



Western Australia.

ANNO SEXAGESIMO PRIMO

VICTORIÆ REGINÆ.

No. XXVII.

AN ACT to provide for the Registration of certain Persons who shall be imported into Western Australia for Employment within the Territorial Dominion thereof, and for certain other matters in connection therewith.

[Assented to, 23rd December, 1897.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. THIS Act may be cited as the Imported Labour Registry Act, 1897. Short title.

2. THE Imported Labour Registry Act, 1884, is hereby repealed. Provided that, save as hereinafter expressly enacted, this repeal shall not affect any instrument executed, right acquired, or Repeal of 48 Vict., No. 25.

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liability, civil or criminal, incurred by virtue or under the authority of the Act hereby repealed, or any proceeding commenced with reference thereto.

Interpretation of terms.

48 Vict., 25, s. 3, with addition.

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

“Labourer” means any male person apparently a native of India, China, or Africa, or of the Islands of the Indian or Pacific Oceans, or of the Malayan Archipelago, and brought into the Colony as a labourer or servant, or for any other similar employment.

“Employer” includes every person at whose request or on whose behalf a labourer is brought into the Colony, and every person employing a labourer within the Colony, and the personal representative 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.

Labourers not to enter part of W.A. South of 27° South latitude.

4. NO labourer brought into Western Australia under this Act, or who has already been so brought under the Act repealed by this Act, or under the Imported Labour Registry Act, 1882, shall enter by land or sea into any part of this Colony South of the twenty-seventh parallel of South latitude, except as hereinafter provided; but nothing in this section shall affect any such labourer who shall be, at the time of the passing of this Act, within the said Colony South of the said parallel.

Penalty.

Every labourer who, whether wilfully or not, contravenes this section shall be liable to be conveyed out of this Colony as provided by this Act, and every labourer who wilfully contravenes this section shall be liable, on conviction, to imprisonment with hard labour for not exceeding six months; provided that such imprisonment may cease for the purpose of the offender being conveyed out of the Colony as provided by this Act, or if he shall find approved sureties to the aggregate amount of One hundred pounds for his leaving the Colony within one month.

Labourer not to be imported by Asiatic, African, or Polynesian.

5. NO labourer shall be imported or brought into the Colony by any person apparently a native of India, China, or Africa, or of the Islands of the Indian or Pacific Oceans, or of the Malayan Archipelago.

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6. LABOURERS shall not be imported into Western Australia in or landed from any ship in a greater number than one labourer for every Five hundred tons of the ship's capacity; the tonnage, in the case of a British ship, being taken as the registered tonnage, and, in the case of a foreign ship, being measured according to the rules of measurement provided in the Merchant Shipping Act, 1894.

Only one labourer to be imported for every 500 tons of the ship's capacity.

7. EVERY person who—

Wilfully assists any labourer to enter Western Australia in contravention of this Act; or

Wilfully assists any labourer, being already in Western Australia, to enter that part thereof which is South of the twenty-seventh parallel of South latitude.

Penalty for assisting labourer to enter W.A., or having entered to go South of 27°.

shall be liable, on conviction, to a fine not exceeding One hundred pounds for each labourer so assisted, or to be imprisoned, with or without hard labour, for a period not exceeding twelve months.

8. THE master and owners of every vessel from which any labourer is landed in Western Australia, in contravention of this Act, shall be jointly and severally liable in a penalty of One hundred pounds for each labourer so landed.

Liability of master and owners of vessel for illegal landing of labourers.

The vessel may be arrested and sold by order of the Supreme Court in satisfaction of any such penalty, or may be refused a clearance outward until such penalty has been paid, and until provision has been made by the master or owners to the satisfaction of an officer appointed under this Act for the conveyance out of the Colony of each labourer who has been so landed.

9. AN officer thereto authorised by the Governor may make a contract with the master, owners, or agent of any vessel for the conveyance of any labourer who is found to be in Western Australia, or any part thereof, in contravention of this Act, to a port in or near to such labourer's country of birth, or in or near to the place from which he set out for Western Australia; and every such labourer, with his personal effects, may be placed by a police officer on board such vessel, and shall, in such case, if destitute, be supplied with a sufficient sum of money to enable him to live for one month according to his circumstances in life after disembarking from such vessel.

Contract for carrying away labourers contravening Act.

10. NO labourer shall be imported or brought into Western Australia unless a contract, as hereinafter provided for, shall have been previously entered into with such labourer, and every person who shall cause a labourer to be brought or imported into the Colony contrary to this provision of this Act shall be liable to a penalty not exceeding One hundred pounds for every labourer so brought or imported.

No labourer to be imported unless a contract has been previously made.

