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Hon. Mr. Seddon.

### HAWKERS AND PEDLARS.

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#### A BILL INTITLED

AN ACT to regulate the Licensing of Hawkers and Pedlars. Title.

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 and Pedlars Act, 1892." Short Title.

It shall come into force on the *first* day of *November*, in the now current year.

10 2. In this Act, if not inconsistent with the context,— Interpretation.  
"Clerk" means the clerk of any local authority, and includes the person who may be appointed by the Governor to receive fees and issue licenses in any part of the colony where the Governor is the local authority:

15 "Conveyance" includes any vehicle, vessel, or other contrivance of any sort which may be used for the carriage of commodities either by land or by water:

"District" means any portion of the colony under the administration of a local authority as herein defined:

“Hawker and pedlar” means and shall apply to any person who sells, or attempts to sell, or offers for sale, goods, wares, or merchandise carried about on the person, or on any animal, or in any movable conveyance, whether by land or water, in any city, town, borough, street, road, or place within the colony: 5

“Local authority” means and includes any Borough Council or Town Board; and outside of such places means any County Council, or such Road and Town Boards as may be administering the functions of a County Council; 10 and in the absence of such Boards within any county where “The Counties Act, 1886,” is not in force, and also in all parts of the colony not included in any borough, town district, or county, means the Governor:

A town district, for the purposes of this Act, shall be deemed not to form part of the county wherein it is comprised: 15

“Public notification,” “public notice,” “publicly notify” respectively mean the insertion of a notice in one or more newspaper having general circulation in the district or place affected by the matter contained in such notification or notice. 20

No person to act as hawker and pedlar unless licensed.

3. No person whosoever, except as hereinafter mentioned, shall exercise the trade or business of a hawker and pedlar, or act in either such capacity, unless he shall be duly licensed in manner hereinafter provided. 25

Penalty.

Every person offending against this provision shall for every such offence be liable to a penalty not less than *two* pounds and not exceeding *ten* pounds.

Application for certificate for license.

4. Any person desirous of obtaining for the first time a hawker's and pedlar's license under this Act shall lodge with the Clerk of the local authority in the district wherein he usually resides a notice in writing, in the form in the *First* Schedule hereto, that he intends at the first meeting of such authority to apply for a certificate for a hawker's and pedlar's license, and stating in such notice his true name and place of abode, and whether he applies for a license for carrying goods for sale on his own person or by a conveyance of any sort; and shall also deliver with such last-mentioned notice a certificate of character, in the form attached to the said schedule, signed by at least four householders resident not less than six months in such district. 30 35 40

Any person holding a hawker's and pedlar's license at the time of the commencement of this Act shall, on the expiry of the said license by effluxion of time, make application in manner aforesaid, as for a license to be obtained for the first time, and shall not be entitled to a renewal of his former license. 45

Local authority to hear application, and may grant or refuse application.

5. At such meeting of the local authority such application and certificate of character shall be considered, and the said authority may either refuse any such application, or grant a certificate to the applicant authorising the issue of the license. 50

Issue of license.

Such certificate need not be of any particular form, but shall be signed by the Chairman, Acting Chairman, or Mayor of the local

authority granting the same, and handed to the Clerk of the local authority, who, upon payment to him of the proper license-fee, shall issue to the applicant a license in the form in the *Second* Schedule, according to the tenor of the application, signed by such Clerk, which shall, for the period of its continuance, authorise the person therein named to carry on the business of a hawker and pedlar in the district, or in any part of the colony as shall be stated in the license, subject to forfeiture as hereinafter provided.

10 Certificates for renewal of licenses issued after the commencement of this Act may be granted without reference to this or the *preceding* section: Provided the holders of the said licenses have not been convicted of any offence under this Act.

15 6. In all parts of the colony outside of any county, borough, or town district, and where "The Counties Act, 1886," is not in operation, or not wholly in force, or is suspended, the Governor may appoint persons to grant licenses and to receive the fees for the same, and may prescribe the form of application for such licenses, and by whom they shall respectively be issued and signed.

Governor to provide for issue of licenses in certain parts of the colony.

20 7. Hawkers' and pedlars' licenses shall be of four sorts, and the fees to be paid for the same respectively shall be the following, namely,—

Forms of licenses and fees.

(1.) A district license, which shall authorise the holder thereof to exercise his trade as a hawker and pedlar in any part of the district wherein the same is issued—

25 (a.) With goods, wares, and merchandise carried on any animal, or in any movable conveyance, for which an annual fee of *two* pounds shall be paid; and

30 (b.) With goods, wares, and merchandise carried about on the person, or any pack, box, bag, trunk, case, or basket, for which an annual fee of *ten* shillings shall be paid.

