

Act No. 24, 1899.

STAGE-CARRIAGES.

An Act to consolidate the Acts relating to Stage-carriages. [23rd November, 1899.]

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 New South Wales in Parliament assembled, and by the authority of the same, as follows:—

PART I.

Preliminary.

Short title and division.

1. This Act may be cited as the "Stage-carriages Act, 1899," and is divided into Parts, as follows:—

PART I.—*Preliminary.*—ss. 1-4.

PART II.—*Licenses.*—ss. 5-7.

PART III.—*General provisions.*—ss. 8-14.

PART IV.—*Offences and penalties, and procedure.*—ss. 15-33.

Repeal.

2. (1) The Acts mentioned in the First Schedule to this Act are, to the extent therein expressed, hereby repealed.

Saving.

(2) All licenses granted under the Acts hereby repealed shall be deemed to have been granted under this Act, but shall have the same duration as they would have had if the said Acts had not been repealed.

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3. In this Act, unless the context or subject-matter otherwise indicates or requires,— Interpretation.
6 Wm. IV No. 2, s. 2.

“stage-carriage” means any open or close coach, carriage, or other vehicle having two or more wheels;

“proprietor” includes every owner and part owner of any stage-carriage and every person concerned either solely or in partnership in the keeping or using of any stage-carriage; Ibid. ss. 5, 6.

“justice” means justice of the peace; and

“license” means a license under this Act.

4. (1) This Act shall apply to every stage-carriage kept or used, or let out to be kept or used, for the purpose of conveying passengers for hire to or from different parts of New South Wales for a separate and distinct fare for each passenger, and which when travelling along any road travels at the rate of three miles or more in the hour. Application of Act.
Ibid. s. 2.

(2) This Act shall not apply to licensed vehicles plying wholly within the Metropolitan Police District, nor to stage-carriages the licensed terminations of which are within the Municipal District of Newcastle. Exception.
48 Vic. No. 21, s. 5.
36 Vic. No. 14, Sch. A.
39 Vic. No. 36, Sch. F.

PART II.

Licenses.

5. (1) Any proprietor desiring to obtain a license or renewal of a license for any stage-carriage shall make and sign a requisition in which shall be truly stated the christian name and surname and place of abode of every proprietor of such stage-carriage, and shall make application for such license or renewal before two or more justices assembled in petty sessions for any district from or through which such stage-carriage is intended to pass. Application for license.
6 Wm. IV No. 2, ss. 3, 4, and 5.

(2) Such application shall be made at the usual time and place of holding such sessions, and the stage-carriage for which such license is required shall be exhibited to the justices, who may, upon examination of such stage-carriage, and subject to the provisions of the next subsection, determine the maximum number of passengers which may be safely and conveniently carried both in the inside and on the outside thereof, and may thereupon grant a license under their hands in the form of the Second Schedule hereof to such proprietor to keep and use such stage-carriage. License may be granted.
Ibid. ss. 3 & 4.

(3) No stage-carriage shall be licensed unless the seats are at least fourteen inches wide from front to back, and have sufficient room between them to allow all passengers to be seated with comfort and Space for passengers.
48 Vic. No. 21, s. 4.

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Contents of license. and decency, nor shall any stage-carriage be licensed to carry more
6 Wm. IV No. 2, s. 6. passengers than can be seated, allowing the space of twenty inches on
the seat for each passenger.

6. (1) In every license or renewal of a license there shall be specified,—

- (a) the christian name and surname and place of abode of every proprietor of the stage-carriage;
- (b) the names of the extreme places from and to which such carriage is authorised to go or pass;
- (c) the maximum number of passengers determined by the justices to be conveyed by such carriage, and
- (d) the number of such passengers to be carried in the inside and the number to be carried on the outside of such carriage.

Fee to be paid.

Ibid. s. 8.

(2) The clerk of the petty sessions where any license is issued may demand the sum of five shillings for every such license and the said sum shall be paid by the party applying for such license.

Copy may be had.

Ibid. s. 6.

(3) A copy of every license shall be kept at the office where such license was issued, and any person may have a copy of such license upon payment of one shilling for the same.

Duration of license.

Ibid. s. 7.