48 Vict., 25, s. 4.

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Place where such contract shall be made.

Ib., s. 5.

11. EVERY such contract shall be entered into with the labourer, by the employer or his agent, at the port or place at which such labourer is shipped and previously to such shipment; and every such contract shall be entered into before, and signed by, a British or Dutch authority, or the authority of a European Government designated by the Governor by a notice published in the *Government Gazette*, for the purpose of approving such contracts in the country where the contract is made.

Requisites and form of such contract.

Ib., part s. 6.

12. THE contract shall be in the Form A in the Schedule hereto, or to the like effect, and shall be in writing, signed or marked by the employer or his agent and by the labourer; 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 labourer. The contract shall also contain stipulations by the employer that the labourer 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 labourer, when practicable and necessary, unless the illness of the labourer shall have been caused by his own improper act or fault.

Place of landing.

Ib., part s. 12.

13. NO labourer shall be landed on his first arrival 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 labourers may be landed within the Colony under this Act.

List of imported labourers to be given before landing.

Ib., ss. 7 and 8 abridged.

14. THE master of every vessel which shall arrive at any port or place of landing within the Colony, having on board any labourer or labourers as aforesaid, shall, as soon as possible after arrival, and before any labourer is landed, 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 labourers, in the form or to the effect of the form marked B in the Schedule hereto, and containing the particulars therein set out.

Medical certificate to be also given.

Ib., s. 10, with addition.

15. (1.) THE master of every vessel arriving with labourers on board as aforesaid shall also, as soon as possible after arrival and before any labourer is landed, give to the officer aforesaid a medical certificate in respect of each of such labourers certifying as to his apparent age, and that he is free from disease and of a sound constitution, and, if he has been vaccinated, stating the fact.

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(2.) Such medical certificate may be in the Form C in the Schedule hereto, and may be signed at the port or place of shipment of such labourer by a person authorised to practise as a physician or surgeon by any law in force in any of Her Majesty's Dominions or may be signed at the port or place of landing of such labourer by a Government medical officer.

Requisites and form of medical certificate.

Ib., s. 11.

16. EVERY person importing a labourer into Western Australia shall, before the landing of such labourer, sign and deposit with the Magistrate of the district in which such labourer is to be landed an undertaking by himself, with two sureties to be approved by the Magistrate, to the effect of the Form D of the Schedule hereto, for the payment of the expenses of returning such labourer to the port from which he embarked. No stamp duty shall be chargeable on such undertaking.

Person importing labourer to deposit with Magistrate an undertaking to pay for labourer's return.

The Magistrate shall retain such undertaking, and shall give to the employer a certificate of having received the same in the Form E in the Schedule hereto, and such employer shall deliver the certificate to the officer of Customs at the port or place where the labourer is to be landed.

Magistrate's receipt to be delivered to officer of Customs.

Every labourer who lands or is landed within the Colony before such certificate has been received by the officer of Customs, as hereby required, may be arrested, without any other warrant than this Act, by any member of the police force, and taken on board the vessel from which he has landed, or, if such vessel has put to sea, such labourer may be detained in custody until such certificate has been received as aforesaid; and if, after notice given by the officer of Customs to the employer of the landing of such labourer as aforesaid, such certificate is not so received within a reasonable time, the officer of Customs may send back the labourer to the port from which he was shipped, at the expense of, and without compensation to, the employer.

Labourer landing before delivery of Magistrate's receipt may be arrested and sent back.

17. EVERY master of a vessel and every other person who knowingly lands any labourer in the Colony, without the requirements of the three last preceding sections being complied with, shall be deemed to have landed such labourer in contravention of this Act.

Penalty for contravention of two last preceding sections.

18. EVERY labourer who does not appear, by the medical certificate required by this Act, to have been vaccinated shall, either before or immediately after his arrival, be vaccinated by the Government medical officer at the port or place of landing, and every person employing or harbouring any labourer who has not been vaccinated shall be guilty of an offence against this Act.

Vaccination of unvaccinated labourer.

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Verification of contract before a magistrate.

Ib., s. 13.

19. WITHIN fourteen days after the landing of any labourer 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 labourer 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 satisfaction of the Magistrate that the contract has been entered into before and signed by a British or Dutch authority, or the authority of some European Government designated by the Governor by a notice published in the *Government Gazette*, for the purpose of approving such contracts in the country where the contract has been made.

Counter signature and registration of contract.

Ib., s. 14.

20. IF the Magistrate is satisfied that the contract was entered into before and signed by an authority as aforesaid, and that the particulars required are correctly indorsed, he shall countersign the description indorsed on 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 labourer, 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 Labour Registry Book."

