

STATE OF ANJOUAN

**HARBOURS AND MERCHANT
SHIPPING ACT**

009A OF 2005

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ACT
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THE SUBSTANTIVE LAWS OF BELIZE REVISED EDITION 2000

PART I

Preliminary

1. This Act may be cited as the Harbours and Merchant Shipping Act.

2. In this Act, unless the context otherwise requires-

“buoys and beacons” includes all other marks and signs used for that purpose;

“harbour” means a harbour named in or appointed under this Act and includes the approaches or channels of ingress and the foreshore of any harbour;

“Harbour Master” means any person lawfully performing the duties of such officer, or acting under the orders of the Harbour Master;

“home-trade vessel” includes every vessel employed in trading between any port or place in Anjouan, and ports or places along the line of coast of Anjouan Island

“IMMRA” means the International Merchant Marine Registry of Anjouan established under section 3 of the Registration of Merchant Ships Act;

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“lighthouses” includes floating and other lights exhibited for the guidance of ships;

“Minister” means the Minister for the time being responsible for Ports;

“Port Authority” means the Anjouan Port Authority established under the Anjouan Port Authority Act.

“seaman” includes every person except masters and pilots, employed or engaged in any capacity on board any ship;

“ship” means and includes every description of vessel, boat or other craft used in navigation, including all vessels particularly referred to in Part III.

3. The Minister may by order from time to time appoint harbours for the purpose of this Act and declare the limits and boundaries thereof.

4. Until otherwise ordered under the next preceding section, the limits and boundaries of the harbour of Anjouan are hereby declared to be The Island of Anjouan

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PART II

Provisions for General Management of Harbours

5.-(1) The person appointed to the post of Ports Commissioner under the Anjouan Port Authority Act shall perform the duties which immediately before such appointment were being performed by the Harbour Master under this Act.

(2) Pending the appointment of the Ports Commissioner the persons holding the post of Harbour Master and Assistant Harbour Master shall continue to act as such.

6.-(1) The Minister shall have the general superintendence, management and control of the harbour of Anjouan and of all the lighthouse stations, lighthouses, shorelights, buoys, beacons and other works and apparatus for the warning and guidance of ships within Anjouan or the territorial waters thereof and may do all or any of the following things-

(a) make regulations for -

(i) the control, improvement, preservation and inspection of lighthouse stations, lighthouses, shorelights, buoys and beacons;

(ii) the control, improvement, preservation and maintenance of all or any of the ports, harbours, roadsteads, rivers or public wharves of Anjouan, and for the maintenance of good order therein;

(iii) requiring the exhibition of such lights and signals as may be considered necessary and regulating the steps to be taken for avoiding collisions by ships navigating the waters of any harbour, port, roadstead, river or other inland waters;

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(iv) imposing penalties for breaches thereof not exceeding five hundred dollars which may be recovered on summary conviction;

(v) carrying out generally the provisions of this Act;

(b) make, and when made, alter, vary or suspend, scales of dues to be paid by persons using any public or private wharf for landing goods, or otherwise, or any building on any such wharf;

(c) define public wharves and the limits thereof;

(d) exempt from payment of the whole or any part of any light, port or harbour dues or charges, the steamer or steamers of any person or company who enters into a contract with the Government;

(e) exempt from payment of the whole or any part of any light, port or harbour dues or charges, the transports or store ships of any friendly foreign Government or Governments;

(f) lease any portion of any public wharf to any person or company, and make regulations for prescribing the terms and conditions of such lease including the exemption in whole or in part of any tonnage dues that would otherwise be payable by the person or company so leasing a portion of a public wharf.

(2) Any regulations made under paragraph (f) shall be subject to negative resolution.

7. Ships of war, ships used as transports, or store ships in the service of the Government of Anjouan, ships arriving in distress and neither landing cargo for sale or consumption, nor taking on board any additional cargo, ships carrying mails under contract with the Government, and ships arriving at any port in Exemptions.

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Anjouan merely for the purpose of communicating or receiving orders, and not landing nor taking on board any cargo, shall be exempt from the payment of light dues.

8.-(1) The Minister may from time to time make regulations-

- (a) for the fixing and levying of light dues;
- (b) for the fixing and levying of port, harbour, tonnage or other dues in respect of ships of various classes;
- (c) for the payment of all such dues or any of them.

(2) All such regulations shall be submitted for approval to the National Assembly which may by resolution rescind, add to, alter or amend them, and upon such approval shall be published in two successive issues of the *Gazette* and thereafter shall have the force and effect of law.

PART III

A.-Coastal and River Passenger Trade

9. In this Part, unless the context otherwise requires-
"coastal and river service" means passenger trade between all places in Anjouan whether by sea or on any river or inland water.

"passenger" means any person carried in a vessel other than the master and crew, but shall not include distressed seamen;

"vessel" includes a ship, boat or dory in whatever way propelled or any other description of vessel used in the coastal and river service or in conveying passengers from such vessel to land or *vice versa*.

