



## WESTERN AUSTRALIA.

ANNO QUADRAGESIMO SEXTO

## VICTORIÆ REGINÆ.

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No. X.

AN ACT to repeal the present Law relating to Hawkers and Pedlars, and to substitute other provisions in lieu thereof.

[ Assented to, 21st September, 1882. ]

WHEREAS it is expedient to repeal the present Law relating to the trade of Hawkers and Pedlars, and to permit the same to be exercised under certain restrictions and regulations: Be it therefore enacted by His Excellency the Governor of Western Australia and its Dependencies, by and with the advice and consent of the Legislative Council thereof, as follows:—

1. THIS Act shall come into operation on the 1st day of January, 1883, and may be cited for all purposes as “The Hawkers Act, 1882.” Operation and Short Title of Act.

2. THE Ordinance passed in the twenty-fifth year of Her Majesty, No. 4, intituled “An Ordinance to repeal the Ordinance intituled ‘An Ordinance for licensing Hawkers and Pedlars,’” shall be, and is Repeal.

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hereby repealed; Provided that such repeal shall not affect any penalty, forfeiture, or punishment incurred in respect of any offence committed against the said repealed Ordinance.

Definition of Hawking.

3. THE selling or offering for sale of goods 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 of Western Australia, shall be deemed to be carrying on the business of a hawker or pedlar within the meaning of this Act. Provided that nothing herein contained shall be construed to prevent any person from selling or offering for sale any books or newspapers, any fish, fruit, water, fuel, milk, vegetables, or victuals of any description, or any agricultural produce in any such city, town, borough, street, road, or place, without having previously obtained a license under this Act; nor to prevent the actual makers, or the children, apprentices, agents, or servants of and residing with the maker of any goods, from selling or offering for sale the same in any such city, town, borough, street, road, or place, without having previously obtained a license under this Act; nor to prevent the sale without such license of any goods whatever in any market or fair legally established in the said Colony, or in any house or shop occupied by the person so selling or offering to sell the same. Provided, also, that if any person hereby authorised to offer for sale goods without a license shall, whilst hawking or offering for sale such goods, be found to be carrying, or to have in his possession, or in or upon any cart, vehicle, or animal, any fermented or spirituous liquors, such person shall, upon conviction thereof for every offence, forfeit a sum not exceeding Twenty pounds.

No person to carry on business as a Hawker without a license.

4. FROM and after the coming into operation of this Act it shall not be lawful for any person to carry on the business of a hawker or pedlar in any place whatsoever within the said Colony without having previously obtained a license as hereinafter directed; and if any person shall, without having first obtained such license as aforesaid, carry on such business within any part of the said Colony, he shall forfeit and pay, on conviction for every such offence, such sum, not exceeding Twenty pounds, as to the convicting Justices shall seem meet; and every person carrying on such business as aforesaid shall be deemed and taken to be unlicensed unless he shall prove to the contrary by the production of his license or otherwise.

Two sorts of Hawker's licenses.

5. THERE shall be two descriptions of hawkers' and pedlars' licenses, the one being in the form in the First Schedule to this Act,

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authorising the holder thereof to carry on his own person his wares and merchandise for the purpose of sale, and the other in the form of the Second Schedule to this Act, authorising the holder thereof to carry his wares and merchandise for the purpose of sale by pack-horse or other animal, or by cart or other vehicle.

6. IT shall be lawful for the Justices of the Peace, assembled in general meeting, upon the first Monday in the months of September, December, March, and June in each year, at each of the places hereinafter mentioned, to take into consideration applications for hawkers' and pedlars' licenses; and it shall be lawful for the Justices assembled at such meeting, or a majority of them, in their discretion, to grant to the persons who may be approved of by them a license in one or other of the forms aforesaid; and it shall be lawful for the said Justices to reject any such application or to adjourn the consideration thereof from time to time as they shall see fit: Provided that such adjournments do not in the whole exceed three weeks from the day of such general meeting.

General Meetings of Justices for granting licenses.

7. EVERY person desirous of obtaining a license under the provisions of this Act shall, four weeks at least before applying for such license, deliver in to the clerk of the bench of magistrates, to which such application is to be made, a notice in writing of his intention to apply for the same; which notice, if the application be for a license in the form in the First Schedule, shall be in the form in the Third Schedule to this Act; or, if the application be for a license in the form in the Second Schedule, then such notice shall be in the form in the Fourth Schedule to this Act. Every such notice shall, as soon as it is so delivered, be affixed to the door of the court house of such bench of magistrates, and every applicant shall also publish a copy of such notice in a newspaper circulated in the district within which his application is made, at least fourteen days before he shall so apply. Provided, however, that such publication shall not be necessary in the Northern District, as defined by this Act.