7. (1) Every license granted under this Act shall continue in force from the date of such license until the thirtieth day of September next following and no longer, but if such license is granted in the month of September in any year it shall continue in force until the thirtieth day of September in the following year and no longer.

Renewals.

Ibid.

(2) Every license shall be renewed annually, and also whenever any change takes place in the proprietors of any stage-carriage.

Proviso as to renewals.

Ibid.

(3) Every renewal of a license shall be subject to the provisions of this Act with respect to the granting of licenses.

PART III.

General provisions.

Particulars to be painted on stage-carriage.

Ibid. s. 10.

8. (1) Upon each side of every stage-carriage kept or used there shall be painted in words at length upon some conspicuous part and clear of the wheels—

- (a) the christian name and surname of the proprietor or one of the proprietors of such carriage; and
- (b) the names of the extreme places from and to which such carriage is licensed to travel;

and upon some conspicuous place on the back of such carriage—

- (c) the number of passengers allowed to be carried by such carriage; and

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and if such carriage is licensed to carry both inside and outside passengers—

- (d) the number of passengers allowed to be taken in the inside and on the outside of such carriage respectively.

(2) The several particulars required by this section to be stated shall be truly painted in legible and conspicuous letters one inch at least in height, and of properly proportionate breadth, in a colour different from and opposite to the colour of the ground on which they are painted, and shall be placed so that they shall at all times be plainly and distinctly visible and legible.

9. No outside passenger or luggage shall be carried on the roof of any stage-carriage if such roof is more than eight feet nine inches from the ground, or if the bearing of such carriage is less than four feet six inches from the centre of the track of the right wheel to the centre of the track of the left wheel.

10. (1) Subject to the last preceding section any four-wheeled stage-carriage licensed to carry not more than nine passengers shall not be allowed to carry more than five of such passengers outside; if licensed to carry more than nine but not more than twelve passengers shall not be allowed to carry more than eight of such passengers outside; if licensed to carry more than twelve but not more than fifteen passengers shall not be allowed to carry more than eleven of such passengers outside; if licensed to carry more than fifteen but not more than eighteen passengers shall not be allowed to carry more than twelve of such passengers outside; and if licensed to carry more than eighteen passengers shall not be allowed to carry more than two additional passengers outside for every three additional passengers which such carriage is licensed to carry.

(2) The number of outside passengers shall be reckoned exclusive of the driver of such stage-carriage and of every child in the lap, and of any child not in the lap but under seven years if only one such child is carried, but shall include the conductor or guard of such carriage, and if two or more children not in the lap but under seven years are carried, every two of such children shall be counted as one passenger.

11. Luggage carried on the roof of a stage-carriage drawn by four or more horses shall not exceed ten feet nine inches, nor luggage carried on the roof of a stage-carriage drawn by two or three horses exceed ten feet three inches in height from the ground, measuring in each case to the highest point of any such luggage when placed upon the roof of any such carriage.

12. Every proprietor and driver of any stage-carriage shall severally comply with and cause to be observed the requirements mentioned in this section, that is to say:—

- (1) Every such stage-carriage shall carry a sufficient and properly furnished lamp on each side, and three such lamps if more than

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than two horses or other animals are employed in drawing the same; the third lamp to be carried and exhibited over the forepart of the body of such carriage, and such lamps shall be kept continuously alight between sunset and sunrise while such carriage is being used for the purpose of travelling.

Efficient breeching.
48 Vic. No. 21, s. 1.

- (2) Every horse or other animal used in the shafts or pole of any stage-carriage shall have efficient breeching as a portion of its harness whilst so used, unless a certificate is granted by the justices licensing such carriage that such breeching is unnecessary on the portion of road on which such carriage is running.

Brake to be attached.
Ibid.

- (3) Every such stage-carriage having more than two wheels shall, when carrying passengers for hire, be provided with a sufficient and readily available brake properly attached to such carriage.

Interpretation
Ibid.

- (4) The terms "sufficient," "efficient," "readily available," and "properly furnished" shall mean rightly adequate to the particular purpose in question, according to the character of the carriage and of the roads on which it habitually plies.

Saving common law
remedy.