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10. Nothing in this Part shall be held in any way to interfere with the operation of the provisions of the Merchant Shipping Act,

11. This Part shall apply only to vessels owned, operated or managed by persons residing in Anjouan, except so far as its provisions apply to foreign vessels.

12.-(1) The Harbour Master may on application and after examination by such person or persons as the Harbour Master may from time to time appoint, in this Act referred to as the examiner, grant to vessels engaged in the coastal and river service "Sea-going Certificates" in the form of the First Schedule, and any such certificate shall be liable to be revoked at any time for good cause by the Harbour Master.

(2) Any certificate granted under subsection (1), shall remain in force until 31st December in the year wherein it is granted and shall state the maximum number of passengers which such vessel is authorised to carry, the load draught and such other particulars as the Harbour Master may require and prescribe.

13. Before granting any certificate under section 12, the Harbour Master shall require that every vessel so engaged in the coastal and river service shall be supplied with a sufficient number of boats (if any) and life-saving apparatus and shall conform to all the conditions and requirements which the Harbour Master may prescribe by regulations.

14.-(1) If any vessel as mentioned in section is so loaded as to be submerged in salt water below the load draught stated in the certificate, she shall be deemed to be unfit to proceed to sea without danger to human life within the meaning of section 25 and may be detained as provided in that section.

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(2) Any master proceeding to sea with a vessel so submerged commits an offence and is liable on summary conviction to a fine of five hundred dollars.

15. The Harbour Master shall accept and recognize all certificates being unexpired and in legal operation issued under the provisions of any Act in the United Kingdom or in any of the British possessions or such other certificates as the Minister may direct.

16.-(1) No vessel engaged in the coastal and river service shall proceed to sea or on a river voyage without a "Sea-going Certificate" from the Harbour Master or a certificate recognizable under section 15.

(2) The owner or master of any such vessel who sends or permits such vessel to proceed to sea or on a river voyage in contravention of subsection

(1) commits an offence and shall each be liable to a fine not exceeding one thousand dollars.

17. The provisions of sections 12, 13, 14, 15 and 16 shall apply to vessels under five tons net register only in so far as the Minister shall by regulations prescribe, as to the examination and inspection of them and the issue of certificates in respect thereof.

18. The Minister shall have power to make regulations to provide for-

(a) the examination of masters, mates and engineers of vessels, the conduct of the examinations, and the qualification of the applicants and the granting of certificates of competency;

(b) the examination, survey, inspection and measuring of vessels, and the manner of determining and marking of draught freeboard and load lines thereof and the issue of "Sea-going Certificates" in respect thereto;

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(c) the general equipment of vessels and provision to be made for the number of the crew, including a mate or mates, and for the safety of passengers, having regard to the nature of the passage, the number of passengers to be carried, the season of the year, and the safety of the vessel;

(d) the lights to be carried:

Provided that all such regulations as to lights shall apply only to vessels not required to carry a light by the sea regulations made under the Merchant Shipping Act.

(e) the means to be adopted for the identification of vessels;

(f) the means to be adopted for the prevention of the overloading of vessels;

(g) keeping order on such vessels;

(h) dividing the vessels into classes to which the regulations or any of them are to apply, and providing for the exemption of classes of vessels from the regulations or any of them and for the inspection and registration of vessels under five tons net register and for the issue of certificates therefor;

(i) the imposition of fees with respect to examinations for, and the issue of certificates of competency, and with respect to the examination, survey, and inspection of vessels, and the issue of "Sea-going Certificates" in connection therewith, and for the inspection and testing of life-saving apparatus;

(j) the imposition of fines not exceeding five hundred dollars for the breach of any such regulations.

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19. The Minister shall deliver to every person who has passed the prescribed examination satisfactorily, or has otherwise satisfied the Minister of his competency to act as master, mate or engineer, and has given satisfactory evidence of his sobriety, experience, ability and general good conduct, a certificate, hereinafter called a "Certificate of Competency", in the form contained in the Second Schedule, to the effect that he is competent to act as master, mate or engineer of a vessel engaged in the coastal and river service.

20.-(1) If the Minister is satisfied that the master of a vessel has had long and special experience in navigating a vessel to any particular ports or places, he may grant him a special certificate of service in such form and with such particulars as he may appoint authorising him to take command of a vessel to such particular ports or places notwithstanding that he may be unable to obtain a certificate of competency under this Act.

(2) If such master takes his vessel to any other ports or places than those to which his certificate authorises him, he shall be liable to have such certificate cancelled and to a fine not exceeding one thousand dollars.

21.-(1) No vessel engaged in the coastal and river service shall go to sea or proceed on a river voyage unless the master and mate, if any such be required, and engineer, if any such be required, of such vessel possesses valid certificates of competency or service appropriate to their several stations in such vessel.

(2) Any person who, having been engaged to serve in any of the capacities mentioned in subsection (1), goes to sea or proceeds on a river voyage in such capacity without being at the time possessed of a certificate as required by subsection (1), commits an offence and shall for each offence be liable to a fine not exceeding one thousand dollars.

