



WESTERN AUSTRALIA.

ANNO DECIMO NONO VICTORIÆ REGINÆ.

No. XV.

An Ordinance to consolidate and amend the Laws respecting the licensing of Boats and Boatmen.

WHEREAS it is expedient to amend the laws respecting the licensing of Boats and Boatmen, and to consolidate into one Preamble. Ordinance all the existing provisions for the better security of life

and property; and whereas the recent loss of lives by drowning has proved the serious danger incurred by the licensing of unqualified and incompetent persons to ply for hire and convey passengers in boats;—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:—

I. THAT from and after the time at which this Ordinance shall come into operation, the several Ordinances next hereinafter mentioned, that is to say, the 7th Victoria, No. 2, and the 16th Victoria, No. 20, shall be respectively repealed.

license is always
necessary.

Penalty £10 for ply-
ing without license.

II. THAT from and after the commencement of this Ordinance, any person (not being a lessee of any public ferry, duly established by proclamation, carrying across goods or passengers at such ferry,) who shall convey by boat any goods or passengers for hire, in any part of this colony, without having first obtained a license under one of the Ordinances hereinbefore mentioned, or such license or licenses as are hereinafter specified and required, shall, upon conviction for every such offence, forfeit and pay a sum not exceeding ten pounds; and the burden of proof of the existence of such License or Licenses for the current year shall lie on the person charged with any such offence.

Harbour Master and
Chief of Water Police
issue certificates for
licenses.

They may refuse.

III. THAT at Fremantle the Harbour Master and the Superintendent of Water Police, together with such other person or persons as the Governor may from time to time appoint, and at all other ports in this Colony the Resident or Police Magistrate nearest to such ports, together with such other person or persons as the Governor may from time to time appoint, shall form a Licensing Board, the majority of whom assembled at any meeting shall, in pursuance and for the purposes of this Ordinance, have power to grant Licenses to Boats and Boatmen, in or to the effect of the forms numbered respectively 1 and 2 in the schedule hereunto annexed, having first duly inspected such boat or boats, as to the particulars to be mentioned in such License, and having also first duly examined such man or men both as to moral character and nautical skill and general ability to manage a boat; and every such Board shall have power, at discretion, to refuse a license to any boat, if, in their judgment, it shall or may appear unsafe or unsound in any material particular; if its gear, or tackle, or furniture appear to them to be anywise unsound or incomplete; or to refuse a license to

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any boatman, whether by reason of his general moral character, or his manifest incompetency or inexperience; such refusal to be final and without appeal, and the license or licenses so granted to any boatowner shall be in force until the thirty-first day of December next following the date thereof; and every boatowner shall pay a fee for such license according to the graduated scale numbered 3 in the said schedule, for every year or portion of year for which such license shall be granted; and no such license shall be transferable, nor shall be used or pleaded by, or anywise serviceable to, any other person than the boatowner named therein, nor shall be cognizable by any Court or Bench, except as regards the original holder named therein.

IV. THAT every person so licensed to keep a boat for the conveyance of passengers shall have his Christian name and Surname in full, and place of abode, legibly painted in letters not less than one inch in length on the inner side of the gunwale of the stern-sheets of the boat which he shall be licensed to ply for hire, and his number painted 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 he is licensed to carry; and if any person so licensed shall be found plying for or conveying goods or passengers for hire without such name, number, place of abode, and amount of weight so painted as aforesaid, he shall, for every conviction thereof, forfeit and pay any sum not exceeding forty shillings; all licensed cargo boats and flats shall have the name in full of the owner painted on the outside of the stern, as aforesaid, subject to the like penalties, if it be not so painted.

Name in full inside gunwale of stern sheets.

Cargo boats outside.

V. THAT the Christian name and Surname in full of every Boatowner so licensed, together with the name and the number of the boat, the amount of freight and passengers he is licensed to carry, shall be duly published in the Government Gazette; and it shall be incumbent upon the Chairman of every such Licensing Board to transmit to the Colonial Secretary's office a statement of the particulars of every such license so granted within ten days next following the date thereof.

VI. THAT if any licensed boatowner, or any person for the time being in charge of a licensed boat, or any of the crew of such boat carrying goods or passengers for hire, be found guilty, on complaint before any justice, of over-loading such boat, or drunkenness,

Penalty for abuse or for delay.

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 a second or further conviction, it shall be lawful for the convicting justice, at his discretion, both to fine as aforesaid, and to declare the license of such boatowner or of such boatman, as the case may be, void ; and any boatowner or boatman, whose license shall be so declared void, who shall continue to ply for hire after such sentence, shall be deemed and taken to be plying without a license, and be subject to the penalty hereinbefore mentioned in Section II.

License may be forfeited on a second conviction.

Remedies of owners or passengers against crew if abusive, &c.

