

The Pearl Shell Fishery Act, 1886

WESTERN AUSTRALIA

ANNO QUINQUAGESIMO

VICTORIÆ REGINÆ

No. 7

An Act to consolidate and amend the law relating to the Pearl Shell Fishery Special Revenue.

[Assented to 12th July, 1886.]

WHEREAS it is expedient to consolidate and amend the law relating to the Special Revenue derived from the Pearl Shell Fishery on the Northern Coast of the Colony, and to make better provisions for the collection of Customs duties from vessels engaged in such Fishery: Be it 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:—

Preamble

1. In the construction of and for the purposes of this Act, the following terms shall, if not inconsistent with the context or subject matter, have the respective meanings hereby assigned to them (that is to say):

Interpretation

- 'Ship' shall mean and include any and every sort of vessel or craft of any sort or size, and whether propelled by oars only or not, and whether decked or not, and whether having a fixed mast or not, other than boats as defined by this Act.
- 'Boat' shall mean and include only such small craft, not exceeding two tons burthen, as belong to and are ordinarily attached to or carried on board a vessel licensed as a ship under this Act.
- 'Uncustomed' provisions, goods, or merchandise shall mean provisions, goods, and merchandise, the duties payable on the importation or landing whereof by any law of Customs have not been paid in this Colony.
- 'Provisions' shall include every article of food, and shall mean not only all alimentary substances whether solids or liquids, but also all eatables and drinkables whatsoever.
- 'Goods' shall include all goods within the meaning of any law of Customs.
- 'Licensing Officer' shall mean any person appointed by the Governor to be a Licensing Officer under this Act.
- 'Papers' shall mean and include the certificate of registration of any ship, her transire or port clearance from her last port of departure, her manifest, list of passengers and bill of health, all bills of lading relating to her cargo.

A ship shall for the purposes of this Act be deemed to be 'used or employed in the Pearl Shell Fishery' if she

- (1) Be used as a place of refuge for divers engaged in the Pearl Shell Fishery, or

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- (2) Be used as a place for storing pearl shells within one week after they are collected, or
- (3) Be used as a place of refuge for persons engaged in superintending the operations of persons diving for pearl shells, or
- (4) If her boats are used as places from which persons dive for pearl shells, or be used in the immediate collection of pearl shells found or recovered by divers or otherwise.
- (5) Be used as a place for the storing of uncustomed provisions for the victualling of divers or other persons engaged in the Pearl Shell Fishery, or for sale to or use by any such divers or other persons.
- (6) If uncustomed provisions or any uncustomed goods or merchandise whatever be unladen therefrom into any ship used or employed in the Pearl Shell Fishery, within the definition of this section, or her boats, or for the purpose of being put on board of any such ship or her boats.

A boat shall for the purposes of this Act be deemed to be 'used or employed in the Pearl Shell Fishery' if it belongs to or is ordinarily attached to or carried on board any vessel licensed as a ship under this Act during such time as such ship is used or employed in the Pearl Shell Fishery.

No ship to be used or employed in the pearl shell fishery without a license

Penalty

2. From and after the passing of this Act it shall not be lawful to use or employ any ship in any pearl shell fishery of the Colony, other than the pearl shell fishery at Sharks Bay, unless the same be duly licensed as hereinafter provided. The owner, master, or other person in charge of any ship offending against the above provisions shall be guilty of an offence; such offence shall be cognisable before any two Justices of the Peace, who, on proof thereof, shall convict the Master, owner, or other person in charge of such ship, in a penalty not exceeding One hundred pounds, and shall keep and detain such ship, together with everything on board the same, for the space of three months, unless such penalty be sooner paid, and at the end of such period of three months shall declare such ship, together with everything on board the same, forfeited for the use of Her Majesty, but for the purposes of this Act; and such ship, together with everything on board the same, shall after such declaration be forfeited accordingly, and shall be sold, and the proceeds dealt with as the proceeds of a penalty in the manner provided by this Act. Provided always, that notwithstanding anything in this section contained, the payment of any such penalty, or so much thereof as may not be realised by the sale of any ship or things on board the same as aforesaid, declared to have been forfeited as aforesaid, may be enforced by any means provided by law for the general enforcement of penalties.

Licensing officer to grant licenses for ships

3. The Licensing Officer shall, subject to the provisions of section eight, grant a license under this Act to use or employ any ship in the Pearl Shell Fishery, the master of which is not disqualified as hereinafter mentioned, on the owner, master, or other person in charge of the same applying for such license depositing with such Licensing Officer the papers of such ship, and paying a fee of One pound, and

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the Licensing Officer shall give a receipt for such papers. All papers deposited as aforesaid shall be returned to the owner, master, or other person as aforesaid on his bringing his said ship into the port where the license was obtained, accounting to the satisfaction of the Principal Officer of Customs at such port for all pearl shells gotten by the said ship since the granting of the license; and either

- (a) landing any pearl shells which she may have on board at the said port; or
- (b) in case the said ship is about to start for some other port or place within the Colony, entering such pearl shells on the cargo book required to be kept by section fifty-four of 'The Customs Ordinance, 1860,' in the same way as if the said pearl shells had been taken on board at the said port; or
- (c) paying any export duty payable in respect of the same;

and in any such case as aforesaid surrendering the license and receipt granted and given as aforesaid.