(3) Any person who employs any other person in any of the capacities mentioned in subsection (1) without ascertaining that such other person is at the time possessed of such certificate as aforesaid, the onus of

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proving which shall be on such employer, shall for each offence be liable to a fine not exceeding one thousand dollars.

22.-(1) Every certificate issued by the Minister shall be signed and shall be made in duplicate and one copy of such certificate shall be delivered to the person entitled to the certificate and the other shall be kept and recorded by the Minister.

(2) All cancellations, suspensions, alterations or other proceedings in anywise affecting any certificate made or taken by the Minister in pursuance of the powers herein contained shall be entered in the record of certificates and a copy purporting to be certified by the clerk of any entry made as aforesaid in respect of any certificate, shall be sufficient evidence of the truth of the matters stated in such entry, unless the contrary is shown.

23.-(1) If a master, mate or engineer proves to the satisfaction of the Minister that he has without fault on his part lost or been deprived of a certificate granted to him, the Minister shall, and in any other case may, upon payment of such fee, if any, as is directed, cause a copy of the certificate to which by the record kept in pursuance of this Act he appears to be entitled, to be certified by the clerk, and to be delivered to him.

(2) A copy of any such certificate purporting to be so certified shall have all the effect of the original.

24.-(1) Any officer of the Port Authority, justice of the peace, officer of customs or member of the Anjouan Police Department may at any reasonable time inspect any vessel engaged in the coastal and river service for the purpose of satisfying himself that all the requirements of this Act have been complied with and may for this purpose call for and inspect any certificates granted under this Part.

(2) If the owner, master or engineer refuses to permit the inspection of any certificates by any of the persons mentioned in subsection (1), he commits an offence and is liable to a fine not exceeding two hundred dollars.

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(3) Any person who impedes or obstructs any officer of the Port Authority, justice of the peace, officer of customs or member of the Anjouan Police Department while making any inspection under subsection (1), commits an offence and is liable to a fine not exceeding two hundred and fifty dollars.

25.-(1) Where a vessel about to proceed on a voyage in the coastal and river service with passengers is an unsafe vessel, a justice of the peace, officer of customs or any member of the Anjouan Police Department or an officer of the Port Authority may detain such vessel and immediately report to the Harbour Master the fact of the detention and the reason for his action.

(2) For the purposes of this section, a vessel is an unsafe vessel if there has been any failure to comply with the provisions of this Act or if by reason of-

(a) the defective condition of her hull, equipment or machinery;

or

(b) under-manning or over-loading or improper loading or insufficient life-saving apparatus,
such vessel is unfit to proceed without serious danger to human life, having regard to the nature of the service for which she is intended.

(3) Where any vessel has been so detained, the Harbour Master may-

(a) issue an order authorising the detaining officer to permit the vessel to proceed on such conditions as the Harbour Master may prescribe;

(b) deal with the vessel under Part IV;

(c) make any other order which may be deemed necessary.

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(4) If the master of any vessel so detained acts in contravention of any order made by the Harbour Master under this section, he commits an offence and is liable to a fine not exceeding five hundred dollars or to imprisonment for a term not exceeding six months.

26.-(1) Any person who sends or attempts to send, or is party to sending or attempting to send, a vessel whether engaged in the coastal and river service, as defined in this Part, or otherwise, and every master who knowingly takes such vessel to sea or on a river in such unseaworthy state that the life of any person is likely to be thereby endangered, commits a misdemeanor, and is liable to a fine not exceeding one thousand dollars or to be imprisoned for any period not exceeding two years, unless he proves that he used all reasonable means to insure her being sent to sea or on a river in a seaworthy state, or that her going to sea or on a river in such unseaworthy state was, in the circumstances, reasonable and justifiable.

(2) A prosecution under this section shall not be instituted except with the consent of the Director of Public Prosecutions, and shall not be punishable on summary conviction.

27.-(1) Subject to subsection (2), any master or person in charge of any vessel engaged in the coastal and river service who carries in such vessel a greater number of passengers than is specified on such vessel's certificate, shall be liable to a fine of not less than twenty dollars and not exceeding fifty dollars for each passenger so carried in excess.

(2) The Harbour Master may under circumstances which to him appear justifiable issue a special licence for any one voyage enabling such vessel to carry such number of passengers in excess of the number so specified as may in such special licence be mentioned.

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B.-Foreign Vessels

28.-(1) Where a foreign vessel engaged in the coastal and river service is, whilst at any port or place in Anjouan, unsafe by reason of the defective condition of her hull, equipment or machinery, or by reason of over loading or improper loading, or by reason of under-manning, and engages or is about to take passengers from Belize, she may be provisionally detained by the Harbour Master, or any officer of customs, magistrate of the district or a justice of the peace, or any member of the Anjouan Police Department.

(2) Any person who detains a vessel pursuant to subsection (1), shall at once report to the Harbour Master the fact of the detention.

(3) The Harbour Master shall forthwith report in writing the fact of detention of the vessel to the recognised consular officer, if there be one for the state to which the vessel belongs, or if there be no such officer, to the consignee of the vessel.

