

WESTERN AUSTRALIA

ANNO QUADRAGESIMO SECUNDO

VICTORIÆ REGINÆ

No. 24

An Act to repeal certain Ordinances now in force respecting the licensing of Boats and Boatmen, and to make other provision in lieu thereof.

[Assented to 24th July, 1878.]

Preamble

WHEREAS it is expedient to repeal the Ordinances now in force respecting the licensing of Boats and Boatmen, and to make other provision in lieu thereof: 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:—

Short title

1. This Act may be cited for all purposes as 'The Boat Licensing Act, 1878.'

Repeal of 19 Vic.,
No. 15, 24 Vic.,
No. 9, 25 Vic.,
No. 12, sections
4-9, and 27 Vic.,
No. 8

2. From and after the thirty-first day of December, in the present year, the following Ordinances, or parts of Ordinances, shall be repealed (that is to say)—an Ordinance passed in the nineteenth year of the reign of Her present Majesty, and numbered fifteen; an Ordinance passed in the 24th year of the reign of Her present Majesty, and numbered nine; sections four to nine (both inclusive) of an Ordinance passed in the 25th year of the reign of Her present Majesty, and numbered twelve; and an Ordinance passed in the 27th year of the reign of Her present Majesty and numbered eight.

Interpretation.
'Boat'

3. The term 'boat,' as used in this Act, shall be construed to apply to any description of boat of a tonnage not exceeding two tons.

'Vessel'

The term 'vessel' shall apply to any description of boat, flat, barge, or vessel, other than a steamer, and of a tonnage exceeding two tons.

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- The term 'steamer' shall apply to any description of flat, barge, or vessel propelled wholly or partially by steam power. Steamer'
- The term 'coxswain' shall apply to the person taking charge of any boat. 'Coxswain'
- The term 'master' shall apply to the person taking charge of any vessel or steamer. 'Master'
- The term 'engine driver' shall apply to the person driving the engines of any steamer. 'Engineer'
4. Nothing in this Act contained shall apply to any boat, ship, vessel, or steamer making any coasting voyage within the meaning of 'The Colonial Passengers' Ordinance, 1861.' Act not to apply to coasting vessels
5. It shall be lawful for the Governor from time to time to appoint, by notice in the 'Government Gazette,' such persons as he may see fit to be members of a board for the granting of licenses under this Act, and to specify the limits within which any such board shall have jurisdiction; and he may at his pleasure also cancel any such appointment. Two members of any such board shall form a quorum to exercise all or any of the powers hereby vested in such board. Licensing Boards to be formed

Quorum
6. Any such board, assembled at any meeting, shall have power to grant licenses under this Act to boats, vessels, or steamers, to carry passengers or goods, or passengers and goods; and it shall be lawful for any such board to make such examination of any boat, vessel, or steamer, for which a license is applied for, as they may see fit, and to have any such boat, vessel, or steamer surveyed, both as to her hull and as to her gear, tackle, engines, boilers, and otherwise, and to charge the owner of such boat, vessel, or steamer with the cost of such survey, and in case of non-payment to recover the same against him as a penalty; and to refuse a license for any boat, vessel, or steamer altogether, if in their judgment it shall appear unsafe or unsound in any material particular, or if its gear, tackle, engine, boilers, or other fittings appear to them to be anywise unsound or incomplete; or to grant a license to any boat, vessel, or steamer, with or without restrictions as to the waters over which the same may ply. Provided, nevertheless, that the amount that may be recovered from any owner for the cost of any such survey as aforesaid shall in no one case exceed the fees set forth in Schedule B to this Act. Licensing Boards to grant licenses to boats, vessels, and steamers
7. It shall also be lawful for any such board as aforesaid to grant licenses to coxswains, masters, and engine drivers, having previously satisfied themselves, both as to the general respectability and trustworthiness of the persons applying for the same, and as to their nautical skill and general ability to manage a boat or vessel or to drive engines (as the case may be); And it shall be lawful for any board to refuse a license to any person whom they shall consider unfit to hold the same. Boards may grant licenses to coxswains, masters, and engineers
8. Every license granted as aforesaid for any boat, vessel, steamer, coxswain, master, or engine driver shall be in the appropriate form among those set forth in Schedule A to this Act (or to the like effect), and the board granting the same shall specify the various particulars License to be in form given in Schedule