13 Vic. No. 5, s. 2.

48 Vic. No. 21, s. 3.

13. Nothing in this Act, and no prosecution or conviction of any driver of any stage-carriage for careless or furious driving or for racing or other wilful misconduct, shall affect any right of action which any person sustaining injury in consequence of any non-compliance with the requirements of the last preceding section or in consequence of such careless or furious driving or racing or other wilful misconduct would have been entitled to if this Act had not been passed.

General issue.

6 Wm. IV No. 2,
s. 26.

14. (1) Any action or suit against any person for anything done in pursuance of this Act shall be commenced within three months after the act committed and not afterwards, and the defendant may plead the general issue and give this Act and the special matter in evidence, and that the same was done by the authority and in pursuance of this Act, and if it appears so to have been done or that the action was commenced after the time limited for commencing such action, the jury shall find for the defendant.

Treble costs.

Ibid. s. 26.

(2) If the defendant obtains a verdict in such action, or if the plaintiff is nonsuited, or after the defendant has appeared, discontinues his action, or if upon demurrer judgment is given against the plaintiff, the defendant shall have judgment for and may recover treble costs from the plaintiff.

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PART IV.

Offences and penalties and procedure.

15. Any person who omits or neglects to specify truly in the requisition mentioned in section five, subsection one, the name of any proprietor of any stage-carriage referred to in such requisition shall forfeit ten pounds.

Penalty under section 5.
6 Wm. IV No. 2, s. 5.

16. Any person who, solely or with others, keeps or uses any stage-carriage without having a license in force so to do shall forfeit twenty pounds.

Penalty for keeping an unlicensed carriage.

Ibid. ss. 1, 9.

17. (1) Any person who keeps or uses any stage-carriage upon which—

Penalty under section 8.

Ibid. ss. 1, 10.

(a) he has neglected to paint the particulars mentioned in section eight in accordance with the requirements of that section; or,

(b) if the said particulars have become partially obliterated or defaced, he has neglected to repaint the name so as to accord with the provisions of the said section,

shall forfeit five pounds.

(2) A fresh offence shall be deemed to be committed under this section in and for every month during which such neglect continues.

Continuing neglect.
Ibid. s. 25.

18. If any outside passenger or luggage is carried on any stage-carriage contrary to the provisions of section nine, the driver of such carriage at the time when the offence was committed shall forfeit five pounds.

Penalty under section 9.
Ibid. s. 11.

19. If a greater number of passengers are carried on the outside of any stage-carriage than the number allowed by the license to be carried on the outside, or if any outside passengers are carried on any stage-carriage not licensed to carry any outside passenger, the driver of such stage-carriage at the time when the offence was committed shall forfeit five pounds.

Penalty under section 10.
Ibid. s. 12.

20. If any luggage is carried exceeding in any case the height mentioned under section eleven, the driver of such carriage at the time when the offence was committed shall forfeit five pounds.

Penalty under section 11.
Ibid. s. 14.

21. If any person sits or is carried upon any luggage placed on the roof of any stage-carriage, or if more than one person sits or is carried upon the box with the driver of any stage-carriage, the driver of such carriage at the time when the offence was committed shall forfeit five pounds.

No person to be carried upon luggage.
Ibid. s. 15.
Only one person on box.
Ibid.

22. If the number of passengers at any one time conveyed—

Penalty for passengers in excess of number allowed.
Ibid. s. 16.

(a) in, upon, and about; or

(b) in the inside of; or

(c) upon and about the outside of

any stage-carriage is in any case greater than the number allowed by the license to be conveyed in, upon, and about such carriage, or in the inside,

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inside, or on the outside of such carriage, respectively, the person to whom the license has been granted shall forfeit five pounds for each passenger conveyed in any such case in excess of the number allowed by the license, and the driver of such carriage at the time when such offence was committed shall forfeit five pounds.

Passenger may
require driver to stop
at any toll-gate.
6 Wm. IV No. 2,
s. 17.

23. (1) If the driver of any stage-carriage permits or suffers more than one person on the box besides himself, or a greater number of passengers than the number allowed by the license granted in respect of any such carriage, or by this Act, to be carried or conveyed, any passenger who has actually paid for his place in such carriage if conveyed by such carriage may require the driver to stop such carriage at any toll or turnpike gate, and may require the collector of the toll at such gate to count the number of passengers or measure or ascertain the height of the luggage on such carriage.

