

No. XXII.

COLONIAL
NAVAL SERVICE.

An Act for the regulation of the Crews of Armed Vessels in the Service of the Colony. [24th October, 1855.]

Preamble.

WHEREAS it is judged expedient that Armed Vessels should be kept in the service of the Colony for the protection thereof and for other public purposes And whereas it is therefore necessary to give the requisite powers for the engagement of sufficient crews for such vessels and for the appointment of such officers as may be required for efficiently conducting the services on which such vessels shall from time to time be engaged and for the proper direction and control of the crews thereof And whereas it is also necessary to make due provision for keeping such officers and crews to their duty and for the maintenance of due order and discipline in the service Be it therefore enacted by His Excellency the Governor of New South Wales by and with the advice and consent of the Legislative Council thereof as follows :—

Governor to appoint
superior officers.

1. The Governor shall have power in Her Majesty's name to appoint by commission under his Hand and the Great Seal of the Colony such superior officers as may be necessary for the efficient conducting of the services upon which any armed vessels in the public service of the Colony may be from time to time engaged and for the proper direction and control of the crews thereof.

Officers in command
to engage crews
and appoint petty
officers.

2. The officer for the time being in command of any such vessel shall have power to appoint all other necessary officers and to engage such seamen and others as may be necessary to form an efficient crew for the same and for the performance of all such duties and services on board thereof as the nature of the intended service may require.

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3. All persons so appointed or engaged as aforesaid other than the commanding officer shall on entering the service sign articles in the form mentioned in the Schedule hereto marked A. Articles to be signed.

4. All commissioned officers appointed as aforesaid shall before they shall be capable of acting take and subscribe in the presence of the Governor or of a Judge of the Supreme Court the following oath— Oath to be taken by commissioned officers.

“ I do swear that I will be faithful and bear true
 “ allegiance to Her Majesty Queen Victoria Her Heirs
 “ and Successors as lawful Sovereigns of the United King-
 “ dom of Great Britain and Ireland and of this Colony of
 “ New South Wales dependent on and belonging to the said
 “ United Kingdom And that I will faithfully serve Her
 “ Majesty Her Heirs and Successors for the defence of the
 “ said Colony against all Her enemies and opposers what-
 “ soever And will observe and obey all orders of Her
 “ Majesty Her Heirs and Successors and of all superior
 “ officers set over me—So help me God.”

5. All officers seamen and others not being commissioned officers shall within four days of their appointment or engagement take and subscribe before some Justice of the Peace the following oath :— Oath to be taken by all other officers and seamen.

“ I do swear that I will be faithful and bear true allegiance to
 “ Her Majesty Queen Victoria Her Heirs and Successors
 “ as lawful Sovereign of the United Kingdom of Great
 “ Britain and Ireland and of this Colony of New South
 “ Wales dependent on and belonging to the said United
 “ Kingdom And that I will faithfully serve Her Majesty
 “ Her Heirs and Successors for the defence of the said
 “ Colony against all Her enemies and opposers whatsoever
 “ And will observe and obey all orders of Her Majesty Her
 “ Heirs and Successors or of the Governor of this Colony
 “ on Her or their behalf and of all officers set over me—
 “ So help me God.”

6. The officer for the time being in command of any such vessel shall have power to accept on behalf of Her Majesty indentures for the apprenticeship of any youth as an apprentice to the said service and every such apprentice shall during the term of his apprenticeship be bound to serve under the officer for the time being in command of any vessel belonging to the said service as may be directed by the senior or principal officer of the said service. Officers in command may accept apprentices.

7. The crews of such vessels shall be victualled according to the scale of provisions issued in the Royal Navy. Crews to be victualled by scale of Royal Navy.

8. Whenever any officer seaman or other person who has been lawfully engaged and has signed articles as aforesaid or any apprentice to the said service shall commit any of the following offences he shall be liable to be punished summarily as follows that is to say— Discipline and punishments for its enforcement.

1.—For desertion he shall be liable to imprisonment not exceeding six months with or without hard labor and also to forfeit all or any part of the wages or emoluments which he has then earned and all or any part of the clothes and effects he shall have left on board provided that the offence of desertion shall not be deemed to be complete within the meaning hereof until the offender shall either have been absent ten days without leave or shall by some act or words have unequivocally manifested an intention not to return to his duty. Desertion.