Person desirous of obtaining license to deliver notice to clerk.

8. BEFORE the Justices assembled as aforesaid shall grant to any applicant for the same a license in the form in the First Schedule to this Act, such applicant shall be required to produce to the said Justices a certificate of good character from at least two known and respectable inhabitants of the district within which the license is to be in force.

Persons applying for licenses to hawk to obtain certificate of character.

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For licenses to hawk with pack horses to enter into recognizance.

9. BEFORE the Justices assembled as aforesaid shall grant to any applicant for the same a license in the form in the Second Schedule to this Act, such applicant shall enter into a recognizance before such Justices, or any two of them, with two sureties (to be approved of by the said Justices), each in the sum of Twenty pounds; such recognizance to be in the form and with the conditions set forth in the Fifth Schedule hereunto annexed.

Fees.

10. EVERY person in whose favor a license in the form in the First Schedule hereto annexed has been granted as aforesaid, shall pay to the clerk to the bench of magistrates as aforesaid the sum of Twenty shillings, if such license shall be for the full period of twelve months, or such smaller sum as may be proportioned to the time the same shall be in force; and every person in whose favor a license in the form in the Second Schedule hereto annexed has been granted as aforesaid, shall pay to such clerk as aforesaid the sum of Two pounds, if such license shall be for the full period of Twelve months, or such smaller sum as may be proportioned to the time the same shall be in force; and no such license shall be of any force or effect whatsoever until the sum so fixed has been paid to the clerk to the bench of magistrates as aforesaid.

Duration of license.

11. EVERY license granted under the provisions of this Act, not being a temporary license, shall be in force from the first day of the month next ensuing the granting thereof to the thirty-first day of December following, and no longer.

District within which license to have effect.

12. NO license granted under the provisions of this Act shall have any force or effect whatsoever in any part of the said Colony other than the district for and in respect of which the same shall have been granted.

Definition of districts.

13. FOR the purposes of this Act the Colony shall be divided into three districts, the Northern, the Central, and the Southern: each of such districts shall be comprised within such limits only as are set forth in the Sixth Schedule to this Act; and the said limits shall be published in the *Government Gazette*. Applications for licenses may be made to, and shall only be issuable by the following benches of magistrates, that is to say:—In the Northern District, by the Roebourne bench; in the Central District by the Geraldton, Northampton, or Dongarra bench; in the Southern District by the Perth, Fremantle, York, Newcastle, Bunbury, the Williams, Pinjarrah, Vasse, or Albany bench.

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14. IT shall be lawful for any constable to seize and detain any person found by him carrying on the business of a hawker or pedlar within the said Colony without having previously obtained such license as aforesaid, and to keep him so detained, for the purpose of being proceeded against forthwith for such offence, unless the same can be sooner disposed of.

Unlicensed persons carrying on business as Hawkers to be detained.

15. EVERY person to whom any such license as aforesaid, not being a temporary license, shall be granted; and who shall carry on the business of a hawker or pedlar under the authority of such license, shall cause to be written, painted, or printed, in large legible letters, upon some conspicuous part of the pack, bag, box, trunk, case, cart, dray, wagon, 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, and also the name of the district for which he shall have been licensed; and every such person making default therein shall forfeit and pay, on conviction for every such offence, such sum, not exceeding Ten pounds, as to the convicting Justices shall seem meet.

Licensed Hawkers to have certain words printed or painted on packs, &c.

16. 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, bag, box, trunk, case, cart, dray, wagon, or other vehicle or conveyance, in or with which he shall sell or expose for 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 forfeit and pay on conviction such sum, not exceeding Ten pounds, as to the convicting Justices shall seem meet.

Persons not licensed not to print or paint such words under a penalty.

17. IF any such hawker or pedlar having obtained such license as aforesaid shall at any time, upon demand thereof being made of him by any Justice or constable, or by any person to whom he shall within twenty-four hours previously have sold or offered to sell any goods, neglect or refuse to produce and show to such Justice, constable, or other person his said license, he shall forfeit and pay, on conviction for every such offence, such sum, not exceeding Ten pounds, as to the convicting Justices shall seem meet.

