

WESTERN AUSTRALIA

ANNO QUADRAGESIMO

VICTORIÆ REGINÆ

No. 5

An Act to consolidate and amend divers Acts and Ordinances relative to the licensing of Carts and Carriages. [Assented to 7th September, 1876.]

Preamble

WHEREAS divers Acts and Ordinances have from time to time been passed to regulate the licensing of Carts and Carriages, and it is expedient to repeal the same, and to consolidate and amend the law relating to the licensing of carts and carriages: 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 as 'The Cart and Carriage Licensing Act, 1876.'

Interpretation

2. In construing this Act the following words and expressions shall have the meaning hereby assigned to them respectively:—

'Cart' shall mean any description of cart, dray, waggon, or other vehicle without springs and drawn or intended to be drawn otherwise than by hand, and not belonging to Her Majesty the Queen.

'Carriage' shall mean any description of carriage, van, omnibus, cart, trap, or other vehicle with springs, and drawn or intended to be drawn otherwise than by hand, and not belonging to Her Majesty the Queen, the Governor, or any officiating minister of religion.

'Road Board' shall mean the local board of any district constituted under 'The District Roads' Act, 1871.'

Repeal of certain Acts

3. The various Acts and Ordinances enumerated in Schedule 1 to this Act shall be and the same are hereby repealed.

Act to come into operation

4. This Act shall come into operation on the first day of January next, and not sooner.

No person to keep and use cart or carriage without license

5. No person shall keep and use on any road in the Colony any cart or carriage without having obtained a license for the same, under this Act, from the licensing body authorised to grant the same, as hereinafter stated.

Who to grant licenses

6. The road board of each district is hereby authorised to grant licenses under this Act, in respect of carts, to any person resident within its district or in any municipality within its district, and, in respect of carriages, to any person resident within its district, but not to any person resident within the limits of any municipality within such district. The council of any municipality is hereby authorised to

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grant licenses under this Act, in respect of carriages, to any person resident within the limits of the municipality. Provided always that any person, being a common carrier of passengers or goods, plying between any two municipalities shall, for the purposes of this section, be deemed to be resident in each of such municipalities, and shall take out a license for every carriage used by him as such common carrier, from the council of each of such municipalities.

Proviso

7. Any license under this Act shall be in the form given in Schedule Two of this Act, or to the like effect, and shall continue in force up to the 31st day of December (taken inclusively) in the year in which the same is granted; and for any such license there shall be paid to the licensing body granting the same a fee according to the scale given in Schedule Three to this Act.

Form of license

Price of license

8. All sums hereby made payable for licenses under this Act, and all sums arising from penalties or forfeitures by this Act made payable to any road board, shall be dealt with and applied by the road board receiving the same for the purposes enumerated in the fifth section of 'The District Roads Act, 1871'; and the sums hereby made payable to the council of any municipality shall form part of the ordinary income of such municipality.

Application of fees and penalties

9. Any licensing body under this Act shall give due public notice as to the person from whom, the time when, and the place where, licenses under this Act may be obtained.

Licensing body to give notice where license to be obtained

10. The owner of any cart or carriage who, after such notice has been given as aforesaid, and after he has had a reasonable opportunity of obtaining any license by this Act required to be taken out, shall fail to take out any license by this Act required to be taken out and shall nevertheless keep and use on any road of the Colony any cart or carriage, shall in respect of each or any such failure be guilty of an offence, and shall on conviction of any such offence forfeit and pay any sum not exceeding Ten pounds; and further shall be adjudged to pay the full fee payable for any license by this Act required to be taken out.

Penalty for keeping cart or carriage without a license

11. Any person by this Act required to take out any license for any cart or carriage shall, if he acquire such cart or carriage after the 30th day of June in any year, be entitled to obtain a license on payment of half the fee payable for the same; provided always that, if a license for such cart or carriage has been obtained by the previous owner, such person shall, on payment of the sum of two shillings and sixpence to the licensing body from whom under the provisions of this Act he ought to obtain his license, be entitled to have such license transferred to him. Any such transfer may be effected by the collector, or other person authorised by such last-mentioned licensing body to grant licenses, endorsing his name on such license.

License may be granted for broken period

12. Each licensing body shall from time to time cause to be published in the 'Government Gazette' a list of the licenses or transfer of licenses which it may issue under this Act.

Licenses to be published in 'Government Gazette'

13. No license shall be granted under this Act by any licensing body to any person using or being desirous of using any cart or carriage in his trade as a common carrier of passengers unless upon inspection

No license to be granted to carrier of passengers except upon conditions

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of such cart or carriage it shall appear to the licensing body to whom application may be made for such license, that there is a space of at least sixteen inches in the clear for every passenger proposed to be carried therein, and that the same is a fit and proper cart or carriage for the purpose; nor, unless the name of the intended driver or drivers of such cart or carriage be stated. And any license granted under this Act to any such person shall state the number of passengers that such cart or carriage is licensed to carry and the name of the intended driver or drivers. Provided always that any such licensing body may, at any time during the currency of any license, authorise any change of driver and insert the name of any newly appointed driver in the license.

