

NEWSPAPER DISTRIBUTORS REGISTRATION BILL, 1951.

EXPLANATORY NOTE.

The Bill—

- (a) requires the registration of newsagents and newsvendors;
- (b) constitutes the Newspaper Distributors Registration Board and defines, subject to the direction and control of the Minister, its powers, authorities, duties and functions;
- (c) enables newsagents and newsvendors whose agency agreements have since the dispute between newsagents and newspaper proprietors in March last been terminated by the newspaper proprietors to be registered as newsagents and newsvendors;
- (d) enables the Board to determine the areas within which a registered newsagent or newsvendor may carry on business as such and to direct newspaper proprietors to supply registered newsagents and newsvendors with the quota of newspapers determined by the Board;
- (e) contains provisions ancillary to the foregoing.

86679

—(3)

[CONFIDENTIAL]

(Rough Draft for Consideration Only.)

No. , 1951.

A BILL

To provide for the registration of newspaper distributors, and for the regulation of the distribution and sale of certain newspapers; to constitute the Newspaper Distributors Registration Board; and to define its powers, authorities, duties and functions; and for purposes connected therewith.

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of
5 the same, as follows:—

1. (1) This Act may be cited as the "Newspaper Distributors Registration Act, 1951."

86679 —(3)

Short title and commencement. (2)

Newspaper Distributors Registration.

(2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

2. In this Act, unless the context otherwise indicates
5 or requires,— Interpreta-
tion.

“Board” means the Newspaper Distributors Registration Board constituted under this Act.

10 “Certificate of registration” means a certificate of registration or any renewal thereof issued under the provisions of this Act.

15 “Newsagency” means any building or portion of a building in or from which newspapers are sold or offered for sale to the public but does not include any building or portion of a building in which newspapers are printed or published by or on behalf of a newspaper proprietor.

“Newsagent” means any person who sells newspapers or offers newspapers for sale at any newsagency.

20 “Newspaper” means—

(a) any publication known and recognised as a newspaper in the generally accepted sense of the word printed or published by or on behalf of a newspaper proprietor, and

(b) any other publication printed or published by or on behalf of a newspaper proprietor in numbers at intervals of not more than one month.

30 “Newspaper proprietor” means John Fairfax and Sons Pty. Limited, Consolidated Press Limited, “Truth” and “Sportsman” Limited, Associated Newspapers Limited, and any subsidiary company in respect of which any of the
35 said companies is the holding company within the meaning of the Companies Act, 1936, as amended

Newspaper Distributors Registration.

amended by subsequent Acts, and any other person whom the Governor by proclamation published in the Gazette declares to be a newspaper proprietor for the purposes of this Act.

5 "Newsvendor" means any person to whom a newspaper proprietor supplies newspapers and who sells such newspapers or offers such newspapers for sale at any place other than a newsagency.

10 "Prescribed" means prescribed by this Act or the regulations made thereunder.

"Regulations" means regulations made under this Act.

3. (1) There shall be constituted a Newspaper Distributors Registration Board which shall have and may
15 exercise and discharge the powers, authorities, duties and functions conferred and imposed on it by or under this Act.

Newspaper
Distributors
Registration
Board.

20 (2) In the exercise and discharge of such powers, authorities, duties and functions the Board shall be subject in all respects to the control and direction of the Minister.

4. (1) The Board shall consist of seven members who shall be appointed by the Governor.

Constitution of
Board.

(2) Of the members so appointed—

25 (a) one shall, in and by the instrument of his appointment, be chairman of the Board;

(b) two shall be nominated by the Associated Newsagents Co-operative Limited as representatives of the newsagents;

30 (c) one shall be nominated by the Associated Newsvendors of N.S.W. Limited as representative of the newsvendors;

35 (d) one shall be nominated by the newspaper proprietors as representative of the newspaper proprietors;

(e)

Newspaper Distributors Registration.

(e) two shall be appointed on the nomination of the Minister.

(3) If the associations referred to in paragraphs (b) and (c) of subsection two of this section or the newspaper proprietors fail to nominate any persons for appointment to the Board within fourteen days of being requested so to do by the Minister the Governor may appoint such persons as he may think fit as representatives of such associations or newspaper proprietors, as the case may require, and the persons so appointed shall be deemed to have been nominated in accordance with this Act.

(4) The members of the Board shall, subject to the provisions of this Act, hold office for a term of three years and shall be eligible for reappointment.

(5) The provisions of the Public Service Act, 1902, or of any Act amending that Act, shall not apply to any appointment of members to the Board, and such members shall not, in their capacity as members of the Board, be subject to the provisions of any such Act.

