

# WESTERN AUSTRALIA.

ANNO SECUNDO

VICTORIÆ REGINÆ,

No. 7.

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## An Act to amend an Act for the Regulation of Pilotage and Shipping in the Harbours of Western Australia.

WHEREAS it has been found expedient to amend the Regulations heretofore established by the Act passed in the second year of the reign of His late Majesty King William the Fourth, intituled "*an Act for the regulation of Pilotage and Shipping in the harbours of Western Australia*;" 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, that it shall be lawful for the Governor, or officer administering the Government of this colony, to grant Licenses to persons duly qualified to act as Pilots for any of the Ports, Harbours, or Anchorages of this colony, and that every License so granted shall contain the name, age, stature, complexion, and place of abode of every such Pilot, and shall further certify for what port or anchorage he is qualified to act as Pilot.

Proper persons to be appointed by the Governor and licensed to act as Pilots.

II. AND be it further enacted, that the master in command of every ship or vessel, not being a vessel *bonâ fide* engaged in the

All vessels, excepting coasting vessels, arriving or departing, shall receive Pilots on board,

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coasting trade, arriving from parts beyond the sea, at or off any port or harbour in this colony wherein any Pilot shall have been appointed, for the purpose of entering any of the said ports or harbours, shall deliver and give in charge such ship or vessel to the licensed Pilot who shall first offer himself, or go alongside of such ship or vessel in order to conduct the same into port, and such Pilot shall, if required by such master or commander, produce his license to act as Pilot, as hereinbefore mentioned; and no master or commander of any such ship or vessel shall proceed to sea from any of the said ports or harbours, or quit his station or anchorage in any of the same in order to proceed to sea, without receiving on board some Pilot appointed as aforesaid, to conduct the said ship or vessel to sea; and if any ship or vessel shall enter any of the said Ports or Harbours, or shall attempt to proceed to sea, without having first applied to the Harbour Master, or having made the necessary signal for a Pilot, or after declining or refusing to receive on board thereof, some licensed Pilot as aforesaid, the master or person in command thereof, shall forfeit and pay a fine equal in amount to such sum as the pilotage of such ship or vessel would have amounted to if a Pilot had been received on board.

or, on declining to receive them, to pay a fine equal to the amount of pilotage.

Pilotage on vessels outward bound to be paid or secured in advance.

III. AND be it further enacted, that no Pilot as aforesaid shall be in any wise bound to conduct any ship or vessel to sea, until the full amount of the outward pilotage of such ship or vessel shall be first paid, or secured to be paid, to the satisfaction of such Pilot.

Pilots detained on board more than 48 hours to be paid 8s per day.

IV. AND be it further enacted, that every Pilot in charge of any ship or vessel in, or entering, or proceeding from any such port, who shall be detained on board any such ship or vessel for a period exceeding forty-eight hours, either on account of stress of weather or under quarantine, or by any act of the master of such ship or vessel, shall be entitled to demand and receive, over and above the pilotage charged under the provisions of this Act, the sum of eight shillings for each and every day he shall so remain on board such ship or vessel.

Pilot neglecting to take charge, or misconducting himself, to forfeit any sum not exceeding £10.

V. AND be it further enacted, that every Pilot licensed by virtue of this Act, who shall refuse, neglect, or delay to take charge of any ship or vessel, unless upon good and sufficient cause to justify such refusal, neglect, or delay, or who shall quit any ship or vessel, or decline the piloting thereof, after he has been engaged, or before the service shall have been performed for which he was hired, or shall by drunkenness render himself incapable of conducting any ship or vessel, or do any injury to the same, or to the tackle or furniture thereof, shall on conviction before any two or more Justices of the Peace, forfeit any sum not exceeding ten pounds.

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VI. AND be it further enacted, that the rates of Pilotage to be paid by all ships or vessels arriving at, or departing from any of the said ports or harbours, shall from time to time be fixed and published by the proclamation or order of the said Governor, or officer administering the Government, and in the meantime, until the publication of any such proclamation or order, such rates of Pilotage shall be charged according to the table numbered 1 in the schedule hereunto annexed.