4. Any Licensing Officer shall, on granting any license to any person to use or employ any ship in the Pearl Shell Fishery, forthwith determine on some figures not exceeding three, which are during the currency of such license to be deemed the characteristic figures of such ship. And the master, owner, or other person in charge of such ship shall before using or employing her in the Pearl Shell Fishery cause such figures, together with the initial letter of the port where the license is obtained, to be legibly painted on each bow of such ship above the water-line, such figures and letter to be not less than one foot high, and shall so long as the said ship continues to be used or employed in the said fishery maintain such figures in a clear and legible manner. Any master, owner, or other person in charge of any ship violating this provision shall be guilty of an offence which shall be cognisable before two Justices of the Peace, who on proof thereof shall inflict a fine or penalty not exceeding Five pounds.

Licensee ship to bear certain characteristic figures

5. All licenses granted as aforesaid shall run and hold good up to the thirtieth day of June next after the granting of the same; provided that if any such license be surrendered before that day, it shall cease to be of any force or effect from the time of such surrender.

Duration of license

6. A license under this Act to use or employ any ship in the Pearl Shell Fishery shall be in the form given in the Schedule to this Act.

Licenses to be in form of Schedule

7. Any license granted on the deposit of forged papers shall be utterly null and void, to all intents and purposes.

Licenses granted on forged papers

8. No license under this Act shall be granted to any ship until the duty chargeable upon the importation or landing of all goods, stores, and provisions laden on board such ship (excepting only such goods as hereinafter mentioned) shall have been first paid in this Colony, notwithstanding such goods, stores, or provisions shall not be intended to be landed, and the same shall be entered for duty by the master of such ship, and such master shall for all the purposes of 'The Customs Ordinance, 1860,' or of any law of

No license to be granted until payment of Custom duties

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Exemption from
Custom duty as
to certain goods

Customs be deemed and taken to be the importer of such goods, stores, and provisions. Provided always, that no duty shall be leviable upon or in respect of any diving dresses or other diving apparatus or any gear belonging thereto or designed for use in connection with such dresses or apparatus.

Export duty
Penalty
Notice of export
of pearl shells to
be given
to collector
Certificate to
be granted
And permit
Presumption as
to packages con-
taining mixed
shells
Onus of proof as
to nature and
quality of shells
Mode of seizure
and recovery of
forfeitures
Ship to bring-to
on signal from
Revenue vessel

9-13. [*Repealed by 59 Vic., No. 1.*]

14. That where any ship shall be found within the limits of any port of the Colony, or within a league from the coast thereof, and shall not bring-to upon signal made by any ship or boat in Her Majesty's service, or in the service of the revenue, hoisting and carrying the proper pendant and ensign or Custom House flag, in order to bring such ship to, the master of every such ship shall be guilty of an offence, and on summary conviction thereof before two or more Justices of the Peace in Petty Sessions shall forfeit and pay a penalty not exceeding One hundred pounds, and shall for ever thereafter be disqualified from obtaining a license under this Act.

Officers of
Customs may
board and
search ship

15. That it shall be lawful for any officer of Customs within the meaning of 'The Customs Ordinance, 1860,' or any officer in charge of any vessel in the service of the revenue, at any time to board any ship within the limits of any port of the Colony or within a league from the coast thereof, and to search all parts of such ship and freely to stay on board for such purpose; and if such officer shall be satisfied that such ship is being used or employed in the Pearl Shell Fishery, and the master or other person in charge thereof shall not on demand produce to such officer the license of such ship under this Act; or if such officer shall have reason to suspect that any such ship is or has been engaged in the exportation of pearl shells the duty whereon has not been paid, it shall be lawful for such officer to bring such ship into port and to proceed against the owner, master, or other person in charge thereof under any of the provisions of this Act applicable to the case. And any person who shall obstruct any officer as aforesaid in the operation of any of the powers hereby vested in him shall, on summary conviction thereof before two or more Justices of the Peace in Petty Sessions, pay a penalty not exceeding One hundred pounds.

And may bring
her into port

Onus of proof on
defendant

16. In all cases of proceedings taken for the recovery of any forfeiture or penalty imposed by this Act, the onus of proof that the requisitions and provisions by this Act made and required have been complied with shall lie on the defendant.

All moneys raised
under this Act
to be paid into
Treasury

17. All moneys paid in respect of licenses, royalties, and otherwise under this Act, together with the proceeds of all penalties that

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may be inflicted under this Act, shall be paid into the Colonial Treasury.

18. This Act shall be deemed to be a law of Customs, within the meaning of 'The Customs Ordinance, 1860.'

Act to be deemed a law of Customs

19. Sections A, D, E, H, and I of 'The Shortening Ordinance, 1853,' are hereby incorporated with and shall be 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 introduced and fully set forth in this Act.

Shortening Ordinance

20. 'The Northern District Special Revenue Act, 1873,' and 'The Northern District Special Revenue Act, 1873, Amendment Act, 1878,' are hereby repealed.

Repeal

21. This Act may be cited as 'The Pearl Shell Fishery Act, 1886.'

Short title

F. NAPIER BROOME,
GOVERNOR.

SCHEDULE

FORM OF LICENSE

These are to certify that, whereas _____ master or owner of the schooner 'Marian,' has applied to me for a license to use and employ the said ship in the Pearl Shell Fishery, from the date hereof up to the 30th day of June, 188____, and has deposited with me the papers of the said ship enumerated and described on the back hereof, and has paid the sum of One Pound for such license as aforesaid, the said ship is hereby licensed under 'The Pearl Shell Fishery Act, 1886,' to be used and employed in the Pearl Shell Fishery of the Colony of Western Australia, from the date hereof up to the thirtieth day of June next ensuing.

The characteristic letter and figures of the said ship during the currency of this license are to be _____, which are to be painted on the said ship in accordance with the provisions of the above-named Act.

As witness my hand, this _____ day of _____ A.D. 18____.

Licensing Officer at the Port of _____