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Duration of license	indicated in the said form ; and any boat, vessel, steamer, coxswain, master, or engine driver shall be deemed to be licensed only according to the tenor and effect of the license granted. Every license granted as aforesaid to any boat, vessel, or steamer shall be in force until the thirty-first day of December next following the date from which the said license shall commence ; and every license granted to any coxswain, master, or engine driver shall remain in force until the same is cancelled pursuant to the provisions of this Act. The owner of every boat, vessel, or steamer shall pay for such license the fee set forth in Schedule B to this Act ; provided, always, that if the license be made to commence after the thirtieth day of June in any year, only half the fee otherwise payable shall be paid. All fees payable as aforesaid shall be paid into the Treasury, and shall form part of the public revenue of the Colony.
Fees for same	
Owner of unlicensed boat, vessel, or steamer plying for hire to be fined	9. The master and the owner of any boat, vessel, or steamer, who, after the thirty-first day of December next, shall employ the same or cause it to be employed in conveying any goods or passengers for reward on any of the waters of this Colony, without having a license for the same under this Act, or contrary to the tenor and effect of its license or to the restrictions (if any) contained in the same, or without having in the case of a boat a duly licensed coxswain, in the case of a vessel a duly licensed master, and in the case of a steamer a duly licensed master and a duly licensed engine driver, in charge of the same, shall severally be guilty of an offence, and on conviction thereof shall forfeit and pay any sum not exceeding Ten pounds.
Unlicensed person acting as coxswain, master, or engineer to be fined	10. Any person acting as a coxswain, master, or engine driver of any boat, vessel, or steamer employed as aforesaid, after the thirty-first day of December next, without being duly licensed as such as hereinbefore mentioned, shall be guilty of an offence, and being convicted thereof shall forfeit and pay any sum not exceeding Ten pounds.
Boat or steamer to have name of owner, &c., painted or cut	11. Every boat licensed under this Act shall have the name in full, and the place of abode of the owner thereof, legibly painted or cut in letters not less than one inch in length, on the inner side of the gunwale of the stern sheets thereof, and the number of its license painted or cut in figures of a like size upon the inside of the gunwale of the foresheets thereof ; also the amount of weight or measurement and number of passengers which it may be licensed to carry ; every licensed vessel or steamer shall have its name painted on the outside of the stern, in letters of not less than two inches in length, and the place of abode of the owner, the number of the license, and the amount of weight in measurement, and number of passengers as aforesaid, shall be painted or cut in some place where it may be legible to persons travelling on board the same. The owner and the person in charge of any licensed boat, vessel, or steamer that shall be found plying or conveying goods or passengers for hire, without such name and other matters painted or cut as aforesaid, shall, on conviction, severally forfeit and pay any sum not exceeding Forty shillings.
Lists of licenses to be published	12. Each licensing board shall from time to time publish a list of all licenses granted by them under this Act to boats, vessels, and

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steamers, by advertising the same in the 'Government Gazette,' and by affixing the same to the door of the courthouse or police station of the district within which such board has jurisdiction; and such list shall specify the name of each such boat, vessel, or steamer, the name and address of the owner, the number of the license, the amount of freight or passengers which any such boat, vessel, or steamer is licensed to carry, and the restrictions (if any) as to the waters over which it may ply. Each board shall also keep a register book, in which they shall enter the names in full of all coxswains, masters, and engine drivers licensed by them.

13. Every steamer conveying passengers on any of the waters of the Colony shall carry on board or tow astern a suitable boat, of such size, material, and build, and kept in such a manner as shall be directed from time to time by any regulation made by the licensing board having jurisdiction over such waters as hereinafter mentioned; and such boat shall be kept seaworthy and properly supplied with all requisites, and at all times kept clear for immediate use; and such steamer as aforesaid shall also carry at least one life buoy on each quarter, so secured as to be ready for immediate use. The owner and master of any steamer who shall neglect to comply with these provisions, shall, each of them, on conviction before any Justices of the Peace, forfeit and pay any sum not exceeding Five pounds.

Steamers to carry a boat and life buoys

14. Every licensing board shall make and issue a regulation under their hands, and publish the same in the 'Government Gazette,' defining the dimensions, build, and material of such boat, and containing directions as to the particular part of any steamer, where and the manner in which the same shall be kept ready for immediate use. Provided that such regulation shall not be in force until it is approved of by the Governor.

Licensing Board to make regulations

15. It shall be lawful for any licensing board at all times, either personally or by some person or persons duly authorised by them in writing in that behalf, to inspect any licensed boat, vessel, or steamer, and the gear, masts, sails, rigging, engines, boilers, and all furniture whatsoever thereof; and if such board from its own examination or from the report of the person authorised as aforesaid shall be satisfied that the said boat, vessel, or steamer, or any part of the gear or equipments thereof as aforesaid, are not in good and serviceable repair, it shall be lawful for such board either to suspend the license of such boat, vessel, or steamer altogether, or to endorse upon the same such restriction as to them may seem advisable, until such boat, vessel, or steamer, its gear or equipments, be fully and properly repaired or altered to the satisfaction of such board; such suspension or restriction shall be effected by the members of the board giving written notice thereof to the owner or some person in charge of such boat, vessel, or steamer, and the license of such boat, vessel, or steamer shall thereupon remain suspended or subject to restriction as aforesaid until the said boat, vessel, or steamer, or its gear or equipments as aforesaid, shall have been properly repaired or altered to the satisfaction of the said board, and the said board shall have thereupon in writing declared the suspension or restriction withdrawn.

