

SECRET
304

[CONFIDENTIAL]

(Rough Draft for Consideration Only.)

No. , 1929.

A BILL

To regulate the buying and selling of wool,
hides and skins; and for purposes con-
nected therewith.

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

1. (1) This Act may be cited as the "Wool, Hide and Skin Dealers Act, 1929." Short title
and com-
mencement.

(2) This Act shall come into operation on a date
to be fixed by the Governor and notified by proclamation
published in the Gazette.

2. (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 license;

Interpretation.

cf. S. Aust.
Act, 1915,
No. 1,214,
s. 2.

“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, opossum, native bear, kangaroo, wallaby, or other marsupial;

“License” means license issued under this Act;

“Licensee” means the holder of a license;

“Prescribed” means prescribed by this Act or by regulation;

“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)

(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. (1) Any person who, not being a licensee buys any wool, hide, or skin, shall be guilty of an offence against this Act.

Every person buying or selling wool, hides, or skins to be licensed.

(2) Subsection one of this section shall not apply where the wool, hide, or skin—

cf. S. Aust. Act, 1915, No. 1,214, s. 12.

(a) is to be used by the buyer for the purposes of, or in connection with, his business, or for some domestic purpose ; or

(b) is bought for an educational institution for any purpose whatsoever.

(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 three of this section 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) of this subsection, 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 his business, or for some domestic purpose ; or

(c) by any person of any such wool, hide, or skin as mentioned in paragraph (a) of this subsection, or by any licensee of any wool, hide, or skin to an educational institution, for whatever purpose it is to be used ; or

(d)

- (d) by an auctioneer licensed under the Auctioneer's Licensing Act, 1898, as amended by subsequent Acts, in the ordinary course of his business as a licensed auctioneer, of any wool, hide, or skin to any person, whether such person is a licensee or not.

(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, his business, or for some domestic purpose, it shall be necessary for the defendant to prove to the satisfaction of the court that such wool, hide, or skin was taken or was to be used as alleged.

(6) Nothing in this section shall be deemed to render any contract for the sale of any wool, hide, or skin illegal or void.

4. (1) A license 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. Licenses. cf. Act No. 24, 1898, ss. 4, 5.

(2) A license may be renewed in the prescribed manner, and on each renewal shall have effect for a further period of twelve months.

(3) (a) A license may be transferred upon the application of the transferee.

(b) Where a license is transferred the fact and date of the transfer and the name and description of the person to whom the license is transferred shall be endorsed upon the license, and the person named as the transferee shall thereupon and thenceforth for all purposes be deemed to be the person to whom the license was granted.

(4) A license may be issued to any person, or to any firm, company, partnership, society, association, or body of persons corporate or unincorporate: Provided that the license may in any such latter case be suspended

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. (1) An application for the issue, renewal, or transfer of a license shall be in or to the effect of the form prescribed, and shall be lodged with the clerk of the court of the petty sessions district in which the business premises in respect of which the license is applied for are situated, or if there is more than one court of petty sessions in any such district, then with the clerk of the court within such district nearest to such business premises. cf. Act No. 24, 1898, ss. 4, 5.

(2) Upon receipt of an application for the issue, renewal, or transfer of a license, the clerk shall forthwith notify the officer in charge of police at the nearest police station, who shall inquire into the character of the applicant and report as to whether he is a fit and proper person to be a licensee.

(3) (a) Upon the hearing of an application for a new license or for the transfer of a license the applicant shall attend in person.

(b) Upon the hearing of an application for the renewal of a license the applicant shall not be so required to attend unless notified by the clerk of the court that the grant of his application will be objected to. The notice shall set out shortly the nature of the objection proposed to be made.

(4) No application shall be heard until after the expiration of seven days after the lodging of the application.

(5) No application shall be heard except by a court of petty sessions holden before a stipendiary or police magistrate.

(6) Every application shall be heard in open court, and the consideration of the application shall be deemed to be a judicial proceeding.