(4) Where a vessel has been provisionally detained, the consular officer, if there be one, or if there be no such officer, the consignee of the vessel may on the request of the owner or master of the vessel, require that the person appointed by the Harbour Master to survey the vessel shall be accompanied by such person as the consular officer or consignee may select, and in such case, if the surveyor and such person agree, the Harbour Master shall cause the vessel to be detained or released accordingly, but if they differ the Harbour Master may act as if the requisition had not been made and may order a survey to be made as is provided in the case of a British ship under Part IV.

(5) The consular officer or the consignee, as the case may be, instead of requiring the Harbour Master to appoint a person to survey the ship, may with the consent of the owner or master undertake not to carry passengers, and in such case the Harbour Master may order that the vessel be released on the condition that she does not carry passengers from Anjouan.

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PART IV

Unseaworthy Ships

29.-(1) Where a Anjouanian registered ship, being in any port or harbour of Belize, is an unsafe ship, she may be provisionally detained for the purpose of being surveyed or for ascertaining the sufficiency of her crew and either finally detained or released in accordance with subsections (3), (4) and (5).

(2) For the purposes of this section, a ship is an unsafe ship if by reason of the defective condition of her hull, equipment or machinery, or overloading, under-manning or improper loading she is unfit to proceed to sea without serious danger to human life, having regard to the nature of the service for which she is intended.

(3) The Harbour Master if he has reason to believe on complaint or otherwise that a Anjouanian registered ship is unsafe may order the ship to be provisionally detained as an unsafe ship for the purpose of being surveyed, and thereupon any officer of customs or of the Port Authority may detain such ship until her release is ordered by the Harbour Master or by the Supreme Court.

(4) When a ship has been provisionally detained, there shall be forthwith served on the master of the ship a written statement of the grounds of her detention and the Harbour Master may appoint some competent person or persons, hereinafter called the Inspector, to survey the ship and report thereon to the Harbour Master.

(5) The Harbour Master on receiving the report may either order the ship to be released either upon or without conditions, or if in his opinion the ship is unsafe, may order her to be finally detained either absolutely or until the performance of such conditions with respect to the execution of repairs or alterations or the unloading or reloading of cargo or the manning of the ship as the Harbour Master thinks necessary for the protection of human life and the Harbour Master may vary or add to any such order.

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30.-(1) Any person appointed pursuant to section 29 (4) to survey a ship may, for the purposes of such survey, require the unloading or removal of any cargo, ballast or tackle, and he may-

(a) go on board any such ship, and may inspect it or any part thereof, or any of the machinery, boats, equipments or articles on board thereof, not unnecessarily detaining or delaying her from proceeding on any voyage;

(b) enter and inspect any premises, the inspection of which appear to him to be requisite for the purpose of the report which he is directed to make;

(c) by summons under his hand, require the attendance of all such persons as he thinks fit to call before him, and examine for such purpose, and may require answers or returns to any inquiries he thinks fit to make;

(d) require and enforce the production of all books, papers or documents which he considers important for such purpose;

(e) administer oaths, or may, *in lieu* of requiring or administering an oath, require every person examined by him to make and subscribe a declaration of the statements made by him in his examination.

(2) Any person who-

(a) refuses to attend as a witness before any person so appointed, after having been required to do so in manner hereby directed;

(b) refuses or neglects to make any answer, or to give any return, or to produce any document in his possession, or to make

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subscribe any declarations which any such person so appointed is empowered to require under this Act,

commits an offence and is liable to a fine not exceeding two hundred and fifty dollars.

31. Every person who, having notice of the intention to make such survey, wilfully does or causes to be done any act by which the person appointed to make such survey is prevented from or obstructed in ascertaining the condition of the ship, her equipments, machinery and cargo, is liable to a fine not exceeding five hundred dollars.

32. A copy of every such order, and of the report upon which it was founded, and also of any variation of or addition to such order, shall be delivered as soon as possible to the owner or master of the ship to which it relates.

33. When a ship has been detained under this Part, she shall not be released by reason of her Belizean register having been closed.

34. If upon the survey of a ship under this Part she is reported to have been at the time of the survey, having regard to the nature of the service for which she was then intended, unfit to proceed to sea without serious danger to human life, the expenses incurred by the Harbour Master in respect of the survey shall be paid by the owner of the ship to the Harbour Master, and shall, without prejudice to any other remedy, be recoverable by suit or other proceeding by the Port Authority.

35.-(1) If upon such survey the ship is not reported to have been unfit to proceed to sea, having regard to the nature of the service for which she was intended, the Port Authority shall be liable to pay compensation to any person for any loss or damage which he may have sustained by reason of the detention of the ship for the purpose of survey, or otherwise in respect of such survey.

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(2) The compensation payable under this section shall not exceed twenty cents for every ton net register for every day or part of a day during which she has been detained.

36. When a complaint has been made to the Harbour Master that a ship is not fit to proceed to sea, the Harbour Master may, if he thinks fit, before ordering a survey of the ship, require the complainant to give, or provide such security as the Harbour Master may think sufficient for the payment of the costs and expenses which he may incur in respect of the survey of the ship, and of the compensation which he may be rendered liable to pay for loss or damage, caused by her detention for the purpose of such survey, or otherwise in respect of such survey.