2.—For refusing or neglecting to join his ship or for absence without leave or after the expiration of leave and without sufficient reason from his ship or from his duty not amounting Not joining or being absent without leave.

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- amounting to desertion or not treated as such by the officer in command of the vessel he shall be liable to imprisonment for any period not exceeding twelve weeks with or without hard labor and also at the discretion of the Court to forfeit out of his wages a sum not exceeding two days pay and in addition for every twenty-four hours of absence either a sum not exceeding six days pay or the expenses which have been properly incurred in hiring a substitute.
- Disobedience. 3.—For wilful disobedience to any lawful command he shall be liable to be imprisoned for any period not exceeding four weeks with or without hard labor and (or) also at the discretion of the Court to forfeit out of his wages a sum not exceeding two days pay.
- Continued disobedience or neglect of duty. 4.—For continued wilful disobedience to lawful commands or continued wilful neglect of duty he shall be liable to imprisonment for any period not exceeding twelve weeks with or without hard labor and also at the discretion of the Court to forfeit for every twenty-four hours continuance of such disobedience or neglect a sum not exceeding six days pay.
- Assaulting or threatening officer. 5.—For assaulting or threatening any officer he shall be liable to imprisonment for any period not exceeding twelve weeks with or without hard labor.
- Combining to disobey neglect duty or impede navigation or service. 6.—For combining with any other or others of the crew to disobey lawful commands or to neglect duty or to impede the navigation of the ship or the progress of any voyage or the performance of any service he shall be liable to be imprisoned for any period not exceeding twelve weeks with or without hard labor.
- Damaging ship or embezzling stores &c. 7.—For wilfully damaging the ship or embezzling or wilfully damaging any stores arms or other property on board of or belonging to the ship he shall be liable to forfeit out of his wages a sum equal in amount to the loss thereby sustained and also at the discretion of the Court to imprisonment for any period not exceeding twelve weeks with or without hard labor.
- Insolence insubordinate conduct &c. 8.—For insolence disrespect or contemptuous or insubordinate conduct to an officer or superior officer he shall be liable to be imprisoned for a period of not more than fourteen days.
- Language or conduct calculated to cause discontent. 9.—For language or conduct calculated to cause discontent he shall be liable to forfeit not more than three days pay.
- Assaults and disorderly conduct. 10.—For striking or assaulting any person other than an officer or for being quarrelsome or disorderly he shall be liable to forfeit not more than five days pay.
- Drunkenness. 11.—For being drunk he shall forfeit one day's pay for the first offence and for the second or subsequent offence two days pay and a stoppage of his allowance of spirits for a period not exceeding twenty days.
- Not complying with orders in respect of cleanliness fire orderly behaviour &c. 12.—For neglecting to comply with any reasonable or lawful orders of his officers in respect of cleanliness security from fire or orderly behaviour or the performance of such duties connected with the ship and the service in which she may be engaged as may be required of him by his officers he shall be liable to forfeit not more than five days pay.
- Neglect inattention to or hindrance of drill. 13.—For neglect of or inattention at drill or practice or by word or manner discouraging or hindering the same he shall be liable to forfeit one day's pay.

Provided

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Provided that nothing herein contained shall protect any person hereby rendered liable to the special punishments herein mentioned from being dealt with in the same manner as other persons are liable to be dealt with under the general laws for the time being in force within this Colony but so nevertheless that no such person shall be twice punished or tried for the same offence.

Proviso that offences cognizable under general laws may be dealt with accordingly.

9. The officer in command of any such vessel may if he shall think fit by his sole authority award punishment for any of such offences as he may think sufficiently punished by not more than three days imprisonment or the forfeiture of not more than six days pay or the stoppage of the offender's indulgences and subject to the above provision all such offences shall be dealt with summarily by and before any Police Magistrate or any two of Her Majesty's Justices of the Peace Provided always the officer in command of any such vessel shall at all times possess all the powers by law vested in the master or commander of a ship in the British merchant service.

Jurisdiction for punishment of offences.

Powers of commanding officer when at sea.

10. In case of aggravated or continued misconduct of any such officer seaman or other person under articles or any such apprentice it shall be competent to the officer in command of his ship to discharge him without notice.

In aggravated cases commanding officer may discharge without notice.

11. Reports of all punishments awarded under the provisions hereof shall be with all convenient speed laid before the Governor of the Colony who shall have power to disallow the sentence or mitigate the punishment as he may think fit.