VII. THAT it shall be lawful for any justice, on complaint made to him of disorderly, drunken, or disobedient conduct in any of the crew of any licensed boat, to fine the offender, on conviction, a sum not exceeding forty shillings, or to sentence him to imprisonment, with or without hard labour, as such justice may think fit, for any period not exceeding two months.

Collector of Revenue may search.

VIII. THAT it shall be lawful for any person employed under the Collector of Customs, or in the Land or Water Police, to board and search every boat, and demand inspection of the license thereof, and boat-note ; and any person refusing to produce such license or boat-note for inspection, or to give reasonable aid in furtherance of such search, shall, on conviction, forfeit and pay any sum not exceeding five pounds : Provided, always, that nothing herein contained shall be deemed or construed to prevent any commander or owner of any ship or vessel from landing the whole or any part of his cargo, at any port in the said Colony, in the boats of the said ship or vessel, without having obtained a license for such boats ; provided the name of such ship or vessel be legibly painted on such boats.

IX. THAT the term boat in this Ordinance shall be construed to apply to any description of boat, flat, barge, or vessel not having a certificate of registry under any Act requiring registration of British vessels.

Licensing Board may inspect gear and rigging.

X. THAT it shall be lawful for any two of any Licensing Board as aforesaid to inspect any licensed boat, and the gear, masts, sails, rigging, and all furniture whatsoever thereof, as often as they please ; and if satisfied that the said boat, gear and equipments, or

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any part thereof, are not in good and serviceable repair, to declare the license of such boat suspended until such boat, gear or equipments be fully repaired to the satisfaction of such Licensing Board: and any boatowner found plying for hire, whether to convey goods or passengers, pending the suspension of such license, shall be deemed and taken to be plying without a license, and be subject to the penalty hereinbefore mentioned in Section II.

XI. THAT it shall be lawful for any justice, if any person or passenger on board any licensed boat shall be convicted before him of drunkenness therein, or of abusive or violent conduct therein, or of continuing to smoke therein after having been requested by any passenger to desist therefrom, or of using therein any threats, or oaths, or obscene language, to fine such person or passenger a sum not exceeding three pounds, or to sentence him to imprisonment, with or without hard labour, for a period not exceeding one month, and in case of a second or further conviction, to fine such offender any sum not exceeding five pounds, or to sentence him to imprisonment, with or without hard labour, for a period not exceeding two months.

Any passenger may be fined for abuse, &c.

XII. THAT if any wearing apparel, luggage, or other personal property be left by any passenger in any licensed boat without special instructions concerning the same, such articles shall, with all convenient speed, be conveyed by the owner or person in charge of such boat to the owner of such property, if known, or 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 persons entitled to receive the same respectively; and every owner or person in charge of any licensed boat, 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 boatowner or boatman making any 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 therein.

All wearing apparel and luggage left by any passenger in any licensed boat, to be conveyed to owner or to nearest Police Office.

XIII. THAT any person for the time being in charge of any licensed boat, or any of the crew of such boat carrying goods or pas-

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.

sengers 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, or tending immediately to endanger the life or limb of any person belonging to or on board of such boat, or who by wilful breach of duty or by neglect of duty or by reason of drunkenness, refuses or omits to do any lawful act proper and requisite to be done by him for preserving such boat from immediate loss, destruction or serious damage, or for preserving any person belonging to or on board such boat 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 or imprisonment, with or without hard labour, or both, as the court before which the offender shall be tried may think fit; and such court may, if it think fit, order payment of the costs and expenses of the prosecution.

No person to light, &c., a fire upon any jetty, &c., being public property.

XIV. THAT no person shall, under any pretext whatever, light, place, or keep a fire upon, or so near as to endanger any jetty, pier, wharf, bridge or other work of the like nature, being public property, constructed wholly or in part of wood; and every person so offending shall, upon conviction of every such offence, forfeit and pay any sum not exceeding ten pounds.

Any person wilfully injuring or destroying any jetty, &c., or making fast to any vessel, &c., to any buoy, &c., subjected to a penalty of £20; and upon conviction for the second time, to be guilty of felony.

XV. THAT any person who shall wilfully injure or destroy any jetty, pier, wharf, buoy, beacon, or river or sea-mark, fender or other piling, being public property, or who shall make fast any vessel, boat, raft, timber, or other article, to any such buoy, (not being a warping buoy) beacon, river or sea-mark, fender or other piling, shall, upon conviction of every such offence, forfeit and pay any sum not exceeding twenty pounds; and upon a second or further conviction of the offence of wilfully injuring or destroying any such jetty, pier, wharf, buoy, beacon, or river or sea-mark, fender or other piling, shall be deemed guilty of felony, and being convicted thereof, shall be liable to penal servitude for any term not exceeding four years.

The Governor in Executive Council may frame regulations for the management of bridges, jetties, &c.

