

WESTERN AUSTRALIA

ANNO QUADRAGESIMO OCTAVO

VICTORIÆ REGINÆ

No. 25

An Act to provide for the Registration of certain Persons who shall be imported into Western Australia or employed in any manner within the Territorial Dominion thereof, and for certain other matters in connection therewith.

[Reserved 13th September, 1884.

[Royal Assent proclaimed 20th May, 1885.

WHEREAS it is expedient that a Register should be kept of all persons, natives of India, China, Africa, and of the islands in the Indian and Pacific Oceans, and the Malayan Archipelago, who shall be imported into Western Australia or employed in any manner within its Territorial Dominion; And whereas it is also expedient to prevent the importation of old and sickly persons, and to make due provision for the welfare and comfort of all such persons as shall be imported: 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:—

*See 53 Vic., No. 3,
s. 5, and 57 Vic.,
No. 32, s. 3*

1. 'The Imported Labor Registry Act, 1882,' is hereby repealed. Provided that this repeal shall not affect the validity or invalidity of any contract made, or of any act done or suffered, or of any proceeding commenced, nor any penalty, forfeiture, or punishment incurred in

*Repeal of
46 Vic., No. 21*

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respect of any offence committed against the said repealed Act before the commencement of this Act.

Short title

2. This Act may be cited for all purposes as 'The Imported Labor Registry Act, 1884.'

Interpretation
of terms
See 50 Vic.,
No. 13, s. 12

3. In this Act, unless the context otherwise requires,—

'Laborer' means any person apparently a native of India, China, Africa, or of the islands of the Indian or Pacific Oceans, or of the Malayan Archipelago, and brought into the Colony as a laborer or servant, or for any other similar employment.

'Employer' includes every person at whose request or on whose behalf a laborer is brought into the Colony, and every person employing a laborer within the Colony, and the agent of any such person.

'Vessel' includes any ship or boat.

'Master' includes any person for the time being in command or charge of a vessel.

'Magistrate' means a Government Resident, or a Resident Magistrate, or a Police Magistrate, or any person lawfully acting as such, but it does not include any other Justice of the Peace.

No laborer to
be imported
unless a contract
has been
previously made

4. No laborer shall be imported or brought into the Colony of Western Australia unless a contract, as hereinafter provided for, shall have been previously entered into with such laborer, and every person who shall bring or import a laborer into the Colony contrary to this provision of the Act shall be liable to a penalty of not less than Ten pounds and not exceeding Twenty pounds for every laborer so brought or imported.

Place where such
contract shall be
made

5. Every such contract shall be entered into with the laborer, by the employer or his agent, previously to the shipment of the laborer, at the port or place of his shipment.

Requisites and
form of such
contract

6. The said contract shall be in writing signed or marked by the employer or his agent and by the laborer, and it shall specify the nature of the employment, the period of the service (which shall not exceed three years), the amount of wages, the times of payment thereof, and that rations be supplied, substantial, sufficient, and suitable for the laborer. The contract shall also contain stipulations by the employer that the laborer shall be provided with fit and proper lodging during the period of his engagement, and that he shall be returned to the port or place of his shipment, at the expense of the employer, at the end of the period of service; and that medical attendance shall be provided by the employer, at his expense, for the laborer when practicable and necessary, unless the illness of the laborer shall have been caused by his own improper act or fault. Provided, however, that the absence of the stipulation as to the return of the laborer to the place of his shipment as aforesaid shall not invalidate any contract bearing the written approval of any British authority, or of any authority of an European Government of the country where the contract has been made, if such European Government shall have been designated by

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the Governor in a notice published in the 'Government Gazette.' The said contract may be in the Form A in the Schedule hereto.

7. The master of every vessel which shall arrive at any port or place of landing within the Colony, having on board any laborer or laborers as aforesaid, shall, as soon as possible after arrival, give to the principal officer of Customs or of Police, or other officer authorised by the Governor in that behalf at or nearest to the said port or place of landing, a complete list of all such laborers, containing the particulars hereinafter provided for.

List of imported laborers to be given before landing

8. Such list shall contain the name, sex, apparent age, place of birth, place of last residence, place and date of shipment, calling or occupation, and intended place of residence and employment of each laborer, and the name, residence, and description of his employer. The said list may be in the Form B in the Schedule hereto.

