

CHAPTER 145.

SHIPPING CASUALTIES, WRECKS AND SALVAGE.

RULES

Rules.
12 of 1936.

made by the Chief Justice, with the approval of the Legislative Council under section 21.

1. These Rules may be cited as the Shipping Casualties, Wrecks and Salvage Rules. Citation.

2. In these rules, unless the context otherwise requires, "Inquiry" means a formal inquiry into a shipping casualty. Interpretation.

3. When an inquiry has been ordered, the Governor may cause a notice, to be called a notice of inquiry, to be served upon the owner, master and officers of the ship, as well as upon any person who in his opinion ought to be served with such notice. The notice shall contain a statement of the questions which, on the information then in possession of the Governor, will be raised on the hearing of the inquiry, and shall be in the Form No. 1 in the Schedule hereto with such variations as circumstances may require. The Governor may, at any time before the hearing of the inquiry, by a subsequent notice amend, add to, or omit any of the questions specified in the notice of inquiry. Notice of inquiry.

4. The Harbour-master, and any certificated officer upon whom a notice of inquiry has been served, shall be deemed to be parties to the proceedings.

5. Any other person upon whom a notice of inquiry has been served, and any person who shows that he has an interest in the inquiry shall have a right to appear; any other person may, by leave of the court, appear; and any person who appears under this rule shall thereupon become a party to the proceedings.

6. A party may give to any other party notice in writing to produce any documents (saving all just exceptions) relating to the matters in difference between them, which are in the possession or under the control of such other party; and, if the notice is not complied with, secondary evidence of the Notice to produce.

contents of the documents may be given by the party who gave the notice.

Notice to
admit.

7. A party may give to any other party notice in writing to admit any documents (saving all just exceptions) and in case of neglect or refusal to admit after such notice, the party so neglecting or refusing shall be liable for all the costs of proving the documents, whatever may be the result, unless the court is of opinion that the refusal to admit was reasonable; and no cost of proving any document shall be allowed unless such notice has been given, except where the omission to give the notice has, in the opinion of the court, caused a saving of expense.

Affidavits.

8. Affidavits may, by permission of the court, be used as evidence at the hearing.

Procedure
in court.

9. At the time and place appointed for holding the inquiry the court may proceed with the inquiry whether the parties, upon whom a notice of inquiry has been served, or any of them, are present or not.

10. The proceedings on the inquiry shall commence with the production and examination of witnesses by the Harbour-master. These witnesses, after being examined on behalf of the Harbour-master, may be cross-examined by the parties in such order as the court may direct, and may then be re-examined on behalf of the Harbour-master. Questions asked and documents tendered as evidence in the course of the examination of these witnesses shall not be open to objection merely on the ground that they do or may raise questions which are not contained in, or which vary from, the statement of the case, or questions specified in the notice of inquiry.

11. When the examination of witnesses produced by the Harbour-master has been concluded, the Harbour-master shall state in open court the questions in reference to the casualty, and the conduct of the certificated officers, or other persons connected therewith, upon which the opinion of the court is desired. In framing the questions for the opinion of the court, the Harbour-master may make such modifications in, additions to, or omissions from the questions in the notice of inquiry as, having regard to the evidence which has been given, he may think fit.

contents of the documents may be given by the party who gave the notice.

Notice to
admit.

7. A party may give to any other party notice in writing to admit any documents (saving all just exceptions) and in case of neglect or refusal to admit after such notice, the party so neglecting or refusing shall be liable for all the costs of proving the documents, whatever may be the result, unless the court is of opinion that the refusal to admit was reasonable; and no cost of proving any document shall be allowed unless such notice has been given, except where the omission to give the notice has, in the opinion of the court, caused a saving of expense.

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Procedure
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9. At the time and place appointed for holding the inquiry the court may proceed with the inquiry whether the parties, upon whom a notice of inquiry has been served, or any of them, are present or not.

10. The proceedings on the inquiry shall commence with the production and examination of witnesses by the Harbour-master. These witnesses, after being examined on behalf of the Harbour-master, may be cross-examined by the parties in such order as the court may direct, and may then be re-examined on behalf of the Harbour-master. Questions asked and documents tendered as evidence in the course of the examination of these witnesses shall not be open to objection merely on the ground that they do or may raise questions which are not contained in, or which vary from, the statement of the case, or questions specified in the notice of inquiry.

11. When the examination of witnesses produced by the Harbour-master has been concluded, the Harbour-master shall state in open court the questions in reference to the casualty, and the conduct of the certificated officers, or other persons connected therewith, upon which the opinion of the court is desired. In framing the questions for the opinion of the court, the Harbour-master may make such modifications in, additions to, or omissions from the questions in the notice of inquiry as, having regard to the evidence which has been given, he may think fit.

