

Model general bylaws

CHAPTER 4

MOBILE OR TRAVELLING SHOPS, AND HAWKERS AND ITINERANT TRADERS

Superseding NZS 791, Part 3

STANDARDS ASSOCIATION OF NEW ZEALAND
WORLD TRADE CENTER, 15-23 STURDEE STREET, WELLINGTON

Postal address: Private Bag, Wellington Telegrams: *Standards*, Wellington

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REQUEST FOR NEXT AMENDMENT

NZS 9201 : Ch. 4 : 1972
Amendment No. 2

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COMMITTEE REPRESENTATION

This Part of the model general bylaws was prepared under the supervision of the Local Government Sectional Committee (92) for the Standards Council established under the Standards Act 1965. The sectional committee consisted of representatives of the following:

- Department of Health.
- *Department of Internal Affairs.
- Fire Service Council.
- *Municipal Association of New Zealand.
- New Zealand Counties Association.
- *New Zealand Institute of County Clerks.
- *New Zealand Institute of County Engineers.
- *New Zealand Institute of Town Clerks and Municipal Treasurers.
- *New Zealand Institution of Engineers (Municipal Division).

The General Bylaws Committee (2/8/10) was responsible for the drafting of this Part and consisted of representatives of the organizations marked with an asterisk (*) in the foregoing list.

FOREWORD

NZS 791 Part 3, *Hawkers, pedlars, and itinerant traders*, was first published in 1952. This is the first full revision, though a minor amendment was issued in 1960, and another in 1965 which extended the scope of the model bylaw to cover keepers of mobile or travelling shops.

These amendments have been included in the standard, and for clarification the model bylaw has been divided into sections. Further minor amendments have been made to update the model bylaw in view of the almost complete disappearance of horse-drawn vehicles.

In addition the word "pedlar" has been omitted from the standard, and the definition of "mobile or travelling shop" now agrees with the statutory definition.

In clause 404 provision has been added to cover the number of vehicles to be used under a Keeper's licence, clause 405, has been amended to cover all food for human consumption, and clause 405.3 allows for the control of vehicles and premises used in connection with the storage and sale of food.

In the Third Schedule the maximum fees prescribed by statute are set out. These are contained in Section 386 of the Municipal Corporations Act 1954, and Section 401 of the Counties Act 1956.

RELATED LEGISLATION

Auctioneers Act 1928
Counties Act 1956
Municipal Corporations Act 1954

Clause reference
herein
402.1
Foreword
Foreword

NEW ZEALAND STANDARD
MODEL GENERAL BYLAWS

Chapter 4

**MOBILE OR TRAVELLING SHOPS, AND
HAWKERS AND ITINERANT TRADERS**

GENERAL

401 Interpretation

401.1 In this Part of this bylaw —

HAWKER means any person who carries or takes about any goods, wares, or merchandise for sale not in pursuance of any invitation to call with, or of any previous order or request for, such goods, and includes a pedlar and any person who exposes for sale any goods, wares, or merchandise carried or taken about by him, or solicits the custom of any other person; and whether any such person shall cry any such goods, wares, or merchandise or not, but does not include any person who uses any vehicle as a mobile or travelling shop.

ITINERANT TRADER includes any person who, not having been continuously resident in the district under the jurisdiction of the local authority for a period of at least 6 calendar months immediately preceding, or not owning, or not having entered into a binding lease in writing of his business premises in such district for a period of at least 6 calendar months, carries on or engages in any business in such district involving the sale or exposure for sale in any premises in the said district, and whether by himself or by any other person employed by him, of any goods, wares or merchandise; but shall not include any hawker as above defined or any keeper of a mobile or travelling shop or any bona fide commercial traveller who deals only with or solicits orders only from persons, firms, or companies carrying on business within the district aforesaid, as retailers of, or as manufacturers for sale of, articles manufactured from goods, wares, and merchandise similar to those sold by the commercial traveller, or by him on behalf of his employer or employers.

KEEPER in relation to any mobile or travelling shop, means the person by whom or on whose behalf any business is carried on by means of that mobile or travelling shop.

MOBILE OR TRAVELLING SHOP means a vehicle, whether self-propelled or not,

from which goods, wares, or merchandise are offered or exposed for sale in the street, or from which goods, wares, or merchandise may be ordered (whether or not in pursuance of any invitation to call with the goods, wares, or merchandise) or from which services are offered for sale in the street; but does not include any vehicle on or from which food is sold for consumption in or at the vehicle, or any vehicle used for the purpose of transporting and delivering goods, wares or merchandise pursuant to a prior order placed for the delivery of goods, wares, or merchandise.

