

# Wool, Hide and Skin Dealers Act 1935 No 40

[1935-40]



New South Wales

## Status Information

### Currency of version

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### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Notes—

- **Does not include amendments by**
  - [Wool, Hide and Skin Dealers \(Amendment\) Act 1992 No 79](#) (not commenced)
  - [Justices Legislation Repeal and Amendment Act 2001 No 121](#) (not commenced — to commence on 7.7.2003)

### Authorisation

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# Wool, Hide and Skin Dealers Act 1935 No 40



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# Wool, Hide and Skin Dealers Act 1935 No 40



New South Wales

An Act to regulate the buying and selling of wool, hides and skins; and for purposes connected therewith.

## 1 Name of Act and commencement

- (1) This Act may be cited as the *Wool, Hide and Skin Dealers Act 1935*.
- (2) This Act shall commence upon a date to be appointed by the Governor and notified by proclamation published in the Gazette.

## 2 Definitions

- (1) In this Act, unless the context or subject-matter otherwise indicates or requires:

**Applicant** means applicant for the issue or transfer or renewal of a licence.

**Hide** or **skin** means the hide or skin, before treatment in any process of manufacture, of any horse, mare, gelding, colt, filly, ass, mule, bull, cow, ox, heifer, steer, calf, camel, ram, ewe, wether, lamb, goat, kid, fox, rabbit, hare, or marsupial, but does not include the hide or skin of any animal which is protected fauna within the meaning of the *National Parks and Wildlife Act 1974*.

**Licence** means a licence issued under this Act.

**Licensee** means the holder of a licence.

**Regulation** means regulation made under this Act.

**This Act** includes regulations.

The verb **to sell** includes:

- (a) to sell, barter, or exchange,
- (b) to agree to sell, barter, or exchange,
- (c) to offer, expose, store, have in possession, send, consign, or deliver for or on sale,
- (d) to receive for sale,

- (e) to cause or suffer to be sold, bartered, or exchanged, or to be agreed to be sold, bartered, or exchanged,
- (f) to cause or suffer to be offered, exposed, stored, had in possession, sent, consigned, or delivered for or on sale,
- (g) to cause or suffer to be received for sale, and
- (h) to attempt to do any of such acts or things; and the word **sale** shall be construed accordingly.

The verb **to buy** includes to buy, to receive, or accept under an agreement to sell, and to offer to receive or accept or cause or suffer to be received or accepted under an agreement to sell.

- (2) This Act shall be read and construed subject to the Commonwealth of Australia Constitution Act, and so as not to exceed the legislative power of the State, to the intent that where any enactment thereof would but for this section have been construed as being in excess of that power it shall nevertheless be a valid enactment to the extent to which it is not in excess of that power.

### **3 Every person buying or selling wool, hides, or skins to be licensed**

- (1) Any person who, not being a licensee buys any wool, hide, or skin, shall be guilty of an offence against this Act.
- (2) Subsection (1) shall not apply where the wool, hide, or skin:
  - (a) is to be used by the buyer for the purposes of, or in connection with, the buyer's business (not being the business of wool, hide, and skin dealing) and is purchased at the premises where the same is carried on, or is to be used by the buyer for some domestic purpose, or as raw material for manufacturing purposes, and in any of such cases where the buyer keeps a record book in which is recorded the date, time and place at which the purchase is made and the name and address of the vendor, or
  - (b) is bought for an educational institution for any purpose whatsoever, or
  - (c) is bought by an overseas wool buyer at auction.
- (3) Any person who:
  - (a) not being a licensee, sells any wool, hide, or skin, or
  - (b) being a licensee, sells any wool, hide, or skin to any person other than a licensee, shall be guilty of an offence against this Act.
- (4) Subsection (3) shall not apply to the sale:

- (a) to any licensee of any wool, hide, or skin taken from an animal the property of the seller, or
  - (b) by any person of any such wool, hide, or skin as mentioned in paragraph (a), or by any licensee of any wool, hide, or skin if, in either case, it is to be used by the buyer for the purposes of, or in connection with the buyer's business (not being the business of wool, hide, and skin dealing), or for some domestic purpose, or as raw material for manufacturing purposes, or
  - (c) by any person of any such wool, hide, or skin as mentioned in paragraph (a), or by any licensee of any wool, hide, or skin to an educational institution, for whatever purpose it is to be used, or
  - (d) by an auctioneer licensed under the *Auctioneers and Agents Act 1941*, in the ordinary course of the auctioneer's business as a licensed auctioneer, of any wool, hide, or skin to any person, whether such person is a licensee or not or where the sale is by a firm or corporation and the offer for sale by public auction is made or the sale by public auction is effected by an auctioneer so licensed in the employment of such firm or corporation.
- (5) Where in any proceedings for an offence against this section the defendant alleges that the wool, hide, or skin with respect to which such offence is alleged to have been committed was taken from an animal the property of the seller, or that the said wool, hide, or skin was sold or bought to be used by the buyer for the purposes of, or in connection with, the buyer's business (not being the business of wool, hide, and skin dealing), or for some domestic purpose, or as raw material for manufacturing purposes, it shall be necessary for the defendant to prove to the satisfaction of the court that such wool, hide, or skin was taken as alleged or was to be used as alleged, and in the latter case that the provisions of subsection (2) (a) have been complied with.
- (6) Subsections (1) and (3) shall not apply to the receipt by any co-operative society registered under the *Co-operatives Act 1992* of any wool, hides, or skins for the purposes of carrying out classing, repacking, weight adjusting, pooling, or otherwise treating such wool, hides, or skins, for sale by an auctioneer licensed under the *Auctioneers and Agents Act 1941*, nor to or in respect of the purchase or sale of:
- (a) wool, hides or skins sold, or which have been sold by public auction or after offer at public auction, or
  - (b) fellmongered wool.
- (7) Nothing in this section shall be deemed to render any contract for the sale of any wool, hide, or skin illegal or void.