All sentences to be reported to Governor and to be subject to disallowance or confirmation.

12. Whenever any officer seaman or other person under articles or apprentice in the said service deserts from his ship or is found otherwise absenting himself without leave the officer in command of the ship or vessel to which he shall then belong may with or without the assistance of police officers or constables who are hereby directed to give the same if required apprehend or cause him to be apprehended without first procuring a warrant and he shall thereupon at the discretion of such officer either be taken on board of his ship or vessel or be committed to custody to be dealt with under the provisions hereof or it shall be competent to any Justice of the Peace to issue his warrant for the apprehension of such officer seaman or other person under articles or apprentice so deserting or having absented himself without leave And upon such apprehension the offender shall as soon as conveniently may be be taken on board of the ship or vessel to which he belonged and shall in the meantime be kept in some place of safe custody or shall be committed to custody for the purpose of being dealt with as aforesaid as by the said warrant may be directed.

The officer in command may apprehend deserter without warrant.

13. In all cases of actual invasion or hostile or predatory attack or of imminent danger thereof all officers and crews of such ships or vessels shall be subject to all the laws and customs for the time being in force for the government of Her Majesty's ships vessels and forces by sea and applicable to any person in or belonging to the Royal Navy or to any person being in actual service and full pay and being part of the crew of any of Her Majesty's ships or vessels And in any such case the Governor may place the said ships or vessels of the said Colonial service under the orders and command of such officer of the Royal Navy as may then be commanding on the Station.

In case of invasion &c. officers and crews to be subject to Royal Navy regulations.

14. Every person who by any means whatever persuades or attempts to persuade any officer seaman or other person under articles or any apprentice belonging to the said Colonial service to neglect or refuse to join or to proceed to sea in or to desert from his ship or otherwise to absent himself from his duty shall for each such offence in respect of each such officer seaman or other such person or apprentice incur a penalty not exceeding twenty pounds And every person who wilfully harbours or secretes any officer seaman or other such

Penalty for enticing to desert and harbouring deserters.

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such person or apprentice who has deserted from his ship or who has wilfully neglected or refused to join or to proceed to sea in his ship knowing or having reason to believe such officer seaman or other such person or apprentice to have so done shall for every such person so harboured or secreted incur a penalty not exceeding fifty pounds And such offences shall be cognizable by any two Justices of the Peace.

Seaman under imprisonment may be removed to his ship on application of officer in command.

15. It shall be lawful for the Governor upon the application of the officer in command of any such ship or vessel to cause any officer seaman or other person or apprentice belonging to such ship or vessel who may be under sentence of imprisonment to be removed from the gaol or other place of custody in which he may then be to his ship or vessel and to be then delivered over to the officer in command of the said ship or vessel or to such other officer as may at the time be in charge thereof.

No action to lie against any such officer or other person without proof of malice and unless it be commenced in three months.

16. No action at law shall lie against any such officer or any person acting under his orders for or on account of any matter or thing whatsoever done or caused to be done or commanded by him in the execution of his duty or office under this Act against any party or parties offending or suspected to be offending against the provisions of this Act unless there be proof of corruption or malice and unless such action be commenced within three calendar months after the cause of action or complaint shall have arisen and if any person shall be sued for any matter or thing which he shall have so done or caused to be done or commanded in the execution of this Act he may plead the general issue and give the special matter in evidence.

SCHEDULE.

NEW SOUTH WALES.

WE whose names are hereunder written agree to serve Her Majesty on board the _____ in the respective ranks set against our names respectively for the terms of engagement and at the rates of pay stipulated herein and to be victualled according to the scale of provisions in the Royal Navy.

And we do bind ourselves faithfully to observe and submit to all the provisions on our part to be observed of the Act of the Governor and Legislative Council passed in the nineteenth year of Her Majesty's reign intituled "*An Act for the regulation of the Crews of Armed Vessels in the Service of the Colony*" together with all such articles and regulations as may be made and promulgated under the authority thereof by order of the Governor with the advice of His Executive Council.

And we engage faithfully to discharge all the duties for which we are severally engaged or which we may be reasonably called upon by our Officers to discharge and to do our utmost according to our several abilities efficiently to perform the services on which we may from time to time be employed.

Names.	Rank or Rating.	Rate of Wages per Month.	Date of Joining.	Term of Engagement.	Signature.	Witnesses to Signature.	Remarks.