Rates of pilotage to be fixed by proclamation from time to time, and in the meantime to be charged according to the table in the schedule.

VII. AND be it further enacted, that whenever any ship or vessel (not being a ship or vessel bonâ fide employed in the coasting trade from one port of Western Australia to another) shall arrive within any of the said ports or harbours, the Harbour Master of the port where such ship or vessel shall arrive, shall with due diligence, repair on board such ship or vessel, and shall appoint the place where every such ship or vessel shall cast anchor; and as often as the master or commander of any such ship or vessel shall be desirous of removing the same from one place of mooring or anchorage to another, such master or commander shall notify to the Harbour Master his desire, and the said Harbour Master shall with all convenient speed, go on board of such ship or vessel, and unless he shall see good and sufficient reason to the contrary, shall direct the removal thereof; and for every such service so performed, such Harbour Master shall be entitled to receive the several charges as the same are respectively inserted, described, and set forth in figures in the table to this Act annexed.

Duties of Harbour Master defined:

VIII. AND be it further enacted, that the master or commander of any ship or vessel which shall arrive in or off any port or harbour of this colony, shall as soon as reasonably possible after such ship or vessel be therein anchored, report his arrival at the office of the Collector or Sub-Collector of such port or harbour, and deliver to the said officer a muster roll of the ship's company, a descriptive list of his passengers, a sick list (if required), a manifest of his cargo, his clearance from the port last left by him, and all other such papers or documents as the said officer shall reasonably require to inspect; and shall at the same time enter into a bond, according to the form (numbered 2) in the said schedule, with one surety, to be approved of by the said officer, for the due observance of all and every the enactments herein contained.

Master to report his arrival to Collector;

particulars of such report;

and to exhibit papers, and to enter into a bond.

IX. AND be it further enacted, that if the master or commander of any ship or vessel arriving in any of the ports or harbours aforesaid, shall wilfully make an untrue report of any of the aforesaid particulars of his cargo and crew; or shall wilfully exhibit any false papers or documents relating thereto, every such master or com-

Masters wilfully making false report, or exhibiting false papers, subject to a penalty not exceeding £50.

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mander being thereof convicted, shall forfeit any sum not exceeding fifty pounds.

Masters suffering unauthorised persons to depart from the colony in their vessels deemed to have broken the conditions of their bonds, whether such sufferance be wilful or negligent. The fact of any unauthorised person being embarked on board a vessel about to sail to subject the Master to a penalty not exceeding £50.

X. AND be it further enacted, that if any person who shall not have obtained a certificate in the form (numbered 3) in the said schedule, shall be suffered to depart from the said colony in any ship or vessel, whether such sufferance shall be by the wilful act or by the negligence of the master or commander, officers, or crew of such vessel, or of any of them, such master or commander shall be deemed to have broken the condition of his aforesaid bond; and if the embarkation of any such unauthorised person as aforesaid for the apparent purpose of leaving the said colony shall be discovered before the departure of the vessel on board of which the same shall take place, the master or commander of such vessel shall, on summary conviction in manner hereinafter mentioned, forfeit any sum not exceeding fifty pounds.

No rubbish to be thrown out of vessels in harbour, under penalty not exceeding £50.

XI. AND be it further enacted, that if any person shall throw or cause to be thrown out of any ship, vessel, or boat, in any of the ports, harbours, or anchorages aforesaid, any ballast or rubbish of any description, into the water below high water mark, or shall remove or take away from any part of any port, harbour, or anchorage as aforesaid, any sand, stone, or ballast, without having first obtained from the Harbour Master of such port, harbour, or anchorage, his consent to remove the same from such part thereof, such person shall forfeit and pay any sum not exceeding fifty pounds, nor less than ten shillings.

Corpses of persons dying on board vessels in harbour to be brought on shore and buried; penalty not exceeding £20 for throwing such corpses overboard.