Persons not showing license on demand to forfeit penalty.

18. IF any person shall forge or counterfeit any such license as aforesaid, or travel with, produce, or show, with intent to use the same as a genuine instrument, any such forged or counterfeited

Punishment for forging license.

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license, to any person entitled under this Act to demand the production of such license, such person shall be guilty of a misdemeanour, and shall on conviction thereof be imprisoned for any period not exceeding six calendar months.

Hawkers not to have liquor in their possession under a penalty.

19. IF any person having obtained any such license as aforesaid shall have in his possession or on his cart, dray, wagon, or other conveyance any fermented or spirituous liquors, he shall forfeit and pay, on conviction for every such offence, such sum, not exceeding Twenty pounds, as to the convicting Justices shall seem meet.

Magistrates to grant warrants to search and examine packs and conveyances suspected to contain liquors.

20. IN case any person shall have reasonable ground for suspecting that any hawker or pedlar is carrying fermented or spirituous liquors contrary to the provisions of this Act, or otherwise offending against the same, it shall be lawful for such person to make oath before any Justice at his private residence or elsewhere of the circumstances; and if it shall appear to such Justice that reasonable ground for suspicion exists it shall be lawful for such Justice to grant a warrant, authorising such person to examine and search the person, packs, baggage, boxes, trunks, cases, carts, drays, wagons, or other vehicle or conveyance of such hawker or pedlar therein named or described, such warrant to remain in force for such time as shall be therein mentioned; and it shall also be lawful for any Justice, constable, or other peace officer having reasonable ground of suspicion as aforesaid, to examine and search the person, packs, baggage, boxes, trunks, cases, carts, drays, wagons, or other vehicle or conveyance of any such licensed hawker or pedlar without a warrant for such purpose; and upon any such person authorised by warrant as aforesaid, or any such Justice, constable, or other peace officer finding any such fermented or spirituous liquors carried contrary to law to seize the same; and such hawker or pedlar, upon conviction of such offence in a summary way before any two or more Justices sitting in Petty Sessions, shall forfeit and pay a sum not exceeding Thirty pounds, or to be confined with hard labor in the nearest gaol for any period not exceeding six months, at the discretion of such Justices; and it shall be lawful for the Justices in Petty Sessions before whom any such conviction takes place to order such fermented and spirituous liquors so seized to be sold by auction by any constable or licensed auctioneer at any place the said Justices may appoint, and after deducting the expenses of such sale the proceeds thereof shall be paid one half to the prosecutor in the case, and the other half into the Public Treasury.

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21. IT shall be lawful for any Justice, constable, or other peace officer (without warrant) to seize all such fermented and spirituous liquors as shall be hawked and conveyed about or exposed to sale in any street, road, footpath, or in any booth, tent, stall, or shed, 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, and it shall be lawful for any one or more Justice or Justices on his or their own view, or if after due inquiry and examination it shall appear to the said Justice or Justices that such liquors were hawked and conveyed about for the purpose of being illegally sold or disposed of by retail, to 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 used in conveying the same, to be condemned and forfeited, and the same shall and may be sold and the proceeds thereof, after deducting the expenses of such sale, shall be paid one moiety into the Public Treasury of the said Colony, and the other moiety to the person or persons who may in such cases first seize, inform, or prosecute. Provided that 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 said Colony. Provided always, that 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 exposure to sale shall be cast upon the party or parties so carrying them.

Justices and constables may seize liquors hawked about for sale, and any vehicle or animal used for conveying the same.

22. IF any hawker or pedlar shall, from and after the coming into operation hereof, 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 and holding any new license, or dealing, trafficking, or trading under the same, and that over and above all such 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.

Penalty on Hawkers for selling smuggled or stolen goods.

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Penalty for hiring or lending license.

**23.** IN case any person shall let out or hire or lend any license to him granted as aforesaid, or shall trade with or under color of any license granted to any person whatsoever or of any license in which his 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 color of any license granted to any other person or any license in which his own real name shall not be inserted as the name of the person to whom the same is granted, shall each of them forfeit the sum of Forty pounds; And in case any person shall be convicted or have judgment against him for lending his license to any person contrary to this Act such his license shall be from thenceforth forfeited and void, and he shall be utterly incapable of having any license again granted to him to trade as aforesaid.

Powers of Municipal Councils to issue licenses saved.

