any licensee under this Act at any time or in any manner commits any offence under this Act he shall, in every case where no other penalty is provided, be liable to a penalty not exceeding *ten* pounds.

Penalty for offences.

50 37. Nothing in this Act contained shall prevent any penalty or punishment being inflicted on any person under any other law or Act, provided that such person is not punished twice in respect of the same offence.

Penalties under other Acts not affected.

MISCELLANEOUS.

Notice of forfeiture
of license.

38. In every case where a license is forfeited as the result of a conviction, the Clerk of the convicting Court shall send notice of the forfeiture to the Clerk of the Court that issued the license, and such Clerk shall duly record such forfeiture.

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When full license-
fee payable.

39. The full license-fee for the year shall be payable for any license issued before the first day of July in any year, and half such license-fee shall be payable for any license issued on or after that date.

Fees and penalties
to be paid into a
separate account.

40. All license-fees received and all penalties recovered under this Act shall be paid into the Public Account to the credit of the Local Bodies' Account under the heading of "Hawkers' License-fees and Penalties."

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Application of fees
and penalties.

41. All fees and penalties in such last-mentioned account on the thirty-first day of March in each year shall on that day, or as soon as practicable thereafter, and without further appropriation than this Act, be applied and apportioned by the Colonial Treasurer in manner following, that is to say:—

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In paying to the local authority of each local district an amount equal to all license-fees received in respect of licenses issued or renewed for such district.

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Hawkers' and
pedlars' licenses at
present in force.

42. (1.) Every hawkers' and pedlars' license in force at the commencement of this Act shall, unless sooner forfeited, remain in force until the expiry thereof by effluxion of time, but in all other respects shall be deemed to have been issued under this Act and shall be subject to the provisions hereof accordingly.

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(2.) No such license shall be renewed, but the holder thereof may on the expiry thereof make application in manner hereinbefore provided as for a license to be obtained for the first time.

Exemptions from
operation of Act.

43. Nothing in this Act shall be construed—

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(1) To prevent any person selling or offering for sale, without a license under this Act, any newspapers or periodicals, or any bread, meat, fish, fruit, water, fuel, milk, vegetables, or victuals of any description, or any agricultural produce, artificial manures, or seeds; nor

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(2) To prevent, without a license under this Act, any person, by himself or his children, apprentices, agents, or servants usually residing in the same house with him, selling or offering for sale goods made or worked on by him or them; nor

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(3) To prevent, without a license under this Act, any goods being sold or offered for sale in any market or fair legally established in New Zealand.

Commercial
travellers excepted.

44. Nothing in this Act contained shall apply to commercial travellers, meaning thereby persons permanently employed by wholesale merchants as commercial travelling agents for the purpose of selling goods to or seeking orders for goods from persons who are dealers therein, and who buy to sell again.

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Repeals.

45. The following enactments are hereby repealed:—

1886, No. 49.—"The Counties Act, 1886"; in part—namely, section three hundred and two.

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1886, No. 50.—"The Municipal Corporations Act, 1886";

SCHEDULE.

STATEMENT AS TO PAWNED ARTICLES SOLD BY PUBLIC AUCTION AT *Wellington*, ON THE 1st DAY OF *December, 1897*, BY *E.F.*, AUCTIONEER, BY ORDER OF *G.H.*, LICENSED PAWNBROKER.

Full Name of Person by or on behalf of whom the Article is pawned.	Article.	Date of Pledge and Number of Ticket.	Loan.	Interest to Date of Sale.			Total due at Date of Sale.			Gross amount realised at Sale.			Charges of Sale.			Net proceeds of Sale.			Overplus.				
				£	s.	d.	£	s.	d.	£	s.	d.	£	s.	d.	£	s.	d.		£	s.	d.	
A.B. ...	Gold watch No. 402	1 Jan., '97 4239		£	s.	d.	£	s.	d.	£	s.	d.	£	s.	d.	£	s.	d.	£	s.	d.		
				5	0	0	1	0	0	6	0	0	8	0	0	10	0	7	10	0	1	10	0
C.D. ...	Gold chain	2 Feb., '97 5143		2	0	0	5	0	2	5	0	4	0	0	4	0	3	16	0	1	11	0	
&c.	&c.																						
		Totals																					

I, G.H., of Wellington, licensed pawnbroker, hereby solemnly and sincerely declare—

1. That, pursuant to the provisions of "The Pawnbrokers Act, 1868," and "The Usury Prevention Act, 1896," the articles specified in the foregoing statement were sold by E.F., auctioneer, acting under my instructions.

2. That the particulars set forth in the said foregoing statement are true in every particular, and I make this solemn declaration conscientiously believing the same to be true, and by virtue of "The Justices of the Peace Act, 1882."

G.H.

Declared at _____, the _____ day of _____, }
18____, by the said G.H., before me,— }
I.J.,

A Justice of the Peace in and for the Colony of New Zealand.
[or, as the case may be.]