XII. AND be it further enacted, that the corpse of every person dying on board of any ship or vessel in any of the ports, harbours, or anchorages aforesaid, shall be carried on shore, and shall be interred in the lawful and accustomed burial ground of such port, harbour, or anchorage; and any master or commander who shall, in wilful violation of the provisions of this Act, throw or permit to be thrown overboard, any such corpse as aforesaid, shall forfeit and pay a sum not exceeding twenty pounds, nor less than five pounds.

No seaman to be arrested out of any ship in harbour for any debt less than £10.

XIII. AND be it further enacted, that no seaman forming part of the crew of any ship or vessel in any of the ports or harbours aforesaid, shall be arrested or taken out of such ship or vessel, notwithstanding the same may be about to sail from this colony, by virtue of any process issued out of any Civil Court of this colony on account of any debt, unless the person suing out such process shall first have made affidavit before the Judge or Commissioner of such Court, that the debt so due from such seaman amounts to the sum of ten pounds at least. Provided always, that the exemption from

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arrest hereinbefore contained, shall not extend to such persons as shall have engaged themselves while resident in this colony to serve on board any such ship or vessel as last aforesaid, so far as respects any debts, although less than ten pounds, by them contracted previously to such their engagement.

Exceptions as to persons resident in the colony hiring themselves to serve on board any ship.

XIV. AND be it further enacted, that if any master or commander, or any other person or persons whatsoever, on board of any ship or vessel being in or off any port, harbour, roadstead, or bay of this colony, shall oppose or obstruct the execution on board such ship or vessel of any search warrant, or other warrant, summons, writ of execution, or other process whatsoever of any Civil or Criminal Court, or of any Justice of the Peace of this colony, such master, commander, or other person or persons, being thereof convicted summarily in manner hereinafter mentioned, shall forfeit and pay any sum not exceeding fifty pounds, nor less than five pounds: but in case such opposition or obstruction shall appear to the Justice or Justices of the Peace before whom in the first instance information shall be laid, to be accompanied by any circumstances of aggravation, it shall be lawful for such Justice or Justices to commit the offender for trial at the next session of the Court of Quarter Sessions of the Peace, or to take sufficient bail for the appearance of such offender to take his trial at the said session, and in case such offender shall be thereat convicted of an aggravated act of such opposition or obstruction as aforesaid, he shall suffer such punishment by fine or imprisonment, or both, as to the said Court shall seem meet: provided that no such imprisonment shall exceed the term of six months, and no such last-mentioned fine shall exceed the sum of one hundred pounds.

Masters or any other person on board vessels in or off port opposing the execution of any legal process, civil or criminal, on board such vessel, subject to a penalty not exceeding £50, and in aggravated causes to indictment at Quarter Sessions, and to fine or imprisonment, or both.

XV. AND be it further enacted, that the master or commander of any ship or vessel arriving at any of the said ports or harbours shall deliver up to the officer of customs, or other person duly authorised, all public despatches, letters, and parcels addressed to the Governor, or any public officer of the Government, Post-office mails and letters, whether the same be in parcels or loose, upon such boarding officer or other authorised person signing a receipt for the same; and the master or commander of such ship or vessel shall repair to the Post-office so soon after his arrival as shall be practicable, and shall there subscribe the declaration required by a certain Act of Parliament passed in the 55th year of the reign of His late Majesty King George the Third, intituled "*an Act for granting certain rates on the Postage of Letters to and from Great Britain, the Cape of Good Hope, the Mauritius, and the East Indies, and for making certain regulations respecting the Postage of Ship Letters and of Letters in Great Britain,*" of his having delivered all such despatches,

Masters of vessels to deliver mails, &c.

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letters, parcels, and Post-office mails as aforesaid, intrusted to his charge, which declaration shall be produced by the said master to the officer of customs, on making his report to him; and any master or commander failing or neglecting to do so shall forfeit and pay the sum of twenty-five pounds, to be recovered in the manner hereinafter directed.

Persons not to remove or destroy buoys, beacons, &c.

