

WESTERN AUSTRALIA

ANNO TRIGESIMO PRIMO

VICTORIÆ REGINÆ

No. 6

An Ordinance for the Protection of Her Majesty's Naval and Victualling Stores. [*Assented to 15th July, 1867.*]

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:—

1. This Ordinance may be cited as 'The Naval and Victualling Stores Ordinance, 1867.'

2. In this Ordinance—

The term 'the Admiralty' means the Lord High Admiral of the United Kingdom of Great Britain and Ireland or the Commissioners for executing the office of Lord High Admiral.

The term 'dealer in marine stores' means a person dealing in buying and selling anchors, cables, sails or old junk, old iron or marine stores of any description.

The term 'dealer in old metals' means any person dealing in buying and selling old metal, scrap metal, broken metal or part manufactured metal goods, or defaced or old metal goods, and whether such person deals in such articles only or together with second-hand goods or marine stores, and the term 'old metals' shall mean the said articles.

The term 'In Her Majesty's service' when applied to persons applies also to persons in the employment of the Admiralty. The term 'stores' includes any single store or article.

3. The marks described in the Schedule to this Ordinance may be applied in or on Her Majesty's naval and victualling stores to denote Her Majesty's property in stores so marked. It shall be lawful for the Admiralty, their contractors, officers and workmen to apply the said marks or any of them in or on any such stores as are described in the said Schedule. If any person without lawful authority (proof of which authority shall lie on the party accused) applies any of the said marks in or on any such stores he shall be guilty of a misdemeanour, and shall be liable to be imprisoned for any term not exceeding two years with or without hard labour.

4. If any person, with intent to conceal Her Majesty's property in any naval or victualling stores, takes out, destroys or obliterates wholly or in part any such mark as aforesaid, he shall be guilty of felony, and shall be liable in the discretion of the Court to be kept in penal servitude for any term not exceeding four years or be imprisoned for any term not exceeding two years, with or without hard labour and with or without solitary confinement.

Interpretation of terms

Marks in schedule appropriated for Her Majesty's naval and victualling stores

Imitation a misdemeanour

Obliterating with intent to conceal Her Majesty's property felony

Criminal Law

Knowingly receiving, &c., marked stores a misdemeanour

5. If any person without lawful authority (proof of which authority shall lie on the party accused) receives, possesses, keeps, sells or delivers any naval or victualling stores bearing any such marks as aforesaid, knowing them to bear such mark, he shall be guilty of a misdemeanour, and shall be liable to be imprisoned for any term not exceeding one year with or without hard labour.

Knowledge of stores being marked presumed against dealers, &c.

6. Where the person charged with such a misdemeanour as last aforesaid, was at the time at which the offence is charged to have been committed a dealer in marine stores, or a dealer in old metals, or in Her Majesty's service, knowledge on his part that the stores to which the charge relates bore such mark as aforesaid shall be presumed until the contrary is shown.

Offenders may be summarily convicted in certain cases

7. Any person charged with such a misdemeanour as last aforesaid in relation to stores the value of which does not exceed five pounds shall be liable on summary conviction before a Justice of the Peace to a penalty not exceeding twenty pounds, or in the discretion of the Justice, to be imprisoned for any term not exceeding six months, with or without hard labour.

Persons not dealers in marine stores, &c., found in possession of naval or victualling stores, and not satisfactorily accounting for the same, liable to penalty

8. In order to prevent a failure of justice in some cases by reason of the difficulty of proving knowledge of the fact that stores bore such mark as aforesaid,—If any naval or victualling stores bearing any such mark are found in the possession of any person not being a dealer in marine stores or a dealer in old metals, and not being in Her Majesty's service, and such person when taken or summoned before a Justice of the Peace does not satisfy the Justice that he came by the stores so found lawfully, he shall be liable on conviction by the Justice to a penalty not exceeding five pounds; and if any such person satisfies the Justice that he came by the stores so found lawfully, the Justice in his discretion, as the evidence given and the circumstances of the case require, may summon before him every person through whose hands such stores appear to have passed, and if any such person as last aforesaid who has had possession thereof does not satisfy the Justice that he came by the same lawfully, he shall be liable on conviction by the Justice to a penalty not exceeding five pounds.