Requisites and form of such list

9. The master of any vessel who shall knowingly give to the said officer a list which shall be false in any of the particulars aforesaid shall be liable to a penalty of not less than Two pounds and not exceeding Twenty pounds for every laborer in respect of whom there shall be any false particular in such list.

Penalty for giving a false list

10. The master of every vessel arriving with laborers on board as aforesaid shall also, as soon as possible after arrival, give to the officer aforesaid a medical certificate in respect of each of such laborers certifying as to his apparent age and that he is free from disease and of a sound constitution.

Medical certificate to be also given

11. The said medical certificate may be signed at the port or place of shipment of such laborer by a person authorised to practise as a physician or surgeon by any law in force in any of Her Majesty's Dominions or by any licensed or recognised school of medicine, or it may be signed at the port or place of landing of such laborer by a Government medical officer. Such certificate may be in the Form C in the Schedule hereto.

Requisites and form of medical certificate

12. No laborer shall be landed from any vessel or employed within the Colony until the master of the vessel shall have given to the Officer of Customs or Police, or other officer as aforesaid, a list containing all the particulars of such laborer, and a medical certificate in respect of such laborer, as hereinbefore provided for; and every master or other person who shall knowingly land any laborer within the Colony, contrary to the provisions of this section, shall be liable to a penalty not less than Two pounds and not exceeding Twenty pounds for every laborer so landed. No laborer shall be landed, in the first instance, except at a port which is a regularly appointed seat of magistracy, or which has been notified by the Governor in the 'Government Gazette' to be a place where laborers may be landed within the Colony under this Act.

Penalty for landing a laborer before giving such list and medical certificate

13. Within fourteen days after the landing of any laborer within the Colony, or within such extended time as to the Magistrate in his discretion may seem necessary and proper, the employer or his agent and the laborer shall go before the Magistrate of the port of landing, and the employer or his agent shall produce the contract entered into between the parties as aforesaid, and the employer shall prove to the

Verification of contract before a magistrate

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satisfaction of the Magistrate that the contract has been explained to, and freely and voluntarily entered into by the laborer, and that it is understood by him; provided that the fact of any contract having been entered into before and signed by a British or Dutch authority, or any authority of an European Government designated as aforesaid, of the country where the contract has been made, shall be *prima facie* evidence that such contract has been explained to and freely and voluntarily entered into and understood by the laborer.

Counter-signature and registration of contract

14. If the Magistrate shall be satisfied as aforesaid, he shall in the case of a contract entered into before and bearing the written approval of a British or Dutch authority, or of any authority of an European Government designated as aforesaid, countersign such contract and deliver it to the employer or his agent, and it shall thenceforth be deemed to be a valid contract under this Act between the employer and the laborer, and a duplicate copy of such contract, signed or marked and countersigned as aforesaid, shall be given by the employer or his agent to the Magistrate, and shall be filed by him in the office of his Court, and the Magistrate shall cause the particulars of every such contract to be entered in a book to be kept in his office and to be called 'The Imported Labor Registry Book.' In the case of any such contract not entered into before and bearing the written approval of a British or Dutch authority, or of any authority of an European Government designated as aforesaid, if the Magistrate shall not be satisfied that the contract has been explained to and freely and voluntarily entered into by the laborer, and that it was fully understood by him, or if any of the provisions of the contract shall appear to the Magistrate to be harsh or unfair to the laborer, it shall be competent to the said Magistrate, at his discretion, to amend the contract, or to annul it, and to further order that the laborer be returned to the place of his shipment by the Government at reasonable expense, which the employer shall defray. Provided that if any employer or his agent shall be proved to the satisfaction of the Magistrate to have brought laborers to the Colony by the use of force or fraud he shall be subject, in addition to any penalty otherwise provided, to a penalty of Fifty pounds in respect of each laborer so brought.

Rescission of contract by mutual consent

15. Any contract made under this Act may, at any time after the counter-signature thereof as aforesaid, be rescinded or amended by mutual consent of the parties thereto, in the presence of a Magistrate, provided that the employer shall produce the copy of the contract retained by him, and the Magistrate, upon being satisfied that the parties to the contract both wish to rescind or amend the same, and that such rescission or amendment is not to the prejudice of the laborer, shall destroy or amend the copy so produced to him as aforesaid, and shall make and sign a memorandum of such rescission or amendment, and of the date thereof, on the duplicate copy of the contract, which shall remain filed in the office of his Court, and he shall also cause a note of such rescission or amendment, with the date thereof, to be entered against the particulars of the contract in the aforesaid book.