(2.) A general license, which shall authorise the holder thereof to exercise his trade in any part of the colony—

35 (c.) With goods, wares, and merchandise carried on any animal, or in any movable conveyance, for which the annual fee shall be *five* pounds;

40 (d.) With goods, wares, and merchandise carried on the person, or in any pack, box, bag, trunk, case, or basket, for which an annual fee of *two* pounds shall be paid.

8. All sums received as license-fees under this Act shall belong to the local authority issuing the license, and shall be paid by the Clerk receiving the same into its district fund.

License-fees paid to local authority.

45 All sums received as license-fees in any part of the colony wherein the Governor acts as the local authority for granting and issuing licenses shall be paid into the Public Account, and shall form part of the Consolidated Fund.

Exception.

50 9. Every license issued under the provisions of this Act shall take effect from the date of the issue thereof, and shall expire on the thirty-first day of December next following such date.

Duration of license.

10. Every hawker's and pedlar's license in force at the commencement of this Act which was issued by any local authority under any enactment hereby repealed is hereby validated, and shall be

Saving as to existing licenses.

deemed to have been issued under and shall be subject to the provisions of this Act, and shall remain in full force and effect until its expiration by effluxion of time or forfeiture, but shall be renewed only as hereinbefore provided in section *four*.

Hawker's badge.

11. Every person to whom any such license as aforesaid shall be issued, or who shall carry on the business of a hawker and pedlar under the authority of such license, shall cause to be written, painted, or printed, in large legible Roman letters, upon some conspicuous part of every pack, cart, dray, wagon, boat, or other vehicle or conveyance in or with which he shall so carry on such business the words "licensed hawker," together with his name at full length, and the number of his license. 5 10

And every such person making default therein shall, on conviction for every such offence, be liable to a penalty not exceeding *five* pounds. 15

Assumption of badge by unlicensed person.

12. If any person who shall not have previously obtained any such license as aforesaid shall write, paint, or print, or cause to be written, painted, or printed, or keep or continue or cause to be kept or continued written, painted, or printed upon any pack, cart, dray, wagon, boat, or other vehicle or conveyance in or with which he shall sell or expose to sale any goods, or in or with which he shall convey any goods, the words "licensed hawker," or any other word or words to that effect, he shall, on conviction, be liable to a penalty not exceeding *five* pounds. 20

Spirituous liquors not to be carried.

13. If any person, having obtained any such license as aforesaid, shall have in his possession, or on his cart, dray, wagon, boat, or other conveyance, any fermented or spirituous liquors, he shall, on conviction, for every such offence, be liable to a penalty not exceeding *fifty* pounds. 25

Searching hawkers.

14. In case any person shall have reasonable ground for suspecting that any hawker and pedlar is carrying fermented or spirituous liquors contrary to the provisions of this Act, or otherwise offending against the same, such person may make oath before any Justice of the Peace, at his private residence or elsewhere, of the circumstances; and if it shall appear to such Justice that reasonable ground for suspicion exists, such Justice may grant a warrant authorising such person to examine and search the person, packs, baggage, boxes, trunks, cases, carts, drays, wagons, boats, or other conveyance of such hawker and pedlar therein named or described, such warrant to remain in force for such time as shall be therein mentioned. 30 35 40

Any Justice of the Peace, police officer, or constable, having reasonable grounds for suspicion as aforesaid, may examine and search the persons, packs, baggage, boxes, trunks, cases, carts, drays, wagons, boats, or other conveyance of any sort of any such hawker and pedlar without a warrant for such purpose. 45

Upon any such person authorised by warrant as aforesaid, or any such Justice of the Peace, police officer, or constable, finding any such fermented or spirituous liquors carried contrary to law, he may seize the same; and such hawker and pedlar, on conviction of such offence in a summary way before two or more Justices of the Peace, shall be liable to a penalty not exceeding *fifty* pounds, or be imprisoned with hard labour for any period not exceeding *six* months, at the discretion of such Justices. 50

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15. Any Justice of the Peace, police officer, or constable may, without warrant, seize all such fermented and spirituous liquors as shall be hawked or conveyed about or exposed to sale in any street, road, footpath, or in any booth, tent, stall, or shed, or in any boat or vessel, or any other place whatever, by any person not licensed according to law to sell the same in such place, and the vessels containing the same, and all the vessels and utensils used for drinking or measuring the same, and any cart, dray, or other carriage, and any horse or horses or other animal or animals employed in drawing or carrying the same, as well as any boat or vessel used in the conveyance of such liquors as aforesaid.