(7)

309

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

(8) A fee of two pounds shall be paid for a license and for each transfer or renewal thereof. Where a license or licenses 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 license the fee for each such additional license and for each transfer or renewal thereof shall be one pound.

6. (1) If upon the hearing of a summons to show cause it is made to appear to a court of petty sessions holden before a stipendiary or police magistrate that any licensee—

Cancellation
of license.
cf. Act No.
24, 1898, s. 9.

(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 license be cancelled.

(2) Such person shall surrender his license 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 upon the summons.

7. (1) Every licensee shall in the form prescribed, keep in a legible manner in a written record full particulars of all his dealings in wool, hides, or skins.

Record to be
kept.
Ibid. s. 11.

(2) The record shall be open to inspection at all reasonable times by any member of the police force, and every licensee upon being required so to do, shall produce the record kept by him for inspection by a member of the police force.

(3) Every licensee shall keep all lots or parcels of wool, hides, or skins purchased or received by him (other than lots purchased from a licensed auctioneer) together with the container thereof (if any) for a period of five days after the same have been purchased or received by him without changing the condition in which they were when

when so purchased or received and without altering or obliterating any brand, marking, or writing on the hides, skin, wool, or containers, or disposing of the same in any way.

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

8. Any member of the police force may at all reasonable times—

Powers of members of police force. S. Aust. Act, 1915, No. 1,214, s. 11

- (a) enter and search any premises used, whether by a licensee or not, for the purpose of storing wool, hides, or skins, or which he 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 he 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.

9. 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 him by this Act shall be guilty of an offence against this Act.

Obstruction of police officers. *Ibid.* s. 14.

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

Name, &c., to be kept posted up. *Ibid.* s. 10.

11. 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 he is qualified to carry on the business of buying wool, hides, or skins, or that he is willing to act in that capacity,

Unlicensed person pretending to be licensed.

shall be guilty of an offence against this Act.

12.

12. (1) Any person who contravenes any of the provisions of this Act shall be guilty of an offence against this Act. Offences—
penalty.

(2) Every person guilty of an offence against this Act shall be liable upon summary conviction to a penalty not exceeding *fifty* pounds, 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 stipendiary or police magistrate in petty sessions.

(4) In any proceedings for an offence against section three or section eleven of this Act the onus shall be on the defendant to prove that he is a licensee. cf. S. Aust.
Act, 1915,
No. 1,214,
s. 17.

(5) In any proceedings for an offence against this Act, every entry in any record or book kept or belonging to any licensee, or found on his premises, shall be deemed, unless the contrary is shown, to have been made by or under the authority of such licensee. cf. Act No.
30, 1906,
s. 17.

(6) In any proceedings against a licensee for an offence against this Act, the licensee shall produce his license to the court before which the proceedings are taken. cf. S. Aust.
Act, 1915,
No. 1,214,
s. 18.

(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 license be cancelled, and may indorse thereon a memorandum of such conviction and cancellation; and in such case the license shall be retained by the clerk of the court. Ibid. s. 19.

13. (1) Any person aggrieved by a refusal to grant an application under this Act, or by an order for the cancellation of a license, may appeal from such refusal or order to a court of quarter sessions. Appeal.

(2) The provisions of Division 4 of Part V of the Justices Act, 1902, as amended by subsequent Acts, shall apply mutatis mutandis to appeals under this section.

14. (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 Regulations.

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 licenses and of renewals and transfers of licenses and of applications for the same;
- (b) provide for the issue of duplicate licenses to replace licenses which have been accidentally lost or destroyed, the procedure to be adopted for obtaining duplicate licenses, 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 his business as such licensee the words required by section ten of this Act;
- (d) provide for the disposal by the clerk of the court of licenses retained by him or surrendered on cancellation;
- (e) impose penalties not exceeding in any case *fifty* pounds for any contravention or breach of a regulation.

(2) The regulations shall—

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

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