Requisites and form of subsequent contracts

16. After the termination of any contract under this Act whether by rescission, by effluxion of time, or otherwise, a new or subsequent contract may be entered into by any employer with a laborer, provided

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that such contract shall be in writing and shall contain all the terms and stipulations of the original contract as hereinbefore provided for, excepting only the stipulation as to the return of the laborer to the port of his shipment at the expense of the employer, which may be omitted from such subsequent contract; and provided that such subsequent contract shall be explained to the laborer and signed or marked by the employer and laborer in the presence of a disinterested witness: Provided also that a copy of every such new or subsequent contract shall be forwarded by the employer to the Magistrate of the district within which such contract is made within three months from the making thereof to be by the said Magistrate filed and dealt with as aforesaid, and any employer omitting to forward a copy of such a contract as aforesaid shall be liable, upon conviction, to a penalty for every such offence not exceeding Five pounds.

17. Every person who shall employ any laborer within two years of the arrival of such laborer in the Colony, without having first entered into a valid contract under this Act with such laborer, shall be liable to a penalty of not less than Five pounds, and not more than Twenty pounds, for every laborer so employed, and every contract with a laborer after the commencement of this Act, not duly made according to this Act within the aforesaid time, shall be null and void. Provided that every contract between an employer and laborer existing at the time of the passing of this Act, which shall have been duly entered into before and approved in writing by a British authority or by any authority of an European Government of the country where such contract shall have been made, shall be considered as valid under this Act, notwithstanding that such contract shall not have been made in accordance with all the provisions of 'The Imported Labor Registry Act, 1882,' if such contract shall be in other respects valid.

Penalty for employing a laborer without having a valid contract

18. All contracts under this Act are to be subject to the provisions of an Act, passed in the Sixth year of Her Majesty, No. 5, intituled 'An Act to provide a summary remedy in certain cases of Breach of Contract,' and of 'The Masters and Servants Amendment Ordinance, 1868,' and of 'The Masters and Servants Amendment Act, 1882.' And upon conviction of any laborer, or upon order made against any employer, under the provisions of the first mentioned Act, it shall be lawful for the convicting Magistrate, Justice or Justices to rescind the contract with such laborer; and such Magistrate, Justice or Justices shall forthwith cause a note of such rescission to be transmitted to the Magistrate having custody of the book in which the said contract is registered, who shall cause a note of such rescission, with the date thereof, to be entered therein. Provided that no such contract shall be rescinded as aforesaid, unless with the consent of the non-offending party.

Contracts to be subject to the Masters and Servants Acts
See 50 Vic., No. 20

19. The employer for the time being of any laborer within the Colony, whenever requested thereto by any officer of Customs or of Police, or other officer, having and producing a written authority signed by a Magistrate or Justice of the Peace, and authorising such officer to make the above request, shall at the place of occupation of such laborer produce such laborer to such officer, or to the said Magistrate or Justice, at all reasonable times. If any employer shall fail to produce a laborer when requested as aforesaid, he shall be liable to a penalty of not less than Two pounds and not exceeding Ten pounds

Production of laborer when required

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for every such default, unless he shall prove, to the satisfaction of the Magistrate or Justice or Justices before whom the case shall be heard, that there was some reasonable ground or excuse for the non-production of such laborer as aforesaid. Provided that this section shall not apply to any laborer who shall have resided within the Colony for a period exceeding two years.

Offences
summarily
punishable

20. All offences under this Act made punishable by any penalty, shall be summarily punishable upon conviction before a Magistrate or a Justice or Justices of the Peace according to the provisions of the Acts in that behalf.

Forgery of con-
tracts or medical
certificates

21. Every person who shall forge, or alter, or who shall produce or make use of knowing the same to be forged or altered, with intent to defraud, any contract or medical certificate as aforesaid, shall be guilty of felony, and being convicted thereof shall be liable to be kept in penal servitude for any term not exceeding five nor less than three years, or to be imprisoned with or without hard labour for any term not exceeding two years.