Criminal possession explained

9. For the purposes of this Ordinance stores shall be deemed to be in the possession or keeping of any person if he knowingly has them in the actual possession or keeping of any other person, or in any house, building, lodging, apartment, field, or place, open or enclosed, whether occupied by himself or not, and whether the same are so had for his own use or benefit, or for the use or benefit of another.

No unauthorised person to creep, sweep, &c., within 100 yards of dockyard, &c.

10. It shall not be lawful for any person without permission in writing from the Governor, or from some person authorised by the Admiralty in that behalf, to creep, sweep, dredge, or otherwise search for stores in the sea or any tidal water within one hundred yards from any vessel belonging to Her Majesty, or in Her Majesty's service, or from any mooring place or anchoring place appropriated to such vessels, or from any moorings belonging to Her Majesty, or from any of Her Majesty's wharves, or dock, victualling, or steam factory yards. If any person acts in contravention of this provision he shall be liable on summary conviction before a Justice of the Peace, to a penalty not exceeding five pounds, or to be imprisoned for any term not exceeding three months, with or without hard labour.

Criminal Law

11. The following sections of the Act of the session of the Parliament of Great Britain and Ireland of the twenty-fourth and twenty-fifth years of Her Majesty, chapter ninety-six, adopted and directed to be applied in the administration of justice in the said Colony, by Ordinance of the Legislative Council No. 5 of 1866, intituled 'An Ordinance to consolidate and amend the Statute Laws and Ordinances relating to Criminal Offences,' shall be incorporated with this Ordinance, and shall for the purposes of this Ordinance, and so far as the same can be applied to the circumstances of the Colony, be read and applied as if they were herein enacted, namely, sections ninety-eight to one hundred, one hundred and three, one hundred and seven to one hundred and thirteen, and one hundred and sixteen to one hundred and nineteen, all inclusive; and for this purpose the expression 'this Act' when used in the said incorporated sections shall be taken to include the present Ordinance.

Sections 98, 99, 100, 103, 107-113, 116-119, of 24 & 25 Vic., cap. 96, incorporated with this Ordinance

12. It shall not be competent for any person, other than the Admiralty or some person on their behalf duly authorised by the Governor, to institute or carry on under this Ordinance any prosecution or proceeding for any offence.

None but Admiralty to prosecute

13. Notwithstanding anything in this or any other Ordinance, any pecuniary penalty or other money recovered under this Ordinance shall be paid or applied as the Admiralty, or the Governor acting on their behalf, shall direct.

Penalties to be applied under orders of Admiralty

14. Nothing in this Ordinance shall prevent any person from being prosecuted under this Ordinance or otherwise in any Court of record having criminal jurisdiction, for any indictable offence made punishable on summary conviction by this Ordinance, or prevent any person from being liable under any other Ordinance or otherwise to any other or higher penalty or punishment than is provided for any offence by this Ordinance, so that no person be punished twice for the same offence.

Not to prevent persons being prosecuted under this Ordinance for indictable offences

J. S. HAMPTON,
GOVERNOR AND COMMANDER-IN-CHIEF.

SCHEDULE

Marks appropriated for Her Majesty's use in or on Naval and Victualling Stores

Stores	Marks
Hempen cordage and wire rope . . .	White, black, or coloured worsted thread laid up with the yarns and the wire respectively
Canvas, fearnought, hammocks, and seamen's bags	A blue line in a serpentine form
Bunting	A double tape in the warp
Candles	Blue or red cotton thread in each wick, or wicks of red cotton
Timber, metal and other stores not before enumerated	A broad arrow