XVI. AND be it further enacted, that if any person shall remove or wilfully injure, or destroy any buoy, beacon, or sea-mark used for the convenience of navigation, or for the preservation of vessels, every such person shall, on conviction before any two or more of Her Majesty's Justices of the Peace for the said colony, be liable to forfeit and pay any sum not less than ten pounds, nor more than fifty pounds; and any person who shall make fast any ship, vessel, boat, raft timber, or other article, to any such buoy, beacon, or sea-mark, as aforesaid, shall, on conviction before such Justices as aforesaid, forfeit and pay any sum not exceeding ten pounds, nor less than two pounds.

Mode of recovering fines and penalties, summary conviction before two Justices.

XVII. AND be it further enacted, that all fines and forfeitures under this Act shall be recovered by summary conviction before any two Justices of the Peace; and in case any such fine or forfeiture, together with costs of conviction, shall not be paid within the time mentioned by the order of the convicting Justices, it shall be lawful for such Justices to levy and raise the same by distress and sale of the goods and chattels of the offender, and in case such goods and chattels shall be found insufficient for that purpose, to commit the offender or offenders to prison, there to be kept to hard labour for any time not exceeding six calendar months, unless such fines and forfeitures, with the expenses of conviction, shall be sooner paid.

Right of appeal in certain cases.

XVIII. AND be it further enacted, that upon any such summary conviction as aforesaid, when the sum adjudged to be paid shall exceed five pounds, or the imprisonment adjudged shall exceed one calendar month, any person who shall think himself or herself aggrieved by such conviction may appeal therefrom to the next Court of Quarter Sessions, upon giving notice of such appeal at the time of conviction, and also upon giving sufficient security to the satisfaction of the convicting Justices for payment of the costs of such appeal, and for abiding the judgment of the Court thereupon; and the said Court of Quarter Sessions shall hear and determine the matter of such appeal, and shall make such order therein in affirmance or reversal of the conviction appealed from, with or without costs to either party, as to the Court shall seem meet; and for that purpose shall summon all necessary parties and witnesses, and may enforce their order by distress and sale of the goods and chattels of

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any person refusing or neglecting to pay any sum of money thereby ordered to be paid, or may imprison such person (as also all other persons wilfully disobeying their said order) for any term not exceeding six calendar months.

XIX. AND be it further enacted, that no conviction before any Justice or Justices under this Act, nor any Adjudication made on appeal therefrom, shall be quashed for want of form, or be removed by writ of certiorari or otherwise into the Supreme Court, and no warrant or commitment shall be held void by reason of any defect therein, provided it be therein alleged that the party has been convicted, and that there be good and valid conviction to sustain the same. No conviction nor adjudication to be quashed or want of form.

XX. AND be it further enacted, that it shall be lawful for the said Governor to direct that any such bond as aforesaid shall be put in suit against the master or commander executing the same, or his surety, or against both, for the benefit of any private person who shall find himself aggrieved by any act committed by such master or commander contrary to the provisions of this Act. Provided always, that no proceedings shall be taken on the said bond against the surety or sureties after the expiration of six months from the departure of the ship or vessel, by the master or commander of which ship or vessel the said bond was given. Bond to be given by Masters of vessels may be put in suit for the benefit of private parties by direction of the Governor.

XXI. AND be it further enacted, that any summary conviction under this Act, followed by payment of the fine or costs thereby imposed, shall be a bar to any proceedings on any such bond as aforesaid against the same person for the same offence. A summary conviction under this Act to be a bar to any proceedings on the bond aforesaid against the same person for the same offence.

XXII. AND be it further enacted, that all duties enjoined by this Act to be performed by, with or before the Collector or Sub-Collector, or other officer of Customs, shall and may be performed by, with or before the Collector, or Sub-Collector, or other officer of Revenue, until regular officer of Customs be appointed. All duties enjoined to be done by, with or before the Officer of Customs may be done by, with or before the Officer of Revenue.