37. When a ship has been surveyed under this Part in consequence of a complaint made to the Harbour Master, if upon such survey being made, it appears that such complaint was made without reasonable cause, the expenses incurred by the Harbour Master in respect of the survey of the ship and the amount, if any, which he has been rendered liable to pay in respect of any loss or damage caused by her detention, shall be recoverable by the Port Authority from such complainant.

38. All moneys payable by the Harbour Master in respect or by reason of the survey or detention of a ship under this Part shall, subject to the rights hereby provided of recovering such moneys from the complainant, be paid out of moneys of the Port Authority.

39.-(1) If the owner of any ship surveyed under this Part is dissatisfied with any order of the Harbour Master made upon such survey, he may apply to the Supreme Court.

(2) The court may, upon such application, if it thinks fit, appoint one or more competent persons to survey the ship anew, and any surveyor so

appointed shall have all the powers of the person by whom the original survey was made.

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(3) Where pursuant to subsection (2), the court appoints one or more competent persons to survey the ship anew, the survey shall, if so required by the Harbour Master or the shipowner, be made in the presence of any person or persons appointed by them respectively to attend at the survey.

(4) The court may make such order as to-

- (a) the detention or release of the ship;
- (b) the payment of any costs and damages which may have been occasioned by her detention;
- (c) the payment of the expenses of the original survey, and of the survey made upon the court's order; and
- (d) the payment of any costs of, and incident to, the application, as to the court may seem just.

40. In all cases where any court has power under this Act to make an order directing payment to be made of any penalties or other sums of money, if the person so directed to pay them is the master or owner of a ship, and he has not paid them at the time and in manner prescribed in the order, the court which made the order may, in addition to any other powers it may have for the purpose of compelling payment, direct the amount remaining unpaid to be levied by distress, and sale of the said ship, her tackle, furniture and apparel.

PART V

Shipwrecks and Casualties

41.-(1) It shall be the duty of the Harbour Master to make inquiries into-
(a) shipwrecks or other Levy on and sale of ship.

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(b) charges of in competency or misconduct on the part of masters, mates or engineers of ships, in the following cases-

(i) where a shipwreck or casualty occurs to a Anjouanian registered ship on or near the coast of Anjouan, or to a Anjouanian registered ship in the course of a voyage to a port within Anjouan;

(ii) where a shipwreck or casualty occurs in any part of the world to a Amnjouanian registered ship registered in Belize;

(iii) where some of the crew of a Anjouanian registered ship which has been wrecked, or to which a casualty has occurred, and who are competent witnesses to the facts, are found in Anjouan;

(iv) where the in competency or misconduct has occurred on board a Anjouanian registered ship on or near the coasts of Anjouan, or on board a Anjouanian registered ship in the course of a voyage to a port within Anjouan;

(v) where the in competency or misconduct has occurred on board of a Anjouanian registered ship registered in Anjouan;

(vi) when the master, mate or engineer of a Anjouanian registered ship, who is charged with in competency or misconduct on board that Anjouanian registered ship, is found in Anjouan.

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(2) The powers and duties conferred by subsection (1) shall not affect any enquiries instituted under the provisions of the Wrecks and Salvage Act.

42. The Harbour Master on any inquiry under section 41, may, by summons, require the attendance of all such persons as he thinks fit, and may examine such persons and enforce the production of all books, papers, log-books, accounts or other documents relating to such inquiry, and may administer oaths, or require statutory declarations as to the truth of any statement made on examination, and he shall have power to allow, in his discretion, the expenses of witnesses, not exceeding the scale allowed by the Supreme Court.

43. The Harbour Master may-

(a) require the owners or their agents, the master, or any of the seamen of any Anjouanian registered ship, being within any part or place in Anjouan, to produce any official log-books, or other documents relating to such ship in his or their possession or control;

(b) require any such master to produce a list of all persons on board his ship, and to take copies of such official log-books or documents;

(c) muster the crew of any such ship; and

(d) summon the master to appear and give any explanation concerning such ship, or her crew, or the said official log-book, or documents.

44. Every person who-

(a) upon requisition duly made, refuses or neglects to produce any such official log-book or document, as he is herein required to produce, or to allow it to be inspected or copied as aforesaid; or

(b) impedes any such muster of a crew as aforesaid; or
Penalty for neglecting to produce log, etc.

HARBOURS AND MERCHANT SHIPPING ACT

(c) refuses or neglects to give any explanation which he is hereinbefore required to give; or

(d) knowingly misleads or deceives any person hereinbefore authorised to demand such explanation, commits an offence and is liable to a fine not exceeding two hundred and fifty dollars, and in default of payment, to imprisonment for a term not exceeding three months.

45.- Every person who-

(a) wilfully impedes the Harbour Master in the execution of his duty; or

(b) refuses to attend in pursuance of any summons of the Harbour Master; or

(c) refuses or neglects to make any answer, or to furnish any return, or to produce any document in his possession or power, or to take any oath, or subscribe any declaration as to the truth of any statements made by him, commits an offence and is liable to a fine not exceeding two hundred and fifty dollars, and in default of payment to imprisonment for a term not exceeding three months.