If the Magistrate is not satisfied that the contract was entered into before and signed by such authority as aforesaid, he may adjourn the matter for further evidence; and, if not satisfied at such adjournment, shall order that the labourer 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 labourers 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 labourer so brought

Rescission of contract by mutual consent.

Ib., s. 15.

21. 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, and not otherwise, 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 labourer, 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

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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. Except as aforesaid and as provided by section twenty-seven no contract under this Act shall be rescinded.

22. (1.) ON the termination by effluxion of time, rescission, or otherwise of the contract of service on which a labourer has been brought into this Colony, the employer who was party to that contract shall, at the first available opportunity, at his own expense cause such labourer to be returned to the port or place from which he was shipped: Provided that, if the labourer, after the termination of the contract as aforesaid, enters into a new and subsequent contract of service as hereinafter mentioned, the duty hereby imposed on the original and every subsequent employer shall be suspended until the termination of any such one or more subsequent contracts.

On termination of contract employer to return labourer to the port from which he was shipped.

(2.) If any such labourer is found within the limits of this Colony without being under an unexpired contract of service made under this Act or the Act hereby repealed, any Magistrate may forthwith cause such labourer to be returned as aforesaid, and for such purpose may issue his warrant for the arrest and detention of any such labourer in any gaol or lock-up until he can be placed on board ship, and the original employer of such labourer shall be liable to the cost of returning such labourer as aforesaid, and the last employer of such labourer shall also be liable to a fine of Fifty pounds unless such employer proves to the satisfaction of the Court—

- (a.) That sufficient time to enable such labourer to be returned as aforesaid has not elapsed since the termination of his contract of service; or
- (b.) That such labourer had entered into a new and subsequent contract of service as hereinafter mentioned, and that such employer had had no notice or insufficient notice of the termination of such contract; or
- (c.) That such labourer has refused to return as aforesaid, or has otherwise prevented such return, and such employer has given notice, in writing, of such refusal or prevention as soon as practicable to the chief officer of police of the district wherein such employer resides, and to the Magistrate to whom the undertaking was given in pursuance of this Act.

23. (1.) ON or before the termination by effluxion of time, rescission or otherwise of any contract of service made under this Act or the Act hereby repealed, the labourer who was a party to such

Labourer may enter into fresh contract.

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contract may, with the written approval of the Magistrate, enter into a new and subsequent contract for service for any period not exceeding three years, under any employer or person willing to employ him ; but such new and subsequent service shall not commence before the date of the termination of the previous contract.

Requisites of contract.

- (2.) No such new and subsequent contract shall be valid or have any effect unless—
 - (a.) The consent in writing of the last employer of the labourer making such contract is obtained thereto ; and
 - (b.) A copy of such contract is, as soon as practicable after the making thereof, sent to the Magistrate to whom the undertaking was given as required by this Act, and a copy of such contract is also given to the labourer making such contract ; and
 - (c.) Such contract is in writing and contains all the specifications and stipulations required in a contract for service as hereinbefore provided, and bears an indorsement containing the like particulars as are required in the case of an original contract ; and
 - (d.) Such contract is signed, or marked in lieu of signature, by the contracting parties in the presence of an attesting witness who has no interest directly or indirectly in the subject matter thereof.

When labourer has served term of imprisonment and contract is terminated, employer to send him back.

24. WHENEVER any labourer, being a party to a contract for service under this Act or under the Act hereby repealed, is sentenced to any term of imprisonment—

- (1.) If the contract expires after the time of the committal of the offence in respect of which such punishment is imposed, and before the termination of such imprisonment, such labourer shall, on the termination of his imprisonment, be sent back to the port or place from which he was shipped at the expense of the first employer of such labourer, and may be detained in custody until he can be placed on board ship.
- (2.) If the contract is unexpired at the termination of such imprisonment, such labourer shall be sent back to the place of employment under such contract at the expense of the employer of the labourer thereunder.

Provided that no wages shall be payable to such labourer during the period of his imprisonment ; and provided further that it shall be optional with the employer to compel such labourer to remain in his service under his agreement for a further period equal to the aggregate terms of imprisonment served by him during the term of his agreement.

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25. EVERY employer shall forthwith report, in writing, to a Magistrate, or any police constable, the desertion of any labourer from his employment or disappearance therefrom for a period of three days, and if such employer shall neglect to make such report within seven days after such desertion or disappearance, he shall, on conviction, be subject to a penalty not exceeding Twenty-five pounds.

Runaway labourers to be reported.