XXIII. AND be it further enacted, that all fines, forfeitures, and penalties recovered under or by virtue of this Act shall be paid over to the Colonial Treasurer for the use of Her Majesty, her heirs and successors. Reservation of fines and penalties to the use of the Crown.

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Act to continue for two years. XXIV. AND be it further enacted, that this Act shall be and continue in force for two years from the date of the passing thereof.

JOHN HUTT,  
GOVERNOR AND COMMANDER-IN-CHIEF.

Passed the Legislative Council }  
the 1st day of May, 1839. }

WALKINSHAW COWAN,  
Clerk of the Council.

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**SCHEDULE REFERRED TO BY THE ANNEXED ACT.**

Form No. 1.

**RATES OF PILOTAGE**

*For Ships or Vessels into or out of Cockburn Sound, Princess Royal Harbour, or Oyster Harbour.*

Under 7 feet.	From 7 to 11 feet.	11	12	13	14	15	16	17	18	19	20	21 and upwards.
£2	3	4	4 10	5	5 10	6	6 10	7	7 10	8	10	10

**SHIFTING BERTH THEREIN.**

Under 7 feet.	From 7 to 11 feet.	11	12	13	14	15	16	17	18	19	20	21 and upwards.
£1	1 10	2	2 5	2 10	2 15	3	3 5	3 10	3 15	4	5	5

*Ships or Vessels into or out of Gage's Roads, Owen's Anchorage, King George's Sound, Kombana Bay (Leschenault), or the Anchorage in Flinders Bay, Auyusta; or for Removal from Gage's Roads to Owen's Anchorage, or the contrary.*

Under 7 feet.	From 7 to 11 feet.	11	12	13	14	15	16	17	18	19	20	21 and upwards.
£1 6 8	2	2 13 4	3	3 6 8	3 13 4	4	4 6 8	4 13 4	5	5 6 8	6 13 4	6 13 4

*Removal from Gage's Roads or Owen's Anchorage to Cockburn Sound, or the contrary.*

Under 7 feet.	From 7 to 11 feet.	11	12	13	14	15	16	17	18	19	20	21 and upwards.
£2	3	4	4 10	5	5 10	6	6 10	7	7 10	8	10	10

SCHEDULE, FORM No. 2.

*Bond to be entered into by the Master or Commander of every Ship or Vessel arriving in any of the Ports or Harbours of this Colony.*

KNOW all men by these presents, that we, A. B., master or commander of the ship \_\_\_\_\_; now lying in \_\_\_\_\_, in the colony of Western Australia, and C. D., of \_\_\_\_\_ in the said colony, are held and firmly bound to E. F., Collector of Customs of the aforesaid port, in the sum of one hundred pounds of lawful money current in this colony, to be paid to the said E. F., or his certain attorney, or his successor for the time being in his said office, for which payment, well and truly to be made, we jointly and severally bind ourselves, our executors and administrators, firmly by these presents.

Sealed with our seals and dated the \_\_\_\_\_ day of \_\_\_\_\_

The condition of the above written bond is such, that if the said A. B. do well and truly observe and obey all and every the requisitions and prohibitions (relative to the conduct of masters and commanders of merchant ships in or off any of the ports or harbours of the said colony) contained in a certain Act of Council, passed on the first day of May, 1839, intituled an "Act to amend an Act for the regulation of Pilotage and Shipping in the Harbours of Western Australia," then this bond shall be null and void, but otherwise shall be in full force and effect.

A. B.

C. D.

Signed, sealed, and delivered by the above named  
A. B. and C. D., in the presence of

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*Form of Certificate to be obtained from the Colonial Secretary or Government Resident, and from the Registrar Clerk of the Civil Court, by persons desirous to leave the Colony.*

Colony of Western } I do hereby certify, that A. B., late of  
Australia to wit, } has permission to leave this colony, together  
with his family (or servants) as per margin.

Dated this \_\_\_\_\_ day of \_\_\_\_\_

C. D. Colonial Secretary.

(Countersigned) E. F., Registrar Clerk of the Civil Court.