Power to Board from time to time to inspect boats, &c., and to suspend licenses

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No boat or steamer to carry more than specified quantity of goods or number of passengers

16. It shall be in the discretion of the licensing board in each case to fix the number of passengers and the quantity of goods which any licensed boat, vessel, or steamer shall be licensed to carry. If any licensed boat, vessel, or steamer shall, on any occasion, carry any greater quantity of goods or number of passengers than that mentioned in its license, or shall so carry any quantity of goods and number of passengers which, taken together, and estimated according to the scale hereinafter mentioned in that behalf, would exceed the tonnage which such boat, vessel, or steamer is licensed to carry, or shall, on any occasion, carry passengers with less than one-eighth part of her tonnage when at sea, or less than one-twelfth part of her tonnage when not at sea, in ballast or other dead weight, the owner of such boat, vessel, or steamer shall, upon conviction of such offence, forfeit and pay any sum not exceeding Five pounds. Provided, that no infant under two years of age shall count as a passenger under this section, and two children under ten years of age shall, together, count as one passenger; for the purpose of this section, in estimating a mixed cargo of goods and passengers, one passenger shall be deemed to bear the same proportion to a ton of goods, as the number of passengers which any boat, vessel, or steamer is licensed to carry, bears to the number of tons of goods which she is licensed to carry.

Penalty for abuse or delay

17. If any coxswain, master, or engine driver, or any of the crew of any licensed boat, vessel, or steamer carrying goods or passengers for hire, be found guilty, on complaint before any Justice, of overloading such boat, vessel, or steamer, or of drunkenness, abuse, or violence during the passage, or of wanton and vexatious delay in or before the commencing such passage, or during the passage, it shall be lawful for such Justice to inflict a fine not exceeding Five pounds; and, on any such conviction taking place, it shall be lawful for the licensing board of the district where such conviction takes place, to cancel or suspend the license of such coxswain, master, or engine driver; and any coxswain, master, or engine driver whose license shall be so cancelled or suspended, who shall continue to act as such after such sentence or during such period of suspension, shall be deemed and taken to be plying without a license, and be subject to the penalty hereinbefore mentioned in section nine of this Act.

License may be forfeited

All wearing apparel and luggage left by any passenger in any licensed boat to be conveyed to owner or nearest police office

18. If any wearing apparel, luggage, or other personal property be left by any passenger in any licensed boat, vessel, or steamer without special instructions concerning the same, such articles shall, with all convenient speed, be conveyed by the coxswain or master of such boat, vessel, or steamer to the owner of such property, if known, or if unknown, to the nearest police office, and shall be delivered to the officer or person in charge thereof for the time being, who shall thereupon enter into a book, to be kept for that purpose, the number and description of the articles so delivered, and the name of the person who delivered the same, and also the date of such delivery; and all such articles shall thereupon remain in the custody of the police, until they shall be claimed by the persons entitled to receive the same respectively; and every coxswain or master of any licensed boat, vessel, or steamer who shall not comply with the requisitions of this section, shall, upon conviction of every such offence, forfeit and pay any sum not exceeding Ten pounds. Provided always, that any master,

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coxswain, or other person on his behalf making such delivery as aforesaid, shall be entitled to demand and recover from the owner of the property so delivered reasonable compensation for his trouble and loss of time.

19. Any person for the time being in charge of any licensed boat, vessel, or steamer, or any of the crew of such boat, vessel, or steamer carrying goods or passengers for hire, who by any wilful breach of duty, or by neglect of duty, or by reason of drunkenness, does any act tending to the immediate loss, destruction, or serious damage of such licensed boat, vessel, or steamer, or tending immediately to endanger the life or limb of any person belonging to or on board thereof, or who by wilful breach of duty, or by neglect of duty, or by reason of drunkenness, refuses or neglects to do any lawful act proper and requisite to be done by him for preserving such boat, vessel, or steamer from immediate loss, destruction, or serious damage, or for preserving any person belonging to or on board such boat, vessel, or steamer from immediate danger to life or limb, shall for each such offence be deemed guilty of a misdemeanour, and shall, upon conviction thereof, be punishable with fine and imprisonment, with or without hard labour, for a term not exceeding six months, or both, as the Court before which the offender shall be tried may think fit.