**24.** NOTHING contained in this Act shall be taken to be in derogation of the powers conferred upon the council of any municipality to grant licenses and to charge fees therefor under the provisions of the ninth section of "The Municipal Institutions Further Amendment Act, 1880;" and every such council may exercise any such powers thereby conferred in the same manner as if this Act had not been passed.

Temporary Licenses.

**25.** TEMPORARY licenses may be granted by any Resident or Police Magistrate at his discretion within the district within which the license is to be used; such licenses shall be valid and available for the space of three days only, and for the same the following fees shall be payable: for a hawker trading on foot, the sum of 5s.; for a hawker trading with a pack or with a cart and animal 10s. Upon the payment of the fee as aforesaid it shall be lawful for the Magistrate to give his certificate in writing to the effect that he has granted such license to the person paying such fee, and such certificate shall serve and be available to such person instead of a license for all intents and purposes during such period.

Hawking in a boat forbidden.

**26.** NOTWITHSTANDING anything in this Act contained, no license granted under the provisions of this Act shall authorise any person to carry on the business of a hawker in any boat or other vessel upon any of the seas, waters, or rivers of the Colony.

Recovery of Penalties.

**27.** ALL penalties or forfeitures incurred under the provisions of this Act may be sued for and recovered by any person, by information in writing before any Justice, and the matters contained in any such information may be heard and determined by any two



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or more Justices of the Peace in a summary way ; and on conviction of the person informed against, and on non-payment of the penalty and costs, and in default of distress, either of the said convicting Justices may forthwith, by warrant under his hand, commit the person so convicted to the gaol nearest to the place where the conviction took place, for any period not exceeding fourteen days where the penalty awarded shall not be more than Five pounds, and not exceeding three months where the penalty awarded shall be of greater amount ; such term of imprisonment to be computed from the time of arrest only. Provided always, that no conviction shall take place under this Act unless within three months after the commission of the offence complained of.

**28.** ALL fines, penalties, and forfeitures recovered under this Act shall be paid one half to the informer or person suing for the same, and the other half into the Public Treasury. Appropriation of Penalties.

**29.** IT shall be lawful for any person convicted of any offence under this Act to appeal to the Supreme Court or to the next Court of General Quarter Sessions of the Peace nearest to the place where such conviction was made. Provided that notice of appeal be given in writing in the Court at the time of such conviction being made, and that a deposit of Ten pounds to answer costs be made at the same time ; And the Supreme Court or the Court of General Quarter Sessions shall hear and determine the matter of such appeal, and shall make such order therein with or without costs as to such Court shall seem meet ; and in case of the dismissal of the appeal, or affirmance of the conviction, shall order and adjudge the offender to be punished according to the conviction, and to pay such costs as may be awarded, and shall, if necessary, issue process for enforcing such judgment. Appeal.

**30.** SECTIONS A, D, F, and G of "The Shortening Ordinance, 1853," shall be incorporated with, and taken to form part of this Act to all intents and purposes, and in as full and ample a manner as if the said sections had been fully set forth in this Act. Shortening Ordinance.

In the name and on behalf of the Queen I hereby assent to this Act.

WILLIAM C. F. ROBINSON, Governor.

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## SCHEDULES.

### First Schedule.

#### *License for a Hawker trading on Foot.*

Western Australia.

Magisterial District of \_\_\_\_\_ to wit.

WHEREAS \_\_\_\_\_ of \_\_\_\_\_ has applied to us, the Justices assembled in Petty Sessions, at \_\_\_\_\_ in and for the Magisterial District of \_\_\_\_\_, for a Hawker's and Pedlar's license, authorising him to carry, on his own person, goods, wares, and merchandise for the purposes of sale, travelling on foot only, without any horse or other animal bearing or drawing burthen; Now we, the Justices aforesaid, being satisfied that the said A.B. is a fit person to have such license granted to him, do hereby authorise and empower him, the said A.B., to trade as such Hawker and Pedlar as aforesaid within the District and not elsewhere; and the license shall be and continue in force from the first day of \_\_\_\_\_ until the thirty-first day of December next ensuing, and no longer.

Granted by the Court of Petty Sessions \_\_\_\_\_ aforesaid

this \_\_\_\_\_ day of \_\_\_\_\_ 18 .

(Signed) D.E., J.P.  
F.G., J.P.

Entered,

(Signed) H.I.,  
Clerk to the Bench.

### Second Schedule.

#### *License for a Hawker trading with Pack or Draft Animals.*

Western Australia.

Magisterial District of \_\_\_\_\_ to wit.