#### **4 Licences**

- (1) A licence shall be in or to the effect of the form prescribed, shall specify the premises wherein the business is to be carried on, and, unless sooner cancelled, shall remain in force for twelve months from the date of its issue.
- (2) A licence may be renewed in the prescribed manner, and on each renewal shall have effect for a further period of twelve months.
- (3)
  - (a) A licence may be transferred upon the application of the transferee, and a licence may, upon the application of the licensee, be varied to authorise the carrying on of the business at any premises specified in the licence instead of at the premises previously so specified.
  - (b) Where a licence is transferred the fact and date of the transfer and the name and description of the person to whom the licence is transferred and the description of the premises at which the business is to be carried on shall be endorsed upon the licence, and the person named as the transferee or the premises described in such indorsement shall thereupon and thenceforth for all purposes be deemed to be the person to whom or the premises in respect of which the licence was granted.
- (4) A licence may be issued to any person, or to any firm, company, partnership, society, association, or body of persons corporate or unincorporate: Provided that the licence may in any such latter case be suspended or cancelled if such firm, company, partnership, society, association, or body of persons does not comprise or has not in its employ at each of its branch premises wherein the business is carried on at least one licensee under this Act. Such suspension or cancellation to be in addition to any individual penalty imposed on any person for any offence under this Act.

#### **5 Procedure**

- (1) An application for the issue, renewal, variation, or transfer of a licence shall be in or to the effect of the form prescribed, and shall be lodged with the clerk of the local court for the district in which the business premises to which the application relates are situated, or if there is more than one local court for that district, then with the clerk of whichever of those local courts is nearest to such business premises.
- (2) An application may be granted by:
  - (a) the clerk of the court with whom the application is lodged, or
  - (b) the court with whose clerk the application is lodged.
- (2A) The clerk of the court shall forthwith after an application has been lodged with the clerk refer a copy of the application to the officer-in-charge of police at the police station nearest to the business premises to which the application relates and the

application shall not be granted unless:

- (a) a report made by that officer on the application has been lodged with the clerk of the court to whom the application was made, or
- (b) a period of 7 days has elapsed since the copy of the application has been referred to that officer.

(2B) An application shall not be granted by the clerk of the court if the report referred to in subsection (2A) (a) has been made to that clerk (whether or not within the period of 7 days referred to in subsection (2A) (b)) and that report contains an objection to the grant of the application on the ground that the applicant is not a fit and proper person to be a licensee.

(3)

- (a) Upon the hearing of an application by the court the applicant shall attend in person, or in the case of a company a representative authorised under the seal of the company.
- (b) Upon the hearing of an application by the court the applicant shall not be so required to attend unless notified by the clerk of the court that the grant of his or her application will be objected to. The notice shall set out shortly the nature of the objection proposed to be made.

(4), (5) (Repealed)

(6) Every application that is not granted by the clerk of a local court shall be heard in open court, and the consideration of the application shall be deemed to be a judicial proceeding.

(7) It shall be the duty of the court hearing an application to refuse the issue, transfer, or renewal of a licence to any applicant who is not a fit and proper person to be a licensee.

(8) A fee of two dollars or, where another amount is prescribed as the fee, that other amount shall be paid for a licence or renewal thereof. Where a licence or licences is or are issued to members or employees of a firm, company, partnership, or similar body for the purpose of carrying on business in any branch premises of such firm, company, partnership or body already holding a licence the fee for each such additional licence and for each transfer or renewal thereof shall be one dollar or, where another amount is prescribed as the fee, that other amount.

## **6 Cancellation of licence**

(1) If upon the hearing of a summons to show cause it is made to appear to a local court constituted by a Magistrate that any licensee:

- (a) has been convicted of an offence against this Act or the regulations, or
  - (b) is not a fit and proper person to be a licensee,
- the court may order that the licence be cancelled.

- (2) Such person shall surrender the licence to the clerk of the court.
- (3) The procedure on such summons shall be as prescribed.
- (4) Such person shall be deemed to be unlicensed as from the date of the final order or cancellation upon the summons.

## **7 Record to be kept**

- (1) Every licensee shall in the forms prescribed, keep in a legible manner in a written record, including a store book and a cart book, full particulars of all the licensee's dealings in wool, hides, or skins.

