

MERCHANT SHIPPING ACT
(CHAPTER 179, SECTION 257)

**MERCHANT SHIPPING (COURT OF SURVEY) RULES 1254/12S
33/56.**

[23rd December 1910]

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Actual Provisions

MERCHANT SHIPPING ACT
(CHAPTER 179, SECTION 257)

MERCHANT SHIPPING (COURT OF SURVEY) RULES

1254/12

S 33/56.

[23rd December 1910]

Citation.

1. These Rules may be cited as the Merchant Shipping (Court of Survey) Rules.

Definition.

2. In these Rules, unless the context otherwise requires,

"Attorney-General" includes the Solicitor-General and any person authorized by either of them to act as his Deputy.

Court of Survey.

3. There shall be a Court of Survey in Singapore.

Rules to be kept at Registrar's office and Port Office.

4. A copy of these Rules shall be kept at the office of the Registrar of the Court of Survey and at every Port Office, and may be perused thereat by the master or owner of any ship which may be provisionally detained under the Act and by any one deputed by him.

Publication of the name of Registrar and of his office.

5. A notice shall be put up in some conspicuous place in the Port Office, containing the name of the Registrar of the Court of Survey for that Port, and the name of the street or place in which such Registrar's office is situated.

Notice of Appeal.

6. Where the owner or master of a ship (referred to in these Rules as the appellant) desires to appeal to a Court of Survey, he shall file at the office of the Registrar of the Court of Survey for the port in which the ship is (referred to in these Rules as the Court) a notice in the Form 1 set out in the First Schedule.

Summoning of Court.

7. Immediately upon the filing of the notice of appeal, the Registrar shall communicate the fact to the Minister, who shall thereupon inform him whether he intends to have the appeal heard by a Judge of the Supreme Court, and if the appeal is to be so heard the Registrar shall forthwith ascertain on what day such Judge will hear it.

Other Judges.

8. If the Minister informs him that he does not intend to have the appeal heard by a Judge of the Supreme Court, the Registrar shall forthwith ascertain which of the other Judges of the Court will hear the appeal, and on what day.

Appointment of assessor.

9. On ascertaining when the hearing will take place, the Registrar shall, if there is a list of assessors for the Court, select therefrom the person who is, in his opinion, the best qualified to act as assessor on the appeal; or if there is no such list, he will take the instructions of the Judge as to the assessor to be appointed.

Appointment by Minister.

10. The Minister shall appoint the other assessor, and shall forthwith send the name and address of such assessor to the Registrar.

Foreign ships.

11. If the ship is a foreign ship, the Registrar shall give notice to the Consular Officer for the State to which the ship belongs, residing at or nearest to the place where the ship is detained, in order that, at the request of the appellant, some competent person may be selected by the Consular Officer to act as assessor in place of the assessor referred to in rule 9.

Summoning the Court.

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12.As soon as the Registrar has ascertained by whom the appeal will be heard, he shall summon the Court in the Form 2 set out in the First Schedule. He shall at the same time send notice thereof to the Attorney-General and to the appellant, in the Form 3 set out in the First Schedule.

Notice to complainant.

13.If the survey has been made on the complaint of any person (referred to in the Rules as the complainant) the Attorney-General shall send to him notice of the time and place appointed for the hearing.

Report of surveyor.

14.Prior to the hearing the Attorney-General shall forward to the Registrar, to be produced as evidence at the hearing, an official copy of the report of the surveyor.

Court to be summoned not later than 14 days after notice filed.

15.The Court shall, if practicable, be summoned to hear the appeal on a day not later than 14 days from the filing of the notice of appeal.

Parties.

16.The Attorney-General and the appellant shall be parties to the proceedings.

Other parties.

17.Any other person, on entering an appearance, may, by permission of the Judge, be made a party to the proceedings.

Notice to produce.

18.Either party may give to the other a notice in writing to produce such documents (saving all just exceptions) as relate to any matters in difference, and which are in the possession or control of such other party; and if the notice be not complied with, secondary evidence of the contents of the said documents may be given by or on behalf of the party who gave such notice.

Notice to admit.

19.Either party may give to the other party a notice in writing to admit any documents (saving all just exceptions); and in case of neglect or refusal to admit after that notice, the party so neglecting or refusing shall be liable for all the costs of proving such documents, whatever the result may be, unless the Court is of opinion that the refusal to admit was reasonable; and no costs of proving any document shall be allowed unless such notice be given, except where the omission to give the notice is, in the opinion of the officer by whom the costs are taxed, a saving of expense.

Witnesses.

20.The Judge shall have power to issue subpoenas as nearly as may be in the form used in the Supreme Court and such subpoenas shall have effect, and may be served in any part of Singapore. The Judge shall have all the powers of a Judge of the Supreme Court to enforce the attendance of witnesses.

Affidavits.

21.Affidavits and statutory declarations may, by permission of the Judge (and saving all just exceptions) be used as evidence at the hearing if sworn or taken in the manner provided by the Evidence Act.

Cap. 97.

Proceedings in Court.

22.—(1) At the hearing, the Attorney-General shall first call his witnesses, and having done so shall state, in writing, what order he requests the Court to make.