12. After the questions for the opinion of the court have been stated, the court shall proceed to hear the parties to the inquiry, and determine upon the questions so stated. Each party to the inquiry shall be entitled to address the court and produce witnesses, or recall any of the witnesses who have already been examined for further examination, and generally adduce evidence. The parties shall be heard and their witnesses examined, cross-examined and re-examined in such order as the court shall direct; the Harbour-master may also produce and examine further witnesses who may be cross-examined by the parties, and re-examined by the Harbour-master.

13. When the whole of the evidence in relation to the questions for the opinion of the court has been concluded, any of the parties who desire so to do may address the court upon the evidence, and the Harbour-master may address the court in reply upon the whole case.

14. The court may adjourn the inquiry from time to time and from place to place, and where an adjournment is asked for by a party to the inquiry or by the Harbour-master, the court may impose such terms as to the payment of costs or otherwise as it may think just as a condition of granting the adjournment.

15. Except where the certificate of an officer is cancelled or suspended, in which case the decision shall always be given in open court, the court may deliver its decision either *viva voce* or in writing, and if in writing, it may be sent or delivered to the parties. In the latter case it shall not be necessary to hold a court merely for the purpose of delivering the decision of the court.

16. The court may order the costs and expenses of the inquiry, or any part thereof, to be paid by the Harbour-master or by any other party. An order for payment of costs shall be in Form No. 2 in the Schedule hereto, with such variations as circumstances may require.

17. At the conclusion of the inquiry the court shall report to the Governor. The report, which shall be in duplicate, shall be in the Form No. 3 in the Schedule hereto, with such modifications as circumstances may require. The said report shall be published in the *Gazette*.

Copy of
report when
certificate
affected.

18. Where the certificate of a master, mate or engineer has been cancelled or suspended, the Harbour-master shall, on application by any party to the proceedings, give him a copy of the report.

Computation
of time.

19. In computing the number of days within which any act is to be done they shall be reckoned exclusive of the first and inclusive of the last day, unless the last day shall happen to fall on a Sunday or public holiday, in which case the time shall be reckoned exclusive of that day also.

Service of
notices.

20. Any notice, summons or other document issued under these rules may be served by sending the same by registered letter to the address of the person to be served.

Proof of
service.

21. The service of any notice, summons, or other document may be proved by the oath or affidavit of the person by whom it was served.

Allowances
to witnesses.

22. All witnesses attending before the court shall be entitled to the same allowances as witnesses attending the Supreme Court.

Publication
of rules.

23. A copy of these rules shall be kept at every Customs House and at the offices of the Comptroller of Customs and the Harbour-master, and any person desiring to peruse them shall be entitled to do so free of charge.

SCHEDULE.

Form No. 1.

NOTICE OF INQUIRY.

To.....master, mate, engineer, etc., of or belonging to the ship
.....of.....

I hereby give you notice that the Governor has ordered a formal inquiry into the circumstances attending the.....and that subjoined hereto is a copy of a report (or statement of the case) upon which the said inquiry has been ordered. I further give you notice to produce to the court (your.....certificate, the log books of the vessel, and) any (other) documents relevant to this case which may be in your possession.

I have further to give you notice that on the information at present obtained by the Governor the questions annexed hereto are those upon which it appears desirable, and upon which I propose to take the opinion of the court; but these questions will be subject to alteration, addition,

omission, or amendment by me at the inquiry, after the witnesses called by me have been examined.

Dated this.....day of.....19....

.....
Harbour-master

I. Report (or statement of case).

II. Questions.

(i) Whether the..... (*here insert the proposed questions*).

FORM No. 2.

ORDER ON A PARTY FOR PAYMENT OF COSTS OF INQUIRY.

In the matter of a formal inquiry held at.....on the.....(*here state all the days on which the court sat*) days of....., before....., assisted by....., into the circumstances attending the.....

The court orders:

(1) That A.B., of....., do pay the Accountant General (the sum of.....pounds on account of) the expenses of this inquiry or (2) that the Harbour-master do pay to A.B. of.....(the sum of.....pounds on account of) the expenses of this inquiry.

Given under my hand this.....day of.....19....

.....
Judge.

FORM No. 3.

REPORT OF COURT.

In the matter of a formal inquiry held at.....on the.....(*here state all the days on which the court sat*) days of.....before.....assisted by....., into the circumstances attending the above-mentioned shipping.....casualty, finds, for the reasons stated in the annex hereto, that the.....(*here state finding of the court*).

Dated this.....day of.....19....

.....
Judge.

ANNEX TO THE REPORT.

(*Here state fully the circumstances of the case, the opinion of the court touching the causes of the casualty, and the conduct of the persons implicated therein, and whether the certificate of any officer is either suspended or cancelled and, if so, for what reasons*).