XVI. THAT the Governor in Executive Council may frame and from time to time alter and amend general or special Regulations for the management and use of all public bridges, jetties, piers, wharfs, landing places and buoys, and particularly providing for the manner and time of mooring and fastening and loading and unloading boats and vessels, at any jetty, pier, or wharf, or landing place; and all such Regulations as aforesaid shall be

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promulgated by proclamation in the Government Gazette, and from and after such proclamation as aforesaid, and until the promulgation in like manner of any new, altered, or amended regulations as aforesaid, shall have the effect of law, and have the same force as if they had been originally embodied in this Ordinance; and every person who shall act in opposition to, in violation of, or at variance with, the said Regulations, or any part thereof respectively, shall, upon conviction of such offence, forfeit and pay any sum not exceeding Twenty pounds.

Persons violating regulations subject to a penalty of £20.

XVII. THAT every person desirous of plying as a boatman, to convey or assist to convey goods or passengers for hire, whether in his own or any other licensed boat as aforesaid, shall apply to any such Licensing Board as aforesaid, and be by them licensed, after having satisfied them of his competency and good character, and not otherwise, without any fee or payment whatsoever; and any person found serving as one of the crew of a boat engaged in conveying goods or passengers for hire on any navigable waters within this colony, without such license, shall, on conviction before any justice, forfeit and pay a sum not exceeding forty shillings, and for every second or following offence, may, if the convicting justice think fit, be imprisoned, with or without hard labour, for any term not exceeding one month.

Boatman's license.

XVIII. THAT the names in full of all licensed boatmen shall be registered in a book to be kept for that purpose by the several Licensing Boards respectively; such licenses to remain in force until suspended or forfeited; and every such boatman shall, on demand, produce his license, under a penalty not exceeding twenty shillings.

Book of Boatmen.

XIX. THAT any boatman who may lose his license may, on application to the Licensing Board which had granted him such license, receive a renewal of the same on the payment of a fee of two shillings and sixpence.

XX. THAT if any licensed boat shall, on any occasion, carry any greater quantity of goods or number of passengers than that mentioned in the license for such boat, 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 was licensed to carry, or shall, on any occasion, carry passengers with less than

The license of any licensed boat carrying any greater quantity of goods or number of passengers than that mentioned in the license, or carrying passengers when at sea with less than

one-eighth of her tonnage, or elsewhere with less than one-twelfth of her tonnage in ballast, &c., subject to a penalty.

In estimating a mixed cargo, one passenger equal to one-eighth part of a ton of goods.

one-eighth part of her tonnage when at sea, or with less than one-twelfth part of her tonnage when not at sea, in ballast or other dead weight, the licensed owner of such boat shall, upon conviction of such offence, forfeit and pay a sum not exceeding five pounds: Provided that no child under the age of ten years shall be considered to be a passenger under this section: and for the purposes of this section only in estimating a mixed cargo of goods and passengers, one passenger shall be considered as equivalent to one-eighth part of a ton of goods, either dead weight or measurement.

XXI. THAT all informations and proceedings in respect of offences against this Ordinance, to which pecuniary penalties are hereby attached, may be summarily heard and determined before any one or more justice or justices of the peace.

XXII. THAT sections A, B, F and I, in the Schedule of the "Shortening Ordinance, 1853," shall be incorporated with and taken to form part of this Ordinance, 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 Ordinance.

XXIII. THAT all fees received under the authority of this Ordinance, shall be paid over to the Colonial Treasurer, to the use of Her Majesty, her heirs and successors, for the public uses of this Colony and in support of the Government thereof.

XXIV. THAT this Ordinance shall commence and take effect on and after the first day of January, in the year of our Lord one thousand eight hundred and fifty-seven.

A. E. KENNEDY,

GOVERNOR AND COMMANDER-IN-CHIEF.

Passed the Legislative Council }
this 16th day of June, 1856. }

HENRY WAKEFORD,

Clerk of the Council.

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**SCHEDULE
No. 1.**

Form of Boatowner's License.

We certify that _____ of _____ is licensed,
under the 19th Victoria, No. _____ to ply for hire, by carriage of the
undermentioned quantity of goods and number of passengers, the boat
hereunder described, from the date hereof till the 1st day of January
next ensuing, for which license he has paid the sum of _____

DESCRIPTION OF BOAT LICENSED.

No.	Name of Boat.	Description of Boat.	Extreme length and breadth.	Number of Passengers inclusive of crew.	Tonnage.

Given under our hands this _____ day of _____ 18
A. B., }
C. D., } Members of Licensing Board.

No. 2.

Form of Boatman's License.

We certify that _____ of _____ is licensed,
under the 19th Victoria, No. _____ to ply for hire, as a boatman, in and
upon any navigable water in the Colony.

A. B., }
C. D., } Members of Licensing Board.

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No. 3.

Scale of Graduated Charge for License.

					£	s.	d.
For every Boat under two tons		10	0
Two tons and under five	..	..	..	..	1	0	0
Five tons and under fifteen	..	..	..	..	1	10	0
Fifteen tons and upwards	..	..	..	..	2	0	0
For every flat or punt	..	..	..	..		10	0