Penalty on driver for
refusal.
Ibid.

(2) Any such driver who refuses when so required to stop such stage-carriage, or to permit such collector to count the number of passengers or to measure or ascertain the height of the luggage, shall forfeit five pounds for every such refusal, and if more passengers are carried in any such case on such stage-carriage than the number allowed by the license, or if the luggage exceeds the height allowed by this Act, shall forfeit double the penalty imposed by this Act for any such offence.

Penalty on
toll-collector.
Ibid.

(3) Any such collector who upon being required as aforesaid, neglects or refuses to count the passengers or to measure or ascertain the height of the luggage on any stage-carriage, shall forfeit five pounds for every such offence.

Passenger evading
counting.
Ibid.

(4) Any person who endeavours to evade the counting of passengers by any such toll-collector, by descending from such carriage before reaching any toll or turnpike gate and re-ascending after passing the same, shall forfeit ten pounds.

Penalty on leaving
horses unattended.
Ibid. s. 18.

24. Any driver of any stage-carriage, drawn by three horses or more, who at any place where such carriage stops quits the box of such carriage or the horses drawing the same without delivering the reins into the hands of some fit and proper person, or before some such person is placed and stands at the heads of such horses and has command thereof, or, any person so placed who leaves such horses before some other fit and proper person is placed and stands at the heads of and has command of such horses, or who leaves such horses before the driver returns and seats himself on the box and takes the reins, shall for any such offence forfeit five pounds.

Penalty on driver
quitting the box.
Ibid.

25. Any driver of any stage-carriage who permits any passenger or other person to drive the horses drawing such carriage, or quits the box of such stage-carriage, without reasonable occasion or for a longer time than such occasion absolutely requires; or any person travelling

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as guard to any stage-carriage who, whilst the horses are harnessed or are being harnessed thereto, and whilst any passenger is in, upon, or about such carriage, discharges any firearms, except for necessary defence of such carriage or its passengers or luggage, shall for any such offence forfeit five pounds.

Penalty on guard discharging firearms.
6 Wm. IV No. 2, s. 18.

26. Any driver, conductor, or guard of any stage-carriage, who—

Various other penalties.
Ibid.

- (a) neglects to take due care of any luggage whatsoever carried or to be carried by such carriage; or
- (b) demands or receives for the fare of any passenger more than the sum which such passenger is liable to pay, or more than the sum properly chargeable for the carriage of any luggage; or
- (c) when thereto required, neglects or refuses faithfully to account to his employer for all moneys received by him in respect of any passenger or luggage carried by such carriage; or
- (d) assaults or uses abusive or insulting language to any person travelling or about to travel or having travelled as a passenger by such carriage, or to any person accompanying or attending upon any such passenger in coming to or going from any such carriage,

shall for any such offence forfeit five pounds.

27. Any driver, conductor, guard of any stage-carriage, or any other person having the care thereof, or being employed in, upon, or about such carriage, who through intoxication or negligence, or by wanton or furious driving, or by or through any other misconduct, endangers the safety of any passenger or other person, or injures and endangers the property of the proprietor of such stage-carriage, or of any other person, shall for any such offence forfeit five pounds.

Penalty on persons endangering passengers or property.
Ibid. s. 19.

28. If in any case it happens that the driver, conductor, or guard of any stage-carriage has committed any offence, in respect of which he is liable under this Act, but the proprietor is not, and such driver, conductor, or guard is not known, or if known cannot be found, the proprietor of such carriage shall be liable to the penalty for every such offence as if he had been the driver, conductor, or guard of such carriage at the time when such offence was committed:

Proprietor liable for penalties if driver not known.
Ibid. s. 20.

Provided that if such proprietor makes out, to the satisfaction of the justices hearing any information or complaint, by sufficient evidence not resting on his own testimony,—

- (a) that such offence was committed without his privity or knowledge; and
- (b) that no profit, advantage, or benefit has accrued, or can accrue to him, either directly or indirectly, by the commission of such offence; and

(c)

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(c) that he has endeavoured to find out such driver, conductor, or guard, and has given all reasonable information in answer to any inquiries respecting him,

the justices shall discharge such proprietor from such penalty, and shall levy the same upon such driver, conductor, or guard when found.