Each entry in a store book or a cart book shall be made in duplicate and shall be signed by the person selling the wool, hide, or skins referred to in such entry.

- (2) The record shall be open to inspection at all reasonable times by any member of the police force.

Every licensee upon being required so to do, shall produce the record kept by the licensee for inspection by a member of the police force.

- (3) Every licensee shall keep all lots or parcels of wool, hides, or skins bought or received by the licensee (other than lots bought from a licensed auctioneer at public auction or after offer at public auction) together with the container thereof (if any) for a period of twenty-four hours or such further period not exceeding three days as may be specified in a notice given to the licensee by the local officer-in-charge of police after the same have been bought or received by the licensee without altering or obliterating any brand, marking, or writing on the hides, skin, wool, or containers, or disposing of the same in any way:

Provided that the local officer-in-charge of police may before the expiration of any such period issue to the licensee a permit in the prescribed form authorising the licensee to deal with any such lot or parcel in the manner specified in the permit; and thereupon the licensee may, notwithstanding that any such period has not elapsed, deal with such lot or parcel in the manner specified in such permit.

- (4) Any person who contravenes any of the provisions of this section shall be guilty of an offence against this Act.

## **8 Powers of members of police force**

Any member of the police force may at all reasonable times:



- (a) enter and search any premises used, whether by a licensee or not, for the purpose of storing wool, hides, or skins, or which the member of the police force has reasonable cause to believe is being used for such purpose,
- (b) search, or stop and search, any vehicle used, whether by a licensee or not, for the purpose of carrying wool, hides, or skins, or which the member of the police force has reasonable cause to believe is being used for such purpose,
- (c) inspect any wool, hides, or skins found in or on such premises or vehicle,
- (d) inspect any such record book as is referred to in section 3 (2).

### **9 Obstruction of police officers**

Any person who in any way obstructs, hinders, prevents, or interferes with any member of the police force in the exercise of any of the powers conferred or the discharge of any of the duties imposed on the member of the police force by this Act shall be guilty of an offence against this Act.

### **10 Name etc to be kept posted up**

Every licensee shall at all times keep conspicuously painted or otherwise marked on all premises and on every vehicle used by the licensee in the course of or in connection with the licensee's business as a licensee in such manner and situation as may be prescribed, the initials of the licensee's christian names together with the licensee's surname, and the words "Licensed Dealer in Hides, Skins, and Wool".

### **11 Unlicensed person pretending to be licensed**

Any person who not being a licensee:

- (a) takes, uses, or exhibits the name or title of or in any way pretends to be a licensee, or
- (b) takes, uses, or exhibits any title or term which may be construed to mean that the person is licensed to carry on the business of buying wool, hides, or skins,

shall be guilty of an offence against this Act.

### **12 Offences: penalty**

- (1) Any person who contravenes any of the provisions of this Act shall be guilty of an offence against this Act.
- (2) Every person guilty of an offence against this Act shall be liable upon summary conviction to a penalty not exceeding one hundred dollars, or to imprisonment for a term not exceeding twelve months.
- (3) Any penalty imposed by the Act or the regulations may be recovered in a summary manner before a Magistrate constituting a local court.

- (4) In any proceedings for an offence against section 3 or section 11 the onus shall be on the defendant to prove that the defendant is a licensee.
- (5) In any proceedings for an offence against this Act, every entry in any record or book kept or belonging to any licensee or person, or found on the licensee's or person's premises, shall be deemed unless the contrary is shown, to have been made by or under the authority of such licensee or person.
- (6) In any proceedings against a licensee for an offence against this Act, the licensee shall produce his or her licence to the court before which the proceedings are taken.
- (7) The court before which a licensee is convicted of an offence against this Act may, in addition to any penalty imposed, order that the licence be cancelled, and may indorse thereon a memorandum of such conviction and cancellation; and in such case the licence shall be retained by the clerk of the court, and the licensee shall be deemed to be unlicensed as from the date of the order.

### **13 Appeal**

- (1) Any person aggrieved by a refusal to grant an application under this Act, or by an order for the cancellation of a licence, may appeal from such refusal or order to the District Court in its criminal and special jurisdiction.
- (2) The provisions of Part 5A of the *Justices Act 1902* shall apply mutatis mutandis to appeals under this section.

### **14 Regulations**

- (1) The Governor may make regulations not inconsistent with this Act, prescribing all matters which are required or authorised to be prescribed, or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act, and in particular, and without limiting the generality of the foregoing power, the Governor may in such regulations:
  - (a) prescribe the forms of licences and of renewals and transfers of licences and of applications for the same,
  - (b) provide for the issue of duplicate licences to replace licences which have been accidentally lost or destroyed, the procedure to be adopted for obtaining duplicate licences, and the fees payable therefor,
  - (c) prescribe the manner and situation of painting or otherwise marking on premises and vehicles used by a licensee in the course of the licensee's business as such licensee the words required by section 10,
  - (d) provide for the disposal by the clerk of the court of licences retained by the clerk or surrendered on cancellation,

(e) impose penalties not exceeding in any case one hundred dollars for any contravention or breach of a regulation.

(2) (Repealed)