Appeal from
summary
convictions and
orders

22. If any person shall feel himself aggrieved by any conviction or order of a Magistrate, Justice or Justices under this Act, such person may appeal from such conviction or order to the Supreme Court. Provided, always, that it shall be a condition precedent to the right of appeal that notice of such appeal shall be given to such Magistrate, Justice or Justices within three weeks after such conviction or order, and that the appellant shall within the same time give security for the payment of the costs of such appeal in the event of the appeal being unsuccessful, in such a sum as to the said Magistrate, Justice or Justices may seem meet, and that such appeal shall be entered for hearing within three months after such conviction or order; and upon such notice and security being given all proceedings upon such conviction or order shall be stayed until the hearing of the appeal, and the appellant, if in custody, shall be liberated upon recognizance, with or without surety or sureties, and in such sum as to the convicting Magistrate, Justice or Justices may seem meet conditional for his appearance before the same Magistrate, Justice or Justices, or some other Magistrate, Justice or Justices sitting at the place where such conviction or order was made, within ten days after the judgment of the Supreme Court upon such appeal shall have been given, to abide such judgment, unless the conviction or order appealed against be reversed.

Certain sections
of 16 Vic., No. 11,
incorporated

23. Sections A, E, G, and H of 'The Shortening Ordinance, 1853,' shall be incorporated with and 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.

Application of
Act

24. The provisions of this Act shall not apply to any laborer who shall be employed in any vessel which shall merely pass through the waters of the territorial dominion of Western Australia, or touch at any port or place within the same, in the course of a voyage from or to parts beyond the said dominion, nor to any laborer employed as a seaman on any colonial ship or vessel engaged in the coasting trade of the Colony within the meaning of the Acts in that behalf. Save as aforesaid, this Act shall apply to all laborers employed within any part of the territorial dominions of the Colony.

F. NAPIER BROOME,
GOVERNOR.

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SCHEDULE

FORM A

Date

Memorandum of Agreement made this day between A.B. of _____ of the first part, and C., a native of _____ per ship _____ of the second part. The conditions are that the said C. engages to serve the said A.B. as a _____ and otherwise to make himself generally useful to the said A.B. within the Colony of Western Australia for the term of _____ and also to obey all the lawful and reasonable commands of the said A.B. or of the said A.B.'s overseer or authorised agent during the said period, in consideration of which services the said A.B. doth hereby agree to pay to the said C. wages at the rate of £ _____ per annum, to be paid in money at the end of _____ and to provide him with daily rations which shall be substantial, sufficient, and suitable for him, and with fit and proper lodging during the said term, and to defray the expense of the conveyance of the said C. to the place at which he is to be employed [*and to provide the said C. with a free passage to _____ at the expiration of the said term of _____]. Medical attendance shall be provided by the employer at his expense, when necessary and practicable, unless the illness of the laborer shall have been caused by his own improper act or fault.

In witness whereof they have affixed their signatures (or marks) to this document.

The above agreement was explained to the said C. in my presence, and was signed before me by the within mentioned A.B. and C., with their names (or marks) at _____ the _____ day of _____ 188 _____.
(Signed)

* *The words in brackets may be omitted in the case of every first contract bearing the approval in writing of any British authority or of any authority of an European Government of the country where the contract has been made, provided that such European Government shall have been designated by the Governor in a notice published in the 'Government Gazette,' and in the case of every contract subsequent to the first contract made by any laborer.*

FORM B

List of persons on board the Vessel (*Name of Ship*) whereof is Master (*Name of Master*) having on board at (*Name of Place*), in Western Australia, the following persons, apparently natives of India, China, Africa, or of the Islands in the Indian or Pacific Oceans, or of the Malayan Archipelago, and imported into the Colony as laborers or servants.

Name	Sex	Apparent age	Place of Birth	Last place of Residence	Place where Shipped and date of shipment	Calling or Occupation	Intended place of residence	Intended employment	Name, residence, and description of employer

NOTE.—No person to be landed until a List and a Medical Certificate for each person have been given to the Officer of Customs or Police, or other Officer authorised in that behalf, under a penalty of from £2 to £20 for every person so landed. Penalties will also be inflicted if a list false in any particular be given.

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FORM C

Medical Certificate

I hereby certify that I have this day examined (*name of the laborer examined*)
being of the apparent age of _____ years, and that I find him to be free from
disease and of a sound constitution.

Signed (*name and medical qualification or
title of examining officer*).

Place of examination { _____ }
Date { _____ }