26. ANY labourer brought into this Colony under this Act, or the Act hereby repealed, who has deserted the employment in respect of which he has entered into a contract, before the termination by effluxion of time, rescission as aforesaid, or otherwise of such contract, and any such labourer who, after the date of such termination, is found within the limits of the Colony and does not produce, when required so to do, a copy of an unexpired contract for service made under the Act or the Act hereby repealed, may be arrested without any other warrant than this Act, by any member of the police force, and detained in custody until he is returned to the port or place from which he was shipped or is otherwise dealt with at the expense of the employer as herein provided.

Police may arrest labourer deserting employment or not being under contract.

27. NO labourer brought into Western Australia under this Act, or the Act hereby repealed, shall be employed in any mining operation or work incidental thereto, or in connection therewith, or in any township in any goldfield. Every person employing any such labourer in contravention of this section shall, on conviction, be liable to a fine of not less than Ten nor exceeding Fifty pounds for every labourer so employed. Every labourer found so employed shall be liable to be dealt with, and the like consequences shall ensue, as if he had been found in this Colony without being under an unexpired contract of service made under this Act or under the Act hereby repealed.

Labourers not to be employed on any mine or in any gold-fields township

28. ALL expenses of, and incidental to the arrest, detention, and return of any labourer, as aforesaid, may be recovered summarily from any person liable for the same under this Act, before any two Justices in Petty Sessions, by an officer of Customs or Police, under the provisions of the Ordinance passed in the fourteenth year of the reign of Her present Majesty and numbered five.

Recovery of expenses.

29. EVERY person guilty of any offence in contravention of this Act for which no penalty is herein specially provided shall be liable, on conviction, to a fine not exceeding Twenty pounds.

Penalty for contravention of Act.

30. ALL contracts under this Act are to be subject to the provisions of the Masters and Servants Act, 1892, and upon conviction of any labourer, or upon order made against any employer,

Contracts to be subject to the Masters and Servants Act.

Ibid., s. 18.

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under that Act, it shall be lawful for the convicting Magistrate, Justice, or Justices, to rescind the contract with such labourer; 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.

Production of labourer when required.

Ibid., s. 19.

31. THE employer for the time being of any labourer 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 labourer, produce such labourer to such officer, or to the said Magistrate or Justice, at all reasonable times. If any employer shall fail to produce a labourer when requested as aforesaid, he shall be liable to a penalty of not less than Two pounds and not exceeding Ten pounds 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 labourer as aforesaid.

Offences summarily punishable.

Ibid., s. 20.

32. 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 contracts or medical certificates.

Ibid., s. 21.

33. 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, undertaking, receipt, 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.

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

Ibid., s. 23.

34. 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.

See *Ibid.*, s. 24.

35. THIS Act shall not apply (except in respect of vaccination) to any person brought into this Colony for employment in the pearl-shell fishery or upon the Abrolhos Islands, and kept employed under contract in such fishery or upon such islands, or in temporary employment on shore, and only in that part of the coast of the Colony situate to the northward of the twenty-seventh parallel of south

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latitude, according and subject to the regulations authorised by the Acts in that behalf.

36. THE Governor may from time to time make, alter, and repeal regulations for carrying out the provisions of this Act, and such regulations shall be published in the *Government Gazette* and shall be laid before the Parliament within fourteen days after such publication, if the Parliament is then sitting, and otherwise, within fourteen days of its next meeting, and when so published shall have the force of law and shall continue in force, unless altered or repealed as aforesaid, or disallowed by both Houses of Parliament. ^{Regulations.}

In the name and on behalf of the Queen I hereby assent to this Act.

GERARD SMITH, Governor.

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FORM C.

Section 15.

Medical Certificate.

I hereby certify that I have this day examined [*name of the labourer examined*] being of the apparent age of years, and that I find that he is free from disease and of a sound constitution.*

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

Place of examination

Date

* Add "and has been vaccinated," if such is the fact.

FORM D.

Section 16.

Employer's Undertaking to return Labourers.

The Imported Labour Registry Act, 1897.

In consideration of [*name of labourer*] being allowed to land in Western Australia, I, the undersigned, A.B., being the employer at whose request he has been brought to the Colony, do for myself and my personal representatives undertake with Her Majesty that I or they will, as and when required by the law in that behalf, bear the expense of the return of the said [*name of labourer*] to the place where he was shipped.

And, for the consideration aforesaid, we, the undersigned, C.D. and E.F., and each of us, give the like undertaking, but as sureties only for the said A.B.:

Dated this day of 18 .

[*Signatures*]

FORM E.

Section 16.

Magistrate's Receipt for Employer's Undertaking.

The Imported Labour Registry Act, 1897.

Received this day of 18 , the undertaking of [*labourer*] to

[*employer*] for the return of

[*Signature*]