

BERMUDA STATUTORY INSTRUMENT

SR&O 21/1975

MERCHANT SHIPPING (COURT OF SURVEY) RULES 1975

*[made under section 33 of the Merchant Shipping Act 1973 [title 31 item 11]
and brought into operation on 5 April 1975]*

ARRANGEMENT OF RULES

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FIRST SCHEDULE

Forms

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MERCHANT SHIPPING (COURT OF SURVEY) RULES 1975

Filing of notice of appeal

1 Where the owner, agent or master of a ship (hereinafter called "the appellant") desires to appeal to the Court of Survey, he shall file with the Registrar of Shipping a notice in the form of Form 1 in the First Schedule.

Proceedings for constituting the Court of Survey

2 Immediately on the filing of a notice of appeal the Registrar of Shipping shall inform the Chief Justice, who shall appoint the judge of the Court of Survey, and the Minister, who shall appoint the assessors of the Court of Survey, one of whom shall be a person nominated by the appellant from among a list of assessors submitted by the Minister.

Summoning of Court of Survey

3 The person appointed to be the judge of the Court of Survey shall summon the Court in the form of Form 2 in the First Schedule.

Surveyor's report

4 Previous to the hearing the Registrar of Shipping shall forward to the judge, to be produced as evidence at the hearing, an official copy of the report of the surveyor.

Time of hearing

5 The Court shall, if practicable, be summoned to hear the appeal on a day not later than fourteen days from the filing of the notice of appeal.

Parties to proceedings

6 (1) The Minister and the appellant shall be parties to the proceedings.

(2) Any other person may by permission of the judge be made a party to the proceedings.

Procedure at hearing

7 (1) At the hearing the Minister shall first call his witnesses and, having done so, shall state in writing what order he requires the Court to make.

(2) The appellant shall then call his witnesses, and having done so, shall state in writing what order he requires the Court to make.

(3) After the appellant has examined all his witnesses, the Minister may, on cause shown to the satisfaction of the judge, call further witnesses in reply.

Order of address

8 After all the witnesses have been examined, the Court shall first hear the appellant and then the Minister.

Adjournment

9 The judge may adjourn the Court from time to time and from place to place as may be most convenient.

Decision of Court of Survey

10 The judge shall deliver the decision of the Court in writing and the same may be sent or delivered to the respective parties, and it shall not be necessary to hold a Court merely for the purpose of giving the decision.

Release or detention of vessel and report

11 As soon as possible after the Court has come to its decision the judge shall issue an order for the release or detention (either finally or on condition) of the vessel in the form of Form 3 in the First Schedule and shall report to the Minister in the form of Form 4 in the First Schedule.

Costs and damages

12 The Court may, if the parties consent thereto in writing, decide whether costs or costs and damages are due, and to and from whom, and may assess the amount thereof.

Service of notices

13 Any notice, summons or other document issuing out of the Court may be served by post or by personal service and service may be proved by the oath or affidavit of the person by whom it was served.

Fees

14 The fees set out in the Second Schedule shall be payable in respect of any proceedings before a Court of Survey.

Power of judge to give directions

15 Subject to any express provision of these Rules, the judge of the Court of Survey may give directions as to matters of procedure before the Court.

FIRST SCHEDULE

FORM 1

NOTICE OF APPEAL

Rule 1

In the matter of the ship

MERCHANT SHIPPING (COURT OF SURVEY) RULES 1975

To the Minister of Marine and Air Services.

TAKE NOTICE that I, [blank]
the owner/master/agent of the above mentioned ship do appeal—

(1) From the declaration of survey given by [blank] the Surveyor designated by the Minister to survey the ship; or the refusal of such Surveyor to give a declaration of survey.

(2) From an order provisionally detaining the ship under section 27 of the Merchant Shipping Act 1973 (or as the case may be).

The address at which all notices and documents may be served on me is [blank]

Dated this [blank] day of [blank] 19 [blank]

(Signature of appellant)

FORM 2

Rule 3

SUMMONS TO COURT

THE COURT OF SURVEY FOR BERMUDA

In the matter of an appeal by [blank] from the declaration of survey given by [blank] the Surveyor designated by the Minister to survey the ship [blank] (or as the case may be).

I hereby summon you to attend as [blank] on this appeal, at [blank] at the time of [blank] on the [blank] day of [blank] 19 [blank]

A copy of the notice of appeal is attached.

Dated at [blank] this [blank] day of [blank] 19 [blank]

Judge of the Court of Survey.

FORM 3

Rule 11

ORDER FOR RELEASE OR DETENTION OF SHIP

THE COURT OF SURVEY FOR BERMUDA

In the matter of an appeal by [blank] from the declaration of survey of [blank] the Surveyor designated by the Minister to survey the ship [blank] (or as the case may be).

I [blank] do order the said ship to be released (or detained finally or conditionally upon [blank]).

Given under my hand at [blank] Bermuda this [blank] day of [blank] 19 [blank]

Judge of the Court of Survey.

I/We concur in the above order

Assessor
Assessor

FORM 4

Rule 11

REPORT OF COURT OF SURVEY

THE COURT OF SURVEY FOR BERMUDA

In the matter of an appeal by [blank] from the declaration of survey of [blank] the Surveyor designated by the Minister to survey the ship [blank] (or as the case may be).

I do report that having heard this appeal, the Court of Survey did order the said ship to be released (or detained finally or conditionally upon [blank]) for the reasons set forth in the annexed statement.

I am also of the opinion that the costs of this appeal should be paid by the appellant (or by the Government), or (that the parties should pay their own costs).

Dated this [blank] day of [blank] 19 [blank]

Judge of the Court of Survey.

I/We concur in the above report

Assessor

Assessor

MERCHANT SHIPPING (COURT OF SURVEY) RULES 1975

**SECOND SCHEDULE
FEES**

		\$ ¢
1	On filing notice of appeal:	
	if the ship is less than 500 gross tons	10.00
	if the ship is 500 gross tons or more	10.00 plus 1.00 for every 100 tons in excess of 500 gross tons.
2	On filing every affidavit	1.00
3	On entering appearance	3.00
4	On every subpoena:	1.00
5	On every statement of the order required to be made by the Court:	3.00
6	On the production and swearing of every witness:	1.00
7	On every consent of the parties to refer the question of costs, or of costs and damages, to the Court, to be paid by each party:	3.00
8	On every hearing for each day, to be paid by each party, the amount thereof to be at the discretion of the judge:	from 10.00 to 30.00
9	On every order whether for the release or detention of the ship or for payment of costs and damages to be paid by the party taking out the order:	3.00
10	On every office copy of the judgment or of any proceedings in the appeal for every folio of 72 words:	1.00