(2) The complainant, if he has appeared, shall then call his witnesses, and having done so shall state, in writing, what order he requests the Court to make.

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

(4) After the appellant has examined all his witnesses, the Attorney-General and the complainant may, on cause shown to the satisfaction of the Judge, call further witnesses in reply.

(5) After all the witnesses have been examined, the Court shall first hear the appellant, then the

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complainant (if any), and afterwards the Attorney-General.

Adjournments.

23.The Judge may adjourn the Court from time to time and from place to place, as may be most convenient.

Decision of Court.

24.The Judge may deliver the decision of the Court either orally or in writing; and, if in writing, it 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.

Order for release or detention.

25.As soon as possible after the Court has come to its decision, the Judge shall issue an order for the release or detention (in either case either finally or on condition) of the vessel in the Form 4 set out in the First Schedule.

Report to Minister.

26.The Judge shall report to the Minister in the Form 5 set out in the First Schedule.

Costs and damages.

27.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.

Order for payment of costs.

28.The order for the payment of costs, or of costs and damages shall be in the Form 6 set out in the First Schedule.

Service of notices, etc.

29.Any notice, summons, or other document issuing out of the Court may be served by registered post.

Proof of service.

30.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.

Assessors' fees.

31.There shall be paid to each assessor the sum of \$16 for the first day of the hearing and the sum of \$10 for each subsequent day or part thereof.

Fees.

32.The fees to be taken in any proceedings before a Court of Survey shall be those set out in the Second Schedule. Such fees shall be taken in stamps to be impressed if possible on the documents to which they refer.

FIRST SCHEDULE

The following forms shall be employed, as far as possible, with such alterations as circumstances may require, but no deviation from the prescribed forms shall invalidate the proceedings, unless the Judge shall be of opinion that the deviation was material:

(1) NOTICE OF APPEAL

Rule 6

(3) NOTICE OF SITTING OF COURT OF SURVEY.

Rule 12

The Court of Survey for

In the matter of an Appeal by _____ from the report of *L.M.*, the Surveyor appointed by the Minister to survey the “Marian” [*or as the case may be*

To *A.B.*, the master [*or managing owner, or owner of* _____ shares] of the ship the appellant [*or the Attorney-General*].

Take notice that the Court of Survey will meet at _____ on _____ noon the _____ day of _____ 19 _____ at _____ o'clock in the _____ to hear the appeal in the above matter.

Dated this _____ day of _____ 19 _____ .

Registrar.

(4) ORDER OF COURT FOR RELEASE OR DETENTION OF SHIP

Rule 25

The Court of Survey for

In the matter of an Appeal by _____ from the report of *L.M.*, the Surveyor appointed by the Minister to survey the “Marian” [*or as the case may be*].

I _____ do, with the concurrence of _____, order the said ship to be released *or* detained [finally *or* conditionally upon _____].

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

Judge.

We [*or I*] concur in the above order.

Assessor.

Assessor.

(5) REPORT OF JUDGE OF COURT OF SURVEY

Rule 26

The Court of Survey for

In the matter of an Appeal by _____ from the report of *L.M.*, the Surveyor appointed by the Minister to survey the “*Marian*” [*or as the case may be*].

I _____ do report that, having heard this appeal, I did, with the concurrence of _____ order the said ship to be released *or* detained [finally *or* conditionally upon _____] for the reasons set forth in the annexed statement.

I am also of opinion that the costs of this appeal should be paid by *A.B.* to the Attorney-General [*or* by the Attorney-General to *A.B.*; *or* that all parties shall pay their own costs].

Dated this _____ day of _____, 19 ____ .
Judge.

We [*or* I] concur in the above report.

Assessor.

Assessor.

(6) ORDER FOR PAYMENT OF COSTS, OR OF COSTS AND DAMAGES

Rule 28

The Court of Survey for

In the matter of an Appeal by _____ from _____

I order

(1) that the Attorney-General do pay to the appellant the sum of _____ for the costs [*or* the costs and damages] incurred by reason of such detention and survey.

or (2) that the appellant do pay to the Attorney-General the sum of _____ for the costs incurred by reason of the detention and survey of the said ship.

or (3) that each party pays his own costs.

Given under my hand this _____ day of _____, 19 ____ .
Judge.

We [*or* I] concur in the above order.

Assessor.

Assessor.

SECOND SCHEDULE

Rule 32

FEES

	\$	c.
On filing notice of appeal, for every 50 tons of the gross registered tonnage of the ship	5	00
On filing every affidavit	1	25
On entering appearance	5	00
On every subpoena	1	25
On every statement of the order required to be made by the Court	5	00
On the production and swearing of every witness	1	25
On every hearing, for each day, to be paid by each party, from to the amount thereof to be at the discretion of the Judge from to	10 00	50 00
On every order whether for the release or detention of the ship, or for payment of costs, or costs and damages, to be paid by the party taking out the order	10	00
On every office copy of the Judge's judgment or report, of the shorthand writer's notes of the evidence, or of any of the proceedings in the appeal, per folio of 100 words	0	25