Carts and also any carriages used for conveyance of passengers to have certain matters printed on them

14. Every cart or carriage licensed under this Act and used for the carriage of passengers for hire, and also every cart licensed under this Act, shall have legibly painted on the front or off side of such cart or carriage the name of the person licensed to use the same, and the name of the licensing body from which the license for such cart or carriage has been obtained, and the number of such license; and every cart or carriage licensed under this Act and used for the carriage of passengers for hire shall also have legibly painted under the name of the person licensed to use the same, the number of passengers which the same shall be licensed to carry; and any person who shall use any cart or carriage on any road of the colony without complying with this regulation shall, on conviction, forfeit and pay any sum not exceeding forty shillings; and every person who shall use any cart or carriage as aforesaid without having obtained a license for the same, and who shall nevertheless keep painted on such cart or carriage any words or figures importing that such cart or carriage is duly licensed under this Act, shall on conviction forfeit and pay any sum not exceeding Ten pounds, over and above any penalty to which he may be liable for using such cart or carriage without having obtained a license for the same.

Penalty for breach of this regulation

Penalty for keeping certain matters printed on unlicensed carts

15. It shall be lawful for any duly elected member of a road board, for any member of municipal council, or for any constable to examine any cart or carriage, and to demand from the person in charge of the same his name and address, and the name and address of the owner of the same, and whether such cart or carriage is licensed; and any person who shall refuse to answer or shall give a false answer when applied to as aforesaid, shall upon conviction forfeit and pay any sum not exceeding Forty shillings.

Powers to certain persons to examine carts or carriages and their drivers

16. The onus of proof of any license having been duly obtained shall in the first instance lie on the accused; and any person found in charge of any cart or carriage may, for the purpose of this Act, be presumed to be the owner, until and unless he shows that some other person resident in the colony is the owner.

Onus of proof

17. The driver of any cart or carriage used for the carriage of passengers for hire who shall carry or convey in or upon such cart or carriage a greater number of passengers than is authorised by the license for the same, or who shall carry luggage in such a place, in such a mode, or to such an extent as to materially interfere with the comfort of such passengers; or who shall at any place when such cart or carriage shall stop quit the box thereof, or the horses

Drivers of carts or carriages, used for carriage of passengers, liable to a penalty for certain misconduct

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drawing the same, without delivering the reins into the hands of some fit and proper person, or before some fit and proper person shall stand at the heads of the horses so as to have the command thereof until such driver shall have returned and seated himself and taken the reins; or who shall, without reasonable excuse, permit any passenger, or any person whose name has not been stated on the license of such cart or carriage as an authorised driver thereof, to drive the horses drawing such cart or carriage; or who shall allow any drunken or disorderly person to get into or continue in such cart or carriage; or who shall assault or use abusive or insulting language to any person travelling, or about to travel or having travelled as a passenger with or by such cart or carriage, or to any person accompanying or attending upon any such passenger in coming to or going from any such cart or carriage, shall upon conviction of any such offence forfeit and pay any sum not exceeding ten pounds.

18. If any carrier of passengers shall carry in any cart or carriage a larger number of passengers than the number he is licensed to carry therein; or if the driver of any such cart or carriage shall be convicted of any offence under the next preceding section of this Act; or if any such cart or carriage be driven by any person not authorised by the license to drive the same; or if any carrier of passengers or goods shall be guilty of any dishonest or improper conduct, it shall be lawful for any two Justices, on complaint made before them in that behalf, to declare any license obtained under this Act for any cart or carriage in which such excessive number of passengers has been carried, or the driver of which has been so convicted, or which has been driven by such unauthorised person, or in relation to, or in connection with which any such carrier has been guilty of such dishonest or improper conduct as aforesaid, to be null and void, and cause such avoidance to be published in the 'Government Gazette,' and such license shall upon such declaration be null and void, and such cart or carriage shall thereupon be incapable of being licensed under this Act for such period, not exceeding six months, as the said Justices may name in the said declaration.

License may be forfeited

19. Sections A, C, and F of 'The Shortening Ordinance, 1853,' shall be incorporated with this Act, and taken to form part thereof.

Shortening Ordinance

20. So much of any fine or penalty under this Act as is payable to Her Majesty, her heirs, or successors, shall be paid to the licensing body from whom the person incurring the same obtained, or ought to have obtained, a license for the cart or carriage in relation to which such penalty has been incurred.

Application of penalties

WILLIAM C. F. ROBINSON,
GOVERNOR.

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Carriage Licensing Act, 1876, and has this day paid to me the sum payable for the same under the said Act; I do therefore give to the said A.B. this license to keep and use the said cart or carriage on any road of the Colony, and to carry therein the number of _____ passengers, until the 31st day of December next ensuing.

Given under my hand, this day of

A.B.

Authorised in this behalf by the (*name of licensing body*).

The following are the persons authorised by this license to drive the said cart or carriage.

A.B.

C.D., &c.

THIRD SCHEDULE

Fees payable for Licenses under this Act

	£	s.	d.
For every cart or carriage drawn on two wheels . . .	0	10	0
For every cart or carriage drawn on four wheels . . .	1	0	0