†402 Exemptions

402.1 The provisions of this Part of this bylaw as to hawkers and keepers of mobile or travelling shops shall not apply—

- (a) To the owner of a fishing boat registered under Part 1 of the Fisheries Amendment Act 1963 and in respect of which a boat-fishing permit is for the time being in force, where he or a person appointed by him in that behalf sells fresh fish or fresh shellfish (being fresh fish or fresh shellfish taken from that boat in accordance with the conditions of the permit) from that boat at the place where it is moored, berthed, or beached, or from a stall (including a vessel used as a stall) within 450 m of that place; *or*
- (b) To sellers of printed books, pamphlets, magazines, or newspapers.

† As altered by Amendment No. 1.

HAWKERS AND KEEPERS OF MOBILE OR TRAVELLING SHOPS

403 Licence required

403.1 No person, whether acting on his own account, or as the servant of another person, shall engage in the trade or calling of or carry on business in any manner or to any extent as a hawker or keeper of a mobile or travelling shop with respect to goods or articles of any description whatsoever (except as provided in the preceding clause), without having first obtained a licence from the local authority so to do.

404 Application

404.1 Every person desirous of obtaining a hawker's, or keeper's licence shall make application to the Clerk, in the form set out in the First Schedule hereto, and shall with such application furnish such evidence of good character as the local authority may require, and in the case of an application for a keeper's licence shall state the number of vehicles to be used.

405 Sale of food for human consumption

405.1 Every application under the last preceding clause shall also state whether the applicant is desirous of hawking or selling from a mobile or travelling shop articles of food for human consumption and whether with or without other goods, wares, or merchandise, and in any such case where a motor vehicle is to be used, shall specify the registered number of that vehicle.

405.2 If the applicant is desirous of hawking or selling articles of food for human consumption such application shall be accompanied by all licences which the applicant may be required to obtain under the provisions of any Act, regulation or bylaw relating to the licensing and regulation of certain trades and businesses.

405.3 Before issuing any licence for a hawker or keeper of a mobile or travelling shop, the local authority shall satisfy itself that any motor vehicle to be used in connection with hawking or selling food for human consumption, and that any premises to be used for the storage of such food, are suitable for the purpose.

406 Fees and expiry of licence

406.1 The local authority may issue licences to trade and carry on business as hawkers or keepers of mobile or travelling shops and every such licence, at whatever time of the year the same may be issued, shall terminate on a day and month then next ensuing as may be prescribed by resolution

of the local authority, and for every such licence there shall be paid to the local authority such fee as the local authority may by resolution from time to time prescribe for that particular class of licence.

406.2 The local authority may at its discretion issue temporary licences upon payment of such fee whether per day or otherwise, and subject to such conditions as the local authority may impose.

407 Form of licence

407.1 Every hawker's or keeper's licence shall be in the form set out in the Second Schedule hereto and shall take effect according to the tenor thereof.

408 Production of licence

408.1 Every licensed hawker or keeper of a mobile or travelling shop shall at all times when hawking, or selling from his mobile or travelling shop, carry his licence with him, and shall show the licence to any constable or authorized officer of the local authority who shall demand production of the licence.

409 Name to appear on vehicle

409.1 Every licensed hawker or keeper of a mobile or travelling shop shall whilst hawking or selling from his mobile or travelling shop or exercising or carrying on his business, trade, or calling of a hawker or keeper of a mobile or travelling shop in some conspicuous place on the exterior of any vehicle or container in which he takes or carries his goods or wares, have his name legibly painted thereon in letters not less than 25 mm in height.

410 Moving on

410.1 Every licensed hawker, or keeper of a mobile or travelling shop shall, upon being requested so to do by any constable, traffic officer, or duly authorized officer of the local authority, and as often as so requested, alter his position and remove from the place in any street or public place where such hawker or keeper of a mobile or travelling shop may for the time being be hawking his goods or selling from his mobile or travelling shop to any other part or parts of such street or place, or to any other street or public place indicated by such constable, traffic officer, or officer of the local authority.

410.2 Any person who fails to comply with any request made by any constable, traffic officer, or authorized officer of the local authority pursuant to clause 410.1 hereof shall be guilty of an offence against this bylaw.

411 Local authority may prescribe conditions

411.1 The local authority may, either upon the issue of any licence to any hawker or keeper of a mobile or travelling shop or at any time by notice in writing under the hand of the Clerk served on any licensed hawker or keeper of a mobile or travelling shop —

- (a) Prescribe any condition or conditions in compliance with which such hawker or keeper of a mobile or travelling shop must carry on his trade or business, and any hawker or keeper of a mobile or travelling shop who shall fail to comply in all respects with any such requirements within any period specified for compliance shall be guilty of an offence against this Part of this bylaw; or
- (b) Require such hawker or keeper of a mobile or travelling shop to discontinue the use of any vehicle so employed by him.

411.2 It shall be a condition of the licence where a vehicle is to be used for the sale of food for human consumption that no vehicle other than that specified in that licence shall be used for the purpose without the approval of the Health Inspector of the local authority concerned.

412 Licence not transferable

412.1 No licence issued under this Part of this bylaw shall be transferable to any other person and no such licence shall authorize any person other than the person named therein to carry on the trade or business of a hawker or to keep a mobile or travelling shop.