Seizure and forfeiture of liquors.

16. Any one or more Justice or Justices of the Peace may, on his or their own view, or if, after due inquiry and examination, it shall appear to the said Justice or Justices that any fermented or spirituous liquors were carried contrary to law, or were hawked and conveyed about for the purpose of being illegally sold or disposed of by retail, adjudge the said liquors and vessels and utensils containing the same, and any cart, dray, or other carriage, horse or horses or other animal or animals, as well as any boat or vessel used in conveying the same, to be condemned and forfeited, and the same shall and may be sold, and the proceeds thereof shall be paid into the Public Account, and form part of the Consolidated Fund.

Liquors seized may be condemned and sold.

Nothing in this Act contained shall prevent any penalty or punishment being inflicted on any person so offending as aforesaid under any other law or Act now or hereafter to be in force in the colony, provided that such person be not punished twice in respect of the same offence.

17. In all cases where fermented or spirituous liquors shall be carried from one place to another the burden of proving that such fermented or spirituous liquors were not so carried for sale or exposed to sale shall be cast upon the party or parties so carrying them.

Onus of proof as to carrying liquors.

18. If any hawker and pedlar shall be convicted of knowingly dealing in or selling any kind of smuggled or contraband goods, wares, or merchandise, or knowingly dealing in, vending, or selling any goods, wares, or merchandise fraudulently or dishonestly procured, either by himself or through the medium of others with his privity and knowledge, every such hawker and pedlar shall, from and after such conviction, forfeit his license, and for ever thereafter be incapable of obtaining or holding any new license, or dealing, trafficking, or trading under the same; and that over and above all such other forfeitures and incapacities, fines, and penalties to which he is or shall be by law subject and liable for such illicit and illegal trafficking and dealing.

Selling smuggled or stolen goods.

19. Any constable may seize and detain any person found by him carrying on the business of a hawker and pedlar within the colony without having previously obtained a license for such purpose, and may keep him so detained until the day next after the day on which he shall have been so seized for the purpose of being proceeded against for such offence, unless the same can be sooner disposed of.

Seizure of unlicensed person.

20. If any hawker and pedlar holding a license under this Act shall at any time, on demand thereof being made of him by any Justice of the Peace, police officer, or constable, or by any person

Penalty for not exhibiting license on demand.

to whom he shall within twenty-four hours previously have sold or offered to sell any goods, neglect or refuse within a reasonable time to produce and show to such Justice of the Peace, constable, or other person his said license, he shall, on conviction for every such offence, be liable to a penalty not exceeding *five* pounds. 5

By-laws to regulate conduct of hawkers and pedlars.

21. Every local authority, whether or not having power to issue licenses under this Act, may nevertheless, in manner provided by any Act authorising such local authority to make by-laws, from time to time make, alter, and repeal by-laws to regulate the conduct and provide against the misconduct of hawkers and pedlars who may be licensed under this Act. 10

Penalty.

Every breach of any such by-law shall entail the same punishment as is provided in case of breach of other by-laws made by such local authority under any such Act as aforesaid.

Penalty for selling contrary to Act.

22. If any licensed hawker and pedlar shall exercise his business at any time or in any manner contrary to the provisions of this Act, or otherwise offend against this Act, he shall, for every such offence, in cases where no other penalty is provided, be liable to a penalty not exceeding *ten* pounds. 15

License improperly obtained to be forfeited.

23. Every licensed hawker and pedlar who has improperly obtained a license contrary to the true meaning of this Act shall, in the discretion of any two Justices of the Peace, forfeit his license, and thereafter shall be deemed to be unlicensed. 20

Penalty for forging, &c., license.

24. Every person who shall forge, counterfeit, or alter, or cause to be forged, counterfeited, or altered, any license, or any seal or signature to any license, or shall use or travel with, produce, or show, with intent to use the same as a genuine instrument, or shall tender in evidence, any such forged, counterfeited, or altered license, or seal, or signature, knowing the same to be forged, counterfeited, or altered, shall be guilty of felony, and, being convicted thereof, shall be liable, at the discretion of the Court, to be kept in penal servitude for the term of three years, or to be imprisoned for any term not exceeding two years, with or without hard labour. 25 30

Penalty for lending or hiring, &c., license.