5. A member of the Board shall be deemed to have vacated his office if— Vacation of office.

- (a) he dies;
- 25 (b) he becomes bankrupt, compounds with his creditors or makes an assignment of his remuneration, fees, allowances or estate for their benefit;
- 30 (c) he is absent from three consecutive meetings of the Board, except upon leave granted by the Minister;
- (d) he becomes an insane person or patient or an incapable person within the meaning of the Lunacy Act, 1898-1949;
- 35 (e) he resigns his office by writing under his hand addressed to the Governor;

{(f)}

Newspaper Distributors Registration.

- (f) he is convicted in New South Wales of a felony or of a misdemeanour which is punishable by imprisonment for twelve months or upwards, or is convicted elsewhere than in New South Wales of an offence which if committed in New South Wales would be a felony or a misdemeanour which is punishable as aforesaid;
- (g) he is removed from office by the Governor.

6. The Governor may, for any cause which appears to him to be sufficient, remove any member of the Board from office.

Removal of member.

7. On the occurrence of a vacancy in the office of a member, a person appointed to fill the vacant office shall, subject to this Act, hold office for the remainder of the unexpired term of the vacant office.

Filling of vacancy.

8. (1) The chairman shall preside at any meeting of the Board at which he is present.

Power of chairman and casting vote.

(2) If the chairman is absent from any meeting of the Board the members present shall elect one of their number to preside at the meeting.

(3) The chairman or member presiding, as the case may be, shall have a deliberative vote and, if the voting is equal, a second or casting vote.

9. (1) Four members shall form a quorum at any meeting of the Board.

Quorum.

(2) Any duly convened meeting of the Board at which a quorum is present shall be competent to transact the business of the Board.

(3) The procedure for the calling of meetings of the Board and for the conduct of business at meetings shall, subject to any regulations made in relation thereto, be as determined by the Board.

Newspaper Distributors Registration.

10. (1) No act or proceeding of the Board shall be invalidated or prejudiced by reason only of the fact that at the time when such act or proceeding was done, taken or commenced, there was a vacancy in the office of any member of the Board.

Validity of
acts and
proceedings.

(2) All acts and proceedings of the Board shall, notwithstanding the subsequent discovery of any defect in the appointment of any member thereof, or that any member was disqualified to act, be as valid as if such member had been duly appointed and was qualified to act and had acted as a member of the Board and as if the Board had been properly and fully constituted.

11. The Governor may, under and subject to the Public Service Act, 1902, as amended by subsequent Acts, appoint a registrar and such other officers and employees as may be necessary for the administration of this Act.

Registrar
and
officers.

12. (1) Each member of the Board shall be entitled to receive such remuneration, fees and allowances as may be prescribed.

Fees and
expenses.

(2) The office of chairman or of member of the Board shall not, for the purposes of the Constitution Act, 1902, or of any Act amending or replacing that Act, be deemed to be an office or place of profit under the Crown.

13. (1) From and after the expiration of three months after the commencement of this Act no person shall act as a newsagent or news vendor unless he is the holder of a certificate of registration as a newsagent or news vendor, as the case may be, issued in accordance with the provisions of this Act.

Registration
of news-
agents and
news vendors.

(2) An application for a certificate of registration shall be made to the Board and shall be in or to the effect of the prescribed form and shall be accompanied by the prescribed fee.

(3)

Newspaper Distributors Registration.

(3) A certificate of registration issued by the Board shall, subject to this Act, continue in force until the thirty-first day of December next following the date of its issue.

5 (4) Application for the renewal of a certificate of registration shall be made at the prescribed time before the date of the expiry of the current certificate and a fresh certificate may be issued by the Board to take effect as from the date of such expiry.

10 **14.** (1) The Board may—

Registration.

15 (a) refuse to grant any application for a certificate of registration or grant any application for a certificate of registration either unconditionally or subject to such terms and conditions as the Board may impose;

20 (b) cancel any certificate of registration or suspend any certificate of registration for such period as it may determine if the holder of such certificate fails to comply with any terms and conditions thereof or with any provisions of this Act or the regulations;

(c) during the currency of a certificate of registration vary the terms and conditions thereof or impose additional terms and conditions therein.

25 (2) Without prejudice to the generality of the power conferred by subsection one of this section the Board may impose terms and conditions defining the area, by reference to locality or otherwise, within which the holder of a certificate of registration may sell or
30 distribute newspapers.