46.-(1) If the Harbour Master, after an inquiry, under section 41 should consider a more formal investigation to be necessary, he shall report the facts to the Minister, and thereupon the Minister may direct any magistrate to hold such formal investigation into the subject of the inquiry.

(2) At any investigation held under subsection (1), the magistrate shall be assisted by two nautical assessors to be appointed by the Minister,

HARBOURS AND MERCHANT SHIPPING ACT

and when so appointed, the magistrate with the two nautical assessors shall constitute the court for holding the investigation.

(3) Subject to subsection (4) whenever a formal investigation involves, or appears likely to involve, any question as to the cancellation or suspension of the certificate of a master, mate or engineer, the court shall hold the investigation with the assistance of not less than two assessors being either officers of the maritime wing of the Anjouan Defense Force of a rank not lower than that of lieutenant or persons having experience in the Merchant Service.

(4) In the case of an investigation in respect of any ship owned, operated or managed by persons residing in Anjouan, the court holding the investigation may be comprised of a magistrate as aforesaid with either one or two assessors as may be practicable, of nautical, engineering or other special skill or knowledge.

47. The court shall have all the powers of the Harbour Master under sections 42 and 43, and the provisions of those sections and of sections 41, 44 and 45, as well as the rules set out in the Third Schedule shall apply to these investigations.

48.-(1) If there is reason to believe that any master, mate or engineer is, from incompetency or misconduct, unfit to discharge his duties, the Harbour Master shall hold an inquiry, and may if considered necessary appoint any competent person to assist in such inquiry as assessor, and the Harbour Master shall summon such master, mate or engineer to appear at such inquiry, and shall give him full opportunity of making a defense, either in person or otherwise, and may make such order with respect to the costs of such inquiry as he may think just.

(2) Sections 41, 42, 43 and 44 shall apply to any inquiry held under this section.

49.-(1) The certificate of a master, mate or engineer may be cancelled or suspended-

HARBOURS AND MERCHANT SHIPPING ACT

(a) by a court, holding a formal investigation into a shipping casualty under this Act, if the court shall find that the loss, or abandonment of, or serious damage to any vessel, or loss of life, has been caused by his wrongful act or default:

Provided that the court shall not cancel or suspend a certificate unless one at least of the assessors concurs in the finding of the court;

(b) by a court, which term shall include the Harbour Master, holding an inquiry under this Act into the conduct of a master, mate, or engineer, if the court shall find that he is incompetent, or has been guilty of any gross act of misconduct, drunkenness or tyranny, or that in a case of collision he has failed to render such assistance, or give such information as is required under Part V of the Merchant Shipping Act.

(c) by the Harbour Master, in the case of certificates of competency or service granted by himself on an inquiry held by the Harbour Master into a casualty affecting a coastal and river service vessel, if the Harbour Master finds that the loss of or serious damage to such vessel, or that loss of life has been caused by his wrongful act or default.

(2) When any case before any such court as aforesaid involves a question as to the cancelling or suspending of a certificate, that court shall, at the conclusion of the case, or as soon afterwards as possible, state in open court the decision to which it has come with respect to the cancelling or suspending thereof.

(3) The court shall in all cases send a full report on the case, with the evidence, to IMMRA, and shall also, if they determine to cancel or suspend any certificate issued by IMMRA send the certificate cancelled to IMMRA with their report, and if the certificate cancelled or suspended

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has been issued by any authority other than IMMRA, then the court shall send such certificate to the authority by whom it was issued.

(4) All such reports as are mentioned in subsection (3) shall be signed by all members of the court who have taken part in the investigation or inquiry: Provided that any dissenting member shall state in writing his dissent therefrom, and the reason for that dissent.

(5) Subsections (3) and (4) shall not apply to the cancelling or suspending of any certificate granted by the Harbour Master to act as master, mate or engineer of a vessel engaged in the coastal and river service as defined in Part III.

(6) A certificate shall not be cancelled or suspended by a court under this section, unless a copy of the report, or a statement of the case on which the investigation or inquiry has been ordered, or has taken place, has been furnished before the commencement of the investigation or inquiry, to the holder of the certificate.

50.-(1) A master, mate or engineer whose certificate is cancelled or suspended by any court or by the Harbour Master shall deliver his certificate-

(a) if cancelled or suspended by a court, to that court, on demand;
(b) if not so demanded, or if it is cancelled or suspended by the Harbour Master, to the Harbour Master.

(2) Any master, mate or engineer as is mentioned in subsection (1) who fails to comply with this section commits an offence and is liable to a fine not exceeding five hundred dollars.

51. A shipwreck or casualty occurs-

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(a) when any ship is lost, abandoned or materially damaged;

(b) when any ship has been stranded or damaged;

(c) when any ship causes loss or material damage to any other ship;

(d) when any loss of life ensues by reason of any casualty happening to, or on board, any ship;

(e) when any Anjouanian registered ship is lost, or supposed to have been lost, and any evidence is obtainable in Anjouan as to the circumstances under which she proceeded to sea or was last heard of.