25. Every person shall be liable to a penalty not exceeding *fifty* pounds for every separate offence who shall let out or hire or lend any license issued to him, or shall trade with or under colour of any license issued to any other person whomsoever, or of any license in which his own name shall not be inserted as the name of the person to whom the same is issued. 35

Non-production of license.

26. In all proceedings against any person for having acted as a hawker and pedlar without a license, such person, unless he shall produce his license or bring any other satisfactory proof of his having been licensed at the time at which the offence was committed, shall be deemed to have been unlicensed. 40

License may be cancelled.

27. If any hawker and pedlar holding a license under this Act shall be convicted of an offence under this Act, and thereafter be convicted of a second or any subsequent offence of any kind under this Act, the convicting Magistrate or Justices may, in addition to any other penalty, cancel his license. 45

Recovery of penalties, &c., to be paid to the Public Account.

28. All offences under this Act, except under section *twenty-four*, may be heard and determined, and all fines and penalties may be recovered in a summary way before a Resident Magistrate or any 50

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two or more Justices of the Peace, and shall be paid into the Public Account, and form part of the Consolidated Fund.

29. Nothing in this Act shall be construed—

Saving clause.

5 (1.) To prevent any person from selling or offering for sale any printed newspaper, water, fuel, fish, fruit, milk, or vegetables of any description without having previously obtained a license under this Act; nor to prevent the sale without such license of any goods whatever in any market that may be legally established in the colony, or in any house or shop occupied by the person so selling or offering to sell the same.

10 (2.) To alter or affect the provisions of any law or by-law now or hereafter to be in force relating to the sale or exposing for sale of any articles or goods whatsoever within the limits of any borough or town district.

15 30. The following enactments of the General Assembly and Provincial Ordinances of Otago are hereby repealed :—

Enactments and Provincial Ordinances repealed.

*Acts of the Assembly.*

20 1886, No. 49.—“The Counties Act, 1886,” section three hundred and two.

1886, No. 50.—“The Municipal Corporations Act, 1886,” part section four hundred and twenty-two, namely, the paragraph and subsections thereof beginning with the words “In respect of pedlars and hawkers.”

25 *Provincial Ordinances of Otago.*

1864, Session 19, No. 170.—“The Licensed Hawkers Ordinance, 1864.”

1870, Session 28, No. 336.—“The Licensed Hawkers Ordinance, (Southland) Repeal Ordinance, 1870.”

SCHEDULES.

Schedules.

FIRST SCHEDULE.

APPLICATION FOR LICENSE.

To the Clerk of the County [or Borough] Council [or Town Board].  
I [A.B.], now residing at \_\_\_\_\_, do hereby give notice that it is my intention, at the next meeting of the said County Council [Borough Council or Town Board] to apply for a certificate for a district [or general] hawker's and pedlar's license authorising me to carry goods, wares, and merchandise for the purpose of sale on my own person, travelling on foot only, without any horse or other animal bearing or drawing burden.

*If the license is to be for trading with pack or draught animals, omit the words after “sale,” and insert instead thereof by packhorse [or by other animal, or by cart, or other vehicle, or by boat or other craft, as the case may be].*

Given under my hand, this \_\_\_\_\_ day of \_\_\_\_\_, 18 .

A.B.

*Form of Certificate of Character to be attached to the above, to be signed by four respectable Householders resident in the District where the Applicant resides.*

WE hereby certify that we are well acquainted with A.B., the above applicant, and know him to be a respectable person, and fit to be intrusted with a hawker's and pedlar's license.

[Names and Residences.] { 1. 3.  
2. 4.

## SECOND SCHEDULE.

## FORM OF LICENSE.

WHEREAS A.B., of \_\_\_\_\_, has this day paid into my office the sum of \_\_\_\_\_ pounds as the fee for such license: Now, I do hereby declare that the said A.B. is licensed under "The Hawker's and Pedlar's Act, 1892," to trade as a hawker and pedlar within the \_\_\_\_\_ district [or within the colony].

This license authorises the said A.B. to carry goods, wares, and merchandise for the purpose of sale on his own person, or in any pack, box, bag, trunk, case, or basket, travelling on foot only, without any horse or other animal bearing or drawing burden [or by packhorse, or by other animal, or by cart or other vehicle, or by boat or other craft, as the case may be].

This license shall continue in force until the *thirty-first* day of December ensuing next after the date hereof and no longer, provided it be not forfeited in the meantime.

Clerk, Local Authority.