(3) Any applicant for a certificate of registration who is dissatisfied with the refusal of the Board to grant any such application under paragraph (a) of subsection one of this section, or any holder of any certificate of
35 registration who is dissatisfied with any terms and conditions imposed by the Board under paragraph (a) of subsection one of this section or with the determination of

Newspaper Distributors Registration.

of the Board under paragraph (b) or (c) of that subsection, or with the determination of the Board under subsection two of this section, may require the Board to state in writing the grounds for the determination of
5 the Board or the imposition of such terms and conditions or such cancellation, suspension or variation, as the case may be.

The Board shall forthwith furnish to the applicant or the holder of the certificate of registration, as the
10 case may be, the statement referred to in this subsection.

(4) Any applicant for or holder of a certificate of registration who is dissatisfied as aforesaid may appeal against the determination of the Board or the imposition of any terms and conditions or the cancella-
15 tion, suspension or variation of such certificate of registration, as the case may be, to a district court. The district court shall thereupon determine the matter of the appeal and its determination shall be final and shall be given effect to by the Board.

20 **15.** (1) Any person who proves to the satisfaction of the Board that—

Restoration of certain persons as newsagents and news-vendors.

(a) he acted as a newsagent or newsvendor immediately prior to the twenty-seventh day of March, one thousand nine hundred and fifty-one; and

25 (b) any agreement between a newspaper proprietor and himself under which he acted as a newsagent or newsvendor has been terminated since that date and before the expiration of three months after the commencement of this Act and in
30 consequence of such termination he has ceased to act as a newsagent or newsvendor; and

(c) he desires to acquire again the business of a newsagent which he had immediately before such
35 termination or to be restored to the position of newsvendor he held immediately before such termination,

shall be entitled to be issued with a certificate of registration as a newsagent or newsvendor, as the case may require.

(2)

Newspaper Distributors Registration.

(2) A certificate of registration issued to any person under subsection one of this section shall define the area within which the person to whom the certificate relates sold or distributed newspapers immediately before
5 the termination of any agreement as aforesaid as the area within which such person may sell or distribute newspapers as a newsagent or newsvendor registered under this Act.

(3) (a) Upon the issue of a certificate of
10 registration pursuant to subsection one of this section the Board may give such directions to any persons it deems necessary to ensure that the holder of such certificate of registration acquires the business of a
15 newsagent which he had immediately prior to the termination of the agreement referred to in paragraph (b) of subsection one of this section or is restored to the position of newsvendor he held immediately before such termination.

(b) The directions given by the Board
20 pursuant to paragraph (a) of this subsection may include directions that the newsagent or newsvendor to whom such directions are given shall transfer or otherwise dispose of his business as a newsagent or newsvendor to the person to whom the certificate of registration in
25 respect of such business has been issued upon payment of the amount determined by the Board.

(c) Any person who fails to comply with any directions given to him under this subsection shall be guilty of an offence against this Act.

30 **16.** (1) A certificate of registration may be transferred in the manner prescribed upon payment of such fees, if any, as are prescribed.

Transfer of certificate.

(2) The Board may grant any application for a transfer of a certificate of registration either uncondi-
35 tionally or subject to such terms and conditions as the Board may deem fit.

(3)

Newspaper Distributors Registration.

(3) The provisions of subsections three and four of section fourteen of this Act shall apply to any person who is dissatisfied with any determination of the Board under subsection two of this section.

5 17. (1) The Board may from time to time determine the classes of newspapers and the minimum number of each such class which a newspaper proprietor shall supply to any newsagent or newsvendor. Notice of any such determination shall be given to any newspaper
10 proprietor to whom such determination relates.

Determina-
tion of
quotas.

(2) Any newspaper proprietor who, without reasonable excuse, fails to supply a newsagent or news-
vendor in accordance with any such determination shall be guilty of an offence against this Act.

15 18. (1) The Board may from time to time by notice in writing require any newspaper proprietor, newsagent or newsvendor to furnish to the Board a return or periodical returns in the form specified in such notice showing such particulars as may be specified therein
20 relating to—

Information
to be
furnished
on request
of Board.

(a) the sale and distribution of newspapers by such newspaper proprietor, newsagent or news-
vendor; and

25 (b) such matters as the Board deems necessary for the effective discharge of its powers, authorities, duties and functions.

(2) Any person who fails to comply fully and sufficiently with any of the requirements of such notice or who wilfully furnishes any false or misleading returns
30 shall be guilty of an offence against this Act.