PART VI

General and Supplementary

52. Any person other than the Harbour Master who wilfully cuts, breaks or destroys, except for the purposes of this Act, the moorings or fastenings of any ship or boat lying in any port, harbour or roadstead, or at or near any wharf commits an offence, and for every such offence is liable to a fine not exceeding two hundred and fifty dollars, in addition to any liability he may incur by proceedings at the suit or for the benefit of any person damnified thereby.

53. Any person who resists or impedes the Harbour Master in the due performance of any duty under this Act commits an offence and is liable to a fine not exceeding two hundred and fifty dollars.

54. Any person who opposes or obstructs the execution on board any ship in any port, harbour, roadstead or anchorage, of Anjouan of any warrant or other legal process commits an offence and is liable to a fine not exceeding five

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hundred dollars.

55.-(1) The Minister may, from time to time, make regulations-

(a) to prohibit the loading or unloading of timber, logwood, lumber, machinery, heavy packing cases, and other heavy goods or things, and the hauling up or launching of boats and doreys at or from any pier, bridge, or wharf, or at or from any point or place on the shore of the sea or on the bank of any river or canal;

(b) to impose conditions which are to be observed by those loading or unloading, hauling up or launching any of the things aforesaid in order to prevent damage from being done to any pier, bridge, wharf, wall, staking, shore or bank;

(c) to limit the time within which any cargo which it is intended to load into any vessel, or boat, or which has been discharged from any vessel or boat may remain on any pier, bridge, road, or wharf, or on any point or place on the shore of the sea or on the bank of any river or canal;

(d) to regulate the manner in which vessels, boats and rafts may be fastened to or brought or kept alongside of any pier, bridge, wharf, wall, staking, shore, or bank, and to prevent vessels, boats or rafts from being so fastened, brought, or kept as to injure any such pier, bridge, wharf, wall, staking, shore or bank.

(2) Any person who himself or by his agent violates any such regulations made under this section commits an offence and is liable to a fine not exceeding one hundred dollars.

(3) Nothing contained in subsection (2) shall affect the right to recover damages for any injury which may be done to any pier, bridge, wharf, wall,

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staking, shore or bank.

56. Every person who-

(a) injures any lighthouse or any light exhibited therein, or any buoy or beacon;

(b) removes, alters or destroys any light-ship, buoy or beacon; or

(c) rides by, makes fast to, or runs foul of any light-ship or buoy, shall be liable to make good any damage thereby occasioned, as well as to a fine not exceeding five hundred dollars.

57.-(1) Whenever any fire or light is burned or exhibited at such place or in such manner as to be liable to be mistaken for a light proceeding from a lighthouse, it shall be lawful for the Harbour Master or any person nominated in that behalf by such officer to serve a notice upon the owner of the place where the fire or light is burned or exhibited, or upon the person having charge of the fire or light, either personally, or by delivery at the place of abode of such owner or person, or by affixing it in some conspicuous spot near to the fire or light, and by such notice to direct the owner or person, within a reasonable time, to be specified in the notice, to take effectual means for extinguishing or effectually screening the fire or light and for preventing for the future any similar fire or light.

(2) If the owner of that place or other person aforesaid fails to carry out the directions given in any such notice, he shall, in addition to any other liabilities, be guilty of an offence and liable to a fine not exceeding one thousand dollars.

58.-(1) If any such owner or person as aforesaid, served with such a notice as is mentioned in section 57 (1), neglects for a period of twenty-four hours to extinguish or effectually screen the fire or light therein mentioned, it shall be

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lawful for the Harbour Master with or by servants, workmen and other assistants, to enter upon the place where it may be and forthwith extinguish the fire or light, doing no unnecessary damage.

(2) All expenses incurred by the Harbour Master in making such extinction may be recovered by the Government from such owner or person.

HARBOURS AND MERCHANT SHIPPING ACT

FIRST SCHEDULE

[Section 12 (1)]

Anjouan

Certificate No.

Granted under Part III of the Harbours and Merchant Shipping Act.

Official number of vessel
(if registered as a British ship)
Port of Registry
Name and address of owner
Name of master

Certificate (local) No.

Name of engineer

Certificate (local) No.

Steam, motor or sail (if sail, rig)
Tonnage
Length
Breadth
Depth of hold
Load draught

Minimum number of crew (including master) with which vessel is to proceed on a voyage

She is provided with deck line,
life belts,
lights,
boats,
anchors,
bell, horn or whistle.

Maximum number of passengers to be carried.

GIVEN under my hand at Mutsamudu this day of 20 .

HARBOURS AND MERCHANT SHIPPING ACT

SECOND SCHEDULE

[Section 19]

ANJOUAN

Certificate No.

FOR MASTER, MATE OR ENGINEER

Granted under Part III of the Harbours and Merchant Shipping Act.

To

WHEREAS you have given sufficient evidence of your ability and competency to be employed as of a vessel engaged in the service of Anjouan, we do hereby grant you this certificate to be so employed.