Penalty under
section 12.
48 Vic. No. 21, s. 2.

29. (1) If any proprietor or driver of any stage-carriage neglects or omits to comply with or cause to be observed any of the requirements of section twelve hereof, he shall be liable to a penalty not exceeding forty pounds, which may be recovered in a summary way before any two justices under proceedings commenced in any town or place from, through, or to which such stage-carriage plies.

Justices to determine
sufficiency.
Ibid. s. 1.

(2) Any question arising in any such proceedings as to the sufficiency or furnishing of lamps, or as to the efficiency of any breeching, or as to the sufficiency and availability of any brake, shall be finally determined by the justices in each case.

Proceedings for
penalties.
6 Wm. IV No. 2,
s. 21.

30. (1) All offences against this Act shall be heard and determined in a summary way, upon information in that behalf exhibited, in accordance with the provisions of the Acts regulating summary proceedings before justices.

Appeal.
Ibid.

(2) Any person aggrieved by any summary conviction under this Act, in any case where the fine or penalty exceeds five pounds, may appeal therefrom, under the provisions of the Acts fifth William the Fourth number twenty-two and thirty-ninth Victoria number thirty-three.

Service of process.
Ibid. s. 22.

31. Any summons issued by any justice against any driver, conductor, guard, or proprietor of any stage-carriage for any offence under this Act, shall be deemed to be duly served if the original or a copy of such summons is left with the known or acting book-keeper for such carriage in any town or place through which such carriage is driven.

Informations to be
laid against the
nearest proprietor.
Ibid. s. 23.

32. When there are several proprietors of any stage-carriage who reside in different places, any summons, information, or conviction under this Act may be issued, laid, and prosecuted against such one or more of them as reside in, or nearest to, the place from which the summons is issued.

Limitation of
prosecutions.
Ibid. s. 25.

33. (1) Prosecutions under section seventeen subsection (1), may be commenced at any time, but in all other cases, except under section twenty-nine hereof, prosecutions for offences against this Act shall be commenced within fourteen days after the offence has been committed.

(2) Prosecutions under section twenty-nine hereof may be commenced within one month from the committal of the offence.

Ibid.

(3) There shall not be more than one recovery for the same offence.

SCHEDULES.

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FIRST SCHEDULE.

Section 2.

Reference to Act.	Title or short title.	Extent of repeal.
6 Wm. IV No. 2...	An Act for regulating Stage-carriages in New South Wales.	The whole.
13 Vic. No. 5 ...	An Act for punishing criminally Drivers of Stage Coaches and Carriages for accidents occasioned by their wilful misconduct.	The unrepealed portion.
48 Vic. No. 21 ...	Carriages Regulation Act of 1884	The whole.

SECOND SCHEDULE.

Section 5.

Form of license for a stage-carriage.

Whereas A.B. or [*A.B. and C.D., naming the proprietor or proprietors*] of a certain stage-carriage being [*here insert in general terms the description of carriage, whether a telegraph or long-bodied coach, van, or cart, and the number of wheels*], having applied to us, E.F. and G.H., justices of the peace, assembled in petty sessions for the district of , to grant to him [*or them, as the case may be*] a license to authorise him [*or them*] to keep and use the said stage-carriage between and [*naming the extreme places*]: And whereas we, the said justices, having had this day exhibited to us the said stage-carriage, and having examined the same and being satisfied that the said carriage is calculated safely and conveniently to carry the number of passengers hereinafter mentioned, do hereby, in pursuance of the authority in us vested by the Stage-carriages Act, 189 , authorise and license the said A.B. [*or A.B. and C.D.*] to carry and convey between aforesaid and aforesaid the number of passengers in and by the said stage-carriage, that is to say, the number of passengers in the inside and passengers on the outside thereof, subject to the several regulations and provisions of the said Act. This license to cease and determine on the thirtieth day of September, one thousand and

Given under our hands this day of , one thousand and

Act