(3) For the purpose of ascertaining whether any offence has been committed against the provisions of this section the Board may authorise any person to inspect and take copies of any books, vouchers, account sales,
35 return sales or other documents or writings owned by

or

Newspaper Distributors Registration.

or in the possession of any person required to furnish a return in accordance with the provisions of subsection one of this section, or owned by or in the possession of his agent, and for that purpose to enter any premises
5 where he has reason to believe the books, vouchers, account sales, return sales or other documents or writings are.

(4) Any person who obstructs any person so authorised or refuses upon request to produce any book,
10 voucher, account sales, return sales or other document or writing shall be guilty of an offence against this Act.

19. Any person who—

Offences.

15 (a) in any application made to the Board pursuant to this Act makes any statement which is not correct or furnishes any particulars which are not correct or knowingly omits any particulars required to be furnished by or under this Act;

20 (b) contravenes or fails to comply with any terms and conditions imposed in any certificate of registration;

25 (c) being a holder of a certificate of registration sells or distributes newspapers outside the area defined in such certificate of registration as the area within which he may sell or distribute newspapers;

(d) being a newspaper proprietor supplies newspapers for sale or distribution to the public to a person who is not the holder of a certificate of registration,

30 shall be guilty of an offence against this Act.

35 **20.** Any provision of any agreement relating to the sale and distribution of newspapers entered into between a newspaper proprietor and any newsagent or news-vendor whether before or after the commencement of this Act which is inconsistent with the terms and conditions imposed in any certificate of registration pursuant to this Act shall be null and void.

Contracts inconsistent with terms and conditions of certificate of registration.

21.

Newspaper Distributors Registration.

21. (1) The Board shall establish a fund to be called the Newspaper Distributors Registration Board Fund (in this Act referred to as the Fund). Fund of Board.

(2) All moneys received by the Board pursuant to this Act shall be paid into the Fund.

(3) All expenses (including payments to members and officers of the Board) incurred by the Board in the exercise of its powers, authorities, duties and functions under this Act shall be paid out of the said Fund.

22. (1) The Board shall on or before the thirty-first day of March in each year furnish to the Minister a report of the proceedings of the Board during the year ending on the thirty-first day of December last past and each such report shall contain a full statement of the income and expenditure of the Board audited by a public accountant registered under the Public Accountants Registration Act, 1945-1951, and appointed by the Board. Report of proceedings of Board.

(2) The Governor may at any time direct that the accounts of the Board be audited by the Auditor-General who shall have in respect of such audit all the powers conferred on him by any law relating to the audit of public accounts.

Towards defraying the cost and expenses of any such audit the Board shall pay to the Consolidated Revenue Fund out of the Newspaper Distributors Registration Board Fund such sum as the Colonial Treasurer may decide.

23. A document purporting to be a certificate under the hand of the registrar and stating that any person is or is not or was or was not on any date or during any period mentioned therein the holder of a certificate of registration and setting out the terms and conditions imposed in such certificate of registration shall in all courts and before all persons and bodies authorised by law to receive evidence be prima facie evidence of the facts alleged. Document under hand of registrar to be prima facie evidence.

24.

Newspaper Distributors Registration.

24. (1) Any person guilty of an offence against this Act or contravening any of the provisions of this Act shall be liable on conviction to a penalty not exceeding one hundred pounds and in addition to a penalty not exceeding twenty pounds for each day during which the offence continues. Penalties.

(2) Any penalty imposed by this Act or by the regulations may be recovered in a summary manner before a stipendiary magistrate in a court of petty sessions.

25. (1) The Governor may make regulations not inconsistent with this Act prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act. Regulations.

(2) Without prejudice to the generality of the power conferred by subsection one of this section the Governor may, in and by the regulations—

- (a) prescribe any forms to be used under this Act;
- 20 (b) prescribe the procedure to be followed on applications and other proceedings under this Act;
- (c) prescribe the procedure to be followed at meetings of the Board;
- 25 (d) prescribe the duties and functions of the registrar.

(3) The regulations may prescribe penalties not exceeding ten pounds for any breach thereof.

(4) All regulations shall—

- 30 (a) be published in the Gazette;
- (b) take effect from the date of publication or from a later date to be specified in the regulations; and
- (c)

Newspaper Distributors Registration.

5 (c) be laid before both Houses of Parliament within fourteen sitting days after the publication thereof if Parliament is then in session and, if not, then within fourteen sitting days after the commencement of the next session.

10 If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such regulations have been laid before such House disallowing any regulation or part thereof, such regulation or part shall thereupon cease to have effect.