WHEREAS A.B. has applied to us, the Justices assembled in Petty Sessions at \_\_\_\_\_ in and for the Magisterial District of \_\_\_\_\_ for a Hawker's and Pedlar's License, authorising him to carry goods, wares, and merchandise for the purposes of sale, by pack horse or other animal, or by cart or other vehicle (as the case may be). Now we, the Justices aforesaid, being satisfied that the said A.B. is a fit person to have such a license granted to him, do hereby authorise and empower him the said A.B. to trade as such Hawker and Pedlar as aforesaid within the District, and not elsewhere; and his license shall be and continue in force

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from the first day of \_\_\_\_\_ until the thirty-first day of December next  
ensuing, and no longer.

Granted by the Court of Petty Sessions at \_\_\_\_\_ aforesaid

this \_\_\_\_\_ day of \_\_\_\_\_, 18 .

(Signed) \_\_\_\_\_

D.E., J.P.

F.G., J.P.

Entered,

(Signed) H.I.,

Clerk to the Bench.

### Third Schedule.

To the Clerk to the Bench at

I, A.B., (*here insert name, residence, and addition*)

hereby give notice that it is my intention to apply to the Justices assembled  
at Petty Sessions at \_\_\_\_\_ on the

day of \_\_\_\_\_, for a Hawker's and Pedlar's License, authorising

me to carry, on my own person, goods, wares, and merchandise, for the

purpose of sale, travelling on foot only, without any horse or any animal

bearing or drawing burden, within the \_\_\_\_\_ District.

Dated at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_

(Signed) \_\_\_\_\_ A.B.

We, the undersigned, hereby certify that the above named applicant is  
a fit and proper person to obtain a Hawker's and Pedlar's License.

(Signed) J.K., of (residence.)

L.M., of (residence.)

### Fourth Schedule.

To the Clerk to the Bench at

I, A.B., (*here state name, residence, and addition*)

hereby give notice that it is my intention to apply to the Justices assembled  
in Petty Sessions at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_,

for a Hawker's and Pedlar's License, authorising me to carry goods, wares,

and merchandise, for the purpose of sale, by pack horse or any animal, or by

cart or other vehicle (as the case may be), within the \_\_\_\_\_

District.

Dated at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_ 18 .

(Signed) \_\_\_\_\_ A.B.

We, the undersigned, hereby state our willingness to join the above  
named A.B. in the recognizance required to be entered into by him under  
the provisions of "The Hawkers Act, 1882."

(Signed) J. K., of (residence.)

L.M., of (residence.)

Fifth Schedule.

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### Fifth Schedule.

#### *Form of Recognizance.*

*Western Australia,* }  
*to wit.* }

BE it remembered that on the            day of            , 18    ,  
A.B. of            J.K. of            and L.M. of            came personally  
before us D.E. and F.G., Esquires, Justices of the Peace acting in and for  
and acknowledged themselves to owe to Our Sovereign Lady  
the Queen, to wit, the said A.B. the sum of            pounds, the said J.K.  
the sum of            pounds, and the said L.M. the sum of            pounds,  
of lawful money of Great Britain, to be respectively levied of their several  
goods and chattels, lands, and tenements to the use of Our said Lady the  
Queen, Her Heirs and Successors, in case default shall be made in the per-  
formance of the conditions hereunder written.

The conditions of this recognizance are such that whereas A.B. is to be  
licensed pursuant to "The Hawkers Act, 1882," to carry goods, wares, and  
merchandise for sale, by pack horse or other animal, or by cart or other vehicle  
(as the case may be), within the            District for a period which  
will expire on the thirty-first day of December next; if the said A.B. shall  
conform in all respects to the provisions of the aforesaid Act during the said  
period then the said recognizance to be void, but if the said A.B. shall be  
lawfully convicted of any offence during the said period against the pro-  
visions of the said Act, or against the provisions of any other Act in force  
for the time being relating to Hawkers and Pedlars, then this recognizance  
shall remain in full force and effect.

Taken and acknowledged the day and year above written, &c.

### Sixth Schedule.

The Northern District shall consist of that portion of the Colony  
lying North of Latitude 23 deg. 28 min. South. The Central District shall  
consist of that portion lying between Latitude 23 deg. 28 min. South and  
31 deg. 30 min. South. The Southern District shall consist of that portion  
lying between Latitude 31 deg. 30 min. South and 35 deg. 15 min. South.