

## No. VII.

LICENSED  
HAWKERS.

### An Act for licensing and regulating Hawkers and Pedlers. [25th July, 1834.]

Preamble.

Hawkers and Pedlers  
to be licensed.

How licenses shall  
be applied for and  
granted.

WHEREAS it is expedient to confine the business of trading as Hawkers and Pedlers travelling from place to place within the Colony of New South Wales with goods wares and merchandise for sale to free persons duly licensed upon satisfactory evidence as to character and to subject such persons to the regulations hereinafter contained. Be it therefore enacted by His Excellency the Governor of New South Wales with the advice of the Legislative Council thereof That from and after the thirty-first day of October next it shall not be lawful for any Hawker or Pedler or other person or persons acting as such and going from town to town or to other men's houses and travelling either on foot or with a horse or horses or other animal or animals to vend sell or barter either by himself or herself or other person on his or her behalf any goods wares or merchandise without being lawfully licensed as hereinafter directed and that every person so vending selling or bartering contrary to such prohibition as last aforesaid shall forfeit and pay the sum of ten pounds.

2. And be it further enacted That from and after the passing of this Act every person desirous of trading as a Hawker or Pedler shall apply to the Justices of the Court of Quarter Sessions of the district in which he or she usually resides which said Justices are hereby directed to enquire into the character of the person or persons so applying for a license and being fully satisfied that such person is free and of good character and reputation and is a fit person to be licensed to exercise the trade of a Pedler and Hawker such Justices are hereby authorized and empowered to grant to such person a license in the form hereunto annexed marked with the letter A which said license shall be signed by the Chairman of the said Sessions and countersigned by the Clerk of the Peace by order of the Court and shall be and continue in force for one year from the date thereof and no longer.

*Licensed Hawkers.*

3. And be it further enacted That every person so receiving such license as aforesaid shall upon the issuing of such license pay the sum of one pound to the Clerk of the Peace who shall record all licenses granted by the said Justices as aforesaid and pay all the fees thereon received by him to the Collector of Internal Revenue within one month after the termination of the Sessions at which such licenses shall be respectively granted and shall return to the said Collector of Internal Revenue a list of the names of the person or persons to whom such license or licenses shall be granted.

4. And be it further enacted That every person to whom such license as aforesaid shall be granted under and by virtue of this Act and who shall trade with or under colour of such license shall cause to be written painted or printed in large legible Roman capitals upon the most conspicuous part of every pack box bag trunk case boat cart or waggon or other vehicle or conveyance the words "Licensed Hawker" together with the number name or other mark or marks of distinction written upon his or her license and that every person making default therein shall forfeit and pay for every offence a sum not exceeding twenty nor less than five shillings.

5. And be it further enacted That if at any time from and after the thirty-first day of October next any person other than to whom such license shall have been so granted as aforesaid shall write print or paint or cause to be written printed or painted or kept or continue written printed or painted upon any pack bag box trunk case boat cart waggon or other vehicle or conveyance for any goods wares or merchandise the words "Licensed Hawker" or "Licensed Pedler" or any other word or words to that effect every person offending therein shall forfeit for each offence the sum of five pounds.

6. And be it further enacted That if any such Hawker Pedler or other person trading under and by virtue of any license to him or her granted as aforesaid upon demand made by any Justice of the Peace Constable or other person employed in the Police or to the proprietor or occupier of any house at which he shall call with goods for sale or to the master or mistress or overseer of any servants with whom he or she shall have dealt or offered to deal either by sale or barter within twenty-four hours previous to such demand shall refuse to produce and shew or shall not have his or her license ready to produce and shew unto such Justice of the Peace Constable or other person employed in the Police or to the proprietor or occupier master mistress or overseer as aforesaid then the person so refusing or not having his license ready to produce and shew as aforesaid shall forfeit the sum of two pounds.

7. And be it further enacted That if any person or persons whatsoever shall forge or counterfeit any license or licenses by this Act directed to be granted or travel with or produce or shew any such forged or counterfeit license or licenses for any of the purposes aforesaid every such person shall for every such offence forfeit the sum of twenty pounds.

8. And be it further enacted That in case any person shall let out or hire or lend any license to him or her granted as aforesaid or shall trade with or under colour of any license granted to any person whatsoever or of any license in which his or her own real name shall not be inserted as the name of the person to whom the same is granted the person letting out to hire or lending any such license and the person so trading with or under colour of any license granted to any other person or any license in which his or her own real name shall not be inserted as the name of the person to whom the same is granted shall each forfeit the sum of five pounds and any person who shall be convicted of lending his or license to any other person or persons

*Licensed Hawkers.*

contrary to this Act shall forfeit such license and be from thenceforth utterly incapable of having any license again granted to him or her as aforesaid.