413 Cleanliness of vehicle

413.1 Every licensed hawker or keeper of a mobile or travelling shop or any person operating on behalf of such hawker or keeper who takes or carries about any article of food for sale shall keep and maintain every vehicle, box, basket, pack or other container used or connected therewith in a thoroughly clean and sanitary condition to the satisfaction of the local authority's Health Inspector.

ITINERANT TRADERS

414 Licence required

414.1 No itinerant trader shall sell or offer or expose for sale any goods, wares, or merchandise whatsoever without having first obtained a licence from the local authority authorizing him to do so.

414.2 Such application shall be in the form set out in the First Schedule hereto, and the applicant shall with his application furnish such evidence of good character as the local authority may require.

414.3 Every itinerant trader's licence shall be in the form set out in the Second Schedule hereto and shall remain in force for the term of 1 year from the day of issue thereof and no longer.

415 Licence fee

415.1 For every such licence there shall be paid to the local authority before the issue of such licence such amount by way of licence fee as is prescribed from time to time by resolution of the local authority.

416 Refund of licence fee

416.1 If during the continuance of any such licence the licensee named therein shall remain continuously in business in the district aforesaid for a period of not less than 6 months, the licence fee paid by him as aforesaid in respect of the licence in force during such period shall be refunded.

STANDS AND STALLS

417 Permit required

417.1 No person shall without having first obtained a permit from the local authority so to do —

- (a) Stand in or occupy any portion of any public place with, or place or maintain on any portion of any public place, any stall, structure, or contrivance for the purpose of distributing or selling any food or refreshments, newspapers, lottery tickets, textiles, hardware; or
- (b) Stand in or occupy any portion of any public place with, or place or maintain on any portion of any public place any weighing, knife-grinding, automatic vending, or slot entertainment machine or any other similar structure, apparatus or contrivance.

418 Application

418.1 Every application for a permit shall be in such form as the local authority may require.

419 Conditions of permit

419.1 Every permit shall be issued by the local authority and shall be subject to such conditions as the local authority may impose and shall state therein the term of expiry thereof, the portion of any public place on which the applicant is permitted to stand, the hours during which he may so stand, and the class of article or goods he proposed and is permitted to sell, and no person shall stand or sell except in conformity with the terms of such permit.

420 Permit fee

420.1 For every such permit there shall be payable to the local authority such fee as the local authority may by resolution from time to time prescribe.

421 Transfer

421.1 No person shall transfer his permit to any other person nor stand nor sell either under the authority of a permit issued to any other person or at a place not mentioned in his permit or directed by the local authority.

SCHEDULES

FIRST SCHEDULE

NOTE—It will be necessary for local authorities to prescribe an application for Hawkers', Itinerant Traders' and Keepers of Mobile Shops' licences.

The following form has been prepared as a guide to local authorities as to the type of application form required and this should be extended or modified in any way considered necessary to meet the requirements of the local authority:

APPLICATION FOR A HAWKER'S [ITINERANT TRADER'S] [KEEPER OF A MOBILE OR TRAVELLING SHOP'S] LICENCE

..... Council

To the Town/County Clerk,

..... Council.

I,, of hereby apply for a [Hawker's] [Itinerant Trader's] [Keeper of a Mobile or Travelling Shop's] Licence under the provisions of Chapter of the Council's bylaws made in that behalf.

1. The number of vehicles which I propose to use is
2. I AM/AM NOT desirous of [hawking] [selling from a mobile or travelling shop] articles of food for human consumption.
3. The registered number/numbers of the vehicles for [hawking] [selling from a mobile or travelling shop] articles of food for human consumption is/are
4. The following evidence of my good character is attached:

.....

I herewith tender the prescribed fee of

Dated at this day of 19.....

..... Signature of applicant.

SECOND SCHEDULE

NOTE—It will be necessary for local authorities to prescribe a licence form for Hawkers', Itinerant Traders' and Keepers of Mobile or Travelling Shops' Licences. The following form has been prepared as a guide to local authorities as to the type of licence form required and this should be extended or modified in any way considered necessary to meet the requirements of the local authority:

HAWKER'S [ITINERANT TRADER'S] [KEEPER OF A MOBILE OR TRAVELLING SHOP'S] LICENCE

This Licence is not transferable

No. Council
The Council hereby licenses of to carry on business as an itinerant trader, hawker, or keeper of a mobile or travelling shop with the of until the day of 19....., subject to Part of the Council's bylaws and to the following conditions:

.....
The registered numbers of the vehicles to be used for the sale of food for human consumption are

Dated at this day of, 19.....

..... Clerk.

THIRD SCHEDULE

NOTE—The following is a suggested scale of fees and is the maximum prescribed by statute:

Licence for hawker	\$10 per annum
Licence fee for itinerant trader	\$50 per annum
Licence fee for keeper of a mobile or travelling shop	\$50 per annum per vehicle
Permit fee for street stall	\$2 for a period of 1 week