If any person in charge of any licensed boat, by wilful breach or neglect of duty, does any act tending to the immediate loss, &c., shall be guilty of a misdemeanour, and be punishable with fine or imprisonment, &c., or both

20. It shall be lawful for any member of any licensing board, or for any person employed in the land or water police, to board every boat, vessel, or steamer, and demand inspection of the license thereof; and the owner or person in charge of any boat, vessel, or steamer, who refuses to produce such license for inspection, shall forfeit and pay any sum not exceeding Five pounds.

Member of licensing board or police force may search

21. It shall be lawful for the Governor from time to time, with the advice of the Executive Council, to frame, regulate, and fix, by a table or tables for that purpose to be made, lists of fares and rates to be taken by the owners of all licensed boats for conveying passengers in the different ports, harbours, rivers, and other waters within the Colony, or any one or more of them, and to fix and regulate the distance to which such licensed boats shall be liable to go, and to vary and alter the same from time to time, and other fares and rates to fix and establish in lieu thereof; and such lists shall be published from time to time on the door of the Court house of the district to which the same shall be applicable; and each licensed coxswain plying within such district shall have and keep a copy of the same, and no passenger shall be liable to pay any fare in respect of his passage on any boat, until the person in charge of such boat has allowed him inspection of such copy.

Governor and Executive Council to establish fares to be charged by boatmen

22. Any and every person in charge of any licensed boat who shall demand and receive from any person or persons any higher rate or fare than shall be regulated and fixed as hereby provided, or shall refuse to employ his boat when thereunto required between the hours of sunrise and sunset (unless he be then actually hired by some other person, or unless the state of the weather shall render it dangerous for him to do so), shall be liable on conviction before any Justice of the Peace to the penalty of any sum not exceeding Five pounds.

Penalty for demanding more than allowed in lists of fares, &c.

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Distance to be determined by Justices

23. If any complaint shall be brought before any Justice of the Peace touching the distance for which any person in charge of any licensed boat may be entitled to charge, such distance shall be determined by such Justice as incident to the cause; and any necessary expenses which the said Justice may think fit to incur for ascertaining the same shall be paid as costs by the party against whom a decision shall be given by such Justice.

Conveying spirits to seamen on board ship; £5 penalty

24. If any person or persons shall convey, deliver, or supply, or cause to be conveyed, delivered, or supplied, to any person or persons on board any ship lying at anchor in any harbour or roadstead of the Colony, any spirituous or fermented liquor, or any liquor part whereof is spirituous or fermented, unless with the consent of the master of such ship, such master, boatman, or other person or persons shall, for every such offence, forfeit and pay a sum not exceeding Five pounds.

Onus of proof

25. In all proceedings under this Act the onus of proof of any license shall lie on the defendant.

Incorporation of Shortening Ordinance

26. Sections A, B, F, and J of 'The Shortening Ordinance, 1853,' shall be deemed to be incorporated with and to form part of this Act.

H. ST. GEORGE ORD,
GOVERNOR.

SCHEDULE A

No. 1

FORM OF LICENSE FOR BOAT, VESSEL, OR STEAMER

(Fremantle) Licensing Board

No. 187

WE certify that the (boat, vessel, or steamer) 'Nymph,' tons, of belonging to of is licensed under 'The Boat Licensing Act, 1878,' to carry (*here insert whether goods or passengers, or passengers and goods*) on the conditions set forth below from the date hereof until the 31st December next (both inclusive), for which license the said has paid the sum of pounds.

Number of passengers (inclusive of crew) not to exceed

Goods not to exceed tons.

(If there are restrictions as to the waters over which the vessel may ply, here state them.)

Given under our hands this day of 187

A.B. }
C.D. } Members of (Fremantle) Licensing Board.

No. 2

FORM OF LICENSE OF COXSWAIN, MASTER, OR ENGINEER

(Fremantle) Licensing Board

No.

WE certify that of is licensed as a under 'The Boat Licensing Act, 1878.'

Given under our hands this day of 187

A.B. }
C.D. } Members of (Fremantle) Licensing Board.

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SCHEDULE B

SCALE OF GRADUATED CHARGES FOR LICENSES

	£	s.	d.
For every boat	0	10	0
For every vessel or steamer not exceeding five tons	1	0	0
Ditto above five and not exceeding fifteen tons	1	10	0
Ditto upwards of fifteen tons.	2	0	0

SCALE OF CHARGES FOR SURVEYS

For surveying the hull and gear of any boat, vessel, or steamer	1	1	0
For surveying the boiler, engine, or machinery of any steamer	2	2	0