*As to Hawkers dealing with convict servants.*

9. And be it further enacted That all Hawkers or Pedlers visiting or passing through any establishment where there are convict servants employed shall before they enter upon any dealing with any such servant upon or near such establishment go direct to the proprietor overseer or person in charge therof and obtain his or her permission to enter upon such dealing and in case any Hawker or Pedler deal with any convict servant without such permission as aforesaid whether he or she shall know such servant to be a convict servant or not every such Hawker or Pedler so dealing shall forfeit a sum of five pounds.

*Penalty for knowingly dealing with convicts without permission.*

10. And be it further enacted That in case any Hawker or Pedler shall in any place or under any circumstances whatsoever either of buying selling or bartering deal with any convict knowing him to be such without the permission of the master mistress or overseer of such convict being first had and obtained every such Hawker or Pedler shall forfeit the sum of ten pounds.

*As to Hawkers purchasing goods from persons travelling.*

11. And be it further enacted That every Hawker or Pedler who shall purchase or receive by way of barter or otherwise any goods or chattels from any person travelling on the roads or elsewhere without actual knowledge that the goods or chattels so purchased or received by way of barter or otherwise are the lawful property of the person from whom they shall be received shall forfeit a sum of five pounds and if on such conviction there shall appear to the Justice or Justices before whom the case shall have been heard reasonable grounds for believing such property or any part thereof to have been stolen it shall be lawful for such Justice or Justices to cause such Hawker or Pedler to be detained until enquiry shall be made and if the circumstances shall justify it to commit him or her for trial in the usual way for receiving stolen goods knowing them to be stolen and in case of his or her conviction for such offence he or she shall suffer such punishment as by law is awarded over and above the penalty hereby inflicted.

*Hawkers not to carry fermented or spirituous liquors.*

12. And be it further enacted That it shall not be lawful for any Hawker or Pedler to carry or have in his or her possession at any one time when so trading or travelling as aforesaid under and by virtue of any license granted under this Act any fermented or spirituous liquor under a penalty of five pounds.

*Jurisdiction of offences.*

13. And be it further enacted That in case any Hawker or Pedler shall be guilty of any breach of the provisions of this Act it shall be lawful to and for any Constable or other person or persons entitled to demand the production of his or her license as aforesaid either by himself or themselves or with the assistance of others to apprehend the offender and take him or her before the nearest Justice of the Peace who upon proof either by confession of the party offending or by the oath of one or more credible witness or witnesses (which oath the said Justice is hereby empowered to administer) that the said party has offended against any of the provisions of this Act to convict the offender accordingly and thereupon if the penalty be not forthwith paid to commit the offender to the nearest gaol or house of correction there to remain for any time not exceeding one calendar month from the time of such commitment when the sum shall not exceed one pound two calendar months when the sum shall not exceed five pounds four calendar months when the said sum shall not exceed ten pounds and six calendar months where the said sum shall be of a greater amount unless the sum so to be levied together with the costs be sooner paid.

*Licensed Hawkers.*

14. And be it further enacted That it shall and may be lawful for any Justice or Justices of the Peace before and by whom any person trading under a license granted in pursuance of this Act shall be convicted for any offence contrary to the provisions of this Act to take away and cancel such license reporting the facts and transmitting the depositions taken in the case to the Clerk of the Peace to be by him laid before the next Quarter Sessions of the district wherein the license was granted to be by the Court of such Quarter Sessions confirmed or disallowed as to the said Court shall seem fit.

15. And be it further enacted That in case any person shall have reasonable ground for suspecting that any missing property has been taken away by any Hawker or Pedler who has visited his house or establishment within forty-eight hours or that any servants belonging to his house or establishment have been supplied by any such Hawker or Pedler with fermented or spirituous liquors within the time aforesaid and shall make oath before any Justice of the Peace of such facts as shall satisfy such Justice that such reasonable ground of suspicion exists it shall and may be lawful for such Justice to issue a search warrant to examine the person baggage boxes boats carts or other conveyance of the Hawker or Pedler therein named or described such warrant to continue in force for such time as shall be therein mentioned and in case any stolen goods or any fermented or spirituous liquors shall be found in the possession of such Hawker or Pedler such Hawker or Pedler shall be dealt with according to law whether under the provisions of this Act or any other Act against which he shall have offended.