GIVEN under my hand at Mutsamudu City this day of 20 .

Harbour Master.

Signature of Holder

Address of Holder

Date and place of birth

HARBOURS AND MERCHANT SHIPPING ACT

THIRD SCHEDULE

[Section 47]

Rules Applying to Investigations under Sections 46 and 47

1. When a formal investigation has been ordered, the Harbour Master may cause a notice, called a notice of investigation, to be served upon the owner, master and officers of the ship, as well as upon any person who in their opinion ought to be served with such notice.
2. The notice shall contain a statement of the question or questions which, on the information then in possession of the Harbour Master, they intend to raise on the hearing of the investigation, and shall be as in Form 1 of this Schedule, with such variations as circumstances may require.
3. The Harbour Master may at any time before the hearing of the investigation, by a subsequent notice, amend, add to, or omit any of the questions specified in the notice of investigation.
4. The Harbour Master and any certificated officer upon whom a notice of investigation has been served, shall be deemed to be parties to the proceedings.
5. Any other person upon whom a notice of investigation has been served, and any person who shows that he has an interest in the investigation, shall have a right to appear, and any other person may by leave of the Court appear, and any person who so appears, shall thereupon become a party to the proceedings.
6. 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.

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7. No costs 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 officer by whom the costs are taxed, caused a saving of expense.

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

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

10. The proceedings on the investigation shall commence with the production and examination of witnesses by the Harbour Master.

11. 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 by the Harbour Master.

12. 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 investigation.

13. When the examination of the 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.

14. 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 investigation, as, having regard to the evidence which has been given, the Harbour Master may think fit.

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15. After the questions for the opinion of the Court have been stated, the Court shall proceed to hear the parties to the investigation, and determine the questions so stated.

16. Each party to the investigation 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.

17. The parties shall be heard, and their witnesses examined, cross-examined and re-examined in such order as the Court shall direct.

18. The Harbour Master may also produce and examine further witnesses, who may be cross-examined by the parties, and re-examined by him.

19. 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.

20. The Court may adjourn the investigation from time to time, and from place to place, and where an adjournment is asked for by a party to the investigation, or by the Harbour Master, the Court may impose such terms, as to payment of costs or otherwise, as it may think just, as a condition of granting the adjournment.

21. Except when the certificate of a master, mate, or engineer 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.

22. In the latter case, it shall not be necessary to hold a Court merely for the purpose of delivering its decision.

23. The Court may order the costs and expenses of the investigation, or

HARBOURS AND MERCHANT SHIPPING ACT

any part thereof, to be paid by the Harbour Master or by any other party to the proceedings.

24. An order for payment of costs shall be as in Form 2 of this Schedule with such variations as circumstances may require.

25. At the conclusion of the investigation the Court shall report to the Harbour Master.

26. The report shall be as in Form 3 of this Schedule with such modifications as circumstances may require.

27. 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 made to the Harbour Master.

28. The Harbour Master may be represented before the Court by counsel or solicitor.

29. Any other party to the proceedings may appear personally, or be represented by counsel or solicitor.

FORM 1
(Rule 2)

ANJOUAN

The Harbours and Merchant Shipping Act
NOTICE OF INVESTIGATION

To Master, Mate, Engineer,
Owner, etc., of or belonging
to the ship of

HARBOURS AND MERCHANT SHIPPING ACT

I HEREBY GIVE YOU NOTICE that the Harbour Master has ordered a formal investigation into the circumstances attending the and that subjoined hereto, is a copy of a report (or statement of the case) upon which the said investigation 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 Harbour Master, the questions annexed hereto are those upon which it appears desirable, and upon which they propose to take the opinion of the Court; but these questions will be subject to alteration, addition, omission, or amendment by the representative of the Harbour Master at the investigation, after the witnesses called by the Harbour Master have been examined.

Dated this day of 20 .

(1) Report (or statement of case).

(2) Questions.

Whether the

(Here insert the proposed questions).

FORM 2
(Rule 24)

anjouan:

The Harbours and Merchant Shipping Act

ORDER ON A PARTY FOR PAYMENT OF COSTS
OF INVESTIGATION

In the matter of a formal investigation held at
on the *(here state all the days on which the Court sat)*

HARBOURS AND MERCHANT SHIPPING ACT

days of before
assisted by into the circumstances attending the
The Court orders

(1) That A.B. of do pay to the Harbour Master the
sum of
dollars on account of the expenses of this investigation, or

(2) That the Harbour Master do pay to A.B. of
the sum of dollars on account of the expenses of this
investigation.

GIVEN under my hand this day of 20 .
Magistrate.

FORM 3
(Rule 26)

ANJOUAN

The Harbours and Merchant Shipping Act

REPORT OF COURT

In the matter of a formal investigation 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, having carefully inquired into the circumstances attending the
abovementioned
shipping casualty, finds for the reasons stated in the annex hereto,
that the *(here state findings of the Court)*
Dated this day of 20 .

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We (or I) concur in the above report.

Assessor

Assessor

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 any persons implicated therein, and whether the certificate of any officer is either suspended or cancelled, and if so, for what reasons.