16. Provided however and be it further enacted That nothing herein contained shall extend or be construed to extend to hinder any person or persons from selling or exposing to sale any sorts of goods or merchandises in any public mart market or fair legally established within the said Colony but such person or persons may do therein as they might lawfully have done before the passing of this Act any thing herein contained to the contrary notwithstanding.

17. And be it further enacted That if any person convicted of any offence or offences punishable by this Act or Ordinance before any one or more Justice or Justices of the Peace as aforesaid shall think himself or herself aggrieved by the judgment of such Justice or Justices such person shall have liberty to appeal from any such conviction to the next Court of Quarter Sessions of the Peace which shall be held nearest to the place where such offence shall have been committed and that the execution of every conviction so appealed from shall be suspended in case the person so convicted shall with two sufficient sureties immediately before such Justice or Justices enter into a bond or recognizance to His Majesty His Heirs and Successors in the penal sum of double the amount of the penalty so incurred or forfeited which bond or recognizance respectively such Justice or Justices is and are hereby authorized and required to take and such bond or recognizance shall be conditioned to prosecute such appeal with effect and to be forthcoming to abide the judgment and determination of the said Court of Quarter Sessions and to pay such costs as the said Court shall award on such occasion and the Justices at the said Court of Quarter Sessions are hereby authorized and required to hear and determine the matter of the said appeal and to award such costs as to them shall appear just and reasonable to be paid by either party and such decision shall be final between the said parties to all intents and purposes.

18. And be it further enacted That no order or judgment or other proceeding made touching and concerning any of the matters aforesaid or touching and concerning the conviction of any offender

Proceedings not to be quashed for informality or removed by *certiorari*.

### *Licensed Hawkers.*

offender or offenders against this Act or Ordinance shall be quashed or vacated for want of form only or be removed or removable by *certiorari* or any other writ or process whatsoever into the Supreme Court.

### General issue.

19. And be it further enacted That if any person or persons shall at any time or times be sued molested or prosecuted for any thing by him or them done or executed in pursuance of this Act or of any clause matter or thing herein contained such person or persons shall and may plead the general issue and give the special matter in evidence for his or their defence and if upon the trial a verdict shall pass for the defendant or defendants or the plaintiff or plaintiffs shall become non-suited or judgment shall be recovered against him or them upon demurrer or if the plaintiff or plaintiffs shall discontinue his her or their action or be non-rossed therein then such defendant or defendants shall have treble costs awarded to him or them against such plaintiff or plaintiffs.

### Application of fines.

20. And be it further enacted That all fines and penalties which may be recovered by virtue of this Act shall be given and paid one-half to the informer or prosecutor and the residue to the use of His Majesty His Heirs and Successors for the public uses of the said Colony and the support of the Government thereof.

SCHEDULE REFERRED TO.

A

FORM OF LICENSE TO TRADE AS A HAWKER AND PEDLER.

NEW SOUTH WALES } WHEREAS A. B. of in the District  
TO WIT. } of hath applied to us the Justices of the Peace  
No. } for the said Colony assembled at the Court of Quarter Sessions for  
District of } the above District holden at in the County  
of in the Colony aforesaid on the  
day of in the year one thousand eight hundred and  
to be allowed to trade as a Hawker and Pedler and to have a license for such purpose  
granted to him under and by virtue of an Act of the Governor and Council passed in the fifth  
year of the reign of His Majesty King William the Fourth intituled "*An Act for  
licensing and regulating Hawkers and Pedlers*" Now we the said Justices so assembled  
as aforesaid having enquired into the character of the said A. B. and being fully satisfied  
that the said A. B. is a free person and of good character and reputation and a fit person to  
be licensed to exercise the trade of a Hawker and Pedler do hereby under and by virtue of  
the powers vested in us by the aforesaid Act license authorize and empower the said A. B.  
to trade as a Hawker and Pedler within the Colony of New South Wales and to sell and  
retail his goods wares and merchandises at such place or places within the limits of the said  
Colony prescribed for location to settlers as he the said A. B. shall think fit subject however  
to the several provisions and penalties in the said Act specified And this license shall  
continue in force for twelve months from the date hereof and no longer provided it be not  
forfeited in the meantime according to the provisions of the aforesaid Act in Council.

Granted by the Court at aforesaid this  
day of one thousand eight hundred and